

MINUTES
SENATE JUDICIARY & RULES COMMITTEE

DATE: Monday, February 08, 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: **Vice Chairman Nonini** called the Senate Judiciary and Rules Committee (Committee) to order at 1:26 p.m. He indicated that Chairman Lodge would arrive as soon as she has finished with another meeting and she asked that they proceed without her.

Vice Chairman Nonini thanked those in attendance. He introduced Kevin Kempf, Director, Idaho Department of Correction (IDOC), and stated that he would give an overview and update of what is happening in IDOC.

PRESENTATION: **Director Kempf** stated that he would focus on accomplishments since the 2015 session. The two main areas of focus have been reform and transparency (see attachment 1). The Justice Reinvestment Initiative (JRI) and SB 1357 have had significant impact on IDOC and the criminal justice field. All of the requirements set by the JRI and SB 1357 were met this year, including the training of every employee across the state by October 1, 2015.

Director Kempf said an important accomplishment for IDOC was the establishment of the limited supervision unit. This program is an evidence-based program putting resources toward high-risk offenders while allowing low-risk offenders more flexibility. The program allows low-risk offenders to check in with their probation officers through a secure portal online. The JRI and the freeing up of resources have made it possible for all 173 out-of-state inmates to be returned to Idaho. **Director Kempf** recognized that a mutually beneficial relationship with the Idaho Commission of Pardons and Parole has played a strong part in this positive outcome. The success of this program and the JRI have made it possible for IDOC to return \$1.4 million to the General Fund.

According to **Director Kempf**, another major accomplishment was the institution of the Justice Program Assessment. In March 2015, IDOC asked the Council of State Governments what they felt were the big concerns with the treatment plans in Idaho's institutions. Through the assessment, IDOC found that nine out of twelve treatment plans being used did not have enough evidence to suggest that they worked. There was confusion in the pathways to parole program with more than 40 pathways being used. If parole was denied, there was no mechanism for letting inmates know why.

In considering the Therapeutic Communities program, **Director Kempf** noted there was some question regarding whether they actually worked. Research showed that inmates dictated who stayed in the program and who didn't by using the system and intimidation to gain their releases and to prevent others from getting theirs. IDOC decided to discontinue the use of Therapeutic Communities.

Director Kempf reported that in addition to discontinuing Therapeutic Communities, changes being made based on the assessment include imbedding the Cincinnati Substance Abuse Program (research based and it works); enhancing the sex offender program; implementing Thinking for a Change, the only cognitive-behavior-based program being used; and Anger Replacement Training for anger management. These programs will be used in all prisons in the State, ensuring consistency. **Director Kempf** assured the Committee that this approach will be simple and will yield better results.

Director Kempf explained that restrictive housing, also known as solitary confinement, has 400 beds in Idaho. Research nationwide has indicated that putting inmates in segregated cells does not change behavior, and most isolated inmates become repeat offenders. **Director Kempf** declared that when you put inmates in 9 x 12 cells, you are either going to enhance whatever mental health issues they have or you are going to create one. He declared that has to stop. The Director observed that the perception now is that there needs to be a way to hold prisoners accountable, but it can't be negatively based. There needs to be a way to get them integrated back into society in a positive way. At IDOC a planning team will work on short-term improvements in discipline along with positive incentives. Segregation will no longer be used as a form of punishment. The second step will be to look at long-term aspects, including reintegration into the community. Outside agencies are participating in these planning teams. Having participation by different agencies helps stakeholders to see the extent of the challenges involved.

Director Kempf informed the Committee that deliberate effort has been made by IDOC to pull the curtains back and make what is happening in their agency more transparent. These efforts include giving Idaho lawmakers 24/7 access to any one of Idaho's facilities, opening the facilities to universities to tour death row and letting students talk to the inmates. This has a powerful impact on students.

DISCUSSION

Chairman Lodge congratulated Director Kempf on his outstanding work, and commented that these accomplishments were what JRI was set up to do.

Senator Burgoyne said he was really pleased to see the "question everything approach" so the public gets a better look at what is going on. He affirmed letting data drive decisions is a good way to approach making changes. These changes are going to result in a system that is more attuned to public safety and will lead to a better understanding of rights and responsibilities.

Senator Souza stated that Director Kempf had expressed some concern about the administrative segregation of inmates allowed to go into the community and wondered what kind of safety mechanisms have been put in place. **Director Kempf** indicated that currently the community is not notified, but the sheriff's association is notified. Other states across the country have done this restrictive housing reform and their data show significant improvement. **Senator Souza** asked if community notification would be enhanced in the future. She indicated that she was on a committee in her community; a lack of trust ensued when inmates were being sent to transitional homes or halfway houses and the community was not aware of it. **Director Kempf** said that he was very familiar with the legitimate concerns that the inmates bring to a community, and it would be addressed in the future.

Senator Jordan asked if there are efforts being made to help inmates re-enter society successfully. **Director Kempf** indicated that one plan is the Community Mentor program. As inmates leave the prisons, they have immediate contact with their mentors, who will help them become established in the community.

Senator Johnson thanked the director for the access he has provided for the Legislators. He saw the dedication of the employees who work in Idaho's prisons.

Chairman Lodge thanked Senator Davis for bringing JRI to the Idaho Legislature, and indicated that there has been much more change than was anticipated.

**MINUTES
APPROVAL:**

Senator Nonini moved to approve the Minutes of January 22, 2016. **Senator Jordan** seconded the motion. The motion passed by **voice vote**.

**GUBERNATORIAL
APPOINTMENT
HEARING:**

Mike H. Matthews, having been re-appointed to the Commission of Pardons and Parole (Commission), was introduced to the Committee. **Mr. Matthews** said that he had just finished his fourth assignment with the Commission. His professional experience is as an educator.

Senator Lodge asked Mr. Matthews what his views are on the changes that have been made with the Commission. **Mr. Matthews** responded that about 65% of inmates were paroled before the changes, but the percentage has increased to 70%. He indicated he is excited to stay involved with this program and to see what will happen in the future. He was concerned at first that the "checklists" discussed two years ago were going to be just that, check-lists. He acknowledged that the more appropriate term is "guidelines," which can be measured on a rubric or an assessment. These guidelines will help improve public safety. There are clear guidelines now on why parole was either granted or denied and what steps need to be taken to achieve parole.

Senator Anthon asked if there were trends that would be important for lawmakers to know about. **Mr. Matthews** stated that substance abuse issues are still there. **Senator Anthon** thanked Mr. Matthews for his service.

Senator Burgoyne asked Director Jones if Mr. Matthews' political affiliation was appropriate for this position. **Director Jones** answered that it was. **Senator Burgoyne** asked what the financial compensation was for this committee. **Director Jones** answered that there were quarterly business meetings required by statute. If one were to break down the amount of hours actually spent on this committee, the compensation would be minimum wage.

RS 24188

Michael Kane, Idaho Sheriffs' Association, asked the Committee to think about those people who leave the prison and return to society. According to the laws that currently exists, the minute inmates leave the facility, their civil rights are restored. The current law makes it clear that the worst kind of felons (murder, rape, kidnapping, drug dealing and sex crimes) cannot possess firearms after they are discharged from their sentences. Missing from the list of criminal offenses that prevent offenders from possessing firearms in the current law are crimes that have been created since the original passage of the law, or crimes that were not originally considered. These serious crimes are those committed by organized criminals, terrorists and criminal gang members. This bill adds these serious felonies to the current law. **Mr. Kane** asked the Committee to print this RS.

Senator Davis moved to print **RS 24188**. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

PRESENTATION:

Sara Thomas, Chairperson, Idaho Criminal Justice Commission (ICJC), stated that the ICJC is committed to building and maintaining a safer Idaho by developing and proposing balanced solutions that are cost effective and based on best practices (see attachment 2). The ICJC focuses on learning and enhancing public understanding by communicating honestly and encouraging dialogue and feedback from outside groups. State agencies, counties, cities and other stakeholders are included in the discussion.

Senator Davis stated it seemed very incongruent to put all of these groups together as it might put the ICJC in an adversarial position. **Ms. Thomas** indicated that if they could correct issues in the early stages and work out differences, it would produce a better solution, one that is less likely to be attacked. Resolution is easier to achieve in early stages.

Ms. Thomas explained that the ICJC has a three-year strategic plan including combating crime and protecting citizens. Some of the goals are to reduce victimization and recidivism in the State of Idaho, strengthen the knowledge base by enhancing data collection abilities and promote efficiency and effectiveness. **Ms. Thomas** discussed in detail the steps the ICJC will take in achieving these goals. Issues include digital media, balancing transparency with the privacy rights of victims and law enforcement, eye-witness identification and trends in substance abuse (see attachment 2).

Ms. Thomas stated that the ICJC has a number of subcommittees working on various issues. Those issues include pre-trial justice, a standardized recidivism definition, mental health, research alliance and criminal fees and fines. She referred specifically to the paper on mental illness (see attachment 3). She expounded on the work and the goals of these subcommittees.

Senator Davis indicated he was aware of a national trend dealing with the necessity of bail. He asked if there were better tools available to the courts and to the judicial process for resolving this issue. **Ms. Thomas** stated that at this time there was no discussion concerning that. The current focus is on having adequate pre-trial assessments to determine whether or not someone should be released on their own recognizance or, if not, what the level of bail should be. She offered to look into bail bonds if he wished.

RS 24024C1

Sara Thomas explained that this RS strengthens Idaho's criminal code involving offenses of a sexual nature. This legislation seeks to amend the current statute to provide that a victim of rape need not offer resistance where the victim has a well-founded belief that resistance would be futile or that resistance would result in the use of force or violence. The legislation also amends Idaho Code to replace the current female pronouns used for a victim with gender-neutral language. This renders Idaho's rape law the same for both men and women. This legislation also includes a threat to a third party as rape.

MOTION:

Senator Davis moved to print **RS 24024C1**. **Senator Anthon** seconded the motion. The motion carried by **voice vote**.

Chairman Lodge thanked Ms. Thomas for her presentation and all of the information she provided in such a short period of time.

ADJOURNED:

There being no further business, **Chairman Lodge** adjourned the meeting at 2:58 p.m.

Senator Lodge
Chair

Carol Cornwall
Secretary

Sharon Pennington
Assistant to Majority Caucus
Chairman