

In the Supreme Court of the State of Idaho

IN RE: ORDER AMENDING LOCAL RULES)
OF THE SEVENTH 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 Seventh Judicial District, and

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

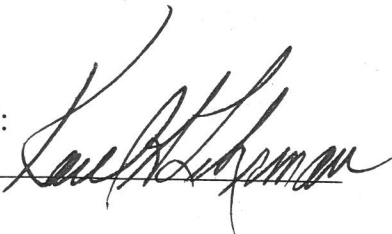
IT IS FURTHER ORDERED, that the amendments to the local rules of the Seventh Judicial District of the state of Idaho shall be sent to the trial court administrator of the Seventh Judicial District for publication and dissemination.

IT IS FURTHER ORDERED, that the Seventh 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*.

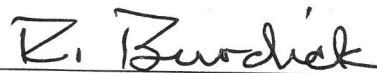
Dated this 15 day of August, 2018.

ATTEST:

Clerk



By Order of the Supreme Court



Roger S. Burdick, Chief Justice

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

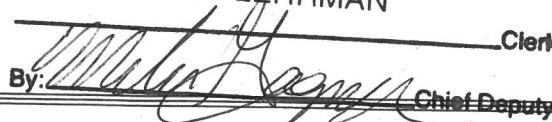
entered in the above entitled cause and now on
record in my office.

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

KAREL A. LEHRMAN

Clerk

By:


Chief Deputy

Misdemeanor Caseflow Management Plans

7th District Plan

Misdemeanor Criminal Caseflow Management Plan for Idaho's SEVENTH 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 Seventh 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 Seventh 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

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."

district judge and trial court administrator continually monitor on a quarterly basis the assignment of judges and the effective use of existing resources.

Judicial assignments for the hearing of misdemeanor criminal cases in the Seventh District are not set forth in the Idaho State Bar Desk Book, but the Magistrate Judges and clerk contact numbers are listed for each of the ten counties to handle all misdemeanor scheduling inquiries.

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

A. In the counties of Bingham, Butte, Custer, Clark, Fremont, Jefferson, Madison, Lemhi and Teton, cases involving the same criminal defendant are assigned or reassigned to a single magistrate and to a single district judge in the following manner:

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

The misdemeanor counts will be combined in one charging document at the outset if they arise from the same incident. Absent agreement between the prosecuting entities, a prosecutor from each entity will handle their respective areas of responsibility in the combined cases. In the event a new misdemeanor forms the basis for a misdemeanor probation violation, prosecution of that aspect of the misdemeanor probation violation shall be deferred until the new misdemeanor has been adjudicated.

- 2. Misdemeanor charges that are the basis for a new felony probation violation:** Magistrate Judges should ensure that resolution of the misdemeanor charges is not delayed because of the new felony probation violation. The new misdemeanor charge should be resolved prior to the resolution of the felony probation violation. With the permission of the district judge, the misdemeanor charges may be consolidated with the felony case if the prosecutor, defendant, and the district judge believe that doing so will lead to a more efficient resolution of the new felony probation violation.

- 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:**

If a prosecutor or defense attorney is aware of other pending charges in another county, including PV's, on a case by case basis, communication and coordination may occur between judges in the different counties. When Odyssey is fully implemented, the caseload management committee will establish new best practices in this area.

- 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:**

If a prosecutor or defense attorney is aware of other pending charges in another county or other judicial district, including PV's, on a case by case basis, communication and coordination may occur between judges in the different judicial districts. When Odyssey is fully implemented, the caseload management committee will establish new best practices in this area.

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

Shall be assigned as provided above with due consideration of the timing of the probation revocation proceedings. If possible, the new case shall be assigned to the same magistrate judge who presided over the case where the probation revocation arises, consistent with the guidelines listed above.

Parole revocation proceedings are not part of the case management plan. To the extent possible, magistrates should ensure that misdemeanor charges (and any associated infraction/ probation violation charges) are not delayed by related parole revocation proceedings.

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

Magistrates should ensure that resolution of the misdemeanor charges is not delayed because of the new felony probation violation. If the assigned magistrate is aware that a defendant is on felony probation, with the permission of the district judge, the misdemeanor charges may be consolidated with the felony case if the prosecutor, defendant, and the district judge believe that will lead to a more efficient resolution of the new felony probation violation.

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

Magistrates should ensure that resolution of the misdemeanor charges is not delayed because of the defendant's participation in a problem solving court.

If new charge is a felony or a violent misdemeanor charge, the defendant is temporarily suspend from the problem solving court on a case by case basis until the new charge is resolved. Once the new charge is resolved, then the problem-solving Court has the option to reinstate the defendant into the problem solving court.

B. In Bonneville County, if cases are concurrently pending with the same defendant, the general rule of thumb is to get all the pending cases with the same defendant assigned to one judge. If a felony pending case is involved with other pending misdemeanor charges, there is district-wide agreement among the six district judges to package all the cases, including pending misdemeanor cases, with the District Court judge. Unless requested by a Bonneville sentencing judge, misdemeanants who reoffend are processed the same as any other defendant in regards to judge assignment. Specifically, in Bonneville County, that means five different judges do arraignments, and the arraigning judge, who may not have been the sentencing judge, will be the judge that will retain and process to final disposition any PV filing for a defendant appearing on their rotation day. The only exception in Bonneville County are domestic violence cases. After the arraignment, those individuals with domestic violence charges will be assigned to one judge who will process from beginning to end all domestic violence cases and NCO cases, including all review hearings),

C. 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)).

The Seventh 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.

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.

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 Seventh District follows these practices in developing case management plans for individual misdemeanor criminal cases:

At a misdemeanor arraignment, all cases should be scheduled for a pretrial conference within 30 days. At the pretrial conference, the judge should be present in the courtroom or readily available. If the parties stipulate to continue a pretrial conference, there must be mandatory judge approval on any second or more request for a continuance. Unless a continuance is granted at the pretrial conference, a trial should then be set within 60 days of the pretrial conference.

Defendants seeking placement in a problem solving court must submit application at or before the time of plea.

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

Arraignment/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 Seventh District follows these practices to ensure that all scheduled events are meaningful:

For pretrial conferences, the magistrate judge must be available to review proposed continuances and for sentencings.

For proposed continuances, the first continuance of a pretrial conference is generally granted. However, unless there is a court approved pretrial form, the attorneys must provide a motion, order, and must arrange with the clerk and/or magistrate judge the next pretrial date.

There are no automatic or stipulated continuances. All requests to continue must be by written motion (unless such request is permitted on a court approved pretrial form) and must state the basis/reason for the continuance (if a pretrial form is used, the basis of the continuance must also be stated within the pretrial form). A proposed order must also be provided to the court with the new date being approved by the magistrate judge or clerk of the court.

In misdemeanor drug cases, driver's license cases, and DUI cases some delays may occur due to blood test or drug test delays. As such, there may be a need for some flexibility regarding the need for continuances. However, magistrate judges should set review hearings within 30 days to review the process of obtaining such evidence, so the defendants and attorneys always have a deadline to report back to the court to ensure they are completing the necessary follow-up and the case does not languish.

Magistrate judges should require the attendance of the prosecutor, defense counsel, and the defendant at all scheduled events so that the parties always have an opportunity to resolve the case if possible.

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 pretrial conference at the time of entry of plea unless otherwise ordered by the court, consistent with a defendant's right to a speedy trial.

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

Trials will be set at the pretrial conference. Counsel shall advise the Court at that time of any attorney or witness scheduling issues. The court should also discuss with the parties any evidentiary issues, possible motions that will need to be scheduled, any technology needs, and the need for any interpretation. Failure to notify the Court of scheduling issues shall not be a ground for a continuance.

The Seventh 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:

Counsel shall strictly adhere to the Court's starting time for hearings and trials and shall be considerate of unnecessary waiting time for witnesses and others. Law enforcement and witnesses under subpoena must be within 15 minutes of courthouse, have a cell phone or otherwise be on call. When a calendar has multiple cases scheduled; sometimes 3 to 20 cases, deputy clerks are trained using either email and phone calls to stay in contact with all attorneys on a calendar starting at least 5 to 10 days before the trial calendar to keep everyone apprised as to which cases have settled and their status on the calendar and whether a backup judge may be brought into assist.

At the beginning of each calendar year, the Trial Court Administrator will distribute to all judges and judicial clerks the training and meeting schedule for judges, prosecutors, and public defenders to assist the judges and clerks in arranging their calendars and when necessary to schedule coverage for their court assignments.

In addition, the Trial Court Administrator in conjunction with the Administrative District Judge, will continue to attempt to establish domestic violence calendars for a date and time certain in each county, both criminal NCO's and Civil Protection Orders

The Seventh District maximizes the certainty that a trial will commence on the date set by:

Conducting Pretrials a month before the trial date; granting continuance only for good cause and scheduling back-up judges when necessary to ensure all scheduled cases are heard and attorneys and parties will exhaust all possibilities of settlement prior to the day of trial. In addition, judges will encourage and enforce compliance with the foregoing rules and pretrial orders.

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 Seventh District is as follows:

All ten counties should use the standard Public Defender Qualification Form approved by the Supreme Court Forms committee. Judges are to insure that the accused requesting appointment of counsel is in fact indigent and is encouraged to use the poverty chart attached hereto as Attachment A.

When an accused asks to have appointed counsel removed and replaced, it is the duty and requirement to schedule and bring the defendant in front of the judge in open court. On the record the judge should question the defendant regarding the basis to remove his attorney from the case. Such requests should not be automatically granted and should only be granted when there are true conflicts in the representation of the accused and/or when justice otherwise requires the removal.

When the accused requests to represent himself/herself, Judges must comply with Faretta and inquire about the accused person's ability to represent himself/herself and must also consider the option of appointing "stand-by counsel."

Each county shall develop a protocol for appointment of conflict counsel that ensures conflict counsel are appointed and identified at arraignment or as soon as possible thereafter. Conflict counsel shall be notified of their appointment as soon as possible. As soon as possible, the prosecuting attorney should advise the Court about known or potential conflicts of interest in newly filed cases which might require appointment of conflict counsel.

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 adheres 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 can significantly impact the time and expense necessary in any case, management of motions is an essential component of an effective and efficient case management plan. This management is best done in an early scheduling/trial order. 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 Seventh District:

Motions to Suppress: A motion to suppress evidence shall:

1. describe the evidence sought to be suppressed;
2. set forth the standing of the movant to make the application; and
3. specify sufficient legal and factual grounds for the motion to give the opposing party reasonable notice of the issues and to enable the court to determine what proceedings are appropriate to address them.

Compliance with all time standards in the rules is expected.

If an evidentiary hearing is requested, a written response is encouraged, however, unless otherwise ordered by the court, no written response to the motion by the non-moving party is

required. At the conclusion of the evidentiary hearing, the court may provide a reasonable time for all parties to respond to the issues of fact and law raised in the motion and at the hearing. Before setting hearings, counsel shall confer with opposing counsel to confirm availability and will schedule hearings through the Judge's clerk.

Section 2.7: Discovery Practice

Discovery is a significant portion of the litigation time and expense in both civil and 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 are used to curb abuses of the discovery process.

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

Discovery will be governed by each Judge's pretrial or scheduling order, and the relevant rules of evidence or criminal procedure.

Prosecutors are encouraged to ensure that the operating system to examine a video and/or audio is attached to the discovery.

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 Seventh District adhere to the following practices to obtain the earliest possible resolution of misdemeanor criminal cases:

The Court strongly encourages the following:

1. That prosecutors attend arraignments where individuals are represented by counsel.
2. The early communication of plea offers.
3. That counsel recognize that continuances are not favored and all efforts should be made to settle or try the case by the first trial date.
4. That counsel consider mediation as a way to resolve cases.

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

1. The courts are encouraged to issue pretrial scheduling orders as early as possible, advising the parties of pretrial scheduling deadlines and requirements.
2. Jury instructions, witness lists, exhibit lists will be provided to the court and opposing attorneys at least 7 days prior to a jury trial.
3. Jury commissioners will provide properly numbered jury lists and questionnaires to the court and counsel for both parties at least 7 days prior to a jury trial.

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 Seventh District have adopted the following processes to implement the statewide policy on continuances in misdemeanor criminal cases:

1. Magistrates should require all requests for continuance to be in writing and must state the basis for the continuance.
2. Motions to continue, joined in, or filed by the defendant should include a signed waiver of speedy trial by the defendant.
3. At any hearing on motion to continue the magistrate should inquire of counsel whether the defendant has waived his or her right to a speedy trial or has otherwise consented to the request for a continuance.
4. A next action date is required in all Orders of Continuance, along with the iteration of any relevant factor noted above.
5. Late Motions to Withdraw as Counsel must be set for a hearing and will not be automatically granted.
6. Substitution of Counsel at the last minute – general rule is new counsel must be ready for trial on the date scheduled.
7. Any hearing specifically scheduled by the court cannot be vacated or continued without a hearing.

Section 2.11: Management of Trials

Whenever possible, 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 I.C.A.R. 65(b).

The judges of the Seventh Judicial 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:

1. Trials will start promptly as scheduled.
2. Cases should be negotiated well in advance of trial. If possible, parties are encouraged to resolved cases at least 5 days before trial for the convenience of witnesses.
3. Use of senior judges to maintain the presiding judges calendar during lengthy trials.
4. Motions in limine must be filed in compliance with the trial order to resolve evidentiary issues prior to trial if possible. Motions in limine that are not made until after the trial begins and which could have been made in advance of trial will, except in compelling circumstances, be denied.
5. Counsel will be prepared to schedule and call witnesses so as to avoid delays in the trial.
6. Audio/visual evidence must be formatted to be displayed on either the Court's standard equipment or such other equipment as approved by the presiding judge. Counsel are encouraged to test audio/visual materials prior to trial.
7. Delays during trial for bench conferences, hearings outside the presence of the jury, and the like are minimized to the maximum extent possible.
8. Judges should submit proposed pre-proof and post-proof instructions to the attorneys prior to or on the first morning of trial.

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 (particularly the Idaho Department of Correction) to minimize the delays associated with presentence reports. The court timely prepares the judgment and commitment orders. Presentence investigations are governed by I.C.R. 32 and I.C. Section 19-2524. Court clerks transmit PSI orders to IDOC District Offices immediately after they are entered, initiating the PSI process.

The Seventh Judicial District takes the following additional steps to streamline the process of preparing for sentencing:

1. Applications for problem-solving courts should be filed at the time of the plea of guilty.
2. Each party should provide all information regarding restitution to the opposing party, prior to sentencing.
3. Judges are encouraged to order evaluations as deemed appropriate at the change of plea hearing.

The Seventh Judicial 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:

1. Judgements should be prepared and entered immediately upon sentencing the defendant.
2. Supports the electronic submission of evaluations and judgments.

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

1. Post-conviction cases are referred to the original criminal case judge to facilitate knowledge of the case and timely resolution.
2. Upon filing of a petition for post-conviction relief, the case is immediately provided to the assigned Judge to review whether counsel should be appointed and whether to issue a notice of intent to dismiss per Idaho Code § 19-4906 and/or to set a scheduling conference.
3. Notice of Intent to Dismiss is utilized.
4. A scheduling conference should be set within 14 days of the filing of the petition, unless the Court has executed a Notice of Intent to Dismiss.
5. Create a Scheduling Order Form to be used District-wide, timely schedule a status conference, consider scheduling a date for Summary Judgment or evidentiary hearing.

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

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.

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 Seventh 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:

1. If new charges are filed concurrent with the PV, the new case should be assigned to the the PV judge and the cases tracked and scheduled together
2. A person arrested on an agents warrant or a bench warrant for a probation violation, should appear before the magistrate pursuant to Rule 5 of the Idaho Criminal Rules.
3. At the admit/deny hearing or initial appearance, Magistrates should consider scheduling an informal settlement conference within 14 days of first appearance on the probation violation. Trial on the probation violation should be scheduled within 30 days of the first appearance.

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.

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

1. On a monthly basis the trail court administrator office sends each judges clerk the Supreme Court exceeding time standard report, and judicial clerks are urged to go back an extra 20 to 30 days and also work the cases that are approaching the time standard.
2. Magistrates and clerks should regularly monitor data reports and identify cases that are nearing or exceeding applicable time standards. Such cases should be scheduled for status conferences as soon as reasonably possible. At the status conference, the parties shall be required to explain why the case has been delayed. The court, clerk and parties will then work together to ensure the case is resolved as quickly as possible.

Section 2.16: Special Considerations for District Plans

Language Access Services

Federal and state law require 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 Seventh District adheres to the following practices to ensure the most efficient use of available certified and non-certified interpreter resources:

1. ICAR 52 will be adhered to.
2. Judges should inquire as soon as possible whether interpretive services are needed.
3. When such services are needed, clerks should coordinate with the TCA's administrative assistant to arrange for interpretation services.

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

Courts will adhere to the Seventh Judicial District Administrative Order 8-16-17 and subsequent Standing Administrative Orders RE: *APPOINTMENT OF JURY COMMISSIONERS AND EXCUSING OR POSTPONING JURY SERVICE* issued and updated by the Administrative 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 Seventh 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:

1. Magistrates must ensure that waiver of counsel is voluntary and will follow the *Faretta* dialogue and are encouraged to have the *Faretta* script (see Attachment B) available at the bench.
2. Magistrates may consider the appointment of "back-up counsel."

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 Seventh District, judges follow these standard procedures in dealing with requests for video coverage of misdemeanor criminal matters:

1. Judges Gregory Moeller and Ralph Savage, or other judges as assigned, schedule media orientation sessions for new reporters, and managers of the print and electronic media outlets. Such training occurs one to two times per year at the direction of the TCA in consultation with the assigned judges.
2. Written requests for still photography, video and audio recording, or broadcasting of a court proceeding must be made within 24 hours of the scheduled commencement of the proceeding on a form substantially similar to the one provided in I.C.A.R. 45. The court clerk shall immediately forward such requests to the judge.

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 Seventh District, remote appearances are allowed as follows:

1. In the Seventh Judicial District, remote appearances are available and are allowed pursuant to Idaho Criminal Rule 43.

The procedures for arranging a remote appearance are:

1. Approval by the court.
2. Call the trial court administrators office or coordinate with the local court operations manager or chief deputy clerk.

Section 2.17: Maintaining the Seventh 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 Seventh District maintains the misdemeanor criminal caseflow management plan through the following process(es):

1. Regular bench/bar meetings are scheduled to address and resolve caseflow management challenges.
2. Hold regular district-wide judge meetings to maintain consistency in practices within the District.
3. The Misdemeanor Caseflow Management work group will meet as needed to review the plan for possible updates or revisions

ATTACHMENT A
187% of 2017 Federal Poverty Guidelines*
(Excluding Alaska and Hawaii)

Household Size	Household Monthly Income 187% of Poverty	Household Annual Income 187% of Poverty
1	\$1,879	\$22,552
2	\$2,531	\$30,369
3	\$3,182	\$38,185
4	\$3,834	\$46,002
5	\$4,485	\$53,819
6	\$5,136	\$61,635
7	\$5,788	\$69,452
8	\$6,439	\$77,268
For each additional person add	\$651	\$7,817

Idaho Code § 19-854:

(2) The court concerned shall presume that the following persons are indigent persons unless such a determination is contrary to the interests of justice:

(a) Persons whose current monthly income does not exceed one hundred eighty-seven percent (187%) of the federal poverty guidelines issued annually by the federal department of health and human services;

(b) Persons who receive, or whose dependents receive, public assistance pursuant to title 56, Idaho Code, in the form of food assistance, health coverage, cash assistance or child care assistance; or

(c) Persons who are currently serving a sentence in a correctional facility or are being housed in a mental health facility.

(3) The court concerned may determine that persons other than those described in subsection (2) of this section are indigent persons. In determining whether a person is an indigent person and in determining the extent of his inability to pay, the court concerned may consider such factors as income, property owned, outstanding obligations, the number and ages of his dependents and the cost of bail. Participation in the Idaho health insurance exchange shall not result in the presumption of indigency.

(4) Release on bail does not necessarily prevent a person from being an indigent person.

*This chart is based upon the 2017 HHS Poverty Guidelines which have an effective date of January 26, 2017

ATTACHMENT B FARETTA INQUIRY

1. Have you ever studied law?
2. Have you ever represented yourself in a criminal action?
3. Do you understand that you are charged with these crimes: [state the crimes with which the Defendant is charged]
4. Do you understand that if you are found guilty of the crime charged in Count I, the Court could sentence you to as many as ___ years in prison and fine you as much as \$ _____?
5. Do you understand that if you are found guilty of more than one of these crimes this Court can order that the sentences be served consecutively, that is, one after another?
6. Do you understand that if you represent yourself you are on your own? I cannot tell you or even advise you how you should try your case.
7. Are you familiar with the Idaho Rules of Evidence?
8. Do you understand that the Idaho Rules of Evidence govern what evidence may or may not be introduced at trial and that, in representing yourself, you must abide by those rules?
9. Are you familiar with the Idaho Criminal Rules?
10. Do you understand that those rules govern the way a criminal action is tried? [Then, depending on the responses, say to Defendant something to this effect:]
11. I must advise you that in my opinion a trained lawyer would defend you far better than you could defend yourself. I think it is unwise of you to try to represent yourself. You are not familiar with the law. You are not familiar with court procedure. You are not familiar with the rules of evidence. I strongly urge you not to try to represent yourself.
12. Now, in light of the penalty that you might suffer if you are found guilty, and in light of all of the difficulties of representing yourself, do you still desire to represent yourself and to give up your right to be represented by a lawyer?
13. Is your decision entirely voluntary?

It is probably advisable to appoint standby counsel, who can assist Defendant or can replace Defendant if the Court determines during trial that Defendant can no longer be permitted to proceed *pro se*.

FARETTA INQUIRY (detailed colloquy)

PRO SE QUESTIONS: [Renew the offer of counsel at *each* stage of the proceedings].³

Do you understand that you have the right to a lawyer? If you can't afford to hire your own lawyer, and if you qualify for a court-appointed lawyer, one can be appointed for you and the State of Idaho will pay for a lawyer to represent you.

Shall I appoint a lawyer to represent you in this case?

ADVANTAGES SECTION

Let me explain to you some of the ways that having a lawyer represent you can be to your advantage:

A lawyer has the experience and knowledge of the entire trial process.

A lawyer can call witnesses for you, question witnesses against you, and present evidence on your behalf.

A lawyer may question potential jurors. A lawyer also has the experience to know which jurors will be in your best interests.

A lawyer can advise you how what you say in Court can hurt your case and advise what you have a right not to say.

1. Do you understand that a lawyer will object to those questions that are improper?
2. Do you understand that a lawyer has studied the rules of evidence and knows what evidence can or can not come into your trial?
3. And finally, do you understand that a lawyer will argue for your side during the whole trial and present the best legal argument for your defense?

DISADVANTAGES SECTION

As it is almost always unwise to represent yourself in Court, let me tell you a few of the disadvantages of representing yourself in Court:

1. Do you understand that you will not get any special treatment from the Court because you are representing yourself?
2. Do you understand that the Court cannot give you advice?

³ See: *Faretta v. California*, 422 U.S. 806 (1975).

3. Do you understand that you also must follow all the procedural and substantive rules of criminal law, the same laws which took lawyers years to learn and abide by?
4. **(If defendant is in custody)** Do you understand that you will also be limited to the resources that are available to you while in custody? A lawyer has fewer restrictions in researching your defense.
5. Do you understand that your access to the State Attorney will be severely limited? Whereas a lawyer can easily contact the State Attorney.
6. Do you understand the State will not go easier on you or give you any special treatment because you are representing yourself?
7. In addition, this Court will not be more lenient on you if you represent yourself.
8. The State will present its case against you using an experienced lawyer.
9. Do you understand that if you are disruptive in the courtroom that the Court can terminate your self-representation and remove you from the courtroom? In that situation the trial will continue on without your presence.
10. If a "no contact" order is in effect, you will be prohibited from contacting the victim and any other witnesses who are a part of the "no contact" order. On the other hand, a lawyer is allowed to speak to these people and question them regarding their testimony.
11. Do you understand that if you testify, you will have to ask questions of yourself and cannot simply tell your story?
12. Finally, if you do get convicted, you cannot claim your own incompetence as a basis for appeal.

CHARGE AND CONSEQUENCES SECTION

Have you received and read a copy of the charges against you?

Do you understand all of the charges against you?

Do you understand all the possible penalties if you are found guilty of all of the charges?

If the jury finds you guilty, the maximum jail sentence is _____; the minimum is _____. The potential fine is _____ and you may be required to pay restitution, and provide DNA and a thumbprint.

Even if you are given probation, you may be forced to report to a probation officer for _____ or be imprisoned for a fixed term of _____?

If you are convicted you may have a permanent criminal record, and lose your right to vote, be on a jury, own a firearm or hold public office, do you understand?

Do you understand that if you are not a citizen of the United States and if you are found guilty you could be deported from the country, excluded from entering this country, and denied the opportunity to become a naturalized citizen?

COMPETENCY SECTION⁴

I need to ask you a few questions about your background:

1. Can you read? Can you write? Do you have difficulty understanding English?
2. How many years of school have you completed?
3. In the last 24 hours, have you taken any medication, any drugs or had any alcoholic beverages?
4. Have you ever been diagnosed or treated for a mental illness or mental condition?
5. Has anyone told you not to use a lawyer? Who?
6. Has anyone threatened you if you use a lawyer?
7. Do you understand that a lawyer will represent you for free?
8. Have you ever represented yourself in a trial? What was the outcome of the case?
9. Do you have any questions about having a lawyer appointed to defend you?
10. Do you understand the danger and disadvantages of representing yourself in court?
11. Are you certain that you do not want me to appoint a lawyer to defend you?
12. As an alternative to self-representation, if you would like, I could ask the Public Defender to act as standby counsel. Standby counsel cannot give you advice but can be ready to step in and represent you if you decide you want an attorney to represent you. Would you like standby counsel?
13. Do you understand that you can change your mind and request counsel be appointed at any time? If you decide to represent yourself, I will ask you whether you want to change your mind every time we meet here in Court.

⁴ Competency means mentally competent to voluntarily and knowingly waive the right to counsel. It does NOT mean a person must be educated or knowledgeable enough about the law to represent self. If there are any doubts, order an I.C. § 18-211 exam.

I.C. §19-857 provides that a defendant may waive his right to counsel “if the court concerned, at the time of or after waiver, finds of record that he has acted with full awareness of his rights and of the consequences of a waiver and if the waiver is otherwise according to law.”

Therefore, where a defendant waives his right, make findings. See: *State v. Dalrymple*, 144 Idaho 628, 634, 167 P.3d 765, 771 (2007).