

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Wednesday, January 27, 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.

MINUTES APPROVAL: Minutes of January 18, 2016, were presented for approval. **Senator Souza** moved to approve the January 18, 2016 minutes. **Senator Burgoyne** seconded. Motion passed by **voice vote**.

PRESENTATION: Interim Administrative Director of the Courts **Justice Linda Copple Trout**, in the absence of Senior Judge Barry Wood, introduced the Idaho State District Judges who will give an overview of the duties and responsibilities of the district judges. She pointed out that Idaho has seven judicial districts, each having an administrative district judge and a trial court administrator. She announced that the elected administrative district judge from each district will be addressing the Committee (see attachment 1). She explained that Idaho Court Administrative Rule 42 sets forth the selection process, term and duties of administrative judges. **Justice Trout** emphasized that these judges, in addition to fulfilling the duties of regular district judges, accept the additional responsibilities of administration within their districts including personnel, budget and other issues. These additional responsibilities frequently involve additional travel (see attachment 1, pages 2 and 3). Justice Trout then turned the time over to the administrative district judges.

Administrative District Judge Lansing Haynes, First District Administrative Judge, reported that the Justice Reinvestment Initiative (JRI) has been in effect for three years. He pointed out that JRI has established new ways to deal with probation violators including a matrix of rewards and sanctions that has been established matching assessment of risk with types of violations. The matrix matches the severity of the offense, the risk assessment and the level of the probation violation. He emphasized that the use of the matrix will assist in maintaining consistency around the state in the ways probation violators are managed. **Judge Haynes** reported that funds have been made available for treatment, an essential aspect of returning violators to the community as productive citizens. In addition, the Department of Correction (DOC) has provided significant training for probation officers in how to effectively use the matrix. These officers have seen positive effects in the use of the matrix.

Judge Haynes disclosed another important part of JRI is to reduce caseloads. He emphasized that an effective way to reduce caseloads is to move people off of probation when compatible with public safety. Probationers can apply for reduced supervision if they have done well in meeting the requirements of their probationary program. They may be put on the low-supervision unit or they may even be released from supervision. **Judge Haynes** addressed another aspect of the JRI, the Community Mentor Program, which assists probationers in integrating back into the community. These mentors include individuals, organizations and faith-based systems. They are outside of the justice system.

Judge Haynes then reported that the Felony Sentencing Committee tries to monitor these areas. He explained that persons who do not get probation right away get a sentence called retained jurisdiction, which has programs helping an offender become ready to have probation. The DOC has analyzed their programs and found that some of what they offer works and some does not. They intend to drop the programs that do not work and build on those that help reduce recidivism. **Judge Haynes** pointed out that the DOC has implemented new programs in substance abuse, sex offender assessment and treatment and in anger management. Use of more residential treatment centers in place of a prison treatment center is also being considered.

Judge Jeff Brudie, Second District Administrative Judge, addressed the legislative budget request made in support of the Judicial Excellence and Education Program. When becoming a judge, most of the training takes place after taking the bench. Currently training consists of a couple of multi-day training sessions taught by experienced Idaho judges, and within the first two years judges are required to attend a two-week general jurisdiction program at the University of Nevada Judicial College. Opportunities for continuing education and feedback on the performance of a judge's duties are limited. To assist in assessment and continual improvement a survey program has been established. **Judge Brudie** pointed out that an experienced judge would mentor those needing assistance. The courts are requesting funds this year to support the education program.

Judge Bradley Ford, Third District Administrative Judge, described the establishment of Idaho's drug and mental health courts. The first two of these courts were set up in 1998. In December of 2015 there were 69 problem-solving courts including 27 adult felony drug courts, 11 adult mental health courts, 2 juvenile mental health courts, 5 juvenile drug courts and 6 misdemeanor driving under the influence (DUI) courts. He enumerated the statistics involving each court. **Judge Ford** indicated that the effectiveness of these special courts, both adult and juvenile, has been statistically verified. These courts have returned violators to the community with the capability to become employed, pay off their fines, take care of their families and make positive contributions to their communities, all of which provide indirect tax dollar savings for the State. According to **Judge Ford** there are also direct savings as these courts provide efficient use of tax dollars and other resources. He pointed out that the cost for a felony drug court participant annually is \$3,909, while the cost of incarceration for the same offender annually is \$20,973.

Judge Ford advised that the problem-solving courts follow protocols for program content and practice, implementation and evaluation. He elaborated on the selection of higher-risk/higher-need participants and the results of working with this population. **Judge Ford** emphasized that in addition to the growth in numbers of these courts since 1998, the system has evolved into one with consistent, successful outcomes and will continue to move forward.

Judge Timothy Hansen, Fourth District Administrative Judge, presented information regarding the Idaho Veterans Treatment Court (VTC) (see attachment 2). The VTC is one of Idaho's problem-solving courts. There are VTCs in six counties: Nez Perce, Canyon, Ada, Twin Falls, Bannock and Bonneville. The Standards and Guidelines for the VTC (see attachment 3) were accepted in 2015 and have been adopted nationwide. The Veterans' Administration assists with the treatment of those who are admitted to this court system. The Standards and Guidelines outline circumstances for eligibility; identification and assessment procedures; treatment and treatment provider requirements; case management and supervision procedures including graduation criteria, evaluation criteria and policies concerning partnerships and coordination of services. **Judge Hansen** indicated that although the minimum time required in the program is 12 months, the process takes about 28 months to complete, with post-traumatic stress disorder (PTSD) and traumatic brain injury (TBI) victims taking longer to complete the program. He reported statistics showing the number of participants in each district who are currently in and who have completed the program. Most are employed, in school or doing community service. **Judge Hansen** emphasized that veterans who have completed the program have provided a positive impact on the community, but the real value of the program is in the participants' lives.

Judge Richard Bevan, Fifth District Administrative Judge, informed the Committee of progress in the development and use of computer programs that increase efficiency in record keeping and case management (see attachment 1, page 5). The old ISTARS program which dealt with case management, is being replaced by Odyssey, an up-to-date electronic case management system. The time frame for this transition is five years, having been in progress for three years. Odyssey is part of a comprehensive unified system that includes a number of other applications. **Judge Bevan** reported that Twin Falls was the pilot court, and both courts and attorneys there are using the system. Filings are now being done electronically and paper files have been converted. According to Judge Bevan, the switch was challenging but has been a positive one, resulting in much greater efficiency.

Judge Stephen Dunn, Sixth District Administrative Judge, addressed the Committee regarding case flow management. In 2011 a goal was set to evaluate and implement a means by which the Judicial system could be made more efficient and effective. He reported that there had been concerns regarding high costs and that the time factor regarding litigation was too long. In Idaho it is the courts' charge to ensure the just, speedy and inexpensive determination of every action and proceeding. Idaho courts have made substantial progress in providing a means to achieve a system that is fair and efficient. **Judge Dunn** expounded on the three-step process the judges, attorneys and other stakeholders have used to develop this program:

- Implement piloted time standards establishing the amount of time for a case to move through the system.
- Develop case flow management plans.
- Identify rules that need to be changed.

Judge Dunn concluded that these systems are for the judicial "customer" and they are to enable the judicial process to be responsive to the length of time and the cost of various cases. Everyone involved should benefit.

Judge Darren Simpson, Seventh District Administrative Judge, addressed the Wood Court Project, a specialty court adopted by the State of Idaho about eight years ago. There are two in operation, both in southeast Idaho. Wood Court is a problem solving court that deals with individuals having both substance abuse and mental health issues. They are treated in custody in a county jail and then transitioned out into the community. They start out on a work release program through which they find a regular job, and then they are offered assistance in finding housing. **Judge Simpson** shared statistics for the Bonneville County Wood Court, observing that the graduation rate is 52 percent. The Pocatello Wood Court began in January of 2015. Because the program is an 18-month program, there is very little statistical data available.

Judge Dunn also delivered information on the two behavioral health crisis centers currently in operation. One center is in Couer d'Alene and has only been in operation since December of 2015, so there is limited data on that facility. A handout was provided showing statistics involving clients, law enforcement time savings, hospital emergency room savings and inpatient hospitalization savings in the Idaho Falls center (see attachment 4). They operate on a \$1.5 million budget. Individuals' participation in the centers have originated as self-referrals, law enforcement referrals and emergency department referrals. **Judge Dunn** pointed out that some of these people were homeless and some would have gone to an emergency room if the center were not available. The time to get housing or evaluation for other services is much less than going through traditional channels. The average length of stay in the center while necessary services are accessed is 14 hours and 39 minutes. **Judge Dunn** emphasized that the purpose of the crisis centers have been successfully fulfilled.

Senator Souza questioned Judge Bevan about privacy within Odyssey, the new technology system. She asked if the client or offender information would be in the system prior to judgement being passed in a case. **Judge Bevan** replied that the public records law allows access to the information that is public; information that is private under the public records law would not be accessible. The public portal is one of the aspects of the program that still needs more work. At this time there is not access to that information by the public. **Senator Souza** expressed concern about the right to privacy by those not yet convicted. **Judge Bevan** responded that it is an issue still being addressed. The company working on the technology has used it throughout the country and he stated he is confident that protection will be there when the work is completed. He also explained that not yet being convicted does not prevent access to some information if an individual has been charged.

Senator Davis observed that when the federal court went to an electronic system, considerable private information became available. There have been many corrections made to ensure privacy, and Idaho will benefit from those corrections.

Senator Burgoyne referred to Judge Bevan's comments about the increasing costs to resolve civil cases. He surmised that attorneys, lawyers and policy makers need to be aware that legal professions will become more focused on money as the amount of student debt accumulated increases. This is in opposition to what the courts are trying to do to decrease the cost of litigation.

Chairman Lodge thanked the judges for their service and for their presentations.

ADJOURNED: **Chairman Lodge** adjourned the meeting at 2:59 p.m.

Chairman Lodge
Chair

Carol Cornwall
Secretary