

In the Supreme Court of the State of Idaho

IN RE: ORDER AMENDING LOCAL RULES)
OF THE FIRST JUDICIAL DISTRICT) ORDER

Whereas, at its Oral Conference on July 26, 2018, the Court reviewed the Misdemeanor Caseflow Management Plans developed by each of the Seven Judicial Districts in accordance with the Court's Amended Order dated December 7, 2015, and approved each of the submitted plans:

NOW, THEREFORE, IT IS HEREBY ORDERED, that the Court approves the Misdemeanor Caseflow Management Plan submitted by First Judicial District, and

IT IS FURTHER ORDERED that the local rules of the First Judicial District are hereby amended to include the approved Misdemeanor Caseflow Management Plan, attached to this order, and the amended local rules are hereby approved and adopted.

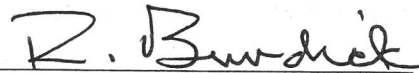
IT IS FURTHER ORDERED, that the amended local rules of the First Judicial District shall become effective immediately.

IT IS FURTHER ORDERED, that the amendments to the Local Rules of the First Judicial District of the state of Idaho shall be sent to the trial court administrator of the First Judicial District for publication and dissemination.

IT IS FURTHER ORDERED, that the First Judicial District is hereby authorized to submit the amendments to the editors of *The Advocate* for publication and inclusion in the *Idaho State Bar Desk Book*.

Dated this 15 day of August, 2018.

By Order of the Supreme Court



Roger S. Burdick, Chief Justice

ATTEST:



Clerk

I, Karel A. Lehrman, Clerk of the Supreme Court/
Court of Appeals of the State of Idaho, do hereby
certify that the above is a true and correct copy of
the Order

entered in the above entitled cause and now on
record in my office.

WITNESS my hand and the Seal of this Court 8-15-18

KAREL A. LEHRMAN

Clerk



By _____ Chief Deputy

Misdemeanor Caseflow Management Plans

1st District Plan

Misdemeanor Criminal Caseflow Management Plan for Idaho's First District

Statement of Purpose

This misdemeanor caseflow management plan will be administered consistently with Idaho's Statewide Caseflow Management Plan.

The purposes of this plan are to ensure fair, just, and timely case resolution in the courts of the First District by:

1. Preventing unnecessary delay in case processing.¹
2. Ensuring that each case receives individual attention proportional to need in order to ensure a just result in each case.
3. Promoting judicial leadership and instituting continuous court oversight over the progression of cases from filing to disposition.
4. Creating consistency and predictability for users of the court system.
5. Setting reasonable and mutually understood clear expectations for judges, litigants, the Bar, and the public.
6. Ensuring that judges, court clerks, and trial court administrators have consistent, meaningful case management information to inform their efforts.

Section 1: Assignment of judges in the First District

All magistrate judges are assigned matters specified in Idaho Code 1-2208 and Chapter 23, Title 1, Idaho Code. Additional matters may be assigned by the administrative district judge pursuant to Idaho Code 1-907. In addition, the Idaho Supreme Court may, by rule, specify additional categories to magistrate judges pursuant to Idaho Code 1-2210.

Backup judge coverage may be provided in instances of scheduling conflicts, judicial conferences, vacations, illness, etc., by assignment to both senior and sitting judges, as available.

The administrative district judge in each judicial district is responsible for the overall assignment of judges and caseloads to ensure effective caseflow management. The administrative district judge considers carefully the number and types of judges available within the district, as well as the availability of senior judges. Other considerations include population density, distribution and mix of caseloads, number of counties, geography and driving distances, the feasibility and desirability of specialization of caseloads, and societal and workload trends. The administrative district judge and trial court administrator continually monitor the assignment of judges and the effective use of existing resources.

Judicial assignments for the hearing of criminal cases in the First District are set forth in the Idaho State Bar Desk Book and are modified from time to time.

¹ According to Article I, Section 18 of the Idaho Constitution, "...justice shall be administered without...delay." According to the American Bar Association's *Standards Relating to Court Delay Reduction*, delay is "any elapsed time other than reasonably required for pleadings, discovery, and court events."

Section 2: Management of Criminal Cases

Section 2.1: Idaho Time Standards for Processing Criminal Cases

Idaho Court Administrative Rule 57 establishes time standards for case processing for individual case types. Per the rule, the time standards "are adopted as guidelines for judges, trial court administrators, lawyers, and litigants to assist them in determining the length of time it should take to conclude a case in the trial courts." Time standards establish reasonable, mutual expectations for the courts, attorneys, and the public and can be an effective way of boosting public confidence in the Idaho courts.

When monitored regularly, time standards serve as a tool to assist courts with managing caseloads, preventing backlog, and assessing progress towards case processing goals. In short, they are a tool for ensuring that Idaho Courts are meeting their goal to provide timely case resolution as reflected in the Mission Statement of the Idaho Judiciary and as mandated in the Idaho Constitution. The identification and monitoring of processing times for key interim case events for each case type is an additional tool to assist with case management efforts, allowing for the identification of specific areas of delay in the case process.

Judges, clerical staff, and trial court administrators consistently monitor time standard reports each month and use the information to take action in particular cases and to adjust processes and reallocate resources to meet case processing goals.

Pursuant to ICAR 57, the time standards applicable to misdemeanor criminal cases are:

Misdemeanors: 90 days from first appearance

The revised time standards that have been approved by the Idaho Supreme Court for piloting misdemeanors to begin in 2015 are:

Misdemeanors: 75% within 90 days
90% within 120 days
98% within 150 days
Measured from the filing of the complain to entry of judgment

Section 2.2: Assignment of Cases

The purposes of a case assignment policy are 1) to establish for the district the process by which cases will be assigned (individual case assignment or an alternative calendar system), 2) identifying cases in which continuity of judicial attention is important, 3) to designate the instances in which cases involving the same defendant will be assigned or consolidated for adjudication by the same judge, and 4) to put in place case assignment processes that ensure the public that the assignment of cases to judges within the First District is not susceptible to control or manipulation by parties or attorneys.

The case assignment policy in this plan applies to misdemeanors which are processed throughout the case as misdemeanors only. It has no application to any misdemeanor that is associated with a related felony. For the case assignment policy applicable to those cases see the Felony Criminal Caseflow Management Plan. This plan also does not apply to the processing of infractions except as noted below.

The First District employs the following case assignment process for misdemeanor criminal cases:

The First District randomly assigns misdemeanor cases to their magistrate judges. Currently, an informal policy exists to consolidate cases. If the attorneys or parties deem it appropriate, they will ask a specific judge to hear all matters that their client may have pending in that specific county. In the interest of justice, all of the magistrate judges agree to hear each other's cases. Additionally, no contact orders and batteries are automatically assigned to the DV judge if the no contact order stems from a battery.

(Note the definition of a "criminal case" adopted for use with the new Tyler Odyssey case management system:

All misdemeanor charges against a single defendant resulting from a single incident are counted as a single case. Infractions must be filed separately, but may be consolidated [See IIR 3(d)]. If multiple citations or complaints arise from a single incident, involving a single defendant, filed at the same time, then all misdemeanors associated with that incident are included in a single case. If the charging document contains multiple defendants involved in a single incident, a separate case will be created for each defendant, so that each defendant is counted as a single case. Idaho Misdemeanor Criminal Rules provide this exception: Offenses based on two or more acts or transactions connected together or constituting part of a common scheme or plan may be consolidated pursuant to M.C.R. 3(e).

Misdemeanor cases are assigned to magistrates in the following manner:

- 1. One or more misdemeanors and misdemeanor probation violation charges arising out of the same incident, whether prosecuted by the same entity or different entities:**

The First District randomly assigns misdemeanor cases to their magistrate judges. Currently, an informal policy exists to consolidate cases. If the attorneys or parties deem it appropriate, they will ask a specific judge to hear all matters that their client may have pending in that specific county. In the interest of justice, all of the magistrate judges agree to hear each other's cases. Additionally, no contact orders and batteries are automatically assigned to the DV judge if the no contact order stems from a battery.

- 2. New misdemeanor charges, arising out of a different incident but occurring in the same county, and at a time after the filing of the original misdemeanor/infraction/probation violation charges:**

The First District randomly assigns misdemeanor cases to their magistrate judges. Currently, an informal policy exists to consolidate cases. If the attorneys or parties deem it appropriate, they will ask a specific judge to hear all matters that their client may have pending in that specific county. In the interest of justice, all of the magistrate judges agree to hear fellow magistrates' cases. Additionally, no contact orders and batteries are automatically assigned to the DV judge if the no contact order stems from a battery.

3. Misdemeanor charges (and any associated infraction/probation violation charges) filed subsequent to a pending misdemeanor charge (and any associated infraction/probation violation charges), and arising out of a different incident but committed in different counties within the same district:

In the First District, cases are typically heard in the county where the case originated. However, the First District encourages judges to hear pending cases that arise out of different incidents, which were committed in different counties, within the same district.

4. Misdemeanor charges (and any associated infraction/probation violation charges) filed subsequent to a pending misdemeanor charge (and any associated infraction/probation violation charges) and arising out of a different incident but committed in different counties and different districts:

In the First District, cases are typically heard in the county and district where the case originated. However, the First District encourages judges to hear pending cases that arise out of a different incident but committed in different counties and different districts.

5. Misdemeanor charges (and any associated infraction/probation violation charges) and parole revocation proceedings arising out of the same incident:

In the First District, the existence of a parole revocation has no effect on magistrate assignments. Parole revocations are completely separate actions and are handled by the Parole Board.

6. Misdemeanor charges that are the basis for a new felony probation violation:

In the First District, the new case may be referred from the magistrate judge to a district judge.

7. New misdemeanor charges for a defendant who is participating in a problem-solving court:

The first district is efficiently handling these matters. Cases are assigned randomly. The problem solving court may and is permitted to handle a disposition of a matter that is assigned to another judge.

The First District adheres to the provisions of ICR 25 in responding to recusals, disqualifications, and the need for additional judges to handle lengthy trials by assigning cases to other sitting judges or senior judges assigned to the district.

The First District does not have any other policies pertaining to the issue.

Section 2.3: Proactive Case Management

All cases and calendars are set in such a way to prevent unnecessary delay in case processing, while balancing the effective use of the time of parties, victims, judges, attorneys, and court personnel. The presiding judge adopts a scheduling policy that accomplishes this and reduces the likelihood of scheduling conflicts requiring rescheduling of events. The judge maintains early and continuous control of all cases from initiation through post-disposition proceedings by the use of:

1. Appropriate case assessment;
2. Scheduling orders and conferences for purposes of achieving date certainty;
3. Management of discovery and motion practice;
4. Realistic setting of trial dates and time limits;
5. Court control of continuances for purposes of fostering timely and just voluntary resolution of most cases and achieving trial date certainty for those cases that are resolved by trial.

Ongoing review of cases is necessary to ensure that a future action or review date has been set by the court in every case. Scheduling complies with the time standards adopted by the Idaho Supreme court. **Scheduling is done with the goal of complying with the time standards.**

Each judge presiding over an individual calendar controls and sets his or her own calendar. In jurisdictions using alternative calendar systems, the calendar is managed and coordinated between the judges and trial court administrator's office or clerk's office responsible for calendaring.

Section 2.4: Early and Continuous Assessment, Scheduling of events, Calendar Management, and Calendar Setting

Early and Continuous Assessment

Idaho judges continuously assess cases to ensure that every case receives individual attention and to make sure that the amount of individual attention is proportional to need. The amount of court time and resources devoted to a case and the pace at which a case progresses depends on the complexity and individual needs of that case. Some cases can be resolved quickly with little court involvement while other cases require more time, court appearances, and judicial oversight to reach resolution. Through an early and ongoing assessment process, the judge manages the progress of a case in a manner that will result in the most timely and just resolution possible, given the individual circumstances of that case.

When determining the most appropriate plan for a criminal case, the court considers at least the following:

1. Nature of the charge(s)/number of counts
2. Custody status of defendant(s)
3. Number of co-defendants

4. The potential penalty
5. Anticipated pretrial motions
6. Need for expert witnesses and how financed; need for independent resource judge
7. Consideration of victims' rights
8. Need for forensic testing
9. Complexity of factual and legal issues
10. Likelihood of case going to trial/estimated length of trial
11. Whether the defendant has cases pending in other counties
12. Whether a problem-solving court might be an option for the defendant

Note: not listed in order of importance

The First District considers all of the above mentioned items and follows these practices in developing case management plans for individual misdemeanor criminal cases:

Scheduling of Events

All scheduled case events are meaningful events, defined as events that (a) move a case toward disposition and (b) prompt the attorneys and parties to take necessary action. Monitoring the effectiveness and timeliness of interim case events between filing and disposition helps to prevent unnecessary delay. The following guidelines are used to ensure that case events are meaningful.

The following have been identified as key interim case events in criminal cases that will be tracked in the case management system and monitored for informational and case management purposes:

- Mag. Misdemeanor
- Initiating event: Filing of complaint
 - Arrest/entry of plea
 - Pretrial motions
 - Pretrial
 - Change of Plea
 - Start of trial
 - Ending event: Entry of judgment

In misdemeanor criminal cases:

1. Hearings and trials are scheduled in a manner that minimizes delay and reduces the potential need for continuances.
2. Every event (including the arraignment) is a meaningful opportunity for disposition.
3. Future action dates (based on interim case events) are always assigned and deadlines for those dates are enforced with the understanding that continuances can serve a meaningful purpose within the Court's discretion.
4. Requests for continuances are considered pursuant to Section 2.10 of this plan.

The First District follows these practices to ensure that all scheduled events are meaningful:

In Kootenai County, a jury trial status call takes place on Monday mornings. If cases are not resolved, those cases will proceed to trial on Tuesday, Wednesday and Thursday. Kootenai County pretrial conferences are held 10 days prior to trial date.

In Bonner County, a jury trial status call takes place on Wednesday afternoons. If cases are not resolved, those cases proceed to trial on Thursday and Friday. Bonner County pretrial conferences are held 30 days prior to trial date.

In Benewah County, jury trial status calls are not held.

In Boundary County, jury trial status calls are not held.

In Shoshone County, a jury trial status call takes place on Thursdays. If cases are not resolved, those cases will proceed to trial on the following Friday. Shoshone County pretrial conferences are held 8 days prior to trial date.

Calendar Setting

For judges presiding over an individual calendar, counsel contacts the clerk of the presiding judge to calendar a matter for a time certain. In jurisdictions using alternative calendar systems, matters are scheduled by the clerk's office or at the direction of the presiding judge, as necessary. All calendar settings are made within the applicable time standards. Settings outside of an applicable time standard are made only upon a showing of good cause and upon order of the presiding judge.

Misdemeanor criminal cases are set for trial at the time of entry of a not guilty plea unless otherwise ordered by the court, consistent with a defendant's right to a speedy trial.

The First District follows these practices to avoid scheduling conflicts for counsel, interpreters, and witnesses in misdemeanor criminal cases:

At the time of a docket roll call, counsel informs the court of any conflicts or issues that relate to witnesses. If the court requires the services of an interpreter, the clerk or the attorney will notify the Trial Court Administrator's Office or their local District Court Clerk's office. The TCA or the local District Clerk's office will secure an interpreter for the date and time of the hearing or trial.

In order to avoid scheduling conflicts for counsel, the District Court Clerks' offices set matters by agency availability for first appearances/arraignments. In addition, Judges set pretrials by agency availability to ensure that counsel will be present.

The First District follows these additional practices to maximize the efficient use of the time of judges, court staff, attorneys, victims and witnesses, law enforcement officers, and criminal defendants and their families:

In the First District, there are no additional practices.

The First District maximizes the certainty that a trial will commence on the date and time set by:

Misdemeanor trials are scheduled to proceed on consecutive days from commencement to conclusion, whether the trial will be conducted to a jury or to the bench. After the pretrial takes place, the parties must have the permission of the judge to engage in plea negotiations. Trials are conducted so as to make the most effective use of the time of jurors, victims, witnesses, interpreters, judges, attorneys, defendants, families and court staff. Continuances will only be granted in extenuating circumstances and costs may be assessed against the party who is asking for a continuance.

Section 2.5: Appointment of counsel

Early appointment of counsel is important not only to protect the legal rights of the accused but also to facilitate the earliest resolution of criminal charges.

Appointed counsel is available in Idaho pursuant to I.C. Section 19-851(4), ICR 5 and 10 and IMCR 6 and should be appointed as described in I.C. 19-852-854.

The process for appointing counsel in the First District is as follows:

Applications for court appointed counsel are given to litigants prior to their first court appearance. These applications are forwarded to the appropriate judge at the earliest possible time.

If a litigant has already had their first appearance and would like to be represented by the public defender, the presiding judge will give the litigant an application. If the presiding judge finds that a defendant is indigent, counsel and/or conflict counsel are identified and appointed. Appointments typically occur early in the case. Judges may choose to seal a litigant's application.

If a litigant requests a continuance to obtain retained counsel in the initial stages of the case, the case will proceed as scheduled. If a litigant requests a continuance right before trial, the litigant will be asked to waive their right to a speedy trial. If the litigant refuses to waive their right to a speedy trial, the case will be heard before speedy trial runs.

Attorneys are expected to be prepared to proceed to trial. Settlement offers should be received by defense attorneys early in the case.

Section 2.6: Motion Practice

Motions are generally governed by ICR 12, which sets forth the timing requirements for filing and hearing pretrial motions [see ICR 12(d)]. The court is encouraged to adhere to these requirements to avoid delay.

The substance and need for motions varies widely. Motions are generally classified as dispositive or non-dispositive. Because motions to suppress can be dispositive, and have substantial potential for causing delay, courts specifically address such motions in the scheduling/trial order, with the

expectation that they will be filed and ruled on in a timely manner. Requiring compliance with the motion deadlines eliminates a significant potential for unreasonable delay. Courts do not allow the parties to modify discovery deadlines set forth in the scheduling order by stipulation without authorization of the court. The Court permits modifications of the scheduling order as necessary to advance justice and, if possible, without disturbing firm trial dates.

The court should adhere to the following general guidelines when creating scheduling orders:

1. Motions which affect the introduction of evidence at trial, i.e., motions in limine, motions to strike witnesses or exhibits, etc., are often filed late in the process. Scheduling orders account for this and require such filings to occur early enough to give the court sufficient time to carefully consider the same without impacting the trial date.
2. Clerks are given careful guidelines in the scheduling of motions. Parties do not control the hearing schedule, and hearings are set so as to allow for meaningful review but timely resolution.
3. Courts diligently consider and rule on motions, in compliance with the requirements of the Idaho Constitution, and to prevent unreasonable delay.
4. Informal methods should be adopted for consideration and resolution of motions, such as conducting hearings of non-dispositive motions by teleconferencing.

Special procedures for filing, hearing, and disposition of motions in the First District:

Litigants contact the Judge's chambers to schedule motions. When a litigant files a written motion, they must include the amount of time they need to argue their motion. Criminal rules and misdemeanor rules are followed to ensure matters are being heard timely.

Section 2.7: Discovery Practice

Discovery is a significant portion of the litigation time and expense in criminal cases. Therefore, management of discovery is also an essential component of an effective and efficient case management plan. This management is done in an early scheduling order. Such orders manage the nature and scope of discovery according to the needs of each case, consistent with applicable rules. The scheduling order manages the time and expense devoted to discovery, while promoting just dispositions at the earliest possible time.

In criminal cases:

1. Discovery in criminal cases is generally governed by ICR 16. Appropriate discovery deadlines are firmly set in scheduling/trial orders for automatic disclosures, including I.R.E. 404(b) evidence, required by ICR 16(a). Deadlines are also set for the submission of written discovery requests outlined by ICR 16(b) and (c). The parties and the court adhere to all deadlines. Courts do not allow the parties to modify discovery deadlines by stipulation without authorization of the court. Courts permit modification when necessary and preferably without disturbing firm trial dates.

2. Compliance with the response times set forth in ICR 16(f) is expected and the imposition of sanctions allowed by this rule is used to curb abuses of the discovery process.

The First District follows these procedures to facilitate the exchange of discovery materials in misdemeanor criminal cases:

Discovery in criminal cases is generally governed by ICR 16. At pretrial conference, the judge will inquire to see if there are any discovery issues that need to be addressed. Courts do not allow the parties to modify discovery deadlines by stipulation without authorization of the court. Courts may permit modification when necessary and preferably without disturbing firm trial dates. Compliance with the response times set forth in ICR16 (f) is expected and the imposition of sanctions allowed by this rule is used to curb abuses of the discovery process.

Section 2.8: Early case resolution processes

All structured settlement processes conform to the governing court rule or statute applicable to a specific case. The parties and court review applications for mediation as early as practical in every case to govern the appropriateness of mediation and settlement in order to foster efficiency, early resolution, and effective case management.

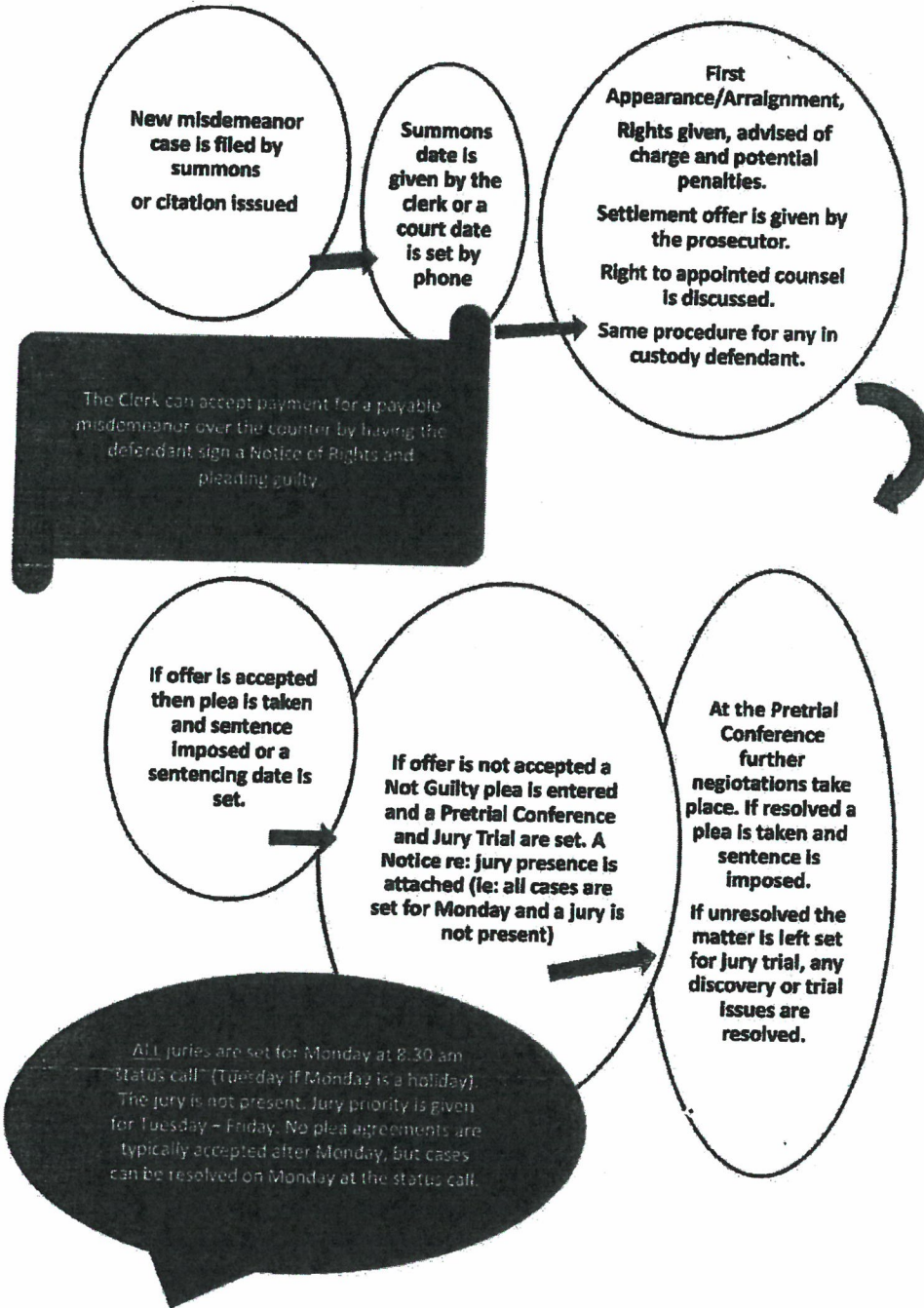
IRE 507, as administered by the authorizing court, governs the confidential nature of mediations to foster settlement in all such cases as deemed appropriate.

Early resolution of criminal cases benefits the courts, the parties, victims, witnesses, and the public. It reduces the costs of pretrial confinement. Judges and attorneys use every court appearance as an opportunity to settle criminal cases.

The parties are afforded an opportunity to mediate the case, if timely requested. Idaho Criminal Rule 18.1 allows mediation in criminal cases. The participation of the state and defense in mediation in criminal cases is governed by these rules, subject to the oversight of the authorizing court.

The court and attorneys in the First District adhere to the following practices outlined in the chart set forth below to obtain the earliest possible resolution of misdemeanor criminal cases:

FLOW CHART FOR MISDEMEANOR CASES



In the First District, we identify all possible alternate judges when Notice of Trial is generated.

Magistrate judges are encouraged to use alternative judge panels pursuant to Idaho Criminal Rule 25 (a) (6) to prevent delays associated with judge-shopping.

Section 2.9: Pretrial Case Management

Implementation of standard pretrial management practices, such as holding meaningful pretrial conferences, is the most effective mechanism for (a) promptly resolving cases before trial and (b) ensuring that cases going to trial are adjudicated without unnecessary delay. Successful pretrial management of cases requires both the court and counsel to attend the pretrial conference prepared to discuss the matters identified in the court's scheduling order, ICR 18, and/or any other issues or concerns unique to each case.

The First District follows these guidelines with respect to pretrial case management:

1. Pretrial conferences are set at least four (4) days before a trial.
2. All pretrial motions are filed in a timely manner, and in misdemeanor cases, pretrial motions are heard on or before the date of the pretrial conference. This requirement is subject to constitutional considerations that may require some flexibility.
3. A list of witnesses, exhibits and requested jury instructions are filed at least three (3) days before trial in misdemeanor cases.
4. As necessary, scheduling orders pursuant to ICR 18 may be used to inform attorneys they are to be prepared to discuss such matters at the pretrial conference. The judge has a checklist of topics ready to discuss with counsel at the pretrial conference.

Checking the Status of Pending Case Matters

Judges understand that decisions are to be issued in a timely way, pursuant to Art. V, Sec. 17 of the Idaho Constitution. Therefore, judges willingly accommodate requests by attorneys and/or parties seeking the status of matters under advisement or other pending case matters, without negative consequence to those seeking that status report. To assist the attorneys and/or parties in this regard, judges follow these practices:

- When additional briefing or materials are necessary before the judge considers the matter under advisement, the judge sets deadlines for submission of the briefing or materials clear to the attorneys and/or parties.
- If the judge considers the matter under advisement at the conclusion of oral argument, the judge clearly states the same on the record.
- If a matter is under advisement a proper notation of that fact is entered in the court's case management system.
- Every written decision contains a statement as to when the court considered the matter under advisement.
- Attorneys and/or parties are advised that they are free to contact the court's clerk to inquire about the status of any case, proceeding, or pending decision 30 days after the matter is

under advisement, without consequence. Districts should consider a local rule implementing this protocol.

Training will be provided to clerks for fulfilling requests to check the status of a case, proceeding or pending decision, although their report should necessarily disclose only that the matter is still pending, the scheduled timing of future events, or that the decision has been issued.

The First District follows these procedures as part of its management of the pretrial stage of misdemeanor criminal cases:

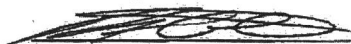
1. It is encouraged that pretrial motions are heard prior to the pretrial conference.
2. Pretrial conferences are set at least four days before trial.
3. A list of witnesses and requested jury instructions are to be filed by the date set by the court.

The scheduling order included below assists in the management of misdemeanor criminal cases:

ATTENTION

ALL DEFENDANTS ARE SCHEDULED FOR TRIAL WITH THEIR ATTORNEYS ON MONDAY, AT 8:30 AM. THE JURY WILL NOT BE PRESENT ON MONDAY. ALL PLEA AGREEMENTS BETWEEN THE STATE AND THE DEFENDANTS WILL BE HANDLED AT THAT TIME. ANY UNRESOLVED MATTERS WILL THEN BE SCHEDULED FOR TRIAL FOR THE REMAINING DAYS OF THE WEEK. WITNESSES SHOULD BE NOTIFIED TO BE AVAILABLE FROM TUESDAY THROUGH FRIDAY OF THAT WEEK. THE PARTIES WILL KNOW THE EXACT DATE ON MONDAY. WITNESSES CAN THEN BE TOLD WHICH DAY TO APPEAR THAT WEEK.

NO PLEA AGREEMENTS WILL BE ACCEPTED OR ANY DEALS MADE FOLLOWING THE HEARING ON MONDAY.



**ROBERT CALDWELL
MAGISTRATE**

JURY TRIAL ENCLOSURE – a copy of the foregoing instrument was sent to the defendant or defense counsel at the address shown on the preceding Notice of Trial as an enclosure to that notice.

ATTENTION NOTICE – 5 DAY – 287.01/08

Section 2.10: Continuances

A continuance, for the purposes of this section, is when a party requests the postponement of a scheduled hearing or trial date. Courts exercise discretion in determining whether to grant or deny a requested continuance. While courts employ the legal standards to reduce unnecessary delay, they remain mindful that some delays are necessary and warranted to effectuate justice or to facilitate effective resolution of cases.

A joint or stipulated motion for a continuance is not binding on the court (See MCR 3.1).

The factors the court considers in determining whether to grant a motion to continue include but are not limited to:

1. The reason for the request and when the reason arose.
2. Whether the reason for the request was within the control of counsel or was otherwise reasonably foreseeable.
3. Whether granting or denying the motion would unfairly prejudice either party.
4. The number of continuances previously granted.
5. The age of the case.
6. The days remaining before the trial date.
7. Whether all of the named parties agree to the continuance.
8. The length of the postponement that would be required if the motion were granted.
9. Whether there has been a substitution of counsel.
10. Difficulties associated with obtaining forensic evidence.
11. Whether the defendant has applied for acceptance into a problem-solving court.
12. The defendant's constitutional right to a speedy trial.

The judges of the First District have adopted the following processes to implement the statewide policy on continuances in misdemeanor criminal cases:

The First District considers all of the factors listed above when determining if a continuance is warranted in a specific case:

Section 2.11: Management of Trials

Whenever possible, misdemeanor criminal trials are always scheduled to proceed on consecutive days from commencement to conclusion, whether the trial will be conducted to a jury or to the bench. Trials are conducted so as to make the most effective use of the time of jurors, victims, witnesses, interpreters, judges, attorneys, and court staff.

Jury deliberations should adhere to the provisions of ICAR 65(b).

The judges of the First District adhere to the following practices to minimize the amount of time and resources required to conduct criminal trials, and to minimize the inconvenience to jurors and witnesses, consistent with constitutional principles of fairness and due process of law:

In the First District criminal trials are always scheduled to proceed on consecutive days from commencement to conclusion, whether the trial will be conducted to a jury or to the bench. Trials are conducted so as to make the most effective use of the time of jurors, victims, witnesses, interpreters, judges, attorneys, and court staff.

Section 2.12: Post plea or verdict case management

A considerable portion of the time required to resolve a criminal case occurs after a defendant enters a plea of guilty or is found guilty at trial. Idaho courts work with their justice system partners to minimize the delays associated with presentence assessments. The court timely prepares the judgment and commitment orders.

The First District takes the following additional steps to streamline the process of preparing presentence assessments:

The First District disagrees with the statement set forth in 2.12. We believe that Section 2.12 commonly occurs in felonies and rarely occurs in misdemeanor cases. If the court orders a defendant to obtain an evaluation prior to sentencing, it is the defendant's responsibility to complete the evaluation. The court or the clerk will give the defendant a list of approved evaluators and will inquire as to funding sources.

The First District takes the following steps to reduce the time between sentencing and the entry of an order of judgment and commitment embodying the court's sentencing decision:

Misdemeanor judgments are preprinted in file. Sentencings and entry of orders often happen simultaneously.

Section 2.13: Post-conviction proceedings

Though technically civil cases, post-conviction challenges to a conviction or judgment or sentence are, in reality, a continuation of the original criminal proceedings. Post-conviction petitions arising out of misdemeanor convictions should be assigned to the magistrate judge who originally presided over the misdemeanor criminal case. *Parsons v. State*, 113 Idaho 421, 745 P.2d 300 (Ct.App. 1987); I.R.C.P. 82(c).

The First District takes the following steps to ensure the fair and timely resolution of post-conviction proceedings:

The First District takes the following steps to ensure the fair and timely resolution of post-conviction proceedings: When a matter comes back to the First District, it is deemed a civil matter and assigned to the magistrate judge who originally presided over the misdemeanor case.

Section 2.14: Probation revocation proceedings²

A substantial part of the time of the court, the prosecution, the defense, and the misdemeanor probation department in an ordinary misdemeanor criminal case is devoted to the filing, processing, and resolution of probation revocation motions. Management of probation sentences by both the misdemeanor probation department and the courts is an important part of both the punishment of and the treatment and rehabilitation of persons convicted of crimes, and well as protection of the community from further wrongdoing. Probation revocation is complicated by concurrent prosecution of the probationer for subsequent criminal conduct which forms in whole or in part the basis of the revocation petition. To the maximum extent possible, the timely movement of the probation violation proceedings shall not be impeded by the presence of additional charges.

The First District takes the following steps to make the most effective use of the resources of the courts, prosecution, defense, and misdemeanor probation department in resolving probation revocation matters:

As soon as the local Misdemeanor Probation Department becomes aware of a violation, the assigned Probation Officer writes and submits a report to the Prosecutor and the Court. The Prosecutor then files a Motion to revoke the defendant's probation. Counsel will immediately be appointed to represent the defendant. The defendant, his/her attorney, and the probation officer appear in front of the presiding judge who conducts a probation revocation proceeding and determines the resolution of the case. If there is an admission at the first appearance, disposition could be entered and the case would be resolved. The cases in the First District are resolved quickly.

Section 2.15: Effective and Consistent Monitoring of Case Management Reports

Caseflow management necessitates the regular production of case management information from an automated system. Case management reports provide a means of identifying and preventing delay in the processing of individual cases and the buildup of a case backlog that can result in an overall delay in the processing of all cases. They also provide information about potential sources of delay.

The production of case management information is not sufficient in and of itself, however, to ensure effective caseflow management. Equally important is the utilization of this information, as follows:

1. Judges consistently and effectively monitor their case management reports and take appropriate action to ensure that meaningful events are set for all cases, that case processing goals are being met, and that potential sources of unnecessary delay are identified so that they may be addressed through case management.
2. Administrative district judges and trial court administrators closely monitor reports for their districts to identify cases that are nearing or exceeding applicable time standards, areas where backlog may be developing, potential sources of systematic delay, and changes in overall caseloads and inequities that may be developing in caseload distributions that may require changes in judicial assignments.
3. Court clerks monitor case management reports regularly to ensure that all pending cases are scheduled for meaningful events through disposition.

² Significant policy changes pertaining to felony probation are being implemented per SB1357 and monitored per SB1393 (Justice Reinvestment Initiative), passed by the Idaho Legislature in 2014. Modification to this section of the case district caseflow management plans will be necessary to accommodate future policy and/or procedural changes.

It is the responsibility of individual courts to ensure that data entry practices are consistent with statewide uniform business practices thus resulting in accurate and reliable case management information.

The First District uses these procedures to ensure effective use of data reports for monitoring the progress of misdemeanor criminal cases:

The First District Judges consistently and effectively monitor their case management reports and take appropriate action to ensure that meaningful events are set for all cases that case processing goals are being met, and that potential sources of unnecessary delay are identified so that they may be addressed through case management.

1. The First District Administrative District Judge and Trial Court Administrator closely monitor reports for their districts to identify cases that are nearing or exceeding applicable time standards, areas where backlog may be developing, potential sources of systematic delay, and changes in overall caseloads and inequities that may be developing in caseload distributions that may require changes in judicial assignments.
2. The First District Court clerks monitor case management reports regularly to ensure that all pending cases are scheduled for meaningful events through disposition.

It is the responsibility of individual courts in the First District to ensure that data entry practices are consistent with statewide uniform business practices thus resulting in accurate and reliable case management information. Monthly review of case management reports is a practice that is utilized in the First District.

Section 2.16: Special Considerations for District Plans

Language Access Services

Federal and state law requires judges to ensure parties, witnesses, and other interested individuals have meaningful access to the courts. Language access services are provided in all civil and criminal cases pursuant to Idaho Code 9-205. Professional court interpreters are appointed pursuant to ICAR 52. Determining the need for services is done in a number of ways, including the following:

- For spoken languages, self-identification by the non-English speaker (or companion). For the deaf or hard of hearing, through an ADA request for accommodation.
- A judge finds there is a need for language access services.
- Court-personnel may receive notice directly from the public, attorneys, guardians, probation officers, law enforcement and other participants.
- Outside agencies, such as social workers, law enforcement or correctional facilities notify the court about a LEP individual's need for auxiliary services for an upcoming event.

The First District adheres to the following practices to ensure the most efficient use of available certified and non-certified interpreter resources: When the need for interpreter services has been identified by the Judge, clerk, attorney, other agencies or participants in a specific case, a request is sent to the Trial Court Administrator's office. The Trial Court Administrator then contacts and retains the appropriate type of interpreter(s) for that case.

Jury Operations

Jury service is an important civic and community duty. The justice system cannot work fairly unless jurors perform their duties properly. Obtaining juror compliance with summonses, qualification questionnaires, court schedules, and other court requirements is important for the integrity of the jury process. In the First District, the administrative district judge or the presiding judge in each case follows I.C. § 2-217 and I.C.A.R. 62 and 63 in excusing or postponing jury service, managing instances where a juror fails to respond to a proper jury summons, and using discretion to encourage appropriate jury service.

The First District adheres to the following practices to ensure jury operations are efficient and effective:

In the First District, the administrative district judge or the presiding judge in each case follows I.C. § 2-217 and I.C.A.R. 62 and 63 in excusing or postponing jury service, managing instances where a juror fails to respond to a proper jury summons, and using discretion to encourage appropriate jury service. If a juror does not respond to a questionnaire or a summons, the jury commissioner will resend the questionnaire or summons. If the juror still doesn't respond, the jury commissioner will contact the juror telephonically. If the juror refuses to serve as a juror, an order to show cause proceeding may be initiated by the Administrative District Judge.

Self-Represented Litigants

The Idaho Judiciary is committed to ensuring access to justice for self-represented litigants (SRLs). Consistency and predictability are vital to meeting this goal. Self-represented litigants may lack the expertise to manage their cases effectively. There are key points in a case where SRLs can unintentionally stall the progress of a case. The Judiciary's commitment to ensure fair and timely case resolution requires that these and other SRL concerns be addressed. All solutions will look toward effective practices that will not become obstacles to SRLs but will instead facilitate proper notification and access to information for SRLs so that they can more effectively navigate the court system.

The First District adheres to the following practices to ensure that criminal proceedings in which defendants waive their right to counsel proceed in the most fair and efficient manner possible:

The defendants are notified by the court that it may be in their best interest to retain an attorney to assist them with their defense. The defendants are also notified by the court that they will be held to the same standard as opposing counsel and must follow the rules of evidence and court room procedure.

Media relations

The Idaho courts have a manual for judges on media relations and the handling of notorious cases. These issues are addressed in ICAR 45 and 46. In addition, ICAR 32 addresses public requests for court records, which includes media requests.

Administrative district judges establish effective relations between the court and the media, by scheduling forums or other opportunities for discussion with the media, and by providing general information to the media about the courts, the law, and court procedures and practices, to the extent permitted by the Idaho Code of Judicial Conduct.

In the First District, judges follow these standard procedures in dealing with requests for video coverage of misdemeanor criminal matters: The Idaho courts have a manual for judges on media relations and the handling of notorious cases. These issues are addressed in ICAR 45 and 46. In addition, ICAR 32 addresses public requests for court records, which includes media requests.

In the First District, judges follow ICAR 45, 46 and 32 in dealing with requests for video coverage and public requests for court records. If a member of the media would like to video or take still shots of a specific case, the member of the media sends a formal request for cameras in the court room to the presiding Judge. If the Judge is unavailable, the request can be forwarded to the Trial Court Administrator.

Judges and the Trial Court Administrator meet with members of the media on a regular basis. The media is invited to various events held at the court house including but not limited to problem solving court graduations, judicial interviews, judicial investitures, National Adoption Day ceremonies.

Telephonic and other remote appearances

IRCP 7(b) (4) and ICR 43.1 authorize the use of telephone conferencing to conduct hearings.

Allowing parties, witnesses, interpreters, probation officers and attorneys to make court appearances without appearing personally in court can result in significant efficiencies and are allowed when they do not compromise the rights of a party. Stipulating to remote appearances by forensic testing personnel can reduce backlog in forensic testing requests.

In the First District, remote appearances are allowed as follows: In the First District, telephonic and video appearances are an acceptable practice. It is used frequently for cases that involve out of district litigants and experts. The procedures for arranging a remote appearance are: The parties or the Judge contact the Judge's clerk. The Judge's clerk sets up the equipment in the court room and the parties dial into a specific phone at a specific time. Domestic Violence Review admit/deny hearing may be conducted remotely however, the evidentiary hearing must be in person. Each court room is equipped with a conference phone that can accommodate telephone communication between multiple parties. If the Judge's clerk is unavailable, the Trial Court Administrator and the Bailiff's office will set up the equipment for the parties.

Other circumstances unique to the First District:

Kootenai County and Bonner County conduct their first appearances via video.

Section 2.17: Maintaining the First District case management plan

Once the Statewide and District caseflow management plans are established, keeping the plans relevant will be a priority. Therefore, outreach and collaboration will be ongoing. Both at the state and at the individual judicial district levels, collaborative planning procedures will be maintained to promote regular and ongoing communication, problem solving and adaptation of caseflow management processes to the ever-changing needs of the justice system and the communities it serves.

Major sources of future changes will be the deliberations and conclusions of the Advancing Justice Committee's work group on uniform business processes and the Judges Associations' efforts to develop uniform forms for all Idaho case types.

The First District maintains the misdemeanor criminal caseflow management plan through the following process(es):

Once the Statewide and District case management plans are established, keeping the plans relevant will be a priority. Therefore, outreach and collaboration will be ongoing. Both at the state and at the individual judicial district levels, collaborative planning procedures will be maintained to promote regular and ongoing communication, problem solving and adaptation of caseflow management processes to the ever-changing needs of the justice system and the communities it serves.

Major sources of future changes will be the deliberations and conclusions of the Advancing Justice Committee's work group on uniform business processes and the Judges Associations' efforts to develop uniform forms for all Idaho case types.

The First District maintains the case management plan through the following process: The case management plan will be discussed quarterly at bench/bar meetings in the First District. The plan will also be discussed at the First District's annual judges meeting.

