

MINUTES

HOUSE JUDICIARY, RULES, & ADMINISTRATION COMMITTEE

DATE: Tuesday, January 19, 2016

TIME: 1:30 P.M.

PLACE: Room EW42

MEMBERS: Chairman Wills, Vice Chairman Dayley, Representatives Luker, McMillan, Perry, Sims, Malek, Trujillo, McDonald, Cheatham, Kerby, Nate, Scott, Gannon, McCrostie, Nye, Wintrow

**ABSENT/
EXCUSED:** Representative(s) Perry

GUESTS: Rick Bollar, Judiciary; Mike Oths, Magistrate Judges Association; Kent Merica, Magistrate Judges Association; Anna Eckhart, Magistrate Judges Association; Jayme Sullivan, Magistrate Judges Association; Barry Wood, Idaho Supreme Court.

Chairman Wills called the meeting to order at 1:31 PM.

Senior Judge and Interim Deputy Admin. Director of the Courts Barry Wood addressed the committee and summarized today's presentations and briefly explained the integrated judicial system.

Fourth District Judge Michael Oths, addressed the committee and provided an overview of Idaho's magistrate division, which he describes as the nexus for the public and the judicial system. In 2015 over 355,000 cases were filed in Idaho and ninety-six percent were filed in Magistrate Court. Magistrate Courts have a diverse case load, varying from initial felony proceedings to divorces. Idaho's Magistrate Court is unique because it oversees all of the following: initial proceedings for felony cases, misdemeanors from start to finish, child protection cases, juvenile cases, divorce cases, guardianship cases, conservatorships, probate cases, small claims cases, and civil cases. There are ninety-one Magistrate Judges in Idaho, with at least one Magistrate Judge per county. Each Magistrate Judge is appointed by the Magistrate Commission.

First District Judge Anna Eckhart, addressed the committee regarding Idaho's child welfare system and the Child Protective Act. In 2012, Idaho's child welfare system was ranked number one in the nation by the Foundation for Government Accountability. Each state and the District of Columbia was evaluated on how quickly they reacted to abuse allegations, whether they made sure abused children were put in safe, permanent homes quickly, whether foster care settings were supportive, safe, home-like and stable, and the work each state did to reduce abuse and neglect.

A child protection case begins with a law enforcement officer choosing to shelter a child from an unsafe situation. Once the case is filed the Magistrate Judge is required to hold a hearing within 48 hours to determine whether reasonable ground exists to support the allegations and whether the child should return home. The Magistrate Judge is then required to have a trial within 30 days, a Case Plan hearing 30 days following the initial trial and review hearings no less than every six months after that.

Federal funding depends on how well Idaho Judges comply with the requirements. Child protection files are audited and if a Judge makes an error, the children will lose their funding. The Guardian Ad Litem program exists in each district and in 2015 Guardian Ad Litem volunteers contributed 18,118 hours. Two thirds of the funding used for training these volunteers is determined by the legislature and the remaining third comes from community donors. The Department of Health and Welfare received over 22,000 referrals in fiscal year 2015 and 8,983 of those cases were investigated.

Second District Judge Kent Merica, addressed the committee regarding the role Magistrate Judges play in family law and domestic relations. Criminal work comprises approximately twenty-five percent of a magistrate's case load. With the assistance of the legislature the Judicial system has implemented in all seven judicial districts, two programs, the Family Court Services program and the Court Assistance program.

The Family Court Services program manager screens cases, identifies issues and assists Judges and families with a swift resolution while reducing conflict. The Court Assistance Office provides uniform pleadings to give to individuals who wish to represent themselves. This provides the framework for these individuals to properly present their case. Most recently, the Family Court Services program manager and the Court Assistance Office have been collaborating to help individuals prepare the correct forms and calculations so they are fully prepared when they appear in court.

Fifth District Judge Mark Ingram, addressed the committee regarding his role as a juvenile corrections judge in multiple counties and the role the magistrate judges have played in reducing the number of juvenile cases filed. Tremendous progress has been made in juvenile corrections since the 1995 passage of the Juvenile Corrections Act. Since 2011, the number of filings of juvenile cases and the number of children committed to the State's custody have declined. Presently, if a victim consents, facilitated conferences are happening between the victim and the offender. Frequently, these conferences result in the victim choosing to help the juvenile offender. The system is seeking to be more data driven, in order to look at individual programs and providers to measure the success they are having with the resources and responsibilities they have.

Fifth District Judge Rick Bollar, addressed the committee regarding domestic violence courts. Domestic violence courts were established in 2002. These courts seek to enhance victim safety, increase the level of offender accountability, provide effective case management by assignment of cases to a single judge and coordinate information for families with multiple cases in both the civil and criminal courts. Domestic violence courts process domestic violence cases; protection order cases; related divorce, custody, child support; as well as, family violence criminal misdemeanor cases.

The Domestic Violence Court's objective is to provide a safe environment for families at risk, to create coordinated responses to family issues, and to avoid separate judges providing different rulings and orders which can result in confusion and have negative consequences for the family. Currently there are six Statewide Domestic Violence Court Coordinators in the state. Offenders in Domestic Violence Court are held to a higher level of accountability because of the frequency of reviews, as well as the concentration and attention of a single judge who can monitor their compliance with court orders and oversee treatment programs. Domestic Violence courts allow victims to have a greater voice.

Third District Judge Jayme Sullivan, addressed the committee regarding criminal law cases in Magistrate Court. Criminal cases begin and often end in the magistrate division. Magistrate Judges are also charged with insuring the defendant understands the charges against them and their access to council. The Magistrate Judge will determine whether the defendant qualifies for a public defender and insures each defendant has meaningful language access to the courts. Magistrate Judges are the gate keepers of the District Courts, and they manage full misdemeanor dockets and jury trials. Magistrate judges are on call every day, all day, in order to be available to sign search warrants and conduct probable cause hearings on weekends.

Seventh District Judge Ryan Boyer, addressed the committee and gave a brief overview of Idaho's problem solving courts. Problem solving courts are probations for criminal defendants with intense involvement by a treatment team. The problem solving court and treatment team are under the direction of a judge who holds weekly status hearings to discuss the defendant's progress. Not every criminal defendant is entitled to be a participant in a problem solving court. Whether they should be a participant is decided based on the defendant's disposition and if they are amenable to treatment.

In response to questions from the committee, **Judge Eckart**, clarified the first goal in domestic violence cases where a child has been removed from the home, is to reunify the child and their parents. Reunification happens in the majority of cases heard. However, there are a small percentage of cases when reunification is not possible and the parental rights are terminated.

In response to questions from the committee, **Judge Ingram**, explained the decrease seen in juvenile filings was not based on Idaho's demographics. It is a decline in the number of kids committing delinquent acts, in Idaho and nationally. This is due, in part, to more effective out of court programs to assist with resolutions. Additionally, schools are re-evaluating disciplinary responses. It is estimated that 100% of girls who are in the state's custody have some history of sexual abuse. It is clear to the Magistrate Courts how cases often tie together. They have identified children in these circumstances who are identified as cross over kids. An example is a child who is currently in child protection and in the juvenile correction system. These cases are extremely difficult and terribly expensive because children who have a history of this kind of abuse are not amenable to treatment. Magistrate Judges are working to review files of children who are identified as cross over kids, in order to determine what can be done and when it needs to be done so that they can help facilitate the best outcome for the child. If the missed opportunity for better interventions can be identified, it may ameliorate further complications and the potential outcome is a far better outlook for these kids. It can be safely predicted, as early as the prenatal level, which parents would be able and best suited to nurture and care for their kids. On a global level, it is important to begin assisting the health care system identify the parents who are unable to provide care or are not well suited to nurture these kids and begin providing them with skill based training in order to provide the best possible outcome for these kids.

Chairman Wills requested that all members of the committee review the minutes.

ADJOURN:

There being no further business to come before the committee, the meeting was adjourned at 3:03 PM.

Representative Wills
Chair

Katie Butcher
Secretary