



# IDAHO Supreme Court

## JUDICIAL/ADMINISTRATIVE NEWS

OCTOBER 2005



### Granata Award Goes to Judge Debra Heise

Bonner County Magistrate Judge Debra A. Heise is this year's recipient of the George G. Granata Award, which is presented annually to an Idaho judge in recognition of his or her professionalism.

The recipient of this prestigious award is selected due to their significant contributions over a substantial period to the Idaho judicial system, the impact of their professionalism, and their status as a role model. The award is named for the late Judge George Granata who exemplified judicial professionalism during his more than 20 years on the Idaho bench.

First District Magistrate Judge Barbara Buchanan nominated Judge Heise for the Granata Professionalism Award saying, "Judge Heise truly embodies the highest level of judicial professionalism. She is the most senior judge in the First Judicial District. She has served the people of Bonner County and the State of Idaho with distinction and dedication for nearly twenty years. I cannot think of another judge who is a better role model or more of an inspiration to her colleagues."

"For almost twenty years, Judge Debra Heise has worked to improve the administration of justice in Bonner County, the First District and the State of Idaho. She has served the people of the State of Idaho with absolute integrity, great compassion and intelligence," Judge Buchanan said.

Judge Heise received her undergraduate degree from Georgetown University and graduated from the Florida State University Law School. She was admitted to the Florida Bar in 1977 and to the Idaho Bar in 1978. Prior to assuming the bench in January of 1985, she was a partner in the Fuller & Heise law firm in Caldwell, Idaho. She has served as secretary, vice president and president of the Third District Bar Association. She has served on both the Pro Bono and Fee Arbitration Committees of the Idaho State Bar.

### Criminal Justice Commission Meets

The Idaho Criminal Justice Commission has established its meeting schedule for the fall. Meetings will be held October 25, November 22, and December 16.

The Commission was established by Governor Kempthorne for the oversight of the State's Criminal Justice System and consists of 23 members who are appointed by the Governor.

The members of the Commission include: A representative from the Governor's office; the Attorney General's office; Senate and House Judiciary and Rules Committee Chairs and Ranking Minority members; the Chief Justice of the Idaho Supreme Court; Director of the Department of Correction; the Director of the Idaho State Police; the Director of the Department of Juvenile Corrections; the Executive Director of the Commission of Pardons and Parole; the Director of the Department of Health and Welfare; four representatives designated by the Chief Justice, including a Supreme Court Justice, Court of Appeals Judge, District Judge and Magistrate Judge; one representative from the State's Prosecuting Attorneys Association, the State Appellate Public Defender, the Sheriffs' Association, and one representative from the Chiefs of Police Association; and three citizens at large.

A number of members of the Judiciary have been significantly involved in the Commission's work, including Chief Justice Gerald Schroeder, Justice Daniel Eismann, Court of Appeals Judge Sergio Gutierrez, and District Judges Randy Smith and John Stegner.

For background information, see the Governor's Executive Order at: [http://gov.idaho.gov/mediacenter/execorders/oe05/eo\\_2005-17.htm](http://gov.idaho.gov/mediacenter/execorders/oe05/eo_2005-17.htm)

### Juvenile Justice "Journeys"

Stakeholders in Idaho's ten-year-old Juvenile Corrections Act held a series of conferences around Idaho in September and October to celebrate the success of the law and chart future directions. State Senator Denton Darrington and former Representative Celia Gould, both significant players in the creation of the Act, joined Representative Debbie Field in participating in the events in Idaho Falls, Pocatello, Twin Falls, Caldwell, Boise, Post Falls and Moscow.



### Judge Joel Horton Steps Down as Chair, Access Committee

Fourth District Court Judge Joel Horton says it hardly seems possible that he has been working on issues of access to Idaho's judicial system for as long as eight years, but as he steps down from chairing the Committee to Increase Access to the Court he can reflect on a long string of accomplishments that have dramatically improved the ability of Idaho citizens to get the access they must have to our legal system.

"The Court originally wanted to address the growing number of unrepresented litigants and to begin a process of sorting out where we were going on those issues. We spent a lot of time in discussion and thinking about what might work," Judge Horton said.

The Judge credits strong support from the Supreme Court and the administrative staff of the courts with the development of pilot projects to assess the viability of what soon became the Court Assistance Office Project (CAOP).

Judge Horton says access is so important because, "from my perspective it goes to the fundamental issue of public confidence in the court process. Too many people have the notion that you

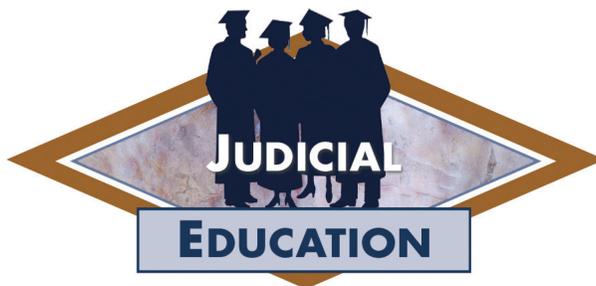
can't get a fair shake in our system without (financial) resources and too many people do not have the financial means to secure representation."

Judge Horton said it has been critical to develop access programs that meet legitimate needs, but he says Idaho has correctly resisted the temptation to "try to be all things to all people." He adds that there are simply some types of legal proceedings that are so complex and demanding of legal expertise that they do not lend themselves to pro se representation.

By all reports, the CAOP has been a major success for Idaho. The project has received national recognition and surveys of citizens who have utilized the services have been overwhelmingly positive.

"I really am stunned that anything involving government services could have anything approaching such a level of consumer satisfaction. It is very gratifying," Judge Horton said.

Each of the state's seven judicial districts is home to a Court Assistance Office. All 44 counties offer at least limited services through the office of the Clerk of the District Court. *Thank you, Judge Horton.*



### Protecting Against Identity Theft

The National Center for State Courts has a new website "Trends in Identity Theft" available at:  
[http://www.ncsconline.org/D\\_KIS/Trends/2005/PriPubIDTheft.html](http://www.ncsconline.org/D_KIS/Trends/2005/PriPubIDTheft.html)

### IDOC Seeks Help From Deputy Clerks

Carolee Kelly, Sentencing Specialist Supervisor at the Idaho Department of Correction (IDOC), has two requests for help from deputy clerks:

☞ If a court discovers that an order has the wrong case number on it, after it has been mailed to the Idaho Department of Correction (IDOC), it would be helpful for the court clerk to clearly identify in the amended order what is being amended, e.g.,

case number CR123 corrected to CR456. The title "Amended Order" is often used in many counties to identify a probation violation and it helps to identify the amendment specifically.

☞ Because IDOC uses court file stamp dates to identify duplicate court documents, it is also important that the deputy clerks re-file court orders with any changes made to the document. The deputy clerk may write a correction on the order and use the same file stamp date. When IDOC receives a correction on the order, IDOC may not handle the document properly.

They would appreciate your help in these two areas to assure accuracy and avoid any confusion.



**Drug/Mental Health Court Appointees**

The following individuals have been appointed to the Drug Court and Mental Health Court Coordinating Committee:

- James Higenes – Sheriff, Cassia County 2 year term
- Mark Strait – Office of Traffic and Highway Safety 2 year term
- Megan Ronk – Governor’s Office 1 year term
- Major Dave Kane – Idaho State Police 2 year term
- Judge Ron Bush – Replacing Judge Beebe 3 year term
- Ray Millar – Mental Health – IDHW 2 year term
- Joan Nuxoll – District 2 Coordinator 2 year term
- Linda Wright – Trial Court Administrator,  
5th Judicial District 3 year term
- Kipp Dana – Treatment Provider from  
7th District Drug Court Treatment Services 1 year term

**State/Tribal Court Forum Reconvened**

Idaho’s Tribal Court/State Court Forum will be meeting in Coeur d’Alene on October 24, 2005. This Forum has been meeting in Idaho since 1994. Its purpose is to bring together representatives of Idaho state courts and Idaho’s tribal courts to discuss common areas of interest and inter-system disputes that may arise from concurrent and conflicting jurisdiction of state and tribal courts.

This year’s meeting is chaired by Fred Gabourie, Chief Judge for the Kootenai Tribe, and Gaylen Box, Magistrate Judge in Bannock County. Among the other members of the Forum are: Gerald F. Schroeder, Chief Justice of the Idaho Supreme Court; Eva J. White, Judge of the Nez Perce Tribal Court; Mary Pearson, Judge of the Coeur d’Alene Tribal Court; Virginia Shaw, Judge of the Shoshone-Paiute Tribal Court; James Herndon, District Judge in Bingham County and Chief Administrative Judge of the Seventh Judicial District; Leo Ariwite, Judge of the Shoshone-Bannock Tribal Court; B. Lynn Winmill, United States District Judge; John Varin, Magistrate Judge in Camas County; John Luster, District Judge in Kootenai County; and Patti Tobias, Administrative Director of the Courts.

The Forum’s Consultant is Douglas R. Nash of the Institute for Indian Estate Planning/Probate, Seattle University School of Law, and formerly a professor at the University of Idaho Law School.

Among the topics to be discussed at the meeting are domestic violence and the federal Violence Against Women Act; criminal jurisdiction in Indian country; memorandums of understanding; Indian probate reform; and the Indian Child Welfare Act.

This will be the first formal meeting of the Forum since 2001. The meeting is being held in conjunction with Idaho’s Magistrate Judges

Institute, which will be held October 25 through 28, and which brings together magistrate judges from throughout the state for continuing legal education and discussion of issues of concern. The participants in the Forum have been invited to attend the Institute as well.

**E-Records Committee Established**

Supreme Court Justice Linda Copple Trout has been detailed to head a new committee that will draft and recommend rules relating to the Idaho courts regarding access to court records which are available electronically.

Under current Idaho law and rules, many public records are open to public inspection, but Justice Trout said her committee will grapple with the sometimes difficult determination whether those same records should be available in electronic form where theoretically they could be accessed from a private computer and widely disseminated.

“It is one thing to go to a courthouse and request records and look at the information,” Justice Trout said. “It might be something else when someone can access the records by computer and widely disseminate them.”

Privacy concerns are at the heart of much of the discussion regarding electronic access to records.

Justice Trout served as the co-chair of a national Council of Chief Justices committee that initially attempted to craft national standards for electronic records, but ended up, because of the contentious nature of the issues involved, drafting guidelines for state courts to consider in this area. Justice Trout said her committee will utilize those guidelines as a jumping off point for its deliberations.

Justice Trout said her committee, which was appointed in September, will get to work immediately on its recommendations. Continuing development of the state’s ISTARS information system, among other issues, makes the need for state rules in Idaho very timely.

Other members of the new E-Records Committee are: Justice Karen Lansing, Court of Appeals; Sue Fellen, Idaho Coalition Against Domestic and Sexual Violence; John Peay, Director, Information System-Supreme Court; Michael Henderson, Legal Counsel-Supreme Court; Debora Kristensen, Givens, Pursley; District Judge Jeff Brudie; Magistrate Judge Ralph Savage; Linda Wright Trial Court Administrator-Fifth District; David Navarro, Clerk, Ada County; Betsy Russell, Spokane Spokesman-Review; Scott McKay, Nevin, Benjamin and McKay; and James Dickinson, Ada County Prosecuting Attorney’s Office.





**\$200,000**

### **DOJ Awards Grant**

The Second Judicial District recently received a two year, \$200,000 grant from the Bureau of Justice Assistance of the Department of Justice (DOJ). The drug court enhancement grant will be used to expand treatment services by adding a residential care component and strengthening mental health services.

Another significant aspect of the grant is the provision of case management services to assist the local teams in keeping their clients engaged in treatment, supervision, and other referrals as part of the individuals' case plans. Congratulations to the Second Judicial District and thanks to Steve Caylor and other team members for their work in developing this grant proposal.

### **Ada County Mental Health Court**

*(The following guest opinion article was originally published October 6, 2005 in The Idaho Statesman)*

#### **Mental Health Court benefits defendants, our community**

*By Judge Michael McLaughlin*

The Idaho Supreme Court has established a Mental Health Court in Ada County. This court utilizes an interdisciplinary team to monitor closely and provide treatment and assistance to mentally ill defendants charged with or convicted of non-violent, non-sex offense felonies in Ada County. This court is a collaborative effort among the Ada County Sheriff's Department, Department of Health and Welfare Region IV Mental Health, Department of Correction Probation and Parole Division, Ada County prosecutor, Ada County public defender's office, Idaho Division of Vocational Rehabilitation, treatment providers and other community partners who effectuate positive change in the lives of these individuals and subsequently reduce the burden on taxpayers. Mental Health Court focuses on defendants who have been diagnosed with severe and persistent mental illnesses including chronic depression, bipolar disorder and schizophrenia. These particular mental illnesses respond well to medications and, once stabilized,

Mental Health Court defendants participate in a closely supervised program that includes multiple weekly meetings with members of the mental health court team, psychological counseling, and strict compliance with prescribed medications, in addition to any other terms and conditions of their probation. Before they are accepted into Mental

Health Court, defendants are carefully screened to ensure public safety. These defendants also receive assistance in developing resources to address problem areas in their lives such as employment, family issues, health needs and housing. Any defendants with substance abuse problems are required by the court to participate in substance abuse treatment and are monitored for sobriety with random drug testing.

The Legislature and governor, when they funded this court, recognized that in the United States, over 16 percent of our county, state and federal prisoners are mentally ill. Ninety-seven percent of defendants sent to prison are released back into society and studies clearly demonstrate that mentally ill defendants do not get better in prison. Typically, the mentally ill serve longer portions of their sentences than other prisoners and, without rehabilitation and stabilization, continue to cycle repeatedly through the criminal justice system. The cost per person for Mental Health Court is approximately one third the cost per year to house defendants in the penitentiary or the county jail.

Nationwide, mental health courts have been established through evidence-based research to substantially reduce recidivism. Mental Health Court participants have six times the success of defendants diagnosed with mental illnesses but who do not go through mental health court. Thus the goal is to provide these individuals with the structure and counseling they need to be law-abiding citizens, to save taxpayers the high cost of housing mentally ill defendants in prisons and to help these defendants become as productive as possible, with the public's safety always in focus.

One of the most critical problems facing this court in Ada County at this time is housing. Defendants burdened with mental illness and who are homeless, lack the social and financial resources available to many other defendants. The Mental Health Court requires that the participants obtain safe and sober housing. I would ask those who read this article to step forward and assist us in this and other areas. The Boise Rescue Mission, through the leadership of Bill Roscoe, has already provided resources for our Mental Health Court participants.

Our new Mental Health Court coordinator, Kelly Jennings, can be reached (208) 287-7507 if you wish to volunteer to assist us or if you have questions.

(District Judge Michael McLaughlin, 4th Judicial District)





### Bar Foundation Elects Judge Smith

Sixth Judicial District Administrative District Judge Randy Smith has been elected as "Fellow of the American Bar Foundation," which is a research center for the empirical study of law, legal institutions, and legal processes in society.

The Fellows is an honorary organization of practicing attorneys, judges, and law teachers whose professional, public, and private careers have demonstrated outstanding dedication to the welfare of their communities and to the highest priorities of the legal profession.

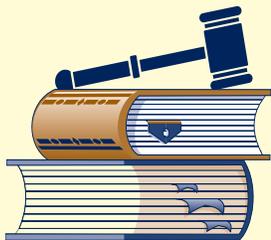
**Congratulations, Judge Smith!**



### Mileage Rate Increases

Effective September 1, 2005, the mileage reimbursement rate is set at  
**48.5 cents per mile.**

This rate increase reflects the rate set by the State of Idaho's Board of Examiners, and approved by the Supreme Court.



## New Orders & Rule Changes

For current New Orders or Rule Changes, go to <http://www.isc.idaho.gov/rulesamd.htm>

In Re: Amendment of I.B.C.R. 204 and 402 - September 15, 2005 - effective October 1, 2005

Adoption of I.C.A.R. 56 - Adoption of Cost Recovery Fee Schedule For Family Court Services - September 18, 2005, effective September 15, 2005

IN RE: LOCAL RULES OF THE 1st JUDICIAL DISTRICT





## New Regulations – SR22 and Withheld Judgments

The Supreme Court received a notice on August 16 this year from Ed Pemble, Driver Services Manager for the Idaho Transportation Department, which informs as follows:

“Based on a recent legal opinion from the Idaho Attorney General’s office, drivers who receive a DUI withheld judgment from the court with a court imposed license suspension, will be required to provide to the department, proof of financial responsibility and maintain evidence of coverage. The implementation date for this new policy is set for September 1, 2005 and will affect any convictions imposed on or after this date.”

“In addition to paying any reinstatement fees that are due, a driver will be required to comply with this requirement in order to reinstate and maintain a valid driving status. The requirement to maintain proof of financial responsibility is required for three years from the ending date of the suspension imposed and is accomplished via the SR-22 process.”

This news will not affect the way that the court handles the withheld judgments or any of the other current court process. However, due to the change, the front line clerks may be getting a few more questions.

Remember that in the past if a driver had a withheld judgment on a DUI, (or other suspension related offense) they did not have to obtain SR-22 insurance. That was a very good reason to ask for a withheld judgment for a conviction of a DUI or other suspension related offense.

Now the driver will have to obtain SR-22 insurance even with a “withheld judgment.” For a while you may have some folks questioning you, as they may be surprised to get the notification from Idaho Transportation Department (ITD) for SR-22, and they may think that you have not processed the conviction/withheld correctly.

You may explain to them that the rule for this has changed, and direct further questions on this to the ITD.

Thank you for all of the good work that you do to enter the suspensions, and report them in a timely fashion.



## Odds & Ends

Updated Sex Offender Guide, available (as of August 2005) at: [http://www.isc.idaho.gov/links/ID\\_Sex\\_Offend\\_Guide\\_05.pdf](http://www.isc.idaho.gov/links/ID_Sex_Offend_Guide_05.pdf)

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Chief Justice Gerald F. Schroeder

Justice Linda Copple Trout

Justice Daniel T. Eismann

Justice Roger S. Burdick

Justice Jim Jones

We are very interested in your news and information. If you have or are aware of items that should be featured in a future edition of Judicial/Administrative News please let us know!

News items may be submitted for publication to Patricia Tobias:

**451 West State St.**  
**Boise, ID 83702**  
**Phone: 208-334-2246**  
**FAX: 208-947-7590**  
**E-mail: [ptobias@idcourts.net](mailto:ptobias@idcourts.net)**

Thanks!



**Note:** For the most up-to-date Judicial Calendar, check the Judiciary's homepage at <http://www.isc.idaho.gov/calendar.htm>

