

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Wednesday, January 19, 2022

**TIME:** 1:30 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lakey, Vice Chairman Ricks, Senators Lodge, Anthon, Thayn, Zito, Burgoyne, and Wintrow

**ABSENT/ EXCUSED:** Senator Lee

**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 Lakey** called the meeting of the Senate Judiciary and Rules Committee (Committee) to order at 1:30 p.m.

**INTRODUCTION:** **Chairman Lakey** asked Senator Anthon to introduce his legislative extern. **Senator Anthon** introduced Josh Scholer and stated that Josh is in his third year of law school. He indicated that Josh would be available to do legal research and help both the majority and minority Senate members.

**Senator Anthon** introduced Bruce Hossfeld, the mayor of Paul, Idaho in attendance.

**VOTE ON GUBERNATORIAL APPOINTMENT:** **Senator Burgoyne** moved to send the Gubernatorial Appointment of Nancy A. Baskin to the Idaho Judicial Council to complete Judge Brudie's term expiring June 30, 2025 to the floor with a recommendation that she be confirmed by the Senate. **Senator Lodge** seconded the motion. The motion carried by **voice vote**.

**PRESENTATION:** **Office of the State Appellate Public Defender & Idaho Criminal Justice Division 2022 Update.** **Eric Frederickson**, Director, included a power point presentation which identifies the organization and programs relating to his department (see Attachment 1).

**Senator Burgoyne** questioned the reasons why a death penalty case, from the time of sentencing to an execution, takes so long. **Director Frederickson** responded that the post-conviction process can take a long time due to several factors. Discovery disputes can cause additional litigation, issues may be raised later that require reevaluation and relitigating, and some times cases get to the federal court and then are sent back to the state court to be retried. **Chairman Lakey** asked for additional information on the post-conviction process, and a rough percentage of cases remanded pursuant to post-conviction. **Director Frederickson** stated there will always be a petition for post-conviction relief in capital cases where there is an affirmative waiver by the client. Criminal cases have a small percentage who petition for post-conviction relief. They usually see 100-150 cases a year. Discretionary felony and misdemeanor cases usually do not make it to the appellate courts.

**PRESENTATION:** **Eric Frederickson, Chair.** **Chair Frederickson** explained that the Commission was started in 2005 by Governor Dirk Kempthorne. The goal was to get all of the entities and individuals who deal with criminal issues together and evaluate current concerns and cost effective solutions for those concerns. **Chair Frederickson** presented 2022 goals and objectives for the Commission (see Attachment 2).

**Senator Lodge** asked how many different groups were currently represented by the Criminal Justice Commission. **Chair Fredricksen** estimated there were 28 or 29. Recently the U.S. Attorney's Office and a Hispanic group were added. In light of the difficulty in participation from the tribe or the underrepresented, the citizen numbers in those areas were increased from 2 to 3 citizens. **Senator Burgoyne** complimented the Commission on the outstanding work they do. He stated that the people who are working on these issues are working on them in good faith and overcoming institutional differences to come up with workable solutions that make improvements possible.

**PRESENTATION: The Impact of Illicit Drugs on Idaho Communities.** **Dr. Matthew Cox**, Medical Director, St. Luke's Children at Risk Evaluation Services (CARES), stated that he is a child abuse pediatrician, serves as a newborn pediatrician in Meridian, and works with hospitalized children at St. Luke's in Boise. **Dr. Cox** explained the toxic effects of illicit drug use by parents on their children. It is estimated that one in twenty children in utero are exposed to illicit drugs and one in nine are exposed to alcohol in utero. Evidence has shown that both of these substances can have long term detrimental effects on children's physical and emotional well-being and development. Complications include: prematurity, raising the risk of long term medical complications due to early birth and, low birth weight in utero exposure resulting in small babies who are more vulnerable. Children who have been exposed to narcotics or opiates often have neonatal abstinence or withdrawal symptoms. Children who have been exposed to prescription medications that are heavily used, may have neurobehavioral symptoms as newborns and may experience being jittery, seizures, have feeding difficulties or GI problems. These children may be challenging to take care of. If a difficult child is born into a vulnerable, unstable family, there is potential for negative effects. Toxic environments can lead to direct toxic effects or intoxication. The negative effects of parental substance abuse on children can affect them directly. The general care of children who are vulnerable and dependent on someone who has suffered from their own substance abuse puts the children at additional risk.

**DISCUSSION:** **Chairman Lakey** questioned if children could become affected by the drugs just by touch rather than ingesting. **Dr. Cox** stated that if a drug is being smoked and the children come in contact with the affected surfaces, and touch them or put them in their mouths, it can lead to long term exposure. The most extreme situation is when they have become actively intoxicated. **Senator Wintrow** asked what recommendation he would give to the Legislature to protect Idaho's children. **Dr. Cox** responded that educating the public is important. It is necessary to identify and define the toxic environments as a form of child abuse. It would be helpful to make this type of distinction and get it incorporated in child protection laws so that the public can act in protecting the affected children.

**Senator Lodge** inquired what types of behavior have been seen later on in children who have been in unsafe environments. **Dr. Cox** explained that studies have shown a high association with issues in their physical and mental health into adulthood. Identifying and recognizing these experiences as toxic stressors and intervening before the stress changes the structure of their brain is vital. Appropriate early intervention is the way to minimize the long term effects. **Dr. Cox** commented that it requires a collaboration of all the different agencies involved working together for the betterment of Idaho's children.

**Chairman Lakey** asked Dr. Cox to comment on the challenges surrounding the use of fentanyl around children. **Dr. Cox** stated that fentanyl is so potent it can quickly cause respiratory arrest. It can be lethal to a child when it is used topically on an adult and the child touches it. The substance is readily available to parents and some times they don't even realize how potentially lethal fentanyl is.

**Chairman Lakey** stated that due to illness Joe Andreoli would be unable to present.

**PRESENTATION:** **The Impact of Illicit Drugs on Idaho Communities.** **Gary Dawson**, PHD Pharmacologist and Ada County Deputy Sheriff, stated that he has an understanding of the difficulties in the trials and tribulations associated with drug and alcohol rehabilitation. Fentanyl presents challenges because of its potency and rapid effects. If it isn't recognized quickly, it can be a cause of death. Narcam became more popular as fentanyl usage increased. Users of fentanyl should have narcam in their homes to help prevent unnecessary deaths. Fentanyl was used for chronic pain especially in cancer patients. The supervised use of fentanyl is not the problem. Fentanyl being sold or mixed with other drugs has increased dramatically in the last year. Counterfeiters are capable of making fentanyl look like other drugs and the purchasers are unaware that fentanyl is in the drug being purchased. It is easy to overdose on fentanyl and many laboratories are not interested in the amount being added in with other drugs. It doesn't require much illegal fentanyl to make a big difference and laboratories are able to make big profits at a serious risk to communities. Another serious issue is the increase in overdose deaths. Because a small amount can cause so much harm, the effects are being felt in the health care system. Increases in ER visits, hospitalizations, and traffic accidents due to people driving under the influence of the drug or drugs laced with fentanyl, are putting increased pressure on the medical profession. The derivatives of fentanyl are readily available and easily manufactured (see Attachment 3).

**DISCUSSION:** **Senator Burgoyne** questioned if fentanyl does more harm than good? **Dr. Dawson** responded that in the hands of well trained practitioners, the drug is almost a miracle and can give relief to so many pain sufferers. On the other side, if one isn't careful with it's usage, it can get out of hand very quickly. **Chairman Lakey** asked if there was anything the Legislature could do to help keep fentanyl from being used unwisely. **Dr. Fox** stated there is no single answer, and it would require many pieces working together to solve the challenges with fentanyl. He stated that possibly earlier education about the dangers involved with drug use, training on dealing with mental health issues relating to addiction, enforcement of its use and post care treatment and follow-up would all be important steps to take.

**ADJOURNED:** There being no further business, **Chairman Lakey** adjourned the meeting at 3:00 p.m.

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Senator Lakey  
Chair

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Sharon Pennington  
Secretary