

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, January 20, 2016

TIME: 1:30 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Lodge, Vice Chairman Nonini, Senators Davis, Johnson, Souza, Lee, Anthon, Burgoyne and Jordan

**ABSENT/
EXCUSED:** None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Lodge** called the Senate Judiciary and Rules Committee (Committee) to order at 1:31 p.m.

Chairman Lodge thanked the committee, guests and those listening on legislative streaming. She introduced Sharon Harrigfeld, Director, Idaho Department of Juvenile Corrections (IDJC), commenting that Ms. Harrigfeld is committed to the best interests of those who come into the juvenile correction system.

PRESENTATION: **Director Sharon Harrigfeld** paid tribute to those who work in the juvenile correction system. Director Harrigfeld introduced Marcy Chadwell, Community, Operations and Program Services Administrator.

Director Harrigfeld shared the mission of IDJC, stating that she would be explaining how IDJC is accomplishing that mission. (See Attachment 1.) She expressed appreciation for the support of the Change in Employee Compensation (CEC) Committee to assist in retaining dedicated and committed staff members. The impact of the dedication and commitment of staff is evident in the low number (259) of juveniles in custody.

Director Harrigfeld provided a flow chart of Idaho's juvenile justice process showing how complicated the system is. The system is based on balanced and restorative justice. IDJC is dedicated to helping juveniles become responsible citizens by developing life skills and holding them accountable for restoring their victims and communities while ensuring public safety. Research in adolescent development plays a large part in providing guidance and direction to accomplish this task. She then gave detailed insight into the achievement of the following goals:

- Ensure juvenile accountability through effective use of evidence-based practices. The facility programming of IDJC is based on research evidence and the individual needs of the juvenile. The three Quality Improvement Specialists provided by the Legislature last year have increased the IDJC's ability to continuously improve the quality of services.
- Family engagement. National survey results, as well as discussion with Idaho's judiciary and juvenile justice professionals, indicate that family engagement is one of the most important aspects for a juvenile's successful return to the community. The two Juvenile Service Coordinators approved by the last year's Legislature increased IDJC's ability to increase family engagement.
- Ensure community protection through skills improvement of juveniles returning to the community. These skills include anger management, changing thinking patterns, educational attainment, understanding triggers to addictions,

developing respect and ethical behaviors in teamwork and demonstrating honesty, integrity and trust. Skills improvement is addressed through service and service learning, including working at food banks, building fences and clearing trails.

- Risks and strengths. **Director Harrigfeld** described the risk factors contributing to youth crime as well as the protective factors. These factors are identified for each juvenile, and a plan is established to help the juvenile understand and increase control over his/her risk behaviors and to strengthen the protective factors. (See Attachment 1, page 5.)
- Positive youth outcomes. These outcomes include continuing education. There has been an increase in GED completions as well as math and reading scores. (See Attachment 1, page 6.)
- Develop a well-structured system that addresses the needs of juvenile offenders, their families and the safety of community. The IDJC is working with the community and other branches of government to promote a unified relationship with all interested entities. With the help of these other stakeholders IDJC hopes to prevent juveniles from entering the system. Not only will this be beneficial to the juveniles, it will save taxpayer dollars. (See Attachment 1, page 7.)

These goals are focused on preventing reoffending. The recidivism rate for the past year is 23 percent, lower than the average 30 percent over the last several years. **Director Harrigfeld** outlined pathways to dual involvement in which a youth may also have contact with other agencies, such as the Department of Health and Welfare. (See Attachment 1, page 8.)

Director Harrigfeld described the training program for staff, highlighting Peace Officer Standards and Training (POST) academies, Detention Clinician Training and other training entities. All aspects of training have been revised to include consideration of the continued research on adolescent brain development, trauma and mental health issues.

A detailed explanation of funding streams for juvenile justice was cited by **Director Harrigfeld**, including funding by the Legislature and the Community Incentive Project, mental health funding and reintegration funding. With this funding the Community Collaboration Project addresses keeping the juveniles in the community. Statistical graphs for performance measures and the comparison of community treatment versus commitment were shared. (See Attachment 1, pages 10 and 11.)

In fiscal year (FY) 2012 the Juvenile Justice Substance Use Disorder System (SUD) was created. The number of juveniles in the program has increased since then with the amount of Medicaid support diminishing. Since its inception, the IDJC has collaborated with stakeholders to identify needs and respond to those needs in continuing improvement of an effective youth-focused treatment system. (See Attachment 1, pages 12 and 13.)

Director Harrigfeld disclosed that the turnover rate for IDJC staff is 18 percent, with the rate for security officers being 34 percent; Idaho state government is 7 percent. She outlined steps that have been taken to help staff understand the goals of the department and to reduce turnover. (See Attachment 1, page 15.)

A Director's Dashboard provides IDJC staff with access to critical performance information showing outcome measures for the strategic plan. (See Attachment 1, page 17.) Research has been done to identify risk needs profiles that assist in matching services to individual juveniles based on the profiles (See Attachment 1, page 16.) This will help the staff be better informed regarding progress toward meeting the goals of the strategic plan.

Senator Lodge commended the Director and her staff on the amount of progress that has been made, having seen a reduction from 500 juveniles in custody to 259.

Senator Jordan requested a definition of "unsuccessful completion" as mentioned in the performance measures. **Director Harrigfeld** responded that unsuccessful completion referred to those who may have moved, not just those who did not complete the program. She assured the Senator that she would provide her with more details regarding unsuccessful completion.

Senator Burgoyne inquired what the first classification of staff was in relationship to the turnover rate. **Director Harrigfeld** replied that the first group was Rehabilitation Technicians, with a turnover rate of 18 percent. **Senator Burgoyne** then asked to what the Director attributed the 34 percent turnover rate among Safety and Security Officers. **Director Harrigfeld** related that it could be rate of pay, advancement, relocating or going back to school, among other reasons.

Senator Burgoyne solicited the Director's ideas for increasing the rate of pay. **Director Harrigfeld** advised that the 3 percent CEC was a start. She pointed out that the direct care staff, juvenile probation officers and juvenile detention officers being included in the Rule of 80 would be a positive addition to their benefit package.

Senator Lodge thanked **Director Harrigfeld** for her presentation.

**PASSED THE
GAVEL:**

Chairman Lodge passed the gavel to Vice Chairman Nonini.

IDAPA 11- IDAHO STATE POLICE

**DOCKET NO.
11-1003-1501**

11.10.03 - Rules Governing the Sex Offender Registry. **Dawn Peck**, Manager, Idaho State Police Bureau of Criminal Identification, advised that this rule change defines the process to determine if offenders who may want to live or work in Idaho will have to register to do so. The Idaho Supreme Court noted that the mechanism is in place for sex offenders already residing, working or attending school in Idaho and that there should be a process by which those who had not yet moved or begun to work could determine if they would have to register.

Senator Johnson inquired if striking the word "similar" at one point and leaving it in at another was intentional. **Ms. Peck** answered that it was not intentional, that it should have been stricken in both places.

Vice Chairman Nonini asked if this would be a problem if the rule were approved. **Ms. Peck** replied that it should not be a problem and that she will bring it back next year with a change to make it consistent.

MOTION:

Senator Anthon moved to approve **Docket No. 11-1003-1501**. **Senator Souza** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
11-1101-1501**

11.11.01 - Rules of the Idaho Peace Officers Standards and Training (POST) Council. **Victor McCraw**, Division Administrator, POST, stated that the mission of POST is to develop skilled law enforcement professionals who are committed to serving and protecting the people of Idaho and to accomplish this standard of competence and character for those certified to carry out the public safety duties.

The changes presented are to bring POST into compliance with the FBI's criminal fingerprint restrictions relating to law enforcement agencies; to clarify certification qualifications regarding past misdemeanor convictions; and to remove language prohibiting POST from considering misdemeanor convictions related to crimes against children for some certifications. The definition of "POST certified instructor" is changed to be more descriptive. Relating to criminal records regarding fingerprints, **Mr. McCraw** explained that the rule change makes the hiring agency responsible for running the FBI fingerprint check for the person they are recommending to be certified, and to maintain those records.

Senator Davis requested clarification regarding who will retain the fingerprint records. **Mr. McCraw** affirmed that the agencies will run and maintain the fingerprint checks because it would be illegal for POST to have access to records they did not run. This is a requirement of the FBI.

Senator Jordan asked who does the fingerprint checks on students who are self-sponsored. **Mr. McCraw** replied that POST acts as the agency for self-sponsored students. There is a fee that includes the charge for the fingerprint check.

Mr. McCraw discussed the section regarding misdemeanor convictions. The original wording was confusing and sometimes misleading, so this change is to clarify that language. **Senator Burgoyne** requested a reminder of the POST rule dealing with the lawful and unlawful use of marijuana. **Mr. McCraw** replied that there is an absolute three-year prohibition on the use of marijuana by anyone seeking POST certification. Beyond three years, individuals cannot have used on a regular basis within the last five years to become certified. Beyond the five years, it is up to the agencies that send a candidate for certification to POST to make that determination.

Mr. McCraw indicated stricken language that excluded some crimes against children. The council did not want consideration of those crimes excluded as a reason to deny certification. **Senator Davis** expressed some concern that some candidates who had a questionable background might be accepted. **Mr. McCraw** explained that by removing the language in question, he and the council would be able to scrutinize the situation.

Senator Burgoyne voiced his concern regarding the discretion of POST being based on the attitudes of the POST staff rather than the nature of the crime and its seriousness as a violation of law. He also indicated that the age and the level of rehabilitation may not be considered under the revised rules. **Mr. McCraw** acknowledged the Committee's concerns. He expressed that there are safeguards in the rules that guide the consideration, both to keep those of questionable character from becoming certified as well as to be fair to individuals who have turned their lives around.

Senator Jordan pointed out that the mixture of crimes by children and crimes against children might be better addressed separately. Consideration could then be given to a candidate who committed a minor crime as a youth but matured into a responsible adult, but not to those who had perpetrated crimes against children. **Mr. McCraw** replied that those issues are addressed in other sections. **Senator Jordan** expressed continuing concerns that smaller agencies with a limited pool of applicants might use too much discretion in hiring. **Mr. McCraw** reaffirmed that POST has denied certification of individuals who have been hired by agencies and will continue to base the selection of applicants on POST standards.

Senator Davis observed that the changes strike everything that has an expressed statutory definition and instead use the phrase "misdemeanor sex crime," undefined in law. He is concerned that it is too ambiguous. He asked if that issue had been addressed. **Mr. McCraw** responded that it had not.

Mr. McCraw discussed the rule regarding closed campus academies. Some agencies specifically prefer closed campus academies. The training course is ten weeks, and having a closed campus where the candidates cannot go home at night causes a hardship for some. Striking out the mandate for closed campus provides for those who need to go home at night and reduces the cost of board and room for POST. Agencies will still be able to mandate that their candidates stay on campus, and those who live too far to commute may also choose to stay on campus.

Senator Jordan commended POST for meeting the needs of the POST attendees. She asked if they are also considering their fee structures for departments and self-sponsored students to provide for those not staying on campus full time.

Mr. McCraw explained that the fees charged to self-sponsored students are conservative and do not cover the costs. No fees are charged to agencies.

Senator Anthon inquired about the attendance policy. **Mr. McCraw** stated that attendance issues are policies rather than rules and are addressed on a case by case basis.

Senator Burgoyne inquired concerning the rationale behind the changes involving the requirement for physical readiness testing for those who are recertifying. **Mr. McCraw** specified that this is a physical readiness test for basic training, and those recertifying do not attend basic training. The agencies decide if they are fit for duty or not.

Mr. McCraw continued with the changes about certain disclosures by applicants regarding decertification, investigation or proceeding from any other jurisdiction, and the result thereof.

Senator Lee requested clarification relating to the agencies making the decision as to physical fitness and asked if POST has no input into this evaluation. **Mr. McCraw** specified that the general fitness of the candidate is a concern of POST, but the main concern is focused on skills development.

**PASSED THE
GAVEL:**

Vice Chairman Nonini passed the gavel back to the Chairman.

Chairman Lodge scheduled the remaining agenda items, further testimony and a vote on Docket No. 11-1101-1501 and presentation of Docket No. 11-1104-1501, to be heard on Friday, January 22.

ADJOURNED:

Chairman Lodge adjourned the meeting at 3:00 p.m.

Senator Lodge
Chair

Carol Cornwall
Secretary