

Idaho Criminal Justice Commission
Regular Meeting
February 24, 2023

Location: In Person – 3100 S. Vista Ave. Ste. 200 Boise, ID

Time: 9 a.m.–12 p.m.

Idaho Criminal Justice Commission Members Present:

Eric Fredericksen, Chair, SAPD
Ashley Dowell, Comm of Pardons & Parole
Kedrick Wills, Idaho State Police
Daniel Chadwick, Public Member
Thomas Sullivan, Judge, Magistrate Court

Jonathon Brody, Judge, District Court
Joshua Hurwit, U.S. Attorney, District of Idaho
Jeff Nye, Idaho Attorney General’s Office
Darren Simpson, Judge, District Court
Denton Darrington, Public Member

Marianne King, Office of Drug Policy
Monty Prow, IDJC
Kathleen Elliott, Public Defense Commission
Seth Grigg, Idaho Association of Counties

Comprising a quorum of Idaho Criminal Justice Commission (Commission)

Idaho Criminal Justice Commission Members Absent:

Tracy Basterrechea, Chiefs of Police Association
Kieran Donahue, Idaho Sheriffs Association
Todd Lakey, Senate Judiciary & Rules Chairman
Bruce Skaug, House Jud & Rules Admin
Josh Tewalt, Department of Correction
Bernadette LaSarte, Public Member

Chris Mathias, House Jud, Rules & Admin
Dave Jeppesen, Health & Welfare
Jared Vacant, Department of Education
Larsen, Office of the Governor
Grant Loebbs, Prosecuting Attorneys Assoc.

Sara Omundson, Idaho Supreme Court
Vacant, Senate Judiciary & Rules

Others Present:

Thomas Strauss, ISP
Jason Spillman for Sara Omundson
Brad Doddie for Kedrick Wills
Kathie Bracke, IDHW
Scott Johnson for Monty

Agenda There are only two counties that are accredited. <i>Who's Responsible</i>		Meeting Outcomes/Decisions Reached	Due Date
9:00 am (5 min)	<p>Call to Order– <i>Chair Eric Fredericksen</i></p> <ul style="list-style-type: none"> • Welcome and Roll Call— <i>Chair Eric Fredericksen</i> • Review Commission's Vision and Mission Statement and Values—<i>Commission Members</i> 		
Commission Management			
9:05 am (10 min)	<p>Action Item – Approve January 2023 Minutes</p> <p><u>Subcommittee Reports</u></p> <ul style="list-style-type: none"> • Human Trafficking • Sex Offense • MMIP 	<p><i>There was a motion to approve the minutes from January 2023 by Ashley Dowell, Marianne King seconded. Motion carried.</i></p> <p>Human Trafficking has not had a meeting since the legislature is in session.</p> <p>Sex Offense has two pieces of legislation. One is on the floor, and one will have a hearing next week.</p> <p>MMIP – There are a couple of new members, and the group is working on new goals.</p>	
Promote Well-Informed Policy Decisions			
9:20 am (25 min)	<p>Suicide Data, Trends, and Impacts – <i>Teresa Abbott, Health Program Manager, Suicide Prevention Program, IDHW</i></p>	<p>The rates are up and down from 2018. The 2021 suicide rates are down over 14% from the 2018 baseline. The goal is to have rates down 35%. 2020 was our historical high. There were 421 deaths with 23 per 100,000. 2019 was an encouraging year as it was the year after the implementation of the state plan to reduce suicide rates.</p> <p>Method of injury: Majority was firearms at 63%. Other methods are: falling, cut/pierce, drug/poisoning, and strangulation.</p> <p>Youth rates are similar to adults. For ages 10-17, the rates were down in 2019 but was back up in 2020 and 2021. The historical high was 2018 at 26 deaths. The rates are not skyrocketing. There is rumor that they are.</p> <p>Rates by age The rates are pretty consistent from age 25 to age 55 at right about 30. It is pretty rare to see suicide in those under 15 but it does happen.</p>	

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	<p>Rates by county: The rates in rural areas show more suicide deaths. This is generally because of the lack of access to services. Current prevention efforts include increasing access to support resources and reducing stigma of health-seeking behaviors. There is reluctance in rural communities to seek help is because there is a lack of confidentiality.</p> <p>Prevention Plan: 5-year strategic plan developed by Idaho Suicide Prevention Action Collective: They are looking to reduce rates by 20% and help those that are impacted by a loss. ISPAC annual work plan objectives for SFY23: 1) coordinate and monitor prevention, intervention, and postvention goals in each public health district and to improve state, tribal, and local capacity to use data to identify and address equity and suicide risk disparities. They will do this by providing subgrants to the public health districts, who have prevention plans that are in line with the state plan. The districts have the boots on the ground knowledge of their communities. The Idaho legislature appropriates funds: program budget and staff support plan goals, and subgrants. SAMHSA federal grant awarded in April 2022 provides supplemental funding for Idaho's 988 transition. It was projected that there would be an increase in the number of calls once this was implemented, which was the case. This required more funding for more staff.</p> <p>988 Hotline: 988 and Text-to-988 went live July 16, 2022 Idaho 988 calls were answered by the Idaho Crisis & Suicide Hotline 988 is accessible for all ages by phone, text, and chat. There was a 36% increase in call volume, but the response rate stayed the same. Easy to promote and easy to remember. Essential elements: someone to call, someone to respond, and somewhere to go.</p> <p>What is the relationship between impulse and premeditative? There is an impulse to each one, but most are premeditative. We do believe that these are preventable as there are signs.</p>	

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9:45 am (30 min)	Joint Presentation on Fentanyl – <i>Dotti Owens, Retired Ada County Coroner, and current DOA consultant; Josh Hurwit US Attorney; Justin Whatcott, First Assistant US Attorney; Marianne King, executive Director of the Office of Drug Policy</i>	<p>US Attorney's Office: The US Attorney's office cannot prosecute or arrest the state out of the fentanyl issue. This is a crisis, and it is going to take more.</p> <p>Leading causes of deaths: Drug poisonings are the leading causes of death at 64% and they are mainly from synthetic opioids which are primarily fentanyl. This year for the first time, meth will not be the leading cases. Fentanyl has surpassed that. It is clear that it is coming from Mexico.</p> <p>It is so dangerous because the lethal dose of fentanyl is 2 milligrams. It is smaller than the end of a pencil. These pills are created in a lab with no consistency. A lot of times people will get pills that aren't very potent and will get in the habit of taking lots of pills to get high. This leads to the continued habit and leads to death of getting a lethal dose.</p> <p>These are often not marketed as fentanyl. They are passed off as prescribed drugs. This is often because it is cheaper than other drugs. We don't see heroin as often because of the cost. You can buy fentanyl pills for really cheap at the border but the further you go north the price goes up.</p> <p>It is becoming so common that there are many different forms. The rainbow fentanyl is very concerning as it appeals to children. In Oregon there was rainbow fentanyl that was seized and even smelled sweet.</p> <p>Seizures in HIDTA 2017-2021 You can see the dramatic increase. There were 19 seizures in 2017 and 415 seizures in 2021.</p>	

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	<p>Federal Mandatory minimums: Don't always apply to a defendant as we have to review their history and how much the individual has on them. For fentanyl: if an individual has 0-40 grams, they could face up to 20 years. For 40-400 grams, they could face up to 5-40 years. This is different compared to heroin. 0-100 grams is 0-20 years and over 100 grams is 5-40 years.</p> <p>The US Attorney's office does focus on the death resulting cases. This is a result of the Bias Act being implemented. If someone gives drugs to someone and there is a death result, there is a higher penalty. This can be a deterrent but the cases are not simple. We are seeing more of these cases.</p> <p>Proof: Defendants distributed drugs to the decedent; The drugs distributed by the defendant were the "but for cause" of the decedent's death. The government need not prove the death was a foreseeable result of the distribution of the controlled substance. U.S. v. Houston, 406 F.3d 1124 (9th Cir. 2005)</p> <p>Challenges: Decedents had multiple sources: who actually gave them the lethal drugs Decedents have multiple types of drugs in their: hard to determine which one caused the death, The decedent may have had other health issues: need an autopsy and toxicology reports otherwise, can't prosecute.</p> <p>Working to increase awareness on the issue. What is the amount that you are actually seeing in the toxicology reports? They aren't tested for purity. Have you ever seen a 100% pill? Not generally because it only takes a little bit, but we do see it in powder form. The danger isn't limited to the hard-core drug user. It only takes one time and one dose.</p> <p>Does it have medicinal value? Yes, doctors will use it for pain relief.</p>	

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10:15 am (10 min)	Break		
10:25 am (60 min)	Continued: Joint Presentation on Fentanyl – <i>Dotti Owens, Retired Ada County Coroner, and current DOA consultant; Josh Hurwit US Attorney; Justin Whatcott, First Assistant US Attorney; Marianne King, executive Director of the Office of Drug Policy</i>	<p>Coroners: Jurisdiction (county/elected/ 4-year terms) Requirements (18 and resident/Zero) Training (Statutory required to have a little bit but there are no teeth making it actually happen)</p> <p>Med death investigation Calls for service: Unattended, unknown/suspicious Potential suicide, accidents, homicides, undetermined and natural Hospitals, rehab facilities, sober living</p> <p>Scene: Coroners should be taking photos, doing extensive interviews, and should be determining whether there is a need for autopsy/tox. They ask about history and uses of Narcan.</p> <p>Other efforts: Coroners should be reviewing medical and mental health records including state board of pharmacy. This is to obtain the medications and match them to the board of pharmacy records.</p> <p>Idaho 44 Counties have different methods of MLDI: There needs to be a determination of jurisdiction: What qualifies as a call? Are coroners looking for overdoses? Most are not and some are not even laying eyes of the decedents. They are getting a PCP to sign the death cert and turning the body to the funeral homes. Are hospitals outside of Ada County reporting in hospital deaths? Coroners should be involved in the cases where people die in the hospital. There is a disconnect between the diagnosis and the causes for the diagnosis. I.e., pneumonia caused by an overdose.</p>	

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		<p>Investigation: Photos: coroners need to take their own photos and not taken from LE. Some coroners are not even looking at the decedent out of “respect” for the family. If they don’t look at the body, they miss things such as track marks.</p> <p>Tunnel vision: I.e., increased blood alcohol levels, liver damage, gastrointestinal damage and bleeding, myocardial infarction, hemorrhagic stroke, and cardiomyopathy. These are cases that would have been released on. They could be seen in any other jurisdiction as naturals. These were not natural. These were all caused by drugs. This is different jurisdiction to jurisdiction. This allows for the county to capture all of the information.</p> <p>Challenges: Experienced investigators: It is hard to obtain investigators because wages are low and there are not enough of them available. There is also a lack of benefits. (Rule of 80) This job takes a toll on people. Recruiting is very difficult.</p> <p>Funding: There are inadequate budgets at the county level. There is not enough money to do what is necessary, such as autopsies. The same goes for toxicology reports. These tests are very expensive.</p> <p>Equipment: The coroners are contracting with others to make sure they have the proper equipment, such as cameras, computers, and transport vehicles. There is a new facility going in Bannock County: there is a suggestion to use this facility as a subscription. I.e., payment for as many autopsies as needed and then there will be an assessment at the end of the year to determine if the cost/payment was adequate.</p> <p>No accountability/oversite: This is a huge problem.</p>	

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	<p>Public health arsenal: Coroners should have all of the knowledge. All of the records should be used, because this will give so much data. Fatality reviews will be essential for mortality prevention. Death investigation is directly tied to: details of lifestyle, health and mental health as well as death certificates. Lack of information leads to misleading data.</p> <p>Response: Is our overdose problem worse than what is documented? Absolutely.</p> <p>Grant: Training – individually train each county in the state to accurately identify cases that need investigated and to accurately obtain fluid from decedents. State crime lab – teach each how to take and process samples. The lab is getting a new piece of equipment that will give a great turnaround on results and those results will be placed into ODMAP. Data – the state will get real time results which equals real time data.</p> <p>What do the results show? It will quantify it for us. It will tell us what is in it. How do you coordinate with the US attorney's office for prosecution? Work with the coroner through the investigator.</p> <p>Do you think there should be legislative action to get to some of your goals? We could become a medical examiner state, but the forensic pathologists are extremely expensive and there are too few of them. They are moving into administrative roles which creates more of a shortage. Have requested from the governor's office for help to make sure coroners are doing their job. We need to have a state established oversight committee and need standards at the state level. If we don't mortality rates will be off.</p> <p>What pushback are we going to get when trying to do this legislation? The ones that aren't doing it are going to pushback.</p>	

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	<p>Office of Drug Policy – focuses on primary prevention Statewide fentanyl awareness campaign: All it takes is everything. Esto Perpetua from the Governor’s office. This campaign targets teens and young adults. It is designed to tackle fentanyl. Fentanyl is taking the lives of people at least 1 a day.</p> <p>Website (www.FentanylTakesAll.org): shows the stories of people that weren’t looking to feed an addiction but just looking to ease an edge. They ended up with a lethal dose of fentanyl. This campaign has been doing really well. This message has been contacting/touching many. There are thousands of impressions.</p> <p>ODMap As overdoses increase, it is unknown where or why these are happening. This application gives data on where the overdoses are happening. EMS data has been added to this application. 29 agencies are registered to use it. There is hope for expansion. This will help identify hotspots. There is a community alert when there is a certain number of overdoses. This give the community a heads up that there may be a tainted batch of drugs. PHAST public health and safety teams are starting to develop.</p> <p>Community based programs and practices: Idaho opioid misuse and overdose prevention steering committee – strategic plan which will have other workgroups. They will develop and implement the strategic plan.</p> <p>Evidence-based programs in schools – We have to invest in providing health alternatives for our youth. Supports our K-12 and postsecondary educational institutions in going upstream and implementing evidence-based programs to prevent opioid misuse and the development of opioid misuse disorders.</p> <p>When we think about prevention, we have to think about it as a whole package.</p>	

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	<p>US attorney's office calls to action: Maintain and increase aggressive prosecution posture, including through partnerships with federal and local task forces. Enhance training and understanding of death-resulting investigations. Participate in community awareness campaigns, including schools.</p> <p>They are also working with ISP. Doing outreach to schools to help educate on this issue also. Want to focus on prevention so they don't have to prosecute.</p> <p>ODP Call to Action: Use the digital media toolkit, Advocate for the expansion of ODMap, Consider joining a workgroup – need the subject matter experts. Support the implementation of evidence-based programs – getting into the schools is hard. Use your voice to educate them.</p> <p>Coroner's Call to Action: With the grant they are going to: try to understand what the true numbers are.</p> <p>Goal 1 Analyze: How much are coroners considering budgets? What cases will we capture that we wouldn't have otherwise? General numbers: before and after</p> <p>Goal 2 Identify accurate numbers: Identify hotspot areas: what substances and what areas Concerns: training v. willingness</p> <p>Should we look at creating a subcommittee to address issues around coroners and death investigations. Add to the next agenda. Is there a gap that the commission can fill. LE is doing a great job when this is triggered. There should be an investigation of the coroner system. Need to look at successes and failures. We know what works for prevention but there is a need for help in implementation. Need to convince people that prevention matters and that it works.</p>	

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11:25 am <i>(5 min)</i>	Other ICJC Business –		
11:00 am	Adjournment		

Next regularly scheduled meeting to be held in Boise, Friday, April 28, 2023

“Collaborating for a Safer Idaho”