

**Idaho Criminal Justice Commission**  
**Regular Meeting**  
November 17, 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:**

Ashley Dowell, Chair, Comm of Pardons & Parole  
Kieran Donahue, Idaho Sheriffs Association  
Kedrick Wills, Idaho State Police  
Daniel Chadwick, Vice Chair, Public Member  
Erik Lehtinen, SAPD  
Thomas Sullivan, Judge, Magistrate Court  
Jonathon Brody, Judge, District Court

Todd Lakey, Senate Judiciary & Rules Chairman  
Joshua Hurwit, U.S. Attorney, District of Idaho  
Jeff Nye, Idaho Attorney General’s Office  
Darren Simpson, Judge, District Court  
Bruce Skaug, House Jud & Rules Admin  
Marianne King, Office of Drug Policy

Monty Prow, IDJC  
Sara Omundson, Idaho Supreme Court  
Grant Loebs, Prosecuting Attorneys Assoc.  
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  
Dave Jeppesen, Health & Welfare  
Jared Larsen, Office of the Governor  
Denton Darrington, Public Member

Chris Mathias, House Jud, Rules & Admin  
Melissa Wintrow, Senate Judiciary & Rules  
Josh Tewalt, Department of Correction  
Kathleen Elliott, Public Defense Commission

Bernadette LaSarte, Public Member  
Greg Wilson, Department of Education

**Others Present:**

Ross Edmunds, IDHW  
Jan Bennetts, Ada Prosecutor  
Joe Decker, Canyon PIO  
Eric Frederiksen, PDC  
Kyle Willmore, Twin Falls County  
Chris Atwood  
Dr. Rhada Sadacharan

<b>Agenda</b> <i>Who's Responsible</i>		<b>Meeting Outcomes/Decisions Reached</b>	<b>Due Date</b>
9:00 am (5 min)	Call to Order— <i>Chair Ashley Dowell</i> <ul style="list-style-type: none"> <li>• Welcome and Roll Call— <i>Chair Ashley Dowell</i></li> <li>• Review Commission's Vision and Mission Statement and Values—<i>Commission Members</i></li> </ul>		
<b>Commission Management</b>			
9:05 am (5 min)	<b>Action Item</b> – Approve September 2023 Minutes  <u>Subcommittee Reports</u> <ul style="list-style-type: none"> <li>• Human Trafficking</li> <li>• Sex Offense</li> <li>• MMIP</li> </ul>	<i>Kieran Donahue made a motion to approve the minutes from September 2023, Jeff Nye seconded. Motion carried.</i>  n/a	
<b>Promote Well-Informed Policy Decisions</b>			
9:20 am (1hr 35min)	Fentanyl – <i>Kieran Donahue, Canyon County Sheriff, plus panel: Jan Bennetts, Ada County Prosecutor Grant Loeb, Twin Falls County Prosecutor Kedrick Wills, Executive Director, ISP Tracy Basterrechea, Chief, Meridian PD</i>	2mg is a deadly dose.  Video: China and Mexico – China has the chemicals that are being shipped and then developed in Mexico. Mexico is developing fentanyl and then shipping it to the United States.  Marine task forces mission is to identify and dismantle drug trafficking organizations utilizing the Pacific Ocean as a transportation corridor. This mode of trafficking is increasingly used by cartels to bypass central America from south America. Data from 2019 shows MTS intercepted and seized more than 280 metric tons of narcotics in the Pacific corridor.  There are 4 states with 31 counties on the 1954 miles of border. This is a long stretch where drugs can come into our country.  Transitional crime: The flow of crime goes from Mexico into Texas, and on throughout the U.S. Generations of establishing these routes by cartels. Cartels tax every product or person that crosses the border. How does this information get to this cart? Local LE report, HYDAs, and prosecutions.	

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	<p>DEA seized: In 2022 the DEA seized enough fentanyl (50.6M laced pills and 10,000lbs of powder) to kill everyone in the United States. That is more than double the amount seized in 2021.</p> <p>In Idaho: July 2023 – Pocatello man arrested with over 1,000 fentanyl pills. He admitted to selling approx... 2,000 pills a week in the Pocatello area. June 2023 – Idaho Falls man arrested with 73,000 fentanyl pills (16lbs), 20 grams of meth, heroin, five firearms, and \$37,000. May 2023 – Two men arrested on I-15 south of Pocatello in possession of 2,000 fentanyl pills stashed in candy boxes. April 2023 – Officers seized 4.6lbs of fentanyl powder (approx. 1million lethal doses) and 24.6lbs of meth during a traffic stop near Twin Falls. There is a lot more out there on top of what we are seizing.</p> <p>North border: Drug smuggling has increased by 596% along the northern border since fiscal year 2021, including a 26% increase in fentanyl. In FY2021, CBP reported 27,180 encounters at the northern border. In FY2023, there have been 189,402 encounters. What is an encounter? It is when LE has contact with an individual.</p> <p>Cartel: According to a 2023 study published by the Journal of Science, Mexican Cartels are the 5<sup>th</sup> largest employer in Mexico. The study found that Mexican Cartels are recruiting between 350-370 new members per week.</p> <p>Several cartels are Sinaloa, Juarez, Gulf, Jalisco New Generation (formerly Los Zetas). Zetas were the special forces of military but now they are just cartel. The cartel has people in every county, city, burrow, in the United States. The cartels are a \$60-\$100B industry in cash.</p> <p>Video of cartel showing off.</p>	

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	<p>There is so much violence because no one wants to give up their money. There is a lot of collateral damage.</p> <p>Video of cartel members shooting up rival cartel.</p> <p>The cartel left a statement behind. "The family does not kill for pay. Does not kill woman. Does not kill innocent. It only kills who needs to die. All people should know this. This is divine justice!"</p> <p>Cartel ambushes Mexican police video.</p> <p>13 officers were killed on October 23<sup>rd</sup> by the cartel. Some officers and/or people are cuffed behind their backs and then executed. Where are they getting their guns? You can't purchase guns in Mexico. The equipment and guns are coming from the north (United States plus other countries) and drugs come from the south.</p> <p>How do they get it into the United States? They will hike mountains to get it here. Once out of the mountains they have drop points. Most are military aged men. They use military style gear. They also have tunnels. 75% of the tunnels are from Tijuana to San Diego because the rock is very structurally sound.</p> <p>No one gets across the border for free. There is a cost paid to the cartel to get across. Most that cross the border are sexually assaulted.</p> <p>Santa Muerte: Patron Saint of the cartel. Could also be called the Boney lady. They worship her. Angel of last resort. Grim reaper. LE needs to watch for these signs. When found you can bet, they are part of the cartel. St. Jude is another saint that they worship. These shrines can be very large.</p> <p>Snapchat and other social media have been used to target children. "The cartels understand that if someone dies from taking their deadly fentanyl, that there are 100 million other users on Snapchat that they can sell their drugs to."</p>	

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		<p>There is federal legislation to allow for regulations for social media. There is a case in Canyon County that is still going (2 years) on as they are waiting on a subpoena on social media.</p> <p>These people are trained very well. You can see it visually on how they just hold their weapons. Our LE are outnumbered.</p> <p>Known and Suspected Terrorists (KSTs) : In SY23, CBP apprehended 169 KSTs at the southern border. Also, agents encountered 12,267 “criminal noncitizens” at the border, represented from 180 countries.</p> <p>Deterrents: Mandatory minimums play a big role in this. This is a front-line approach. Cartels do pay attention to the laws. How many cases are we filing that are fentanyl v. the other drugs? This could help us better understand what the cases are. It would be nice to know what makes it to sentencing as well.</p> <p>The cartels don't care about anyone. It is just about the money and power.</p>	
10:20 am <i>(10 min)</i>	Break		
10:30 am <i>(45 min)</i>	Fentanyl – <i>Josh Hurwit, U.S. Attorney District of Idaho</i>	<p>Trends: they are moving from accidental ingestions to sought out ingestions Social media: emojis that are being used.</p> <p>Federal drug statutes: Possession with intent to distribute 21U.S.C. §841(a)(1) The defendant knowingly possessed fentanyl and the defendant possessed it with the intent to distribute to another person. There are no trafficking statutes at the federal level. It is based on intent to distribute.</p>	

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	<p>Distribution of fentanyl 21U.S.C. §841(a)(1): The defendant knowingly distributed fentanyl. The defendant knew it was fentanyl or some other federally controlled substance. This is most common when used with undercover agents.</p> <p>Conspiracy to distribute 21U.S.C. §841(a)(1) &amp; 846: There was an agreement between two or more persons to distribute fentanyl. The defendant joined in the agreement knowing its purpose and intending to help accomplish that purpose. This is used regularly. We are trying to get the “boss” of the distribution.</p> <p>The penalty is the same for all three of these. It is a three-tier approach: Up to 40 grams = up to 20 years in prison 40-400 grams = min. 5-40 years in prison 400 grams or more = min. 10 to life in prison (Fentanyl pills weigh approx. 1/10 g. 400 pills=40 grams and 4,000=400 grams)</p> <p>We don't always charge the mandatory minimum. There is some discretion. They review other factors in the case. If someone provides substantial information for helping in other cases, their minimum could be reduced. There is also the safety value statute. There are five criteria to consider. One of the factors we look at is if the cartel is involved. These tiers have been in place for a long time.</p> <p>Distribution of drugs resulting in death or serious bodily injury 21U.S.C. §841(a)(1): The defendant knowingly distributed fentanyl. The defendant knew that it was fentanyl or some other prohibited drug. Death or serious bodily injury resulted from the use of the fentanyl. The government need not prove the death was a foreseeable result of the distribution of the controlled substance. U.S. v. Houston, 406F.3d 1124 (9<sup>th</sup> Cir. 2005) The penalty is a minimum of 20 years to life.</p>	

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	<p>Challenges proving these cases: Proving it was the defendant who was the source of the fatal dose and not some other drug source (most have multiple sources). For cause of death: need an autopsy and toxicology, need to rule out other health issues, and need to understand if it was a multi-drug overdose. Have to prove the death would not have occurred but for the target drug.</p> <p>Users have multiple drugs they are ingesting and that can complicate this. Cause of death is also difficult.</p> <p>Autopsy can be requested by coroners and prosecutors. Have there been an issue getting autopsy or results? The issue is not having the autopsy being done on the front end. We can't go back later and do an autopsy. It's a matter of whether or not someone knows when to request an autopsy when the death occurs.</p> <p>What's the referral process to the US Attorney's office? There is a lot of communication because you have to take it case by case and look at all the factors.</p> <p>Special Assistant US Attorney Program (SAUSA): In Ada county there is the Treasure Valley Partnership TVP (gang) SAUSA and HIDTA SAUSA. There is also a Eastern Idaho Partnership EIP (firearms and drug offenses) SUASA in Bannock county. SAUSAs are an opportunity to target local crime problems through the federal criminal justice system.</p> <p>Successes of each SAUSA: TVP: Started in 2007 working with Metro Violent Crime taskforce. There were 531 total defendants prosecuted since 2007 with over 2,000 years of federal prison time. The locals save money by having these groups prosecute v. the state. There was a \$3M cost avoidance for the local criminal justice system. The dismantling of gangs has led to drastic decrease in drive-by shootings in Canyon County.</p>	

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		<p>EIP: Started in 2016 to address firearm and drug offenses. There has been 200 total defendants since 2016 with approx. 750 years of federal prison time. There has been \$2.5M annual cost avoidance to the state/local criminal justice system. There has been intelligence gathered and responses developed for increasingly used drug/gun corridor which has been beneficial to be able to really understand how this trafficking (guns) is working.</p> <p>Case Examples: HIDTA SAUSA: Nampa woman sentenced to 12 years in federal prison for possession with intent to distribute 15lbs of fentanyl. This was done through a wiretap. Part of this investigation, there were others that were identified and charged.</p> <p>A Wilder man was sentenced to more than 10 years for possession with intents to distribute meth, heroin, cocaine, and fentanyl.</p> <p>TVP: 4 defendants sentenced to serve a collective 47 years in federal prison for dealing fentanyl, among other drug and firearms crimes.</p> <p>EIP: Two separate fentanyl cases were sentenced in East Idaho.</p> <p>These are successful due to the valuable partnerships.</p>	
11:10 am (20 min)	Other ICJC Business – MOU (Action) Strategic Plan (Action)	<p><i>Dan Chadwick made a motion to approve the 2024 MOU, Kieran Donahue seconded. Motion carried.</i></p> <p>Strategic plan – use time in a couple of meetings to go through this and make some changes. We have a lot of data requests. We have new opportunities to learn from our data. Maybe the plan should be data driven. What do we have and what do we need? How do we get information from the people actually doing the work? Surveys to the various agencies and associations? Gauging actual functionality.</p>	



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		January's meeting will be a joint meeting at the legislature. February next strategic plan discussions.	
12:00 pm	Adjournment		

Next regularly scheduled meeting to be held in Boise, Friday, December 15, 2023

**“Collaborating for a Safer Idaho”**