

MINUTES
(Subject to Approval by the Committee)
Criminal Justice Reinvestment Oversight Committee
Monday, January 30, 2017
3:30 P.M.
Room WW17
Boise, Idaho

In attendance were: Co-chairs Senator Patti Anne Lodge and Representative Lynn Luker; Senators Shawn Keough, Cherie Buckner-Webb, Mark Nye; Representatives James Holtzclaw, Bryan Zollinger, and John McCrostie. Senator Jim Rice and Representative Paulette Jordan were absent and excused.

Others in attendance included: Henry Atencio, Director, Idaho Department of Correction; Sandy Jones, Executive Director, Commission of Pardons and Parole; Josh Tewalt, Administrator of Budget and Policy, Idaho Department of Correction; Sara Thomas, Administrative Director of the Courts; and Tom Arkoosh, Idaho Association of Criminal Defense Lawyers.

NOTE: Copies of presentations, handouts, and reference materials can be found at www.legislature.idaho.gov and are also on file in the Legislative Services Office.

Co-chair Lodge called the meeting to order at 3:30 p.m., welcoming the Committee members and attendees. **Senator Nye moved that the minutes from Tuesday, March 22, 2016 be approved. Senator Keough seconded the motion. The motion passed unanimously by voice vote.**

Director Henry Atencio, Director, Idaho Department of Correction (IDOC), stated that his presentation would be in conjunction with Executive Director Sandy Jones, Commission of Pardons and Parole.

Director Atencio advised the Committee that some of the benefits resulting from the Justice Reinvestment Initiative, SB 1357 (JRI) include improvements to assessments, training, and re-norming of the Level of Service Inventory—Revised (LSI-R). He referred to the violation matrix used to standardize response to violations around the State. The Director pointed out that the matrix was in place before JRI, but it has been enhanced to include potential sanctions and rewards for violators. He reported that training given to Probation and Parole staff follows identified best correctional practices.

Executive Director Jones explained that parole guidelines have been instituted that create consistency in parole decisions and allow a mechanism for collecting data. The guidelines provide for consideration of institutional behavior and other factors. These considerations are put in one document to determine the level of risk of an inmate before granting parole.

Executive Director Jones stated that JRI required documentation of reasons why certain inmates are kept in custody beyond their sentence term. She indicated that data collected provides the documentation. She pointed out that often the reason relates to programming. Using the parole guidelines also provides data relating to those denied parole. This data allows the parole board to identify why someone is allowed or denied parole (attachment 1).

Regarding reports of violation, Executive Director Jones advised that prior to the training efforts from SB 1357, there were often reports that the officer writing the violation did not attempt to work with the parolee. This has improved since the training.

Director Atencio indicated that the 721 hours of training for Probation and Parole staff include the following topics:

- Role of supervisor in implementing Evidence Based Practices;
- Trauma informed Criminal Justice Services so time with offenders would be used appropriately;
- Assessment interpretations;

- Organizational culture which reflects the spirit of JRI;
- Focused Supervision to supervise according to risk level (not required by JRI);
- Restrictive Housing Reform (not required by JRI); and
- Justice Program Assessment (not required by JRI).

Executive Director Jones described the trends relating to the number of parole releases. She pointed out that the number spiked in 2015, and coincides with the implementation of JRI as well as program changes at IDOC. When the Therapeutic Community program (TC) was removed, offenders were re-routed to other programs which did not have waitlists. These programs were shorter in duration than the TC and resulted in many people being released. She advised that the 2016 numbers have normalized.

Executive Director Jones reported that although parole violations have increased in number, the rate of violations filed has not changed. She pointed out that more people on parole results in more violations. Information lacking is the number of repeat violators, and the number of one-time violators. She explained that it is too early in the process to make assumptions on outcomes for recidivism.

Director Atencio disclosed that while the term incarcerated population is dropping, the number of parole violators and those on riders is increasing. He shared statistics relating to the incarcerated populations. He disclosed some of the dilemmas facing parole officers. The difference in resources needed to supervise low-risk and high-risk can be a problem. Focused supervision helps by having a parole officer with only low-risk parolees having a greater number to supervise than a parole officer who has only high-risk parolees. Even with revising the way caseloads are assigned, there is a need for 24 additional parole officers.

Director Atencio indicated that the addition of the Limited Supervision Unit has allowed for better management of the probation and parole population by having the lowest risk offenders supervised administratively. This program allows electronic monitoring using email.

Executive Director Jones shared some concerns with SB 1357. Sanctions for parole violators are prescribed in statute with little flexibility, leading to concerns for public safety. She explained that risk level cannot be considered. For some violators, going before the parole board rather than being given a sanction might be more appropriate.

Executive Director Jones detailed another concern regarding the requirement that IDOC and the Parole Commission report on the number of drug and property offenders who serve more or less than 150% of their fixed terms. There are concerns that this creates an expectation of a right to parole for those offenders at 150% of their fixed terms. There are also concerns that this creates pressure for parole decisions to be made based on prison population instead of risk (attachment 1). **Executive Director Jones** advised that the commissioners do not feel pressure. They consider the merits and level of risk of each case individually, with the main focus being the risk to the community, not meeting a target percentage for granting paroles.

Another issue involves the requirement to share the rewards and sanctions matrix with the offender for the purpose of transparency and for making sure the offender understands wholly the conditions of his/her supervision. Concerns from other stakeholders (Federation of Police and prosecutors) were that these were too transparent and created an expectation that only what is listed in the matrix can be used as a sanction.

Executive Director Jones indicated the last concern was for the possibility that the language as written in the original bill created a right to programming, or possibly the expectation of a parole being granted with completion of programming.

Director Atencio discussed restrictive housing reform indicating that housing issues can result in prison and public safety concerns. He mentioned that housing may have to move from single bed

to double bed units. Senator Buckner-Webb asked if having two inmates in a cell together would require additional supervision. Director Atencio replied that double bunking occasionally produces fights, but screening is done prior to placement to keep problems to a minimum.

Director Atencio shared the Timely Release Report with the Committee (attachment 1).

Co-chairman Lodge requested that Sara Thomas, Administrative Director of the Courts, give her own insight into the items reported.

Administrative Director Thomas pointed out that, in its development, JRI was addressed by all three branches of the government in order to strengthen the justice system and to reduce recidivism. She stated that the Courts are committed to reinvestment. She confirmed and supported the need for additional personnel so parolees are supervised appropriately and have access to resources. Offenders will come back to communities, so the programs and supervision offered need to reduce the likelihood to reoffend.

These concerns were addressed in the draft revision discussed after this presentation. Committee members were presented a copy of the draft and each suggested change was reviewed during the meeting.

Sara Thomas, Administrative Director of the Courts, presented an update from the Idaho Judiciary. She reiterated that the development of the Justice Reinvestment Initiatory (JRI) has been an endeavor of the three co-equal branches of Idaho's government. The mission of the JRI is:

- To strengthen community-based supervision of offenders to reduce recidivism;
- Focus the use of prison beds to ensure they are used productively;
- Track and report data to measure system outcomes and enable data supported decision making.

Administrative Director Thomas thanked the Committee and the Legislature for supporting and listening to the courts. Idaho judges craft sentences to protect our communities, keep victims safe, and hold offenders accountable, while seeking to rehabilitate.

She explained that as JRI transitioned from planning and implementation to operational, the role of Idaho's courts transitioned as well. According to Administrative Director Thomas, the Courts are satisfied with IDOC rules establishing the Limited Supervision Unit and the Idaho behavioral matrix. The Courts are most committed to the reinvestment part of JRI. Chief Justice Burdick called for support for the Board of Correction by providing them with the necessary personnel and resources to make JRI successful. Administrative Director Thomas emphasized that when the judges place an offender in the community under IDOC's supervision, they must have the utmost confidence that probation officers have manageable caseloads, effective training, and the ability to connect offenders with appropriate behavioral health services. Nearly every offender will return to our communities, and it is essential that appropriate evidence based interventions and treatment be provided to reduce the likelihood the individual will reoffend.

Administrative Director Thomas affirmed that the courts have a high interest in the results of the 2017 Annual Community Gap Analysis, a joint report from IDOC and the Idaho Department of Health and Welfare (IDHW). The results continue to show that a significant number of moderate and high risk offenders being supervised in the communities are not receiving the behavioral health services and substance use disorder treatment they need. She pointed out that the judges need to have confidence that offenders placed in the community will have access to these essential services.

Administrative Director Thomas concluded by noting the work of Idaho's problem solving courts (PSC) in the context of JRI. She indicated that felony offenders who participate in PSC are counted as served in the Gap report. Our PSC have been operating at capacity to supervise high risk, high need offenders in the community. The success of Idaho's PSC in reducing recidivism is well documented. Administrative Director Thomas assured the Committee that, as they consider the

appropriate policies to address the findings of the Gap report, the ISC stands ready to explore options to expand Idaho's PSC capacity.

The meeting adjourned at 4:44 p.m.