

**Idaho Criminal Justice Commission**  
**Regular Meeting**  
November 15th, 2019

**Location:** Local Government Center, 3100 S. Vista Ave., 2<sup>nd</sup> Floor, Boise, Idaho

**Time:** 8 a.m.–12 p.m.

**Idaho Criminal Justice Commission Members Present:**

Eric Fredericksen, Chair, SAPD  
Paul Wilde, Vice Chair, Idaho Sheriffs Association  
Melissa Wintrow, House Jud, Rules & Admin  
Grant Burgoyne, Senate Judiciary & Rules  
Ashley Dowell, Comm of Pardons & Parole  
Lisa Bostaph, Public Member

Melissa Moody, Judge, District Court  
Colleen Zahn, Idaho Attorney General's Office  
Darren Simpson, Judge, District Court  
Greg Chaney, House Jud, Rules & Admin  
Denton Darrington, Public Member  
Monty Prow, IDJC

Darrell Bolz, Public Defense Commission  
Sara Thomas, Idaho Supreme Court  
Grant Loeb, Prosecuting Attorneys Assoc.  
Seth Grigg, Idaho Association of Counties  
Eric Studebaker, Department of Education

Comprising a quorum of Idaho Criminal Justice Commission (Commission)

**Idaho Criminal Justice Commission Members Absent:**

Dan Hall, Chiefs of Police Association  
Dave Jeppesen, Health & Welfare  
Kedrick Wills, Idaho State Police

Todd Lakey, Senate Judiciary & Rules  
Bart Davis, U.S. Attorney, District of Idaho  
Jared Larsen, Office of the Governor

Melinda Smyser, Office of Drug Policy  
Josh Tewalt, Department of Correction  
Margie Gonzalez, Comm. on Hispanic Affairs

**Others Present:**

Timothy Hibbard, ICJC/IAC  
Kelli Brassfield, IAC  
Chris Atwood, U.S. Attorney's Office

Kathleen Elliot, PDC  
Annie Hightower, ICASDV  
Ken Boals, ICAC

Jeff Peterson, ICAC  
Vaugh Killeen, ISA  
Tammara Tarvin, ISA

<b>Agenda</b> <i>Who's Responsible</i>		<b>Meeting Outcomes/Decisions Reached</b>	<b>Due Date</b>
8:00 am (10 min)	Call to Order— <i>Chair Eric Fredericksen</i> <ul style="list-style-type: none"> <li>• Welcome and Roll Call— <i>Chair Eric Fredericksen</i></li> <li>• Review Commission's Vision and Mission Statement and Values— <i>Commission Members</i></li> </ul>	The Commission's Vision and Mission Statement and Values were read by the Commission members.	
<b>Commission Management</b>			
8:10 am (20 min)	<b>Action Item</b> – Approve October 2019 Minutes  <u>Subcommittee Reports</u>	There was a motion to approve the October 2019 minutes by Darrell Bolz and seconded by Paul Wilde. <b>The motion carried.</b>  It was discussed that the existence of the Community College Subcommittee is no longer necessary.  Legislation on the Data Storeroom is still in the works for the 2020 session.	
<b>Promote Well-Informed Policy Decisions</b>			
8:30 am (45 min)	Sexual Assault Protection Orders— <i>Annie Hightower, Idaho Coalition Against Sexual and Domestic Violence; and Melissa Wintrow, Idaho House of Representatives</i>	Representative Melissa Wintrow and Annie Hightower presented legislation on Sexual Assault Protection Orders for input from the Commission: <ul style="list-style-type: none"> <li>• Sexual assault survivors lack protection with the current civil protection order system in place.</li> <li>• In the Domestic Violence Crime Prevention Act they are inserting language to include sexual assault.</li> <li>• It was asked by Denton Darrington if no contact orders or civil protection orders are generally adhered to, or is there widespread non-compliance.</li> <li>• Grant Loeb: Widespread non-compliance is the norm. However, this may be a different case because in these cases they are generally asked for by the victim and there usually is no existing relationship, while in other cases they are generally asked for by the prosecutor or judge, in situations where there is already an existing relationship.</li> <li>• It was asked by Sara Thomas if the preponderance of evidence standard has been challenged.</li> <li>• To the knowledge of Annie Hightower, there hasn't been a challenge to the standard of evidence.</li> </ul>	

		<ul style="list-style-type: none"> <li>• Chair Fredericksen asked about the definitions of sexual conduct and sexual contact in the statute, if it should match the definitions that are in criminal code.</li> <li>• Representative Wintrow answered that there is precedent that the civil definitions don't have to match the criminal definitions. She also expressed concern about referencing the code that the criminal definition is currently in is in reference to prostitution, and therefore may not be germane.</li> <li>• It was expressed by Representative Cheney and Senator Burgoyne that it would be clearer and avoid confusion in the legislative process to reference the criminal code, awkwardness aside.</li> <li>• Sara Thomas suggested that the language of "over or under the clothing" should not be used as there is already ample case law that states that over or under the clothing does not matter.</li> <li>• It was asked if this will have any effect on gun rights.</li> <li>• The answer is unknown.</li> <li>• Judge Moody described the violation of a criminal no-contact order, which is punishable to up to 6 months in jail and \$1,000 fine. It is initiated by a judge. A civil protection order is created by a petition from a victim and a then there is an evidentiary hearing if the respondent asks for one. If it is issued, it can be in effect for a year, (with the potential for it to stay indefinitely), and if violated is punishable to up to a year in jail and a \$5,000 fine.</li> </ul>	
<p>9:15 am (45 min)</p>	<p>Idaho Internet Crimes Against Children Task Force—<i>Ken Boals and Jeff Peterson, Attorney General's Office</i></p>	<p>Ken Boals and Jeff Peterson gave a presentation on the Idaho Internet Crimes Against Children Task Force:</p> <ul style="list-style-type: none"> <li>• ICAC began in 1998 under the 1998 Justice Appropriations Act - Public Law 105-119</li> <li>• Provided resources, officers and technology to help eliminate cyber threats to our children (PROTECT Act)</li> <li>• Was funded until 2013, 2017 PROTECT Act was signed into law and is in effect until 2022</li> <li>• 61 coordinated Task Forces representing over 4,500 federal, state and local law enforcement and prosecutorial agencies</li> <li>• Conduct proactive and reactive investigations, forensic investigations, and criminal prosecutions</li> <li>• ICAC had a 12.4-million-dollar budget in 2003, a 28.6-million-dollar</li> </ul>	

		<p>budget in 2018, and 36.3-million-dollar budget in 2019.</p> <ul style="list-style-type: none"> <li>• ICACs mandates are: <ul style="list-style-type: none"> <li>○ Forensic and Investigative Components (Investigations)</li> <li>○ Training and Technical Assistance <ul style="list-style-type: none"> <li>▪ Officers</li> <li>▪ Prosecutors</li> </ul> </li> <li>○ Victim Services</li> <li>○ Community Education <ul style="list-style-type: none"> <li>▪ Teach Students</li> <li>▪ Train Teachers</li> <li>▪ Inform Parents</li> </ul> </li> </ul> </li> <li>• Ways ICAC receives/investigates cases: <ul style="list-style-type: none"> <li>○ NCMEC Tips <ul style="list-style-type: none"> <li>▪ Tip received via ICAC Data Systems</li> <li>▪ Previewed for content/jurisdiction</li> <li>▪ Subpoenas submitted for IP/phone number</li> <li>▪ Case assigned to an ICAC investigator</li> </ul> </li> <li>○ Agency Referrals</li> <li>○ Third party complaint call-in</li> <li>○ Pro-Active/Multi-Jurisdictional Operations <ul style="list-style-type: none"> <li>▪ Peer-to-Peer Investigations (Bit Torrent, Freenet, &amp; E-Mule)</li> <li>▪ U/C Chat Operations</li> </ul> </li> </ul> </li> <li>• Child Pornography = Possession, Manufacturing or Trafficking</li> <li>• The Solid majority of minors self-manufacturing &amp; disseminating nude photos or video</li> <li>• to each other as well as to adult purveyors</li> <li>• Child Enticement = Reported &amp; Multi-Jurisdictional Operations</li> <li>• Peer to Peer Sharing (P2P) = Bit Torrent, ETorrent, EMule, Gnutella, &amp; FreeNet</li> <li>• Suspects are trending toward social media to get their fix</li> <li>• Human Trafficking = HT Taskforce run though the AUSA Office /Justin Whatcott</li> <li>• Progression of Child Pornagraphy: <ul style="list-style-type: none"> <li>○ Pictures on the beach <ul style="list-style-type: none"> <li>▪ Traded via mail</li> </ul> </li> </ul> </li> </ul>	
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10:00 am (20 min)	Break		

<p>10:20 am (30 min)</p>	<p>Update on VINE Program and PREA Audits— <i>Vaughn Killeen, Idaho Sheriff's Association</i></p>	<p>Vaughn Killeen gave a presentation on PREA and VINE:</p> <ul style="list-style-type: none"> <li>• Idaho declined to become PREA compliant for several reasons. The cost was expected to be high and it was an unfunded mandate by the Federal government. Also, most agencies had adopted zero tolerance policies. It was estimated at the time that PREA compliance would cost the state and counties \$6,814,000.</li> <li>• Zero Tolerance Task Force created by executive order on January 13, 2014</li> <li>• IPREA created by Task Force and adopted by the Idaho Criminal Justice Commission and adopted by Governor Otter in December 2014</li> <li>• Idaho Department of Juvenile Corrections went full PREA in 2014</li> <li>• IDOC and ISA maintained IPREA</li> <li>• IDOC transitioned from IPREA to PREA in 2017</li> <li>• ISA is moving to full PREA in 2020</li> <li>• How Much Time to Complete a PREA Audit <ul style="list-style-type: none"> <li>○ Pre-audit work consists of flash drive and any supporting documentation needed takes anywhere from 16 to 24 hours.</li> <li>○ On-site audit takes anywhere from 24 hours to 40 hours.</li> <li>○ Post-audit research and verification phone calls and emails take anywhere from 1 hour to 5 hours.</li> <li>○ Interim report takes anywhere from 40 to 60 hours.</li> <li>○ Follow-up review and Final report takes anywhere from 8 hours to 24 hours.</li> <li>○ Auditor can be audited if DOJ wants to verify the work done. Decertification can occur if the auditor is found to be negligent in the audit.</li> <li>○ Auditors can be decertified if their conduct is found to be inappropriate or if they conduct an audit when there is a conflict of interest.</li> <li>○ Auditor must recertify every three years. Study time for the exam takes about 30 to 40 hours and exam takes anywhere from 5 hours to 16 hours.</li> </ul> </li> <li>• Is PREA working? <ul style="list-style-type: none"> <li>○ There were 8,768 allegations of sexual assault in 2011</li> <li>○ There were 24,661 allegations of sexual assault in 2015</li> <li>○ Reporting has improved, however a greater number proved to be</li> </ul> </li> </ul>	
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<p>10:50 am (30 min)</p>	<p>Presentation on KISS—<i>Eric Studebaker, Idaho Department of Education</i></p>	<p>Eric Studebaker gave a presentation on the Gap Analysis Survey:</p> <ul style="list-style-type: none"> <li>• KISS was not funded.</li> <li>• The purpose of this survey was to collect information about current school and district policies, practices and competencies related to suicide prevention, intervention and postvention.</li> <li>• The information collected will be used to inform efforts to provide more support for Idaho schools in creating suicide-safer environments.</li> <li>• The data will be shared with schools, the State Department of Education, the Division of Public Health, and the Suicide Prevention Action Collective.</li> <li>• School-based details will be shared back to the districts via direct links to the Health and Welfare Tableau server; however, will not include individually identifying information and only state-wide totals will be published.</li> <li>• The majority of participants were teachers, and those from elementary schools.</li> <li>• Among Teachers, 50% are aware of the district suicide prevention policy.</li> <li>• 84% of elementary school teachers are aware of policy language that is inclusive to postvention as opposed to 56% of middle school and high school teachers. For building administrators its 20% for elementary and middle school, and 14% at the high school level.</li> <li>• 95% of respondents have had suicide prevention and postvention training.</li> <li>• 80% of respondents were aware of the district suicide prevention policy</li> </ul>	



		<ul style="list-style-type: none"> <li>• 55% knew that this policy contained information specific to postvention.</li> <li>• 79% stated that their schools have suicide prevention materials posted in their schools.</li> <li>• Only 50% of respondents could say that their school has not experienced a student suicide in the last five years.</li> </ul>	
11:20 am (40 min)	Other ICJC Business  <u>Plan 2020 ICJC Schedule</u>	<p>It was discussed that the Community College subcommittee be moved to inactive.</p> <p>The Mental Health Subcommittee will be evaluated moving forward.</p> <p>The Research Alliance is looking at next steps, but will continue.</p> <p>It was decided that the 2020 meetings will be held the last Friday of each month with the exception of November and December, where the meetings will be moved up one week. There will not be a meeting in August.</p> <p>The December meeting will be canceled.</p> <p>The New ICJC Administrator will be Kelli Brassfield of IAC. Chair Fredericksen directed the Commission to direct any future commination to her.</p>	
12:00 pm	Adjournment	The meeting was adjourned.	

Next regularly scheduled meeting to be held in Boise, Friday, December 13th, 2019

## “Collaborating for a Safer Idaho”

