

Idaho Criminal Justice Commission
Regular Meeting
October 19th, 2018

Location: Local Government Center, 3100 S. Vista Ave., 2nd Floor, Boise, Idaho

Time: 8 a.m.–12 p.m.

Members Present:

Sharon Harrigfeld, Chair, IDJC
Paul Wilde, Vice Chair, Idaho Sheriffs Association
Darrell Bolz, Public Defense Commission
Denton Darrington, Public Member
Eric Fredericksen, SAPD
Henry Atencio, Department of Correction
Nicole Fitzgerald, Office of Drug Policy

Dan Hall, Chiefs of Police Association
Gregory Moeller, Judge, District Court
Lisa Bostaph, Public Member
Lynn Luker, House Jud, Rules & Admin
Melissa Moody, Judge, District Court
Matt McCarter, Department of Education
Margie Patti Anne Lodge, Senate Judiciary & Rules

Paul Panther, Idaho Attorney General's Office
Kedrick Wills, Idaho State Police
Sandy Jones, Comm of Pardons & Parole
Melissa Wintrow, House Jud, Rules & Admin
Bart Davis, U.S. Attorney, District of Idaho

Comprising a quorum of Idaho Criminal Justice Commission (Commission)

Members Absent:

Grant Loeb, Prosecuting Attorneys Assoc.
Kendra Knighten, Office of the Governor
Russell Barron, Health & Welfare

James Cawthon, Judge, Magistrate Court
Margie Gonzalez, Comm. on Hispanic Affairs
Sara Thomas, Idaho Supreme Court

Seth Grigg, Idaho Association of Counties
Grant Burgoyne, Senate Judiciary & Rules

Others Present:

Tim Hibbard, ICJC/IAC
Kelli Brassfield, IAC
Ross Edmunds, IDHW
Ruby Mendez-Mota, ACLU of Idaho
Sam Hulse, Bonneville Sheriff's Office

Sean Falconer, IDOC
Ryan Bernhard, Idaho Bail Coalition
Thomas Strauss, ISP
Lindsay Atkinson, Idaho Freedom Foundation
Ian Thomas, IACDL

Elisa Massoth, CJA
Ilana Rubel, Idaho House of Representatives
Christy Perry, Idaho House of Representatives
Janeena White, IDOC
Scott McKay

| Agenda <i>Who's Responsible</i> | | Meeting Outcomes/Decisions Reached | Due Date |
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| 8:00 am | Call to Order— <i>Chair Harrigfeld</i> | | |
| | <ul style="list-style-type: none"> Welcome and Roll Call—<i>Chair Harrigfeld</i> Review Commission's Vision and Mission Statements and Values—<i>Commission Members</i> | <p>Introductions of members and guests. The Commission Purpose was reviewed.</p> | |
| Commission Management | | | |
| 8:15 am (45 min) | <p>Action Item – Approve September 2018 Minutes</p> <p>Action Item – Approve FY19 MOU</p> <p>Action Item – Sign FY19 MOU</p> <p><u>Subcommittee Reports</u></p> <ul style="list-style-type: none"> Bylaws Subcommittee Action Item – Approve Bylaws | <p>A motion to approve the September 2018 meeting minutes was made by Darrell Bolz and seconded by Sandy Jones. The motion carried.</p> <p>“Board” needs to be changed to “Commission” in Idaho “Idaho Board of Pardons and Parole.” In the FY19 MOU. A motion to approve the FY19 MOU was made by Sandy Jones and seconded by Kedrick Wills. The motion carried. (Judges, legislators and U.S. Attorney abstained from the vote.) The FY19 MOU was not signed because a correction needed to be made. To be signed at a later date.</p> <p>The Bylaws Subcommittee gave its report. The changes to the Bylaws were reviewed line by line. In section 6.6 “during the open portion of each meeting” was removed such that the sentence will read “The Commission welcomes visitors.” A motion to approve the ICJC Bylaws was made by Sandy Jones and seconded by Paul Wilde. The motion carried.</p> <p>The Mental Health Subcommittee gave its report. “FACT” team: “Forensic Certification Treatment” team who serve as treatment providers for mental health courts, and PET team “Psychiatric Emergency Team” PET teams only exist in Boise/Ada County. The subcommittee gave its recommendations: 1. ICJC continue to support CIT and strengthen CIT’s presence throughout the State, 2. language for police calls on mental health needs to be consistent and a priority, 3. public defenders and prosecutors need training on 18-211 and 18-212, and 4. a re-write of 66-326 needs to be performed.</p> | |
| Promote Well-Informed Policy Decisions | | | |

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| <p>10:15 am (45 min)</p> | <p>Mandatory Minimum Sentencing Discussion Continued—<i>Ilana Rubel, Idaho House of Representatives</i></p> | <p>Representative Rubel gave a presentation on mandatory minimum sentencing: This presentation is about the outliers that shouldn't go to prison, not about the really bad people that need to go to prison. Mandatory minimums are not the norm in Idaho. Drug trafficking law is not really about trafficking, it's about possession. The current bill only adds an out so that the judge can deviate from the minimum sentence sees a manifest injustice and is in the interest of public safety. The current legislation is a major power shift from judges to prosecutors. What the prosecutors bring the judges have to carry out. Judges need the power to deliver decisions that at just. It doesn't appear that mandatory minimums have deterred drug crime in Idaho. Other states have repealed mandatory minimums to the apparent effect of reduced crime and cost savings. Academic research: long sentences aren't a deterrent, rather, the likelihood of being caught is a better deterrent. Bad actors are not likely to meet the standards of the mitigation circumstances that a judge might use to reduce their sentence.</p> <p>Representative Perry was given time to present. She deferred her time to Ian Thompson, President of the Idaho Association of Criminal Lawyers: There are countless stories of manifest injustice in regards to the mandatory minimums. Of 503 convicts serving time in IDOC as first time offenders, there were 258 were considered serious offenses. Of those, 177 were under the trafficking statute. Only 29% of those were there for delivery or possession with the intent to deliver. Trafficking statute is a misnomer, as most are actually only being prosecuted on possession charges. Many of those who are actually dealing drugs are receiving less severe sentences than are those who are charged with possession under the trafficking statute. The statute should therefore be called a possession statute. The defense attorneys are not at the mercy of judges; they are at mercy of the prosecutor.</p> <p>Representative Perry further deferred her time to Elisa Massoth, Attorney in private practice in Payette Idaho: Idaho judges are not soft on crime. Two scenarios were given on "what would happen if the proposed legislation were to pass."</p> <p>Dr. Lisa Bostaph: The charts presented by Representative Rubel were not properly used to make the point that was attempted to be made (does not measure deterrence or a lack thereof, but the workload of the criminal justice system). Correlation does not mean causation. Change in policy in other states does not necessarily cause the effects shown, simply because they correlate. Racial disparity</p> | |
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| | | <p>in sentencing cannot be shown at the state level, there needs to be a disaggregation to the county level to show that. Little evidence that suggests that general deterrence is effective. Most don't commit crime, because they have stakes and conformity, make good decisions, are pro-social, and don't want to lose their jobs and families, not because they are deterred because they understand what the sentence is of a law. Little empirical research to support that mandatory minimums have been effective, what little has been done, does not support mandatory minimums in terms of recidivism.</p> <p>The comment that judges behave as wildebeests was disputed by Judge James Cawthon.</p> <p>Representative Melissa Wintrow discussed some of the philosophical issues at play: is the system fair? What is the balance of power in the system? Does the legislation actually deter crime? Further, based on experience, there are some circumstances where greater judicial discretion would be helpful.</p> | |
| 11:00 am (15 min) | Update on Public Defense Commission— <i>Darrell Bolz, Public Defense Commission</i> | <p>Darrell Bolz gives an update on the Public Defense Commission. The chair of the Commission has taken a new job. The PDC is interviewing to fill the position, but whoever they hire will not come in for a while due to budget constraints. Two members will need to be replaced. ACLU lawsuit takes up a lot of time from the staff. Funding is always a concern. Work load standards are a major concern to the counties because of lack of funding. The PDC is going to ask for a budget increase from 6 to 11 million to help the counties fund their public defense system. The PDC rules need to go through negotiation process, and thus the PDC is conducting hearings to get information from many public stakeholders. The PDC provides scholarships and training to public defenders to attend training in and out of the state.</p> | |
| 11:15 am (15 min) | Agency Legislation | No agency legislation to report. | |

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| 11:30 am (30 min) | Other ICJC Business Review COPS Program— <i>U.S. Attorney’s Office: Bart Davis U.S. Attorney, Kate Horwitz, Assistant U.S. Attorney</i> <ul style="list-style-type: none"> • Action Item – Join COPS Program Discussion of New Subcommittee <ul style="list-style-type: none"> • Action Item – Creation of new subcommittee | Bart Davis gives an update on COPS program. Discusses legislation as it currently stands in other states. Action item to support a join to COPS program was moved to November to give members more time to review the materials provided by Bart Davis. No new subcommittees to create. Discussion on how a new subcommittee is created. It was discussed that there be a future meeting for a full discussion on JRI—a “JRI day”. Sandy Jones, Henry Atencio, Patti Anne Lodge, and Ross Edmunds to discuss different aspects of the program. Date TBD. | |
| 12:00 pm | Adjournment | At 11:53 am the meeting was adjourned. | |

Next regularly scheduled meeting to be held in Boise, Friday, November 16th, 2018

“Collaborating for a Safer Idaho”

