



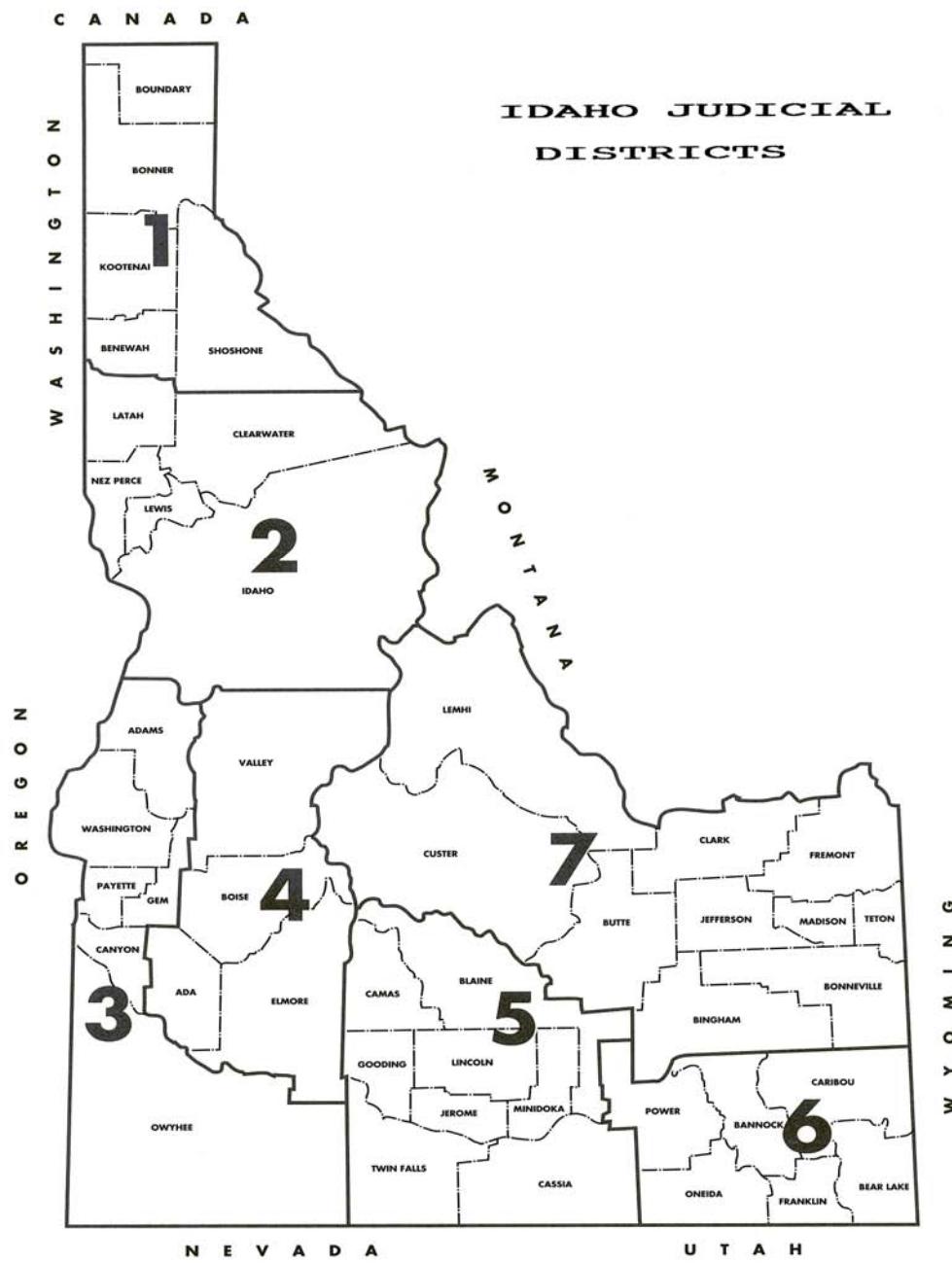
# Overview of the Idaho Court System

<b>I.</b>	<b>STRUCTURE AND ORGANIZATION</b>	.....	Page 1
A.	Map of Idaho's Judicial Districts		
B.	Chart of Idaho's Court Structure		
C.	Judicial Districts and Regional Structure		
D.	Idaho Judges by Court and Type of Judge		
E.	Court Structure		
<b>II.</b>	<b>JURISDICTION OF THE COURTS</b>	.....	Page 5
A.	District Courts		
B.	Magistrate Division		
1.	Child protective act cases		
2.	Adoption / Termination of Parental Rights		
3.	Guardianship of Minors		
4.	Guardianship of Incapacitated Persons		
5.	Informal and Formal Estate Proceedings (probate)		
6.	BAC - Drivers License Suspension Proceedings		
7.	Habeas Corpus Proceedings		
8.	Other Case Types or Hearings		
<b>III.</b>	<b>JUDICIAL ADMINISTRATION</b>	.....	Page 9
A.	Administrative District Judges		
B.	Trial Court Administrators		
C.	District Court Clerks		
D.	The Administrative Director of the Courts		
E.	The Supreme Court Clerk		
F.	State Law Library		
<b>IV.</b>	<b>SELECTION, DISCIPLINE, AND REMOVAL OF JUDGES</b>	.....	Page 12
<b>V.</b>	<b>WHAT HAPPENS IN A CIVIL CASE?</b>	.....	Page 13
<b>VI.</b>	<b>WHAT HAPPENS IN A CRIMINAL CASE?</b>	.....	Page 15
<b>VII.</b>	<b>ANATOMY OF A TRIAL</b>	.....	Page 17
<b>VIII.</b>	<b>WHAT HAPPENS IN A CRIMINAL SENTENCING?</b>	.....	Page 19
A.	Presentence investigation report		
B.	Types of sentences		
<b>IX.</b>	<b>WHAT HAPPENS IN A JUVENILE CORRECTIONS CASE?</b>	.....	Page 22

<b>X.</b>	<b>WHAT HAPPENS IN A TRAFFIC CASE?</b>	.....	Page 24
A.	Misdemeanors		
B.	Infractions		
<b>XL.</b>	<b>WHAT ARE GRAND JURIES?</b>	.....	Page 26



## Map of Idaho Judicial Districts



## Idaho's Integrated Court System

### **B. CHART OF IDAHO'S COURT STRUCTURE**

#### **SUPREME COURT**

Chief Justice and four Associate Justices. Staggered terms of 6 years after non-partisan, at-large election.

Original jurisdiction in:

- (1) Claims against State (advisory opinions)
- (2) Extraordinary writs

Appellate jurisdiction in:

- (1) Appeals from interim orders and final judgment in district courts
- (2) Direct appeals from certain administrative agencies

\*

#### **COURT OF APPEALS**

Chief Judge and three Associate Judges. Staggered terms of 6 years after non-partisan, at-large statewide election.

Jurisdiction limited to appeals from the district courts which are assigned by the Supreme Court.

\*

#### **DISTRICT COURTS**

41 district judges presently authorized. Terms of 4 years after non-partisan election within the judicial district.  
Voluntary retirement at age 65 (effective January 1, 1999).

Original jurisdiction over civil and criminal cases including:

- (1) Personal injury & other civil claims
- (2) Contracts
- (3) Property Disputes
- (4) Felonies

Appellate jurisdiction:

- (1) Appeals from Magistrates Division
- (2) Appeals from state agencies and boards
- (3) Appeals from small claims departments

\*

#### **MAGISTRATE DIVISIONS**

87 magistrate judges authorized. Terms: Initial 18 months upon appointment by district magistrates commission; subsequent four year terms by county retention election.

Jurisdiction, generally:

- (1) Civil actions, i.e., personal injury, property disputes, contracts, etc., to \$10,000
- (2) Small claims
- (3) Traffic cases
- (4) Probate of decedent estates
- (5) Juvenile correction proceedings
- (6) Child protective proceedings
- (7) Misdemeanors
- (8) Arrest warrants; searches and seizures
- (9) Preliminary hearings for probable cause on felony complaints
- (10) Domestic relations

#### **SMALL CLAIMS DEPARTMENTS**

- Magistrate judges sit for small claims.
- Jurisdiction limited to civil actions up to \$4,000 over defendants within the county.
- Attorneys not allowed in the trial of small claims actions.
- No jury trials in small claims cases.

\* Indicates court to which appeals are taken

**C. JUDICIAL DISTRICTS AND REGIONAL STRUCTURE**

The Supreme Court, as the supervisor of the entire court system, establishes statewide rules and policies for the operation of its functions and that of the district courts.

The state is divided into seven judicial districts, each encompassing four to ten counties. This regional structure is designed to delegate authority to the judicial districts and to insure their participation in policy decisions while maintaining uniform, statewide rules and procedures.

An administrative district judge, chosen by the other district judges in the district, performs a number of administrative duties in addition to handling a judicial case load. The administrative district judge, assisted by a trial court administrator, manages court operations in the district, assigns judges to cases, and coordinates activities of the clerks of the district courts.

Final recommendations for local court budgets and facilities are made by the administrative judge, as well as personnel decisions for the district. Local rules of practice and procedure are recommended to the Supreme Court by the administrative judge with the concurrence of the other district judges. The administrative judge also jointly supervises the deputy clerks of the district courts.

The administrative judge additionally serves as chair of the district magistrates commission, a representative body of county commissioners, mayors, citizens, and private attorneys which, among other things, appoints magistrate judges to their initial terms of office.

**D. IDAHO JUDGES BY COURT AND TYPE OF JUDGE**

Supreme Court ..... 5 Justices

Court of Appeals ..... 4 Judges

	<u>District Judges</u>	<u>Magistrate Judges</u>	<u>Total Trial Judges / District</u>
District 1 .....	5.....	11.....	16
District 2 .....	4.....	7.....	11
District 3 .....	5.....	12.....	17
District 4 .....	9.....	19.....	28
District 5 .....	7.....	11.....	18
District 6 .....	4.....	10.....	14
District 7 .....	<u>5.....</u>	<u>13.....</u>	<u>18</u>
Statewide.....	39.....	83.....	122

**E. COURT STRUCTURE**

Idaho has a unified court system, which means that all state courts are administered and supervised by the Idaho Supreme Court. The source of this authority is Article 5, Section 2 of the Idaho State Constitution, which states: "The courts shall constitute a unified and integrated judicial system for administration and supervision by the Supreme Court". Just as the Governor is the head of the executive branch of government, the Idaho Supreme Court is the head of the judicial branch of government. However, the courts are unique in that they are funded in part by the state of Idaho and by cities and counties. As an example, judges are paid by the state while deputy court clerks are county employees paid by the county.

## **II. JURISDICTION OF THE COURTS**

The Idaho Supreme Court has original jurisdiction in claims against the state (rendering advisory opinions), original actions where writs (legal orders to do or not to do something) are sought, and discipline actions involving the actions of attorneys.

By far the most visible responsibility of the Supreme Court, however, is hearing appeals of decisions from district courts, the State Public Utilities Commission and the Industrial Commission. While appeals of criminal cases often attract press coverage, most appeals decided by the Supreme Court are civil disputes involving sums of money, determinations of rights relating to contractual arrangements or family relationships. During calendar 1996, 51% of Supreme Court appellate decisions involved civil appeals, 39% involved appeals on criminal cases and 18.5% were agency appeals from the PUC and the Industrial Commission. Statistical information regarding the Supreme Court is produced annually in its Annual Report.

The Idaho Court of Appeals began deciding cases on January 4, 1982. The Court consists of three judges who sit in a 3-judge panel to decide cases assigned to the Court of Appeals by the Supreme Court.

The Court of Appeals has jurisdiction to hear all cases assigned to it by the Supreme Court. However, the Supreme Court may not assign cases involving claims against any state, extraordinary writs, appeals from the imposition of capital punishment, nor appeals from the Industrial Commission or Public Utilities Commission.

While an appellant may petition the Supreme Court to rehear a Court of Appeals decision, the Supreme Court is not required to grant such a petition. During calendar year 1996, a total of 101 petitions for review of Court of Appeals decisions were filed with the Supreme Court. Of that total only 7 petitions for review were granted by the Supreme Court. As evidenced by these data, in most instances, decisions of the Court of Appeals are final.

### **A. District Courts**

District courts and district court judges have jurisdiction over civil and criminal cases. They decide cases involving the most serious criminal cases, felonies, and typically hear civil cases where the amount of money in dispute exceeds \$10,000. Civil damage actions usually involve personal injury, such as automobile negligence cases and contractual disputes between parties. District judges may also hear domestic relation cases, such as divorces and child custody matters, but in most counties, such cases are handled by magistrate judges. District judges also hear post-conviction relief actions, in which a defendant is challenging his/her conviction or incarceration. District judges also hear appeals from decisions made by magistrate judges.

### **B. Magistrate Division**

Magistrate judges hear less serious criminal matters, known as misdemeanors, and can handle civil cases where the amount of money involved does not exceed \$10,000. Magistrate judges also hold preliminary hearings to determine whether to bind over and send a defendant to the district court for trial on a felony charge. Magistrate judges may also issue warrants of arrest and search warrants. Magistrate judges handle habeas corpus proceedings, probate cases (wills and estates), juvenile cases, and domestic relation cases, such as divorce, alimony, child support, and child custody.

Magistrate judges also sit as judges in the "people's court", the Small Claims Department. Small claims involve civil disputes where less than \$4,000 is in question. These cases are heard informally without attorneys being present or with the involvement of juries. A person can appeal a small claims decision made by a magistrate judge to another magistrate. Small claims court trials are designed to be quick and relaxed, to allow consumers and business people an inexpensive method of settling minor claims. Any person over eighteen years of age can file a suit in the Small Claims Department. Some examples of the types of cases that might be filed in the Small Claims Department are: A tenant suing for return of his/her security deposit, a laundry customer seeking payment for lost or damaged clothing, an individual seeking payment on a bad check or past due bills.

The greatest number of cases handled by magistrate judges are misdemeanor and infraction cases. Infraction cases constitute the largest share of the total trial court caseload.

Infraction and misdemeanor cases come to the court system most frequently in the form of a traffic citation or "ticket" issued by law enforcement to the defendant.

1. **Child Protective Act Cases:** Any child under 18 years of age who is abused, neglected, abandoned, homeless, or whose parents have failed to provide a stable home environment falls within the guidelines of the Child Protective Act.
  - . An abused child is one who has been the victim of physical harm, failure to thrive, or sexual molestation.
  - . An abandoned child is one whose parents have failed to support or maintain regular personal contact with the child.
  - . A neglected child is one who is without proper parental care and/or control, either due to their omission or because they are in prison, hospitalized, or otherwise physically or mentally unable to care for the child.

A child who has been placed for care or adoption in violation of the law may also be deemed a neglected child.

2. **Adoption / Termination of Parental Rights:** All proceedings concerning adoption or termination of parental rights are closed to the public as well as court records of adoptions. Termination of parental rights means that parents give up all rights, obligations, and responsibilities for the child.
3. **Guardianship of Minors:** In these type of cases, a hearing is held for the court to appoint a person or institution to make decisions concerning the physical care and custody of a minor child.
4. **Guardianship of Incapacitated Persons:** A hearing is held so that the court can appoint a person or institution to make decisions concerning the physical care and custody of an incapacitated person.
  - . An incapacitated person is anyone who lacks the physical or intellectual power to take care of themselves.

5. **Informal and Formal Estate Proceedings (Probate):** This is the process of proving a will, or in general, the legal process of the settlement of a decedent's estate through the court process. An informal estate is usually just the filing of the will with no hearings. Formal estates will entail hearings.
6. **BAC - Drivers License Suspension Proceedings:** A BAC (Blood/Alcohol Content) hearing is NOT a criminal proceeding. BAC cases should be entered as a SPECIAL case rather than be considered an addition to the criminal DUI case. A BAC case is opened when a person refuses to submit or fails to complete testing for a concentration of alcohol. You may cross-reference this case to the DUI case in the remarks field.
7. **Habeas Corpus Proceedings:** This is the name given a variety of orders (or writs) whose object is to bring a person before a court or judge. It is directed to the official or person detaining another, commanding him to produce the prisoner or person detained so the court may determine if that person has been denied his liberty without due process of law.
8. **Other Case Types or Hearings**
  - . **Name Changes:** Any type of name change, married name back to maiden name, adults legally changing their names, etc.
  - . **Claim Compromise:** This is a personal injury claim that has been decided and the insurance company is stating that they agree with the court's decision. Two types of claims: minors compromise and a regular compromise. These are usually just filed, sent to the judge to sign and closed.
  - . **Trusts:** Legal documents stating to whom property, money, securities, etc. are legally committed to be administered for the benefit of a beneficiary.
  - . **Hospital:** Hearings to commit a person to a hospital or institution. Person will have a court appointed attorney.
  - . **Shelter:** A child can be removed from his home WITHOUT a court order ONLY if it appears that the child is in danger of serious physical or mental injury.
  - . **Permission to Marry:** Anyone under the age of 16 that wishes to marry must file documents and get permission from the court to do so.
  - . **Fugitive Warrants:** All fugitive warrants should be entered as "special cases." These are warrants for a person that have fled from the state and have criminal charges pending here.

- Post-conviction Relief: After a person has been convicted and sentenced, they may file for post-conviction relief if they believe the sentence was too harsh or that they had ineffective assistance of counsel.
- Out-of-State Witness: Filed as a special proceedings to bring a witness back to Idaho concerning a criminal case. These cases will have summons filed on them.
- Governor's Warrants: A warrant issued by the Governor of the Idaho, directed to authorities in another state, to return a fugitive to Idaho concerning a criminal charge.

### **III. JUDICIAL ADMINISTRATION**

The Supreme Court is the ultimate authority for supervising and administering the Idaho court system. The court establishes statewide rules and policies for the operation of its internal functions and that of the trial courts.

#### **A. Administrative District Judges**

The state is divided into seven judicial districts, each with an administrative district judge, chosen by the other district judges in the district. The administrative judge, assisted by a district trial court administrator, manages court operations in the district, assigns judges to cases, and works with the clerks of the district court in their court related duties. This regional structure is designed to delegate authority to the trial judges and to insure their participation in policy decisions while maintaining uniform statewide rules and procedures.

The administrative district judge additionally serves as chairman of the district magistrates commission, a representative body of county commissioners, mayors, citizens, and private attorneys which appoints judges to the magistrate division for their initial term. The Magistrates Commission is also responsible for evaluating the performance of magistrates within their first 18 months of office and can remove a magistrate during that period.

#### **B. Trial Court Administrators**

Under joint supervision of the administrative district judge and the administrative director of the courts, the trial court administrator assists in the overall management of district court operations. Trial court administrator may assist in preparing budgets for court facilities and county-funded support staff, such as clerical personnel, bailiffs, and probation officers. The administrators may work with jury commissioners in establishing the proper number of jurors to be called and impaneled, as well as assuring that statutory standards for jury duty are followed. Additional responsibilities may be delegated to the trial court administrator, and as a result, the responsibilities of the trial court administrators differ from district to district.

While most of the statewide court information reports are prepared by district court clerk offices, with the assistance of the ISTARS computer system, the trial court administrators are responsible for the analysis of the monthly reports, prepared by the Supreme Court, to pinpoint cases requiring immediate disposition and to attempt to maintain balance in judicial caseloads. The administrators perform non-judicial public information duties, answering complaints, and disseminating information concerning the trial courts. For liaison purposes with law enforcement and other public officials, they may attend designated public meetings as the court's representative.

Under the general direction of the administrative district judges, the trial court administrators may assign cases and perform calendar management functions. They maintain personnel records for state judicial employees in the district, including sick leave, vacation leave, and attendance at judicial education programs. The trial court administrators are a valuable resource to the clerks of the district court in records management, courthouse security, personnel management, and courthouse facility design.

Administrative district judges and trial court administrators meet quarterly with the Supreme Court to discuss caseload and procedural problems and to improve court rules and

operations. The minutes of these meetings are distributed to all district court clerks and judges in the state.

**C. District Court Clerks**

As an elected county official, the Clerk of the District Court serves as a pivotal link between the state judiciary and county government. In addition to responsibilities in the court, the district court clerk also serves as ex officio auditor and recorder. The district court clerks and their deputies provide crucial services to the district judges and the magistrates that include the receipt and filing of all court documents, calendaring of cases, the receipt and accounting of all fees and fines, taking in-court minutes of court hearings, and day to day management of court records, both hard-copy and computer maintained. Additionally, deputy clerks may serve as judge=s secretaries to provide clerical support to the judge. The district court clerks are the hiring authority for deputy court clerks. In addition the clerks= offices are the first point of contact for citizens seeking access to court services. As a result, the district court clerks and their deputies greatly influence the perception of many people regarding Idaho=s court system.

**D. The Administrative Director of the Courts**

The Administrative Director of the Courts, acting under the supervision and direction of the Chief Justice of the Supreme Court, has a number of statutory duties, which are found in I.C. ' 1-612, including collecting statistical information about court operations, report the need for assistance in the handling of pending cases in the trial courts, preparing an annual report for the Supreme Court and the governor, examining the administrative and business methods and systems employed in the offices of the judges, clerks and other offices of the courts, and making recommendations to the Supreme Court for the improvement of the judicial system. The Supreme Court also has prescribed additional duties to be performed under the supervision and direction of the Chief Justice, which include:

1. Compile and prepare the annual judicial appropriations request for consideration and approval by the Court;
2. Develop and administer judicial training seminars and educational programs for the judges and court clerks of Idaho;
3. Review and recommend to the Court calendar management policies;
4. Advise the news media and the public of the functions of the Court and matters of general interest concerning the courts in Idaho; and
5. Liaison for the court system as a whole with the legislature.

**E. The Supreme Court Clerk**

The constitutional office of the Clerk of the Supreme Court performs a variety of important tasks for the judiciary. The clerk=s office administers the processing of appeals, special writs, petitions, and provides other clerical functions for the Supreme Court and the Court of Appeals. The Supreme Court Clerk manages the calendars of both appellate courts, maintains an automated register of actions, which assures proper flow of cases, and the distribution of final opinions. The Supreme Court Clerk=s Office is a valuable resource to

district court clerks in providing assistance and advice regarding the preparation of the clerk's record and other relevant documents associated with an appeal of a trial court decision. The publication of the *Idaho Reports* is coordinated by the Supreme Court Clerk's Office. Opinions of both the Supreme Court and the Court of Appeals are posted on the INTERNET within 24 hours of their release. The opinions will remain on the INTERNET for six months. The INTERNET address for the Supreme Court is:

<http://www2.state.id.us/judicial/judicial.html>

**F. State Law Library**

The Idaho State Law Library, located on the first floor of the Supreme Court building, was originally established by territorial statute. It is managed by the State Law Librarian. The library is used by the judiciary, public officials, lawyers, and is widely used by students, researchers, and the general public.

The law library contains more than 130,000 bound volumes and thousands of pamphlets and unbound publications. The state law library is also a depository for U.S. Government publications. The State Law Library is not a lending library. Photocopy service is provided to its patrons for a nominal fee.

The bound volume collection includes the reported cases of all federal and state courts of last resort, the statutes and session laws for each of the 50 states, together with some statutes and case reports of other English-speaking peoples.

The collection of federal law includes the reported cases of the federal courts, most of the federal administrative board decisions, federal statutes and regulations, the debates of the federal congress, some of the congressional hearings, and a wealth of U.S. legislative history. The State Law Library contains legal periodicals, digests, citators, encyclopedias, treatises of law, and English case reports.

In addition to the bound legal resources, the State Law Library offers access to automated legal research tools such as WESTLAW, LEXIS, and the INTERNET. Research librarians stand ready to assist patrons in utilizing these resources. Research requests requiring access to commercial databases require the charging of fees.

Finally, the State Law Library maintains a site on the INTERNET. Through this computer aided tool, patrons can examine the collection of the State Law Library as well as finding links to other resources. The INTERNET address of the State Law Library is:

<http://www2.state.id.us/lawlib/lawlib.html>

**IV. SELECTION, DISCIPLINE, AND REMOVAL OF JUDGES**

The selection of Supreme Court Justices, Court of Appeals Judges and District Judges is identical. When there is a vacancy in an office, the Idaho Judicial Council advertises to all attorneys licensed to practice law in the state of Idaho the existence of the vacancy and solicits applications for the position. After the applications are received, a survey form is circulated to all members of the bar soliciting their opinions about the applicants. Notice is also given to the general public, inviting them to comment on the applicants as well. The results of the survey are compiled and are used by the members of the Judicial Council when they interview the

candidates. At the conclusion of the interview process, the Judicial Council submits to the governor the names of not less than two nor more than four qualified persons. The governor then appoints the justice or judges to fill the remainder of the elected term.

Thereafter, the justices, appellate court judges, and district judges stand for popular election on a non-partisan contested ballot. Justices and appellate court judges run for election statewide and are elected for six-year terms. District judges stand for election within their judicial districts and are elected for four-year terms. A qualified lawyer may challenge a sitting justice, appellate court judge, or district judge at election time.

A district magistrates=commission in each judicial district, composed of county commissioners, mayors, citizens, lawyers, a magistrate judge in a non-voting capacity, and chaired by the administrative district judge fill a vacancy by appointing a magistrate to an initial 18-month term of office. Just prior to the conclusion of their first 18 months, the magistrates=commission evaluates the performance of the new magistrate and may determine that the judge has successfully completed their probationary period, they may extend the probationary period or they can remove the magistrate from office. The magistrate judge must stand for a retention election each four years on a non-partisan judicial ballot, where the registered voters as asked whether they wish to retain the magistrate in office.

The method for discipline and removal of justices, court of appeals judges, district judges and magistrate judges is identical and involves the Idaho Judicial Council. Upon receiving a written complaint, the Idaho Judicial Council investigates and, upon finding cause, recommends disciplinary action to the Supreme Court.

Cause may include willful misconduct in office, willful and persistent failure to perform duties, habitual intemperance, prejudicial contempt that brings the judicial office into disrepute, or violations of the Code of Judicial Conduct. The justice or judge also may be retired for a disability that seriously interferes with the performance of judicial duties.

The final decision on discipline and removal is made by the Supreme Court. All investigations by the council are confidential by statute; however, after the council files findings and recommendations with the Supreme Court, the file becomes public and is available for review in the office of the Clerk of the Supreme Court.

**V. WHAT HAPPENS IN A CIVIL CASE?**

A civil lawsuit involves disputes between private individuals and/or organizations. The facts of the dispute could involve a contract, a lease, a physical injury experienced by an individual, a divorce, or many other issues. Nonetheless, all disputes or unresolved conflicts between individuals and ultimately may be solved through civil litigation. Generally, the result desired by the person filing the lawsuit is to be compensated for damages. An alternative result is to have the court order another person to begin or stop some activity.

A civil lawsuit is started by the filing of a complaint, which details the facts of the situation as seen by the plaintiff, the person desiring the court's assistance. A filing fee is collected by the deputy clerk at the time of the filing of the complaint. Once a complaint and summons have been filed with the court, these documents must be delivered to the opposing party, known as the defendant. The defendant then has twenty days to respond in writing to the complaint.

The response that the defendant files with the court is known as an answer. Again, the court clerk will collect a set fee for the filing of the answer. The defendant may, at the same time, file a counterclaim as part of his/her answer. The counterclaim sets out the facts of any relief that the defendant feels he/she may be entitled to from the plaintiff. The plaintiff then has ten days to file an answer to the defendant's counterclaim.

If either party fails to comply with the time limits, the other side may ask the court to rule in his/her favor by default. Default is entered when a party does not appear or file papers, and the judge may enter a decision or judgment to be collected as any other decision. It should be noted that most time limits may be extended by agreement (stipulation) of the parties by an order of the court.

Upon completion of the filing of the various documents as previously described, there is usually a period of time for discovery. This is an intermediate period during which either side may require the other to answer written questions known as interrogatories, give sworn testimony under oath known as depositions, provide copies of documents that relate to the case, request for production of documents, and several other things that will assist the lawyers in their presentations. The discovery process can be extremely lengthy and complicated.

From the beginning of the dispute, the parties may have been negotiating in hopes of finding a solution. The negotiation may continue throughout the life span of the lawsuit. However, if negotiations have so far been unsuccessful and all discovery has been completed, either side may make various motions to the court. These motions are simply requests that the court decides certain preliminary matters prior to trial. An additional step at this point is the pre-trial hearing, at which time the lawyers representing both sides of the case or the parties themselves, if they have chosen not to be represented by an attorney, meet with the judge to try and simplify the factual and legal issues as much as possible prior to trial. Often, the judge may be able to assist the parties to come to a mutually agreeable decision at the pre-trial hearing.

If all negotiations prior to and during the pre-trial hearing have been unsuccessful, the matter then will go before the court in a formal trial. The conduct of a trial will be discussed more thoroughly in the *Anatomy of a Trial* section.

## **VI. WHAT HAPPENS IN A CRIMINAL CASE?**

A criminal case is one in which an individual is accused of conduct that has potentially damaged society. There are two main types of criminal cases: misdemeanors and felonies. A misdemeanor is a charge punishable by a fine or imprisonment in the county jail. A felony is a charge potentially punishable by incarceration in the state penitentiary. Misdemeanors are tried in the magistrate division of the district court and felonies are tried by district judges.

Generally, criminal cases are initiated by the filing of a complaint based either on a police investigation or a citizen's accusation. A complaint is the document that sets forth a formal charge against the defendant. It is signed by the victim or other accuser, and the person signing the complaint must show reason or probable cause to believe that the defendant committed the offense. Once a complaint has been filed, the court may issue either a warrant for the arrest of the person charged or a summons requiring the person charged to appear before the court at a specified time. A warrant of arrest authorizes any police officer to take the person named on the warrant into custody in order that the person may be brought before the court to answer the charges in the complaint.

After a defendant has been arrested or summoned to appear on a criminal charge, he/she must appear before the court. The first appearance is a hearing in which the defendant is advised of his/her rights and the procedure that will be followed. If the defendant does not have an attorney at that time, he/she is given an opportunity to obtain one if they wish. If the defendant cannot afford to hire an attorney, the court will consider whether or not to appoint an attorney to represent the defendant, based on the court's first determining the financial situation of the defendant. Though often referred to as an arraignment, a first appearance is a separate court event. A defendant charged with a felony may not enter a plea at the first appearance, but he must do so at the arraignment. This first appearance always takes place in the magistrate court. In misdemeanor cases, the first appearance and arraignments are combined so that the magistrate judge proceeds to take the defendant's plea and sets the case for trial if necessary.

In felony cases, the defendant must determine if he/she desires a preliminary hearing. If the defendant requests a preliminary hearing, one is set within the time limits prescribed by law, however a defendant may waive these time requirements if he/she desires.

A preliminary hearing in a felony case is conducted before a magistrate judge, at which time the prosecuting attorney presents what evidence he/she may have to show that there is probable cause (reason) to believe that a crime has been committed and that the defendant committed the crime. If the prosecutor convinces the judge with that information, the defendant is bound over; that is to say, the case is referred to the district court for further action. Should the prosecutor not make an adequate showing at the preliminary hearing, the magistrate judge may dismiss the case or the charge may be reduced to a less serious offense and the defendant is sentenced accordingly.

If a defendant is bound over to the district court on a felony charge, he/she then appears for arraignment before a district judge. At the arraignment in district court, the defendant is again advised of his/her rights and the procedures the court will follow from that time forward.

It is at this stage of the proceeding that the felony defendant may enter a plea. It is also the point that bond will be set for the defendant if it was not set at the probable cause hearing. If the defendant pleads not guilty, the court will set the case for trial.

If the defendant is found not guilty, he/she is released and the previously set bond is exonerated or returned to the defendant. If the defendant has pled guilty or is found guilty, the next step will be to order a presentence investigation. This is done in almost all felony cases and in a large number of serious misdemeanor matters.

A presentence report is prepared by an investigator assigned to a case. It details important information about the defendant that will assist the judge in determining the sentence. A copy of the presentence investigation is made available to the defendant and his/her attorney, as well as to the prosecutor. By Administrative Court Rule 32, presentence reports are confidential and may not be disclosed to other parties or agencies except by court order upon a showing of legitimate interest in the rehabilitation of the defendant. The presentence report contains detailed information about the defendant's background, social history, and other issues of a private nature to the defendant. Once the court and the parties have received the presentence report and have had an opportunity to review that report, a hearing is held which the defendant is sentenced.

## **VII. ANATOMY OF A TRIAL**

Once a case has proceeded to the point where it is set to go to trial, a choice must be made whether or not to call a jury. Use of a jury depends on the type of case and the decisions of the parties involved.

Most civil matters may be tried with or without a jury. Criminal misdemeanors also may be tried with or without a jury. However, both the state and the defendant in a criminal misdemeanor case must waive the right to a jury trial. If one of the parties does not waive this right, the trial is conducted before a jury.

Most felony cases in Idaho are conducted before a jury, although the constitution permits the defendant to waive a jury trial and have the case heard by a judge alone. Twelve person juries are utilized in the district court.

The anatomy of a trial is substantially the same with or without a jury, except for the voir dire during which the jury members are selected. The voir dire process involves potential jury members being questioned under oath by the lawyers presenting both sides of the matter, to insure a jury is satisfactory to each party. An attorney may challenge a perspective juror for cause or preemptory, without cause. A challenge for cause means that the attorney has found a good reason why a person should not serve as a juror. A preemptory challenge means that the attorney has decided not to put the individual on the jury and does not need to state a reason. The attorneys have a specified number of preemptory challenges.

Once the jury has been impaneled, each side, through their respective attorney, has the opportunity to make an opening statement, thereby commencing the trial. The lawyers during the opening statement outline the elements associated with their case. The defendant may choose to wait to give an opening statement until the beginning of the case.

Upon completion of the opening statements, the plaintiff, in a civil action, or the prosecutor, in a criminal action, presents his/her case. During this time, the plaintiff's witnesses are questioned under direct examination by the plaintiff/prosecutor and under cross-examination by the defendant. Upon completion of his/her case, the plaintiff/prosecutor rests.

At this time, the defendant may present an opening statement, if not done so earlier. The defendant then produces his/her witnesses and evidence. The defendant's attorney questions the defendant's witnesses on direct examination and the plaintiff/prosecutor examines the witness under cross-examination. Upon completion of his/her case, the defendant rests. At this time, the plaintiff/prosecutor may present any rebuttal witnesses. During the presentation of testimony and evidence by either side, objections may be made by the opposing attorney. An objection is a lawyer's argument that evidence should not be heard because it does not bear on the case or is excluded by law. If the judge agrees, or sustains the objection, that information is not included in the record of the trial. If the objection is overruled, the judge did not agree with the lawyer's objection.

Once both sides have finished presenting their case, the judge will instruct the jury on the law as it applies to the testimony and evidence that they have heard and seen. Closing arguments are made to the jury or the judge by the attorney as a final summary of their client's factual and legal

position. The jury will then retire to deliberate on the verdict. If the case is being tried without a jury, the court may make a decision immediately, or "take the matter under advisement," advising all parties of his/her decision at a later date.

Once a trial has been completed and a judgment has been entered, there are a limited number of alternatives available to an individual not satisfied with the result of the trial. Initially, an individual may file certain post-trial motions in which he/she asks for reconsideration and/or relief despite the decision of the court or jury. Failing this, an individual or party dissatisfied with the decision may appeal to the next higher court. Ultimately, the court of last resort in the state of Idaho is the Idaho Supreme Court. Appeals from a decision of the district court are taken to the Supreme Court. However, the Supreme Court may choose to assign that case to the Court of Appeals for review and decision. While decisions of the Court of Appeals may be appealed back to the Supreme Court, the Supreme Court is not required to grant a review of the Court of Appeals' decision. In most cases, decisions of the Court of Appeals are final.

## **VIII. WHAT HAPPENS IN A CRIMINAL SENTENCING?**

This section deals exclusively with the sentencing of adult offenders and youthful offenders over whom juvenile jurisdiction has been waived. Juvenile proceedings are treated in the next section.

Except for minor offenses, such as infractions, the law gives the judge a great deal of latitude in determining the sentence. The character and circumstances of the defendant can be as important as the severity of the crime determining what sentence will be imposed.

Procedurally, the sentence is imposed after a separate hearing, held at least two days after judgment has been rendered by the jury or the judge, unless the defendant waives this right. At the sentencing hearing, both sides have the opportunity to present evidence and testimony to recommend an appropriate sentence. The judge is free to ignore these recommendations, even if the prosecutor and defense counsel have agreed to a sentence as a part of a plea agreement. In that event, the defendant may be allowed to withdraw his/her plea.

### **A. Presentence Investigation Report**

In addition to the information supplied by the parties, the judge is typically supplied with the presentence investigation report. A presentence investigation may be ordered in any criminal case. However, presentence investigations are not typically provided in misdemeanor criminal matters, and there are not sufficient presentence investigators in the Department of Corrections to provide this support. In a felony case, the judge may state his/her reasons on the record for failing to order a presentence investigation. The presentence investigator interviews the defendant and often other individuals such as relatives, friends, and employers. With that information, the presentence investigator complies a social history of the defendant, which covers the defendant's education, employment record, family situation, physical, and mental health and community ties. The presentence investigator will also assemble the defendant's prior criminal record, the defendant's version of the facts surrounding the crime, and the police and other witnesses' version of those facts.

In appropriate cases, the investigator will recommend alternatives for rehabilitation such as counseling, but the report does not contain a recommendation on the length of the sentence. The prosecution and defense typically have access to the presentence report prior to the sentencing hearing. Either side may present evidence to rebut or supplement the presentence investigation report. The report is not available to the media or the public.

If a formal presentence investigation has not been ordered, the judge will at least be supplied with the defendant's prior criminal record, and may ask the defendant and his/her lawyer to prepare an informal presentence report.

At the conclusion of the presentence hearing, the judge must give the defendant an opportunity to speak on his/her own behalf. Then the judge pronounces sentence. The length of the sentence imposed must be within the statutory minimum and maximum time prescribed by law for that offense, but the type of sentence is up to the judge's discretion with a few important qualifications. Statutory minimum and maximum sentences for most crimes are included in case law. For example, the habitual criminal or persistent violator, outlined in Idaho Code Section 19-2514 is imposed when a person is convicted of three or

more felonies and is considered a persistent violator in this situation, the individual is subjected to a sentence of at least five years to life.

**B. Types of Sentences**

1. Withheld Judgment: In all non-capital cases (offense is not punishable by death) the judge may withhold judgment. In that case, no judgment of conviction is entered, unless the conditions of the withheld judgment are violated by the defendant. Upon satisfactory completion of a supervised or non-supervised probationary period, the case against the defendant will be dismissed.

The conditions imposed upon the defendant during the probationary period may be simply that he/she stay out of trouble with the law. Other common probation conditions include restitution to the victim, completion of a drug/alcohol related rehabilitation program, performance of volunteer services, and reimbursement to the county of the cost of that individual's prosecution, including the cost of the public defender, if one was appointed.

A less common condition is that the defendant serve some jail time before the case is dismissed. At the end of the probationary period, the defendant or his/her probation officer may petition the court to dismiss the case. However, in the event of a subsequent arrest, the facts of the previous withheld judgment will be known to the presentence investigator, by consulting the withheld judgment file maintained by the Idaho Supreme Court. The file maintained by the Supreme Court does not include information about withheld judgments entered on felony cases.

2. Probation or Suspended Sentence: The judge may enter judgment against the defendant and then sentence him/her to probation for a period not to exceed the maximum sentence provided for the offense, or he/she may impose a sentence but all or part of the sentence is suspended. In either event, if the defendant violates the condition of the probation or the suspension, usually by a subsequent arrest, the defendant may be ordered to serve out the remainder of the probationary period as stated in the original sentence.

These sentencing alternatives are preferred over going to prison or jail, because they are cheaper and because it is believed that the chance for rehabilitation has improved. They may be, and usually are, conditional with conditions being similar to those outlined previously for probation following withheld judgment.

3. 180-Day Sentences: Frequently, judges will retain 180-day jurisdiction over the defendant. That means that although the judge has imposed a prison sentence, the judge may alter or suspend that sentence after the 180-day period has been completed in which the judge retained jurisdiction. The 180-day period can be extended for an additional 60 days by application by the Board of Corrections. During the retained jurisdiction period, an alternative only available for felony cases, the defendant will first spend two weeks in a diagnostic unit of the state penal system. If it is determined there that the defendant is not dangerous, the defendant will next go to the North Idaho Correctional Institution at Cottonwood, Idaho. There, the defendant

will undergo psychiatric and other testing, and may participate in rehabilitation programs. At the end of the retained jurisdiction, the judge will decide, based upon the Board of Corrections evaluation and the defendant's performance during the period, whether the remainder of the sentence shall be suspended.

4. **Concurrent vs. Consecutive Sentences:** This issue arises when the defendant is already under sentence, as well as in sentencing for multiple offenses.

If the defendant is sentenced to two or more concurrent sentences, he will not serve more than the longest of those sentence terms. The impact of the additional concurrent sentences will be on his chances for parole. Although the parole board will look only to the length of the longest sentence for the purpose of scheduling an appearance before the board, it will take the additional sentences into consideration in determining whether to grant the parole.

In the case of consecutive sentences, the defendant will not begin to serve the later sentences until the earlier sentences have been completed or paroled.

5. **Death Penalty:** First degree murder, first degree kidnaping and child murder carry the death penalty in Idaho. Whether death or life imprisonment will be imposed is decided solely by the judge. The jury only decides guilt or innocence not the issue of punishment. After the verdict or guilty plea in a first degree murder case, a hearing must be held on the aggravating and mitigating circumstances surrounding the murder. It is at this time, circumstances such as the individual's background, relationship with his/her family, and the circumstances that may have surrounded the crime are discussed. If the death sentence is imposed, the sentence must be executed by lethal injection.

**IX. WHAT HAPPENS IN A JUVENILE CORRECTIONS CASE?**

Persons under the age of 18 years who violate any federal, state, local law or municipal ordinance, with the exception of certain traffic, alcohol, tobacco, and watercraft violations, are processed under the Juvenile Corrections Act. Juvenile cases are customarily handled in the magistrate division of the district court.

As a rule, neither the juvenile court nor any of its officers are allowed to initiate action to bring a juvenile before the court. Usually such action begins with law enforcement. When an officer believes that a juvenile has broken the law, he/she files a report concerning the alleged offense. If further action is desirable, the report is submitted to the prosecuting attorney, requesting that a petition be filed with the juvenile court.

The prosecuting attorney reviews the case and determines whether there is sufficient evidence to bring the matter before the juvenile court. If the prosecutor feels there is sufficient evidence, the petition is filed with the court.

The petition is the formal document that sets forth the specific act with which the juvenile is charged. Unless such a petition is filed, the juvenile may not be brought before the court, except to be released from detention.

Once a petition has been filed, a probation officer conducts an interview with the juvenile and with one or both of the parents or legal guardian. This interview advises the juvenile and his/her parents of the content of the petition, and advises all parties of their constitutional rights. It is also used to obtain as much information as possible to aid the court in making the most fair and helpful decision, in the event that the juvenile is found within the purview of the Juvenile Corrections Act. The probation officer tries to answer questions that the juvenile or parent has about the court process and sets the time and date for the initial court hearing.

If the probation officer concludes that formal court action would not serve the best interests of the juvenile or the public, he/she may recommend to the court that the case be dismissed, or that the juvenile diverted into a community program, such as a youth court. The judge may either accept or reject the recommendation.

Present at the court hearings are the judge, the in-court clerk, a probation officer, the juvenile, his/her parents, and attorneys, if desired. Other persons may attend if the court opens the proceedings pursuant to court rules. Typically, such persons as school counselors and police officers may attend.

At the start of the court hearing, the judge reviews the petition to determine if the juvenile and his/her parents understand the charge. If copies of the petitions have not been served, they are delivered to the juvenile and his/her parents at the hearing.

Before the facts of the petition are discussed, the judge reviews the constitutional and legal rights of all parties. The court then determines whether or not the facts as contained in the petition are true. If the juvenile denies the charge, the case is set for hearing.

If the court finds the juvenile within the purview of the Juvenile Corrections Act, after the hearing or by the juvenile's own admission, the court proceeds to make disposition.

The court has a number of alternatives in making disposition. Briefly, they are: following counseling by the judge or probation officer, the case may be dismissed; the case may be continued for a some specific action by the juvenile, for example, to make restitution, then dismissed; short- or long-term counseling; referral for psychological or psychiatric evaluation and treatment; probation, in which the child is allowed to remain at home, subject to supervision by the court, commitment to a juvenile detention facility for a period of 30 days or less, referral of the child and/or his/her family to another community agency; or commitment of the juvenile to the Department of Juvenile Corrections, which could place the juvenile at the Juvenile Corrections Center or, in some cases, the State Mental Hospital.

In felony or more serious misdemeanor cases the court may transfer the case to the district court to be processed under adult criminal law. Under Idaho Code, the juvenile must be at least 14 years of age to be tried as an adult.

**X. WHAT HAPPENS IN A TRAFFIC CASE?**

In Idaho, all traffic violations are handled by the magistrate division of the district court. The method of handling traffic citations depends upon whether the offense is an infraction or misdemeanor.

Any person issued a Uniform Citation is required to acknowledge service of the summons by signing a ~~promise~~ printed on the bottom of the citation. The signature of the person receiving the citation indicates only a promise to appear and is not in any way an admission of guilt. If the driver refuses to sign the written promise to appear, the law enforcement officer may serve the citation on the defendant by personal delivery to him.

- A. Misdemeanors:** For misdemeanor traffic offenses, the defendant is normally required to appear in court in the county where the offense is alleged to have happened. The defendant may request arraignment on the charge in another county more convenient to him. This request is made to the officer issuing the citation, who may grant or deny it, although usually it is granted.

In the event of a plea of not guilty is subsequently entered on a citation transferred from another county, the case may be sent back and the trial held in the county where the offense allegedly occurred.

Citations are filed in court by the issuing officer with the court indicated on the summons. If the defendant fails to appear in court on the date indicated on the citation, the magistrate judge can issue a warrant for the arrest of the defendant. The charge is for failure to appear. When served, this warrant results in the arrest of the defendant and may lead to incarceration if the defendant is unable to post the bond set by the magistrate judge on the warrant.

The amount of bail for misdemeanor traffic offenses is set forth in the Misdemeanor Criminal Rules.

A defendant entering a plea of not guilty to a misdemeanor traffic citation charge may have a trial before a judge or jury. A trial before the judge is a relatively informal procedure if the defendant is not represented by an attorney. The prosecuting attorney is representing the governmental body that issued the citation.

A trial by jury always involves a prosecutor for the state and the defendant is advised, although not required to have counsel.

Once a penalty is imposed, the defendant remains in the custody of the court until fines and court costs have been paid. If a defendant is able to pay the fine, but refuses to pay, the defendant can be incarcerated in the county jail until fines and costs are satisfied at the rate of \$5.00 per day. Rather than incarceration, many courts offer defendants the opportunity to perform community service work in lieu of payment of fines.

- B. Infractions:** Minor traffic offenses in Idaho are called infractions. An infraction is not a crime, but are a civil public offense, for which there is a penalty not exceeding \$100.00 and

for which there is no imprisonment. The Supreme Court has established by court rule a fixed penalty schedule for infraction violations. The fixed penalties cannot be increased, decreased, suspended, or withheld by any court. The penalty is more in the nature of a fee, and the fixed penalty is not a criminal fine. Because an infraction is not a crime, a defendant may never be arrested for an infraction and may never be required to post bail.

Because an infraction is civil in nature, if a defendant does not appear on an infraction citation, the driver cannot be prosecuted for a misdemeanor for failure to appear. Instead, if the defendant fails to appear on an infraction citation, default judgment can be entered against the driver, in the same manner as in any other civil action. Also because the infractions are civil in nature, the defendant is entitled to a court trial only.

The defendant may admit the infraction charge and pay the fixed penalty, by either appearing at the courthouse and paying the court clerk, or by mailing the fixed penalty amount to the court. If the defendant denies the infraction charge, the clerk will set a date for a court trial.

If the court enters a judgment finding the defendant committed an infraction offense, either by entry of default judgment in those cases where the defendant failed to appear on the infraction charge, or by entering a judgement after a trial on the infraction, the defendant is notified to pay the fixed penalty amount. If the defendant fails to pay a penalty after proper notice, the Department of Transportation suspends the driver's license. If the defendant resides out of state, the Department of Transportation can request that the defendant's resident state suspend the license. If the defendant then appears in court and pays the penalty, the defendant may have his license reinstated by the Department of Transportation. The Department requires the payment of a reinstatement fee before the license is issued.

**IX. WHAT ARE GRAND JURIES?**

It should be noted that the grand jury system is a mechanism to bring a serious criminal matter to the district court. A grand jury is a panel of citizens called together to hear evidence and determine if criminal charges should be initiated.

Grand jury proceedings are private and secret, prospective defendants are not entitled to be present at the proceedings and no one is allowed to cross-examine witnesses on the defendant's behalf. Information presented to the grand jury is presented by prosecuting attorneys.

The grand jury has broad investigative powers and may compel the attendance of witnesses, as well as compel answers to questions and submission of records. If the grand jury determines that criminal proceedings should be initiated, it returns what is called an indictment. Based on this indictment, the court causes either a summons or an arrest warrant to be issued. The individual then appears before the district court to answer the charges and enter a plea at an arraignment. Effectively, the grand jury process eliminates the necessity for the preliminary hearing and any proceedings in the magistrate division.