

MISDEMEANOR SENTENCING COMMITTEE MEETING

November 13, 2017
9:30 a.m. - 4:00 p.m.
Emmett, Idaho

Minutes

Members:

Chair Judge James Cawthon
Judge Michelle Evans
Judge Paul Laggis
Judge Tyler Smith
Judge James Stow
Sara Thomas
Christina Iverson

Next Meeting:

TBD

Guests:

Eric Thompson
Wade Dishion

Welcome and Introductions

Chair Judge Cawthon welcomed the Committee members. He reviewed the agenda items and discussed the importance of collaboration and thanked all of the members for the continued dedication. Christina Iverson reviewed the materials for the meeting. Minutes from the September 1, 2017 were reviewed.

Motion: Judge Laggis moved to accept the minutes as written. Sara Thomas seconded. Motion carried

Strategic Planning

Christina Iverson provided an overview of strategic planning that focused on vision, mission, and goal setting. The committee members reviewed the current draft vision statement which reads: "A criminal justice system based on well informed decision making that protects our communities; by ensuring accountability, fairness, and justice". The Committee members suggested revisions to vision statement.

"Increase public trust and confidence in Idaho Courts by creating a criminal justice system based on well informed decision making that protects our communities and respects victims by ensuring offender accountability, fairness, and justice."

The Committee members will continue to review the vision statement and refine as necessary at the next meeting.

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Judge Cawthon discussed the importance of incorporating four elements into the Committee's mission statement.

- Sentencing
- Pretrial
- Probation
- Community Collaboration

The committee members discussed the essence of each of the elements as it applies to the order of priorities and provided a draft mission statement that will be revisited at the next meeting.

"The Misdemeanor Sentencing Committee will provide a community collaboration framework for informed decision making, focusing on Pretrial, Sentencing, and Probation."

Pretrial-Preventive Detention/Legislation

Judge Cawthon reviewed the areas of action as it pertains to pretrial. He reviewed the presentation to the Idaho Criminal Justice Commission in October 2017 and discussed the six recommendations and how our Idaho values are key elements to each of the recommendations. The six recommendations were: Risk Assessment, Data Collection, Representation at Arraignment, Pretrial Monitoring and Supervision, Citations in Lieu of Arrest, and Preventive Detention. The Committee members indicated that continued education is necessary for the judiciary as it relates to matters on pretrial.

The proposed changes to ART. 1, § 6, of the Idaho Constitution were provided to the Committee members.

Right to bail -- Cruel and unusual punishments prohibited.

All persons shall be bailable by sufficient sureties, except for capital offenses, where the proof is evident or the presumption great and in situations in which bail may be denied under this section. Excessive bail shall not be required, nor excess fines imposed, nor cruel and unusual punishments inflicted.

A court may deny bail pending trial for a defendant charged with a dangerous crime, as defined by the legislature, if upon motion of the court or the prosecuting authority, and following a hearing, the court finds, by clear and convincing evidence, that no bail or release conditions or combination thereof will reasonably protect the safety of any other person or the community or reasonably assure the defendant's appearance at trial.

The Committee members discussed litigation throughout the county and how different jurisdictions conduct hearings to determine financial abilities of defendants. Sara Thomas indicated that a rule change may need to be addressed on how to conduct hearings regarding financial matters.

Sara Thomas reviewed the intent of the draft legislation regarding pretrial fees and the authority of jurisdictions to impose fees to defendants. She asked the members to consider whether there should be provisions on guidance on standards of pretrial, conditions, victim notification procedures, and hearings for conditions regarding sufficient surety cases.

Action: *Christina Iverson will work with Jason Spillman, Legal Counsel for the Administrative Office of the Courts, to devise a group to author draft language regarding hearings, timeframes, and conditions.*

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Pretrial National Standards Draft Review

Christina Iverson updated the Committee members on proposed draft language from the National Association of Pretrial Agencies (NAPSA) as it pertains to standards and guidelines. The members indicated that it would be important to understand which of the elements of the standards are based on research and evidence.

Action: Christina Iverson will contact the NAPSA Standards Workgroup to ascertain what the research and evidence states on the draft language. She will report her findings at the next meeting.

Misdemeanor Probation Presentation

Mr. Wade Dishion, Dishion Enterprises Incorporated, provided an overview of what probation/pretrial services are conducted in Gem, Washington, and Power County. He outlined the program supervision strategies, forms, fees, judicial interaction, and statistics.

Sara Thomas indicated that the Pretrial Services Supervision Agreement may need to be revised to remove the search and seizure notification in that defendants should not be waiving their 4th rights in the agreement. Mr. Dishion will work to remove the language. The Committee members thanked him for his time regarding the continued education of probation and pretrial services throughout Idaho.

Gem County Tour

Judge Smith gave a tour of the Gem County Courthouse and introduced Committee members to the clerks. He provided an overview of the courtrooms and history of the building. Committee members indicated that each hosting judiciary may want to consider conducting tours as well if the meetings are in their jurisdictions. The Committee members thanked Judge Smith.

Misdemeanor Probation Survey

Christina Iverson reviewed the Misdemeanor Probation Survey Report dated November 2017. The survey will be utilized by the Committee members to help craft strategies with the Idaho Association of Counties-Misdemeanor Probation Administrators Association to improve supervision functions throughout Idaho. The report gave an overview of statewide probation functions in their structure, misdemeanor probation officers additional duties, interaction with the judiciary, court appearance rate for officers, and the Level of Service Inventory-Revised Initiate. The report further gave indications from misdemeanor probation officers on the conditions of probation they felt would be helpful to enhance their duties, what is working well, and those areas that need to be improved.

Judge Smith indicated that lack of affordable safe and sober housing in many jurisdictions are problematic to the success and recovery of those on probation. He further noted that officers stated there is insufficient treatment funding for probationers. Christina Iverson stated that currently there is \$800,000 in treatment funds to be dispersed for approximately 8700 probationers. Members indicated there maybe funds used from the Interlock to help offset the cost of rehabilitative treatment for probationers; however, it is not widely known throughout the state.

Action: Sara Thomas will review the Interlock funds and consider judicial education at future conferences.

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Priority of Payments

Sara Thomas briefed the status of the proposed legislation regarding the Priority of Payments. The deadline for completion of the draft will be November 27, 2017. It is anticipated that Misdemeanor Probation and Problem Solving Court fees will be proposed at priority number 3. Judge Smith stated that his Problem Solving Court is working on conducting payment plans with participants in anticipation of the Priority of Payments.

Odyssey Update

Christina Iverson reviewed the Mandatory Minimum Data Elements document for both Probation and Pretrial. These documents outline those areas that officers must document in Odyssey that will relate to developing performance measures and viable statistics in which to help make decisions. The documents are utilized in officer trainings prior to Go-Live events for Odyssey in all of the Wave counties.

New Business

Sara Thomas asked the Committee members to review what information should be contained for New Judges Orientation. The Committee members suggested Sentencing Practices, How to Collaborate and Educate Stakeholders, and Elements of Pretrial.

Sara Thomas is drafting job descriptions for Trial Court Administrators (TCAs) on minimum requirements. Members recommended arranging meetings between the judiciary and misdemeanor probation and quarterly meetings with the Magistrate Judiciary for feedback. Sara asked that Committee members correspond with her on any additional feedback or considerations for the job description.

Judge Cawthon asked the Committee to adjourn. Next meeting will be scheduled between February – March 2018 in Lewiston, Idaho.

Motion: Judge Stow moved to Adjourn. Judge Evans seconded. Motion carried.

Adjourn at 3:42 p.m.