

Idaho Criminal Justice Commission
Mental Health Subcommittee
June 27th, 2019

Location: Conference Room A, 3100 S. Vista Ave., 2nd Floor, Boise, Idaho

Time: 1:00 p.m.–3:00 p.m.

Members Present:

Paul Wilde, Chair, Idaho Sheriff's Association
Ashley Dowell, IDOC

Michael Reardon, Judge, District Court
Ross Edmunds, IDHW

Scotty Eliason, Psychiatrist, IDOC
Erik Lehtinen, SAPD

Comprising a quorum of Idaho Criminal Justice Commission (Commission) Subcommittee on Mental Health.

Members Absent:

Dallas Payton, IDJC
Kate Pape, Ada County Jail

Scott Ronan, ISC
Daniel Clark, Bonneville Prosecutor

Kerri Nelson, ISC

Others Present:

Tim Hibbard, IAC
John Christensen, ISA

Agenda <i>Who's Responsible</i>		Meeting Outcomes/Decisions Reached	Due Date
1:00 pm (10 min)	Call to Order— <i>Chair Wilde</i> <ul style="list-style-type: none"> Welcome and Introductions—<i>Chair Wilde</i> 		
Commission Management			
1:10 pm (110 min)	<p>Action Item – Approve October 2018 Meeting Minutes.</p> <p>Action Item – Approve April 2019 Meeting Minutes.</p> <p><u>Discuss plan of action from previous meeting regarding 18-211s and 18-212s.</u></p>	<p>There was a motion to approve the October 2018 minutes by Michael Reardon and seconded by Ashley Dowell. The motion carried.</p> <p>There was a motion to approve the April 2019 minutes by Scotty Eliason and seconded by Michael Reardon. The motion carried.</p> <p>Ross Edmunds gave an overview on 18-211s and 18-212s:</p> <ul style="list-style-type: none"> As a state, Idaho's 18-212 commitments have increased 250% over the past 5 years. There isn't one single reason for this increase. There has been a long discussion about who does the evaluations, how they are evaluated and recommended. Each part of the state has different groups of people primarily seek the evaluations, i.e. prosecutors, public defenders, and judges. Most of the time psychologists do the evaluations. <p>John Christensen from the Idaho Psychological Association shared his perspective on the issues:</p> <ul style="list-style-type: none"> There isn't a lot of communication between psychologists around the state regarding the examinations. There is no clearly defined standard for the examinations. There is a great deal of variability. With juveniles, however, there is formalized component to the examinations. He, personally is not in favor of a formalized standard, as the data derived from this standard is not useful. A formal standard for all evaluations is not preferred as. He gave an example of person that he may evaluate that had a psychotic disorder, he wouldn't administer an intelligence test, as the results would be inconclusive. The evaluator should be given discretion to evaluation someone based on the needs to the circumstances, not be prescribed a list of evaluations to administer regardless of the situation. John will bring what this subcommittee has to say to his organization. 	

John Christensen asked the question to Ross Edmunds if the number of requests for evaluations for 18-211 have also increased.

- Ross Edmunds gave the short answer of no. But admitted that IDHW doesn't have consistent data. Anecdotally, what he is seeing and hearing is that there isn't an increase in requests for evaluations, but that the increase is strictly driven by a significant increase in evaluations pointing to a lack of competency.
- Scotty Eliason asked for clarification on the issue: The number of 18-211s hasn't increased, but the number "positives" leading to 212's has increased. Restorations are being ordered more frequently.
- Ross Edmunds: "Yes... The number of evaluations is going up. The percentage of the evaluations whereby the conclusion is that the person is found incompetent to stand trial is also going up."
- Judge Reardon is unsure if Odyssey can provide the data necessary. Chair Wilde will ask Sara Thomas if she can figure it out.
- John Christensen wonders if all of the individuals being declared competent are being adequately accounted for. In his experience, about 90% of all of the individuals he evaluates he finds to be competent to stand trial. That doesn't mean that there isn't also an increase in incompetency's, because the total number of evaluations could also be increasing.
- Chair Wilde will ask: How many are being ordered. Who is ordering the evaluations. How many were found to be competent vs. incompetent.

Scotty Eliason: There is no uniformity, but uniformity would be difficult.

- Sometimes a defense attorney will hire an expert that will evaluate for 12 hours testing for everything. And then another expert on the same case will spend an hour because he/she didn't think everything was necessary. They're both valid reports, but it's hard to ignore that one person spent 12 hours. Does that mean everyone should do that? Personally, he thinks is a huge waste on money. But the jury or judge who make the decisions, might lean toward the 12-hour report.

Ross Edmunds: There is a large regional variability. Why?

- District 4 and 5 are the where the highest number are coming from.
- Some ideas were discussed: culture of public defenders, cautious judges, lack of experience from evaluators.

Judge Reardon finds that when he orders an evaluation, most are being extended beyond the 90 days required.

Chair Wilde: What can be done to make sure the judges are getting consistent information?

John Christensen Has seen an increase in the number misdemeanor cases being ordered competency evaluations.

Ross Edmunds: IDHW isn't looking for Absolute consistency, just some level of consistency. Is there way to get the evaluators to get together and talk and see if there is some way to nudge the system into some level of consistency.

Region 4 and 5 have a high population of refugees. This could a contributing factor.

There are about 1-3 evaluators per region. So no more than about 10-15 evaluators across the state. There is no training to be an evaluator. Licensed psychologists are in high demand. Just getting someone to do the evaluations is often the best to be expected.

John Christensen asked for the list of evaluators and said he could reach out to sample of them and ask them how they are approaching the evaluations to determine if there is a way to make the examinations more consistent for the courts.

- John Christensen's email address is: drchristensen@pasopcatello.com
- Ross Edmunds said he will draft the list and send it to John Christensen.

There was discussion on a potential training that could be done with prosecutors and public defenders about the evaluations.

- **There is to be an action item for this training on a future agenda.**

John Christensen also think that the evaluations could benefit from a training as well.

A rewrite of 66-326 to be discussed on a future agenda.

	<u>Discussion on future meeting and make a scheduled for the rest of the year</u>	<p>Future meetings will be held quarterly (January, April, July and October) the same week as the ICJC regular meeting. All meetings will be held on Thursday (the day before the Friday ICJC regular meeting) at 1:00 pm.</p> <p>Erik Lehtinen said he would speak to the PDC about doing the above mentioned training.</p>	
3:00 pm	Adjournment	The meeting was adjourned.	

“Collaborating for a Safer Idaho”

