

In the Supreme Court of the State of Idaho

IN RE: ORDER AMENDING LOCAL RULES)
OF THE THIRD 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 Third Judicial District, and

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

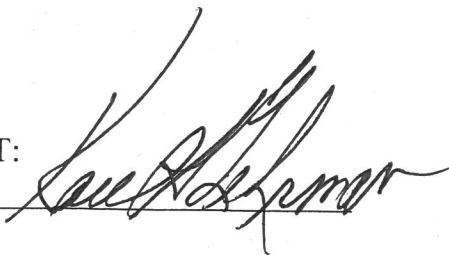
IT IS FURTHER ORDERED, that the amendments to the Local Rules of the Third Judicial District of the state of Idaho shall be sent to the trial court administrator of the Third Judicial District for publication and dissemination.

IT IS FURTHER ORDERED, that the Third 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

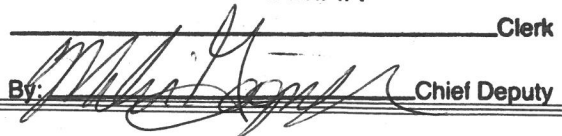
entered in the above entitled cause and now on record in my office.

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

KAREL A. LEHRMAN

Clerk

By:



Chief Deputy

Misdemeanor Caseflow Management Plans
3rd District Plan

Misdemeanor Criminal Caseflow Management Plan for Idaho's Third 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 Third Judicial 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 Third Judicial District

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

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

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

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

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

Section 2: Management of Criminal Cases

Section 2.1: Idaho Time Standards for Processing Criminal Cases

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

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

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

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

Misdemeanors: 90 days from first appearance

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

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

Section 2.2: Assignment of Cases²

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

² Note the definition of a “criminal case” adopted for use with the new Tyler Odyssey case management system: All misdemeanor charges against a single defendant resulting from a single incident are counted as a single case. Infractions must be filed separately, but may be consolidated [See IIR 3(d)]. If multiple citations or complaints arise from a single incident, involving a single defendant, filed at the same time, then all misdemeanors associated with that incident are included in a single case. If the charging document contains multiple defendants involved in a single incident, a separate case will be created for each defendant, so that each defendant is counted as a single case. Idaho Misdemeanor Criminal Rules provide this exception: Offenses based on two or more acts or transactions connected together or constituting part of a common scheme or plan may be consolidated pursuant to M.C.R. 3(e).

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 Third Judicial 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.

To the maximum extent feasible, the Third Judicial District employs the standards set forth above in assigning misdemeanor criminal cases:

Multiple misdemeanor cases involving the same defendant are assigned to magistrates in the following manner, with a preference to assigning such cases to a single magistrate judge, where feasible:

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

All cases under this scenario are assigned to the magistrate judge who entered the judgment in the case giving rise to the probation violation.

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

New misdemeanor charges filed under this scenario are assigned to the judge with the pending misdemeanor/infraction/probation violation charge(s).

- 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:**

Subject to the venue provisions of I.M.C.R. 4, the new misdemeanor charge will be assigned to the judge in the county where the offense is alleged to have occurred, even though this may result in different judges presiding over the new and pending misdemeanor charges. In such cases, the assigned judges shall, to the maximum extent feasible, coordinate in order to expedite resolution of the cases.

- 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:**

Subject to the venue provisions of I.M.C.R. 4, the new misdemeanor charge will be assigned to the judge in the county where the offense is alleged to have occurred.

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

Since parole revocation necessarily involves a prior felony case or cases, there may or may not be misdemeanor activity associated with a pending felony case. If there is no pending felony case, the misdemeanor charges will be assigned as provided above with due consideration given to the timing of the parole revocation proceedings. If there is a pending felony case, all cases, where possible, shall be consolidated for plea and sentencing as provided by Idaho Criminal Rule 20, with due consideration given to the timing of the parole revocation proceedings.

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

Initial assignment for new cases in each county will be as previously provided. If a felony probation violation is prosecuted, and where possible, the cases shall be consolidated for plea and disposition as provide by Idaho Criminal Rule 20.

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

New misdemeanor charges are assigned as previously provided. However, the problem-solving court judge is notified of the new charges and has the option of requesting reassignment of the new charges to the problem-solving court judge.

The Third Judicial 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.

In all of the above scenarios, subject to judge availability and resources, the Third Judicial District first attempts to assign a case or calendar to a sitting magistrate judge or judges. In the event assignment of a sitting magistrate judge is not possible, the Third District attempts to assign the case or calendar to a senior judge or judges.

All recusals, disqualifications and requests for additional judicial assistance are referred to, and addressed in a timely manner by, the office of the Trial Court Administrator.

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

All new misdemeanor cases are scheduled for a pretrial conference within four (4) weeks of the filing of the case in order to seek early resolution. If the case is not resolved at the pretrial conference, the assigned judge will set the case for trial, after evaluating the likelihood that the case will actually go to trial, the time required for trial, and pretrial issues, such as discovery, pretrial motions, and witness availability. Consideration is given to the rights of any victims. The judge sets a status conference date, no more than a week before trial, and a trial date. All efforts are made to set cases for trial within ninety (90) days of entry 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
Arrest
Arrest
Pre-trial
Entry 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 Third Judicial District follows these practices to ensure that all scheduled events are meaningful:

A full record is made of all post-arraignment events and, there is active judicial participation in all such events. Requests for continuances are questioned and thoroughly vetted. A detailed pretrial order form is completed that sets all deadlines and clearly defines responsibilities for completing tasks.

Calendar Setting

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

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

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

If an interpreter is required for the case, the clerk flags the case in the computerized case management system at the earliest opportunity.

The available dates of counsel and witnesses are given due consideration when setting motion and trial dates at the pretrial conference.

The Third Judicial 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:

Clear dates for discovery and the filing of motions are set at the pretrial conference and adhered to by the court. In cases involving e-citations, the prosecuting attorney is ordered to file a sworn complaint at least 5 days prior to the trial date.

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

All cases set for trial also have a status conference setting within 5 days of the trial date in order for the court to determine if all pretrial issues have been resolved and the case is in a posture to actually proceed to trial. The judge thoroughly vets requests to continue or vacate an established trial date.

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 Third Judicial District is as follows:

The prosecuting attorney runs a check on every case to determine if any potential conflict exists with the office prosecuting the case. If there is a conflict, the PA files a motion for special prosecutor and ensures that any order goes to the public defender/defense counsel. The public defender also runs a check to discover possible conflicts although PD conflicts at the misdemeanor level are rare, and takes steps to secure appointment of a conflict public defender for the defendant.

The court appoints counsel, if it determines that the defendant is indigent at the initial court appearance, even if the defendant indicates that he/she might hire private counsel. A substitution of counsel can always be filed at a later date if private counsel is retained.

To accommodate first appearances before the clerk, as provided in I.M.C.R. 6(a), deputy clerks are provided with guidelines for the presumption of indigence pursuant to Idaho Code section 19-854(2). This allows the appointment process to proceed without any delay.

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

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

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

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

Pre-trial motions to suppress must be filed in conformity with Idaho Criminal Rule 12, unless otherwise ordered by the court, and must provide reasonable notice of the evidence sought to be suppressed and the legal basis asserted for suppression, as required by I.C.R. 12(c). All motions must include appropriate briefing and citation to authority, in conformance with applicable court rules. The court's pretrial conference order sets forth specific deadlines for the filing and disposition of motions.

Section 2.7: Discovery Practice

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

In criminal cases:

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

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

The exchange of applicable discovery documents in Canyon County between the prosecuting attorney and the public defender is done via electronic transfer and is attached to the Order of Appointment of defense counsel at the time of the initial court appearance. All other counties in the district process discovery by paper upon request.

Section 2.8: Early case resolution processes

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

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

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

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

The court and attorneys in the Third Judicial District adhere to the following practices to obtain the earliest possible resolution of misdemeanor criminal cases:

Mediation is encouraged and is available on a timely basis in appropriate cases. There are several judges in the district who have been trained in criminal mediation and who make themselves available to mediate cases assigned to other judges in the district.

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

Hearing notices routinely list all other magistrate judges assigned to the district as possible alternate judges in order to avoid last-minute disqualifications.

The Administrative District Judge and Trial Court Administrator monitor disqualification motions in an attempt to detect improper use of disqualifications by counsel.

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

Strict adherence is required to the provisions of the pretrial order. At the status conference, parties are held to a firm commitment to the trial date absent resolution of the case. If multiple cases are left on the trial calendar after all status conferences are held, the cases are prioritized for the trial calendar.

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

Requests for continuances, absent emergency, are not favored. The party seeking a continuance must show good cause for the continuance and that denial of the continuance will result in substantial injustice to a party. Discretionary decisions on continuance requests are based on all twelve (12) factors previously listed.

Section 2.11: Management of Trials

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

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

The judges of the Third 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:

Pretrial orders will mandate that motions be timely filed and heard before the day of trial in order to prevent delays on the day of trial and, especially, inconvenience to jurors who have been summoned to serve. Status conferences five days before trial are used to sort out any last minute issues and to determine the priority of trials. The court takes the lead in presenting preliminary voir dire questions to the prospective jury panel in order reduce the time necessary for individual counsel voir dire.

Section 2.12: Post plea or verdict case management

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

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

Judges order defendants to have any necessary evaluations completed and available at the time of sentencing.

The Third 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:

Judgment orders are completed in court on pre-printed forms at the time of sentencing for all cases.

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

All post-conviction proceedings are assigned to and addressed by the judge who entered judgment in the case.

Section 2.14: Probation revocation proceedings³

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

The Third 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:

Probation revocation proceedings are assigned to and set as expeditiously as the case merits on the calendar for the judge who entered judgment in the case.

Section 2.15: Effective and Consistent Monitoring of Case Management Reports

³ 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.

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

The trial court administrator does a monthly audit of case management reports from the Idaho Supreme Court to identify individual cases or areas of concern. Problems identified by the trial court administrator are communicated to court support personnel or the assigned judge, if deemed appropriate, for corrective action.

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 Third Judicial District adheres to the following practices to ensure the most efficient use of available certified and non-certified interpreter resources:

The court uses a certified court interpreter as the district's court interpreter coordinator. The primary function of that position is to schedule interpreters for court proceedings and to handle all language access issues in the courts of the district.

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

District personnel performing jury functions attend yearly training specific to jury issues offered at the Idaho Supreme Court's annual Idaho Institute for Court Management for district court personnel. Jury commission personnel immediately attempt to contact non-appearing jurors by telephone. In those instances where voice contact is not made with the potential juror, a letter is sent that directs the individual to appear on a date certain in the jury commission office to discuss the jury service obligation. As necessary, a judge is assigned to conduct show cause hearings for citizens who repeatedly fail to appear for jury service despite extra efforts made to contact and work with them to serve.

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 Third Judicial 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:

Judges are careful to thoroughly explain to individuals who waive counsel that they have the right to have counsel appointed and that by waiving that right they will be held to the

same standard as attorneys appearing in court to follow all applicable rules. Stand-by counsel may be appointed in appropriate cases whether or not the defendant agrees with the appointment.

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

Media representatives requesting video coverage are instructed to submit the standard application form as contained in Court Administrative Rule 45 to the presiding judge's clerk or secretary at least 24 hours in advance of the proceeding unless court scheduling deadlines prevent 24 hours of advance notice.

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 Third Judicial District, remote appearances are allowed as follows:

Remote appearances are allowed upon written motion at the discretion of the presiding judge and are granted depending upon the circumstances of the case.

The procedures for arranging a remote appearance are:

Parties having been granted a request to appear remotely must contact the judge's clerk or secretary to make the necessary logistical arrangements.

Section 2.17: Maintaining the 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 Third Judicial District maintains the misdemeanor criminal caseflow management plan through the following process:

Magistrate Judges from all counties in the district meet as a group on a quarterly basis to discuss administrative issues and other matters of concern. Other agencies and individuals involved in the criminal justice system are invited to these meetings to discuss individual administrative issues that may relate to the case management plan.