

CLERK OF THE DISTRICT COURT MANUAL

Table of Contents

<u>Section</u>	<u>Topic</u>
1.0	OVERVIEW OF THE IDAHO COURT SYSTEM
1.1	Purpose
1.2	Overview of the Orientation Process
1.3	Overview of the Idaho Court System Structure and Organization
1.4	Jurisdiction of the Courts
1.5	Judicial Administration
1.6	Selection, Discipline, and Removal of Judges
1.7	What Happens in a Civil Case?
1.8	What Happens in a Criminal Case?
1.9	Anatomy of a Trial
1.10	What Happens in a Criminal Sentencing?
1.11	What Happens in a Juvenile Corrections Case?
1.12	What Happens in a Traffic Case?
1.13	What are Grand Juries?
1.14	Idaho Court's Mission Statement
1.15	Civil Case Flowchart
2.0	FELONIES
2.1	Overview
2.2	Initiating the Action
2.3	Receipt of the Complaint
2.4	Initial Appearance Before a Magistrate
2.5	Preliminary Hearing in Magistrate Court and Filing in District Court
2.6	Arraignment in District Court and Trial Setting
2.7	Disposition
2.8	Judgments in Criminal Cases
2.9	Felony Judgments
2.10	Judgment of Conviction, Suspending Sentence, and Order of Supervised Probation: (IC § 19–2601(2))
2.11	Judgment of Conviction and Order of Retained Jurisdiction I.C. § 19–2601(4), and Order of Commitment
2.12	Order on Motion to Revoke Probation
2.13	Grand Juries
2.14	Sex Offender Registration
2.15	A Guide to the Idaho Sex Offender Registration Program
2.16	Evaluating the Effectiveness of Drug Courts in Idaho
3.0	MISDEMEANORS
3.1	Definition of a Misdemeanor
3.2	How Initiated
3.3	Receipt of Complaint or Citation

	3.4	Appearance by Defendant/Processing by Clerk
	3.5	Processing by Court
	3.6	Forfeiture of Bond for Traffic Offenses
	3.7	Case Dismissal for Inactivity
4.0		INFRACTIONS
	4.1	Initiation of Infractions
	4.2	Appearance by Defendant
	4.3	Failure to Appear/Bad Checks (Default)
	4.4	Setting Aside a Default
	4.5	Denial of Charge and Trial
	4.6	Trial/Judgment
	4.7	Failure to Pay Infraction Judgment
	4.8	Appeal
5.0		SPECIFIC CRIMINAL PROCEDURES
		Under Revision
6.0		CIVIL CASES
	6.1	Purpose
	6.2	Filing the Complaint (IRCP 5(e))
	6.3	Receipt of the Answer or Appearance
	6.4	Receipt of Additional Pleadings and Documents
	6.5	Mediation
	6.6	Law and Motion Calendar
	6.7	Scheduling Trials or Hearings
	6.8	Procedures Following Trial or Other Disposition
	6.9	Judgments and Closing the Case
	6.10	Case Information Prior to ISTARS
	6.11	Memorandum of Costs
	6.12	Satisfaction of Judgment
	6.13	Abstract of Judgment
	6.14	Default Judgments
	6.15	Foreign Judgments
	6.16	Debtors Examinations
	6.17	Judgments Affecting Real Estate (I.C. § 5-409)
	6.18	Renewal of Judgment
	6.19	Executions
	6.20	Case Dismissal for Inactivity
	6.21	Filing Fee Schedule
	6.22	Extraordinary Writs
	6.23	Uniform Post-Conviction Relief
	6.24	Habeas Corpus
	6.25	Unlawful Detainer
	6.26	Change of Venue in Civil Cases
	6.27	Small Lawsuit Resolution Act
7.0		ESTATE PROCEEDINGS, TRUSTS, AND GUARDIANSHIP/CONSERVATORSHIP
		Under revision
8.0		SMALL CLAIMS

8.1	Filing the Claim
8.2	Venue
8.3	Filing the Answer
8.4	Counterclaims
8.5	Mediation
8.6	Attorneys
8.7	Witnesses
8.8	Disqualification
8.9	Dismissal for Inactivity or Lack of Service
8.10	Record
8.11	Costs on Appeal
8.12	Attorney Fees on Appeal or Post-Judgment Motions
8.13	Small Claims Procedures
8.14	Time Standards
8.15	The Hearing
8.16	Dismissal of Claim After Hearing
8.17	Entry of Judgment
8.18	Writs of Execution, Possession and Garnishment
8.19	Satisfaction of Judgment
8.20	Filing an Appeal in a Small Claims Action
8.21	The Hearing
8.22	Dismissal of Claim After Hearing
8.23	Entry of Judgment
8.24	Writ of Execution, Possession and Garnishment
8.25	Forms and Information
9.0	DOMESTIC RELATIONS
9.1	Overview
9.2	Divorce
9.3	Mediation
9.4	Permission to Marry
9.5	Foreign Judgment
9.6	Uniform Child Custody Jurisdiction Enforcement Act
9.7	Family Court Services Evaluation
9.8	Petition for Sterilization
10.0	DOMESTIC VIOLENCE
	Under revision
11.0	FAMILY LAW LICENSE SUSPENSIONS
11.1	Purpose
12.0	JUVENILE CORRECTIONS ACT
12.1	Introduction
12.2	Unique Terminology-Juvenile Case Processing
12.3	Filing a Petition
12.4	Curfew Violations
12.5	Detention Hearing
12.6	Setting the Admit/Deny Hearing
12.7	Hearing to Admit or Deny

- 12.8 Evidentiary Hearing (Trial)/Disposition (Sentencing)
- 12.9 Transfer of Case to Home County for Disposition (Sentencing)
- 12.10 Transfer of Jurisdiction (I.C. § 20-508) (I.J.R. 26)
- 12.11 Juvenile Case Expanded into a CPA Case
- 12.12 Violation of Informal Adjustment or Probation
- 12.13 Priority of Payments
- 12.14 Confidentiality of Juvenile Records
- 12.15 Juvenile Sex Offender Registration
- 13.0 CHILD PROTECTIVE ACT PROCEEDINGS
 - Under revision
- 14.0 ADOPTIONS AND TERMINATIONS OF PARENTAL RIGHTS
 - Under revision
- 15.0 JUDICIAL CONSENT FOR ABORTIONS UPON MINORS
 - 15.1 Procedures
 - 15.2 Appeal
 - 15.3 Statistical Reporting
- 16.0 HOSPITALIZATION OF MENTALLY ILL
 - 16.1 Purpose
 - 16.2 Confidentiality
 - 16.3 Frequently Used Terms
 - 16.4 Types of Commitment Proceedings
 - 16.5 Initial Detention without Application/Petition or Hearing – I.C. § 66-326
 - 16.6 Commitment Proceedings with Petition/Application – I.C. § 66-329
 - 16.7 Re-Hospitalization of Conditionally Released Patients
 - 16.8 Outpatient Commitment Proceeding
- 17.0 JURY COMMISSION RESPONSIBILITIES
 - 17.1 Purpose
 - 17.2 Procedures
 - 17.3 Jury Trial Procedural Checklist
- 18.0 APPEALS
 - 18.1 Nature of Judicial Review
 - 18.2 Time Limits for Filing an Appeal (IRCP 83(e); ICR 54.3)
 - 18.3 Summary of Time Periods Regarding Appeals (IRCP 83 and ICR 54.6)
 - 18.4 Transcript of Trial Court (IRCP 83(j); ICR 54.6)
 - 18.5 Clerks Record (IRCP 83(n); ICR 54.8)
 - 18.6 Augmentation of Record (IRCP 83(q); ICR 54.11; IAR 30)
 - 18.7 After Determination of Appeal (IRCP 83(n); ICR 54.8)
 - 18.8 Judicial Review of Agency Actions by the District Court (Appeals Involving Administrative Agencies) (IRCP 84)
 - 18.9 Appeals to the Supreme Court
 - 18.10 Filing an Appeal
 - 18.11 The Clerk's Record
 - 18.12 Certificates
 - 18.13 Service of Notice
 - 18.14 Step by Step Checklist on Preparing a Clerk's Record
 - 18.15 Augmentation of the Record or Transcript

	18.16	Contact Names and Addresses
	18.17	Forms
19.0		ISTARS (Idaho Statewide Trial Court Automated Records System)
	19.1	Overview
	19.2	ISTARS Reports
	19.3	ISTARS Maintenance Tables
	19.4	The ISTARS “Help Topics”
	19.5	The Idaho Supreme Court Data Repository
20.0		PROVIDING SERVICE TO THE PUBLIC
	20.1	Purpose
	20.2	Responsibilities of Clerks and Court Assistance Officers When Providing Service to the Public
	20.3	Tips for Providing Better Service
	20.4	What Information a Clerk or Court Assistance Officer Can and Can Not Provide
	20.5	Summary
21.0		THE COURT ASSISTANCE OFFICES
	21.1	Introduction
	21.2	Project Director
	21.3	Service Provided at the Court Assistance Offices
	21.4	Encourage Use of an Attorney
	21.5	Form Packets Available
	21.6	Pamphlets and Brochures
	21.7	Record-Keeping
22.0		WORKING WITH COURT INTERPRETERS
	22.1	Statement of Policy
	22.2	Priority of Appointment for Interpreters
	22.3	Interpreter Oath
	22.4	Cost of Interpreter Services
	22.5	Locating Court Interpreters for Languages Other than Spanish
23.0		ACCESS TO COURT RECORDS
	23.1	Overview
	23.2	Requesting Access to Court Records
	23.3	Other Access Related Issues
	23.4	Court Records
	23.5	Custodians and Custodian Judges of Court Records
	23.6	Media Requests for Court Records and Access to Court Proceedings
24.0		DESTRUCTION OF COURT RECORDS
	24.1	Applicable Rules
	24.2	Identifying Records for Destruction
	24.3	Notice to Historical Society
25.0		CASE FILE FOLDER
26.0		COURTROOM SUPPLIES AND EQUIPMENT
27.0		TRIAL PROCEDURES AND COURT MINUTES
	27.1	Purpose
	27.2	Form and Content
	27.3	Specific Court Proceedings

	27.4	Items Requiring Special Attention
	27.5	Summary
	27.6	Attestation
28.0		FORM OF PLEADINGS AND FILING REQUIREMENTS OF COURT
	28.1	Filing Requirement of Court Document
	28.2	Filing with the Court
	28.3	Apostille
29.0		COLLECTIONS
30.0		PROFESSIONAL ETHICS
	30.1	Introduction
	30.2	Core Ethical Concepts for Court Staff
	30.3	A Model Code of Conduct for Court Staff in Idaho
	30.4	Code of Conduct, Rule of Law
31.0		MISCELLANEOUS
	31.1	Limited Admission/Pro Hac Vice
	31.2	Coroner's Inquest/Jury
32.0		ACRONYMS
33.0		GLOSSARY OF LEGAL TERMS MODIFIED AND SUPPLEMENTED FOR USE IN IDAHO
Appendices		
		Appendix A

CLERK OF THE DISTRICT COURT MANUAL

1.0 OVERVIEW OF THE IDAHO COURT SYSTEM ORIENTATION FOR NEW CLERKS AND DEPUTY CLERKS

Revised October 2006

Welcome to the Idaho court system! We hope you will find your employment challenging and rewarding. This orientation program is only a first step in what we hope will be a journey of learning about the courts and the public we serve.

1.1 PURPOSE

To provide an orientation program for newly appointed or elected Clerks of the District Court and Deputy Clerks on their court-related duties and responsibilities. This program involves the assignment of an experienced Clerk of the District Court or Deputy Clerk to welcome and assist each new clerk in meeting the challenges and responsibilities of his or her new court position.

1.2 OVERVIEW OF ORIENTATION PROCESS

1. A list of experienced court clerks who are willing to serve as mentor clerks will be maintained in each judicial district.
2. The Clerk of the District Court or Supervising Clerk will arrange for a mentor clerk to assist each newly appointed deputy clerk and to complete the orientation program with the assistance of the mentor clerk.
3. The new clerk will be provided with a copy of the orientation materials and this outline. A detailed checklist for mentor clerks and the new clerk is provided, setting forth the steps the mentor clerk should follow in orienting the new clerk to his or her position. This comprehensive checklist can be tailored to fit the duties and responsibilities of the new clerk's position. The training will be designed to include:
 - A. Working in the Idaho Court System.
 - B. Recommending a reading program of selected manuals, books, articles, etc.
 - C. Observing various court proceedings (e.g., settlement conferences, arraignments, pre-trial motions, voir dieres, trials; sentencing, divorce proceedings, etc.) which the new clerk will encounter.
 - D. Meeting other court clerks and justice system personnel (e.g., judges, prosecutors, public defenders, corrections and probation officers, etc.) and discussing with each person responsibilities and duties and his or her relationship to the court.
 - E. Viewing a series of videos to acquaint new employees with the Idaho court system.
4. Once the orientation program is completed, both clerks will sign the form on the back of the program materials and maintain in the employee file.

CHECKLIST FOR NEW CLERK ORIENTATION PROGRAM

<u>Scheduled</u>	<u>Completed</u>	<u>Review Orientation Materials</u>
•	•	1. Orientation materials
•	•	2. Clerk of the District Court Manual
•	•	3. Judicial District Local Rules of Court, Orders, and information
•	•	4. Supreme Court Home Page— www.isc.idaho.gov
•	•	5. Annual Report of the Judiciary
•	•	6. Recent Judicial / Administrative newsletters and calendars
•	•	7. Court Conduct Handbook / Reports on Bias or the Perception of Bias in the Idaho Court System
•	•	8. Guide to Idaho Courts
•	•	9. Codes of Ethical Conduct included in the Clerks Manual
•	•	10. Court Assistance Office Home Page— http://www.courtselfhelp.idaho.gov
•	•	11. Legal Resource Directory
•	•	12. District Web Site
<u>Materials</u>		<u>View Court Videos/Training</u>
•	•	1. "Trial by Jury, Idaho Supreme Court Video for Juries"
•	•	2. "I'm Sorry, I Can't Give Legal Advice" / Court Support Personnel Training Via Interactive CD [maintained by each Trial Court Administrator]
•	•	3. 1998 "Idaho Institute for Court Management" video series
•	•	4. 1999 "Idaho Institute for Court Management" video series
•	•	5. 2000 "Idaho Institute for Court Management" video series
•	•	6. "Legalese: Understanding the Language of the Courts"

interactive CD

- • 7. "An Introduction to the Idaho State Court System"
- • 8. "The Idaho State Court System: Family Law"
- • 9. "The Idaho State Court System: Domestic Violence"
- • 10. "The Idaho State Court System: Small Claims" (Fall 2000)

Observe Court Proceedings

- • 1. Arraignments
- • 2. Trials
- • 3. Sentencings
- • 4. Law and Motion Days
- • 5. Juvenile Proceedings
- • 6. Jury Selection
- • 7. Small Claims Calendars
- • 8. Pre-trial Conferences
- • 9. Traffic Calendars

Meet Court and County Personnel

- • 1. Clerk of the District Court and other Deputy Clerks
- • 2. Administrative District Judge
- • 3. Trial Court Administrator
- • 4. District Judges in the district
- • 5. Magistrate Judges in the county

Schedule Attendance at Upcoming Educational Programs

- • 1. Idaho Institute for Court Management

- | | | | |
|---|---|----|---------------------------|
| • | • | 2. | Distance Learning Program |
| • | • | 3. | Community Program |

Competency Additional

<u>Scheduled</u>	<u>Achieved</u>	<u>Work</u>
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Learn Court Procedures, Policies, and Programs

[Schedule the relevant areas based on the Clerk's/Deputy Clerk's responsibilities. Knowledge of the areas can be obtained through work experience, study of the Clerks Manual, viewing of the videos or attendance at educational programs. The supervisor and employee can then assess competency achieved or additional work required. This assessment will guide the decision to schedule additional training in areas.]

Court-Related

- | | | | | |
|---|---|---|-----|---|
| • | • | • | 1. | The court system—overview |
| • | • | • | 2. | General duties of the elected clerk |
| • | • | • | 3. | General duties of the deputy clerk (including serving as a judge's clerk) |
| • | • | • | 4. | Domestic relations case procedures |
| • | • | • | 5. | Probate case procedures |
| • | • | • | 6. | Civil case procedures |
| • | • | • | 7. | Domestic violence case procedures |
| • | • | • | 8. | Misdemeanors |
| • | • | • | 9. | BAC / DUI |
| • | • | • | 10. | Traffic / infractions |
| • | • | • | 11. | Small claims procedures / appeals |
| • | • | • | 12. | Special proceedings |
| • | • | • | 13. | Felony case procedures (District Court) |

- • • 14. Felony case procedures (Magistrate)
- • • 15. Port of entry cases
- • • 16. Fish & Game cases
- • • 17. Juvenile / Child Protection Act cases
- • • 18. Adoptions
- • • 19. Juries
- • • 20. Required records / retention & destruction
- • • 21. Clerical duties for the courtroom
- • • 22. Minute entries
- • • 23. Judgments and executions
- • • 24. Appeals
- • • 25. General procedural issues
- • • 26. Uniform Post Conviction relief—habeas corpus
- • • 27. Warrants
- • • 28. Extradition / Governor's Warrants
- • • 29. Extraordinary writs
- • • 30. Forms, transcripts and briefs
- • • 31. Calendar / caseload management
- • • 32. Court Security Manual / public safety / violence in the work place
- • • 33. Collecting fines and fees
- • • 34. Public access and information
- • • 35. Annual Supreme Court rule updates
- • • 36. Annual legislative changes
- • • 37. CLASS reporting

- • • 38. ISTARs
- • • 39. Pro se litigants (without lawyers)
- • • 40. Word processing / office automation
- • • 41. Court interpreters
- • • 42. Responsibilities of other offices (Prosecuting Attorney, Jury Commissioner, etc.)
- • • 43. Procedures unique to your county

Interpersonal and Communication Skills

- • • 1. Non-verbal communication
- • • 2. Speaking and presentations
- • • 3. Cross-cultural communication
- • • 4. Customer service in the courts
- • • 5. How to deal with difficult people
- • • 6. Dealing with the media
- • • 7. Listening skills
- • • 8. Telephone skills
- • • 9. Writing skills
- • • 10. Interpersonal relationships in the office
- • • 11. Interpersonal relationships with those in other government offices
- • • 12. Handling complaints
- • • 13. Sexual harassment: responsibilities of the manager and reporting requirements
- • • 14. Understanding personal work styles
- • • 15. Stress management
- • • 16. Time management

• • •

17. Ethics

• • •

18. Teams and teamwork

Management and Organizational Skills (for Supervisory, Management, and Elected Personnel)

• • •

1. Effective meetings

• • •

2. Facilitation skills

• • •

3. Organization development and culture

• • •

4. Decision-making

• • •

5. Effective delegation methods

• • •

6. Strategic planning

• • •

7. Problem solving

• • •

8. Project Management

• • •

9. Trial court operations / performance standards

• • •

10. Court budgets and revenues

• • •

11. Space / office management

• • •

12. Managing a diverse workforce

• • •

13. Emerging trends in the courts

• • •

14. Leadership in the workplace

• • •

15. Managing change

• • •

16. Managing conflict

Personnel Policies and Procedures and Performance Management

[For supervisory, management, and elected personnel]

• • •

1. Drug and alcohol policy

• • •

2. Employee recruitment and selection

• • •

3. Employee development and training

- • • 4. Progressive employee discipline
- • • 5. Grievance procedures
- • • 6. Employee motivation
- • • 7. Total Quality Management
- • • 8. Performance appraisals
- • • 9. Employee feedback
- • • 10. Improving employee performance
- • • 11. Managing work teams
- • • 12. EEO compliance
- • • 13. Affirmative Action
- • • 14. Family Medical Leave Act
- • • 15. Fair Labor Standards Act
- • • 16. Americans with Disabilities Act

New Clerk Orientation Program

• **NEW CLERK**

I confirm that Clerk _____ and I have reviewed and discussed all pertinent issues contained in the Mentor Clerk New Orientation Checklist and materials given to all new clerks.

Signed:

Title:

Date:

• **MENTOR CLERK**

I confirm that _____ and I have reviewed and discussed all pertinent issues contained in the New Clerk Orientation Checklist and materials given to all new clerks.

Signed:

Title:

Date:

Please complete and return this form to _____ by _____.

1.3 OVERVIEW OF THE IDAHO COURT SYSTEM STRUCTURE AND ORGANIZATION

Map of Idaho's Judicial Districts

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.

Idaho Judges by Court and Type of Judge

Supreme Court	5 Justices	
Court of Appeals.....	3 Judges	
<u>District Judges</u>	<u>Magistrate Judges</u>	<u>Total Trial Judges</u>
District 1..... 6.....	11.....	17
District 2..... 4.....	7.....	11
District 3..... 6.....	14.....	20
District 4..... 9.....	21.....	30
District 5..... 7.....	11.....	18
District 6..... 4.....	10.....	14
District 7..... 5.....	13.....	18

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.

1.4 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.

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.

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.

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 \$5,000 is in question. These cases are heard informally without attorneys being present or without 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 types 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 to 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 persons 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 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.

1.5 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.

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 magistrate's 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.

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. The 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.

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.

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 IC § 1–612, including collecting statistical information about court operations, reporting 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.

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://www.isc.idaho.gov>.

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://www.isll.idaho.gov>.

1.6 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 advises all attorneys licensed to practice law in the state of Idaho of the existence of the vacancy and solicits applications for the position. After the applications are received, a survey form is circulated to 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 judge 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. 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, may extend the probationary period, or, remove the magistrate from office. The magistrate judge must stand for a retention election every four years on a non-partisan judicial ballot, where the registered voters are 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 court administrative rule; 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.

1.7 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 organizations 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 followed 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.

1.8 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 in which the defendant is sentenced.

1.9 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 prospective 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 their 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 reviewed by 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.

1.10 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.

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 compiles 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.

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 may 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 suspend the sentence and place him/her on 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 conditions of the probation or the suspension, the defendant may be ordered to serve out the remainder of the sentence originally imposed and suspended.

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.

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 kidnapping and child murder carry the death penalty in Idaho. Whether death or life imprisonment will be imposed is decided by the jury. After the verdict or guilty plea in a first degree murder case, the penalty phase is 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 presented to the jury. If the death sentence is imposed, the sentence must be executed by lethal injection.

1.11 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.

If the prosecuting attorney 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 be diverted into a community program, such as a youth court.

If formal court action is pursued, an admit/deny hearing is held. Present at the court hearings are the judge, the in-court clerk, a probation officer, the juvenile, his/her parents, prosecuting attorney and a

private attorney, 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 and a public defender is assigned if the juvenile does not have private counsel.

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 sentencing.

In advance of the hearing, the probation officer conducts an interview with the juvenile and with one or both of the parents or legal guardian and completes a social history report. This report is used to obtain as much information as possible to aid the court in making the most fair and helpful decision. The probation officer tries to answer questions that the juvenile or parent has about the court process.

The court has a number of alternatives in making disposition; restitution, 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, 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.

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.

1.12 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 to appear" 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.

Misdemeanor:

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 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.

Infractions:

Minor traffic offenses in Idaho are called infractions. An infraction is not a crime, but is a civil public offense, for which there is a penalty not exceeding \$100.00 (which does not include court costs) 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 in any court or by the clerk. 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 judgment 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.

1.13 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 except for the initial appearance on a warrant.

1.14 IDAHO COURT'S MISSION STATEMENT

**Provide equal access to justice, promote excellence in service,
and increase the public's trust and confidence in the Idaho courts.**

As recommended by the Administrative Conference on April 21, 2006, and approved by the Supreme Court on May 24, 2006.

GOAL 1 Increase Access and Service to the Public

- Enhance and expand Court Assistance Office services.
- Increase public awareness of Court Assistance Office services.
- Continue the development of interactive court forms in English and Spanish on a redesigned Court Assistance Office website.
- Expand the recruitment, training and certification of court interpreters, and increase the availability and use of certified Spanish language interpreters.
- Complete the implementation of the criminal ISTARS in the Ada County criminal justice system.
- In partnership with the Idaho State Bar, develop options for legal representation for persons of limited means where legal representation is desirable.
- Provide public access to appropriate court information by way of the Internet and develop written policies governing access.
- Accept Internet payment of fines, fees, and court costs

GOAL 2 Improve the Fast and Fair Resolution of Court Cases

- Enhance Family Court Services in each district to promote early, non-adversarial, and effective resolution of all cases involving children and families.

- Evaluate new and emerging research on domestic violence calendars, courts, offender treatment and victim support to improve court practices.
- Evaluate effective approaches for handling cases involving mentally ill parties.
- Increase case dispositions and shorten the time to disposition through the expanded use of senior judges, traveling judges and the use of video conferencing.
- Increase the use of ADR in district civil and criminal cases by increasing the use of mediators.
- Complete the statewide implementation of the ISTARS Child Protection, Drug Court and Mental Health Court case processing modules.
- For cases for which time standards apply, resolve 90% of those cases within the time standards.
- Develop understandable, accurate, and relevant reports for all judges, Administrative District Judges, and Trial Court Administrators, to assist judges in meeting the time standards and improving court practices.
- In the area of child protection, strengthen and support local guardian ad litem programs.

GOAL 3 Promote Excellence in Service

- Establish a comprehensive court training center for judges and court personnel from pre-employment training to orientation and mentoring, to senior judge service.
- Strengthen education and training of judges and court personnel by upgrading electronic resources, and expand technology-based instruction.
- As funding allows, expand educational programs to court reporters, court interpreters, court security officers, jury commissioners, Court Assistance Officers, misdemeanor and juvenile probation officers, juvenile detention officers, Drug Court and Mental Health Court Coordinators, Family Court Services Coordinators and other court related personnel.
- Sponsor annual multi-disciplinary training institutes, involving children and families, substance abuse, mental health, domestic violence and other social concerns confronting the judiciary.
- In partnership with the Idaho State Bar, explore establishing standards for attorneys practicing in child protection and juvenile justice courts.
- Increase awareness of the importance of using certified court interpreters, as opposed to bilingual individuals.

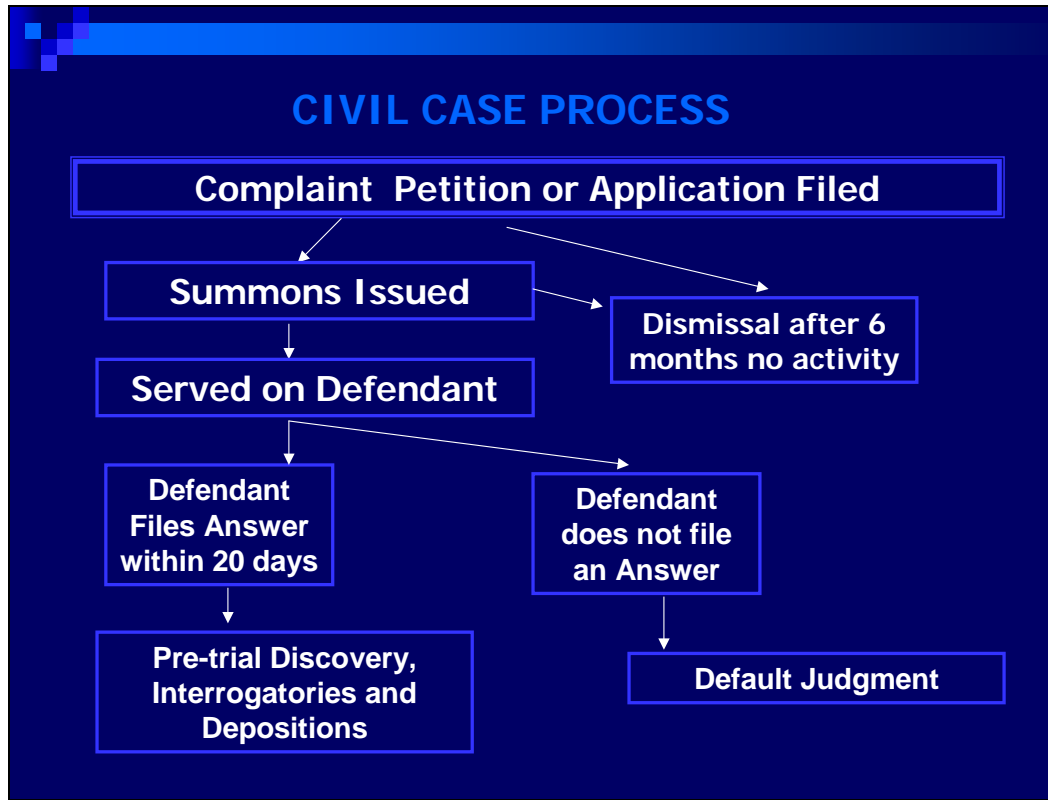
GOAL 4 Increase Public Trust and Confidence in Idaho Courts

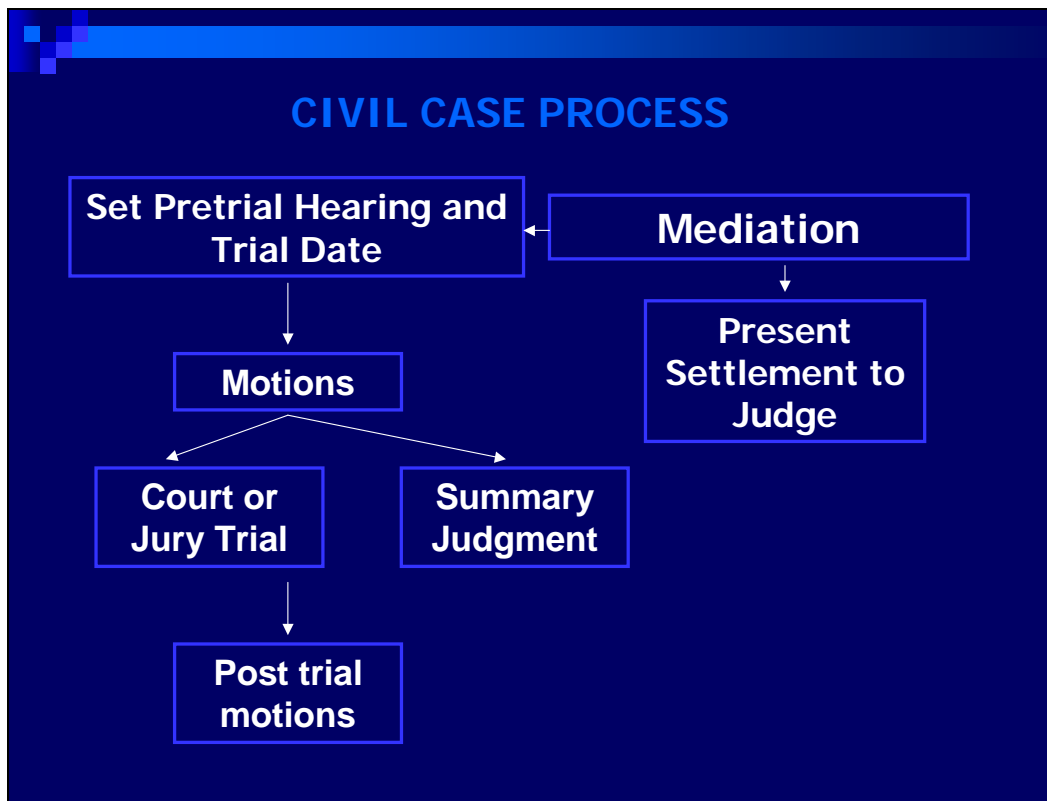
- Evaluate the effectiveness of community-based alternatives for juvenile offenders such as youth courts, truancy courts, drug courts, mental health courts, status offender programs, and community accountability boards.
- Expand the capacity of drug courts, mental health courts and other problem solving courts, and continue to evaluate their effectiveness.
- Update existing court security and emergency plans, including a coordinated response with appropriate governmental entities

- Encourage availability of effective sentencing alternatives statewide to reduce recidivism.
- Refine court performance evaluation systems and fully implement them to improve the responsiveness and performance of all judges and the Idaho courts.
- Contribute to state bar and legislative efforts to examine improvements to the current system of judicial selection and elections.
- Continue examination of strategies to ensure adequate funding of the judiciary.
- Continue to share automated court information among criminal justice, juvenile, child protection and other public automated information systems.
- Implement the guardianship/conservatorship pilot monitoring program in six counties, establish standards of practice for guardians and enforce court orders and annual accountings.
- Increase the public awareness of the importance of the jury system and the participation of the public in that system.

1.15 CIVIL CASE FLOWCHART

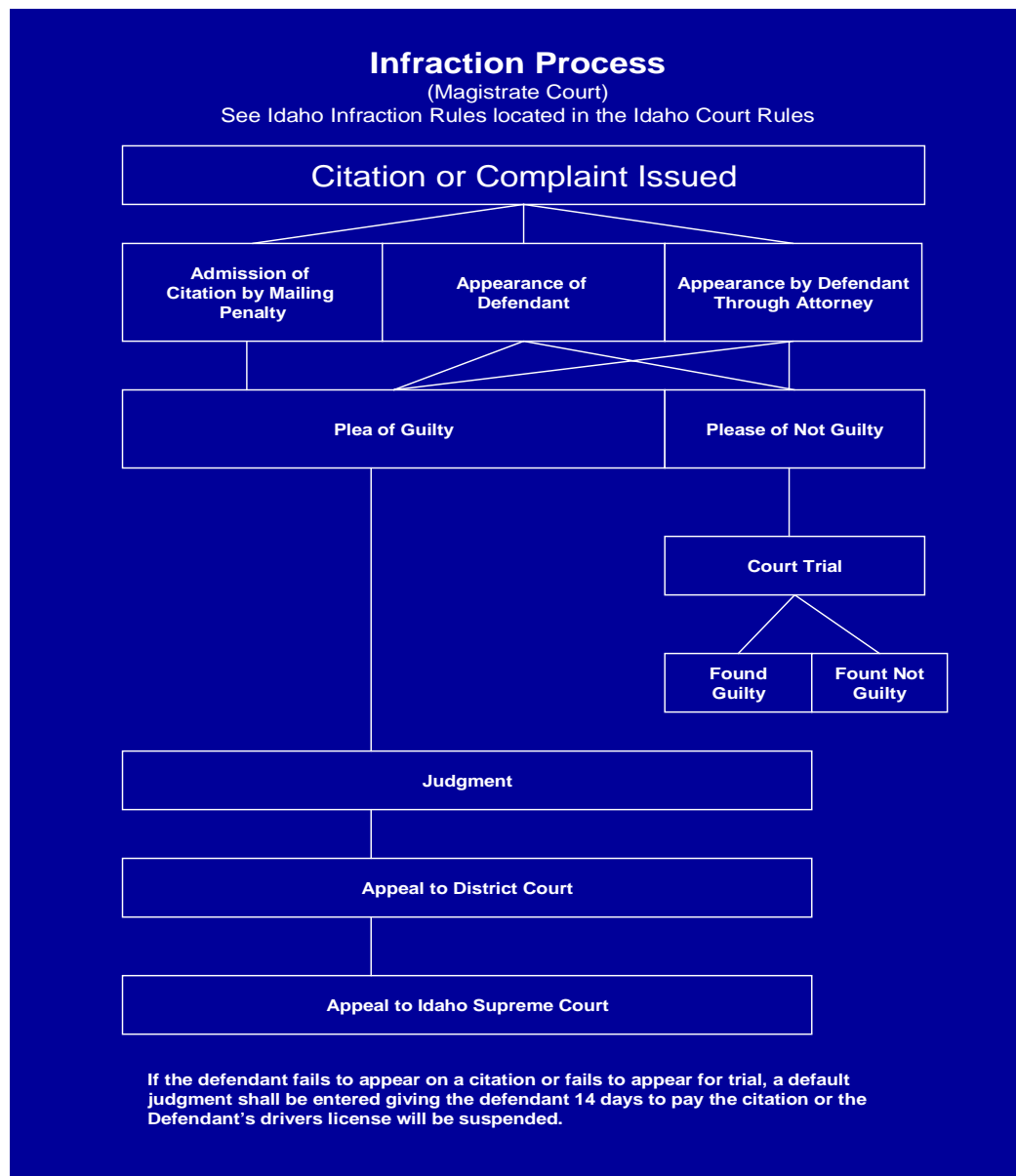
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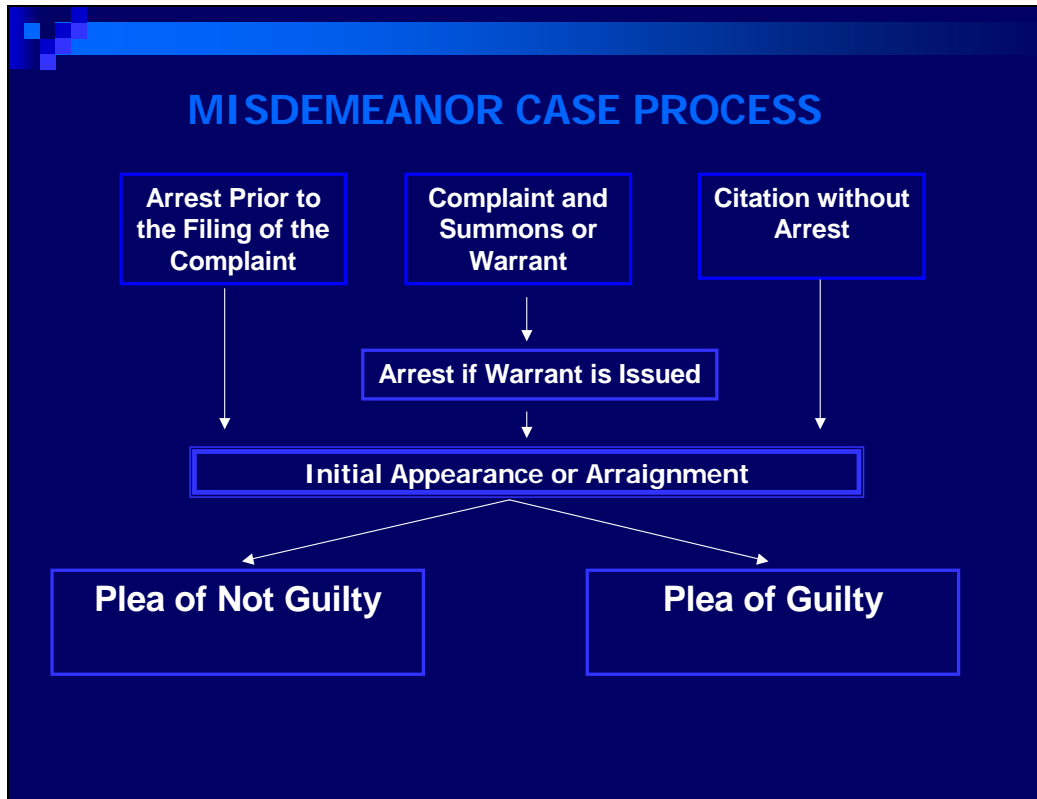


INFRACTION PROCESS
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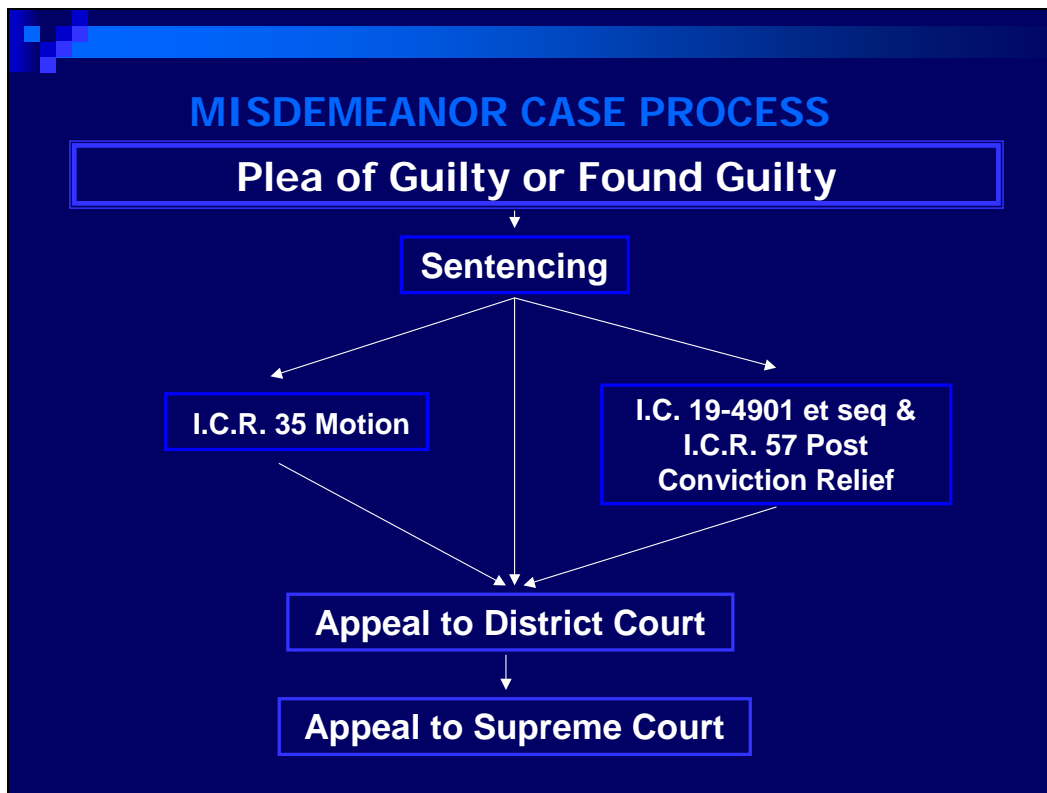


MISDEMEANOR CASE FLOWCHART

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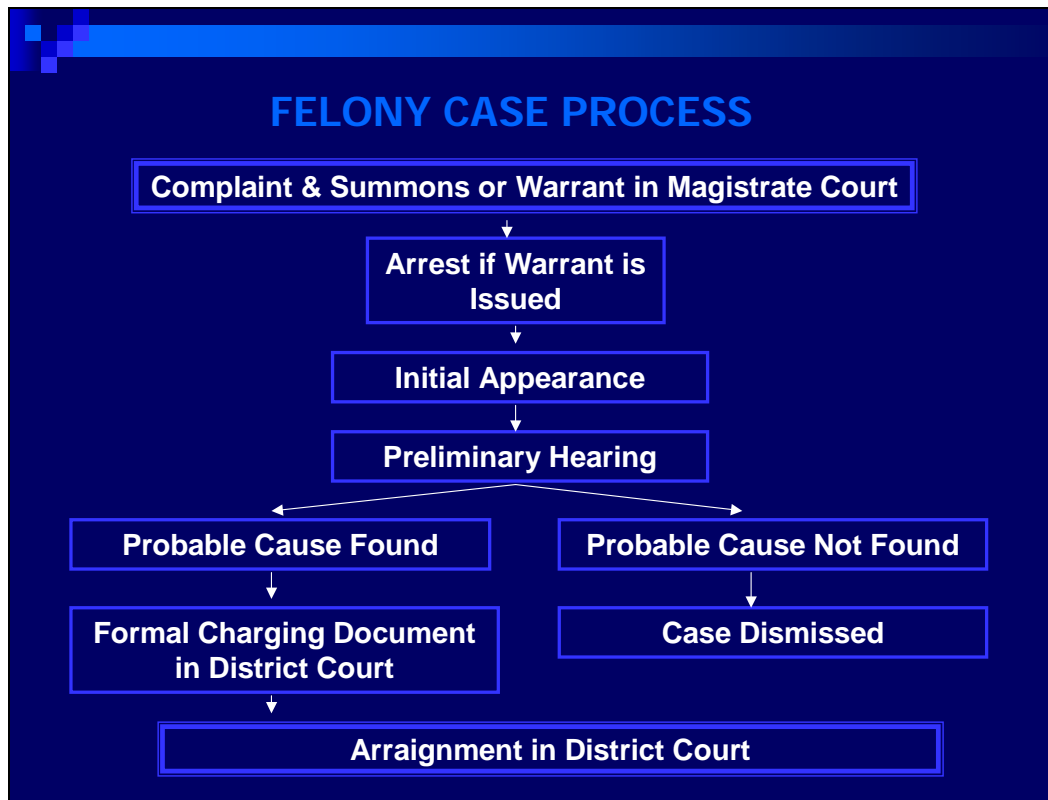


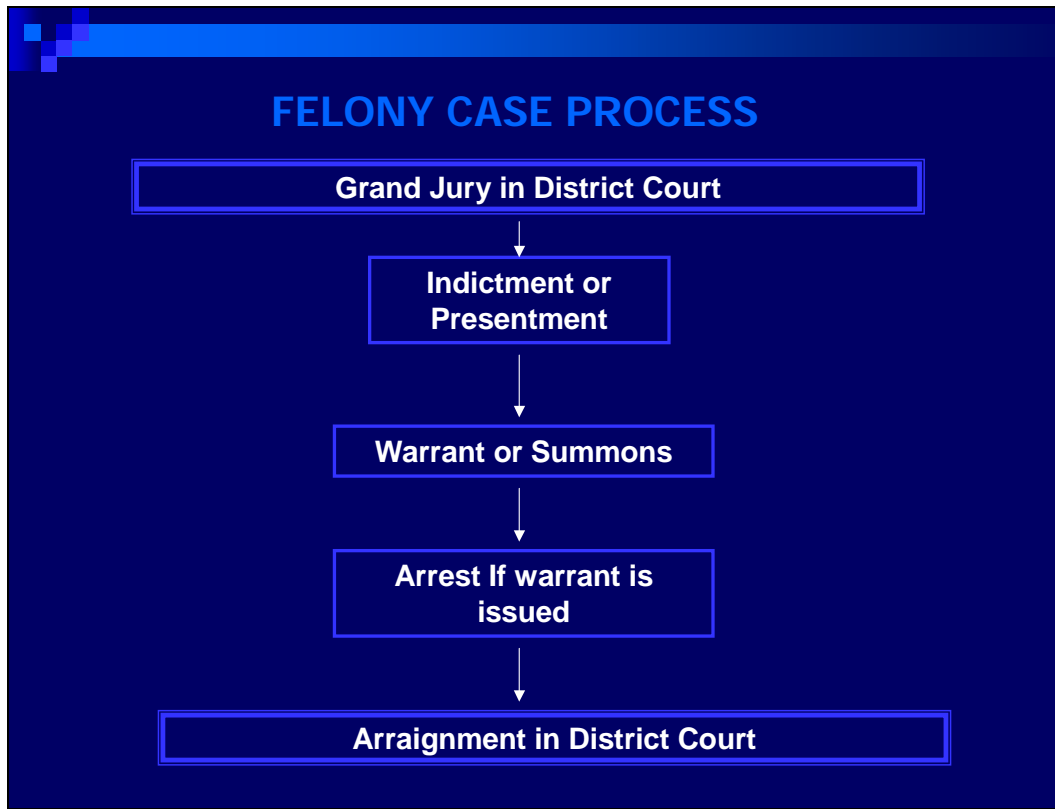


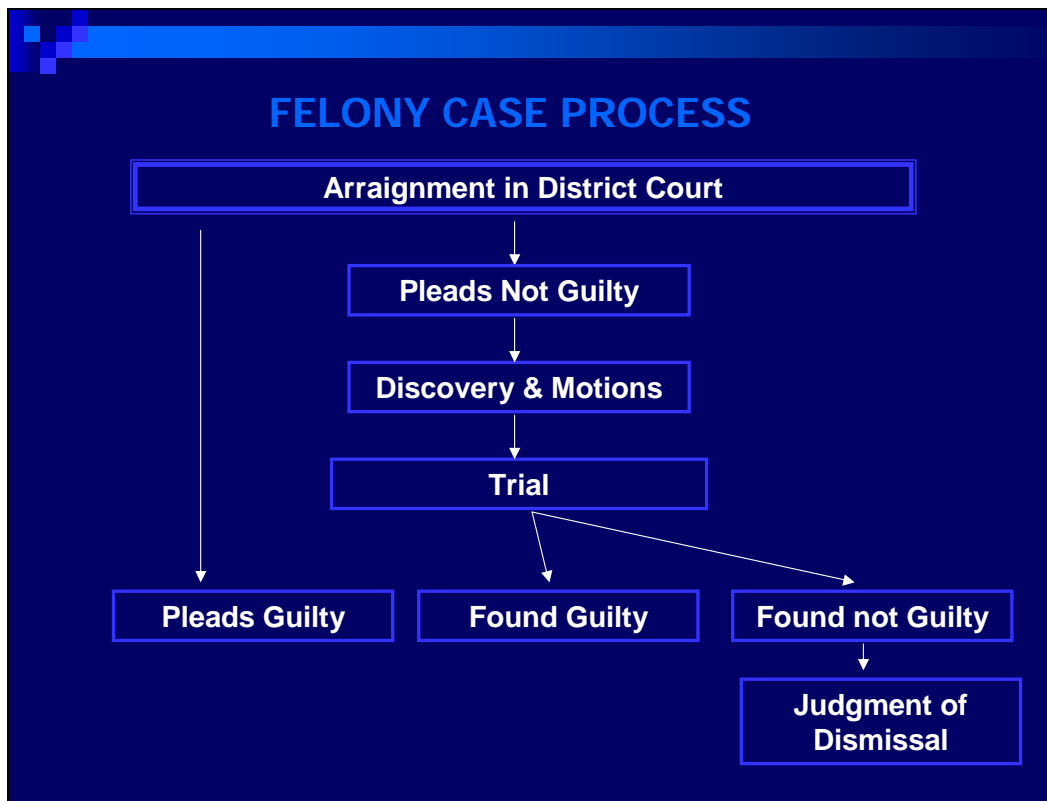


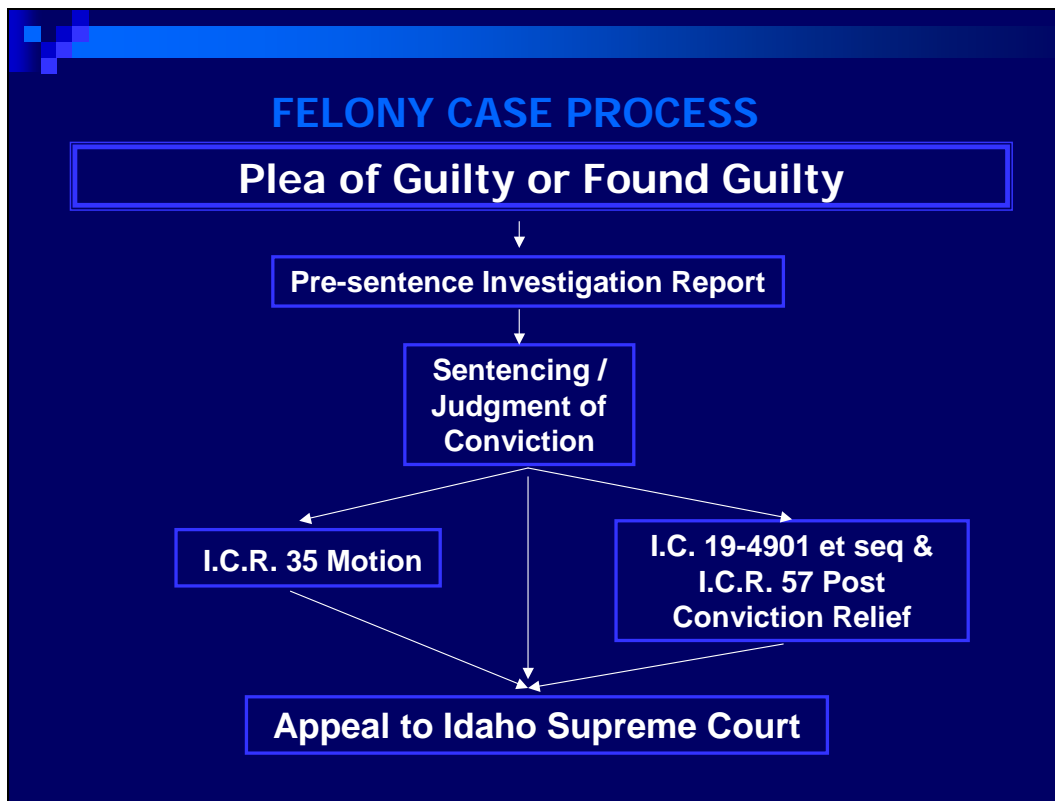
FELONY CASE FLOWCHART

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CLERK OF THE DISTRICT COURT MANUAL

2.0 FELONIES

Revised October 2006

2.1 OVERVIEW

Felonies are serious crimes with possible punishment of over one (1) year in prison. Because of the seriousness of the offense, the proceedings involve several court appearances in both the magistrate division (except for Grand Jury Indictments) and district court.

2.2 INITIATING THE ACTION

A felony case may be initiated by one of the following methods:

1. Arrest Prior to the Filing of the Complaint

A person may be arrested by a police officer during or after the commission of a crime. The defendant then is booked and held in jail for arraignment. The police report of the incident is forwarded to the Prosecuting Attorney who draws up a complaint and files it with the court.

2. Complaint and Summons

The Prosecuting Attorney can file a *sworn* complaint requesting the court to summons the defendant to court to answer the charges outlined in the complaint without holding a probable cause hearing. Upon filing, the Prosecuting Attorney also may seek a warrant of arrest from the court if he believes there is reasonable cause to believe that the defendant will not appear. Probable cause can be presented to the court by testimony or sworn affidavit.

3. Grand Jury Indictment

In some cases, Grand Juries are used. If the Grand Jury returns an indictment against a person, the court will order that either a summons or an arrest warrant be issued for the defendant. If a person is indicted, the case is filed directly in the district court. However, if the defendant has been arrested on a warrant issued pursuant to a grand jury indictment the initial appearance must be before a magistrate judge. (ICR(5)(h)) (See section on Grand Juries.)

2.3 RECEIPT OF THE COMPLAINT

The felony process begins with the filing of a complaint. Grand Jury Indictments are filed instead of complaints in some cases. The court may be aware of the defendant and the alleged crime prior to the filing of the complaint through a bond posted or the jail list,

but the complaint must be filed to begin court proceedings.

Clerical Duties:

1. File stamp the complaint and conform any copies.
2. Create a criminal case in ISTARS.
3. If in custody, prepare the court file and arrange for initial appearance; If not in custody, issue a summons or warrant as determined by the judge.

3.4 INITIAL APPEARANCE BEFORE A MAGISTRATE

An initial appearance is held in felony cases to inform the defendant of the charges, determine if the defendant needs a Public Defender, and review the defendant's custody status. Initial appearance is held within 24 hours if the defendant is in custody (except for Saturdays, Sundays and Holidays).

Clerical duties depend on what occurs at the appearance. The possibilities include appointment of a public defender, a change in the custody status and scheduling of the preliminary hearing.

Defendant Requests that a Public Defender be Appointed:

The judge obtains information about the defendant's financial status. The judge then makes an Order either appointing or denying the request for a public defender. He may also order that the defendant reimburse the costs of the public defender.

Clerical Duties:

1. Prepare Order Appointing or Denying Public Defender (Denial may only require a minute entry per local practice.)
2. File stamp order and enter in ROA indicating appointment or denial.
3. Enter the attorney for defendant in ISTARS.
4. Send a copy of the Order Appointing Public Defender to:
 - A. Prosecutor
 - B. Public Defender with copy of Complaint and affidavit, if any
5. If Public Defender is denied, send copy of the denial to the defendant.

Judge Orders a Change in Custody Status:

The judge may order the defendant to remain in custody or release him on his own recognizance.

Clerical Duties:

1. Defendant is ordered to remain in custody with bond and/or conditions:
2. Send copy of minute entry of the judge's order to jail or prepare commitment order with copy to go to jail.

See section on bonds under General Criminal Procedures.

3. If Defendant is ordered released on own recognizance, send a copy of the minute entry or release order to the jail after the hearing.

Scheduling the Preliminary hearing (not applicable to Grand Jury Indictments)

The court sets the preliminary hearing date either at the initial appearance or shortly thereafter; held within 14 days of the initial appearance for in-custody defendants and 21 days for defendants not in custody.

Clerical Duties:

1. Schedule the preliminary hearing in ISTARs.
2. Print and file stamp the notice of hearing.
3. Send copies to Prosecuting Attorney, defendant's counsel or defendant if pro-se.
4. If court issues, modifies or terminates a no-contact order, prepare the order and send a copy to the records department of the sheriff's office immediately. Be sure order includes a termination date that complies with ICR 46.2 – (either 11:59 p.m. on a date certain or when the case is dismissed). See section on No Contact Orders.

2.5 PRELIMINARY HEARING IN MAGISTRATE COURT AND FILING IN DISTRICT COURT

Preliminary hearings are held in felony cases to determine whether a crime has been committed and whether there is probable cause to believe the defendant committed the crime. The defendant may also waive his right to a preliminary hearing.

Clerical Duties:

1. If the preliminary hearing is waived or probable cause found:

- A. Prepare an "Order Binding Defendant Over to District Court".
 - B. File stamp order and enter in ROA.
 - C. Send copies of the order to Prosecuting Attorney, defendant's counsel or defendant if pro-se.
 - D. Bind the case over to District Court in ISTARS. (This will change the case from magistrate to district court and will assign a district judge.)
 - E. Schedule district court arraignment (arraignment may be set here or upon filing of Information).
2. If no probable cause found:
- A. Dismiss each charge in ISTARS.
 - B. Exonerate any bail bond deposited.
 - C. Close the case. (see below, Closing a case)
 - D. If a no contact order is in place, immediately send written notification to the records department of the sheriff's office that the case has been dismissed.
3. If filing in district court:

After probable cause is found, the prosecutor files an "Information" within 14 days after bind over which is a restatement of the charges outlined in the complaint. Some changes in these charges may result due to findings at the preliminary hearing once the information has been filed.

- A. File stamp the "Information", confirm the charges are correct in ISTARS and enter in the ROA.
- B. Schedule arraignment in district court if not previously done.
- C. File stamp notice of hearing.
- D. Send copies of the notice of hearing to Prosecuting Attorney, defendant's counsel or defendant if pro se.

2.6 ARRAIGNMENT IN DISTRICT COURT AND TRIAL SETTING

At the district court arraignment, the defendant is read the charges, penalties and rights,

and enters a plea. The dates for subsequent hearings (motions, pretrial, and trial) may be set.

Clerical Duties:

1. If the Prosecuting Attorney has not provided a copy to defendant's attorney, provide a conformed copy of the Information to the defendant.
2. When directed to do so by the judge, read the Information in its entirety (every word, including all headings, case numbers, etc.) IC § 19-1514.
3. Prepare and file court minutes in the case file. See section on Trial Procedures and Court Minutes.
4. If the trial date is set at the arraignment, schedule in ISTARS.
5. Print the Notice of Hearing and file stamp the notice. Send copies to prosecutor, defendant's counsel, defendant (if pro se), Jury Commissioner (if set for jury trial)
6. If the trial date is not set at arraignment, follow local procedure for trial setting.

Trial

See section on Trial Procedures and Court Minutes.

2.7 DISPOSITION

In criminal cases, the judgment is the court's pronouncement of guilty or not guilty after a jury verdict, court trial, or a plea of guilty has been entered. In felony cases, the defendant must be present when judgment is pronounced.

Acquitted or Charges Dismissed

If the defendant is acquitted or charges dismissed, the clerk must carry out appropriate procedures to fulfill the orders of the court pertaining to the case.

Clerical Duties:

1. Enter the acquittal or dismissal for each charge in ISTARS.
2. If the defendant is in custody, send order of release to the jail.
3. Exonerate any bail bond deposited.
4. Close the case. *If a no contact order is in place, immediately send written notification to the records department of the sheriff's office that the case has been*

dismissed.

Guilty Verdict or Plea of Guilty

After the guilty verdict in a trial or a plea of guilty, the clerk must carry out appropriate procedures to fulfill the orders of the court pertaining to the case.

Clerical Duties:

1. Enter results of trial in ISTARS.
2. Fill out an "Order for Pre-sentence Investigation".
3. Schedule the case for sentencing in ISTARS. File stamp the notice of hearing.
4. Mail copies of the notice of hearing to Prosecuting Attorney, defendant's counsel or defendant if pro-se.

2.8 JUDGMENTS IN CRIMINAL CASES

Clerical Duties:

1. Prepare the appropriate judgment according to local practice, have the judge sign, immediately file stamp, and send copies to appropriate persons or agencies. The clerk shall make a note on the judgment of such mailing or delivery.
2. Enter all hearing results in ISTARS.
3. Enter disposition. Fill out data on all screens, disposition, fine, incarceration and probation, restitution to victims whichever applies. (If acquitted, no information is needed on the fine, incarceration or probation screens).
4. Dispose of any bonds by order of the court.

Note: The defendant has the right to appeal within 42 days of the file stamp date on the judgment. If the defendant appeals, receive and file a "Notice of Appeal". See Appeals procedures.

2.9 FELONY JUDGMENTS

Pronouncement of judgment

Judgment is pronounced in open court, with the defendant present. Prior to sentencing, the defendant is informed of the reason for his appearance, (IC § 19–2510) and if the defendant does not show sufficient cause why judgment should not be pronounced, the judgment is rendered by the court in accordance with Idaho law. (IC § 19–2512 through

IC § 19–2520).

Felony judgments should include:

1. Date defendant entered guilty plea or was found guilty.
2. The sentencing date proceedings, the terms of the sentence, amount of credit for time served, bond exoneration, restitution and jail time.
3. A Certificate of Service, which certifies the parties were served the judgment or a certificate of hand delivery on date stated.

2.10 JUDGMENT OF CONVICTION, SUSPENDING SENTENCE, AND ORDER OF SUPERVISED PROBATION: (IC § 19–2601(2))

Clerical Duties:

1. Enter the judgment by placing the filing stamp on original. Copies are then served on the prosecuting attorney, defendant, defense counsel, Sheriff's office (Jail), and probation and parole.
2. Do Certificate of Service, or Acceptance of Judgment and file with Judgment.
3. Enter the judgment in the ROA.
4. Place the presentence reports from the court and counsel(indicate which is the court's copy), psychological evaluation and any other reports prepared in determining the defendants' judgment into an envelope. **Seal and mark the envelope confidential—open only upon order by the court.**
5. Prepare sex offender registration form SOR-1 if applicable. See section 2.14.

2.11 JUDGMENT OF CONVICTION AND ORDER OF RETAINED JURISDICTION I.C. § 19–2601(4), AND ORDER OF COMMITMENT

Clerical Duties:

1. Enter Judgment and Order of Commitment by placing filing stamp on Original. Copies are then served on prosecuting attorney, defendant, defense counsel, probation and parole.
2. Fill out and file Certificate of Mailing or Acceptance of Service with the Judgment.
3. Certify a copy of the judgment and give to Sheriff Office.

4. Certify a copy of the judgment, and attach a copy of the presentence investigation, substance abuse evaluation, psychological evaluation and any other reports prepared in determining the defendant's sentence, and mail to Department of Corrections in Boise, Idaho. **Seal and mark "Confidential-to be opened only by Department of Corrections"**.
5. Enter Judgment and Order of Commitment into the ROA.
6. In the court's file, place into an envelope the presentence reports from the court and counsel(indicate which is the court's copy), psychological evaluation, and any other reports prepared in determining the defendant's sentence, **seal and mark "Confidential-to be opened only by Order of the Court"**.
7. Prepare sex offender registration form SOR-1 if applicable. See section 2.14.

2.12 ORDER ON MOTION TO REVOKE PROBATION

Clerical Duties:

Upon receipt of the Order to Revoke Probation do the following:

1. File stamp the Order and enter in the ROA.
2. Send copies to the following:
 - State
 - Defendant
 - Counsel for defendant
 - Probation and Parole if applicable
 - Certified copy for the Sheriff's Office
 - Certified copy and send to the Department of Corrections along with a copy of the presentence investigation, substance abuse evaluation, psychological evaluation, and any other reports prepared to determine the defendant's sentence. **Seal and mark "Confidential-to be opened only by Department of Corrections"**.
3. Fill out Certificate of Mailing or Acceptance of Service and file with the Judgment.

2.13 GRAND JURIES

The critical references for grand jury proceedings are under Idaho Criminal Rule 6.1 through 6.8 and Idaho Code Section 19–1001 through Section 19–1207. If there is a conflict between the language of the Idaho statute and the applicable criminal rule, the criminal rule should generally be followed. However, the best procedure is to consult with the district judge appointed to oversee any given grand jury.

The purpose of the grand jury is to review evidence presented to it by the prosecuting attorney and determine whether there is probable cause to issue an indictment. An indictment is a charging document with the same effect of a criminal information presented to the district court. The distinction is that an indictment issues by the grand jury after a probable cause determination in secret and an information is issued after a preliminary hearing before a magistrate judge in open court. All documents presented to or received from the grand jury, and all records of proceedings, whether by court reporter or electronic recording, shall be secret unless otherwise ordered by the district judge.

Formation of Grand Jury

Number: A grand jury is made of sixteen qualified jurors of the county wherein the grand jury is sitting. However, a grand jury can deliberate and take action if a quorum of twelve or more members is present.

Summoned: A grand jury is summoned by motion of the prosecuting attorney. Sixteen grand jurors are selected as provided in the Uniform Jury Selection and Service Act. Grand jury selection is in closed session with only a district judge, the prosecuting attorney, the prospective jurors, the reporter or recorder, a clerk of the court, and any required interpreter present.

Impaneling: A district judge shall impanel a grand jury of sixteen jurors and shall preside over the impaneling proceedings. The district judge shall administer or direct the clerk to administer an oath or affirmation to all prospective jurors that "each of them will truthfully answer all questions propounded to them as to their qualifications to sit as jurors on the grand jury." The district judge shall direct the clerk to select, at random, sixteen prospective jurors. Then the judge shall inquire of the prospective grand jurors to determine their qualifications to act, specifically reviewing I.C. § 19-1003 for the grounds for challenging individual jurors.

Oath to Juror: The sixteen selected jurors shall be sworn to the following oath: "Do each of you, as jurors of the grand jury, affirm that you will diligently inquire into and true presentment make of all public offenses against the state of Idaho committed or triable within this county, of what you shall have or can obtain legal evidence? That you will keep your own counsel, and that of the other members of the grand jury, and the government and will not, except when required in the due course of judicial proceeding, disclose the testimony of any witness examined before you, nor anything which you or any other grand jury may have said, nor the manner in which you or any other grand juror may have voted in any matter before you? That you will present no person through malice, hatred or ill-will, nor leave any unpresented through fear, favor or affection or for any reward or the promise or hope thereof? Do you therefore affirm that you will in all your presentments follow these instructions and present the truth, the whole truth and nothing but the truth, according to the best of your skill and understanding, so help you God?"

Record: Impaneling of the grand jury shall be recorded stenographically or electronically.

Grand jury presiding juror: After the grand jury is impaneled, the court shall select one of the jurors as presiding juror and one or more deputy presiding jurors. The same oath given to all grand jurors above, shall in turn be give to the presiding juror and to the deputy presiding jurors, identifying them in the oath as appointed.

Oath to witnesses: The presiding juror shall administer all oaths or affirmations to witnesses appearing before the grand jury by asking the following: "Do you solemnly swear or affirm that the testimony that you shall give in the issue pending before this jury, shall be the truth, the whole truth and nothing but the truth, so help you God?"

Advisement of Rights to Target witnesses: The presiding juror shall advise target witnesses prior to testifying, or as soon as their status is known, as follows: "You are advised that you are one of the subjects or suspects in this grand jury investigation. You therefore have the right against self-incrimination which includes the right to remain silent and the right to refuse to answer any question which might incriminate you. You have the right to request permission to leave the jury and consult with your attorney or counsel at any time, but you do not have the right to have your counsel with you before the grand jury. Any statements made by you may be used against you in any subsequent prosecution. If you give any false answers to questions, you may be prosecuted for the felony crime of perjury. Do you understand these rights?"

Oath to Interpreter: The presiding juror shall administer all oaths or affirmations to the interpreter appearing before the grand jury by asking the following: "Do you solemnly swear or affirm that you will interpret and/or translate accurately, completely, and impartially, using your best skill and judgment in accordance with the standards prescribed by law and the Idaho Code of Professional Responsibility for Interpreters in the Judiciary?."

Charge to jury: After the grand jury has been sworn in court, the court shall charge the jury setting forth in detail their powers, duties and authority, and other information which the court deems proper. Such charge shall be given orally to the jurors and a written copy shall be given to the presiding juror.

Excuse of a juror: Anytime, for good cause shown, the court or the presiding juror may excuse a juror temporarily or permanently.

Prosecuting Attorney: The prosecuting attorney may attend all sessions of the grand jury except during its deliberations. It is best to have a separate room for grand jury deliberations. The prosecuting attorney has the power and duty to present to the grand jury evidence of any public offense, but is required to apprise the grand jury of substantial evidence which directly negates the guilt of the subject of the investigation. The prosecuting attorney shall further list for the grand jury the elements of any offense being investigated, advise the grand jury as to the standard for probable cause, and issue

and have served grand jury subpoenas for witnesses, present opening statements or instruct the jury on the applicable law, and prepare an indictment for consideration by or at the request of the grand jury.

Transcript of Grand Jury Proceedings: All proceedings of the grand jury, except deliberations, shall be recorded either stenographically or electronically.

Record of proceedings: The district judge or the presiding juror shall designate someone to report or electronically record the proceedings of the grand jury. That person shall be sworn to correctly report all such proceedings and not to divulge any of such information except on order of the district judge. Upon taking such an oath, such person shall be permitted to attend all sessions, except deliberations, of the grand jury. A clerk of the court may be assigned to such duty. Upon the conclusion of each matter presented to the grand jury, the court clerk shall seal the record of the grand jury proceedings which shall not be examined by any person or transcribed except upon order of the district judge.

Availability of record of grand jury proceedings: The district judge by motion shall permit a prosecuting attorney, a person charged with an indictment or the attorney for the person charged, to listen to the record of the proceedings or obtain a transcript thereof in the same manner as a transcript of a preliminary hearing. The district judge may place conditions upon the use, dissemination or publication of any proceedings of the grand jury.

Secrecy and Confidentiality of Grand Jury Proceedings

1. **Who may be present?** The grand jury may request the presence and advice of the district judge, but unless such advice is asked, the district judge shall not be present during any session of the grand jury after it has been impaneled. The following individuals may be permitted to be present during sessions of the grand jury: (a) Jurors of the grand jury; (b) The prosecuting attorney of the county, or designated deputy or specially appointed deputy; (c) A witness physically present before the grand jury and under questioning; (d) The person designated by the district judge or presiding juror to report the proceedings; (e) An interpreter designated by the district judge or presiding juror and sworn to correctly interpret the proceedings and sworn to secrecy.
2. **Deliberations:** No one other than acting grand jurors shall be permitted to be present during deliberations of the grand jury.
3. **Secrecy:** Each member of the grand jury must keep secret whatever is said or done in the grand jury proceedings and in which manner each grand juror may have voted on a matter before them. A grand juror may be required by the district judge to disclose matters occurring before the grand jury which may constitute grounds for a dismissal of an indictment or grounds for challenge to a juror or to the array of jurors. No other person present in grand jury proceedings shall

disclose to any other person what was said or done in the proceeding except by order of the court for good cause shown.

4. **Disclosure of indictment:** The court may seal the indictment and while sealed, no person shall disclose the finding of the indictment.

Grand Jury Proceedings.

1. **Grand Jury Subpoenas:** A grand jury subpoena or subpoena duces tecum may be issued either by the presiding juror or the prosecutor in the manner provided by law.
2. **Questioning of witnesses:** The prosecuting attorney, the presiding juror and other members of the grand jury under the direction of the presiding juror, may ask questions of the witnesses.
3. **Evidence for defendant:** The grand jury is not bound to hear evidence for the defendant but it is their duty to weigh all evidence submitted to them. The grand jury does have the power to instruct such evidence to be produced that they have reason to believe may explain away the charge.
4. **Indictment.** If it appears to the grand jury after presentation of evidence, that an offense was committed and there is probable cause to believe that the accused committed it, the jury ought to find an indictment. Probable cause is such evidence as would lead a reasonable person to believe an offense has been committed and that the accused party has probably committed that offense.
 - A. **Finding and return of indictment:** An indictment may be found only upon the concurrence of twelve or more jurors, signed by the presiding juror, and returned by the grand jury to a district judge. The indictment shall be in writing and have endorsed thereon the names of all witnesses examined before the grand jury with regard to the subject matter of the indictment.
 - B. **Listing of jurors vote:** The presiding juror shall prepare a separate list of all jurors voting in favor and against the indictment which shall remain sealed but can be disclosed to the prosecuting attorney, the defendant and the defendant's counsel by order of the court.
5. **Motion to Dismiss Indictment:** A motion to dismiss the indictment may be granted by the district court upon any of the following grounds: a) A valid challenge to the array of the grand jurors; b) A valid challenge to an individual juror who served upon a grand jury, provided, the findings of the valid challenge to one or more members of the grand jury shall not be grounds for dismissal of the indictment if there are twelve or more qualified jurors concurring in the finding of the indictment; c) The charge contained within the indictment was previously submitted to a magistrate at preliminary hearing and

dismissed for lack of probable cause; d) The indictment was not properly found, endorsed and presented by these rules or by the statutes of the state of Idaho.

6. Discharge of Jury: A grand jury shall serve until discharged by the court but no grand jury shall serve more than six months unless specifically ordered by the court which summoned the grand jury.

Clerical Duties:

1. Be sure that the courtroom and jury room are secured for all proceedings whether for the formation, general proceedings or deliberations of the grand jury.
2. Appropriate signs should be hung on the door of the courtroom indicating the proceedings are closed and witnesses are excluded. Further, any windows in the courtroom should be covered to further guard the secrecy of the proceedings.
3. All grand jury files shall be sealed unless otherwise ordered by the district judge. It is probably a good practice that the clerk in charge of the grand jury files also be the clerk who is sworn to record the proceedings. Any clerk privy to the proceedings of a grand jury must take an oath and may never disclose to anyone documents presented to the grand jury, issued by the grand jury or actual proceedings of the grand jury.
4. The clerk should make sure sufficient chairs are present for members of the grand jury and either take roll on the record or request that the prosecuting attorney or presiding juror take roll of all members to ensure a quorum and a proper record of jurors present. The attendance of jurors must be reported to the Jury Commissioner for payment of fees.
5. The clerk should prepare a copy of all proper oaths for grand jurors, witnesses and interpreters present for proceedings.
6. The clerk should at all times be cognizant whether all members of the grand jury are present for proceedings and inform the presiding juror if not all members are present and accounted for during any given proceedings.
7. The clerk should further be aware of all individuals present in the courtroom and immediately stop the proceedings and notify the presiding juror or the prosecuting attorney of individuals improperly present during the convening of a grand jury.

2.14 SEX OFFENDER REGISTRATION

In Idaho, Sex Offender Registration began July 1, 1993, with the establishment of a sex offender central registry at the Department of Law Enforcement and a statutory duty for persons convicted of certain felony sex crimes to register with their local sheriff. (I.C. 18-

8301 et. seq.) See “A Guide to the Idaho Sex Offender Registration Program” (Section 3.15) for more information.

Qualifying Offenses: Sex offender registration applies to adults or juveniles convicted of one or more of the felony offenses enumerated in I.C. 18-8304 and I.C. 18-8312.

Registration: For purposes of registration, conviction means that the person has pled guilty or has been found guilty, regardless of the form of judgment or withheld judgment. Complying with registration requirements is not required while a person is incarcerated in a correctional institution operated or regulated by the department of corrections, a county jail facility, or committed to a mental health institution of the department of health and welfare.

Duration of Registration: Registration is for life of the offender. The registered sex offender, however, may petition the court for exemption from the duty to maintain registration after a period of 10 years from the date of release from incarceration or of placement on parole or probation, whichever is greater. A juvenile sex offender is required to comply with registration requirements until reaching the age of 21. The prosecutor may petition the court to transfer a registered juvenile sex offender at age 21 to the adult registry if the person is likely to pose a threat to the safety of others. If no petition is filed, the juvenile offender’s record will be deleted from the central registry.

Notice of Duty to Register: At the time of conviction or release from incarceration, a sex offender subject to registration is provided notice of the requirement of registration. If the sex offender is convicted and released on probation without incarceration, notification is the responsibility of the **sentencing court**. If the person is being released from incarceration after conviction, the Department of Correction or jail is responsible for the notification. Notification is achieved by completion of the *Notification and Initial Registration Form SOR-1*. Initial registration also takes place at the time of notification.

Clerical Duties:

1. Obtain a supply of SOR-1 Notification and Initial Registration Forms from the Department of Law Enforcement (208) 884-7305.
2. The court official conducting the notification/registration must ensure that the appropriate data fields on the form are complete and that the defendant/offender has read and signed the form. (instructions are on the back of the form)
3. Send the original SOR-1 to the Department of Law Enforcement, P. O. Box 700, Meridian, Idaho 83680-0700 within **three** working days.
4. Keep the yellow copy of the SOR-1 in the court file.
5. Give the pink copy of the SOR-1 to the defendant/offender.

2.15 A GUIDE TO THE IDAHO SEX OFFENDER REGISTRATION PROGRAM

See Word Processor link (at Section 2.15) for content.

2.16 EVALUATING THE EFFECTIVENESS OF DRUG COURTS IN IDAHO

See Word Processor link (at Section 2.16) for content.

CLERK OF THE DISTRICT COURT MANUAL

SECTION 3.0 MISDEMEANORS

Revised October 2006

3.1 DEFINITION OF A MISDEMEANOR

Misdemeanors include all offenses where the possible penalty is greater than \$100.00 but does not include those punishable by death or imprisonment in the state prison. I.C. § 18-111. Except in cases where a different punishment is prescribed in the Idaho Code, most offenses declared to be a misdemeanor are punishable by imprisonment in a county jail not exceeding six (6) months, or by a fine not exceeding one thousand dollars (\$1,000), or both I.C. § 18-113. However, some misdemeanors are punishable by imprisonment in a county jail for up to a year. Misdemeanors may be heard by a magistrate or district judge, but are usually heard by a magistrate. I.C.R. 2.2.

The Idaho Misdemeanor Criminal Rules (I.M.C.R.) and many of the Idaho Criminal Rules (I.C.R.) apply to misdemeanor cases. I.C.R. 1; I.M.C.R. 1.

3.2 HOW INITIATED

1. The defendant may be issued a uniform citation by a law enforcement officer, but not necessarily arrested. I.M.C.R. 3 and 5. The officer will note on the citation the date, or range of dates, that the defendant must appear.
2. A person may be arrested by a police officer during or after the commission of a crime. I.C. § 19-603. The officer will then either issue a uniform citation or prepare an affidavit of probable cause. The defendant is then booked and released on bond or held in jail. The original citation or affidavit of probable cause is then forwarded to the Court and copies of the same are forwarded to the prosecuting attorney.
3. The prosecuting attorney may file a formal complaint, signed under oath, stating the charge(s) against the defendant. I.C.R. 3. Upon filing, the prosecutor may ask that a summons be issued for a date certain for the defendant to appear. I.C.R. 4(b). Alternatively, the prosecutor may provide sworn testimony in support of the charge(s) and request a warrant of arrest. I.C.R. 4(a). A summons is the preferred method. I.C.R. 4(c).

3.3 RECEIPT OF COMPLAINT OR CITATION

The involvement of the court in the processing of a misdemeanor begins with the filing of a complaint or citation.

Note: The court may be aware of the defendant and alleged charge prior to filing through an indication that bond was posted or the presence of the name of the defendant on a jail list, but the complaint or citation must be filed to begin court proceedings.

Clerical Duties:

1. File stamp the complaint/citation.
2. Open case in ISTARS and enter appropriate information, the filing date of the case in ISTARS should match the date stamped on the complaint/citation and may need to be back dated if the paperwork was received on an earlier date.
3. If a warrant for arrest is provided, a probable cause hearing must be held, at which time the Judge will determine whether probable cause exists for issuance of the arrest warrant. If the warrant is signed by the judge enter warrant information in ISTARS. If no warrant is provided schedule arraignment hearing and issue summons.
4. Upon return of warrant enter warrant return in ISTARS and schedule hearing. (Hearing must be held within 24 hours or one working day, if the defendant is in custody).
5. If a Bond is posted, file any bond paperwork and enter the bond in ISTARS; schedule hearing and send out notice of hearing.
6. If the defendant is not in custody the clerk will Schedule arraignment/appearance date in ISTARS as provided on the citation and enter any bond information in ISTARS; if a bond has been posted.
7. Optional: Print judgment form and subject history along with the "Notification of subsequent penalties" forms for DUI or DWP to place in file (history is used for judge's information only and judgment form and notification forms are in place when the defendant is sentenced). Also some counties may request record checks from Sheriff's office on non-arrests.

3.4 APPEARANCE BY DEFENDANT/PROCESSING BY CLERK

The defendant must appear before the **clerk** on or before the appearance date to enter a plea. I.M.C.R. 6(a). If the defendant prefers, he or she shall have the right to appear before the Court to enter a plea. I.M.C.R. 6(b). If the defendant requests additional time before entering a plea, the clerk shall continue the case with a Continuance Notice. I.M.C.R. 6(a)(1). The form for this Notice is set forth in I.M.C.R. 6(e)(2). If the defendant enters a plea of Not Guilty, the clerk shall issue a Trial Date Notice. I.M.C.R. 6(a)(2). The form for this Notice is set forth in I.M.C.R. 6(e)(1). If the defendant wishes to enter a plea of guilty, then there are two options. First, if the clerk is authorized by

I.M.C.R. 14 to **accept** the written plea, the clerk shall do so and enter judgment against the defendant according to the amounts set forth in I.M.C.R. 13(a) or (b). Second, for all other cases not covered by I.M.C.R. 14, the defendant may **file** a guilty plea with the clerk, but must appear before the judge for it to be **accepted**. I.M.C.R. 6(a)(3). The Defendant may also appear, plead and have judgment entered through an attorney. I.M.C.R. 6(d). The defendant may make payment in full or sign a Deferred Payment Agreement to make payments according to the form set forth in I.M.C.R. 8.

Clerical Duties – Continuance:

1. Issue Continuance Notice form with new date, give to defendant and send copy to prosecutor.
2. Note defendant's appearance and schedule new appearance date in ISTARS.

Clerical Duties – Not Guilty Plea:

1. Schedule next hearing depending on local practice for pre-trial, jury trial.
2. Send notice of the hearing to the defendant and the prosecutor (along with a copy of the citation).

Clerical Duties - Guilty Plea accepted by Clerk under I.M.C.R. 14:

1. Make sure the plea can be accepted under I.M.C.R. 14.
2. Have the defendant sign the back of the citation, or separate form per local practice, noting the wish to plead guilty.
3. Complete Judgment (either on back of citation or on separate judgment form).
4. Enter the finding of guilty and assess the fines and fees in ISTARS.
5. Collect fine and give defendant a receipt, or have defendant sign Deferred Payment Agreement.
6. Give copy of judgment (and Deferred Payment Agreement, if any) to defendant and send copy to prosecutor.
7. Upon entering the disposition and payment for the final Charge on the case, allow ISTARS to close the case.

Clerical Duties – Guilty Plea filed with clerk but Judge must accept:

1. Send defendant into court for plea (or give date to re-appear for plea and sentencing);
2. Once plea is accepted by judge and sentence is imposed, follow steps 3 through 7 above.

3.5 PROCESSING BY COURT

If the defendant elects to enter a plea in Court, or is required to appear in court for a plea to be accepted, then the matter will proceed as follows:

Arraignment:

The arraignment is to be held within 24 hours of arrest if the defendant is in custody, excluding Saturdays, Sundays and court holidays. I.C.R. 5(a). For non-custody defendants, arraignments are scheduled according to local practice.

The purpose of the arraignment is to inform the defendant of the charges, the maximum possible penalties and his/her Constitutional and statutory rights. I.M.C.R. 6(c). The defendant may enter a plea of guilty at this time. If so, he/she may be sentenced at that time or at a subsequent sentencing hearing. I.M.C.R. 6(b). The defendant may also plead not guilty. If he pleads not guilty, a pre-trial conference and/or jury trial will be set, or a pre-trial conference and/or court trial **if** the defendant waives his right to a jury trial **and** the prosecutor consents in open court. I.C.R. 23. It is also determined whether or not the defendant desires to be represented by an attorney. Many courts require the defendant to complete a financial statement, which outlines the defendant's assets, job status, and financial situation to assist the judge in determining indigence. He may request a public defender who will be appointed if the individual is indigent. I.C. 19-852. A judge may order another hearing for entry of plea, if the defendant is not represented by counsel, and counsel is requested. Additionally, the defendant's custody status and bond or conditions of release are also reviewed. At this time, the judge may also order a change in the defendant's custody status. Otherwise the case is set for a pre-trial, court trial, or jury trial.

Clerical Duties – Guilty Plea at Arraignment:

1. If defendant is not sentenced immediately, set sentencing hearing, issue Notice and any other orders for sentencing, send copies to defendant (or his attorney) and the prosecutor; schedule sentencing hearing in ISTARS.
2. Complete Judgment (either on back of citation or on separate judgment form).
3. Enter the finding of guilty and assess the fines and fees in ISTARS.

4. Collect fine and give defendant a receipt, or have defendant sign Deferred Payment Agreement.
5. Give copy of judgment (and Deferred Payment Agreement, if any) to defendant and send copy to prosecutor.
6. Upon entering the disposition and payment for the final Charge on the case, allow ISTARS to close the case.

Clerical Duties – Not Guilty Plea at Arraignment:

1. If a public defender is appointed, add attorney's name to defendant's screen in ISTARS, prepare Order Appointing Public Defender, file stamp and send to public defender along with a copy of the complaint or citation and any other orders entered or notices of hearing.
2. Schedule pre-trial and/or trial date in ISTARS.
3. Issue Trial Date Notice form and send copy to defendant (or his attorney) and prosecutor (and jury commissioner if jury trial, according to local practice).
4. Prepare commitment order or release order (if needed) and send to parties and sheriff.

Pre-trial Conference and Trial:

Prior to trial, the defendant with his attorney and the prosecutor may appear before the judge to determine whether or not a plea agreement may be reached. If a plea agreement is reached, the defendant may be sentenced immediately or a sentencing hearing may be set in the future. If not, the matter remains on the trial calendar. At the trial, the defendant can be convicted or acquitted (found not guilty), the case could be dismissed for various reasons, or there could be a mistrial requiring a new trial at a later date.

Clerical Duties:

1. If a plea is entered at the pre-trial conference, follow procedures for Guilty Pleas above.
2. If convicted at trial, file the verdict form (if jury) and follow procedures for Guilty Pleas above.
3. If acquitted or the case is dismissed, file stamp Order Of Dismissal and file, send copies to both parties, enter dismissal in ISTARS and close out file;
4. If mistrial is ordered by judge, file stamp order, send copies to parties, schedule new trial date in ISTARS and send Notice to both parties.

3.6 FORFEITURE OF BOND FOR TRAFFIC OFFENSES

When a person has received a written uniform misdemeanor traffic citation, summons or complaint containing a notice to appear before a magistrate, the prosecuting attorney and the defendant may concur that it is in the best interest of justice for the defendant to post and forfeit an amount of bond agreed upon by the parties. The court shall dismiss the charge. When bond is forfeited under the provisions of this statute, no violation points shall accrue. A forfeiture of bond under the provisions of this subsection shall not be recorded as a conviction, but the proceeds of the bond shall be distributed as court costs and fines as though there were a conviction. I.C. § 49-240(1). Some prosecutors do not do this. Bond forfeitures are not available for certain charges (DWP, DUI, Aggravated DUI, Reckless and Inattentive Driving), or infractions, **unless** they are amended to an appropriate misdemeanor charge. I.C. § 49-240(2).

Bond forfeitures are to be distributed in the same manner as a fine, after court costs are deducted. I.C. § 19-4705.

Clerical Duties:

1. File stamp citation and open case in ISTARS.
2. Enter cash bond and issue receipt.
3. **Do not** enter a plea for the charge.
4. Enter the case disposition finding as dismissed.
5. Enter the appropriate fine amount, including court costs.
6. Convert the bond to pay the fine and costs. Do not forfeit the bond.
7. Close the case in ISTARS.

3.7 CASE DISMISSAL FOR INACTIVITY

A court may dismiss a criminal case if it is determined that to do so would serve the ends of justice and the effective administration of the court's business. I.C.R. 48. Make sure the assigned judge agrees with the process of inactivity dismissals and the time period they want to use (*i.e.*, 6 months).

Clerical Duties:

1. Run ISTARS criminal case and juvenile case inactivity list.
2. Determine which cases need to be up for dismissal.

3. Provide a Notice of Proposed Dismissal to the prosecuting attorney fourteen days prior to the dismissal of the case.
4. If a response is received from the prosecutor to retain the case, forward the response to the judge for review. If the judge decides to retain the case, enter that action into the Register of Actions on ISTARS and schedule any required hearings.
5. If the judge signs an order to dismiss, recall any pending warrant, dismiss the case and close out file.

CLERK OF THE DISTRICT COURT MANUAL

SECTION 4.0 INFRACTIONS

Revised October 2006

4.1 INITIATION OF INFRACTIONS

An infraction is a civil public offense, not constituting a crime, which is punishable only by a penalty of a fine and for which no period of incarceration may be imposed. I.C. § 18-111, I.C. § 18-113A. Any Idaho peace officer or authorized employee of the Idaho Transportation Department may issue an Idaho uniform citation for an infraction. Additionally, infractions may be commenced by the filing of an unsworn formal complaint. I.C. § 49-1501; I.C. § 19-3901; I.I.R. Rules 3(a), 3(b) & 5(a). Only one person may be charged by the complaint of a single citation, but two infraction offenses may be charged in one citation involving the same defendant. An infraction may not be charged with a misdemeanor in the same citation. I.I.R. 3(d). Because an infraction has been declared by statute to be a civil public offense, not constituting a crime, the defendant charged with an infraction shall never be arrested for the infraction and shall never be required to post bail on the infraction. I.I.R. 7(c).

The infraction citation shall be served upon the defendant by obtaining his/her written promise to appear in court within the time provided on the citation or by physically delivering the citation to the defendant. I.C. § 19-3901; I.I.R. 5(c). The defendant must be cited in no sooner than 5 days and no later than 21 days from the date of the citation. I.I.R. 5(a). The officer or agency should turn the citation in prior to the appearance date.

Clerical Duties:

1. File stamp citation or complaint;
2. Enter citation or complaint in ISTARS.
3. Place citation or complaint in file folder or other location as per the practice of your jurisdiction.

Note: Many jurisdictions simply place the citations in some sort of central file to wait and see if payment is sent in by mail. No official case file is required unless the matter will be tried in court.

4.2 APPEARANCE BY DEFENDANT

The procedure for processing an infraction citation is established by Idaho Criminal Rules (I.C.R.) and Idaho Infraction Rules (I.I.R.). Infractions are processed in the magistrate's division. Any person charged with an infraction by a citation may enter an admission by paying the fixed penalty. Payment of the fixed penalty shall constitute an

admission of the charge. Payment must be received by the court on or before the appearance date set forth in the citation. I.I.R. 6(a). Unless the defendant pays the penalty to the court as outlined above, the defendant shall appear before the clerk to answer the charge. All appearances by the defendant and the trial of an infraction shall be in the county where the alleged offense occurred. No infraction charge shall be transferred to the court of another county except in cases where the infraction is committed in a city that is located in two counties, the venue may be transferred in accord with I.C. 19-305; I.I.R. 7(b). The defendant may also appear through an attorney. I.I.R. 6(b), (d). If the defendant admits the charge before the clerk, judgment shall be entered by the clerk, which judgment shall order the defendant to pay the fixed penalty established by the Supreme Court infraction penalty schedule as set forth in I.I.R. 9(b); I.I.R. 6(c) & 9(a).

If the case involves a Fish and Game infraction, the forms in the Idaho Infraction Rules shall be modified to accommodate fish and game infractions – provisions for license suspension shall refer to suspension of hunting, fishing and trapping privileges. I.I.R. 10.1. Any judgments shall be sent to the Idaho Department of Fish and Game.

Clerical Duties if a guilty plea is entered:

1. Enter the finding of guilty and assess the fines and fees in ISTARS;
2. Accept and receipt payment or set up acceptable terms for future payment;
3. Enter judgment against defendant on back of original citation (or on a separate judgment form if used in your jurisdiction);
4. Upon entering the disposition and payment for the final charge on the case allow ISTARS to close the case.

Note: The fixed penalty cannot be increased or decreased by the clerk. If the defendant pays MORE than the fixed amount, do not increase the fine. Instead, enter the excess in ISTARS as an “overage” and send back to the defendant according to local procedure.

Clerical Duties if a not guilty plea is entered:

1. Enter the not guilty plea in ISTARS either in the disposition tab or the charge tab
2. Set the matter for further proceedings as per local protocol (Court Trial or Pretrial conference). Jury Trials may not be held for infractions.

4.3 FAILURE TO APPEAR/BAD CHECKS (DEFAULT)

If the defendant fails to appear before the clerk at or before the time stated in the citation, the clerk shall enter default judgment without giving further notice to the defendant. ISTARS may do this in a batch process through Overdue Processing.

I.I.R. 6(a). If an infraction penalty is paid via a personal check and if the personal check is dishonored and returned to the court for any reason, the defendant will be deemed not to have appeared on the citation and default judgment may be entered against the defendant.

I.I.R. 8(a). If a defendant fails to appear at the time fixed by a pre-trial conference and/or trial date notice, the clerk or judge shall enter default judgment against the defendant for the infraction without giving further notice. I.I.R. 8(b). If a default judgment is entered against a defendant, the clerk shall mail a Notice of Default Judgment to the defendant at the address stated in the citation advising the defendant that the defendant must pay the judgment by a date certain (not less than 14 days after the date of the notice) I.I.R.8(c). The form for this Notice is set forth in I.I.R. 8(d). The notice shall state that failure to pay the judgment will result in suspension of the defendant's driver's license. I.I.R. 8(d).

Clerical Duties:

1. Prepare and send Notice of Default Judgment.
This may either be done manually by the clerk at the time and date of the failure to appear, or by overdue processing, if the clerk does either of the following options: 1) leaves the hearing unanswered, or 2) checks the fail to appear box on the case front screen. The system will detect the unanswered hearing or activation of fail to appear processing by detecting the checked box, and will enter a finding of guilty, fines and fees and set a payment date 14 days in the future.
2. Make entries of failure to appear and default judgment.
If entering the data manually, the clerk must enter the fines/fees and set the future money due date. The clerk then must produce and send out the notice of default judgment to the defendant. The next ITD report will detect the findings of guilty and report them accordingly.
3. Close out file.
Change the status of the case to closed pending clerk action.

Note: There is a separate administrative license suspension that is done by the Idaho Department of Transportation, upon receipt of a finding of guilty or a default judgment on a failure to maintain insurance infraction. This is somewhat confusing to the defendant, as the court will send a notice of “Default Judgment” which will advise them that they have two weeks to pay the citation or a suspension of driving privileges will be entered for FAIL TO PAY. That is a separate and secondary suspension. When the defendant gets the suspension letter from ITD on those offenses, they often call the court and are confused. Please advise them that

the ITD suspension is a separate suspension done solely on the conviction of the offense.

If the defendant appears before the Court within the time set forth in the Notice of Default Judgment or requests a hearing within that time, a show cause hearing to determine whether a driver's license should be suspended for nonpayment of a penalty shall be scheduled. I.I.R. 11(a). If the court finds that the defendant has a complete and continuing financial inability to pay the penalty, no Notice of Nonpayment shall be sent to the Department of Transportation. I.I.R. 11(b).

Clerical Duties:

1. File stamp request for hearing and file.
2. Re-open case in ISTARS and schedule hearing (per local practice).
3. Send Notice of hearing to Prosecutor and Defendant.
4. After hearing, post appropriate hearing result(s) in ISTARS, file stamp and enter in ROA any order signed by judge.
5. If a complete and continuing financial inability to pay is established by the court, and there is an order stating such, the clerk will make the appropriate entries on the Register of Actions for the case and make the appropriate financial adjustments of the fines and fees as per the order of the court. And after there is a zero balance (whether by payment or adjustment) close the case.
6. If the court does not establish complete and continuing financial inability to pay, and the defendant cannot or will not pay by the money due date, and no further extension is granted by the court, after that date has gone by, the clerk prepares and sends Notice of Nonpayment to the Idaho Dept. of Transportation (ITD) if this is a “suspendable offense”. The clerk will indicate in the charge disposition screen that the license has been suspended and will check the box (for infractions) that says “Send license suspension notice”. The clerk will make sure that the document has been entered on the ROA. (Overdue processing in ISTARS will suspend the license, enter the dates and check the box, as well as make the appropriate ROA entries automatically with the next overdue run after the money due date and any possible extension date have gone by.) The clerk will then follow the local protocol for collecting fines and fees for infraction cases. The case will remain as “closed pending clerk action” until the fines/fees have been paid or adjusted.
7. If this is not a “driver’s license suspendable offense”, the court will follow local protocol for further action for collection of fines and fees for ‘other’ infractions.
8. When payment is made by the defendant on a suspended offense, the ISTARS system will prompt the user to print a “Receipt and notice of compliance”. For

infraction charges the receipting clerk should print that document and sign it and provide a copy of the same to the defendant. The next “overdue processing run” will detect the payment on the case and will enter the compliance information and will report it to ITD with the next ITD reporting.

9. Close the case in ISTARs.

If the court determines that the unpaid portion of any infraction judgment is not reasonably collectible for any reason, the court may enter an order discharging the judgment and close the file. I.I.R. 9(g). Such discharge may be signed and entered by the clerk at the direction of the court. The entry of the discharge shall not affect the judgment other than to satisfy the duty to pay the balance of the penalty.

Clerical Duties:

1. Adjust money due to zero balance.

4.4 SETTING ASIDE A DEFAULT

The court may set aside a default judgment pursuant to the Idaho Rules of Civil Procedure (I.R.C.P.). The defendant must file a written motion requesting that the default judgment be set aside stating the reason for the request. The judge will then decide, usually at a hearing, whether to grant the request or not. If the request is granted, the judge will order the default set aside and the matter will be set for trial. I.I.R. 8.1; I.R.C.P. 60 (a) and (b).

Clerical Duties:

1. Remove the finding of Guilty on the Charge disposition tab.
2. Adjust off any fines and fees which would have been entered in the default process.
3. Send or fax a copy of the “Order Setting Aside Default” to all agencies which would have received the default information. (Idaho Department of Transportation).
4. ROA the Order and other documents
5. Schedule the trial and send out notices.

4.5 DENIAL OF CHARGE AND TRIAL

If the defendant denies the charge, the clerk shall set the trial date for the citation or complaint and serve a copy of the written trial date notice upon the defendant and

prosecuting attorney. I.I.R. 6(c). If the defendant desires a continuance, the clerk shall issue a Continuance Notice with a new appearance date. I.I.R. 6(c). The forms for these Notices are provided for in I.I.R. 6(e)(1) and (2). **There is no right to trial by jury for an infraction.** I.C. § 19-1902; I.I.R. 7(d).

Note: Some jurisdictions have implemented a pre-trial conference procedure – some allow the clerk to conduct these conferences.

Clerical Duties:

1. Schedule court trial (or pre-trial conference) with assigned magistrate judge.
2. Send Notice set forth in I.I.R. 6(e) to Prosecutor (with a copy of the citation) and Defendant (Make sure Defendant's notice is sent to the address the defendant provided when the denial was entered – this is often different than that on the citation).

4.6 TRIAL/JUDGMENT

If the judge of the magistrate division does not find the defendant committed the infraction, the judge shall enter judgment for the defendant. I.I.R. 7(e). If the judge finds the defendant committed the infraction offense, the judge shall enter judgment against the defendant, and impose the fixed penalty provided for by the Supreme Court's infraction penalty schedule. I.C. § 49-1503(2); I.I.R. 7(e) and 9. The penalty includes court costs and cannot be suspended and no withheld judgment is allowed. I.I.R. 9(d). The defendant can either pay the penalty immediately or enter into a deferred payment agreement, the form for which is set forth in the Rules. I.I.R. 9(e).

Clerical Duties:

1. Make sure there is a judgment in the file – either on back of citation or a separate form.
2. If the defendant is found guilty, collect fixed penalty from defendant or have the defendant sign the deferred payment agreement form.
3. Post a hearing result for the hearing, enter the finding as determined in court, and post the fines and fees to the case. ISTARS will make the appropriate ROA entries for the clerk as they do the above actions. The clerk then will note on the ROA that a deferred payment agreement has been allowed.
4. When paid in full, close the case in ISTARS. Note: If deferred payment agreement is allowed, the case will stay at the status of “close pending clerk action” and will “close” upon the receipt of payment in full for the charge(s).

4.7 FAILURE TO PAY INFRACTION JUDGMENT

If a defendant fails to pay a traffic infraction penalty within the time allowed by (1) default judgment, (2) deferred payment agreement, or (3) within such time allowed by court order, the court (clerk) shall sign a Notice of Nonpayment of Penalty and send it to the Department of Transportation for suspension of the defendant's driver's license.

Note: It is sent electronically to the Department of Transportation via the overdue processing reporting and the I.T.D. electronic reporting. I.I.R. 10(a); IC § 49-1505. The form for this Notice is set forth in I.I.R. 10(b). Any late payment of an infraction penalty shall be accepted by the court or clerk at any time. I.I.R. 10(c). At the time that full payment is received, after the Notice of Nonpayment has been sent to the Dept. of Transportation, the clerk shall issue a Receipt and Notice of Payment, which shall be mailed to the defendant (not sent to the Department by the clerk because it is reported electronically through the overdue processing and I.T.D. reporting) for use in applying for reinstatement with the Department. The form for this Receipt and Notice is set forth in I.I.R. 10(d).

Clerical Duties:

1. Prepare and send Notice of Nonpayment to ITD, either manually or by the batch overdue processing procedure.
2. Place the case at the status of "Close pending clerk action" ISTARS. Enter Notice of NonPayment on the ROA. (If the notice of nonpayment was generated by overdue processing it will place the information on the ROA automatically).
3. When full payment is made for the previously suspended infraction charge, prepare and give the "Receipt and Notice of payment" to defendant, and document on the ROA.
4. Close the case.

4.8 APPEAL

An appeal from a judgment for an infraction may be taken to the district court and processed in the manner prescribed for criminal appeals from the Magistrate Division. I.I.R. 15.

Clerical Duties:

1. Re-open case in ISTARS;
2. File stamp Notice of Appeal and enter in ROA;

3. Mark the Appeal box on the case front screen, which will prompt a change of jurisdiction and judge on the case.
4. Provide the case file information and documentation to the District judge as per local protocol.
5. Await further instructions or “order” from the district judge re: hearings that may need to be set or other actions.
6. If the fines and fees have previously been paid then if the finding of guilty is overturned the fines/fees may need to be refunded to the defendant. If that is the order of the court the clerk will void the receipt wherein the payment(s) were made, and check the box indicating refund when performing that void. By doing that the system will generate a disbursement request to ask the appropriate department to create a check/warrant and pay back the defendant.

Note: An appeal of judgment or default judgment, does not excuse or forgive the payment due date on the charge. That money due date may be extended through the appeal time if so ordered by the court, or the clerk may accept the fines and fees as paid in full, and post them as a bond on the case until the decision is made re: the appeal.

CLERK OF THE DISTRICT COURT MANUAL

6.0 CIVIL CASES

Revised October 2006

6.1 PURPOSE

The purpose of this section is to give an overview of how the typical civil case proceeds. Civil cases involve the resolution of disputes usually by the payment of money from one party to another. Civil cases are initiated by the filing of a complaint by a party (plaintiff) with the clerk of the district court. The clerk stamps and files the complaint, conforms copies, and issues a summons to the defendant. The defendant then may file an answer, cross-complaint, counterclaim, or in some other way respond to the plaintiff's claim. As the issues in the case are developed, the court may be involved through the filing of motions.

The court may set the case for a pre-trial hearing and trial, to give all parties a deadline by which all pretrial activities, i.e.: interrogatories, depositions and motions, must be completed.

6.2 FILING THE COMPLAINT (IRCP 5(e))

Clerical Duties:

1. Enter the correct filing fee code, collect fee and issue a receipt. ISTARS will display the fee and generate a receipt.
2. ISTARS will automatically assign a civil case number, which will be printed on the receipt. Write the case number on all paperwork filed.
3. Judge assignments are made automatically by ISTARS at the time the case is created. If a Judge assigned needs to be changed, use the New Judge option from the Case screen.
4. Enter complete plaintiff, defendant, and attorney information in ISTARS. Enter attorney information and uncheck the send notice box on the defendant screen. If pro se, confirm that the answering party's address is entered in ISTARS and leave the send notice box checked.
5. File stamp the Complaint/Petition, and conform any copies.

Note: Prisoners may file pleadings that are legibly hand-printed in black ink in whole or in part.

6. Issue the Summons. The Summons is prepared by the plaintiff and presented to the court.
 - a. Write case number on Summons.
 - b. Stamp the name of the assigned judge on the Complaint, and, according to local practice, on the summons.
 - c. Sign and seal Summons.
 - d. Return original "Summons" to the party filing the Complaint or retain it in the Court file. I.R.C.P. 4(c)(2)
7. File stamp all other documents submitted with the Complaint/Petition, and enter in the ROA.

6.3 RECEIPT OF THE ANSWER OR APPEARANCE

After the Complaint and Summons have been issued, the defendant may file an Answer or Appearance. The answer is the defendant's written response to the plaintiff's claim. In an Answer, the defendant may file a Counterclaim in which damages are sought from the plaintiff. A defendant may also file a Cross-Claim against another defendant to the suit, or a Third-Party Complaint against someone who is not yet a party to the action. Sometimes a defendant may file a document entitled "Special Appearance". The purpose of this document is not to answer the Complaint but to contest personal jurisdiction. (See IRCP 4(i).

If the defendant does not file an Answer or an Appearance to the Complaint, the plaintiff may request that a Default Judgment be entered against the defendant.

Note: A defendant is only required to pay one filing fee for either an Appearance or Answer.

Clerical Duties:

1. Enter the correct filing fee code, collect fee and issue a receipt. ISTARS will display the fee and generate a receipt.
2. File stamp papers and enter in ROA.
3. Enter attorney information and uncheck the send notice box on the defendant screen. If pro se, confirm that the answering party's address is entered in ISTARS and leave the send notice box checked.

6.4 RECEIPT OF ADDITIONAL PLEADINGS AND DOCUMENTS

Additional documents and pleadings may be filed such as: Cross-Claims, Counterclaims, Third-Party Complaints, Amended Complaints (if Amended Complaint is filed after an Answer, court approval before filing is required), Motions, and Lis Pendens. Interrogatories or Answers to Interrogatories, Responses to Request for the Production of Documents, or Depositions are not to be received or filed with the court.

Clerical Duties:

1. File stamp and enter in ROA.
2. Certain documents, such as Stipulations, Proposed Orders, Application for Out of State Service or Service by Publication, or other documents that require a judge's signature should be placed in the case file and forwarded to the judge, according to local practice.
3. After the judge has taken appropriate action, file stamp, conform copies, and enter in the ROA.

Note:

- a. Court clerks make no determination regarding the filing of any pleadings presented for filing, as long as it is accompanied by the appropriate fee.
- b. Receipt of Pleadings by Judges in Chambers. A judge may receive any of the above documents in chambers by noting on the document the filing date, hour and minute and then transmitting them to the office of the clerk (I.R.C.P. Rule 5(e)). Upon receipt in the clerk's office, the clerk enters the date of receipt written on the document by the judge into the ROA.

6.5 MEDIATION

Civil cases are eligible for referral to mediation. Most civil cases are eligible for mediation under IRCP 16 (k). However, this rule does not govern child custody and visitation disputes. Those cases are eligible for mediation under IRCP 16(j).

The parties either select a person to act as a mediator, or the court appoints a mediator from the Idaho Supreme Court Roster of Civil Case Mediators maintained pursuant to the rule. Each judge has his/her own forms and orders for the purpose of mediation. For a list of mediators, see Idaho Supreme Court Roster of Civil Case Mediators (I.R.C.P. 16(k)) at www.isc.idaho.gov/civilros.htm.

Clerical Duties:

File stamp documents and enter in ROA.

6.6 LAW AND MOTION CALENDAR

Motions are heard on Law and Motion Days by district court judges and magistrates. Scheduling of law and motion hearings is established by local rule or practice.

If an attorney wants to appear on Law and Motion Day, the attorney must file a Notice of Hearing and serve a copy on opposing counsel. The attorneys should call the court to obtain the date of that court's Law and Motion Day prior to filing the notice.

Clerical Duties:

1. Schedule hearing in ISTARS.
2. Pull case files and take into the courtroom, or other designated area.
3. File stamp court Minutes and papers in case file after hearing and enter in ROA. Post the hearing results in ISTARS.

6.7 SCHEDULING TRIALS OR HEARINGS

For actions at issue, the court may set the case for trial or pre-trial hearing. Additionally, either party at any time may request the court to set the case for a pretrial hearing or for trial. The Request for Trial Setting is served by the requesting party upon all other parties in the action.

Clerical Duties:

1. File stamp the document and enter in ROA.
2. Enter a reminder in ISTARS to check for a Response to the Request for a Trial Setting. (Within five (5) days after service of the request, the opposing attorney must file a written response containing the information required in the request (I.R.C.P. 40 (b).) The response is served by the responding party upon all parties in the action. If the opposing party fails to respond, the court may set the case for pre-trial conference or trial.
3. Schedule the requested hearing or trial in ISTARS, print out the notices, and send to the appropriate parties.

Trial: See section on Trial Procedures and Court Minutes.

6.8 PROCEDURES FOLLOWING TRIAL OR OTHER DISPOSITION

After the trial is completed or the case otherwise is disposed of, the clerk must carry out appropriate procedures to fulfill the orders of the court pertaining to the case. This may include any of the following:

1. Processing a Judgment (see Section 6.9);
2. Processing a memorandum of costs (see Section 6.11);
3. Issuing a Writ of Execution (see Section 6.19);
4. Receiving a "Notice of Appeal" (see Section 18.10);
5. For all of the above alternatives, enter required information in the ROA.

6.9 JUDGMENTS AND CLOSING THE CASE

Entry of Judgment: Judgment is entered when signed by the judge and file stamped. The Judgment is not effective until file stamped.

Clerical Duties:

1. File stamp the original Judgment and all copies, and enter in the ROA.

Note: A judgment of divorce or annulment is not filed until a certificate, provided by the Department of Vital Statistics, is completed and presented to the court along with a Child Support Transmittal form plus a certified copy of the Divorce Decree. The clerk should then mail the completed certificate to the Department of Vital Statistics. In addition, entry of judgment shall not be made as to any decree that contains the obligation for one party to pay child support unless and until it is accompanied by the completed transmittal form to the Department of Health and Welfare. (I.R.C.P. 58(a))

2. Service of judgment on parties. The Clerk shall serve a conformed copy of the Judgment to all parties or their attorneys. As directed by the court, a party shall prepare an Order or Judgment, and sufficient copies for service on all parties together with stamped addressed envelopes. (I.R.C.P. 77(d)) Clerk shall file a Certificate of Mailing noting parties served.
3. Make sure all hearings are resulted, all documents are entered in the ROA, all bonds are disposed.
4. Enter the civil disposition for the parties involved in the judgment in the civil disposition field in ISTARS. Confirm that the case is closed. **(Note: It is possible to have multiple civil dispositions in a case with multiple parties.)**

Note: Judgments are not automatically recorded with the County Recorder. They are recorded by the parties only upon submission of a certified copy of the original Judgment (or a certified Abstract of Judgment and payment of the recording fees).

6.10 CASE INFORMATION PRIOR TO ISTARs

To obtain information regarding cases that were filed with the court prior to the installation of the ISTARs computer system, a clerk should check with their supervisor regarding local practice in finding a case.

6.11 MEMORANDUM OF COSTS

A Memorandum of Costs lists the expenses that the prevailing party may be repaid as a result of winning the lawsuit. The memorandum must be filed no later than fourteen (14) days after entry of the judgment. (I.R.C.P. 54(d)(5)) Costs that may be repaid may include court filing fees, attorney fees, costs of service or other costs as allowed by the Court in I.R.C.P. 54(d)(1). The Court also has discretion to disallow costs.

Objection to Costs. The opposing party may file a motion to disallow costs within fourteen (14) days of service of the memorandum of cost. Such motion does not stay the execution on the Judgment, exclusive of costs.

Clerical Duties:

1. File stamp documents and enter in ROA. Note in the disposition comment field the amount and parties awarded. If no objection has been filed, the case does not need to be reopened to enter the Memorandum of Costs in the ROA.
2. If there are objections to the costs, the case may need to be reopened and scheduled for hearing if an objection to the Memorandum of Costs is filed.
3. Send judgment or court's order of costs to parties.

6.12 SATISFACTION OF JUDGMENT

The Judgment may be paid directly to the prevailing party or to the Clerk of the Court. (I.C. § 10-1115). Payment made to the court must be either cash or check payable to the Clerk of the Court.

Clerical Duties – Payment of Judgment:

1. If the check is made out to the prevailing party, the clerk cannot accept payment. Advise them to deliver payment directly to the prevailing party or make the check payable to the Clerk of the Court.

2. If payment is made to the Clerk of the Court, enter the payment as a bond posted on behalf of the party paying the funds, and provide a copy of the receipt.
3. If these funds were in the form of a check, there will be a 20-day holding period before that money can be released to provide the court time for that check to be cleared. If paid with cash, immediately convert the bond to pay the prevailing party.

Note: Upon full payment of the Judgment, the prevailing party has the duty to record a "Satisfaction of Judgment" in every county where the Judgment or Abstract is recorded. (I.R.C.P. 58 (b)) Satisfaction may be signed by the attorney of the prevailing party.

Clerical Duties – Satisfaction of Judgment:

1. File stamp the Satisfaction of Judgment and enter in the ROA. Go to the civil disposition screen and enter the Satisfaction of Judgment and the date.

Note: Case does not have to be reopened to file a satisfaction of judgment.

2. Send copies to the appropriate parties.

Note: If Judgment is recorded, party should have Satisfaction of Judgment recorded to release any lien on property.

6.13 ABSTRACT OF JUDGMENT

An "Abstract of Judgment" is a summary of information contained in the original Judgment, which is certified by the clerk and may be used (pursuant to I.C. § 10-1110) to perfect a lien on real property, which upon request and receipt of proper fees by the County Recorder may be recorded. Additionally, clerks may be required to certify an Abstract of Judgment that occurred in another state and is being recorded in this state--for additional information, see Foreign Judgments I.C. § 10-1302.

The "ABSTRACT OF JUDGMENT" contains:

1. Title of the Court
2. Case Number
3. Names of Judgment creditor(s) and debtor(s)
4. Date
5. Amount of Judgment

Clerical Duties:

1. Upon payment of the proper fee, issue and certify the "Abstract of Judgment".

6.14 DEFAULT JUDGMENTS

A default occurs and is entered by the judge when a defendant fails to plead or defend as provided by the rules, (I.R.C.P. (55(a)(1). Typically, default cannot be entered less than 20 days from date of service, unless otherwise directed by the court.

The court can enter judgment after a person has defaulted. Clerks under limited circumstances, outlined in I.R.C.P. 55 (b)(1), can enter judgment.

(Some administrative judges require the clerk to insure that an Affidavit Re: Non-Military Service is filed before a default judgment is entered.)

Divorce or Annulment. In a divorce or annulment proceeding, the default judgment must be signed by a judge. In such proceedings, the application for default is accompanied by a certificate from the Department of Vital Statistics fully completed by the person or attorney seeking the divorce or annulment. I.R.C.P. 55(b)(1).

IF THERE IS ANY QUESTION ABOUT WHETHER THE CLERK SHOULD ENTER A DEFAULT JUDGMENT, CONTACT THE ASSIGNED JUDGE.

Clerical Duties:

1. Determine that the claim is for a sum certain, or for a sum which can by computation be made certain (as in the case of interest).

Note: Claim for damages in an auto wreck is not for a sum certain. A Request for "reasonable attorney's fees" is not for a sum certain.

2. Determine that the defendant was personally served within the State of Idaho, and that Proof of Service is filed in the case.
3. Make sure that the 20 days from the date of service has expired.
4. Determine if the defendant has never appeared in the action either in person or by an attorney.

If there has been an appearance, default shall not be entered, unless the party or his representative has been served with three (3) days written notice of the application for default.

5. Compare the submitted Judgment to the Complaint to make sure the relief requested does not exceed the amount originally requested.
6. Make sure the "Affidavit for Default and Application and Order for Default" is in the file. The "Affidavit for Default" must show the following statements:
 - a. The amount due and the method of computation. (The amount due can be in a document identified as "Affidavit of Amount Due" or in a verified Complaint.)
 - b. That the defendant is not in the military service, is not an infant (under 18 yrs old) or an incompetent person.
 - c. The defendant has been personally served, other than by publication or personal service outside of the State of Idaho, and 20 days have elapsed since said service. (See I.R.C.P. 6(a) for definition of 20 days.)
 - d. Defendant has never appeared in person or represented by counsel.
 - e. Written certification of the name and address of the defendant, which will give party notice of such default judgment.
7. Require sufficient copies of the "Judgment", along with stamped envelopes, addressed to the parties, in which to mail the copy of the filed Judgment. (See I.R.C.P. 77(d).
8. Enter the Judgment by placing the filing stamp on the Original and conform all copies, and enter in the ROA. Send copies to all the parties.
9. Enter the civil disposition for the parties involved in the judgment in the civil disposition field in ISTARS. Confirm that the case is closed.

Note: It is possible to have multiple civil dispositions in a case with multiple parties.

6.15 FOREIGN JUDGMENTS

A foreign judgment is any judgment from another court, or an administrative agency that is entitled to full faith and credit in Idaho (I.C. § 10-1301) and should be processed as if it were a new case.

Foreign judgments are treated in the same manner as a judgment of the courts of this state (I.C. § 10-1302), except in cases that involve the custody or the support of minor children.

Clerical Duties:

1. Receive a certified (in accordance with Idaho Code) copy of the Foreign Judgment and an affidavit setting forth the names and last known post office addresses of the Judgment debtor and Judgment creditor.
2. Enter the correct filing fee. File stamp the document and enter the party information in ISTARS.
3. Enter the civil disposition for the parties involved in the judgment in the civil disposition field in ISTARS. Confirm that the case is closed.
4. Mail notice of the filing, to the judgment debtor at the address given by the creditor or creditor's attorney. (I.C. § 10-1303(a)(b)).

Note: Judgment or an abstract of judgment may be recorded in the County Recorder's Office after five days upon payment of the proper fees by the judgment creditor.

Note: Execution on Foreign Judgment. No execution or other process for enforcement of a foreign judgment shall be issued until five (5) days after the date the judgment is filed. (I.C. § 10-1303(c))

6.16 DEBTORS EXAMINATIONS

When an execution on a judgment is returned unsatisfied in whole or in part, the judgment creditor is entitled to an order requiring the judgment debtor to appear in court and answer, under oath, any questions concerning his property. Hearing must be held in the county of the judgment debtor's residence. I.C. § 11-501.

Clerical Duties:

1. Schedule the hearing.
2. On the date of the hearing, administer oath to debtor.
3. Record proceedings if requested by either party.
4. Upon request transmit a copy of the record to the county where the judgment is filed.

Note: If it is an out-of-county case, the clerk does not need to create a case in ISTARS.

6.17 JUDGMENTS AFFECTING REAL ESTATE (I.C. § 5-409)

Judgments affecting title or possession of real estate may result in a lien on real property in one or more counties. As a result, clerks must certify and transmit to the other counties a copy of the judgment.

Clerical Duties:

1. Transferring Clerk

Upon receipt of appropriate fees, certify and transmit a copy of the judgment to the county clerk of the county in which real estate is situated.

2. Receiving Clerk

Upon receipt shall file as a foreign judgment in ISTARS, docket, and send a certified copy to the county recorder of the county where the property is situated.

6.18 RENEWAL OF JUDGMENT

The purpose of renewing a judgment is to keep a valid judgment active.

In all cases other than for the recovery of money, the judgment may be enforced or carried into execution after the lapse of five (5) years from the date of its entry, upon motion or by judgment for that purpose. (I.C. § 10-1111 and § 11-105)

Clerical Duties:

1. Collect filing fee.

2. File stamp the Motion for renewed Judgment.

3. Have judge sign order.

4. File stamp order, enter in ROA, and send a copy to the parties.

5. Enter the civil disposition in ISTARS and close the case.

Note: These are timed documents. Judgments are good for 5 years and then must be renewed in order for the judgment to be valid.

6.19 EXECUTIONS

In a Civil case after a judgment is entered, the prevailing party has a right to obtain a "WRIT OF EXECUTION" from the Clerk. The prevailing party must file an affidavit as to the total amount of the judgment, including interest and costs. The writ is forwarded to the Sheriff for service. The writ authorizes the Sheriff to seize property to satisfy the judgment.

Preparation of Writs of Execution

Clerical Duties:

1. Check case file to insure the requesting party is entitled to the writ. Specifically check:
 - a. That there are no active writs on the case, that have been outstanding for 60 days or longer, unless it is a continuous writ for child support.
 - b. That Judgment has been entered and the date of entry.
 - c. Verify the filing of the Affidavit for the amount of the judgment, IRCP 69.
 - d. That Judgment has not been satisfied.
 - e. The issuance of the writ is not occurring beyond 5 years from the date of judgment, unless the judgment has been renewed by court order IC § > 11-105.
2. Collect the appropriate fee.
3. Sign and seal the "Writ of Execution" which is prepared by the prevailing party.
4. Writ of Execution is given to the party to take to the Sheriff of any county in the State. If it requires delivery of real or personal property, it may be issued to the sheriff of the county where the property or some part thereof is situated. Executions may be issued at the same time to different counties. (I.C. § 11-107)
5. Enter on the Register of Actions that a writ has been issued.
6. After the Sheriff has seized the property, the writ is returned to the court for filing.

Clerical Duties on Return on Execution:

1. File the Original Writ and the Sheriff's return of service.
2. Enter "Return of Writ" into the Register of Actions.
3. Note the amount seized in the Register of Actions as per local practice.

6.20 CASE DISMISSAL FOR INACTIVITY

In all civil cases, except guardianship, conservatorship and probate proceedings, in which no action has taken place, or in which the summons has not been issued and served for a period of six months, the case shall be dismissed unless good cause is shown for retaining the case. (I.R.C.P. 40(c))

Clerical Duties:

1. Run ISTARS report that identifies cases eligible for inactivity dismissal.
2. Provide a Notice of Proposed Dismissal to all parties fourteen days prior to the dismissal of the case.
3. If a response is received from a party to retain the case, forward the response to the judge for review, along with the Order of Dismissal/Retention. If the judge decides to retain the case, enter that action into the Register of Actions on ISTARS.
4. For those cases where no response is received, prepare an Order of Dismissal/Retention for the judge to sign.
5. Once the Order of Dismissal/Retention is signed by the judge, file stamp, enter in ROA, and send a copy to parties.
6. Enter civil disposition in ISTARS and close the case.

6.21 FILING FEE SCHEDULE

(Go to Word Processor - **Idaho Rules of Civil Procedure Appendix A**)

APPENDIX A. FILING FEE SCHEDULE--DISTRICT COURT AND MAGISTRATE DIVISION

6.22 EXTRAORDINARY WRITS

Extraordinary writs (or remedies) are court proceedings which take place when usual remedies are not adequate. Certiorari, mandamus and prohibition are the most common extraordinary writs.

1. ***Certiorari*** - writ of review. Certiorari is an extraordinary writ issued by an appellate court at its discretion directing a lower court to deliver the record in the case for review. It is used when there is no right to appeal so the party petitions for the writ to be issued. (I.A.R. 3)
2. ***A writ of mandamus*** (or mandate) is issued by a court to compel performance of an act by a public official; for example, mandamus will be issued to compel a court or a board to allow a person to assume an office to which the person is

entitled. Refer to local protocol to see if a copy needs to be sent to legal counsel for county. (I.C. § 7-302)

3. ***Prohibition.*** A writ of prohibition is issued to stop the performance of an act of a lower court or a board when the court or board is acting in excess of its jurisdiction. (I.C. § 7-401)

Filing the petition for the writ. Writ proceedings begin with the filing of a Petition for Writ. (I.R.C.P. 74)

Clerical Duties:

1. Open a case in ISTARS.
2. Create a case file and send directly to the judge.

Once the judge either grants or denies the petition:

Clerical Duties:

1. File stamp and enter in ROA the order granting or denying the petition.
2. Enter the civil disposition in ISTARS and close the case.

6.23 UNIFORM POST-CONVICTION RELIEF

A person who has been convicted of and sentenced for a crime can institute proceedings, without payment of a filing fee, to seek relief from the conviction or sentence. The grounds for this relief are outlined in the Uniform Post-Conviction Act (I.C. § 19-4901 et. seq.)

Defendant files a verified "Petition for Uniform Post-Conviction Relief." No fee is charged for filing.

Note: In the event the judge grants a hearing after the response by the state, the clerk schedules the hearing on ISTARS.

Clerical Duties:

1. Open a case in ISTARS.
2. Deliver a copy of the petition to the prosecuting attorney and transmit to the sentencing judge immediately.
3. Enter the civil disposition in ISTARS and close the case.

Note: Uniform Post Conviction Relief is a civil action.

Closing the Case

Clerical Duties:

1. When the order granting or denying the petition is received from the judge, file stamp the order and enter in ROA.
2. Send copy of order to the parties.
3. Enter the civil disposition in ISTARS and close the case.

6.24 HABEAS CORPUS

Any person who is confined, restrained or held unlawfully may file a "Petition for Writ of Habeas Corpus". (I.C. § 19-4203)

Clerical Duties:

1. Open a case in ISTARS.
2. File stamp the petition and enter in ROA.
3. Collect the filing fee from non-indigent prisoners. (Note: There may be a motion, affidavit and order for fee waiver. If the judge signs the order, the fees will be waived.)
4. Transmit to the judge immediately and deliver a copy to the prosecuting attorney or legal counsel for your sheriff.

Note: Persons incarcerated can submit written pleadings that are legibly hand printed in black ink. (IRCP 10 (a)(1))

If the judge grants the petition and signs an "Order for Writ of Habeas Corpus":

Clerical Duties:

1. Issue and place a seal on the writ and enter in ROA.
2. If the writ is directed against the sheriff or other officer of the court, serve the writ immediately on that officer. Otherwise, deliver it to the sheriff for service.
3. Mail copies of the order to the prosecuting attorney and public defender (if applicable).

4. Enter the civil disposition in ISTARS and close the case.

If the judge denies the writ:

Clerical Duties:

1. File stamp the order, enter in ROA, and send copies to parties.
2. Enter the civil disposition in ISTARS and close the case.

6.25 UNLAWFUL DETAINER

Disputes between landlords (owner of the property) and their tenants (renters of the property) are often brought to the court to be resolved. A tenant who has not paid rent, has violated a term of the lease or has been given proper notice but refuses to move out is guilty of unlawful detainer. A landlord has the legal right to evict such a tenant under I. C. § 6-303.

A tenant of real property is in unlawful detainer when:

1. The tenant stays on the property after the term of the lease expires.
2. The tenant stays on the property after not paying rent and the 3-day notice in writing requiring its payment is given.
3. The tenant stays after failing to perform other conditions of the lease and the 3-day notice in writing requiring the performance of the conditions is given.
4. When the tenant assigns, sublets or causes damage to the property contrary to the lease and the 3-day notice is given (I.C. § 6-303).

The Landlord must arrange for service of a three-day eviction notice upon the tenant. Service must be done in one of the three ways required by I.C. § 6-304. Within three (3) days after the service of the notice, the tenant may perform the conditions or covenants of the lease, or pay the stipulated rent and thereby save the lease from forfeiture. If the tenant does not comply with the lease in the three-day time period, the landlord can begin the process to evict the tenant.

Filing the complaint

The landlord or his attorney must prepare the Complaint for Unlawful Detainer and Possession and the Summons for Eviction. He/she will come to the court to file the documents with a copy of the 3-Day Notice, the Affidavit of Service or other proof of service and the written lease (if any) attached to the complaint. Don't refuse the filing if all the attachments are not there.

Clerical Duties:

1. Collect the filing fee.
2. File stamp the Complaint, conform two copies, and enter in ROA.
3. Issue the Summons and conform two copies.
4. Issue a Notice of Trial.
5. Set the trial date within 12 calendar days of the filing of the complaint, but at least 5 days after the tenant is served. I.C. § 6-310(5).
7. Return to the plaintiff the original Summons and two copies of both the Complaint and Summons.

Note: A jury trial can be requested in these cases. I.C. § 6-310.

The Trial

At the hearing, the property owner (landlord/plaintiff) must present testimony under oath and provide exhibits establishing a right to a Judgment and Order of Eviction. The tenant will then have an opportunity to present his/her case to the judge. If the tenant does not appear for the trial, a default judgment may be entered. In this Unlawful Detainer action, the plaintiff is entitled to only an order of eviction not a judgment for money (rent, late fees, damages to property).

Issuing the Judgment

If the judge rules for the landlord or a default judgment is entered in the landlord's favor, the judge issues a Judgment and Order of Eviction.

Clerical Duties:

1. File stamp the Judgment and Order of Eviction and enter in ROA.
2. Conform two copies of the judgment.
3. Provide a copy to both the plaintiff and defendant. If the defendant (tenant) is not present, mail a copy of the judgment to him/her.
4. Issue the Form of Execution directed to the sheriff in substantially the same form as in I.C. § 6-311C and conform two copies; provide the original and copies to the plaintiff.

Note: This may be called a writ of assistance, writ of ejectment or writ of restitution.

5. Enter the civil disposition in ISTARS and close the case.

Dismissing the Case

If the judge does not find in favor of the landlord, he/she will issue an Order of Dismissal.

Clerical Duties:

1. File stamp the order and enter in ROA.
2. Conform two copies for the landlord and tenant.
3. Enter the civil disposition in ISTARS and close the case.

6.26 CHANGE OF VENUE IN CIVIL CASES

Change of venue involves transferring the assignment of a case from one county to another. The change must be approved by the court based upon the grounds outlined in the rule. (I.R.C.P. 40(e))

The judge or magistrate must, on a motion pursuant to Rule 12(b), grant a change of venue or change the place of trial to another county when it appears by satisfactory proof that:

1. The county designated in the complaint is not the proper county, or
2. There is reason to believe that an impartial trial cannot be had therein, or
3. The convenience of witnesses and the ends of justice would be promoted by the change.

Filing a Motion for Change. The petitioner files a "Motion and Order for Change of Venue".

Clerical Duties:

1. Collect the fee for your county and the new county; process your county's fee and attach the new county's fee to the order.
2. File stamp motion and enter in ROA.
3. Route the motion and order with the case file to the assigned judge.

Granting a Change of Venue Within the Same Judicial District. The court issues an "Order for Change of Venue" which transfers the case to the new county.

Clerical Duties:

1. Upon granting of the motion, file stamp the "Order for Change of Venue" and enter in ROA.
2. Send filing fee for new court and all original pleadings and papers and a certified copy of the order changing venue to the clerk of the court of new venue.
3. Transfer materials by certified mail.
4. Enter the court of new venue in the ROA, enter the civil disposition in ISTARS and close the case.

Note: The same judge will remain on the case unless the administrative district judge or trial court administrator reassigns it.

Granting a Change of Venue Outside the Judicial District. The court issues an "Order of Change of Venue" which transfers the case to the new county. The judge may desire to continue assignment of the case. If the judge desires to continue assignment over the case, it will state this in the order.

Clerical Duties:

1. File stamp the "Order for Change of Venue" and enter in the ROA.
2. Route the motion and order with the case file to the assigned judge.
3. Upon granting of the motion, file stamp the "Order for Change of Venue" and enter in ROA.
4. Refer the case to the Administrative Director of the Court for assignment by the Supreme Court to a court of proper venue in another judicial district and assignment of a specific judge to preside in the proceeding by filling out a request form (attached). File a copy of the request.

Note: If the reason for the change of venue is filed on the grounds that the county designated in the complaint is not the proper county, you do not need to refer the case to the Administrative Director of the Courts.

5. Hold file until a "Designation of Venue and Assignment of Judge" is received from the Supreme Court.

6. Send all original pleadings and papers and a certified copy of the "Order for Change of Venue" and the "Designation of Venue and Assignment of Judge" along with the filing fee to the clerk of the new court.
7. Transfer materials by certified mail.
8. Enter the court of new venue in the ROA, enter the civil disposition in ISTARs and close the case.

Receiving County

Clerical Duties:

1. Open a case following the procedures for civil actions and open as a case transferred in from another county; process the filing fee.
2. If transferred from within the same judicial district, then the same judge should still be assigned to the case. If from a different judicial district, then there should be an order from the Supreme Court assigning it to the Administrative District Judge. Take this order to the Trial Court Administrator for assignment of the case.

REQUEST FOR ASSIGNMENT--CIVIL

Case No. _____ County: _____ Date Filed: _____

Plaintiff: _____ Attorney: _____

V.

Defendant: _____ Attorney: _____

BRIEFLY DESCRIBE THE ISSUES INVOLVED:

DISQUALIFICATIONS: JUDGE _____ BY _____
(attach copy of order) _____

REASON FOR DISQUALIFICATION:

IF CHANGE OF VENUE, ATTACH ORDER OR EXPLAIN:

ANYTHING UNUSUAL ABOUT CASE NEW JUDGE SHOULD BE TOLD:

ANY URGENCY TO SCHEDULE HEARING OR TRIAL: ☐ YES ☐ NO

EXPLAIN:

STATUS OF CASE:

EST. TRIAL TIME ____ DAYS ☐ Jury Trial ☐ Court Trial

DATE:

SIGNATURE:

SEND REQUEST TO:
CHIEF JUSTICE GERALD SCHROEDER
PO BOX 83720
BOISE ID 83720-0101

6.27 SMALL LAWSUIT RESOLUTION ACT

The Act was designed to reduce the cost of litigation and encourage swift, fair and cost-effective resolution of disputes. It applies only to civil actions in which the sole relief sought is a money judgment that does not exceed twenty-five thousand dollars (\$25,000). It also establishes a new alternative for resolution, evaluation, in which an evaluator essentially determines for the parties the value of the claims. Idaho Code § 7-1501 et. seq. and I.R.C.P. 85

Initiating the Act. To initiate the Act a party must file a notice with the court. The form may be filed in the magistrate court or the district court, depending on the amount of the claim. If the claim is under \$10,000, it is filed in the Magistrate Division; if the claim is \$10,000 or more, it is filed in the District Court.

In the Magistrate Court, the Act must be initiated at least 30 days after the Service of Complaint and at least 100 days before the scheduled trial. In District Court, the Act must be initiated at least 45 days after the Service of Complaint and at least 150 days before the trial. (I.C. § 7-1503 (2))

The form for this notice must be entitled "Notice of Initiation of Proceedings Under the Small Lawsuit Resolution Act". The parties must then decide if they want to attempt to resolve the case by evaluation or mediation.

Selecting an Evaluator

The Supreme Court maintains a list of approved evaluators on its website. Unless a judge has been assigned as an evaluator or the parties have agreed in advance to the selection of a particular evaluator, the clerk must provide each party a list containing the names of the same five randomly selected evaluators. The list must also include the evaluator's hourly rate. If more than two parties are involved, then the clerk must provide ten randomly selected names. The notice requesting the evaluation will designate the number of parties involved so the clerk will know how many names to provide. Requests for replacement list may be submitted within three days. Upon application of any party, made no sooner than 14 days after the filing of the notice of request for evaluation, the clerk shall assign by random lot any of the individuals on the list of evaluators. (I.C. § 7-1504)

After the case is assigned to an evaluator, documents used in the evaluation shall be filed with the evaluator instead of the court. Motions that require the court's assistance may still be filed with the court. During evaluation the court retains jurisdiction over the case and it remains on the court's active calendar as if it were going to trial. (I.C. § 7-1506)

Within 14 days following the evaluation, the evaluator files notice of the decision with the clerk of the court, but not the decision itself. (I.C. § 7-1509(1))

Trial de Novo

Any party who is not satisfied with the decision has 21 days from the filing of the notice of decision to request a trial de novo. The trial is conducted as if the evaluation never took place; however, if the party requesting the trial does not improve his or her position by 15% then that party will be assessed costs, fees and expenses. (I.C. § 7-1509(2))

Filing the Judgment and Evaluators Decision

If no request for a trial de novo is made, any party may present a judgment to the court accompanied by the evaluator's decision. At the end of the case, a statistical form must be filled out by the presiding judge and mailed to the Administrative Director of the Courts. (I.R.C.P. 85)

Clerical Duties:

1. File stamp "Notice of Initiation of Proceedings Under the Small Lawsuit Resolution Act" and enter ROA code: SLRA (for Small Lawsuit Resolution Act).
2. Unless a judge has already been assigned to act as the evaluator or the parties indicate they have already agreed upon an evaluator, provide a list of evaluators-Go to Supreme Court website (www2.state.id.us/judicial/litigros.htm) to find the evaluators for your county. If there are two parties to the lawsuit, then randomly select 5 evaluators and give a list of these 5 names to each party. (The notice will designate the number of parties in the lawsuit.) If there are more than two parties, the list should contain the names of 10 evaluators. The list should include the hourly rate of the evaluator along with the evaluator's name. This information will be on the website. (See attached suggested form.)
3. Each party may request a replacement list within three days and may continue to request replacement lists until they have chosen an evaluator. If asked for a replacement list, follow the same procedure to provide a new list of names to the parties.

Note: The parties may submit a motion for court assistance or clerk assistance in picking an evaluator. Each county should establish their own procedure for random selection of an evaluator by the court or clerk; ask your court supervisor about the procedure in your county.

4. The parties should file a notice of selected evaluator within 10 days of receiving the final list. File stamp the notice and enter in ROA. An ROA entry should be made naming the evaluator.
5. If the parties cannot agree on an evaluator, they may file an application for the court to select one. This should be sent to the court. No hearing is held on this motion.

6. Upon application by any party made no sooner than 14 days after the notice of initiation is filed, the clerk shall assign an evaluator by random lot from the list of evaluators and file notice of the evaluator selected. (See attached suggested form). An ROA entry should be made naming the evaluator.

Note: (After this point all documents relating to evaluation will be filed with the evaluator and not the court.)

7. If a notice of decision of evaluator is presented, file it and enter ROA code "SLDO" (Small Lawsuit Decision Order). This does not end the case. From this point on, all filings will be as in any other civil case.
8. If a "Request for Trial de Novo under the Small Lawsuit Resolution Act" is presented file it and enter ROA code: SLTP (Small Lawsuit Request for Trial Plaintiff) if the request is by the plaintiff, and SLTD (Small Lawsuit Request for Trial Defendant) if the request is by the defendant. Set the case for trial and proceed as in any other civil case.
9. The Statistical Information Form set out in Rule 85(m) of the Rules of Civil Procedure should be prepared by the presiding judge and sent to the Administrative Director of the Courts.
10. Enter the civil disposition in ISTARS and close the case.

SLRA Forms

- Notice of Initiation--District Court SLR 1
- Reply to Notice of Initiation--District Court SLR 1-1
- Notice of Initiation--Magistrate Court SLR 2
- Reply to Notice of Initiation--Magistrate Court SLR 2-1
- Agreement to Mediation/Evaluation SLR 3
- Notice of Completion of Mediation/Evaluation SLR 4
- Motion Seeking Court Assistance SLR 5
- Reply to Motion Seeking Court Assistance SLR 5-1
- Motion for Removal from Evaluation SLR 7
- List of Approved Evaluators SLR 8

- Request for Replacement List of Approved Evaluators SLR 9
- Replacement List of Approved Evaluators SLR 10-1
- Notice of Joint Selection of Evaluator SLR 11
- Motion Seeking Court Assistance in Evaluator Selection SLR 12
- Reply to Motion Seeking Court Assistance in Evaluator Selection SLR 13
- Notice of Selection of Evaluator by Clerk SLR 14
- Application for Evaluator Selection by Clerk SLR 15
- Motion to Challenge Service of Evaluator SLR 16
- Notice of Decline of Appointment by Evaluator SLR 17
- Request for Statement of Damages Sought SLR 19
- Response to Request for Statement of Damages Sought SLR 20
- Notice of Intent to Present Live Expert Testimony SLR 21
- Notice of Evaluation Hearing SLR 22
- Notice of Failure to Schedule Hearing During Prescribed Period SLR 23
- Notice of Issuance of the Evaluator's Decision SLR 24
- Request for Trial DeNovo SLR 25
- Acceptance of Offer of Compromise SLR 27

CLERK OF THE DISTRICT COURT MANUAL

7.0 ESTATE PROCEEDINGS, TRUSTS, AND GUARDIANSHIPS / CONSERVATORSHIPS

Revised December 2006

7.1 OVERVIEW

Generally, this section covers the types of proceedings used to address the estates of both persons who are deceased, with and without a will, (Estate Proceedings) and those who are still alive (Trusts), and who are alive but unable to manage their estates due to their age or disability (Guardianships and Conservatorships).

7.2 ESTATE PROCEEDINGS (FOLLOWING DEATH OF A PERSON) - GOVERNED BY THE “UNIFORM PROBATE CODE”, FOUND IN I.C. §§ 15-1-101 THROUGH 15-7-502

This is the judicial process through which a person is appointed to act for someone who has died, to collect their assets, pay their debts and deliver what is left to the people who are entitled to it. When a person dies, an attorney, relative or other person representing the deceased comes to the court to settle the deceased person's affairs. Bills must be paid, property must be accounted for, and items must be passed on to the people chosen by the deceased person. The applicant files an application (for probate or intestacy), a statement (of probate or intestacy) to be signed by the judge, and letters testamentary. The letters testamentary are signed and sworn to by the Personal Representative, state that the Personal Representative accepts the duties and agrees to carry them out in accordance with the law, and are to be signed by the judge. If the application is for probate, the application includes the original will. Usually the applicant is the person asking to be appointed Personal Representative.

A. *Definitions:*

Administration of the Estate: The process of taking care of decedent's assets and debts and distributing what is left.

Codicil: A supplement or addition to a will, not necessarily disposing of the entire estate but modifying, explaining or otherwise qualifying the will in some way.

Decedent: The individual who is deceased.

Decedent's Estate: The decedent's property including both assets and debts. See: I.C. § 15-1-201(15).

Devisee or Legatee: Someone who is entitled to receive a decedent's property pursuant to a will. I.C. § 15-1-201(11).

Distributee: A person who has received the decedent's property whether under a will or under the laws of intestate succession (no will), but not including any creditors. I.C. § 15-1-201(13).

Formal Proceedings: Can be either with or without a will; conducted before a judge with notice to the parties. I.C. § 15-1-201(19).

Heir: Is someone who is entitled to receive a decedent's property under the laws of intestate succession (no will). I.C. § 15-1-201(21).

Informal Proceedings: A formal hearing where notice is not required, unless demanded - can be with or without a will. See: I.C. § 15-1-201(23).

Intestate Succession (intestacy): Defines how the decedent's estate is to be distributed when a person dies without a valid will.

Personal Representative: person appointed to take care of the decedent's assets, pay the decedent's debts, and distribute what is left. See: I.C. § 15-1-201(34).

Probate: The process for determining that a will is valid.

Probate Proceeding: Estate proceeding where the decedent has left a valid will.

Summary Administration-when small estates are involved: All decedent's property (including assets and debts) may be immediately distributed to persons entitled without notice to anyone, including creditors. See: I.C. § 15-3-1203. When the surviving spouse is the sole devisee or heir, the court does not appoint a personal representative, but enters an order (Decree), after notice and hearing, saying that all the decedent's property passes to the spouse. See: I.C. § 15-3-1205.

Letters Testamentary: The instrument by which a probate court approves the appointment of an executor under a will and authorizes the executor to administer the estate.

Testate: When a person leaves a valid will.

Testator: A person who has made a will; esp., a person who dies leaving a will.

Will: A document indicating how a person wants their estate to be distributed.

B. Registration of Wills (When not filing an estate case.)

Any person who has custody of a will after the testator dies is required to deliver the will with reasonable promptness to a person capable of handling the probate of the will, or to the Court. I.C. § 15-2-902.

Clerical Duties:

1. File stamp the will;
2. Open a case in ISTARS
3. Enter the will in the ROA, and immediately close the case in ISTARS.

Note: There is no fee for registering a will with the court if there is no estate being filed.

C. *Formal vs. Informal Estate Proceedings*

The proceedings will be either formal or informal. The main difference between informal and formal estate proceedings is how the proceeding is started. The attorney or personal representative filing the petition will indicate whether the proceeding is to be formal or informal.

Formal Probate proceedings are governed generally by I.C. §§ 15-3-401 through 15-3-414. With formal probate, the petitioner files a petition, for probate or intestacy, and may also ask for appointment of a Personal Representative. The petitioner schedules the petition for a hearing and gives notice to everyone with a potential interest in the decedent's estate. Anyone with an interest in the estate can file an objection to the petition. If no objection is filed, or after any objections are resolved, the court issues an order appointing the Personal Representative and issues letters testamentary. In formal estate proceedings, the potentially interested parties are given notice and an opportunity to object before the court appoints the Personal Representative.

Informal Probate proceedings are governed generally by I.C. §§ 15-3-301 through 15-3-311. In an informal estate proceeding, the court appoints the Personal Representative without notice and opportunity to object, unless a demand for notice is made. Once appointed, the Personal Representative gives notice to all heirs and devisees. The Personal Representative then proceeds to administer the estate, and close the estate, as in formal proceedings. However, because formal estate proceedings are more likely to be contested, the authority of the Personal Representative is more likely to be limited or subject to special requirements that are spelled out in the order of appointment and the letters testamentary. For example, the Personal Representative may be required to post a bond, obtain court approval before making certain types of actions (like selling real property), submit periodic accountings, or follow the procedures for formal closing of an estate by court order. If someone wants to object after the Personal Representative is appointed, he or she has to file a petition for formal probate.

Clerical Duties:

1. Collect the filing fee and petition;
2. File stamp the petition and other documents filed;
3. Open a case in ISTARS;
4. Indicate if the case is informal or formal;

5. Enter documents received in the ROA;
6. If the letters testamentary are submitted, obtain the judge's signature, certify and send the copies, and file the original;
7. Enter the civil disposition and close the case in ISTARS.
8. If requested, set a hearing date and send notice;

D. Giving Notice

Devises, legatees or heirs: The Personal Representative gives notice to all devisees, legatees or heirs who might be entitled to distribution of the property. If any of the people entitled to distribution of the estate want to contest the proceeding, they can file an objection. The contestant may want to contest the validity of the will, assert the existence of a previously unknown will, or seek appointment of a different Personal Representative.

Creditors: The Personal Representative gives notice to any creditors who may have a claim that the decedent owed them money, including notice by publication. The notice includes a deadline for creditors to file claims.

Affidavits of Service: The Personal Representative should file affidavits of service. The Personal Representative will need them to formally close the estate.

Demand for Notice: Persons with an interest in the estate may also demand that they be given notice of further proceedings. I.C. § 15-3-204. This can be done at any time after death and may be filed with Court before an estate proceeding is filed. If such Demand is filed, the clerk is required to send a copy of it to the Personal Representative.

Clerical Duties:

1. File stamp and file Affidavit of Service or Demand for Notice and enter in ROA;
2. If a Demand for Notice is received, add that person as a party in ISTARS, and send a copy to the Personal Representative (if one has been appointed);
3. Make sure you file a Certificate of Service to evidence you have sent the Demand for Notice;

Note: If an estate has not been filed, do not assign a case number or set up a court file. Keep all of these Demands for Notice in a file folder together. On a weekly basis, check to see if an estate has been filed. If one has been filed, you will place the Demand for Notice in that case file and send a copy to the Petitioner and/or Personal Representative.

E. Filing Motions or Objections

An interested person may file an objection to the proposed probate and/or distribution, which the Court will determine at a hearing. Sometimes an issue arises during the Personal Representative's administration of the estate that the interested parties want

resolved by the court, but the parties don't want to opt into a full-scale formal probate proceeding. In those instances, the parties will file motions asking the court to resolve an issue. For example, an issue may arise as to whether a creditor's claim is valid, or whether a particular piece of property is owned by the decedent and therefore included in the decedent's estate, etc.

Clerical Duties:

1. Collect any applicable filing fee;
2. File stamp the motion and enter in ROA;
3. Schedule a hearing in ISTARS (if any);

F. Distribution and Closing the Estate – with or without Court Order

The Personal Representative pays the decedent's debts and distributes what is left to the people who are entitled to it under the will or, if there is not a will, under the laws of intestate succession. In most cases, the Personal Representative will simply go forward with the Personal Representative's duties once he/she receives the letters testamentary, without any further court action.

Sometimes the Personal Representative will prepare a written inventory and schedule of distribution, file it with the court, file a motion for approval of the inventory and schedule and notice it up for hearing. If no objections are filed or after any objections are resolved, the court enters an order approving the inventory and schedule or modifying them based on the objections. The order is usually called an Estate Closing Order, even though the estate proceeding is actually not completed until the property is distributed and the Personal Representative is discharged. The Personal Representative then distributes the estate pursuant to the order. A Personal Representative will sometimes seek distribution pursuant to the court order to minimize their potential liability-the potential for persons with an interest in the estate to later claim that the Personal Representative did not properly collect and distribute the decedent's assets.

Sometimes a person with an interest in the decedent's estate will file a motion with the court asking the court to require an inventory and schedule. A person with an interest in the estate might do this for two reasons. One, they might want to verify that the Personal Representative is properly accounting for all the property and properly distributing it. Two, they might want to minimize the potential for other sponsors with an interest in the estate to later claim that the Personal Representative did not properly collect and distribute the decedent's assets to avoid the possibility that they might have to give back any property that was improperly distributed.

In most cases, the Personal Representative does not do anything to close the estate on the record-he/she just distributes the estate and stop there. Closing the estate on the record, though, protects the Personal Representative from claims that he/she did not properly distribute the estate, and protects the distributees from claims that they have to give the property back to satisfy someone else's claim.

Clerical Duties:

1. File stamp the original and certify copies of the Letters Testamentary and any Orders or Decrees signed by the Judge. (The letters testamentary may have already been submitted when filing the petition.);
2. Enter documents in ROA.
3. Fill out certificate of mailing and send to parties;
4. Enter the civil disposition and close the case in ISTARS.

Note: A Petition for Final Accounting and the Petition for Distribution require payment of a fee at time of filing.

7.3 TRUSTS (GOVERNED BY I.C. §§ 15-7-101 THROUGH 15-7-502)

A. *Definitions*

Trust: A right of property, real or personal, held by one person for the benefit of another. See also, I.C. § 15-1-201(49).

Trustee: The person responsible for administering a trust. See. I.C § 15-1-201(50).

Beneficiary: Any person having any present or future interest in a trust or who is entitled to enforce a trust. I.C. § 15-1-201(3).

B. *Registration of Trusts*

The trustee of a trust shall register the trust in the court of this state at the principle place of administration. I.C. § 15-7-101. This is done by filing a statement indicating the name and address of the trustee and acknowledging the trusteeship. I.C. § 15-7-102.

Clerical Duties:

1. There is no filing fee for registering a trust;
2. File stamp Statement and enter in ROA;
3. Open and immediately close the case in ISTARS and enter the civil disposition.

C. *Types of Proceedings Involving A Trust*

Interested parties concerning the internal affairs of a trust may initiate many types of proceedings, including, but not limited to: appointment or removal of a trustee, review trustee's fees and accounting, determine beneficiaries, questions regarding administration or distribution, to instruct trustees and determine their rights and duties and to release registration of a trust. I.C. § 15-7-201. These proceedings are initiated by filing a

Petition in the Court where the trust is registered and giving notice to all interested parties. I.C. § 15-7-206.

Clerical Duties:

1. Collect appropriate filing fee;
2. File stamp Petition and open case in ISTARS, schedule hearings in ISTARS if requested. If not, enter the civil disposition and close the case.

D. Bonds (I.C. § 15-7-304.)

Normally, a trustee need not provide bond to secure his or her performance. However, the trust document may require it, or an interest person may petition for this requirement. If bond is required, it shall be filed with the Court where the trust is registered.

Clerical Duties:

1. Accept bond, enter in ISTARS, and give receipt;
2. Schedule hearing in ISTARS if requested. If not, enter the civil disposition and close the case.

E. Appointment of Trustee

Upon Application to the Court where the Trust is registered, and after notice to all interested persons and a hearing, the Court may appoint the Trustee. I.C. § 15-7-403. Upon the filing of an Acceptance of Duties, which contains an oath, the Court shall issue Letters of Trusteeship. These letters may be recorded in the recorder's office to give notice to all persons.

Clerical Duties:

1. Collect appropriate filing fee and accept Application, Notice of Hearing and any proposed Letters;
2. Open a case in ISTARS;
3. File stamp Application and Notice and enter in ROA, place proposed Letters in file;
4. Send conformed copies of Notice to Applicant for them to serve;
5. After hearing, file stamp any Orders and Letters of Trusteeship the judge has signed and enter in ROA;
6. Send copies to all parties who have appeared (certified copy of Letters to the Trustee);
7. Enter the civil disposition and close the case in ISTARS.

7.4 GUARDIANS AND CONSERVATORS (I.C. §§ 15-5-101 through 15-5-603)

A. *Definitions*

Guardian: A person who is appointed by will or the Court and who has the powers and responsibilities of a parent of either a minor or an incapacitated person. I.C. §§ 15-1-201(20), 15-5-209 (minors) and 15-5-312 (incapacitated persons).

Ward: The person for whom a guardian is appointed. I.C. § 15-5-101(d).

Estate: Means all property of the ward, including community property and trust property. I.C. 15-1-201(15).

Conservator: A conservator is a person who is appointed by the Court to manage the estate of a minor or incapacitated person. I.C. § 15-1-201(7).

Interested person: Includes heirs, devisees, children, spouses, creditors, beneficiaries and any others having a property right in or claim against a trust estate or the estate of a decedent, ward or protected person which may be affected by the proceeding. I.C. § 15-1-201(24).

Note: In many cases, the guardian and the conservator may be the same person. In others, they are different, especially in cases where potential conflict of interest exists.

B. *Appointment and Removal of Guardian for minor*

Appointment by Will (Testamentary Appointment)

A parent of a minor may appoint a guardian of a minor in his or her will. I.C. § 15-5-202. This appointment becomes effective upon filing the Guardians Acceptance of Appointment in the Court where the will is being probated, **if both parents are dead.**

Clerical Duties:

1. Collect the filing fee, file stamp the Acceptance of Appointment **if** it is accompanied by a family law case information sheet, open a case in ISTARS, and enter the documents in the ROA;
2. File signed order of appointment and letters of guardianship and send certified copies to the appointee as requested.
3. Enter appointment and reporting requirements on the appropriate party screen.
4. Enter civil disposition and close the case in ISTARS.

Note: The Family Law Case Information Sheet is exempt from disclosure pursuant to I.C.A.R. 32.

Appointment by Petition

Proceedings may be initiated by the filing of a Petition by any relative, the minor if at least 14 years old, a de facto custodian of the minor, or any person interested in the welfare of the minor. I.C. § 15-5-207. Notice of the time and place for the hearing on the Petition is given by the Petitioner to the Minor (if 14 or over), the person who has custody of the minor, any de facto custodian of the minor, and any living parent of the minor. I.C. § 15-5-207(a). The Court may appoint an attorney to represent the minor in some cases. I.C. § 15-5-207(d).

Clerical Duties:

1. Collect the filing fee, file stamp the Petition **if** it is accompanied by a family law case information sheet, open a case in ISTARS, and enter the documents in the ROA.
2. Send out Order Appointing Attorney (if any) and enter in ISTARS.
3. Schedule a hearing in ISTARS and give a date to Petitioner to use in Notice.

Note: The Family Law Case Information Sheet is exempt from disclosure pursuant to I.C.A.R. 32.

Hearing

If after the hearing the Court finds that the welfare and best interests of the minor will be served by the Appointment, it shall order the appointment. I.C. § 15-5-207(b). An order of Appointment will be signed, along with Letters of Guardianship. The Court may also appoint a temporary Guardian, enter a temporary Order and issue temporary Letters, which shall not last longer than 6 months. I.C. § 15-5-207(c).

Clerical Duties:

1. File stamp Order and Letters, and enter in ROA;
2. Send copies of Order and Letters to all parties;
3. Send certified copy of letters to Guardian;
4. Enter civil disposition and close the case in ISTARS.

Termination or Removal

A guardian's authority and responsibility terminates upon death, resignation or removal of the guardian or upon the minor's death, adoption, marriage or majority. I.C. § 15-5-210. Any person interested in the welfare of a ward, or the ward if 14 or older, may petition for the removal of a guardian, which may be granted after notice and a hearing. I.C. § 15-5-212.

Clerical Duties:

1. Collect filing fee, file stamp Petition for removal, and enter in ROA;
2. Re-open case in ISTARS;
3. Schedule a hearing in ISTARS;
4. After hearing, file stamp any orders signed by judge, enter in ROA, and send copies to all parties who have appeared;
5. Enter civil disposition and close the case in ISTARS.

Accounting of Ward's Condition by Guardian

A guardian must report the condition of the ward and the ward's estate annually. I.C. § 15-5-419.

Clerical Duties:

1. Collect filing fee, file stamp Petition, and enter in ROA;
2. Re-open case in ISTARS;
3. Schedule a hearing in ISTARS;
4. After hearing, file any orders signed by judge, enter in ROA, and send copies to all parties who have appeared;
5. If Accounting reports are ordered, enter the reporting requirements information in the party screen.
6. Enter civil disposition and close the case in ISTARS.

If accounting reports have been ordered:

1. When Accounting arrives, collect filing fee, file stamp, enter in ROA, and bring to attention of assigned judge. Enter the received date in the reporting requirements information in the party screen. Enter new reporting date requirement.
2. If Accounting does not arrive, send written notice of failure to do so (including reference to two-month grace period), then enter a new reminder for two months. If Accounting does not arrive pursuant to notice, bring it to the attention of the assigned judge for further action;
3. If any orders approving accounting are signed, file stamp, enter in ROA, and send copies;

C. Appointment of Guardian of Incapacitated Person

Appointment by Will (Testamentary Appointment)

The parent of an incapacitated person may appoint a guardian of their incapacitated child in their will. I.C. § 15-5-301(a). The spouse of an incapacitated person may also appoint a guardian in his or her will. I.C. § 15-5-301(b). The appointment becomes effective upon filing an Acceptance of Guardianship with the Court where the probate is filed and

after 7 days notice of the guardian's intention to do so is given to the incapacitated person and the person having the care of him.

Clerical Duties:

1. Collect the filing fee, file stamp the Acceptance of Appointment **if** it is accompanied by a family law case information sheet, open a case in ISTARs, and enter the documents in the ROA.
2. If Accounting reports are ordered, enter the reporting requirements information in the party screen.
3. Enter the civil disposition and close the case in ISTARs.

Note: The Family Law Case Information Sheet is exempt from disclosure pursuant to I.C.A.R. 32.

If accounting reports have been ordered:

1. When Accounting arrives, collect filing fee, file stamp, enter in ROA, and bring to attention of assigned judge. Enter the received date in the reporting requirements information in the party screen. Enter new reporting date requirement.
2. If Accounting does not arrive, send written notice of failure to do so (including reference to two-month grace period), then enter a new reminder for two months. If Accounting does not arrive pursuant to notice, bring it to the attention of the assigned judge for further action;
3. If any orders approving accounting are signed, file stamp, enter in ROA, and send copies.

Appointment of Guardian, Attorney, Physician, and/or Visitor by Court

The incapacitated person, or any person interested in his/her welfare, may Petition the Court for a finding of incapacity and appointment of guardian. I.C. § 15-5-303(a). Any competent person or a suitable institution may be appointed as a guardian. I.C. § 15-5-311. Upon the filing of a Petition, the Court shall set a hearing date. I.C. § 15-5-303(b). Notice of the hearing on the Petition shall be given to the proposed ward and a spouse, or if none, the ward's children, or if none, the ward's parents, or if none, the closest relative, any person currently serving as guardian or who has custody of the ward; and any person who has filed a request for notice. I.C. § 15-5-309(a). This is usually done by the Petitioner or his/her attorney because personal service is required unless the person is out of state. I.C. § 15-5-309(b).

If the alleged incapacitated person does not have an attorney, the Court shall appoint an attorney to represent him or her. The Court is also required to appoint a physician to examine the proposed ward and submit a written report to the Court. The Court shall also appoint a "visitor" to interview the proposed ward, the Petitioner and proposed guardian and visit the place where the proposed ward is living and is proposed to reside. If an

emergency exists such that substantial harm to the ward is likely, the Court may appoint a temporary Guardian. I.C. § 15-5-310. This type of Guardianship cannot exceed 60 days. This can be done without a hearing only if the Court finds from an affidavit or other sworn testimony that the proposed ward will be substantially harmed. I.C. § 15-5-310(c). If the Court appoints without a hearing, notice of the appointment must be given to the ward within 48 hours and a hearing must be scheduled within 5 days of the appointment.

Clerical Duties:

1. Collect the filing fee, file stamp the Petition, **if** it is accompanied by a family law case information sheet, and proposed orders, open a case in ISTARS, and enter the documents in the ROA.
2. Schedule a hearing in ISTARS and give date to Petitioner to use in Notice;
3. Give file to assigned judge to review and sign orders appointing attorney, physician and visitor;
4. When signed, file stamp Order and letters, enter in ROA, and send out certified copies;
5. If an emergency temporary appointment is ordered, hearing must be set within 5 days;
6. If Accounting reports are ordered, enter the reporting requirements information in the party screen.
7. Enter the civil disposition and close the case in ISTARS.

Note: The Family Law Case Information Sheet is exempt from disclosure pursuant to I.C.A.R. 32.

If accounting reports have been ordered:

1. When Accounting arrives, collect filing fee, file stamp, enter in ROA, and bring to attention of assigned judge. Enter the received date in the reporting requirements information in the party screen. Enter new reporting date requirement.
2. If Accounting does not arrive, send written notice of failure to do so (including reference to two-month grace period), then enter a new reminder for two months. If Accounting does not arrive pursuant to notice, bring it to the attention of the assigned judge for further action;
3. If any orders approving accounting forms are signed, file stamp, enter in ROA, and send copies.

Hearing on Petition

If the Court finds that the proposed ward is incapacitated and that appointment of a guardian is necessary or desirable to provide care and supervision of the ward, it may appoint the Guardian. I.C. § 15-5-304(b). An Order of Appointment will be signed, along with Letters of Guardianship. The Court may also appoint a temporary Guardian, enter a temporary Order and issue temporary Letters, which shall not last longer than 90 days. I.C. § 15-5-310.

Clerical Duties:

1. File stamp Order and Letters, and enter in ROA;
2. Send copies of Order and Letters to all parties;
3. Send certified copy of letters to Guardian;
4. If Accounting reports are ordered, enter the reporting requirements information in the party screen.
5. Enter civil disposition and close the case in ISTARS.

Termination and Removal of Guardian

The authority and responsibility of a guardian for an incapacitated person terminates upon the death of the guardian or ward, the determination of incapacity of the guardian, or upon removal or resignation. > I.C. 15-5-306. The Guardian may be removed upon a Petition by the ward or any person interested in his welfare and the Court may appoint a successor guardian or make other orders as necessary. I.C. 15-5-307.

Clerical Duties:

1. Collect filing fee, file stamp Petition for removal, and enter in ROA;
2. Re-open case in ISTARS;
3. Schedule a hearing in ISTARS;
4. After hearing, file stamp any orders signed by judge, enter in ROA, and send copies to all parties who have appeared;
5. Enter the termination date on the party screen.
6. Enter civil disposition and close the case in ISTARS.

Accounting of Ward's Condition by Guardian

A guardian shall be required to submit a report to the Court annually regarding the status of the ward and shall provide copies of the report as ordered. I.C. §§ 15-5-312(a)(5) and 15-5-419. When annual or periodic reports are ordered, either by statute or by the court, the clerk shall enter a reminder to ensure that these reports are timely received.

Clerical Duties:

1. When Accounting arrives, collect filing fee, file stamp, enter in ROA, and bring to attention of assigned judge. Enter the received date in the reporting requirements information in the party screen. Enter new reporting date requirement.
2. If Accounting does not arrive, send written notice of failure to do so (including reference to two-month grace period), then enter a new reminder for two months. If Accounting does not arrive pursuant to notice, bring it to the attention of the assigned judge for further action;
3. If any orders approving accounting are signed, file stamp, enter in ROA, and send copies;

D. Conservators (Protection of property of minor or incapacitated person.)

Appointment of Conservator for either a minor or an incapacitated person

A Petition for appointment of a conservator may be filed by the person to be protected; any person interested in his estate, affairs or welfare; or any person who would be adversely affected by lack of effective management of his property and affairs. I.C. § 15-5-404. An individual or a corporation with general power to serve as trustee may be appointed as a conservator. I.C. § 15-5-410. Upon receipt of the Petition, the Court shall set a date for hearing. I.C. § 15-5-407(a) and (b). The Court may appoint an attorney to represent the minor or incapacitated person. Notice of the hearing on the Petition must be served personally upon the proposed protected person and his spouse, or if none, his parents and any person who has filed a request for notice. I.C. § 15-5-405. If a person desires notice of these proceedings, they may file a request with the Court and the clerk shall, upon payment of the appropriate filing fee, mail a copy of the request to the Petitioner (or Conservator if already appointed). I.C. § 15-5-406.

The Court may appoint a temporary conservator without a hearing if there is sworn testimony that an emergency exists. I.C. § 15-5-407A. This type of appointment shall be for no more than 90 days. A petition for appointment of temporary conservator must be accompanied by a petition for appointment of permanent conservator. I.C. § 15-5-407A(e).

Clerical Duties:

1. Collect the filing fee, file stamp the Petition, **if** it is accompanied by a family law case information sheet, and proposed orders, open a case in ISTARS, and enter the documents in the ROA.
2. Schedule a hearing in ISTARS and give date to Petitioner to use in Notice;
3. Give file to assigned judge to review and sign orders appointing conservator
4. When signed, file stamp Order and letters, enter in ROA, and send out certified copies;

5. If Accounting reports are ordered, enter the reporting requirements information in the party screen.
6. Enter the civil disposition and close the case in ISTARS.

Note: The Family Law Case Information Sheet is exempt from disclosure pursuant to I.C.A.R. 32.

If accounting reports have been ordered:

1. When Accounting arrives, collect filing fee, file stamp, enter in ROA, and bring to attention of assigned judge. Enter the received date in the reporting requirements information in the party screen. Enter new reporting date requirement.
2. If Accounting does not arrive, send written notice of failure to do so (including reference to two-month grace period), then enter a new reminder for two months. If Accounting does not arrive pursuant to notice, bring it to the attention of the assigned judge for further action;
3. If any orders approving accounting are signed, file stamp, enter in ROA, and send copies;

Hearing on the Petition

After the hearing, if the Court finds a basis for the appointment of a conservator, the Court shall make an appointment or other appropriate order. I.C. § 15-5-407(c). An order of Appointment will be signed, along with Letters of Conservatorship.

Clerical Duties:

1. File stamp Order and Letters, and enter in ROA;
2. Send copies of Order and Letters to all parties;
3. Send certified copy of letters to Conservator;
4. If Accounting reports are ordered, enter the reporting requirements information in the party screen.
5. Enter civil disposition and close the case in ISTARS

If accounting reports have been ordered:

1. When Accounting arrives, collect filing fee, file stamp, enter in ROA, and bring to attention of assigned judge. Enter the received date in the reporting requirements information in the party screen. Enter new reporting date requirement.
2. If Accounting does not arrive, send written notice of failure to do so (including reference to two-month grace period), then enter a new reminder for two months. If Accounting does not arrive pursuant to notice, bring it to the attention of the assigned judge for further action;

3. If any orders approving accounting are signed, file stamp, enter in ROA, and send copies;

Bond

The Court may require a Conservator to furnish a bond conditioned upon faithful discharge of all duties of the trust according to law. I.C. § 15-5-411.

Clerical Duties:

1. Accept bond, enter in ISTARS, and give receipt;

Proceedings after appointment of Conservator

Any person interested in the welfare of a person for whom a conservator has been appointed may file a petition requesting: 1) bond, or more or less bond; 2) an accounting; 3) directions for distribution; 4) removal of conservator and appointing a new conservator; or 5) other relief. I.C. § 15-5-416. After notice and a hearing, the Court may make any appropriate order.

Clerical Duties:

1. Collect any required filing fee, accept Petition and file stamp it, and enter in ROA;
2. Schedule hearing in ISTARS

Accounting of Ward's Estate by Conservator

A Conservator shall submit a written report to the Court annually regarding the status of the ward and shall provide copies of the report as ordered. I.C. § 15-5-419.

Clerical Duties:

1. When Accounting arrives, collect filing fee, file stamp, enter in ROA, and bring to attention of assigned judge. Enter the received date in the reporting requirements information in the party screen. Enter new reporting date requirement.
2. If Accounting does not arrive, send written notice of failure to do so (including reference to two-month grace period), then enter a new reminder for two months. If Accounting does not arrive pursuant to notice, bring it to the attention of the assigned judge for further action;
3. If any orders approving accounting are signed, file stamp, enter in ROA, and send copies;

Note: The "Idaho Handbook for Conservators" is a useful resource to provide to those who have been appointed as conservators. Please contact the Idaho Supreme Court at (208) 947-7417 if you would like to obtain a copy of this publication.

7.5 PETITION TO COMPROMISE A MINOR'S CLAIM

A "Petition to Compromise a Minor's Claim" may be filed when a minor has a disputed monetary claim against another person. The parents with whom a minor resides and who have the care and custody of the minor may compromise or settle his claim. However, before it is valid, the compromise must be approved by the court. I.C. § 15-5-409a. The Court may enter an Order approving the compromise or enter other appropriate orders. No hearing is required by the Code, but most Courts hold a hearing.

Clerical Duties:

1. Accept Petition, file stamp, and enter in ROA;
2. Schedule a hearing in ISTARS;
3. After hearing, file stamp and enter in ROA any orders signed by judge and send copies to all parties;
4. Enter civil disposition and close the case in ISTARS.

Note: No filing fee is charged for minor's claim; however, if the person is also petitioning for appointment of conservator, a filing fee is assessed.

CLERK OF THE DISTRICT COURT MANUAL

8.0 SMALL CLAIMS

Revised October 2006

8.1 FILING THE CLAIM

The "Small Claims Department of the Magistrate's Division" shall have jurisdiction in cases for the recovery of money where the amount of each claim does not exceed five thousand dollars (\$5,000), and in cases for the recovery of personal property where the value of the property does not exceed five thousand dollars (\$5,000); provided however, that the small claims department shall not award punitive damages or damages for pain or suffering in any proceeding. I.C. 1-2301 et. seq.

Small claims shall be prepared by the claimant upon a form furnished by the Court and shall be filed by the clerk upon payment of the statutory filing fees (see Filing Fee Schedule), but the clerk may assist in the preparation of the claim form when requested by the claimant. Any individual 18 years of age or older, partnership, corporation or association may file a small claim as a plaintiff in the action, which may be signed by an employee of the plaintiff. IRCP 81(a). This includes collection agencies and government entities. (The fee is waived for state and local government filings.)

8.2 VENUE

An action brought in the small claims department shall be brought in the county where the defendant resides or the county where the cause of action arose. However, the clerk should not refuse a claim if filed in an improper venue. In this case, a defendant may request a change of venue if an action is brought in an improper county. I.C. § 1-2301.

8.3 FILING THE ANSWER

IRCP 81(a) has been amended to provide for the filing of answers in small claims cases. The court shall furnish to the plaintiff a form of answer at the time of filing the claim. There is no fee to file an answer. Plaintiff must show by return of service or affidavit that instructions and form of answer were served upon the defendant(s) at the time of service of the claim. The instructions and answer shall notify the defendant that defendant must file the answer with the court, and unless filed within 20 days of service, default will be entered against defendant(s). In the event defendant(s) fails to file an answer or request for trial, plaintiff may secure entry of default as provided in Rule 55, IRCP.

8.4 COUNTERCLAIMS

There shall be no counterclaims filed on a small claim already filed. However, this shall not prevent the filing of a separate small claim in the small claims department, regardless of the residence of the original plaintiff. Such claim may be consolidated for hearing with the original small claim at the discretion of the magistrate hearing the initial small

claim. IRCP 81(b)

8.5 MEDIATION

Some counties have started a mediation program. In mediation, the plaintiff and the defendant will meet with a *mediator*, a person who will help the plaintiff and the defendant try to settle their case. The mediator is like a judge, in that the mediator is *neutral*—the mediator is not on plaintiff's side or the defendant's side. The mediator is different from a judge, in that the mediator does not decide the case—the mediator tries to help both parties come to an agreement, and it is up to each party to make their own decision about whether they want to agree to a settlement.

The Idaho Supreme Court has a list of mediators that have been approved for use in court-ordered mediation as well as suggested forms located at www2.state.id.us/judicial.

8.6 ATTORNEYS

Any party in a small claims action may appear in person or by an authorized non-attorney employee. No attorney can appear with or for a party in any hearing on a small claims action. However, an attorney may appear on appeal or on post-judgment hearings including a hearing on a post-judgment motion to set aside, modify or execute a judgment. IRCP 81(d)(1) An attorney or law firm may appear before the court as any other plaintiff or defendant in a case as long as the attorney or law firm is the actual party involved in the claim.

8.7 WITNESSES

Any party to a small claims proceeding may bring to the hearing witnesses who shall be sworn and may testify on behalf of either party to the small claim. Any party to a small claims action may also subpoena witnesses to the small claims proceeding by a subpoena issued and served in the manner provided by the IRCP, but all costs of service of the subpoena and all witness costs shall be paid for by the party issuing the subpoena to the witness and shall not be included as costs in the small claims proceeding. IRCP 81(d)(2), IRCP 45(c)(2).

8.8 DISQUALIFICATION

The presiding magistrate in a small claims proceeding may be disqualified in the same manner as a presiding judge of a civil action. IRCP 81(e).

8.9 DISMISSAL FOR INACTIVITY OR LACK OF SERVICE

Small claims cases may be dismissed for inactivity or lack of service. Cases may be dismissed without prejudice if service has not been perfected within 30 days. IRCP 81(f) Once an answer has been filed, only a judge can dismiss the case.

Clerical Duties:

1. Prepare the order for dismissal.
2. Submit the order to the judge.
3. File stamp the original and send a copy to the plaintiff.
4. Dismiss on ROA screen in ISTARs with right to refile. (Case may be reopened within 6 months of the original filing date.)
5. Close the case in ISTARs.

8.10 RECORD

A record or recording of any proceeding in the small claims department is not required. IRCP 81(g)

8.11 COSTS ON APPEAL

Costs on appeal shall be awarded in a sum not to exceed fifty dollars (\$50) and shall be awarded to the prevailing party in the appeal. I.R.C.P. 81(p)

8.12 ATTORNEY FEES ON APPEAL OR POST-JUDGMENT MOTIONS

Attorney fees may be awarded by the court on appeal or on post-judgment motions. Rule 54(e). IRCP 81(q).

8.13 SMALL CLAIMS PROCEDURES

Clerical Duties:

1. Give plaintiff a copy of the pamphlet "Information for Plaintiffs in Small Claims Cases" published by the Administrative Office of the Courts.
2. Provide the plaintiff with a claim form to complete. The plaintiff's signature on the form must be witnessed either by a deputy clerk or by a notary public.

Note: Counties must accept forms downloaded from the Internet. If the clerk requires additional time to file stamp and process the Internet forms, the party can be asked to return at a later time to pick up the filed documents.

Counties are not required to send forms to parties free of charge. Advise the callers to send a self-addressed, stamped envelope or to download the forms from

the Internet.

3. Once the Claim Form has been completed and the plaintiff is ready to file a small claim action, collect the filing fee.
4. Place the filing stamp on the document.
5. Assign a Court docket number to the new filing.

Note: If this is a claim that was previously dismissed for lack of service and it is within six months of the original filing, the party should file the claim with the same case number. No filing fee is charged to refile the claim.

6. Plaintiff determines how defendant is to be served. Service must be made by a person over the age of eighteen (18) years of age that is not a party to the claim. Some available choices are: Service via Certified/Restricted Mail, Service by Sheriff's Dept., and Service by a Process Server.
 - A. If the Sheriff or Process Server serves the defendant, provide a copy of the Claim Form, Answer Form, Summons and pamphlet entitled "Information for Defendants in Small Claims Cases."
 - B. If service by certified mail to the defendant, collect postage costs for certified, restricted mail of the entire package. Forward a copy of the Claim Forms, Answer Form, Summons, and pamphlet entitled Information for Defendants in Small Claims Cases." File receipt of certified mail form in the file.

The original documents are maintained in the court file.

The plaintiff will be responsible to provide proof of service to the Court before the scheduled hearing date.

Note: As soon as the Plaintiff advises you how to proceed with service, the Plaintiff could be excused before you complete the processing of the cases.

7. Build your case.
 - A. Add Plaintiff.
 - B. Add Defendant.
 - C. Print File Label.
 - D. Tickle for proof of service in 30 days.

8. If Proof of Service received, tickle for receipt of answer in 20 days from date of service.
9. If Proof of Service not received:
 - A. Dismiss the case for lack of service in ISTARS.
 - B. Send Order of Dismissal.
10. *If Answer received*, schedule a contested hearing. Complete the Notice of Hearing and send to both parties. Defendant must be served at least fourteen (14) days before the date of the hearing.

Note: If the defendant agrees with the claim, your judge will decide whether to schedule a hearing.

If no Answer received, schedule a default hearing if your county hears default cases. Complete the Notice of Hearing and send to the plaintiff. (Some counties may not hear default cases but require the plaintiff to complete and file an affidavit in support of the claim. In these counties, it is the responsibility of the plaintiff to determine if an answer has not been filed and come to the court to complete the paperwork.)

8.14 TIME STANDARDS

The Small Claims time standards require that cases be resolved within 90 days from filing of the complaint.

8.15 THE HEARING

Plaintiff or an employee of plaintiff must appear and establish the claim by evidence satisfactory to the court, unless the defendant fails to answer and the court is prepared to enter a default judgment on the paperwork submitted by the plaintiff. The Defendant must appear to defend his objection to the claim by evidence satisfactory to the court.

8.16 DISMISSAL OF CLAIM AFTER HEARING

Clerical Duties:

1. Service of the Order of Dismissal on both the plaintiff and the defendant is the responsibility of the Clerk.
2. Service may be made by either personal delivery or by mailing to their addresses determined by the court most likely to give notice to the parties. I.R.C.P. 81(h).

3. Enter the hearing results for the hearing, enter the dismissal into the ROA.
4. Close the Case on ISTARS.

8.17 ENTRY OF JUDGMENT

The judge shall enter judgment in accordance with his/her decision upon a form furnished by the Court. If the defendant failed to appear at the hearing, the judgment may not be appealed unless a Motion to Set Aside Default Judgment is granted by the judge. If the defendant appeared at the hearing, the time for appeal begins to run upon the filing of the Judgment in the clerk's office and not upon the signing of the Judgment by the judge. I.R.C.P. 81(h)

Clerical Duties:

1. If the judgment is in favor of the plaintiff, give the plaintiff the pamphlet "How to Collect a Small Claims Judgment", published by the Administrative Director of the Courts.
2. Upon entry of Judgment, place the filing stamp on the original of the Judgment and file the judgment.
3. Service of the Judgment on both the plaintiff and the defendant is the responsibility of the clerk. Include a Satisfaction of Judgment Form with the plaintiff's copy if the plaintiff prevailed.
4. Service may be made by either personal delivery or by mailing to their addresses determined by the court most likely to give notice to the parties. IRCP 81(h).
5. Complete a Certificate of Mailing certifying the date and type of service and place in the file.
6. Enter the hearing results for the hearing, enter the judgment into the ROA, and close the case on ISTARS.

8.18 WRITS OF EXECUTION, POSSESSION AND GARNISHMENT

A Writ is issued to assist the claimant in collecting on his judgment. The most common ways to execute on a judgment are to *garnish wages*, or to *attach personal property*. Execution shall be prepared by the claimant and issued by the clerk upon request by the successful party. Execution may not issue until any appeal has been rendered final or the 30-day statutory appeal period has expired. If the judgment was entered by reason of default of defendant, execution may issue immediately as there is no right to appeal. IRCP 81(j)

Clerical Duties:

1. Collect the fee for issuing the Writ.
2. If plaintiff seeks to execute Judgment against defendant's wages, plaintiff must fill out an application and affidavit for execution indicating if continuous garnishment is required. If so, the plaintiff must provide the name and address of the defendant's employer. Clerk provides the plaintiff with the Writ of Execution and the pamphlet entitled "Collecting on Your Small Claims Judgment."
3. Check to see if a Notice of Appeal has been filed before issuing the Writ of Execution.
4. If a Notice of Appeal has not been filed, issue the Writ. Add in ROA: Writ will automatically say "Writ Issued" and update counties where the writ has been issued.
5. The Writ shall be directed to the Sheriff of the County in which the defendant's wages and/or property are located.
6. "For the Sum of" is the amount of the original Judgment; or if this is a second or third Writ, this should be the amount shown on the Sheriff's Unsatisfied Return of Service.
7. "Cost of Suit" is the total amount of cost to file the current Writ of Execution. Do not include filing and service fees incurred by the plaintiff for the filing of the small claim, as they are part of the Judgment amount entered by the Court.
8. Date, sign and seal the Writ.
9. All fees for issuance, service and enforcement of the Writ of Execution shall be paid by the party enforcing the Judgment and assessed against the unsuccessful party in the same amount.

8.19 SATISFACTION OF JUDGMENT

After the defendant pays the money or returns the property as required by the judgment, the judgment is *satisfied*. After the defendant has satisfied the judgment, the plaintiff **must** file a *SATISFACTION OF JUDGMENT*.

Clerical Duties:

1. Provide the plaintiff with the form to complete.
2. The form must be signed by the plaintiff in front of a court clerk or a notary.

3. File stamp the Satisfaction of Judgment, enter in the ROA and provide a copy to the plaintiff. Send a copy to the defendant.
4. Enter satisfaction in ISTARS disposition screen.
5. File the original.

8.20 FILING AN APPEAL IN A SMALL CLAIMS ACTION

Any aggrieved party desiring to appeal the Judgment in a small claims action shall do so by filing a Notice of Appeal with the Magistrate Division of the District Court within the 30-day statutory appeal period. However, any party who defaults or does not appear at the small claims proceeding shall have no right to appeal the Judgment in the small claims proceeding to the Magistrate Division of the District Court. The Notice of Appeal shall not be filed by the clerk without the prepayment of the filing fee, except as provided by I. C. § 31-3220, Idaho Code. IRCP 81(l).

Any appeal of a small claims judgment of the magistrate division shall be conducted as a trial de novo by a magistrate. IRCP 81(n). Discovery shall be allowed only by written leave of the magistrate. A request for a jury trial must be made within 14 days of the service of the order setting the hearing on appeal. The jury shall consist of 6 jurors or a lesser number as agreed by the parties. IRCP 81(o)(7).

Clerical Duties:

1. Provide the plaintiff or defendant with Appeal on Small Claims Judgment form to complete.
2. Collect the filing fee.
3. Schedule the hearing on ISTARS.
4. Mail the Notice of Hearing to both parties and a copy of the Notice of Appeal form to the respondent.
5. The magistrate may permit or require filing of amended or additional pleadings.

8.21 THE HEARING

At the appellate level, the parties may have representation of counsel. If not, the parties need to be prepared to go forth with Plaintiff or an employee of plaintiff appearing and establishing the claim by evidence satisfactory to the court, and the Defendant appearing to defend his objection to the claim by evidence satisfactory to the court. After a hearing the judge or jury shall render a decision.

8.22 DISMISSAL OF CLAIM AFTER HEARING

Clerical Duties:

1. Service of the Order of Dismissal on both the plaintiff and the defendant is the responsibility of the Clerk.
2. Service may be made by either personal delivery or by mailing to their addresses determined by the court most likely to give notice to the parties. IRCP 81(h).
3. Enter the hearing results for the hearing, enter the dismissal into the ROA.
4. Close the Case on ISTARS.

8.23 ENTRY OF JUDGMENT

The judge shall enter Judgment in accordance with his/her decision.

Clerical Duties:

1. Upon entry of Judgment, place the filing stamp on the Judgment and file.
2. Service of the Judgment on both the plaintiff and the defendant is the responsibility of the Clerk. Include a Satisfaction of Judgment Form with the plaintiff's copy if the plaintiff prevailed.
3. Service may be made by either personal delivery or by mailing to their addresses determined by the court most likely to give notice to the parties. IRCP 81(h).
4. Complete a Certificate of Mailing certifying the date and type of service and place in the file.
5. Enter the hearing results for the hearing, enter the judgment into the ROA;
6. Close the Case on ISTARS.

8.24 WRIT OF EXECUTION, POSSESSION AND GARNISHMENT

If the judgment is upheld, a Writ shall be prepared by the Claimant. (See Section 6.19.)

8.25 FORMS AND INFORMATION

The Supreme Court has adopted uniform forms for use in Small Claims cases. Other suggested forms are also available for use, as approved. Please see www.isc.idaho.gov and www.courtselfhelp.idaho.gov for the following:

- Small Claims Forms

- Pamphlets (Plaintiff, Defendant, Collections)
- Informational Video
- List of Mediators
- List of Attorneys
- Links to Other Resources

CLERK OF THE DISTRICT COURT MANUAL

9.0 DOMESTIC RELATIONS

Revised October 2006

9.1 OVERVIEW

Domestic relations cases deal with matters of the household or family, including divorce, separation and custody. These proceedings usually are handled in the magistrate court.

9.2 DIVORCE

Filing a Complaint: The complaint must be accompanied by a family law case information sheet before it is filed. The sheet is to be confidential and must be kept in a sealed envelope.

Clerical Duties:

1. Check fee schedule for correct code and fee category, collect fee and issue a receipt.
2. ISTARS will automatically assign a case number, which will be printed on the receipt. Write the case number on all paperwork filed.
3. Judge assignments are automatic with most filing types. If a county has various judges who are selected by the clerk this may be done at the time the case is created.
4. Create the ISTARS case record. Enter complete Plaintiff and Defendant information in the appropriate screens.
5. File stamp the Complaint, and conform any copies.
6. File stamp the family law case information sheet and enter it in the ROA. The sheet is confidential and must be kept in a sealed envelope.
7. Issue the Summons.
 - a. Write case number on Summons.
 - b. Stamp the name of the assigned judge.
 - c. Sign and seal Summons.
 - d. Return original of Summons and conformed copies of Complaint and Summons to the party filing the complaint.

- e. If required by local procedure, attach a preliminary injunction and any orders to attend parenting or other classes signed by the Judge to the back of each Summons.
8. ISTARS will index the case in the Civil Name Index by each name entered as Plaintiff/Defendant as each party is entered when forming the case.
9. If ISTARS is preparing a case file label, attach label to front of file jacket, and the case number label on the file tab.
10. File the documents in the case file and place the case file numerically in the proper place.

If no answer is received within 20 days of service, default divorce proceedings may be followed as with defaults in other civil cases. However, a decree or judgment of divorce cannot be completed until the prevailing party provides the clerk with a completed certificate of divorce or annulment and child support form where applicable (IRCP 58)

Clerical Duties:

1. Forward the completed certificate of divorce or annulment to the Department of Vital Statistics, Department of Health and Welfare.
2. Forward the Child Support form to the Department of Health and Welfare, Child Support Division with a certified copy of the decree.
3. Enter the appropriate disposition in ISTARS.
4. Close the file.
5. If appropriate, update the party master to include an alias that reflects any name change ordered.

9.3 MEDIATION

Mediation under this rule is the process by which a neutral mediator appointed by the court or agreed to by the parties assists the parties in reaching a mutually acceptable agreement as to issues of child custody and visitation. The role of the mediator is to aid the parties in identifying the issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise and finding points of agreement. An agreement reached by the parties is to be based on the decisions of the parties, and not the decisions of the mediator. (IRCP 16 (j))

Matters Subject to Mediation:

All domestic relations actions involving a controversy over custody or visitation of minor children at the trial and post-decree stages in the courts of this state shall be subject to mediation regarding issues of custody, visitation or both.

Selection of a Mediator:

The court shall permit the parties to select a mediator. An approved list of qualified mediators is maintained by the Idaho Supreme Court. If the parties are unable to select a mediator, the court shall appoint one.

Requirement to Attend Orientation:

The district court of any judicial district may provide by local rule that all parties to any domestic relations case involving children, whether or not a trial or contested case has been scheduled, be required to attend such parent mediation orientation, unless excused by the court.

Authority of the Court:

A court shall order mediation if, in the court's discretion, it finds that mediation is in the best interest of the children and is not otherwise inappropriate under the facts of the particular case.

Clerical Duties:

1. Retain a current list of approved mediators as provided by the Idaho Supreme Court.
2. Advise parties of how to contact the Mediators for more information.
3. File the order to attend mediation orientation and order to mediate in the Register of Actions for the case.
4. File other documents, such as certificate of completion of mediation, request for exemption in case file.
5. If there is an Alternative Dispute Resolution Screening Report, it should be file stamped and it must be kept in a sealed envelope.

9.4 PERMISSION TO MARRY

Juveniles under 16 years of age are required to have the court's permission to marry. (IC § 32-202)

Filing a Petition to Marry: The petitioning party files a "Petition for Authority to Marry" along with a "Certificate of Physician" and "Consent of Parent or Guardian."

Clerical Duties:

1. Open a case file following procedures for civil cases.
2. Assign the case to a judge.
3. Collect filing fee.
4. Set a hearing as directed by the assigned judge.

Hearing: A hearing is held in which the judge determines if permission to marry should be given. If so, an Order Allowing Minor Marriage" is signed by the judge. If not, an order denying permission is entered.

If the parties desire a waiver of the three (3) day waiting period before marrying and the judge orders the waiver, the order is presented to the recorder so the marriage license may be issued immediately.

Post-Hearing: Issue certified copies of the "Order Allowing Minor Marriage" to the parties.

Waiver of Waiting Period for Minor Marriage: In cases involving marriage of minors, the court may waive the required three (3) day waiting period, medical examination, laboratory tests and certificates if an emergency or other cause exists and the public health or welfare will not be injuriously affected. (IC § 32-414)

Any hearing to waive the waiting period is confidential. No fees or court costs are assessed. The order of court is filed by the licensing authority in lieu of a certificate.

Clerical Duties:

1. Transmit to the Department of Health and Welfare a transcript of the record and the court order.
2. Close the case.

9.5 FOREIGN JUDGMENT

You may receive a decree or judgment from another state or country, follow the procedures in 6.15.

9.6 UNIFORM CHILD CUSTODY JURISDICTION ENFORCEMENT ACT

Registration of a Child Custody Order: In 2000, the Uniform Child Custody Jurisdiction Enforcement Act was adopted in Idaho. (Idaho Code § 32-11-305)

This Act provides that a "child custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending it to the office of the clerk of any district court in this state." (Idaho Code § 32-11-305(a))

The act requires the registering party to send to the office of the clerk of the district court:

1. A letter or other document requesting registration;
2. Two (2) copies, including one (1) certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and
3. The name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

Clerical Duties:

1. File stamp the certified judgment and all copies.
2. Create a case file in ISTARS.
3. Serve the notice of registration on all parties named in the order.
4. File the certified copy and certificate of mailing in the case file.
5. Enter the civil disposition and close the case in ISTARS.

Note: A person seeking to contest the validity of a registered order must request a hearing within twenty (20) days after service of the notice.

6. If a hearing is requested, reopen the case and charge the appropriate fee.

Request for Enforcement: In some cases, the party will want to obtain a court order enforcing the terms of the custody order. The party will need to file a petition outlining the violations that have occurred to be served on the other parent or parties acting as a parent. The clerk will need to serve the petition and schedule a hearing.

9.7 FAMILY COURT SERVICES EVALUATION

Go to Word Processor

9.8 PETITION FOR STERILIZATION

CLERKS PROCEDURES

Idaho Code § 39-3901 et seq

Background: The legislature of the state of Idaho acknowledges that sterilization procedures are highly intrusive, generally irreversible and represent potentially permanent and highly significant consequences for individuals incapable of giving informed consent. The legislature recognizes that certain legal safeguards are required to prevent indiscriminate and unnecessary sterilization of such individuals, and to assure equal access to desired medical procedures for all Idaho citizens. (I.C. 39-3901 et. seq.)

Initiation of the Proceeding: Any person may file a petition in the district court alleging that the petitioner or another party meets the requirements for sterilization. The petition shall be filed in the district court where the party resides.

Referral to the Evaluation Committee: The court shall refer the petition to an evaluation committee composed of persons contracted by or employees of the department of health and welfare for review and recommendation. The committee shall submit a report in writing to the court containing its recommendations together with supporting documents. The case will be heard by a District Judge who will issue an order approving, denying or otherwise disposing of the petition.

Appeal: The decision shall be appealable to the Supreme Court of Idaho in the same manner as in civil actions.

Statistical Reporting: The administrative director of the courts shall compile statistics for each calendar year, accessible to the public, including the number of petitions filed. The number of petitions in which the evaluation committee recommended or recommended against a procedure and the number of petitions granted by the court as well as the number of appeals filed.

Clerical Duties:

1. **Receipt of Filing:** Upon receipt of a petition for sterilization the clerk will file the case in ISTARs with the filing Code K8-Juvenile and Family Petition for Sterilization. No filing fee is required. (A new subtype of 'ST' is used in the new ISTARs Program.)
2. **Sealed Record:** The entire record is to be sealed and made exempt from disclosure pursuant to chapter 3, title 9, Idaho Code.

3. ***Jurisdiction:*** The completed petition shall be filed in District Court. Assign the case to a District Judge and send the file to the judge for review and consideration of service, appointment of counsel and appointment of guardian ad litem.
4. ***Service of Copy of Petition:*** The petition must be served personally upon the party who is being considered for sterilization, his or her guardian or parent, his or her counsel, his or her guardian ad litem, and such other persons as the court may designate. The clerk will need to prepare copies of the petition for service to the appropriate parties and arrange for service as directed by the Court.
5. ***Referral to the Evaluation Committee:*** The court shall refer the petition to an evaluation committee.
6. ***Schedule a Hearing:*** Upon receipt of the recommendation of the evaluation committee the court shall set a hearing on the petition and shall order that copies of the evaluation committee's reports and notice of the time and place of the hearing be provided the person subject to this chapter, their guardian, their counsel, their guardian ad litem, and such other persons as the court may designate.
7. ***Closing the Case:*** The case will be closed by the clerk after the hearing and upon receipt of the final order or judgment of the court.

CLERK OF THE DISTRICT COURT MANUAL

11.0 FAMILY LAW LICENSE SUSPENSIONS

Revised October 2006

11.1 PURPOSE

The purpose of this legislation is to create a mechanism to suspend business, occupational, motor vehicle and recreational licenses, certificates or permits for failing to comply with child support orders, paternity/child support subpoenas or visitation orders. This legislation allows for license suspension when child support is three months or \$2,000 in arrears.

Persons can either petition the court for the commencement of a judicial proceeding or petition the Department of Health and Welfare for an administrative proceeding without court action.

The Department of Health and Welfare will upon request supply step-by-step forms and instructions (for Pro Se Applicants) in both English and Spanish to each county, which include the following:

- Instructions
- Petition for Suspension of a License—Visitation
- Affidavit in Support of Petition for Suspension of a License—Visitation
- Notice of Intent to Suspend a License—Visitation
- Request for a License Suspension Hearing—Visitation
- Order on Petition for Suspension of a License—Visitation
- Affidavit of Service—Visitation

For samples contact: Department of Health and Welfare
P.O. Box 83720, 10th floor
Boise ID 83720-0036

Clerical Duties:

1. No filing fees shall be charged for seeking only the relief of license suspension.
2. File stamp and enter in ROA. ISTARs will automatically assign a case number and a judge will be assigned.
3. SUBJECT/LICENSEE ENTRY. Enter the person named on the petition as the subject, and check the appropriate "grounds" for filing the petition in the subject screen. These grounds are detailed in the petition and are part of the Notice of Proceeding for License Suspension that the petitioner serves upon the

subject/licensee alerting him/her of their right to request a hearing within 21 days from service to contest the suspension of his/her license(s).

Note: If the subject/licensee fails to make a timely request for a hearing or fails to appear at the hearing without good cause, the court shall issue an order suspending a license (I.C. § 7-1411). If a hearing is requested by the subject/licensee, schedule in ISTARS. The court mails the notice of hearing to the subject/licensee and copies are printed for parties.

4. PETITIONER/PARTY ENTRY, enter the petitioner and the send notice box will automatically be checked to send a notice of hearing to the parties.

Note: The petitioner must appear at the suspension hearing, if one has been requested by the subject/licensee, to show proof of delinquent child support or failure to comply with visitation or failure to comply with a subpoena and request that the subject's/licensee's license(s) be suspended.

5. LICENSOR(S)/PARTY ENTRY. All licensing authorities "licensor's" listed in the petition must be entered as parties. The "send notice" box must be unchecked since the licensor's do not appear at hearings. The "licensor" box must be checked in order to properly generate orders suspending, reinstating or vacating the license(s).
6. ORDERS SUSPENDING, VACATING/STAYING OR REINSTATING LICENSE(S). To generate orders for license suspension, vacating or reinstating, choose the correct options from the subject document screen. ISTARS has error checking in place to require entry in fields for license suspension data in the subject screen. ISTARS will produce the following documents for suspensions:
 - Order Suspending License Under Section I.C. § 7–1410
 - Order Vacating or Staying an Order Suspending License under Section 7–1413
 - Order Reinstating License Suspension under Section 7–1414

CLERK OF THE DISTRICT COURT MANUAL

12.0 JUVENILE CORRECTIONS ACT

Revised December 2006

12.1 INTRODUCTION

Persons under the age of 18, commonly referred to as juveniles, are treated by the law in different ways than adults. There are certain violations that pertain only to persons under 18, such as curfew, runaway, truancy, and incorrigibility (commonly referred to as status offenses). There are also other violations that make no distinction based on age, such as speeding. Also, if a person 14 years of age or older commits a serious felony offense, they are immediately treated as if they are an adult. There are other violations that fall within the purview of the Juvenile Corrections Act (JCA). The Juvenile Corrections Act follows the Balanced Approach which requires the court at sentencing to protect the community, hold the juvenile accountable for his actions, and to assist the juvenile in developing skills to become a contributing member of a diverse community. The following section provides a brief outline of the different ways the courts deal with persons under 18 years of age.

A: People under the age of 18 may be charged by citation or complaint for certain misdemeanors or infractions and these cases are processed in the same manner as adults charged by citation or complaint. Examples may include:

Misdemeanors: traffic, alcohol possession, Fish and Game, tobacco possession, water craft violations and carrying concealed weapons on school property. (Juvenile violators under the age of 18 may be treated under the JCA per the discretion of the court. (Idaho Code 20-505(6))

Infractions: violations as listed in Chapters 6-9 of Title 49 of the Idaho Code.

B. Persons age 14 or over, charged with certain serious felony offenses, such as: murder, robbery, selected sex crimes, mayhem, assault and battery, certain types of arson and controlled substance violations near schools, see IC § 20-509, are immediately processed as an adult.

C. Juvenile Corrections Act (Idaho Code Title 20 Chapter 5): Proceedings under the Idaho Juvenile Corrections Act are for persons under the age of eighteen who have been charged with the violation of law other than the exceptions noted.

Juvenile proceedings are closed through the admit/deny hearing, and are then open to the general public unless the court orders otherwise. Similarly, the case file is opened after the admit/deny hearing, unless the court orders that the case file should be closed to the public (ICAR 32 (d) (7)(B)(1)). Victims of a juvenile offense are entitled to attend all judicial proceedings pertaining to their case.

D. Jurisdiction Over Parents (I.C. 20-522 and 20-524): It is policy of the state of Idaho that parents or other legal guardians of the juvenile offender participate in the accomplishment of the goals of the Act through participation in counseling and treatment designed to develop positive parenting skills and an understanding of the family's role in the juvenile's behavior and be held accountable, where appropriate, through monetary reimbursement for supervision and confinement of the juvenile offender, and restitution to victims of the juvenile's delinquent actions.

Parents or legal guardians may be ordered to enter into a contract requiring them to perform certain requirements, or the court may order parents or guardians to perform certain requirements. Failure to abide by the contract or perform the court ordered requirements can result in the parents being held to answer under the contempt power of the court. (See the procedure for contempt proceedings.) Contempt proceedings in juvenile court are ancillary proceedings in the juvenile's case. (IJR 25)

12.2 UNIQUE TERMINOLOGY-JUVENILE CASE PROCESSING

(IC § 20-502)

The following are a number of terms that are unique to the processing of juvenile cases.

Adult: A person eighteen (18) years of age or older.

Commit: To transfer legal custody.

Community-Based Program: An in-home confinement program or a nonsecure or staff secured residential or nonresidential program operated to supervise and provide competency development to juvenile offenders in the least restrictive setting, consistent with public safety, operated by the state or under contract with the state or by the county.

Custody Review Board: The Board created by the Idaho legislature for the purpose of reviewing cases of certain, older juveniles in the custody of the Idaho Department of Juvenile Corrections and to issue an opinion to the Director as to whether or not that juvenile should be released from state custody or should remain in custody for an extended period of time to address competency, accountability and community protection.

Detention: The temporary placement of juveniles who require secure custody for their own or the community's protection in physically restricting facilities.

Detention center: A facility established pursuant to sections 20-517 and 20-518, Idaho Code.

Diversion: The utilization of local community resources, churches, counseling for the juvenile and/or family, substance abuse counseling, informal probation, community

service work, voluntary restitution, or any other available service or program as an alternative to the filing of a petition with the juvenile court.

Juvenile: A person less than eighteen (18) years of age or who was less than eighteen (18) years of age at the time of any act, omission or status bringing the person within the purview of this chapter.

Juvenile Corrections Center: Any state-operated secure facility wherever located.

Juvenile Offender: A person under the age of eighteen (18), committed by the court to the custody, care and jurisdiction of the department for confinement in a secure facility following adjudication for a delinquent act which would constitute a felony or misdemeanor if committed by an adult.

Legal Custody: The relationship created by the court's decree which imposes upon the custodian responsibilities of physical possession of the juvenile, the duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care.

Legal Guardian: A person appointed as guardian of a minor under the laws of Idaho. For the purposes of this chapter, legal guardian does not include and shall not be construed to include the owner or operator, the agent of an owner or operator of a detention center, observation and assessment center, secure facility, residential facility or other facility having temporary or long-term physical custody of the juvenile offender.

Observation and Assessment Program: Any state-operated or purchased service program responsible for temporary custody of juvenile offenders for observation and assessment.

Secure Facility: Any state-operated facility or facility operated under contract with the state which provides twenty-four (24) hour supervision and confinement for juvenile offenders committed to the custody of the department.

Work Program: A public service work project which employs juvenile offenders at a reasonable wage for the purpose of reimbursing victims of the juvenile offender's delinquent behavior.

12.3 FILING A PETITION

A Petition is filed normally by the prosecuting attorney, although a peace officer or any authorized representative of the board of trustees of a school district of this state may also file a petition.

Clerical Duties:

1. File stamp the petition, open the case, and enter in the ROA.

12.4 CURFEW VIOLATIONS

In lieu of a petition, a peace officer may issue a citation for a county or city ordinance for a violation of curfew. The citation will provide a date certain for the appearance before a magistrate of the juvenile and the parent or legal guardian. A case initiated by a citation shall proceed as though the violation had been charged by petition under the Juvenile Corrections Act > IC § 20-510, > IC § 20-549.

Clerical Duties:

1. Open a JCA case in ISTARS.
2. As with a petition, use "curfew violation" as the charge.
3. Schedule an admit/deny hearing as per Section 12.6.

Note: Do not enter any curfew violations in ISTARS as a citation, open as a juvenile case.

Note: The juvenile can be fined up to \$300.00 for a curfew violation with monies to be deposited into the Juvenile Justice Fund if established or in the county current expense fund for juvenile corrections purposes > I.C. § 20-549 >.

12.5 DETENTION HEARING

If a juvenile is in custody, a detention hearing is held within 24 hours, excluding Saturdays, Sundays and holidays. At the hearing the judge decides and issues an order whether or not the juvenile should remain in detention until further order of the court (I.C. § 20-516 (6)).

Clerical Duties:

1. If an Order of Detention is issued:
 - a. File stamp original order, enter in ROA, distribute copies to the appropriate agencies and mail to the parents or legal guardian, if they were not present at the Detention Hearing;
 - b. Prepare an Order of Transport for the next hearing, if necessary, pursuant to local practice.
2. If an Order Releasing Child from Detention and Fixing Temporary Custody issued:

- a. File stamp original order, enter in ROA, distribute copies to the appropriate agencies and mail to the parents or legal guardian, if they were not present at the Detention Hearing;

12.6 SETTING THE ADMIT/DENY HEARING

Once a petition is filed and after the detention hearing, if detention is an issue, a hearing date is set for the juvenile to make an initial appearance before the court. The admit/deny hearing is similar to an adult criminal arraignment hearing. The admit/deny hearing may be held at the same time as the detention hearing. If the juvenile is not in custody, the court issues a summons requiring the person who has custody or control of the juvenile, along with the juvenile, to appear in court within 15 days of issuance of the summons to respond to the allegation[s] in the petition (Idaho Juvenile Rule 3(b)).

Clerical Duties:

1. Schedule admit/deny hearing and send appropriate copies per local practice.
2. Sign and issue the Summons.
3. Prepare appropriate copies of summons and petition for service upon the juvenile, the juvenile's parent(s), guardian or custodian either by personal service through sheriff or certified mail.

12.7 HEARING TO ADMIT OR DENY

At the admit/deny hearing, the juvenile is advised of his or her rights as provided in > I.J.R. 6 and the charges set forth in the petition. Next, it will be determined if the juvenile wants to hire an attorney or request a public defender. A continuance may be granted for that purpose. The juvenile is asked to admit or deny the charges in the petition.

- a. The juvenile admits (pleads guilty) to the allegations in the petition.

The case may either be disposed of by informal adjustment (similar to a withheld judgment), or if the juvenile and the juvenile's counsel agree, the court may proceed to immediate sentencing. The judge may order a social history investigation by the county department of juvenile probation and sets the case for final disposition.

- b. The juvenile denies (pleads not guilty to) the allegations in the petition.

The case is set for an evidentiary hearing (trial).

Clerical Duties upon entry of a plea:

1. Enter the hearing result (ADNY) and the plea in ISTARS.
2. When prompted, allow ISTARS to unseal the case unless the judge has ordered otherwise.

3. If a public defender is appointed, prepare an order appointing a public defender and add attorney to the appropriate party. Send a copy of the Order Appointing the Public Defender and the Petition to the public defender.
4. Schedule the next hearing and send appropriate copies per local practice.

Note: Even if the juvenile case is opened to the public, the social history is physically sealed to public inspection by placing it in a sealed envelope in the case file.

c. In the event of a continuance:

1. Enter hearing results
2. Schedule the next hearing and send appropriate notices per local practice

12.8 EVIDENTIARY HEARING (TRIAL)/DISPOSITION (SENTENCING)

The evidentiary hearing is held in front of the judge and not a jury to determine if the petition is true or not. If the court finds the petition is true, it may order a social history investigation and set the matter for sentencing; or proceed to sentencing. Following the sentencing the court shall enter a written decree, pursuant to IJR 17.

Clerical Duties:

1. For trial duties, refer to Section 27.0 relating to Trial Procedures and Court Minutes.
2. Enter the hearing results in ISTARs.
3. If sentenced, enter all dispositional information, including fines, fees, probation, etc. Distribute in court or send judgment and other orders as per local practice.
4. If further reports are ordered, schedule disposition hearing, and send appropriate notices per local practice.

12.9 TRANSFER OF CASE TO HOME COUNTY FOR DISPOSITION (SENTENCING)

In the event that the juvenile enters a plea of guilty or files his/her intention to admit to the allegation, and certain conditions are met, the court can order the case transferred to the juvenile's home county for sentencing pursuant to IJR 10 (a). After transfer, if the juvenile denies the allegation, the case will be returned to the originating court.

Clerical Duties:

1. Keep a copy of the petition and the original order of transfer.
2. Forward the entire original file contents and printout of the ISTARs case history with a certified copy of the Order of Transfer to the receiving county. Send these documents by certified mail.

3. Enter appropriate transfer out and disposition codes in ISTARS and close the case.
4. In the receiving county, make appropriate entries in ISTARS indicating that the case was transferred in from another county and create a new file folder. Also, generate the form ordering the social history investigation and set the matter for sentencing. Send out notices to appropriate parties.

12.10 TRANSFER OF JURISDICTION (IC § 20-508) (IJR 26)

Under certain circumstances, the court may waive jurisdiction under the Juvenile Corrections Act and order that the juvenile be prosecuted as an adult. In such instances, a "Motion to Waive Jurisdiction" will be made by the prosecuting attorney or the court will do the same on its own initiative.

A "Notice of Hearing to Waive Jurisdiction" is sent to the juvenile and the parents, guardian, or custodian of the juvenile, and the prosecuting attorney at least 10 days before the date of the hearing (or a lesser period if agreed to by the parties). Service of the "Notice" is made in the manner prescribed for service of summonses.

The court will order an investigation report to be submitted to the court prior to the hearing on the waiver motion. The hearing is held in the same manner as an evidentiary hearing.

Clerical Duties:

1. Schedule a "Hearing to Waive Jurisdiction" and send appropriate copies of notice as per local practice.
2. Upon receipt of the report of investigation, immediately send copies to attorneys in the case.

If jurisdiction is waived, the prosecutor will file a criminal complaint within 24 hours. The juvenile will be remanded to the custody of the sheriff and an initial appearance will be ordered (IJR 26(d)):

1. Enter the finding of "Other" for the charges and enter the information that jurisdiction was waived.
2. A copy of the Order Waiving Jurisdiction needs to be filed with the new criminal case.
3. Forward any necessary commitment orders to the sheriff.
4. Close the case in ISTARS.

If jurisdiction is not waived, the petition continues to be processed under the Juvenile Corrections Act.

1. Set the next hearing as required by the judge.

2. Send appropriate notices as per local practice.

Note: A motion to waive cannot be made after a juvenile has admitted the charge.

12.11 JUVENILE CASE EXPANDED INTO A CPA CASE

During the processing of a juvenile case, under the Juvenile Corrections Act, the Court may order the juvenile case to be expanded into a Child Protective Act proceeding or direct the Department of Health and Welfare to investigate the circumstances of the juvenile and his or her family and report to the court as provided in IC § 16-1609. (Any order expanding the proceeding to a C.P.A. proceeding must be in writing and contain the factual basis found by the court to support its order.) The order shall direct that copies of all court documents, studies, reports, evaluations, and other records in the court files, probation files, and juvenile corrections files relating to the juvenile/child be made available to the Department of Health and Welfare at its request (Idaho Juvenile Rule 16).

Upon expanding the proceeding to a C.P.A., the court may order the juvenile placed in shelter care under the C.P.A. if that is in the best interest of the juvenile and needed for the juvenile's protection. If the juvenile is placed in shelter care, a shelter-care hearing under the C.P.A. must be held within 48 hours, excluding Saturdays, Sundays, and holidays, and notice thereof shall be given to the juveniles parents(s), guardian, or custodian, and to the Department of Health and Welfare. If the juvenile is in detention, the court may not require an immediate shelter care hearing.

A copy of the order expanding a J.C.A. proceeding to a C.P.A. proceeding shall be given to the juvenile's parent(s), guardian, or custodian, the Idaho Department of Health and Welfare, the prosecuting attorney and other counsel of record, and the Department of Juvenile Corrections if the juvenile is currently under commitment to the Department, pursuant to these rules and the rules of civil procedure. No further C.P.A. petition will be required.

A petition may be filed to include other children that come within the jurisdiction of the C.P.A. but who are not before the court under the Juvenile Corrections Act. Any petition must be filed 14 days before the date set for the adjudicatory hearing. Any adjudicatory hearing pursuant to > I.C. Section 16-1608 will be held within 30 days of the court's determination to expand the proceeding to a C.P.A. proceeding. A notice of the hearing will be served upon the parent(s), the Department of Health and Welfare, the juvenile, and the Department of Juvenile Corrections if the juvenile is currently under commitment to the Department, as though a petition under the C.P.A. has been filed. The burden of going forward with the evidence at the adjudicatory hearing shall remain with the prosecuting attorney.

Clerical Duties:

1. File a copy of the order expanding jurisdiction in the Juvenile Corrections Act case and file the original order in the new Child Protection Act case.

2. See the Child Protection Act Proceedings section for clerical duties.

12.12 VIOLATION OF INFORMAL ADJUSTMENT OR PROBATION

The prosecutor can file a petition that includes a sworn affidavit that the juvenile has violated the conditions of his/her informal adjustment or probation. Upon receipt, the court shall set an admit/deny hearing on the alleged violation. If the juvenile denies the allegations an evidentiary hearing shall be set. If the court finds that the juvenile violated conditions of probation, the court can either reinstate the original sentence, with further conditions, or can impose the remaining conditions of the original sentence. If the informal adjustment conditions are violated, the court can enter an order of adjudication, and impose any sentence available under the law. (IJR 18)

Clerical Duties:

1. Reopen the original case in ISTARS, enter probation violation charge as per local practice;
2. File stamp the petition/motion with affidavit and enter in the ROA;
3. Set an admit/deny hearing and send out notices;

If a denial is entered at the admit/deny hearing:

1. Enter the denial and other hearing results in the ROA
2. Set the evidentiary hearing
3. Print and distribute notices to appropriate parties

Upon an admission/finding of violation of probation:

1. File and distribute the judge's order to appropriate parties
2. Make any adjustments to the existing dispositional information in ISTARS including the accounting and receipting of fees, if ordered.
3. Close the case in ISTARS.

12.13 PRIORITY OF PAYMENTS

See Idaho Supreme Court website.

12.14 CONFIDENTIALITY OF JUVENILE RECORDS

1. Introduction. The confidentiality of court records of juvenile cases is governed by Idaho Court Administrative Rule 32(d)(7). Whether or not a record will be open to the public depends firstly on whether the case is governed by the current law (the Juvenile Corrections Act, IC 20-501 and following), or the former law (the Youth Rehabilitation Act. The confidentiality of case records under the current law may depend on the status of the case, the age of the juvenile, the nature of the offense, and the presence of written court orders

2. Youth Rehabilitation Act (YRA) Case Records. All case records under the former Youth Rehabilitation Act (formerly I.C. § 16-1801 and following) are confidential unless there is a written order of the judge stating otherwise.

Note: Cases before October 1, 1995, are governed by the YRA.

3. Juvenile Corrections Act (JCA) Case Records. Cases filed on or after October 1, 1995, are governed by the JCA. All records under the JCA are automatically closed to the public from the time the petition is filed until the admit/deny hearing. After that hearing the case record becomes open, unless the judge issues a written order otherwise. **[Note: Certain reports to the court under Section 20-520(1), Idaho Code and ICAR 32(d)(14) are confidential even when the record is otherwise open.]** If the juvenile has been found guilty of an offense that would be criminal if committed by an adult, the juvenile's name, the offense and the disposition are open to the public, even if the case record has been ordered closed. Please note also that closed juvenile records may be made available by the judge to specified school officials upon written request.

12.15 JUVENILE SEX OFFENDER REGISTRATION

With respect to a juvenile sex offender sentenced to probation without a period of detention, the court shall provide at the time of sentencing written notification of the duty to register. The written notification shall be a form provided by the Idaho State Police and shall be signed by the juvenile and the parents or guardian of the juvenile. One (1) copy shall be retained by the court, one (1) copy shall be provided to the offender, and one (1) copy shall be submitted within three (3) working days to the central registry. (I.C. § 18-8405)

Clerical duties upon detention/probation:

1. Obtain a supply of SOR-1 Notification and Initial Registration Forms from the Department of Law Enforcement (208) 884-7305.
2. The court official conducting the notification/registration must ensure that the appropriate data fields on the form are complete and that the defendant/offender has read and signed the form. (instructions are on the back of the form)
3. Send the original SOR-1 to the Department of Law Enforcement, P. O. Box 700, Meridian, Idaho 83680-0700 within three working days.
4. File stamp the yellow copy of the SOR-1 and enter in ROA.
5. Give the pink copy of the SOR-1 to the defendant/offender.

Note: If the juvenile is committed to the custody of the Department of Juvenile Corrections, the Department has the responsibility of giving notice to the offender of the sex offender registry requirement.

CLERK OF THE DISTRICT COURT MANUAL

15.0 JUDICIAL CONSENT FOR ABORTIONS UPON MINORS

Revised April 2007

15.1 PROCEDURES

Idaho Code 18-609A sets out a procedure that allows a minor to petition a court to allow an abortion without the minor obtaining parental consent.

These proceedings are **confidential** and every effort must be made to ensure that the anonymity of the minor is protected and that the contact with the clerk's office is as confidential and expeditious as possible. All records related to these proceedings must be kept confidential and are exempt from disclosure to the public pursuant to I.C.A.R. 32(d)(11). Court records shall be maintained and all court proceedings undertaken so that the names and identities of the parties to actions brought under this statute will not be disclosed to the public.

The petition may be filed in any county.

The minor may file her petition using a fictitious name.

Clerical duties:

1. Give the minor a packet of information that contains an information sheet, petition form and a form for the notice of appeal. A sample petition is attached. The petitioner can have someone help her fill out the petition. You may assist the minor, if necessary, by explaining any parts of the petition she does not understand.
2. Ask if she is represented by counsel. If she is not represented by counsel, inform her that one will be appointed at no cost to her. **Immediately** notify the judge so that an appointment can be made. Make sure she understands the contact phone number or address is where her appointed attorney, guardian ad litem or court personnel may contact her.
3. File the completed petition in district court. Filing code, J9, has been programmed in ISTARS for this Civil case type- Judicial Consent Abortion, ISTARS subtype. The entire record is to be sealed and is exempt from disclosure pursuant to I.C.A.R. 32(d)(11). ISTARS automatically seals the case.
4. A new party master will always be created for these filings. The petition will be filed with either a "Jane Doe" or using the initials of the petitioner. The minor's name shall not be entered on the party master or as an alias. The petitioner may even use a fictitious name. No link to that juvenile's other court records or party master (if known) is ever to be made.

5. No filing fee is required.
6. Assign a *district judge* to the case. **Immediately** hand deliver the petition to the judge. If the minor is not represented by counsel the court must enter an order appointing an attorney. The judge may also want to enter an order appointing a guardian ad litem. Forms for these appointments are available in the benchguide or you may want to have a court packet handy for these cases that includes these instructions for the clerk, the benchguide instructions for the judge as well as the forms the judge will need, including forms for appointment of an attorney, a guardian ad litem, and order forms.
7. Call the clerk of the Supreme Court to advise that a petition has been filed so the court can be on notice in case an appeal is filed.
8. Schedule a hearing in ISTARS. The initial hearing must be held within 48 hours of the filing the petition, excluding weekends and holidays. This hearing takes precedence over other pending matters. The hearing is to be CLOSED.
9. The hearing must be audio recorded.
10. The court must issue a ruling at the conclusion of the hearing and must enter a written order with specific findings of fact and conclusions of law. The court will have form orders for this in the benchguide.
11. After the hearing is held, enter the appropriate hearing result ROA code in ISTARS.
12. The judge may either:
 - grant the petition giving the minor the right to self-consent, or
 - give judicial consent for the abortion, or
 - deny the petition.If the judge fails to rule at the end of the hearing the petition is deemed granted. Enter the appropriate civil disposition in ISTARS and ROA all documents.
13. Upon entry of the court's order the clerk shall immediately file stamp the order and hand it to the minor and/or her attorney. A copy of the order should also be given to the appointed guardian ad litem, if one was appointed.
14. If the court denies the petition, then along with a copy of the order the district court must advise the minor's attorney that she has five (5) days, excluding weekends and holidays, from the date of the denial to file an appeal. A notice of appeal form would have been included in the packet of information distributed earlier but have one available for the minor if the petition is denied. (Sample form attached.) (I.A.R. 44.1)

15.2 APPEAL

Appeals are expedited and governed by statute and I.A.R 44.1. The appeal is also confidential and all records related to the appeal must be **kept confidential and are exempt from disclosure to the public pursuant to I.C.A.R. 32(d)(11)**.

Clerical Duties:

1. Any appeal is to the Supreme Court and shall be filed within five (5) days, excluding weekends and holidays, from the date the petition is denied. This filing may be made by facsimile machine process.
2. There is no filing fee. The ISTARs entry for the appeal is made using the “T” filing fee code for “Civil Appeal to the Supreme Court.” The clerk is to enter an Exception reason such as “Court Waived” and an amount of “.00”.

The ROA Code of, “Filing: T - Civil Appeals To The Supreme Court (\$86.00 Directly to Supreme Court Plus this amount to the District Court) Paid by: Doe, Jane (subject) Receipt number: 7006026 Dated: 3/12/2007 Amount: \$.00 (Cash) For: Doe, Jane (subject).” would be modified to, “Filing: T - Civil Appeals To The Supreme Court

3. The same attorney who represented the minor in front of the district court should be representing the minor on appeal unless she substitutes counsel.
4. As soon as the notice of appeal is filed, the clerk’s record should be immediately faxed to the Supreme Court because the Court has to hold a hearing and issue a decision within 48 hours of the notice of appeal being filed. The record shall include the notice of appeal, the order denying the petition, all pleadings and exhibits filed in the case, as well as the audio recording of the hearing before the district court.

When faxing, call the clerk of the Supreme Court to advise that these are confidential documents being faxed and to request that receipt be confirmed. Talk to the clerk of the Supreme Court about the best way for the court to listen to the audio recording of the hearing and whether the audio recording of the proceedings should be hand delivered, sent express mail overnight or whether arrangements should be made for the court to listen to the audio recording by phone conference or other means. Absolutely no extension of time will be granted by the Supreme Court for preparation of the record.

A complete copy of the record in the case shall also be made immediately available to the minor and/or her counsel including a copy of or access to the audio recording of the hearing.

5. The minor is exempt from paying all associated fees including the fee for the record and audio recording.

15.3 STATISTICAL REPORTING

The Supreme Court is required annually to produce statistical reports in reference to these filings. The Supreme Court will request that each county provide them a list of case filings along with the ISTARS “Case Detail Report” from each case that will be used for statistical compilation.

The clerk will provide this information to the Supreme Court upon request.

CLERK OF THE DISTRICT COURT MANUAL

16.0 HOSPITALIZATION OF MENTALLY ILL

Revised October 2006

16.1 PURPOSE

Mental Commitment Proceedings are held to determine whether or not a person should be involuntarily committed to the custody of the Department of Health and Welfare due to mental illness and for the Department to determine the most appropriate treatment. These proceedings are governed by I.C. §§ 66-317 to 66-355.

16.2 CONFIDENTIALITY

Mental Commitment proceedings are confidential and exempt from public disclosure, unless made available by the court, pursuant to Idaho Court Administrative Rule 32(d)(8). Both the case file and the courtroom proceedings are closed to the general public. See: I.C. § 66-348; I.C.A.R. 32(d)(8).

16.3 FREQUENTLY USED TERMS

In processing these case types, the following terms are frequently used:

“Mentally ill” means a person, who as a result of a substantial disorder of thought, mood, perception, orientation, or memory, which grossly impairs judgment, behavior, capacity to recognize and adapt to reality, requires care and treatment at a facility. I.C. § 66-317(l).

“Gravely disabled” means a person who, as the result of mental illness, is in danger or serious physical harm due to the person's inability to provide for any of his basic needs for nourishment, or essential medical care, or shelter or safety. I.C. § 66-317(m).

“Likely to injure himself or others” means either:

1. A substantial risk that physical harm will be inflicted by the proposed patient upon his own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on himself; or
2. A substantial risk that physical harm will be inflicted by the proposed patient upon another as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm. I.C. § 66-317(k).

“Designated Examiner” (“DE”) is a psychiatrist, psychologist, psychiatric nurse, or social worker and such other mental health professionals as may be designated by the Department of Health and Welfare. Any person designated by the Department Director

will be specially qualified by training and experience in the diagnosis and treatment of mental or mentally related illnesses or conditions. I.C. § 66-317(e).

16.4 TYPES OF COMMITMENT PROCEEDINGS

Clerks may deal with commitment proceedings initiated in the following ways:

1. Initial detention without Application/Petition or hearing.
2. Commitment with Application/Petition.
3. Re-hospitalization of Conditionally Released Patients.
4. Outpatient Commitment Proceedings.

These proceedings are processed in magistrate court. There is no filing fee for these cases. I.C. § 31-3201A(a).

16.5 INITIAL DETENTION WITHOUT APPLICATION/PETITION OR HEARING – I.C. § 66-326

These cases begin when a person is taken into custody and placed into a facility by law enforcement, without a court order. As an example, a person attempts or threatens suicide and law enforcement is called and then takes that individual into custody (usually transporting them to a hospital equipped to deal with mentally ill patients). Within 24 hours of having done so, evidence of the person's alleged grave disability, illness or imminent danger must be brought to court. I.C. § 66-326(a). This evidence is often presented by way of a form containing the officer's sworn statement. Regardless of how presented, this evidence must be presented to a judge within 24 hours of when the person was taken into custody by law enforcement.

If the judge finds the person is "gravely disabled" due to mental illness or is imminently dangerous, the court shall issue a temporary custody order requiring the person to be held in a facility and requiring an examination of the person by a designated examiner within 24 hours of the entry of the order of the Court. I.C. § 66-326(b).

Clerical Duties: *(These must be done immediately since this is a "time sensitive" proceeding.)*

1. Receive stamp the statement submitted by the officer.
2. Immediately bring to the attention of the appropriate judge.
3. Once the temporary custody order is signed by a judge, immediately time and date stamp it, and the officer's statement, and fax them to the Prosecuting Attorney.

Where an examination is ordered, the designated examiner shall make his findings and report to the court within 24 hours of the examination. I.C. § 66-326(c). If the designated examiner finds that the person is mentally ill and either “likely to injure himself or others” or “gravely disabled”, the prosecuting attorney shall file within 24 hours of the examination, an Application or Petition with the court requesting the patient's detention, pending commitment proceedings. I.C. § 66-326(d). If no Application/Petition is filed within 24 hours of the designated examiner's examination of the person, the person shall be released and the case is closed. Upon the receipt of the Application/Petition, the court shall order his detention to await hearing within 5 five days including Saturdays, Sundays and legal holidays of the detention order. I.C. § 66-326(d). The case is then further processed as described in Section 6.15.6 below. This Order should be provided by the Prosecutor.

Clerical Duties: *(If no Application/Petition is filed by the Prosecutor.)*

1. Close out on ISTARS with no Application/Petition ever having been filed.

Note: Mental Health Commitments with no Application/Petition ever being filed can be opened and closed in one day. Although the Prosecutor is “required” to do this, it is not uncommon for them to fail to do so.

Clerical Duties: *(If Application/Petition is filed by Prosecutor (must be done immediately.)*

1. File stamp Application/Petition, open file and assign case number.
2. Immediately give to assigned judge, along with any Orders for second designated examiner or appointment of Public Defender to be signed.
3. Schedule hearing on the Application / Commitment. This hearing must be scheduled as soon as possible but within 5 days including Saturdays, Sundays and holidays of filing of the petition.
4. Send notice of hearing and copies of all orders entered to Prosecutor and the proposed patient, or his spouse, guardian, next of kin or friend (or Public Defender, if appointed).
5. Make appropriate entries in ISTARS.

16.6 COMMITMENT PROCEEDINGS WITH PETITION/APPLICATION – I.C. § 66-329

Applications for the involuntary treatment of the mentally ill may be commenced by the filing of a written application. I.C. 66-329(a). The Application may be filed by the Prosecuting Attorney, a physician, or other public official, or any friend, relative, spouse

or guardian of the proposed patient. *Id.* The application shall be presented with a certificate from a designated examiner (“1st DE”), stating that he has personally examined the proposed patient within the last fourteen days. I.C. § 66-329(c). If the certificate states that the patient is mentally ill and that he is either “gravely disabled” or “likely to injure himself or others”, the Court shall issue an Order committing the patient to a facility to await hearing on the Application. I.C. § 66-329(e). Some Courts may appoint a public defender at this time to reduce potential delay and unnecessary costs of commitment pending hearing.

Upon receipt of the Application or Petition, within 48 hours, the Court is required to appoint another designated examiner (“2nd DE”). I.C. § 66-329(d). If the Application did not include the “1st DE”, as required, then the Court must appoint 2 designated examiners and may order the immediate examination of the patient. *Id.* Both designated examiner’s certificates must be filed within 72 hours. *Id.*

Clerical Duties: (*Must be done immediately.*)

1. File stamp Application and 1st DE Certificate, open file and assign case number.
2. Immediately give file to assigned judge, along with any Orders for second designated examiner and for temporary commitment (and Order for appointment of Public Defender, if done in your jurisdiction) to be signed.
3. Some Courts may schedule the hearing on the Application / Petition at this point, even though the 2nd DE Certificate has not yet been done. If so, send notice of hearing and copies of all orders entered to Prosecutor / Applicant and the proposed patient and his spouse, relative, guardian, next of kin or friend (or Public Defender, if appointed). Make sure copies of the Application and 1st DE Certificate are also sent to the patient or his attorney and spouse, etc.
4. Make appropriate entries in ISTARS.

If the designated examiner’s certificates indicate the patient is not mentally ill or is not “gravely disabled” or “likely to injure himself or others”, the proceedings are terminated and the patient is released. *Id.*

Clerical Duties: (*If Court terminates proceedings based on DE Certificates. Must be done immediately.*)

1. Send copies of Order of Dismissal to all parties, including spouse, relative, etc.
2. Enter dismissal in ISTARS.

3. Close out file.

If the patient is found by the designated examiners to be mentally ill and “gravely disabled” or “likely to injure himself or others”, the court sets a time and place for hearing, within 7 days of 2nd DE Certificate. I.C. § 66-329(f). **Note: Some Courts will set this hearing as soon as the Application and 1st DE are filed in order to increase efficiency and decrease unnecessary costs. The Court must also provide to the proposed patient (or the public defender, if appointed), and his spouse, relative, guardian, next of kin or friend, copies of the notice of hearing, the Application, DE Certificates and notification of the right to be represented by counsel, or if the court finds the person to be indigent, to be represented by court appointed counsel. I.C. § 66-329(f).**

Clerical Duties: *(When 2nd DE is received. Must be done immediately.)*

1. File stamp the 2nd DE Certificate and file.
2. Immediately give file to assigned judge, along with any Order for Public Defender to be signed.
3. Schedule hearing on the Application/Petition. This hearing must be scheduled within 7 days of receipt of the 2nd DE Certificate.
4. Send notice of hearing and copies of all orders entered to Prosecutor or Applicant and the proposed patient (or his Public Defender), and his spouse, relative, guardian, next of kin or friend. Also, send copies of the Application and both DE Certificates to the patient or his attorney and spouse, relative, guardian, next of kin or friend, if not done previously.
5. Make appropriate entries in ISTARS.

At the conclusion of the hearing, if the Court finds by clear and convincing evidence that the proposed person is mentally ill and, because of such condition is either, “likely to injure himself or others” or is “gravely disabled”, the Court shall order the proposed patient committed to the custody of the Department of Health and Welfare for an indeterminate period of time not to exceed one year. I.C. § 66-329(k). The director of the Department (usually through a “dispositioner”) shall determine which facility the patient will be sent to. *Id.* The County Sheriff is required to transport the patient to the facility within 48 hours. I.C. § 66-330. While awaiting disposition, the patient may be detained in his home, licensed foster care, or other facility (usually the hospital where he first was). *Id.*

Clerical Duties: *(Must be done immediately.)*

- 1, File stamp Order of Commitment.

2. File stamp Transport Order.
3. Send copies to Prosecutor/Applicant, the patient (or his counsel), and the patient's spouse, relative, guardian, next of kin or friend, and the Sheriff (certified).
4. Make appropriate entries in ISTARs.
5. Close out file.

16.7 RE-HOSPITALIZATION OF CONDITIONALLY RELEASED PATIENTS

An application may be made by a judge, prosecuting attorney, designated examiner or other interested party to return a previously hospitalized patient to in-patient custody status at a designated institution. I.C. § 66-339. In this situation, the case is re-opened and processed in much the same manner as an Involuntary Commitment.

16.8 OUTPATIENT COMMITMENT PROCEEDINGS

Applications may be made to commit patients to outpatient programs. I.C. § 66-339B. The procedures previously described associated with Involuntary Commitments apply to this process.

CLERK OF THE DISTRICT COURT MANUAL

17.0 JURY COMMISSION RESPONSIBILITIES

Revised October 2006

17.1 PURPOSE

To define duties of Jury Commission pursuant to I. C. §§ 2-201 through 217.

17.2 PROCEDURES

The Jury Commission in each county consists of the duly elected and acting Clerk of the District Court and jury commissioners appointed as needed by the administrative judge. Jury Commissioners serve until a successor is appointed and qualifies.

The Clerk or designated Jury Commissioners shall:

1. Compile, and maintain a master jury list.
2. Update information on the master jury list from time to time, but at a minimum of not less frequently than December of each odd-numbered year or as otherwise ordered by the administrative judge.
3. In the alternative, in December of each odd-numbered year, or as otherwise ordered by the administrative judge, empty and refill the master jury list as prescribed in I. C. § 2-206.
4. Draw and assign to the requesting court or official the number of qualified jurors deemed necessary for one or more jury panels or as required for a grand jury.
5. Mail a qualification questionnaire form, accompanied by instructions, to the prospective jurors at their usual residence, business or post office address.
6. Serve each prospective jury panel member with a summons, issued by the clerk of the court or the jury commissioner. The summons can be served either personally, or by regular or certified mail, addressed to the prospective juror at his usual residence, business or post office address.
7. The qualification questionnaire may be sent together with the summons in a single mailing.
8. Provide follow-up to be sure that questionnaires are completed and returned from prospective jurors within 10 days from the date of mailing.

9. If there is an omission, ambiguity, or error in a returned form, again send the form with instructions to the prospective juror to make the necessary addition, clarification, or correction and to return the form within 10 days from the second mailing.
10. If a prospective juror fails to return a completed qualification questionnaire form, the clerk or jury commissioner may direct the prospective juror to appear before the clerk or the jury commissioner to complete the qualification questionnaire form.
11. If a prospective juror fails to appear before the Clerk or Jury Commissioner as directed, then the Clerk or Jury Commissioner shall prepare an order for the Court's signature for the prospective juror to appear before the Court and show cause why he/she failed to appear as directed.
12. A prospective juror may return his/her qualification questionnaire by e-mail, fax or other reliable means of communication.
13. Disqualify prospective jurors based on information provided in their qualification questionnaire, or through interview, or other competent evidence.
14. Keep a record of all disqualification determinations.
15. Determine the validity of written requests for postponement of jury service.
 - A. Request for postponement must be in writing stating the reason for the request and the date on which the reason will no longer exist.
 - B. Postponements for medical reasons may require a statement from the medical provider supporting the request. Requirement determined by Court or the jury commissioner.
 - C. After the period of postponement, the prospective juror shall reappear for jury service as directed by the court or jury commissioner.
16. Provide report of prospective jurors to parties if requested.
17. Retain all records connected with selection and service of jurors for a minimum of 4 years.

17.3 JURY TRIAL PROCEDURAL CHECKLIST

The following outline will guide the clerk through the process a judge will follow during a jury trial. By understanding what the judge will be doing, the clerk should have a basic understanding of what will be happening and, consequently, what the clerk's duties will be during the proceedings. With respect to some procedures, they may vary from county

to county and judge to judge and it is suggested you inquire of your local jury commissioner and the presiding judge as to any differences. Each step has a box so you can check off where you are during the trial.

1. BEFORE JURY TRIAL BEGINS:

- ☐ Obtain copies of juror information forms and questionnaires for judge and counsel.
- ☐ Place jury wheel on bench.
- ☐ Place peremptory challenge sheet on bench.
- ☐ Make sure there are sufficient court minutes on the bench (see court minutes section of Clerk's Manual) and recording equipment is working and has sufficient storage capacity.
- ☐ Prepare copies of juror seating chart for court and counsel.
- ☐ Make sure copies of all proper oaths for prospective jurors, jurors, witnesses, court interpreters and bailiffs are on the bench.
- ☐ Show prospective jurors the Jury Orientation Video and provide jury pamphlet or other materials available from the Idaho Supreme Court.

2. BEFORE PROSPECTIVE JURORS ENTER COURTROOM, THE JUDGE AND THE PARTIES MAY DISCUSS IN COURT ON THE RECORD:

- ☐ Amended complaint?
- ☐ Motions in limine?
- ☐ Voir dire instructions by judge.
- ☐ Any objections of parties to initial or preliminary instructions proposed by court or parties.

3. ONCE JURY SELECTION BEGINS:

- ☐ Have bailiff bring in prospective jurors.
- ☐ Clerk calls roll of prospective jurors by juror name or number.
- ☐ Clerk lists all absent jurors in order to determine what jurors are not present.

- [] Judge Inquires if any objections to jury panel as called (objections in writing, stating reasons, handled before panel sworn).
 - [] Clerk administers voir dire oath to all prospective jurors.
 - [] Prospective jurors' names are placed in jury wheel.
 - [] As instructed by judge, depending on whether it is a magistrate or district court jury trial, a certain number of names are pulled from the wheel and they are instructed on where to sit, then clerk designates placement on the juror seating chart.
 - [] Judge reads pre-voir dire instructions to all prospective jurors, introduces court staff, bailiff, parties and their attorneys, and briefly explains the case.
 - [] Judge's voir dire.
 - [] Plaintiff's voir dire.
 - [] Defense's voir dire.
 - [] Judge asks plaintiff and defense counsel if there are challenges for cause. If a juror is excused for cause, the judge will instruct the clerk to pull another name from the jury wheel.
 - [] Judge instructs parties to begin executing peremptory challenges, alternating between plaintiff and defense, in writing on a sheet prepared by the court.
 - [] Judge asks parties if any objection to jury as finally impaneled.
 - [] Judge instructs clerk to swear in jury as impaneled.
 - [] Balance of jurors is excused by court.
 - [] Clerk prepares final juror seating chart for court, counsel and bailiff.
 - [] Recess generally given, and court admonishes jury not to discuss case.
 - [] The court may ask clerk to take roll call upon reconvening the court.
4. ONCE TRIAL BEGINS:
- [] Judge gives preliminary instructions to the jury.

- [] Plaintiff's opening statement.
- [] Defense's opening statement or reserves until close of plaintiff's case.
- [] Plaintiff's case-in-chief.
- [] Defense's opening statement, if reserved, and case-in-chief.
- [] Plaintiff's rebuttal case, if any.
- [] Defense's surrebuttal, if any.
- [] Final jury instructions conference with parties, and any objections put on record.
- [] Final instructions to jury.
- [] Plaintiff's closing argument.
- [] Defense's closing argument.
- [] Plaintiff's rebuttal argument.
- [] Judge instructs clerk to swear in bailiff to faithfully discharge the duty of guarding the jury while they deliberate.
- [] Clerk hands all admitted exhibits, jury instructions and verdict form to bailiff who will deliver them to jury in jury room.
- [] Jury retires to deliberate.
- [] Clerk obtains phone numbers of counsel to contact them for any juror questions or when jury has returned a verdict.
- [] Bailiff notifies clerk when jury has verdict or any questions.
- [] Clerk notifies parties to return to court for juror questions or verdict.
- [] Judge instructs clerk to call roll of the jury.
- [] Judge instructs presiding juror to hand verdict to bailiff, who in turn delivers it to the judge.
- [] Judge gives verdict form to clerk, who stands and reads the verdict form in its entirety.

- [] Court asks parties if either side wishes the jury polled on the verdict.
- [] Judge excuses jury after any final instructions.
- [] Court is adjourned.
- [] Clerk makes sure all exhibits and jury instructions are retrieved.
- [] Clerk file stamps the verdict and gives copies to counsel.

CLERK OF THE DISTRICT COURT MANUAL

18.0 APPEALS

Revised October 2006

Appeals to the District Court from the Magistrate Division of the District Court and Judicial Review of Actions by an Administrative Agency, Body or Board

(Small Claims Appeals: See Section 8.20)

18.1 NATURE OF JUDICIAL REVIEW

Appeals from the Magistrate Division

Appeals from the Magistrate Division of the District Court are outlined in Idaho Rule of Civil Procedure (IRCP) 83 (including special proceedings except Juvenile Correction Act cases) and Idaho Criminal Rule (ICR) 54.1 - 54.19 (including Juvenile Correction Act cases)

The District Court may order trial de novo, which is a new trial as if was held in a lower court. If a trial de novo is ordered or if the court elects to hear additional evidence or testimony, the court renders a decision as though the matters were initially brought in the district court.

Judicial Review of Agency Actions (Administrative appeals)(IRCP 84)

This process is used when statutes provide for the District Court's judicial review of actions of state agencies or officers not in the judicial department or of actions of a local government, its officers or its units, but no procedure for review is set out in the statute. Certain state agencies such as the Industrial Commission and the Public Utilities Commission are made directly to the Supreme Court.

18.2 TIME LIMITS FOR FILING AN APPEAL (IRCP 83(e); ICR 54.3)

An appeal must be filed with the District Court within forty-two (42) days of entry of judgment or within forty-two (42) days after a decision has been signed by the officer of an administrative agency. The time for appeal from a final judgment is computed from the filing stamp date of the order and includes weekends and holidays.

The appellant files "Notice of Appeal" with the District Court containing information prescribed in IRCP 83(f) or ICR 54.4. The appellant also serves copies of the "Notice of Appeal" upon the Magistrate Division and all parties to the action.

Cross-appeals in civil actions may be filed by opposing party within fourteen (14) days from the date opposing party is served with "Notice of Appeal". (IRCP 83(g))

Clerical Duties:

1. Collect the appeal fee giving a receipt for same.
2. Time stamp and file the "Notice of Appeal" in the District Court following the procedures for opening a new case file, assigning the next District Court number in the proper category (civil or criminal).

Note: In an appeal which will be heard as a trial de novo it is especially important that the clerk's record be completed immediately, and the necessary procedures complied with so that the appeal may be placed on the hearing calendar.

3. Immediately assign the case to a District Judge pursuant to procedures established for your district, or refer to the Administrative Judge or his designee for assignment.
4. The case shall then be referred forthwith to the Judge assigned for his review and required actions pursuant to IRCP 83 or ICR 54.1 to ICR 54.19.
5. If the assigned judge enters any interim orders the Clerk shall immediately file and serve the orders on all parties.
6. When the estimated transcript fee has been paid, the Clerk shall immediately notify the transcriber and instruct the transcriber to prepare the transcript.
7. When the transcript is completed, the transcriber shall lodge the transcript with the Clerk, who shall mail or deliver a notice of lodging to all attorneys of record or parties appearing pro se. The Clerk retains the original of the transcript and advises Plaintiff and Defendant that they may pick up a copy of the transcript within twenty one (21) days from the date of the mailing of the notice of lodging (IRCP 83(o) or ICR 54.9).

The parties have 21 days from the date of mailing of notice of lodging to object to contents of the transcript. (IRCP 83(o) or ICR 54.9)

8. Within seven (7) days of settlement of the transcript, the Clerk of the Court shall file the following with the District Court pursuant to IRCP 83(p) or ICR 54.10:

(a) Transcript

(b) Clerk's Record

(c) All exhibits offered or admitted

The Clerk shall notify all parties or their attorneys that the documents have been filed.

18.3 SUMMARY OF TIME PERIODS REGARDING APPEALS (IRCP 83 and ICR 54.6)

With Transcript: Unless otherwise ordered by the court, a transcript shall be prepared and the appeal shall be heard as an appellate proceeding. IRCP 83(j) or ICR 54.6. Estimated Transcript fees must be paid within fourteen (14) days, unless otherwise ordered by the judge, and the appellant shall pay the balance of the fee upon its completion.

The transcriber has thirty five (35) days to the prepare transcript from the time the estimated fee is paid or from the time transcript is ordered in criminal cases if defendant is indigent, unless an extension is granted. The transcript is to be lodged with the Clerk when completed and parties have twenty one (21) days to pick up transcript; the same twenty one (21) days within which to file objections to transcript. The appellant has thirty five (35) days from settlement of the transcript to file their brief; respondent has twenty eight (28) days to file their brief; appellant has twenty one (21) days to file a rebuttal brief.

Without Transcript: If there is no transcript, the judge enters an order establishing time for filing of briefs. The appellant has thirty five (35) days to file a brief; then the respondent has twenty eight (28) days to file a brief and the appellant has twenty one (21) days to file a rebuttal brief.

18.4 TRANSCRIPT OF TRIAL COURT (IRCP 83(j); ICR 54.6)

A transcript is prepared unless otherwise ordered by the judge. A transcript of the original trial or hearing on an appeal to the District Court shall be required unless otherwise ordered by the District Judge.

Fees for Preparation of Transcript (IRCP 83(k); ICR 54.7(a); (IC § 1-1105)

1. Within fourteen (14) days after the filing of the Notice of Appeal, the transcriber must estimate the length of the transcript and the appellant must pay the estimated cost of the transcript to the clerk. This cost is to be adjusted to the actual cost after the preparation of the transcript and a refund or additional charge is made. (In criminal appeals and in appeals of juvenile correction act cases, the court may order the transcript prepared at county expense in cases of indigence.)
2. Give the appellant or moving party, a receipt for the fees and transmit the same to the auditor for deposit in the court trust funds. Following final computation of the fees, if the party paid more than the transcript actually

cost, the excess money is returned to the party. If the transcript cost more than originally posted, the party must pay the difference.

Preparation of Transcript

- 1, The transcript must be prepared within thirty-five (35) days of payment of the estimated fees for the same unless an application is made to the court, and granted, for an extension. (IRCP 83(k)(2); ICR 54.7(b))
2. The transcript consists of an original and two (2) copies.
3. Multiple parties may jointly use a transcript on appeal. In civil cases, a party desiring a separate copy must pay the transcriber (or clerk of the district court) \$1.00 per page. (IRCP 83(r)).

Form of Transcript. The form of the transcript is the same as the form for appeal to the Idaho Supreme Court. (IRCP 83(1), ICR 54.7(d) and IAR 26)

Completion of Transcript. The completed transcript must be examined and certified by the party who took the transcription if available. (IRCP 83(k)(3); ICR 54.7(d)) The last page of the transcript should contain such a certificate of certification. Compute the final fee for preparation of the transcript.

The judge assigned the case may, on the court's own motion or motion of any party, enter an order that:

1. The appeal involves questions of law alone without the necessity of a transcript or a trial de novo, or
2. The appeal can be determined by listening to the recording tapes, or
3. The appeal is to be heard as a trial de novo.

Clerical Duties: (*When No Transcript Required.*)

1. File the order of the district court that no transcript is required.
2. Immediately serve copies of the order on all parties or their attorneys.
3. Complete and file a Certificate of Mailing (or Service) of the order.

Note: Although the district judge may not require a transcript, a transcript will be required by order of the district judge upon the motion of any party to the appeal. (IRCP 83(j)(5); I.C.R. 54.6(e))

Clerical Duties: (*When Appeal to Be Heard by Listening to the Tapes.*)

1. File the order of the district court that the appeal is to be heard by listening to the tapes of the original trial or proceeding.
2. Serve copies, immediately, of the order on all parties or their attorneys.
3. Complete and file a Certificate of Mailing (or Service) of the order.
4. Operate the electronic equipment for the parties to listen to the tapes.
5. Fees for Listening to Tapes. (IRCP 83(y); ICR 54.19)
6. Collect the fee to be charged as directed by rule of the judicial district.

18.5 CLERK'S RECORD (IRCP 83(n); ICR 54.8)

The Clerk's Record consists of:

1. The official file of any court proceeding or agency file appealed to the district court, including any minute entries or orders.
2. All exhibits offered or admitted.

Clerical Duties:

1. Prepare a Clerk's Certificate on Appeal.
2. Transfer the documents and papers, including the clerk's certificate and all exhibits whether or not admitted, to the district court file which was opened at the time of the filing of the "Notice of Appeal".
3. Upon receipt of the transcript, if prepared by an official court reporter or other transcriber or upon completion of the transcript if prepared by the district court clerk's office, the clerk of the district court mails or delivers a "Notice of Lodging of Transcript" to all attorneys of record or parties appearing in person. The notice shall advise the parties that:

Note: The plaintiff and defendant may pick up a copy of the transcript at the clerk's office. (The original is retained by the clerk for filing with the district court).

The parties have twenty-one (21) days from the date of the notice in which to file any objections to the transcript.

The appellant, or moving party, must pay the balance of any fees due for preparation of the transcript before his copy of the transcript will be delivered to him.

Clerical Duties:

1. Prepare the "Notice of Lodging of Transcript" and serve on all parties. File a Certificate of Mailing (or Service).
2. When the additional transcript fees are received, issue a receipt to the appellant (or moving party).
3. Deliver the copy of the transcript when called for and obtain a signature on an "Acknowledgment of Service".
4. If an objection to the transcript is received, route it immediately to the assigned judge for consideration.
5. Within seven (7) days of the settlement of the transcript, the clerk of the court shall file the original of the transcript, the clerk's record and all exhibits, whether or not admitted, in the district court case file. (IRCP 83(p); ICR 54.10)

Note: If an order is received that no transcript is required, the clerk has seven (7) days to file the clerk's record and the exhibits, after receipt and filing of the order. (IRCP 83(p); ICR 54.10)

6. Give notification of the filing of the transcript, the clerk's record and the exhibits to all parties or their attorneys.

18.6 AUGMENTATION OF RECORD (IRCP 83(q); ICR 54.11; IAR 30)

Any party may file a motion for augmentation of the transcript or the record pursuant to the same procedure for augmentation of Supreme Court appeals.

18.7 AFTER DETERMINATION OF APPEAL (IRCP 83(n); ICR 54.8)

Upon determination of the appeal to District Court and the expiration of time for appeal to the Supreme Court, the original clerk's record is returned to the clerk or agency with a certified copy of the order or disposition rendered by District Court on appeal. No copies of the clerk's record need be prepared unless ordered by the District Court. Clerks shall mail a copy of the ruling to the presiding judge that was appealed.

18.8 JUDICIAL REVIEW OF AGENCY ACTIONS BY THE DISTRICT COURT (APPEALS INVOLVING ADMINISTRATIVE AGENCIES) (IRCP 84)

The District Court sometimes reviews the actions of other governmental agencies, such as the Board of County Commissioners, taxing districts, Idaho Department of Transportation license suspensions and the like.

Filing Petition for Judicial Review (Rule 84(b)): A petition for judicial review from an agency to district court must be filed within twenty eight (28) days after the agency action is ripe for judicial review under the statute authorizing judicial review, unless a different time is prescribed by statute. The petitioner must serve the necessary copies of the petition with the agencies and affected parties and file the proof of service with the court.

Cross-Petitions (Rule 84(c)): A cross-petition for judicial review may be filed within fourteen (14) days from the date the party or other person is served with a copy of the Petition or within the time prescribed for initially petitioning for judicial review, whichever is later. The cross-petitioner must serve the necessary copies of the cross-petition with the agencies and affected parties and file the proof of service with the court.

Transcript: A transcript shall be prepared unless the parties have stipulated that a transcript is not necessary or the district court orders that a transcript is not necessary. However, the district court may order preparation and payment of fees for a transcript. The clerk of the district court shall serve a copy of such order on the agency and on the transcriber of the proceedings of the agency.

Listening to Tapes: If the district court determines that judicial review may be conducted by listening to or viewing tapes of proceedings before the agency in lieu of preparing a transcript, the district judge may issue an order to that effect and set a time by which the parties must listen, watch or otherwise review the tapes.

Payment of Transcript Fee (Rule 84(k)): The party required to pay the fee shall pay it to the person preparing the transcript or such other person as designated by the agency.

Agency Record (Rule 84(n)): The clerk of the district court receives the record submitted by the agency pursuant to rule, statute, or order of the district court.

Settlement of Transcript (Rule 84(o)): The agency has the responsibility of mailing or delivering notice of lodging of transcript to parties and to the district court.

Filing of Transcript and Record (Rule 84(p)): Unless otherwise provided by statute or order of the district court, the agency shall transmit the transcript and record to the district court for filing within forty two (42) days of the service of the petition for review.

Judgment or Decisions on Petition for Judicial Review Rule 84(z): The judgment or decision issued by the district court shall be entered in the manner prescribed by law. The clerk of the district court shall file stamp the district court's ruling and judgment and mail copies to the parties. After the time for appeal to the Supreme Court has expired,

the original agency record shall be returned to the agency together with the order or other disposition rendered by the district court.

18.9 APPEALS TO THE SUPREME COURT

Appeals to the Supreme Court are governed by the Idaho Appellate Rules (IAR). These rules establish the Clerk of the District Court as the designated depository of all initiating appellate pleadings and the collector of all appellate fees. These rules also standardize appellate practice by the use of official forms.

18.10 FILING AN APPEAL

Clerical Duties:

1. Estimated Fees
 - A. Estimate the fee for the preparation of the Clerk's Record. I.A.R. 24(b) If the estimated fee has not been made within two (2) days after conclusion of the trial or proceedings, the estimated fee shall be One hundred dollars (\$100) until the actual fee is computed.
 - B. The appellant deposits the court reporter's transcript fee with the clerk. Ascertain the amount of the estimated fee from the case file. I.A.R. 24(c) If the reporter fails to estimate the fee, the estimate is deemed to be one hundred dollars (\$100).
 - C. Accept the estimated fee(s), giving the appealing party a receipt for the same. Route the fees to the county auditor for deposit in the court trust account. These fees will be distributed upon completion of the clerk's record and the reporter's transcript.
2. File stamp the "Notice of Appeal" along with any other documents submitted and complete standard filing procedures. Collect the district and supreme court filing fees. (See filing fee schedule.) (There are no filing fees in criminal appeals, however, the estimated fees for the Reporter's Transcript and Clerk's Record are paid unless the appellant is indigent.)

Note: The appellant must pay the filing fee or file a motion for waiver of the filing fee or show a motion for waiver of the filing fee is pending in order for the appeal to be filed. You may file the appeal if the fees for the record and transcript have not been paid but should so indicate to the Supreme Court clerk on the form sent to the Supreme Court.

3. Begin a checklist. (Sample attached)

4. Notify the Supreme Court.
 - A. Within fourteen (14) days after the filing of the "Notice of Appeal", prepare and file with the Clerk of the Supreme Court a "Clerk's Certificate of Appeal" (I.A.R. 23(e)). Send this to the Supreme Court along with:
 - (1) A certified copy of the "Notice of Appeal".
 - (2) The document from which the appellant is appealing (example: Judgment of Conviction and Order of Commitment).
 - (3) The Order Appointing State Appellate Public Defender (if ordered).
 - (4) The Supreme Court filing fee.
 - B. The title of the case in the "Clerk's Certificate of Appeal" should contain all parties but specifically identify appellant and respondent. The clerk should carefully read the Notice of Appeal and identify the appellant and respondent. If there is any question, the clerk should call the Supreme Court Clerk concerning the correct title. The District Court may, by order, correct the title of an appeal or cross-appeal at any time before the Clerk's Record is lodged and served on counsel. The Supreme Court may also correct the title.
 - C. If an "Amended Notice of Appeal", "Notice of Cross-Appeal", or "Amended Notice of Cross-Appeal" is filed, the Clerk will need to prepare certified copies of these and send them to the Supreme Court along with an Amended Clerk's Certificate of Appeal to the Supreme Court.
5. Send documents to State Appellate Public Defender. The local public defender or appellant may file a motion to appoint the State Appellate Public Defender. If the court appoints the State Appellate Public Defender, the clerk will need to send them the following things:
 - A. Copy of the Order Appointing the State Appellate Public Defender; also send a certified copy of this order to the Supreme Court Clerk's Office.
 - B. Copy of the Notice of Appeal.

- C. Copy of the order that is being appealed.
 - D. The computer printout of the case detail report (Register of Action).
 - E. Clerks Certificate of Appeal.
6. Prepare the Clerk's record. See Section 18.11.
 7. Lodge the transcript. After the "Notice of Appeal" is filed, the reporter has sixty three (63) days in which to prepare the transcript. Only the Supreme Court can grant an extension. When the transcript has been prepared, it is lodged with the court from which the appeal is taken.

18.11 THE CLERK'S RECORD

Time Limits on Preparing the Clerk's Record: The Supreme Court will send the clerk a notice that will give the Supreme Court Case Number and inform the clerk when the Clerk's Record and transcript are due in their office. You will need to serve the parties with the transcript and record twenty eight (28) days prior to that date. After receiving the Notice of Appeal, the clerk must prepare a record as follows:

1. If there is a Reporter's Transcript, prepare the Record within forty two (42) days from the filing of the notice; provided, that in the event the reporter's transcript is completed before sixty three (63) days after the filing of the notice of appeal, the clerk's or agency's record shall be prepared no later than fourteen (14) days after the reporter's transcript is lodged with the clerk or agency. IAR 27(d)
2. If there is no Reporter's Transcript, the Record must be prepared within twenty one (21) days of the filing of the notice. IAR 27(d)
3. If the clerk needs additional time to complete and file the Clerk's Record, the clerk must obtain the recommendation of the District Judge assigned to the case and complete, sign and file a "Motion and Affidavit to Extend Time" with the Supreme Court. (See sample form)

Contents of the Clerks Record (I.A.R. 28):

In Civil Cases and proceedings:

1. Any order sealing all or any portion of the record.
2. The original and any amended complaint or petition.
3. The original and any amended answer or response to the complaint or

petition.

4. The original and any amended counterclaim, third party claim, or cross claim.
5. The original and any amended answer or response to a counterclaim.
6. The jury verdict rendered in a jury trial.
7. The findings of fact and conclusions of law and any memorandum decision entered by the court.
8. All judgments and decrees.
9. A list of all exhibits offered, whether or not admitted.
10. Notice of appeal and cross-appeal.
11. Any request for additional reporter's transcript or clerk's record.
12. Table of contents and index, which shall be placed at the beginning of each volume of the record.

Note: If the affidavits, exhibits, or attachments are voluminous and it would be costly to reproduce the documents in the Clerk's Record, the Clerk needs to call the requesting party and request that the documents be sent as Exhibits to the Record. If the party is in agreement, the Clerk will not have to include those documents in the record but shall list in the Certificate of Exhibits that they are being sent as Exhibits to the Record. Make sure these are listed on the Clerks Certificate.

In criminal cases and proceedings:

1. Any order sealing all or any portion of the record.
2. Register of actions.
3. All court minutes.
4. All uniform citations, complaints, information and indictments.
5. All orders of the court.
6. All motions filed by either the state or the defendant.
7. All written plea agreements.

8. The jury verdict.
9. The judgment or order withholding judgment.
10. A list of all exhibits offered, whether admitted or not.
11. Pre-sentence Investigation Reports; however, this report shall be forwarded as a confidential exhibit and shall not be placed in the bound clerk's record.
12. Any request for additional reporter's transcript or clerk's record.

Note: In appeals from criminal cases in which the death penalty is imposed, **all** documents filed or lodged of every nature, kind and description shall be automatically included as the standard record. The presentence investigation report shall be forwarded as an exhibit.

The clerk's or agency's record shall also include all additional documents requested by any party in the notice of appeal, notice of cross-appeal and requests for additional documents in the record.

Cover of the Record:

1. The Clerk's Record shall be bound with a cover of sixty five (65) pound paper cover stock or heavier material and shall not have a plastic or acetate cover. The record shall be fastened at the top edge so it will open as flatly as possible.
2. Affixed to the cover of each volume should be a label, which shows the title of the case, the attorneys, the court from which the appeal is taken and the volume number.

Arrangement and Numbering:

1. All pleadings, documents, and papers required to be in the Clerk's Record are inserted chronologically as indicated by the date of filing.
2. The record should be made up of legible photocopies or the reproductions of all documents included in the record.
3. In the rare instance that a document cannot be reproduced in a distinctly legible form, it should be re-typed and should include all information (file stamp, dates, signature, seals, etc.) Additionally, the District Court Clerk must note on the re-typed document that the original document has been

included with the exhibits. The original document should also be listed in the Clerk's Certificate of Exhibits.

4. Each page of the Clerk's Record is to be numbered consecutively at the bottom of the page.
5. Each volume of the Clerk's Record should contain no more than two hundred (200) pages unless the record can be completed in two hundred and fifty (250) pages.

Table of Contents and Index of Record:

1. At the beginning of each volume, the Clerk's Record is to contain a chronological table of contents of all the documents included in the record.
2. Each volume of the Clerk's Record shall have an alphabetical Index indicating the volume and page where each pleading, document or paper may be found. The Index shall be at the beginning of each volume after the Table of Contents.

18.12 CERTIFICATES

Certificate of Exhibits:

1. The clerk, secretary, or the officer responsible for collecting exhibits offered or admitted at the trial or hearing shall file a certificate with the Supreme Court certifying the exhibits, recordings and documents which have been lodged with the Supreme Court, and listing and describing those exhibits which are retained by the clerk or secretary. IAR 31 (4)(d)
2. The Supreme Court is unable to accept certain exhibits. The following are items at this time that the District Clerk will retain: Clothing, Fire Arms, Ammunition, Drugs, Sex Crime Kits or perishable exhibits. If there are very large exhibits, for example a diagram, you may want to retain it also. You may want to take a picture of the items and send the picture. On the Certificate of Exhibits, you will need to clearly identify the exhibits and indicate which exhibits have been retained and if a picture has been sent in its place.

Note: In any criminal case where a documentary exhibit, including a pre-sentence to the Supreme Court, a copy of the documentary exhibit must also be sent to the attorney general and appellate counsel for the defendant, subject to the confidentiality provisions of ICAR 32. IAR 31(c)

3. At the end of the appeal, the Supreme Court will return all the exhibits.

Note: Refer to Rules 37 (Civil) and 38 (Criminal) before disposing of any exhibits. See Clerks Manual Section on Destruction of Records.

Certificate of Clerk: The clerk of the court or administrative agency shall certify at the end of the record, that the record contains true and correct copies of all pleadings, documents and papers designated to be included in the clerk's or agency's record Rule 28, the notice of appeal, any notice of cross-appeal, and any designation of additional documents to be included in the clerk's or agency's record. IAR 28(h)

Certificate of Service: The clerk shall include in the Clerk's Record a certificate indicating that the parties or counsel were served with a copy of the record and reporter's transcript (if requested), including the date of service. IAR 28(i)

18.13 SERVICE OF NOTICE

Service of Notice of Lodging of Transcript and completion of Clerk's Record (IAR 29): When the Transcript is lodged and the Clerk's Record is complete, the clerk serves copies on both the appellant and the respondent. You must advise the parties or counsel of the twenty eight (28)-day settlement period required by IAR 29, and also advise them that they should file any objection to the record and transcript, including any requests for corrections, deletions, or additions with the District Court, together with a Notice of Hearing.

However, if there are multiple parties, either appellant or respondent, the clerk must mail or deliver a "Notice of Lodging of the Reporter's Transcript and Clerk's Record" on all parties, advising that the Transcript and Clerk's Record have been lodged and that the clerk will serve the parties upon receipt of a stipulation by the parties or an order from the District Court designating which party is to receive service of the Transcript and Record. If no stipulation or order is filed within fourteen (14) days, the clerk will serve the party whose name appears first in the case title.

In all appeals from criminal prosecutions and post-conviction relief proceedings, service shall be made upon the Idaho Attorney General, as a representative of the state, and not upon the local prosecuting attorney. The clerk will also serve counsel with a copy of all written exhibits. Any confidential exhibits should be enclosed in a separate envelope and marked "confidential".

Objections to the Record (before the twenty eight (28)-day settlement period): Any party may file an objection to the Record before the twenty eight (28) day settlement period is over. When an Objection to the Record is filed, forward it to the District Judge and send a certified copy to the Supreme Court. The judge may sign an Order granting the motion or set it for a hearing. If the judge signs an order, forward a certified copy of the order to the Supreme Court. If the court sets a hearing, the clerk will need to forward

that information to the Supreme Court. When there is an order issued, send a certified copy to the Supreme Court.

If the court orders documents to be deleted from the Clerk's Record after the clerk has provided copies to counsel, the clerk shall delete the documents from the Clerk's Record as ordered and insert blank pages with the following information typed on them: "That the pages of the Clerk's record numbered have been deleted pursuant to court order, and the court order deleting the documents may be found in the Clerk's Record at page ____."

When the twenty eight (28) day settlement period has expired (and no objection has been filed), send the following items to the Supreme Court within the next seven (7) days IAR 29 (b):

1. The original and two (2) copies of the Clerk's Record.
2. The original and one (1) copy of the Reporter's Transcript. (if requested)
3. All documents and exhibits listed in the Certificate of Exhibits.

Supplemental Clerk's Record:

If a supplemental volume of the Clerk's Record is ordered, the supplemental volume of the Clerk's record should be prepared in the same manner as the original Clerk's Record.

If an order supplementing the record provides that a document shall be sent as an exhibit, a certified copy of the document shall be sent to the Supreme Court.

If a supplemental volume of the Reporter's Transcript is ordered, the court reporter will lodge the supplemental transcript with the clerk. The clerk will need to send counsel copies of the lodged supplemental transcript. The clerk will need to observe the twenty eight (28)-day settlement period, unless otherwise directed by the Supreme Court. When the twenty eight (28)-day period is over or there is a waiver of the twenty eight (28)-day settlement period, the clerk will file the supplemental transcript with the Supreme Court.

18.14 STEP BY STEP CHECKLIST ON PREPARING A CLERK'S RECORD

1. Run a Case Detail Report or Register of Action list for the case that you are working on.
2. Highlight the documents that you will need to include in the Clerk's Record.
3. Go through the file page by page to retrieve the documents that you have highlighted. If you find documents that need to be included in the record but are not on the Case Detail Report, include those documents also. (Correct the Register of Action on ISTARs)

4. Now that you have all the documents that are needed for the Clerk's Record, put the remainder of the file aside. Go through the documents taking the staples out and make sure there is a footer and page numbers on them. If there are not footers or page numbers, the clerk will need to add them to the document.
5. You need to prepare the following and you will need to properly seal and sign them:
 - A. Clerk's Record on Appeal
 - B. Certificate of Exhibits
 - C. Certificate of Service
 - D. Clerk's Certificate
6. Prepare the Table of Contents and Index. If there is more than one volume, you will need to note the volume number.
7. You will need to put the Clerk's Record in this format.
 - A. Title Page (Clerk's Record on Appeal)
 - B. Table of Contents
 - C. Index
 - D. ROA (criminal cases only)
 - E. Documents from the file
 - F. Certificate of Exhibits
 - G. Certificate of Clerk
 - H. Certificate of Service
8. Now you are ready to number the Clerk's Record, starting with number 1 for the title page.

Note: If the record is two hundred and fifty (250) pages or less, you will only have one (1) volume. If the record is over two hundred and fifty (250) pages, you will need to make more than one volume. Only put two hundred (200) pages in a volume in records with two (2) or more volumes.

- 9, Compute the final fees for the record. Take the number of pages you have in the Clerk's Record and multiply it by \$1.25, add the cost of the binders to get your total for the Clerk's record. Request any additional fees needed from the appellant or refund any fees which have been overpaid.

Note: DO NOT SERVE COUNSEL WITH COPIES OF THE TRANSCRIPT OR THE RECORD UNLESS ALL FEES ARE PAID. If the fees are not paid, write a letter to the attorney demanding payment in fourteen (14) days and send a copy of the letter to the Supreme Court.

10. You are now ready to make copies.
 - A. You will need five (5) copies of the Clerk's Record. Designate one as the original to contain the original Title Page (Clerk's Record on Appeal), Table of Contents, Index, Certificate of Exhibits, Certificate of Service, and Clerk's Certificate.
 - B. The designated original and two (2) copies will be sent to the Supreme Court, one (1) copy will be sent to each counsel.
11. Assemble the Clerk's Record in the binders. When all the pages are in the binders, prepare five (5) Supreme Court labels and place one (1) on the front of the each binder and mark the original.

18.15 AUGMENTATION OF THE RECORD OR TRANSCRIPT

Even after the settlement period has passed, any party may later move the Supreme Court to augment or delete from the settled record or transcript. According to Rule 30, a file stamped copy of the document sought to be augmented is to be attached to the motion filed with the Supreme Court so the court can determine if augmentation is proper. Thus, you may have requests for these additional documents. If a party wants to augment with an additional transcript and the transcript has not yet been prepared you may also get requests to allow the party to listen to tapes so that it can be determined whether a transcript of the hearing is relevant.

The documents attached to the Motion to Augment will be used to augment the record and there is seldom any additional documentation required from the district court clerk.

If a supplemental reporter's transcript is requested, the Supreme Court will issue an order requesting that the reporter prepare the transcript within a time certain and lodge the transcript with the district court clerk. The clerk will serve the parties and send the original and one (1) copy to the Supreme Court immediately. Settlement will be as provided by IAR 30.1.

18.16 CONTACT NAMES AND ADDRESSES

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18.17 FORMS

(Appellant's Attorney's Name)
Attorney for Appellant
Post Office Address
Phone Number

IN THE DISTRICT COURT OF THE _____ JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF _____ IN THE (PUBLIC UTILITIES
COMMISSION) (INDUSTRIAL COMMISSION) OF THE STATE OF IDAHO

(Title of original action or)	Case No.
proceeding together with the)	
additional designation of)	NOTICE OF APPEAL
parties as appellant and)	
respondent))	

TO: THE ABOVE NAMED RESPONDENT(S), (Names), AND HIS (THEIR)
ATTORNEYS, (Names and Addresses), AND THE CLERK OF THE ABOVE-
ENTITLED COURT (ADMINISTRATIVE AGENCY).

NOTICE IS HEREBY GIVEN THAT:

1. The above named appellant(s), (Name), appeal(s) against the above-named respondent(s) to the Idaho Supreme Court from (the final judgment) (the order, describing it) _____ entered in the above-entitled action (proceeding) on the _____ day of _____, (Honorable Judge _____) (Chairman _____) presiding.
2. The party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph one above are appealable orders under and pursuant to Rule [e.g. IAR 11(a)(2) or 12(a)].

3. A preliminary statement of the issues on appeal which the appellant then intends to assert in the appeal; provided, any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal.
4. Has an order been entered sealing all or any portion of the record? If so what portion?
5. A. Is a reporter's transcript requested? ____

- B. The appellant requests the preparation of the following portions of the reporter's transcript: e.g. (The entire reporter's standard transcript as defined in IAR 25(a).)

The entire reporter's standard transcript supplemented by the following:

Voir dire examination of jury.
Closing arguments of counsel.
The following reporter's partial transcript.
The testimony of witness "X".
Conferences on requested instructions.
Instructions verbally given by court.

6. The appellant requests the following documents to be included in the clerk's (agency's) record in addition to those automatically included under Rule 28, IAR

All requested and given jury instructions.

The deposition of "X".
Plaintiff's motion for continuance of trial.

7. I certify:

- A. That a copy of this notice of appeal has been served on the reporter.
- B. (1) ☐ That the clerk of the district court or administrative agency has been paid the estimated fee for preparation of the reporter's transcript.

(2) ☐ That the appellant is exempt from paying the estimated transcript fee because _____

- C. (1) ☐ That the estimated fee for preparation of the clerk's or agency's record has been paid.

(2) ☐ That appellant is exempt from paying the estimated fee for preparation of the record because _____

D. (1) [] That the appellate filing fee has been paid.

(2) [] That appellant is exempt from paying the appellate filing fee because _____

E. That service has been made upon all parties required to be served pursuant to IAR 20. (and the Attorney General of Idaho pursuant to IC § 67-1401(1), Idaho Code).

DATED THIS _____ day of _____, 20 ____ .

/s/Attorney's Signature

Name of Attorney or Firm for Appellant

Attorneys for the Appellant

When certification is made by a party instead of his attorney the following affidavit must be executed pursuant to IAR 17(i):

State of Idaho

County of _____, being sworn, deposes and says:

That the party is the appellant in the above-entitled appeal, and that all statements in this notice of appeal are true and correct to the best of his or her knowledge and belief.

Signature of Appellant

Subscribed and Sworn to before me this _____ day of _____, 20 ____ .

(SEAL)

Title

Residence

(Cross-Appellant's Attorney's Name)

Attorney for Cross-Appellant

Post Office Address

Phone Number

IN THE DISTRICT COURT OF THE _____ JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR _____ COUNTY

(IN THE (PUBLIC UTILITIES COMMISSION) (INDUSTRIAL COMMISSION) OF

THE STATE OF IDAHO)

(Title of original action of) Case No.
proceeding together with the)
additional designation of)
parties as cross-appellant) NOTICE OF CROSS-APPEAL
and cross-respondent)

TO: THE ABOVE NAMED CROSS-RESPONDENT(S), (Names), AND HIS (THEIR)
ATTORNEYS, (Names and Addresses, AND THE CLERK OF THE ABOVE-
ENTITLED COURT (ADMINISTRATIVE AGENCY).

NOTICE IS HEREBY GIVEN THAT:

1. The above-named cross-appellant(s), (Name), appeal(s) against the above-named cross-respondent(s) to the Idaho Supreme Court from (the final judgment) (the order, describing it) entered in the above-entitled action (proceeding) on the _____ day of _____, (Honorable Judge _____) (Chairman _____) presiding.
2. That the party has a right to cross-appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Rule [e.g.(11(a)(5)), or (12(a)) IAR
3. A preliminary statement on appeal which the cross-appellant then intends to assert in the appeal; provided, any such list of issues on appeal shall not prevent the cross-appellant from asserting other issues on appeal.
4. A. Is additional reporter's transcript requested? ____
B. The cross-appellant requests the preparation of the following portions of the reporter's transcript:

Note: The entire reporter's standard transcript as defined in Rule 25(a), (IAR)

The entire reporter's standard transcript supplemented by the following:

Voir dire examination of jury
Closing arguments of counsel

The following reporter's partial transcript:

The testimony of witness "X"
Conferences on requested instructions
Instructions verbally given by court

5. The cross-appellant requests the following documents to be included in the clerk's (agency's) record in addition to those automatically included under Rule 28; IAR and those designated by the appellant in the initial notice of appeal:

All requested and given jury instructions

The deposition of "X".
Plaintiff's motion for continuance of trial

6. I certify:

A. That a copy of this notice of cross-appeal and any request for additional transcript have been served on the reporter.

B. (1) ☐ That the clerk of the district court or administrative agency has been paid the estimated fee for preparation of the reporter's transcript and any additional documents requested in the cross-appeal.

(2) ☐ That cross-appellant is exempt from paying the appellate filing fee because _____

C. That service has been made upon all parties required to be served pursuant to IAR 20 (and the attorney general of Idaho pursuant to IC § 67-1401(1)).

DATED this _____ day of _____, 20__.

/s/ Attorney's Signature
(Name of Attorney or Firm for Cross-Appellant)
Attorneys for Cross-Appellant

When certification is made by a party instead of his/her attorney the following affidavit must be executed pursuant to Rule 18(i):

State of Idaho)
) ss.
County of _____)

_____, being sworn, deposes and says:

That the party is the cross-appellant in the above-entitled cross-appeal and that all statements in this notice of cross-appeal are true and correct to the best of his or her knowledge and belief.

Signature of Cross-Appellant

Subscribed and Sworn to before me this _____ day of _____ 20 ____ .

(Seal)

Title
Residence

IN THE DISTRICT COURT OF THE _____ JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR _____ COUNTY

(Title of original action or) Court No.
proceeding together with additional)
designation of parties as appellant) CLERK'S CERTIFICATE
and respondent)) OF APPEAL

Appeal from: _____ Judicial District, _____ County. Honorable _____ presiding.

Case number from court: _____

Order or judgment appealed from: (Date and Description)

Attorney for Appellant: (name) _____

Attorney for Respondent: (name) _____

Appealed by: _____

Appealed against: _____

Notice of Appeal filed: (Date)

Amended Notice of Appeal filed: (Date)

Notice of Cross-Appeal filed: (Date)

Amended Notice of Cross-Appeal filed: (Date)

Appellate fee paid: (Date and Amount) (None--explanation)

Respondent or Cross-Respondent's Request for additional record filed: (Date)

Transcript filed: (Date)

Was District Court Reporter's Transcript requested? _____ If so name of
Reporter: _____

Dated _____

Clerk of the District Court

(SEAL)

TO: (Counsel for each party) (Date)

DOCKET NO.: _____

VS.)
)
)
)

NOTICE OF LODGING OF REPORTER'S TRANSCRIPT AND CLERK'S RECORD

Notice is hereby given that on the _____ day of _____ 20 _____, the Clerk's Record () Reporter's Transcript () in the above referenced appeal was lodged with the District Court Clerk.

Since there are multiple parties Appellant Respondent the Clerk will serve the record, and any transcript, upon the parties upon receipt of a stipulation of the parties, or order of the District Court, as to which parties shall be served. If no stipulation or order is filed in fourteen (14) days, the Clerk will serve the party whose name appears first in the case title.

(Name of District Court Clerk)

Clerk of the District Court

By _____
(Signature of Deputy Clerk)

IN THE DISTRICT COURT OF THE ____ JUDICIAL DISTRICT OF THE STATE OF
IDAHO, IN AND FOR THE COUNTY OF ____

(Title of original action of _____) Case No. _____
proceeding together with the _____)
additional designation of _____) CLERK'S CERTIFICATE
parties as appellant and respondent)

I, _____, Clerk of the District Court of the _____ Judicial District of the State of
Idaho, in and for the County of _____ do hereby certify that the above and foregoing
Record in the above-entitled cause was compiled and bound under my direction and is a
true, full and correct Record of, the pleadings and documents under Rule 28 of the Idaho
Appellate Rules.

I do further certify that all documents, x-rays, charts and pictures offered or admitted in
the above-entitled cause will be duly lodged with the Clerk of the Supreme Court along
with the Court Reporter's Transcript and Clerk's Record (except for Exhibits _____,
which are to be retained in the possession of the undersigned), as required by Rule 31 of
the Idaho Appellate Rules. (See Clerk's Certificate of Exhibits if there are exhibits and no
Reporter's Transcript or not listed in the Reporter's Transcript.)

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said
Court at _____ Idaho, this ____ day of _____, 20 ____.

(Name of District Court Clerk)

Clerk of the District Court

(SEAL)

By _____
(Signature of Deputy Clerk)

IN THE SUPREME COURT OF THE STATE OF IDAHO

v.	<div style="border-bottom: 1px solid black; margin-bottom: 10px;"></div> <div style="margin-bottom: 10px;">Appellant,</div> <div style="border-bottom: 1px solid black; margin-bottom: 10px;"></div> <div>Respondent.</div>
----	---

Supreme Court No. _____

District Court No. _____

DISTRICT COURT CLERK'S MOTION
FOR EXTENSION OF TIME TO FILE
RECORD

Comes now _____, Deputy Court Clerk for _____
County, and hereby moves this court for an Order extending the time to prepare and serve
the appeal record until _____, 20____.

1. The original date for filing the record was _____, 20____ the
current due date is _____, 20____.
2. The number of extensions of time previously granted
is _____.
3. Were any previous extensions denied in whole or in part? _____
4. The Court Reporter lodged the Reporter's Transcript on _____,
20____ (if applicable).
5. I have not been able to file the record for the following specific reasons:

(a) _____

(b) _____

(c) _____

(d) _____
6. I have contacted counsel for the parties and there () is () is not an objection
from counsel to the request for extension.
7. The number of days deemed necessary is _____ making the due date for
filing the record on _____, 20____.

8. I expect to complete and file the record within the extended time requested.

DATED this _____ day of _____, 20____.

Deputy Clerk

RECOMMENDATION

I am the District Judge assigned this case and following review of the foregoing Motion, I recommend approval(), disapproval (), of this request for extension.

DATED this _____ day of _____, 20____.

District Judge

ORDER

Upon consideration of the foregoing Motion and good cause appearing, therefore, IT IS HEREBY ORDERED that the appeal record in this case shall be filed in this Court on or before _____, 20____.

DATED this _____ day of _____, 20____.

By Order of the Supreme Court,

Stephen Kenyon, Clerk

IN THE DISTRICT COURT OF THE _____ JUDICIAL DISTRICT OF THE STATE
OF IDAHO, IN AND FOR THE COUNTY OF _____

(Title of original action or _____) Court No.
proceeding, together with the _____)
additional designation of parties) CERTIFICATE OF SERVICE
as appellant and respondent) _____)

I, _____, Deputy Clerk of the District Court of the _____ Judicial District of the
State of Idaho, in and for the County of _____, do hereby certify that I have personally
served or mailed, by United States mail, postage prepaid, one copy of the Clerk's Record
and any Reporter's Transcript to each of the parties or their Attorney of Record as
follows:

(List Attorneys for the parties or the party, if appearing pro se)

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said
Court this ____ day of _____, 20 ____.

(Clerk's Name)
(SEAL)

By _____
(Name), Deputy
Clerk of the District Court

CLERK OF THE DISTRICT COURT MANUAL

19.0 ISTARS (Idaho Statewide Trial Court Automated Records System)

Revised October 2006

19.1 OVERVIEW

The ISTARS system is a statewide court computer system. The cost for all ongoing development of and maintenance for this software program, as well as the servers that house the program and the computers and printers that run the programming, are paid for by the Idaho Supreme Court.

This system has been designed to assist the state and local courts in efficient administration of the trial courts system.

The ISTARS system involves continuously evolving programming that allows the computer system to keep up with the demands and adapt to the changes in the Idaho court system.

ISTARS has many functions and capabilities, a few of which include the production of court documents and reports, general ledger programming to aid with the tracking of financial records and accounts, scheduling and calendaring functionality, and maintaining detailed case information.

Separate servers housing the ISTARS program reside in each county and, although all of the Idaho courts use ISTARS, the databases are not linked except at the data repository.

Other counties may wish to have access to ISTARS. Requests for connectivity to the state system should be submitted to the Administrative Office of the Court. The requesting entity should be aware that all cable, hardware, and software costs involved in establishing this connectivity are the responsibility of the county or requesting entity, and would only be allowed after determination by the AOC that expanding access will not adversely affect the performance of the system to the courts. Consideration for all decisions regarding access provided to outside users should be made in concert with the resident judge, district court clerk, and trial court administrator.

It is assumed that the clerk/deputy using this manual has received some basic ISTARS orientation when provided with sign-on privileges and passwords. It is not, therefore, intended that this format would be a complete step-by-step instruction guide for that purpose. It is hoped, however, that enough direction is given herein regarding ISTARS so as to assist the new clerk by prompting memory of previous training.

19.2 ISTARs REPORTS

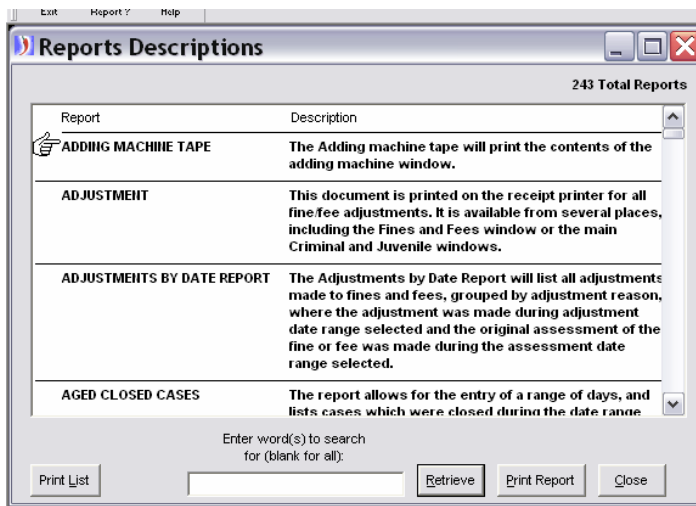
The ISTARs system currently has over 200 reports that are available to the user designed to provide statistical and case management information.

Each time ISTARs is updated with a new release it is possible that the currently existing list of reports will be revised. Therefore, a complete list of all reports will not be provided in this manual.

Users may obtain detailed information about each individual report by reading the descriptive heading listed with each report or by looking through the ISTARs help index regarding the reports available. The permission of production of any report is attached to the security setup for each user.

You will note as you look at the screen shot of the reports description below (found by clicking on reports, and then on the yellow hand that says “report?”), that at the bottom of that box is a box wherein the user can type in the word search that will provide a listing of the reports that have to do with the particular topic. As you can see, on this date there are 243 (listed upper right of screen shot) reports available to the user. If the user inserts a topic in the word search field at the bottom of the window, and then clicks on the word “Retrieve”, the system will narrow down the list to those reports which deal with the topic selected, and will provide the description for those reports only.

At any time, the user can print the report list by clicking on the “Print List” option in the lower left corner of the Reports Descriptions box. The user can produce most of the individual reports by clicking on the report desired and the “Print Report” button.



THE CURRENT LIST OF REPORTS IS AS FOLLOWS:

Report Name:	Report Description:
ADDING MACHINE TAPE ADJUSTMENT	<p>The Adding Machine Tape will print the contents of the adding machine window.</p> <p>This document is printed on the receipt printer for all fine/fee adjustments. It is available from several places, including the Fines and Fees window or the main Criminal and Juvenile windows.</p>
ADJUSTMENTS BY DATE REPORT	<p>The Adjustments by Date Report will list all adjustments made to fines and fees, grouped by adjustment reason, where the adjustment was made during adjustment date range selected and the original assessment of the fine or fee was made during the assessment date range selected.</p>
AGED CLOSED CASES	<p>The report allows for the entry of a range of days, and lists cases which were closed during the date range calculated, and have remained closed since.</p>
AGED RISK/NEEDS ASSESSMENT	<p>This report prints parties on criminal probation that have not had a risk/needs assessment done within the number of days specified.</p>
AGED TRUST CHECK AMOUNTS	<p>The report lists receipts paid by check for bonds that have not yet been disposed, overages that have not yet been refunded or transferred, and restitution that has not yet been disbursed to the victim. Receipts for bonds paid by check, and subsequently converted to pay victim restitution, and that restitution has not yet been disbursed are also included. The amounts listed are by individual receipt. However, the amount listed may not be the full receipt amount. For example, if a receipt was paid by check for both fines and restitution, only the restitution amount of the receipt would be listed on the report.</p>
AGENCIES DISPOSITION REPORTS	<p>Prints a detailed listing of data to be sent to specified agencies where the arresting officer is on the staff of that agency and the case has been disposed.</p>
APPEALED CASE REPORT	<p>The Appealed Case Report will print a list of appealed and remanded cases within the date range selected.</p>
ASSESSMENTS BY FEE	<p>The report list fees assessed based upon the choice of fee and the entry date of the fee.</p>
ATTORNEY AND SPEEDY TRIAL	<p>The Hearings By Attorney and Speedy Trial Date Report prints an attorney's schedule for a given period. It also reports the number of days left to the Speedy Trial date, along with the date itself.</p>
AUTO DISPOSITION SUMMARY	<p>A printed summary of Auto Disposition template information.</p>
BATCH HEARINGS DELETED	<p>This report lists hearings deleted by Batch Hearings Deletion Processing. The process is chosen from the Cases menu; Batch Processes; Delete Hearings.</p>
BATCH RESTITUTION DISBURSEMENT	<p>This report lists restitution disbursements created by Batch Disbursements Processing. The process is chosen from the Cases menu; Batch Processes; Restitution Disbursement.</p>
BATCH WARRANT PURGE	<p>The report lists warrants which were set to a purged status by the batch purge warrant window. The process is chosen from the Cases menu;</p>

Batch Processes; Purge Warrants.

**BCI DISPOSITION
REPORT**

Lists the detailed data sent to the Bureau of Criminal Investigation on BCI reportable charges for cases that have been disposed. The detail information may also be saved to a data file for export.

**BOND CASH
RECONCILIATION
BOND DISPOSITION
REPORT
BOND ENTRIES BY
DATE
BOND FAILURE TO
APPEAR REPORT**

This report will print receipts and disbursements for all bonds for which there is an undistributed cash amount as of the cutoff date entered. The bond disposition report will print all bond forfeitures, conversions, transfers, exonerations, and write-offs for the date range selected. The bond entries by date report will print all bonds, along with disposition information, which were entered during the date range selected. The bond failure to appear report will print all bonds which are still open, were entered within a given date range, have been checked as 'failure to appear', and which do not have a notice of forfeiture date entered. The failure to appear checkbox on the bond can be checked automatically as a result of hearing results entry, or it may be checked 'manually'.

**BONDING COMPANY
DISPOSED BONDS
BONDING COMPANY
OPEN BONDS
BONDS PAST
FORFEITURE
NOTICE GRACE
PERIOD**

This report will print all of the bonds disposed within a given date range, for a single bonding company, or for all bonding companies. This report will print all of the open bonds for a single bonding company, or for all bonding companies. This report will print all bonds which are still open, were entered within a given date range, have been checked as 'failure to appear', and which have a notice of forfeiture date which is less than 'today' plus the number of grace days chosen. The failure to appear checkbox on the bond can be checked automatically as a result of hearing results entry, or it may be checked 'manually'.

**BONDS PAST
SECOND
FORFEITURE
NOTICE GRACE
PERIOD**

This report will print all bonds which are still open, were entered within a given date range, have been checked as 'failure to appear', and which have a second notice of forfeiture date which is less than 'today' plus the number of grace days chosen. The failure to appear checkbox on the bond can be checked automatically as a result of hearing results entry, or it may be checked 'manually'. The report is only useful if your court uses the financial control window option for using a second notice of forfeiture date.

CALENDAR PRINT

This report will print the court calendar as it is shown on the Calendar Setup window. From the Table Maintenance menu, select Scheduling Setup, then Calendar Setup.

**CASES BY ACTIVE
ATTORNEY**

This report prints a list of all cases with which the chosen attorney is still associated. The report is sorted by filing date and case number. If the attorney is a prosecutor on the case, then outstanding warrants are only noted for the first defendant.

**CASES BY
ATTORNEY AND
STATUS**

The cases by attorney and status report will print the current status, defendants, and scheduled events for all cases whose most recent status change is within the date range selected. Selection can be made by attorney and case status. The option for Days Since Status Change allows you to just type in a number of days as opposed to the date range. For example if you want to know how many cases were opened over 60 days ago, just type in 60, click the open case status, and print the report.

CASES BY DATE

The report lists cases within a given date range. Cases can be selected by filing date or entry date. Selection by judge is available, and the report can be either grouped by judge or sorted by case number. Sealed cases can be excluded from the report, and the entry date column can be shown or hidden.

**CASES BY DATE AND
STATUS**

Similar to the Cases by Date report. Cases can be selected by filing date or entry date. Selection by judge is available, as well as selection by case status. The report is grouped by judge and sorted by case number.

**CASES BY JUDGE
AND STATUS**

The cases by judge and status report will print the current status, defendants, and scheduled events for all cases whose most recent status change is within the date range selected. Selection can be made by judge and case status. The option for Days Since Status Change allows you to just type in a number of days (up to 999), and the dates will be calculated. The heading on the report will reflect that number of days, as opposed to the date range. For example, if you want to know how many cases were opened over 60 days ago, just type in 60. Click the open case status, and print the report.

**CASES BY OVERDUE
APPEAR DATE**

The Cases by Overdue Appearance Date Report will print all cases for which the overdue processor has assigned an appearance date which is within the date range selected in the Cases by Overdue Appearance Date window. The cases will be listed in order by appearance date or defendant name depending on the order selected on the Cases by Overdue Appearance Date window.

**CASES CLOSED BY
BATCH PROCESS**

The report lists cases closed by the batch processing window which automatically closes cases eligible for closing. The process is chosen from the Cases menu; Batch Processes; Case Close.

CASES PENDING

The report lists pending cases in case number order that are older than the entered number of days.

**CASES PENDING BY
ATTORNEY**

This report prints all pending cases for the chosen attorney. The report is sorted by filing date and case. If the attorney is a prosecutor on the case, then outstanding warrants are only noted for the first defendant.

**CASES UNDER
ADVISEMENT
CASH BALANCE
REPORT**

The report lists cases with dates indicating that the case has been taken under advisement.

The cash balance report is printed from the Cash Balance window. A list of checks for the period selected, the actual counts of money taken in, the reported amounts, and the differences between the two are printed.

CHARGE IMPORT

The Import Charge Report will print a list of all charges imported for the current run. This report is available from the Charge Import window.

CHECKED IN CASES	This report prints a list of all cases that have been marked as 'Appeared' on the Hearings Management window. The same conditions will be applied to the report as are currently set on the screen. The Hearings Management window is opened from the Scheduling menu.
CHECKED OUT CASE FILES	The case files checked out report lists all physical case files checked out for more than a specified number of days.
CHECKS BY DATE	The checks by date report will print a list of all disbursements for the date range specified for which check numbers were entered.
CHILD PROTECTION CASE HISTORY	The Child Protection Case History report lists, by child, all actions and results recorded for Child Protection cases, as well as Other party relationships. This report is available from the Civil case window Report button for Child Protection cases only.
CHILD PROTECTION HEARING COVER SHEET	The Child Protection Case History report lists, by child, all actions and results recorded for Child Protection cases, as well as Other party relationships. This report is available from the Civil case window Report button for Child Protection cases only. The Child Protection Hearing cover sheet may be used by the judge to note findings, dispositions, and/or comments during a scheduled Child Protection hearing. This report is available from the Civil case window Report button for Child Protection cases when the selected action is a hearing. Cover sheets for hearings by judge and/or within a date range can be printed from the Scheduling menu using the option, Child Hearings Cover Sheets.
CHILD PROTECTION NON-COMPLIANCE REPORT	The Non-Compliance Report lists Child Protection cases (and Subjects) where Child Protection compliance rules have not been followed. Selection by judge is available, as well as action item; the report is grouped by judge and sorted by case number or subject name. User selects a time frame. User also selects to report all cases or open cases only. This report is available from the Case Related report menu item.
CHILD PROTECTION WARNING REPORT	The Warning Report lists Child Protection cases (and Subjects) where a future action is either not scheduled or is scheduled out of the Child Protection time standards. Selection by judge is available, and the report is grouped by judge and sorted by case number or subject name. User may also select a time frame (defaults to 30 days out). This report is available from the Case Related report menu item.
CHILDREN IN CARE	The Children in Care report lists, by date, children on Child Protection type cases who are considered to be in care. The report also displays the case number, the child action category, the date on which the child entered care, and the number of days the child has been in care. This report is available from the Case Related report menu.
CITATION ACTIVITY REPORT	The citation activity report will print totals for either citations issued or disposed during the month selected along with comparisons with the previous month and year. The totals are based upon the statute's report type.

**CITATION
DISPOSITIONS BY
DATE
CITATION IMPORT**

The citation dispositions report will show all citations issued within one date range and disposed within another date range.

**CITATIONS BY
AGENCY**

The Import Citations Report will print a list of all citations imported for the current run. This report is available from the Citation Import window. This report prints the citations issued by any officer in a selected agency in the chosen date range. You can select an agency or select All Agencies. You must select a revision number (default is the current revision) and you can Select a statute or print all for that revision. This report is based on the current charge. If the original charge has been amended, this report will reflect the amended charge rather than the original. You can select a date range or All Dates by leaving the date fields zeros. You can choose to sort the report one of three ways. You can also choose to print the Totals Only.

**CITATIONS BY
AGENCY AND
OFFICER**

This report counts the total charges issued by each officer, within an agency, in the chosen date range. You can select an agency or select All Agencies. You must select a revision number (default is the current revision) and you can select a statute or print all for that revision. This report is based on the current charge. If the original charge has been amended, this report will reflect the amended charge rather than the original. You can select a date range or All Dates by leaving the date fields zeros. You can also choose to print the Totals Only.

**CITATIONS BY
APPEARANCE DATE**

The Citations by Appearance Date Report will print all citations whose appearance date is within the date range selected in the Citations by Appearance Date window. The citations will be listed in order by appearance date or defendant name depending on the order selected on the Citations by Appearance Date window.

**CITATIONS BY
DEFER DATE**

The Citations by Defer Date report prints citations deferred within a selected date range. Either citations, non-citations, or both citations and non-citations may be selected.

**CITATIONS BY
ENTERING CLERK**

The Citations by Entering Clerk report prints citations entered by a selected clerk. Either citations, non-citations, or both citations and non-citations may be selected.

**CITATIONS BY
ENTRY DATE**

The Citations by Entry Date report prints citations entered within a selected date range. Either citations, non-citations, or both citations and non-citations may be selected.

**CITATIONS BY
FINDING
CITATIONS BY ISSUE
DATE**

The citations by finding will print all citations for a selected finding. Selection can be made by issue date or disposition date and by officer. Citations by issue date report prints the citations issued in the chosen date range. You can select a citation type or 'All Types'. You must select a revision number and can Select a statute or print all for that revision. You can also choose to print the 'Totals Only'. Either citations, non-citations, or both citations and non-citations may be selected.

CITATIONS BY OFFICER	This report prints the citations issued by an officer in the chosen date range. You can select an officer or select All Officers. You must select a revision number (default is the current revision) and you can Select a statute or print all for that revision. This report is based on the current charge. If the original charge has been amended, this report will reflect the amended charge rather than the original. You can select a date range or All Dates by leaving the date fields zeros. You can choose to sort the report one of three ways. You can also choose to print the Totals Only.
CITATIONS WITH NO PARTY ADDRESS	This report prints the citations issued in the chosen date range that don't have an address associated with the party. The report prints blank lines for the party's name and address. You can also choose to print the Totals Only.
CIVIL CASE DISPOSITIONS REPORT	This report prints the parties, party type, order date, and disposition information for a specific case. This report is available from the Civil Case window.
CIVIL CASE FAMILY LAW ORDERS REPORT	This report prints the parties, action order date and disposition information for a specific case. This report is available from the Civil Case window.
CIVIL DISPOSITION DISPOSITIONS REPORT	Prints civil disposition dispositions selected by disposition date and disposition type.
CIVIL DISPOSITION REPORT	Prints civil dispositions selected by order date and judgment type.
CIVIL ORDER DISPOSITIONS	This report will list the dispositions of civil orders for which a disposition has been entered within the date range selected.
CIVIL TRUST RECEIPT REPORT	This report will list the receipts of civil trust by trust type within a specified time frame.
CLASS FTA BY PROBATION OFFICER	This report will list all parties who have failed to appear for supervision option classes in order by probation officer.
CLASS ROA REPORT	Reports Register of Action events for the CLASS system. No report is printed; the detail information is saved to a data file for export.
CLOSING REPORT	The closing report is produced when closing a specific accounting period. An Administrative security level is required for this report. The closing process is chosen from the General Ledger menu.
CLOSING SUMMARY REPORTS	This is a list of the closing reports. An Administrative security level is required to use these reports. The closing process is chosen from the General Ledger menu.
CLOSING WORK SHEET	Prints a list of amounts due to various accounts for a specific date range. It is intended as a work sheet to be used prior to closing an accounting period. The closing process is chosen from the General Ledger menu.
COLLECTIONS REPORT	This report produces summary statistics on fines, fees and victim restitution ordered and actually collected during the date range selected. The report may be totaled by degree of statute or totaled by statute. Comparative totals to the same period last year is optional, but requires that the beginning and ending year entered be the same year.

COMPLETE CASE HISTORY	This report prints all information on the system for the case selected. The report selection window may be opened from the main Criminal, Juvenile, and/or Civil case windows.
COMPLETED PROBATION REPORT	This report will list all probations and supervisions marked as completed and whose disposition date is within the date range selected. The user will be able to limit the report based on probation type, probation status, active probation officer, and case type.
COMPLETED SUPERVISION OPTIONS	This report will list all supervision options completed within the date range selected.
CONSERVATOR - CASES BY CONSERVATOR	This report lists information on cases that have a conservator and are not closed. The report is in order by conservator.
CONSERVATOR - REPORTS COMING DUE	This report lists information on cases in which a conservator report will be due within the number of days entered. Either periodic, inventory, or both report types may be chosen.
CONSERVATOR - REPORTS PAST DUE	This report lists information on cases in which a conservator report is past due as of the cutoff date entered. Either periodic, inventory, or both report types may be chosen.
CONSERVATOR - REPORTS RECEIVED	This report lists information on cases in which a conservator report was received within the date range entered. Either periodic, inventory, or both report types may be chosen.
CONSERVATOR DELINQUENCY LIST	This list prints the delinquent conservator reports as currently displayed on the conservator delinquency maintenance window.
CONVICTIONS BY DEGREE LIST	The Convictions by Severity List will print defendants and charges grouped by degree and then sorted by defendant name. A selection of severities can be used. The disposition date is within the date range selected.
COURTROOM STAFF SCHEDULE	The courtroom staff schedule lists courtroom staff scheduled for a select date and time range. The report includes courtroom, staff role, and begin and end dates and times.
CRIMINAL CASE TRIALS REPORT	Based upon the filing date of the case, this report lists defendants on Criminal or Juvenile cases which had a jury trial or a non jury trial. Totals are provided, and a totals only option is available.
CRIMINAL/JUVENILE CALENDAR	The criminal/juvenile calendar lists scheduled events by judge for a select date and time range. The report includes identifying information for the defendant, defense and prosecution attorneys, and a condensed history of the defendant.
CUSTOM FEE REPORT	Various Custom Fee Reports are available. These reports are defined by the user by selecting Custom Fee Report Setup from the table maintenance under Setup Options.
DEFERRED SENTENCE REPORT	The deferred sentences report lists all cases, defendants, and charges, with a deferred sentencing date on or before the cutoff date entered.

DETENTION ORDERS BY DATE	Detentions orders by date will print a list of detention orders in order by case number, name, or issue date. Any combination of statuses (outstanding, served, returned, or voided) may be selected. If outstanding is not one of the statuses selected, the detention orders may be selected by either issue date or status date. If outstanding is selected, the selection will be made by issue date.
DISBURSEMENT	This document is printed on the receipt printer for all outgoing cash transactions. It is available from several places, including the Bonds window or the Victim selection from the main Criminal and Juvenile windows.
DISBURSEMENTS BY DATE	The disbursements by date report will print all disbursements for the date range specified.
DISBURSEMENTS BY OPERATOR	The Disbursements by operator report will print all disbursements for the date range specified for a specific operator or all operators.
DISPOSITION SUMMARY	The Disposition Summary Report prints the case, defendant, finding and citation number for all dispositions within the date range selected. For more detailed information, use the Dispositions by Date Report.
DISPOSITIONS BY DATE	The Dispositions by date report will print cases, defendants, and charges where the charge disposition date is within the date range selected. Plea, finding, and disposition information are printed. You can select by statute report type, revision, statute number, and/or agency.
DNA COLLECTION CONVICTION LIST	The DNA Collection Conviction List will print defendants and charges where the convicted charge carries a requirement for collecting a DNA sample from the defendant, if convicted. The disposition date is within the date range selected.
DOCKET DISPOSITION SHEET	This report will print docket entries within the date range selected. It lists the Judge, hearing type and charge information.
DOCKET SHEET	This report will print docket entries within the date range selected. It lists the Judge, hearing type, charge information, fine and fee information, and bond information.
DOCKET SUMMARY	This report will print docket entries within the date range selected. It lists the Judge, hearing type, and charge information.
DOCUMENT SERVICE ENTRIES	This report prints the Document Services for all cases that have been entered in the date range chosen. You can enter a begin and end date to only print the document services where the issue date is in the range specified, or leave the date fields zeros
DRUG TEST RESULTS BY DATE	Lists client name, test date and drugs for which the client was tested with a selection by test result.
DRUG TESTS BY PARTY	Lists client name, drug test group, and drugs for which to be tested for a selected date range.
EXHIBIT SUMMARY	The Exhibit Summary report will list exhibits, who they are assigned to, a description of the exhibit, the storage location, the destroy notification date and the destroy date for a particular case. It is available from the Exhibit window.
EXHIBITS BY DESTROY DATE	The exhibits by destroy date report will list exhibits which have a destroy notification date but not a destroy date.

**EXHIBITS TO
DISPOSE REPORT
FAMILY LAW ORDER
REPORT**

This report lists exhibits which have not yet been returned or destroyed for cases which have been closed or disposed for a specified number of days. Orders Report: List all active family law cases, their action orders type, data, and status, with totals by order type. Follow Up Report: List all family law cases, their type, date, case number, case style, party name, attorney name, attorney phone

**FEES DISTRIBUTION
REPORT**

The fees distribution report will print the fees collected during the date range selected and the amounts distributed to each recipient based on the distribution amounts in the fees table.

**FEES RECEIPTS
SUMMARY BY
OPERATOR**

The fees receipts summary will print totals for all fees for the date range specified, grouped by the operator posting the receipt.

**FELONY
DISPOSITION
REPORT**

Lists the detailed data sent to the Department of Corrections where the charge is a felony and the case has been disposed within the date range selected. You may also select a specific agency (or all) or one or more statutes (or all). The detail information may also be saved to a data file for export.

**FILE IMPORT ERROR
LIST**

This error report is only available during the import process; it lists rejected import records along with the reason why they were rejected. If your court has purchased this functionality, from the Main menu, select Import/Export, then Citation or Charge Import.

**FILINGS BY
STATUTE REPORT**

The Filings by Statute report will print in order by Statute description, case, defendant and finding where the charge violation date is within the date range selected. You may select multiple, singular, or all statutes. If you do not select the Totals only option, two separate reports, detail and summary, are generated. Note that the report selects by the original Statute. That is, the Statute that was originally filed.

**FINE DISTRIBUTION
BY AGENCY**

The fines distribution report will distribute fines collected during the date range selected based on the fines distribution percentages in the fees table and the fine distribution type in the statute table.

**FINE DISTRIBUTION
BY CITY**

The fines distribution report will distribute fines collected during the date range selected based on the fines distribution percentages in the fees table and the fine distribution type in the statute table for cities.

**FINE DISTRIBUTION
REPORT**

The fines distribution report will distribute fines collected during the date range selected based on the fines distribution percentages in the fees table and the fine distribution type in the statute table.

**FINES ACCOUNTS
RECEIVABLE
FINES AND FEES
RECEIPTS SUMMARY
FISH AND GAME
DISPOSITION
REPORT**

The fines accounts receivables will produce an aged receivables report of all fines and associated fees currently owed to the court.

The fines and fees receipts summary will print totals for all fines and fees for the date range specified.

Lists the detailed data sent to the Fish and Game Agency where the arresting officer is on the staff of Fish and Game and the case has been disposed. The detail information may also be saved to a data file for export.

GENERAL LEDGER

This report lists all of the accounts in the general ledger, their beginning balances, transactions, and ending balances for a selected time period.

**GENERAL LEDGER
TRANSACTION
LISTING
HEARING REPORT**

General ledger transactions for a date and account range.

**HEARING REPORT
WEB PAGE**

This report will list all hearings, in party's name alphabetical order, within the date range selected. You may also select a specific courtroom, judge, or hearing type.

**HEARINGS BY
ATTORNEY**

This report will list all hearings for a given judge for a given date in a format suitable for a web page.

HEARINGS BY CASE

The Hearings By Attorney Report prints an attorney's schedule for a given period.

**HEARINGS BY
COURTROOM
HEARINGS BY
EVENT TYPE**

The Hearings By Case Report prints a list of hearings for a case (or a defendant for criminal and juvenile cases). The report may only be run from the Hearing Entry window.

The Hearings By Courtroom Report prints a courtroom's schedule for a given period.

**HEARINGS BY
JUDGE**

This report prints the schedule for a selected hearing type for a given period. From the main menu, select Scheduling, then Hearing Type Calendar. The Print selection is available after a specific day is chosen.

**HEARINGS BY
OFFICER**

The Hearings By Judge Report prints a judge's schedule for a given period. You can also choose whether or not to print appointments.

**HEARINGS BY
PARTY**

The Hearings By Officer Report prints an officer's schedule for a given period.

**HEARINGS BY
PROBATION
OFFICER**

The Hearings By Party Report prints a person's schedule for a given period.

HEARINGS MASTER

The Hearings By Probation Officer Report prints a report of hearings scheduled for a given period for any person that has been assigned to the selected probation officer.

**HEARINGS NEEDING
INTERPRETER**

The Hearings Master Report prints the hearing schedule for a given period. From the main menu, select Scheduling, then Master Calendar. The Print selection is available after a specific day is chosen.

**HEARINGS WITHOUT
RESULT**

The Hearings Needing Interpreter Report prints all hearings for a given period that require an interpreter.

**IDAHO SUPREME
COURT REPORTS**

The Hearings Without Result Report prints all hearings for a given period that have not had the results of the hearing entered.

**INACTIVITY
DISMISSAL**

The Idaho Supreme Court Reports are a series of different reports related to caseload statistics and time standards.

**INCOMPLETE
ACCOUNT
ASSIGNMENTS**

This report prints a list of inactivity dismissal documents created by the inactivity dismissal process. The process is chosen from the Cases menu; see Help for Inactivity Processing details.

**INCOMPLETE JAIL
REPORT**

A list of fines, fees, agencies, and supervision options that are not properly allocated to a G/L payable account.

The Incomplete Jail Time Report will print a list of all jail time which should have been completed by a specified date and was not completed.

INCOMPLETE PROBATION REPORT	The Incomplete Probation Report will print a list of all probations and supervisions which have not been completed. The user can specify the starting dates, probation officer, type, status, and case type.
INCOMPLETE SUPERVISION OPTIONS	The Incomplete Supervision Options Report will print a list of all supervision options which have not been completed.
INDIVIDUAL RECEIPT DETAIL	This report prints the detail of an individual receipt. It is only available from the Receipts Detail window. A receipt may be printed for all incoming financial transactions, such as payment of bonds or fines and fees.
JOINT AND SEVERAL RESTITUTION	This report will print the case number and defendants for any joint and several restitution groups for a victim. The report is available from the Victim window, which may be opened from the main Criminal or Juvenile case windows.
JOURNAL ENTRY REPORT	Prints all general ledger journal entries for a specific date range.
JUDGE CONFLICT CASES	This report allows for the selection of an individual judge or all judges. It lists cases where the judge assigned to the case, or the judge assigned to a hearing on the case, has a conflict of interest with one or more of the parties on the case.
JUVENILE CORRECTIONS DEFENDANT REPORT	Lists the names of defendants whose cases were disposed on or after October 1, 1995 and have no date of birth on file. This report is automatically printed after the Juvenile Corrections Disposition Report.
JUVENILE CORRECTIONS DISPOSITION REPORT	Lists the detailed data sent to Juvenile Corrections where the defendant is under 21 years of age and the case was disposed on or after October 1, 1995. The detail information may also be saved to a data file for export.
JUVENILE ETHNICITY REPORT	Lists the ethnicity of juvenile case filings for the specified time period
JUVENILE RACE/ETHNICITY REPORT	Lists the ethnicity of juvenile case filings for the specified time period
LABEL	Case File Labels are an optional setup item. If available, labels may be printed from several places, including the main Criminal, Civil, and Juvenile windows.
LEDGER	This report prints the ledger for the currently displayed case. The report window may be opened from the main Criminal or Juvenile case windows.
MEDIA DISPOSITIONS REPORT	Prints a detailed listing of dispositions where all charges are disposed and at least one of the charges was disposed within the selected time frame for release to the media.
MINUTES REPORT	This report prints hearing minutes for a given case. It is available from several places, including the Minutes window, which may be accessed from the main Criminal, Civil, and Juvenile windows.

MONEY DUE BY DUE DATE	The money due by due date will print a list of all fines, fees, and restitution due within a specified date range. The report is printed in alphabetical order by defendant.
MONEY DUE BY FINES AND FEES	This report will list money due for a selected fine or fee (or all fines and fees) within a selected date range, based upon the defendant's money due date (or extension date).
MONTHLY ACTIVITY REPORT	The monthly activity report will print totals for citations, offenses, charges issued and revenue for receipts taken during the month selected.
MONTHLY CASE STATISTICS	This report lists the total criminal and juvenile cases pending at the beginning and the ending of the selected month, the number of criminal and juvenile cases disposed during the month, the number of all types of cases filed during the month, and civil orders filed and disposed during the month. All totals are broken down by case type and subtype.
NAME INDEX REPORT	The Name Index Report lists the names of all parties and their roles, charges, case numbers & status, for all cases filed within the specified date range. You may sort the report by party name or case number.
NOTES PRINT	Lists all notes with a comment date within the date selected. If the report is run from the Diversion window, it will be for one subject. If it is run from the reports menu, all subjects with notes within the selected date range will be listed.
NOTICE OF FORFEITURE	The notice of forfeiture is to be sent to the interested party prior to the actual forfeiture of a bond. It is selected from the Bond window, available from several places, including the main Criminal, Civil, and Juvenile windows.
OFFICER SUBPOENAS	This report prints Officer Subpoenas. You can print the report for All Officers or you can select a particular officer to print. You can enter a begin and end date to only print the subpoenas where the Hearing Date is in the range specified.
OFFICER SUPERVISION CONTACTS	This report prints the selected types of supervision contacts for a specific probation officer for a specified date range.
OFFICER TRIAL REPORT	This report will list defendant name, case number, citation number, police reference number, and hearing time for all the officers in a selected agency with a hearing within a select date range. This list is in order by officer.
OLD CASES	This report will list case number, role, and any comments relating to cases that existed before the court was automated. It is selected from the Old Cases window, which is selected from the Party Detail window.
OPEN BOND REPORT	The open bond report will print all bonds entered within the date range selected which have not been disposed, are partially disposed, and have not been voided.
OPEN CITATIONS	The Open Citations report prints citations which have no plea and no finding, and the violation date is on or before the cutoff date. Either citations, non-citations, or both citations and non-citations may be selected.

OPEN CITATIONS BY DEFER DATE	The Open Citations by Defer Date report prints all citations with no finding whose defer date is on or before a selected cutoff date. Either citations, non-citations, or both citations and non-citations may be selected.
OUTSTANDING DOCUMENT SERVICE	This report prints the Outstanding Document Services for all case types. You can print the report sorted by Case Number or by Issue Date or by Name. You can also select to print the Totals Only.
OUTSTANDING OVERAGES REPORT	The outstanding overages report will print all overages which have not been disbursed.
OUTSTANDING SUMMONSES	This report prints the Outstanding Summonses. You can print the report sorted by Case Number or by Issue Date or by Name. You can also select to print the Totals Only.
OUTSTANDING WARRANTS PAST REVIEW REPORT	This report lists all warrants, issued on or before the cutoff date selected, which are past their review date and still open. This list can be printed in order by case number, issue date, or defendant name. A detailed report or totals only can be selected.
OUTSTANDING WARRANTS REPORT	This report lists all outstanding warrants issued within the date range selected. This list can be printed in order by case number, issue date, defendant name or agency. The agency option produces a slightly different report that is also page grouped by agency. A detailed report or totals only can be selected.
OUTSTANDING WARRANTS SUMMARY	This report lists all outstanding warrants issued within the date range selected. This lists only name, case, address, DOB, SSN, and warrant issue date.
OVERDUE HISTORY REPORT	This report lists overdue processing completed for the current case and defendant. It is available from several places, including the main Criminal and Juvenile windows.
PAID COURT APPOINTED ATTORNEYS PARTICIPANTS	This report prints all cases with court appointed attorneys who have received payment. Lists all diversion Participants with a Program START DATE within the selected date range. List may be limited further by making selections for Diversion Type, Action Type, Rejection Type, Drug Test Group, Treatment Provider, and Treatment Staff.
PARTIES IN CUSTODY	This report prints all parties who have a custody status entered. Selection by custody status is provided.
PARTIES NEEDING PROBATION OFFICER REPORT	The Parties Needing Probation Report lists all parties needing a probation officer assigned. This report is available only from the Parties Needing Probation Officers window.
PARTIES ON PROBATION	This report prints all parties who are on probation as of the report date. Other selection criteria are provided.
PARTIES THAT APPEARED	This report prints all parties that actually appeared for a hearing during the selected date range.
PARTY ADJUSTMENT HISTORY	This report prints all adjustments associated with the selected party.

PARTY BALANCES

The Party Balances Report prints a list of all cases where the party is a defendant and lists the total fines/fees, the payments made to date, the current balance and the date and amount of the last payment.

**PARTY CONTACTS
PRINT**

The party contact print report will print the contact information shown on the party contacts window at the time the print button is pressed.

PARTY DETAIL

The Party Detail Report prints party information including aliases, addresses, and other information related to the party. The complete report will print all information for all cases associated with the party and may take a long time to print for one of your regular customers. The summary report prints limited (but useful) information on cases in which the party is a defendant in a criminal case, a juvenile in a juvenile case, or a party in a civil case. The balances report shows all cases that a party is a defendant on and the total fines/fees, total payments, current balance and last payment and amount. The ROA report enhances the summary report by adding the ROA for each case. The Party History by Charge report shows all Charges and Dispositions where the party is involved and is grouped by Statute Revision and then by Statute Number.

**PARTY DETAIL
SUMMARY**

The Party Detail Report prints party information including aliases, old cases, old addresses. The complete report will print all information for all cases associated with the party and may take a long time to print. The summary report prints only case numbers, defendants, charges, and findings for each case.

**PARTY DETAIL
SUMMARY AND
ROAS
PARTY HISTORY**

The Party Detail Summary and ROA's Report prints the register of actions for each case that the party is the defendant on in addition to the information contained on the Party Detail Summary.

The Party History report prints party information: cases, citations, warrants, or civil dispositions associated with the party. It is selected from the Party History window, which is selected from the Party Detail window.

**PARTY HISTORY BY
CHARGE**

The Party History by Charge report prints party Statute Revision, Statute Number of all cases where he or she was a defendant. It is selected from the Party Detail window.

**PARTY SUPERVISION
CONTACTS**

This report prints the selected types of supervision contacts for a specific party for a specified date range. You can also select which of the party's cases you wish to include in the report.

**PARTY
TRANSACTION
HISTORY**

This report prints all payments and disbursements associated with the selected party.

**PAYMENTS BY
PROBATION
OFFICER**

This report allows for selecting fee categories and probation officers, and lists corresponding payments made during the selected date range.

**PAYMENTS BY
PROBATIONERS LIST**

The Payments by Probationers list lists probationers who were on an active probation and made a payment for anything within the date frame specified. It provides a breakdown of amounts by civil, criminal, and juvenile case. Also the user can elect to select the probation officer and probation type to report on.

**PENDING CASES
WITH COURT
APPOINTED
ATTORNEYS
PLEA REPORT**

This report prints all pending cases for court appointed attorneys and/or conflict attorneys.

**PRETRIAL RELEASE
REPORT**

The prosecution report lists all defendants scheduled for hearing within a selected date range who have prior charges with an amended charge. These prior charges and dispositions are listed along with the current charges. The defense report list those defendants who have a defense attorney in order by attorney.

This report prints all pretrial release contacts (including contact date, case number, defendant name, and comments) for a specific date range for a specific pretrial release officer. The report selection window may be opened from the Criminal or Juvenile Bond window or the Pretrial Release Search window.

**PRO SE ATTORNEY
ASSIGNMENT
REPORT**

Prints a detailed listing of Cases and Parties for which no Attorney is assigned.

**PRO SE ATTORNEY
STATISTICS REPORT
PROBATION
CASELOAD REPORT**

Prints a statistical report of Cases and Parties for which no Attorney is assigned.

This report prints all individuals who have probations or supervisions and which have not been marked as 'Completed' (optionally, you can print all, whether completed or not). The report includes probation officer assigned, warrant status, charge, case number, probation type, probation status, risk/needs level, probation begin date and target completion date, and is sorted by probation officer. Selections can also be made based on starting date, case type, probation type, probation status, and probation officer. The Totals are based on number of different parties, not on individual probations.

**PROBATION CASES
BY STATUTE**

The report allows for selecting one or more Statute and one or more probation officer. The report prints basic case information for charges disposed during the date range selected.

**PROBATION
CLOSEOUT REPORT**

This report prints all individuals whose probation is due to be completed within a selected date range. The completion date is the 'probation complete by date', and not a computation of the disposition date on the charge plus the term of probation. Selections can also be made based on case type, probation type, probation status, and probation officer. The Totals are based on number of different parties, not on individual probations..

**PROBATION
COMPLETED CHECK
REPORT**

This report prints all individuals whose probation complete by date is before the cutoff date entered, and the probation has not been checked as completed. Selections can also be made based on starting date, case type, probation type, probation status, and probation officer. The Totals are based on number of different parties, not on individual probations.

**PROBATION
CONFINEMENT
REPORT**

This report prints all individuals with open probation and that have confinement conditions set. The details of the confinement will be listed along with the charge and the probation details. The user will be able sort the list by probationer or by probation officer. The user will be able to select by officer, probation type, probation status, probation start date, or case type.

**PROBATION
DOCKET LIST**

This report prints hearing events scheduled within the date range selected for defendants who are on probation for the scheduled cases. Defendants assigned to a probation officer as well as those who are not assigned are listed. The report is in order by probation officer.

**PROBATION
NOTEPAD REPORT**

This report prints all probation notepad notes for a specific party. It is available from the Probation Officer window, selected from the Party Detail window.

**PROBATION OFFICE
VISIT NO SHOWS**

This report lists parties who failed to appear at their scheduled probation office visit during a given date range. The report is grouped by probation officer and sorted by party name.

**PROBATION
OFFICER OFFICE
VISITS**

The Probation Officer Office Visits Report prints a list of the probation officer's scheduled office visits for a given period.

**PROBATION OTHER
SENTENCES**

This report prints all probationers that have Other Sentences or Supervision Compliances and still have open probations or supervisions. The report is selectable by officer, probation type, probation status, other sentence/supervision option type, or case.

**PROBATION
REQUIREMENTS
SUMMARY**

This report prints the information currently displayed on the Probation Requirements Summary window. It is available from several places, including the main Criminal and Juvenile windows.

**PROBATION
STATISTICS REPORT**

This report prints a statistical breakdown of parties on probation current. It breaks down by race first, then shows sex and age breakdowns under race as well as totaling the various breakdowns and the end of the report. The age is limited to under 18 and 18 and over. The report can be selected by Probation Type, Probation Status, Case Type, and Probation Officer.

**PROBATIONER
SCHOOL LIST**

This report prints a list of parties currently on probation/supervision that have been noted as attending a school. The report can be ordered by party, officer or school. It can also be selected by school or officer.

RECEIPT

A receipt may be printed for all incoming financial transactions, such as payment of bonds or fines and fees.

RECEIPTS BY DATE

The receipts by date report will print all receipts for the date range specified.

**RECEIPTS BY DATE
SUMMARY**

The receipts by date summary will print the receipt date and time, receipt number, pay or, case number, and amount for a selected date range.

RECEIPTS BY FEE

This report will list all receipts for a selected fee within a selected date range.

**RECEIPTS BY
NUMBER**

The receipts by number report will print all receipts whose number matches the number specified.

**RECEIPTS BY
OPERATOR**

The receipts by operator report will print all receipts for the date range specified for a specific operator or all operators.

**RECEIPTS BY
STATUTE
REFUNDED
RECEIPTS BY DATE
REMINDERS**

The receipts by Statute will list all receipts within a specified date range for the Statute selected.
The refunded receipts by date report will print all refunded receipts for the receipt date range specified.
This report prints all reminders for a date range, for the current user or for all users, and is available from the Search menu or the main Criminal, Civil, and Juvenile windows.

**RESTITUTION
ACCOUNTS
RECEIVABLE
RESTITUTION
INTEREST
CALCULATED
RESTITUTION
RECEIPTS
RISK/NEEDS
ASSESSMENT
LISTING
RISK/NEEDS
ASSESSMENT
REPORT**

The restitution accounts receivables will produce an aged receivables report of all restitution currently owed to the court.

The report lists victim restitution interest calculated by the batch processing window. The process is chosen from the Cases menu; Batch Processes; Restitution Interest.
This report will print the defendant, victim, and amount received, for all restitution received within the date range selected.
This report prints all risk/needs assessment information for the current party.

**ROA ENTRIES BY
DATE
ROA REPORT**

This report prints register of action entries for a given date range. An individual ROA code or all codes may be selected.
This report prints register of action entries for a given case. It is available from several places, including the main Criminal, Civil, and Juvenile windows.

SANCTIONS REPORT

The report lists sanctions entered during a date range, either for a type of sanction, or by person.

**SEX OFFENDER
REGISTRY LIST**

The Sex Offender Registry List will print defendants and charges where the charge carries a requirement for placing the defendant in the Sex Offender Registry, if convicted. The disposition date is within the date range selected.

**SPECIAL
ASSESSMENT
ACCOUNT REPORT
SPEEDY TRIAL
AUDIT REPORT**

Prints all general ledger special assessment account entries for a specific date range.

STAFFING REPORT

This report lists all cases that are approaching speedy trial by xx days selection. Other criteria includes the open disposition of at least one charge and cases will be sorted by the speedy trial date, with the shortest dates being listed first.

STATUS REPORTS

List all active clients, their treatment provider, attorney, and probation officer. Drug tests and results, unexcused absences, and new arrests are listed for the date range selected. Also included are the note from the last treatment phase and the most recent probation office visit comment.
This report creates a report and a number of graphs showing the status of Diversion.

**SUBPOENAS BY
SUBPOENA DATE**

The Subpoenas by Subpoena date report can print the report sorted by Case Number or by Issue Date or by Name. You can enter a begin and end date to only print the subpoenas where the Subpoena Date is in the range specified or leave the date fields zeros to print all dates. You can also select to print the Issued Subpoenas Only.

**SUMMONS ENTRIES
BY DATE**

This report prints the Summonses that have been entered in the date range chosen. You can enter a begin and end date to only print the summons where the Date Entered is in the range specified, or leave the date fields zeros to print all dates. You can print the report sorted by Case Number or by Issue Date or by Name. You can also select to print the Totals Only. The supervision accounts receivables will produce an aged receivables report of all fees on supervision options currently owed to the court.

**SUPERVISION
ACCOUNTS
RECEIVABLE
SUPERVISION
CONTACT REPORT
SUPERVISION
OPTION CLASS
ROSTER
SUPERVISION
OPTIONS BY DATE**

This report prints the selected types of supervision contacts for a specific supervision for an entered date range.

The Supervision Option Class Roster will print defendant name, case number, total fees and fee amount paid for all sentence class dates which fall within the specified date range and sentence type.

Supervision Options by Date will print party name, case number, completed date, total fees and fee amount paid for all supervisions which fall within the specified date range and option type.

Prints all general ledger suspense account entries for a specific date range.

**SUSPENSE ACCOUNT
REPORT
TIME LIMITS
REPORT**

This report prints all unsatisfied time limit items with a deadline date on or before a selected cutoff date.

**TRANSACTIONS BY
CASE**

This report will list all of the transactions currently displayed on the transactions by case window.

**TRUST ACCOUNT
BALANCES REPORT**

The Trust Account Balances Report prints data on civil trust accounts. Selection parameters include as of date, include/exclude zero balances, all or one judge, court, location and totals only.

**TRUST REPORT
UNAPPLIED RECEIPT
ACCOUNT
UNAPPLIED RECEIPT
ACCOUNTS**

This report will list all of the transactions for a specific trust account.

This report prints all the unapplied account activity for a specific party. It may be accessed from the main Party window.

This report will print all unapplied receipts accounts with an option to print only those which have a balance. The report is printed in order by account purpose and account name.

**UNDISBURSED
RESTITUTION
UNDISPOSED CIVIL
ORDERS
UNEXPIRED CIVIL
ORDERS
UNLINKED OFFICER
REPORT**

The undisbursed restitution report will print all restitution which has been paid to the court, but has not been disbursed to the victim.

The undisposed civil orders report will list all civil orders for which no disposition has been entered.

The unexpired civil orders report will list all granted civil orders which have not expired.

This report prints all party & probation officers which have not been linked to a probation or supervision.

UNPAID COURT APPOINTED ATTORNEY URINALYSIS NO SHOWS	This report prints all cases with court appointed attorneys who have not received payment.
URINE TEST LISTING	This report list parties who failed to appear for their scheduled urinalysis test during a given date range. The report is grouped by probation officer and sorted by party name.
VOIDED DISBURSEMENTS BY DATE	This report lists all the urine tests for a specific party. It shows the result and any drugs found by the test.
VOIDED RECEIPTS BY DATE	The voided disbursements by date report will print all voided disbursements for the date range specified.
WARRANT ENTRIES BY DATE REPORT	The voided receipts by date report will print all receipts entered for the date range specified which are now voided.
WARRANTS NOT OUTSTANDING REPORT	This report lists all warrants which have been entered within the date range selected. This list can be printed in order by case number, issue date, or defendant name. A detailed report or totals only can be selected.
	This report lists all warrants which have been served, returned, or voided, during the date range selected. This list can be printed in order by case number, issue date, or defendant name. A detailed report or totals only can be selected.

19.3 ISTARs MAINTENANCE TABLES

ISTARs tables store the individually programmable data items for ISTARs that may be unique to Idaho and/or unique to each court.

These data items appear throughout ISTARs on “drop-down lists” from which you can quickly select the element you need, rather than having to type the name each time. Any data field which has a ▼ (down arrow) next to it indicates a user defined list for that data field.

These lists will include all of the items available from the table.

A list of the Primary ISTARs tables is as follows:

1. **Agencies-** The Agency Table lists the information for various agencies for which data is stored on the ISTARs system

The subset of tables in this section would include:

- Law Enforcement
 - Agencies and officers
- Bonding Companies
 - Company and Agents
- Pretrial Release
 - Agency and Agents

- Document Service
 - Agency and Agents
- Law Firms
 - Agency and Addresses
- Probation and Parole
 - Agency and Officers
- Correctional Institutions
 - Institution and Addresses

2. Attorneys—

The Attorney Table includes the attorney name, address, phone number and bar number for each attorney.

3. Case Numbering—

The Case Numbering Table includes the case types, subtypes, and some default information such as:

- Auto Seal
- Auto Physical File
- Family Law Case
- Probate
- Child Action Category
- Which party types apply to each case
 - Plaintiff
 - Defendant
 - Subject
 - Other Party
- Sequences
 - Next case number to be assigned
- Format
 - Case number format = Type, Year, Number, and in some courts Location or subtype.
- Style
 - The case style is often considered the “title” of the case.

4. Courtrooms—

The courtroom table contains the courtroom number and address.

5. Fees—

The fee table includes a separate listing of applicable fines and fees for each case type and the distribution setup including account numbers for each of the fees inserted.

- Criminal
- Juvenile
- Filing Fees (Civil)
- Filing Fee Exceptions
- Miscellaneous Fees

6. Forms—

The Forms Maintenance Table in ISTARs contains the titles of all of the documents, lists, and reports in the system. The user can adjust and add to the documents segment, and can make some adjustments to the reports and lists, such as number of copies.

7. Judges—

The Judges Table includes the complete list of judges who currently work or have historically worked in the county with some limited details about the judge including their jurisdiction and judge number.

8. Register of Actions Codes—

The Register of Actions Codes Table lists all ROA codes in alphabetic order by code. This table allows the user to define which case type will use which codes. It also allows for some automatic processing setup.

9. ROA Events—(Register of Action Events)

The Register of Actions Events is a listing of “events” which happen on a case which are documented in ISTARs. Attaching the appropriate ROA code(s) to the event prompts automatic insertion of that ROA whenever that event is documented in the system.

10. Sentencing—

In the sentencing table the system allows the setup of sentencing programs which the court will want to “track”. A few examples would be:

Community Service

Sheriff’s Work Detail

Anger Management Assessment

If the user wish’s to insert fines/fees through this mechanism they must be certain that the general ledger receivable and payable accounts have been setup so that the money will disburse correctly.

Idaho uses this table to track the sentencing options, but generally uses the insert tab on the fines and fees screen to track the financial obligations which may be associated with the option.

11. Statutes—

The Statute Table lists in order by code number the revision currently displayed in the maintenance window, and is selectable by long or short version, and may include or exclude inactive statutes

12. Schedule--

The Court Schedule Maintenance is the place where the local court clerk inserts the court closed dates for the next year(s) so that hearings do not get scheduled on weekends or holidays.

ISTARS General Ledger:

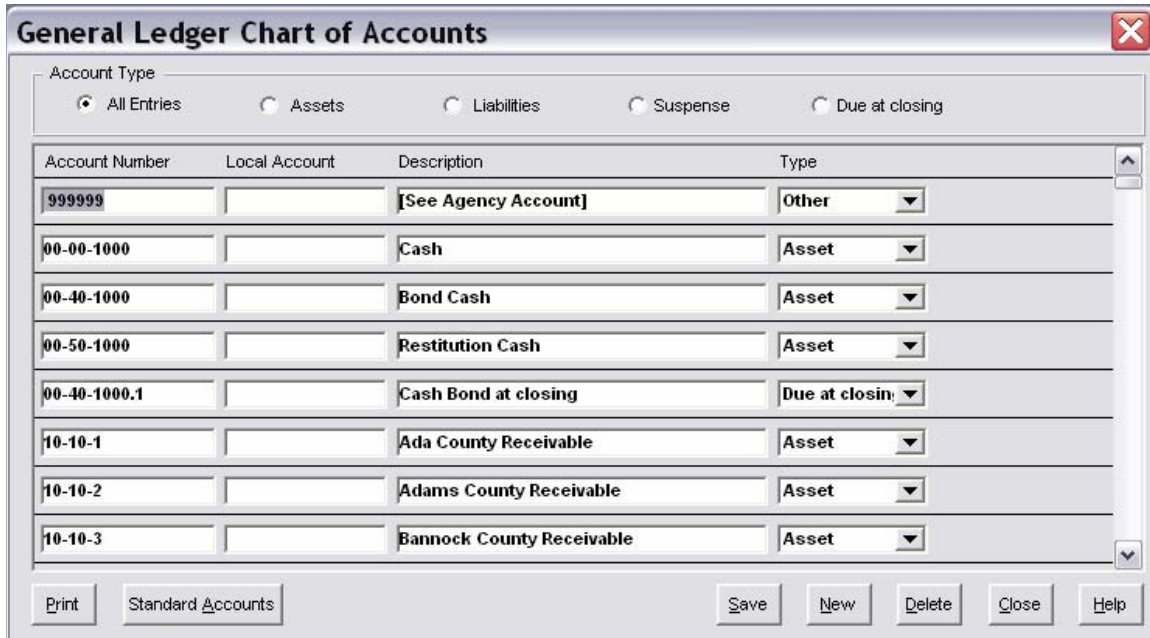
The accounting system in ISTARS was developed under the direction of the Administrative Office of the Court.

The Chart of Accounts:

In Tables, General Ledger

You will find a listing of the chart of accounts.

The local account number (if inserted) is applicable to the liability accounts.



The screenshot shows a software window titled "General Ledger Chart of Accounts". At the top, there are radio buttons for "Account Type": "All Entries" (selected), "Assets", "Liabilities", "Suspense", and "Due at closing". Below this is a table with four columns: "Account Number", "Local Account", "Description", and "Type". The table contains several rows of account data. At the bottom of the window, there are buttons for "Print", "Standard Accounts", "Save", "New", "Delete", "Close", and "Help".

Account Number	Local Account	Description	Type
999999		[See Agency Account]	Other
00-00-1000		Cash	Asset
00-40-1000		Bond Cash	Asset
00-50-1000		Restitution Cash	Asset
00-40-1000.1		Cash Bond at closing	Due at closing
10-10-1		Ada County Receivable	Asset
10-10-2		Adams County Receivable	Asset
10-10-3		Bannock County Receivable	Asset

Any changes that would need to be made to the General Ledger setup, i.e.: adding new fees, would need to be entered using a password which comes from the AOC.

There are many reports (listed previously) which assist the court in tracking funds from receipt to disbursement.

A special package was designed which allows the ISTARS users to run the month end reports all at one time. The month end close will provide the local court with all of the detail for the previous month and prepare a report called The Period End Payments, which will instruct the local court exactly how to disburse the money that has come through ISTARS to the various agencies and local accounts.

Closing Reports

Accounting Period
 Period Begin Date: 4/1/2005 Period End Date: 4/30/2005
☐ **Print All Reports**

Reports

<input type="checkbox"/> Bonds Payable	<input type="checkbox"/> Period End Payments
<input type="checkbox"/> Bond Summary	<input type="checkbox"/> Restitution Payable
<input type="checkbox"/> Closing Cash Summary	<input type="checkbox"/> Restitution Summary
<input type="checkbox"/> Closing Work Sheet	<input type="checkbox"/> Special Assessment
<input type="checkbox"/> Fines and Fees Summary	<input type="checkbox"/> Suspense Account Report
<input type="checkbox"/> Journal Entry Report	<input type="checkbox"/> Voided Receipts and Disbursements
<input type="checkbox"/> Overages Payable	<input type="checkbox"/> City Distribution Detail
<input type="checkbox"/> Overages Summary	<input type="checkbox"/> County Distribution Detail

Balancing Help
☐ Balancing Instruction ☐ Fines and Fees Reconciliation

The month end reports must be produced after the last day of the month.

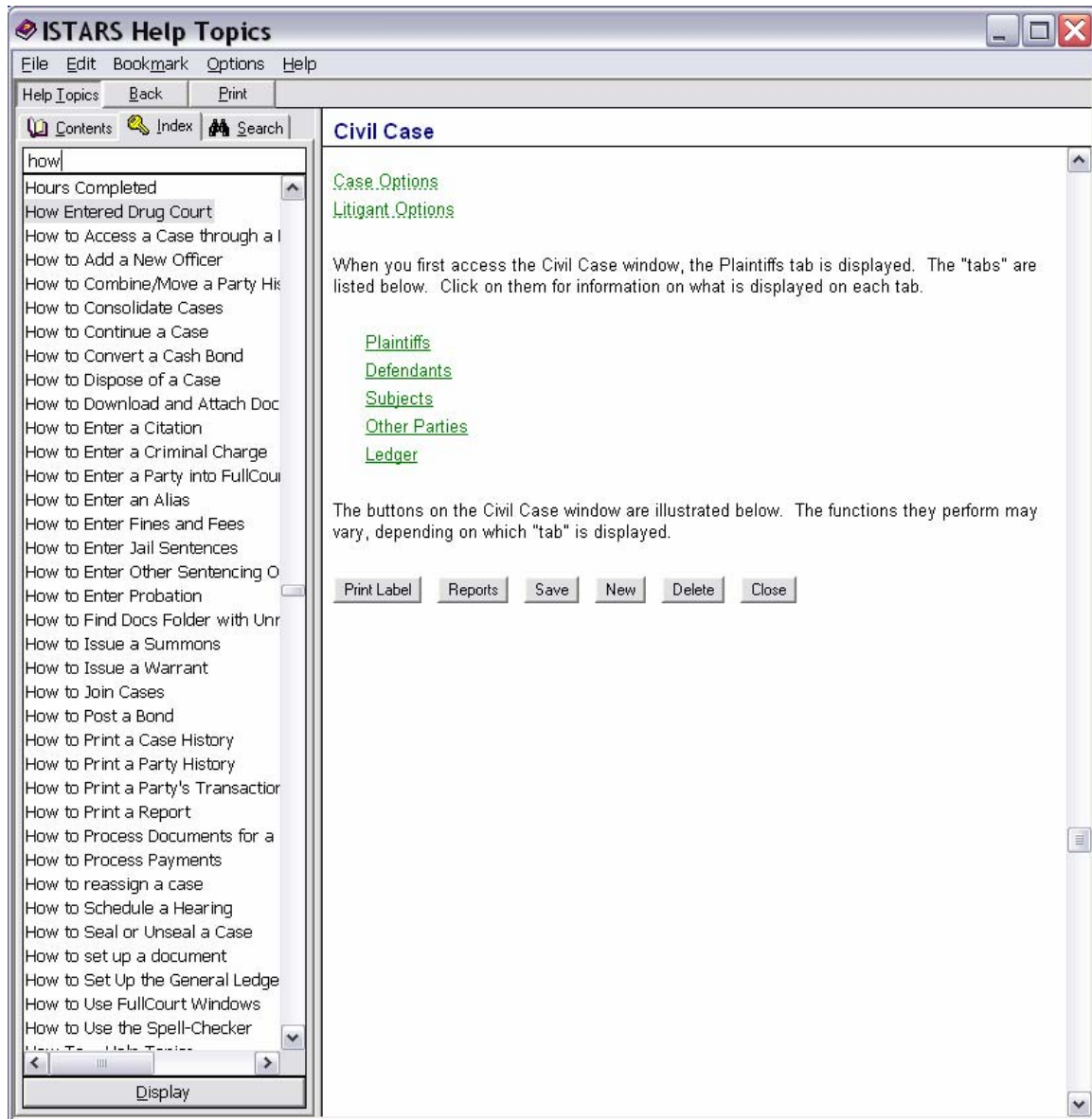
The clerk will verify the different totals outlined on each report against the Closing Cash Summary Report.

If those amounts are all correct the clerk will “close” the period.

Each month can only be closed one time. Each closing is a final accounting for that month. If there is any discrepancy between the different report totals (as listed above) and the Closing Cash Summary Report, those differences need to be resolved prior to closing the month.

Questions regarding this process, or additional training or setup needs should be addressed to the AOC.

19.4 THE ISTARS “HELP TOPICS”



ISTARS has a complete and comprehensive list of “help topics” which allow immediate assistance with each screen in ISTARS.

To activate the help topics in ISTARS, the user need only click on the question mark on the tool bar at the top. That will immediately activate the help screen which is applicable to the underlying screen that the user was working on.

In addition when looking at the Help menu the user will see several options:

- Topics
- Contents
- Index
- Search

Note: Items that are listed in “help” in green print indicate another screen with more information can be accessed by clicking on that word(s) as a hyperlink to more information.

19.5 THE IDAHO SUPREME COURT DATA REPOSITORY

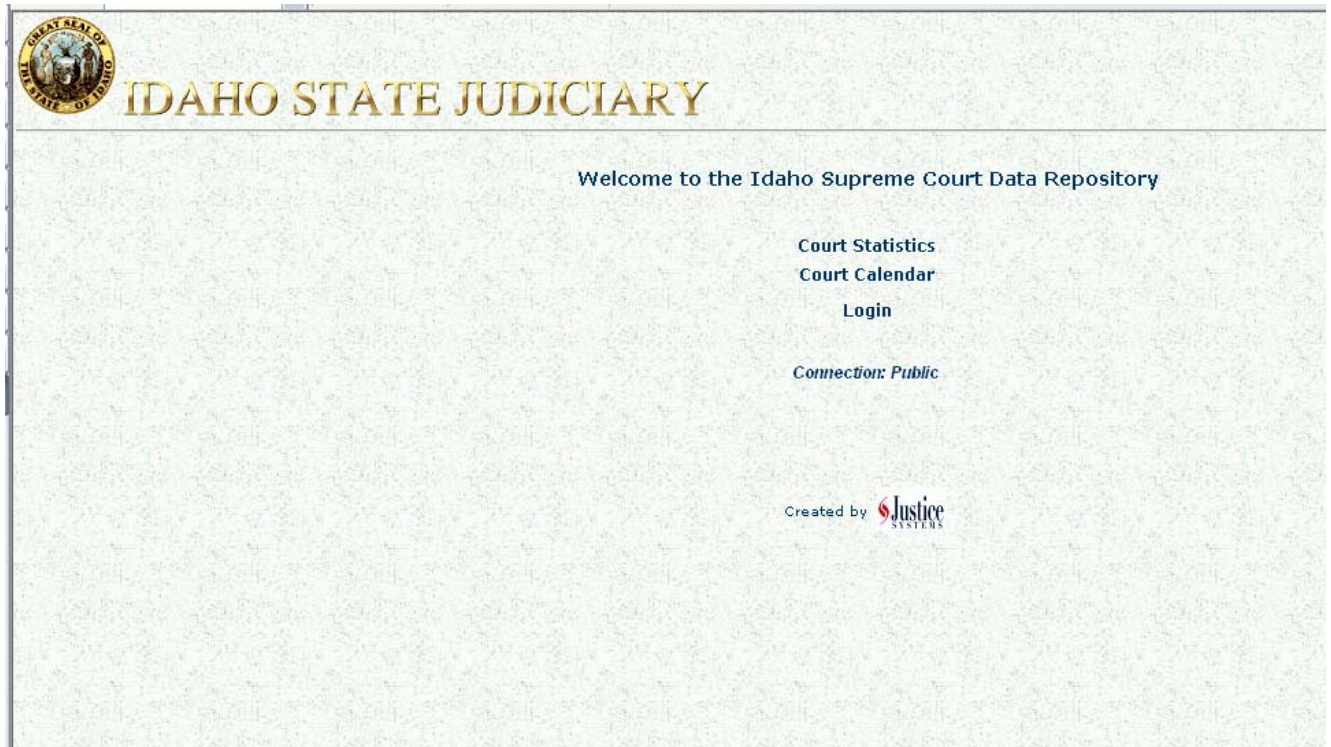
With the conversion to Window’s based ISTARS networking, data transfer was also implemented which allows the 44 separate courts to download the court data daily to a single system for storage, query, and reporting of information gathered from all of the separate sites via a single web page.

This website is found at <http://idcourts.us/>.

Any user who has authority to sign on to ISTARS at a local court, also will have authority to sign on to the repository web site using the same user ID and Password that they use at the county level along with the county identifier.

There are several levels of security for this system and for most users the security access level is determined at the county.

1. The user may have access to identical information statewide that they have security access to at the local county level.
Or
2. The user may have access **ONLY** to the repository, as set up in ISTARS at the county level, but not have any access to the county system.
Or
3. There is a security level for “Law Enforcement” which allows the varied Law Enforcement Agencies to access sealed case information at the repository for Criminal and Juvenile Corrections Act cases, as well as mental commitment information necessary for them to issue weapon permits. This level of security will not allow them to see other types of sealed cases, i.e. adoptions.



To access this information go to the above web address and the screen above will display.

Click login

Log in to the ISC Repository

User ID:

Password:

County: ▼

The above sign-in information will appear. Remember to select the county from which the password originates or the system will not let you in.



From there you will have options to perform searches. The above options are those which are available at this date. (It is likely that more options will be available.)

The clerk can enter the last name and first initial or partial name entry for the first name to bring up any possible matches., i.e. Jonathan Smith may be entered as Smith (last name) and J or Jon or Jonathan (first name).

The image shows the "Party Search" form. It has a title "Party Search" at the top. Below the title, there are four input fields: "Last name:", "First name:", "Middle name:", and "Date of birth:". The "Date of birth:" field has a placeholder "(mm/dd/yyyy)". Below these fields, there is a red "OR" label. Below the "OR" label, there is a "Company name:" input field. At the bottom, there is a "County:" label followed by a dropdown menu showing "All Counties" and a "Submit" button.

The use of further identifying information such as a DOB will narrow the parameters of the search. The system would then look for exact match on name and DOB.

As you can see by the previous screen shot, the system will allow you to search “All Counties” or a single county.

Note: One problem frequently encountered is that the computer that is being used might not have the correct setup for allowing the data to display. If you encounter problems trying to access information, it is recommended that you make sure that the “cookies” on the computer you are using are “enabled”.



Go to the Internet Explorer tool bar:

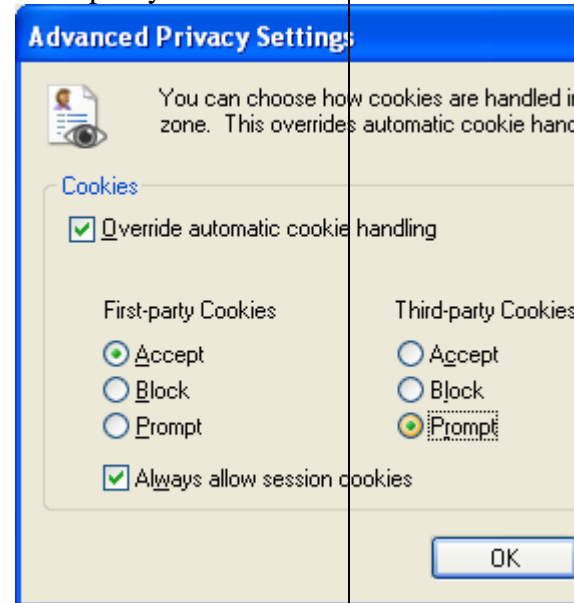
Click tools

Internet Options

Privacy

Advanced

Setup as you see here:



Save.

CLERK OF THE DISTRICT COURT MANUAL

20.0 PROVIDING SERVICE TO THE PUBLIC

Revised October 2006

20.1 PURPOSE

This Guide is intended to help Clerks and Court Assistance Officers provide appropriate public service. It is important that the courts provide the highest level of public service possible. This guide cannot provide direction for every situation court staff may encounter when interacting with the public. Court staff are encouraged to seek the direction of supervisors when they are unsure of how to respond to a request.

20.2 RESPONSIBILITIES OF CLERKS AND COURT ASSISTANCE OFFICERS WHEN PROVIDING SERVICE TO THE PUBLIC

The following principles apply when responding to inquiries from the public. They must be understood and kept in mind by Clerks and Court Assistance Officers when assisting the public at the front counter, in the office, over the phone or in the courtroom.

1. **A Clerk or Court Assistance Officer Must Treat the Public With Respect and Courtesy.**
2. **A Clerk or Court Assistance Officer Must Remain Impartial:** The court system must remain impartial in all its dealings with the public. **Never give assistance or information to one party that you would not give to the other party.** Provide the same level of service and information to **all** parties, regardless of their economic circumstances, race, gender, political views or what they may have been accused of doing. Do not recommend specific attorneys or other service providers, provide only general referrals. Avoid Ex-parte Communications. Do not talk to a judge for a party about what will happen in a case. Do not let a party talk to a judge outside of court.
3. **A Clerk or Court Assistance Officer Must Not Provide Legal Advice:** Clerks and Court Assistance Officers will never know enough about an individual's personal situation to know what is in their best interest. Do not advise a citizen whether or not to bring their problems before the court, which remedies to seek or what course of action is best for them. It must be left up to the individual to assess their own situation and make their own choices.
4. **A Clerk or Court Assistance Officer Must Explain How Court Works:** It may be necessary to explain court processes, procedures, rules, ordinary practices, the meaning of terms, documents used, and deadlines.
5. **A Clerk or Court Assistance Officer Must Keep Information Confidential:** Court staff are privy to private information that is necessary for court to function

properly. Reveal only public information in response to inquiries.

20.3 TIPS FOR PROVIDING BETTER SERVICE

When working with the public, keep the following tips in mind and you will be better able to meet that person's needs while working within the guidelines of your job.

Tip 1: Listen Closely

In general, the public knows very little about how the courts work. As a result, you will need to listen carefully to find out what a person needs or wants you or the court to do. They may use words that they think are used in the courts, but are not, or which may be used differently in the courts.

Tip 2: Ask Questions

The public often does not understand the terminology used in the court system. It is helpful to ask a person if they understand what you have said. You may also have to ask questions to find out what they need and whether they are asking for information or advice. Do not assume that just because a word or process has been explained, that the person understands what has been said.

Tip 3: Be Patient

People who find themselves involved with the court system are rarely there voluntarily. They have either been accused of breaking the law, or are involved in a dispute with another individual. As a result, they are under stress and may be quite angry. Patiently listening to their questions and concerns is critical to providing them with the service they need.

Tip 4: Don't Hide Behind the Phrase "I Can't Provide Legal Advice"

It may be tempting to tell a difficult person that you cannot help them because you cannot give them legal advice, but you must remember that while they might be difficult to assist, they are still entitled to the full service of the court.

Tip 5: It's Not Just What You Say, But How You Say It

While it may be difficult, you may be able to calm down a frustrated person by keeping a calm and even tone in your voice. Make sure not to "talk down" to people. Speak to them in a manner that would be acceptable to you. **However, you do not need to be subjected to abusive language, profanity, or insults from a person at the counter or over the phone. If that occurs, ask the person to stop, or refer the person immediately to your supervisor.**

20.4 WHAT INFORMATION A CLERK OR COURT ASSISTANCE OFFICER CAN AND CANNOT PROVIDE

Court Clerks and Court Assistance Officers have a unique understanding of the way the court operates. You must use that knowledge fairly. It is to the advantage of the court, the lawyers, the litigants and court staff to share that knowledge. However, a Clerk or Court

Assistance Officer must be mindful of the difference in providing court information and legal advice. To help a clerk gain a better understanding of the boundaries of what information they can and cannot provide, the following outline is provided. If you still have questions about what information you can or cannot provide, consult your supervisor.

A Clerk or Court Assistance Officer Can:	Provide definitions of court and legal terms
Reference Sources:	Glossary from the Clerk of the District Court Manual, dictionary, and Black's Law Dictionary.
A Clerk or Court Assistance Officer Can:	Describe court processes, logistics, conduct and operations
Reference Sources:	Some court forms like the citation or summons have instructions printed on them. A Clerk or Court Assistance Officer may also refer to the Clerk of the District Court Manual, the Guide to the Idaho Courts or court approved pamphlets. Periodically, review with your supervisor what information is available for distribution to the public.
A Clerk or Court Assistance Officer Can:	Provide the public with court approved booklets, forms, brochures, court rules and statutes
Reference Sources:	Under ICAR 53, limited services should be available in all counties. All counties have a CAOP pamphlet rack, and should have an assigned staff person responsible for ordering re-supply. Have on hand copies of the filing fee schedule, court approved forms for divorce, custody, modifications, name change, landlord-tenant, domestic violence civil protection orders and small claims cases, CAOP brochures like those used to describe the small claims and jury processes, and a copy of Idaho Administrative Rule 32 which governs access to court records. It may be helpful to have on hand copies of ICAR 53, I.C. 32-1401 et.seq., and a copy of the Poster "How the Clerks of the District Court Can & Cannot Help You".
A Court Assistance Officer Can:	Provide the Answers listed on the Suggested Responses to Frequently Asked Questions, together with any resource information in the answer.
Reference Sources:	CAO Administrative folder on CAOP CD.
A Clerk or Court Assistance Officer Cannot:	Research statutes, court rules or local ordinances
	For questions as to how the law applies to a given set of facts, you must refer patrons to another resource such as an attorney, the local law library or the Idaho State Law Library. (Court Assistance Officers may also refer to the Legal Resource Line.) Conducting research for a patron is prohibited. An appropriately trained Court Assistance

A Clerk or Court Assistance Officer Can:	Provide definitions of court and legal terms
	Officer can outline the materials available and steps involved in legal research.
A Clerk or Court Assistance Officer Can:	Provide the public with information contained in a case file, on ISTARS or on reports that are generally available to the public, such as CLASS reports.
	Case information is not limited to just the parties involved in the case. These materials can be viewed by any interested person upon request, unless the information is exempt from disclosure pursuant to ICAR 32.
A Clerk or Court Assistance Officer Can:	Provide Court Schedules and Information contained in docket reports, case files, indexes and other reports.
Reference Sources:	ISTARS, Idaho State Bar Desk Book Directory, The Tucker Legal Directory
A Clerk or Court Assistance Officer Cannot:	Provide the public with information that is exempt from disclosure, pursuant to ICAR Rule 32.
	<p>Pursuant to Rule 32, for example, the following case types and court documents are not to be provided to the public (refer to Rule 32 for complete list):</p> <ul style="list-style-type: none"> —mental commitment case files —adoption records —records associated with the termination of parent and child relationships —pre-sentence investigation reports —alcohol, drug, domestic battery evaluation or psychological reports —juvenile case files, that have not been declared opened by the judge —case files involving unreturned search warrants, arrest warrants or summonses in a criminal case —information regarding domestic violence, except court orders <p>If the request does not fall within any of the preceding categories, or if you are in doubt—consult your supervisor.</p>
	Refer a person to seek legal advice from a lawyer, or to contact an agency for information and assistance.
	<p>It is important to be familiar with the services offered by other government agencies as well as groups in the community that offer assistance to people involved in court actions. The following is a list of some potential agencies that a clerk can refer the public to:</p> <ul style="list-style-type: none"> —prosecuting attorney's office —legal aid office

A Clerk or Court Assistance Officer Can:	Provide definitions of court and legal terms
	<ul style="list-style-type: none"> —Domestic violence advocates or shelters —Idaho Legal Services Directory —Idaho State Bar Lawyer Referral Service —Idaho Volunteer Lawyer's Program —a list of local attorneys – which can be either a local referral roster or a photocopy of the attorney listing from the current telephone book. —Court approved mediators —Domestic assault/battery evaluators
A Clerk or Court Assistance Officer Cannot:	Refer a person to a particular agency or attorney, if more than one is available to choose from.
	A Clerk or Court Assistance Officer must remain impartial, even when making a referral to an outside agency.
A Clerk or Court Assistance Officer Can:	Provide a court approved form, explain any terminology on the form and provide instructions on how to fill out the form.
	A Clerk or Court Assistance Officer can help a person complete any of the court approved forms, being mindful to only provide information on how to fill out the form and not providing advice as to what should be written on the form.
A Clerk Can:	Fill out a court approved form for a person unable to do so due to illiteracy, a language barrier or a physical disability who does not have someone with them to help them fill out the form.
	Write the information on the form just as it is said by the person. Re-read the information back to make sure it is correct. Make a notation on the form that you completed the form. Have another court clerk witness the procedure. A Clerk or Court Assistance Officer may need to utilize the services of an interpreter to assist in completing the form.
A Clerk or Court Assistance Officer Cannot:	If a standard form is not available, you cannot provide a completed form from another case file to serve as an example of language to use to accomplish a specific objective.

20.5 SUMMARY

Clerks and Court Assistance Officers must be mindful of the importance of providing accurate information to the public. Erroneous information can result in difficulties for the public. Further, Clerks and Court Assistance Officers must avoid providing advice. Advice is defined as a recommendation regarding a decision or course of conduct. Therefore, Clerks and Court Assistance Officers should not recommend a particular course of action to the public. Any question that contains the words "**should I**" is a key

that the person is seeking your recommendation and advice. In this instance, the Clerk or Court Assistance Officer should indicate that the person is now seeking advice, rather than information and you are not authorized to provide advice. If a question is presented to you that you are not sure whether or not you should answer, consult your supervisor. There is no single manual or guide book that lists every question you can answer or every piece of information that you can provide. You must apply your own good judgment as you provide service to the public.

CLERK OF THE DISTRICT COURT MANUAL

21.0 COURT ASSISTANCE OFFICES

Revised October 2006

21.1 INTRODUCTION

Court Assistance Officers provide assistance to parties without legal representation to help them understand the legal requirements of the court system and assure access to the courts by all persons. Officers provide educational materials, court forms, assistance in completing court forms, information about court procedures, and referrals to public and community agencies and resources that provide legal and other services. Some of the court assistance office resources, such as an attorney roster, court forms and instructions, can be accessed directly from the project website: <http://www.courtselfhelp.idaho.gov>. Other services and materials are available at the individual Court Assistance Offices. All counties are required to provide a minimum level of court assistance services and were feasible to provide a full or part time Court Assistance Officer who has the training to provide a full range of services and referrals under guidelines established by the Supreme Court. Where the appointment of a Court Assistance Officer is not feasible, the District Court Clerk shall appoint a Deputy Clerk to provide limited court assistance services, and notify the Court Assistance Office Project Director of the appointment. ICAR 53 governs the operations of Court Assistance Offices.

This Idaho Supreme Court project receives support from the Idaho Legislature, the Idaho Department of Health and Welfare, and participating counties.

21.2 PROJECT DIRECTOR

Judge Michael Dennard
Director, Court Assistance Office Project
Ada County Courthouse
200 W Front St
Boise ID 83702-7300
Phone: (208) 287-7475
email mdennard@idcourts.net

21.3 SERVICES PROVIDED AT THE COURT ASSISTANCE OFFICES

- Information on the risks of self-representation
- Information on attorneys and types of services they can provide (i.e., pro bono and reduced rate representation, unbundled services)
- Referral to mediators
- Application for direct legal services for low-income individuals (i.e., Idaho Legal Aid Services, Idaho Volunteer Lawyers Program)

- Toll-free Legal Resource Line for brief legal consultations (operated by the Idaho Law Foundation), domestic violence hotline (through Idaho Legal Aid Services) and legal research line (from the Idaho State Law Library)
- Information on services provided by government and private agencies
- Court forms and instructions for some types of civil cases, with an emphasis on family law
- Review of completed court forms
- Written instructions on how to proceed with some types of civil cases, including which forms to use and how to fill them out
- Use of computers to prepare court documents, calculate child support and research and access Internet resources
- Informational brochures and pamphlets on a variety of legal topics, organizations and agencies
- Information and referral to resources to protect children in high-conflict cases (e.g. visitation supervisors)
- Instructional videos (available in English and Spanish), with accompanying brochures on topics including an introduction to the court system, family law, small claims and domestic violence
- CAO Website to access and download court forms, instructions, and other CAO resources (<http://courtselphelp.idaho.gov>.)

21.4 ENCOURAGE USE OF AN ATTORNEY

The materials and assistance received at the Court Assistance Office are not a substitute for legal advice. The laws and court rules are complex. Following instructions and using the forms provided will not guarantee a favorable result. It is always advisable to encourage a potential litigant to talk to a lawyer about the problem before proceeding on his/her own.

If one cannot afford to hire an attorney, he or she may be able to pay a lawyer to give advice and review paperwork for a lesser cost. A litigant should be encouraged to:

1. Contact one of the attorneys listed on the Court Assistance Office Attorney Roster for assistance.
2. Contact the Idaho State Bar Lawyer Referral Service (208-334-4500) for the name of an attorney in their area who will provide an initial consultation for no more than \$35.
3. Review the Court Assistance Office's "Legal Services Directory" an information guide about resources for low-income people.

21.5 FORM PACKETS AVAILABLE

Default Divorce - No kids

Default Divorce – Kids
Family Answer + Counterclaim – Kids
Family Answer + Counterclaim – No kids
Custody Petition
Agreed Custody (may also need Intervention, Joinder or Consolidation)
Modification Motion
Agreed Modification
Adult Name Change
Minor Name Change
Minors Name Change (multiple minors with same two parents)
Landlord Eviction
Tenant Repairs (Specific Performance)
Joinder
Intervention
Consolidation
Change Venue
Genetic Tests
For Judgment in a Sum Certain
Register Child Custody Determination
Minor Marriage
Stop Income Withholding

Miscellaneous Forms:

Parental Power of Attorney - both blood relative and non-relative

Statute/Rule Forms:

Small Claims
Domestic Violence Civil Protection Orders
Minor Self-Consent
Affidavit Collecting Personal Property of Estate
Living Will and Durable Power of Attorney

Pilot Packets: (discretionary not mandated for state-wide use)

Minor Guardianship
Agreed Divorce - Kids
Agreed Divorce – No Kids

Requesting Development of Forms:

The Court Assistance Officer will notify the CAOP Director of any locally needed forms or instructions so those can be approved and considered for potential state-wide use.

21.6 PAMPHLETS AND BROCHURES

CAO racks are located at each county courthouse. A Deputy Clerk or Court Assistance

Officer should be assigned the responsibility to maintain the contents of the display rack and re-order materials as needed. Materials can be re-ordered from the Court Services office at the Idaho Supreme Court:

Keri D. Parks
Idaho Supreme Court
P.O. Box 83720
Boise, ID 83720-0101
Phone: (208) 947-7427
Fax: (208) 334-2146
Email: kparks@idcourts.net

1. Acquiring legal representation—ALR

- ALR-1 *Providing Access To Legal Services for Low-Income People: Idaho Volunteer Lawyers Program* (pamphlet)—Idaho State Bar
- ALR-3 *What If I Need A Lawyer? How Do You Find A Good Lawyer?* (pamphlet)—Idaho Trial Lawyers Association
- ALR-4 *Know Your Rights: What To Do if Questioned by Police, FBI, Custom Agents or Immigration Officers* (pamphlet) – ACLU

2. Court and trial information—CTI

- CTI-1 *Execution and Garnishment of Judgments: Protecting Exempt Wages, Property and Government Benefits* (pamphlet)—Idaho Legal Aid Services Inc.
- CTI-2 *Idaho Judicial Council: Answers to Common Questions on the Functions, Jurisdiction and Procedures of the Idaho Judicial Council* (pamphlet)—Idaho Supreme Court
- CTI-3 *Jury Service in Idaho: What It Means and How It Works* (pamphlet)—Idaho Supreme Court
- CTI-4 *Pocket Guide To The Idaho Courts, A* (pamphlet)—Idaho Supreme Court
- CTI-5 *What is the Contingent Fee?* (pamphlet)—Idaho Trial Lawyers Association
- CTI-6 *Court Assistance Office Project, The* (pamphlet)—Court Assistance Office Project
- CTI-7 *An Introduction to the Idaho State Court System* (pamphlet)—Court Assistance Office Project
- CTI-8 *Una Introduccion Al Sistema Judicial de Idaho* (pamphlet)—Court Assistance Office Project
- CTI-9 *The Idaho State Court System: Family Law* (pamphlet) Court Assistance Office Project
- CTI-10 *El Sistema Judicial de Idaho: Derecho de Familia* (pamphlet)—Court Assistance Office Project

- CTI-11 *The Idaho State Court System: Domestic Violence* (pamphlet)—Court Assistance Office Project
- CTI-12 *El Sistema Judicial de Idaho: La Violencia Domestica* (pamphlet)—Court Assistance Office Project
- CTI-13 *Victims Rights* (pamphlet) – Idaho Council on Domestic Violence
- CTI-14 *Annulment Proceedings in Idaho* (pamphlet) – Court Assistance Office Project

3. Criminal matters

- CM-1 *So You Want To Bond Someone Out Of Jail* (pamphlet)

4. Disability, social security and Medicaid—DSSM

- DSSM-1 *Idaho's P & A System: The Protection and Advocacy system is a federally mandated service in Idaho which provides protection of the rights of persons with disabilities through legally based advocacy* (pamphlet)
Comprehensive Advocacy, Inc. (Co-Ad)
- DSSM-2 *What is Medicaid?* (booklet)—Idaho Department of Health and Welfare
- DSSM-3 *SSI and Social Security Disability* (pamphlet)—Idaho
Aid Services Inc.

Legal

5. Divorce, child custody and support—DCCS

- DCCS-1 *Annulment Proceedings In Idaho* (pamphlet) – Court Assistance Office
- DCCS-2 *Child Support Services* (application)—Idaho Department of Health and Welfare
- DCCS-3 *Servicios para el Sosténimiento de los Niños* (application)—Idaho Department of Health and Welfare
- DCCS-4 *Information about Idaho Child Support Receipting and your child support order* (pamphlet)—Idaho Department of Health and Welfare
- DCCS-5 *Kids need Dads! A guide to establishing a legal father for your child* (pamphlet)—Idaho Department of Health and Welfare
- DCCS-6 *What is **CHIP**? Children Health Insurance Program* (information card)—Idaho Department of Health and Welfare
- DCCS-7 *Why connect with Idaho Careline; How to connect with Idaho Careline* (information card)—Idaho Department of Health and Welfare
- DCCS-8 *Child Custody, Visitation and Support* (pamphlet)—Idaho Trial Lawyers Association

- DCCS-9 *Divorce, Property and Debts: Things You Need To Know*
(pamphlet)—Idaho Trial Lawyers Association
- DCCS-10 *Idaho Laws: A Guide for Women and Families* (booklet)
—Idaho Women’s Commission

6. Domestic violence—DV

- DV-1 *Alternatives: A Practical Guide for Survivors of Sexual
Assault and Sexual Abuse* (booklet)—Alternatives to
Violence of the Palouse
- DV-2 *Domestic Violence is a Crime* (pamphlet)—Idaho Council
on Domestic Violence
- DV-3 *Idaho Crime Victims Clock* (pamphlet)—Idaho Coalition
Against Sexual and Domestic Violence
- DV-4 *It Shouldn’t Hurt to Go Home: The Domestic Violence
Victim’s Handbook* (booklet)—Idaho Coalition Against
Sexual and Domestic Violence
- DV-5 *No Debe Doler Rogresar Al Hogar: Manual Para la
Victima de Violencia Domestica* (booklet)—Idaho
Coalition Against Sexual and Domestic Violence
- DV-6 *Idaho Legal Aid Services’ Domestic Violence Legal Advice
Line* (pamphlet)—Idaho Legal Aid Services Inc.
- DV-7 *Got a Secret?* (pamphlet)—Volunteers Against Violence
- DV-8 *Idaho is #1 In Child Abuse and Neglect: It Shouldn’t Hurt
to be a Child* (pamphlet)—Volunteers Against Violence
- DV-9 *Quiz: How Is Your Relationship?* (questionnaire)—Idaho
Council on Domestic Violence
- DV-10 *Idaho Council on Domestic Violence* (pamphlet)—Idaho
Council on Domestic Violence
- DV-11 *YWCA Crisis Services* (pamphlet)—YWCA of
Lewiston/Clarkston

7. Financial matters—FM

- FM-1 *Thinking About Bankruptcy?* (pamphlet)—Idaho State Bar
- FM-2 *County Assistance: For The Payment of Hospital and
Medical Expenses and Other Necessities For Low Income
People* (pamphlet)—Idaho Legal Aid Services Inc.

8. Guardianship – G

- G-I *Minor Guardianship Information* (pamphlet)—Court
Assistance Office Project
- G-2 *Grandparents Parenting Grandchildren Getting Legal
Authority: A Guide To Idaho Law* (booklet) – AARP Idaho

9. Housing – H

- H-1 *Fair Housing Opens Doors* (pamphlet)—Idaho Fair

- Housing Council
- H-2 *Advice For Renters: Repairs* (pamphlet)—Idaho Legal Aid Services Inc.
- H-3 *Advice For Renters: Security Deposits* (pamphlet)—Idaho Legal Aid Services Inc.
- H-4 *Public Housing* (pamphlet)—Idaho Legal Aid Services Inc.
- H-5 *Rights of Mobile Home Tenants, The* (pamphlet)—Idaho Legal Aid Services Inc.
- H-6 *Tenants' Rights* (pamphlet)—Idaho Legal Aid Services Inc.
- H-7 *Your Utility Bill & Your Rights* (pamphlet)—Idaho Legal Aid Services Inc.

10. Mediation—M

- M-1 *Idaho Mediation Association: foster peaceful ways to settle disputes and manage conflicts* (pamphlet)—Idaho Mediation Association

11. Small Claims - SC

- SC-1 *Information Sheet For Plaintiffs In Small Claims Cases* (pamphlet)—Idaho Supreme Court
- SC-2 *Information Sheet For Defendants In Small Claims Cases* (pamphlet)—Idaho Supreme Court
- SC-3 *Collecting On Your Small Claims Judgment* (pamphlet) – Idaho Supreme Court

12. Wills and probate—WP

- WP-1 *Answers To Some Of The Most Frequently Asked Questions About Probate In Idaho* (pamphlet)—Idaho Legal Aid Services Inc.
- WP-2 *Holographic Wills: A guideline for preparing your will* (pamphlet)—Idaho Legal Aid Services
- WP-3 *Questions and Answers About: Wills* (pamphlet)—Idaho Legal Aid Services Inc.
- WP-4 *Have You Made A Will?* (pamphlet)—Idaho Trial Lawyers Association
- WP-5 *Basic Estate Planning: Questions and Answers* (booklet) —Idaho State Bar
- WP-6 *Wills: Questions and Answers* (pamphlet) – Idaho Legal Aid Services Inc.

21.7 RECORD-KEEPING

The Court Assistance Officer will maintain intake forms and phone logs according to project guidelines and will furnish a monthly report of activity to any local committee and/or interested entities (email or fax to Terri Kondeff, at the Idaho Supreme Court,

tkondeff@idcourts.net, fax 208 334-2146), and the Lead Court Assistance Officer (cc of email to Frances H. Thompson, courtassistance@latah.id.us).

CLERK OF THE DISTRICT COURT MANUAL

22.0 WORKING WITH COURT INTERPRETERS

Revised October 2006

22.1 STATEMENT OF POLICY

"It is the policy of the Supreme Court and the intent of these rules to secure the rights, constitutional and otherwise, of persons who, because of a non-English-speaking cultural background or physical impairment, are unable to understand or communicate adequately in the English language when they appear in the courts or are involved in court proceedings." (I.C.A.R. 52).

I.C. § 9-205 requires the court to appoint an interpreter whenever a witness or party does not understand or speak English or has a physical handicap that prevents him from fully hearing or speaking the English language; however, considerable delay can occur when the court learns at the last minute that an interpreter is going to be needed. This rule requires a party to notify the court fourteen days in advance of the proceeding or as soon as practicable in the event of an expedited hearing. If the party fails to do so without good cause and as a result the proceeding has to be postponed, then the court in its discretion may impose costs and expenses incurred against the party or the party's attorney." (I.R.C.P. 43(b)(2)).

The Supreme Court administers the State Court Interpreter program and is responsible for maintaining a current roster of interpreters. When it is determined that an interpreter will be needed for one or both parties, the court clerk should notify the interpreter used in the county of the upcoming hearing. A list of interpreters is kept at the clerk's or trial court administrator's office as well as the Supreme Court home page. If the court encounters difficulty in locating a qualified or certified interpreter for a particular language, the clerk should notify the trial court administrator of the upcoming need and call the Court Interpreter Program Manager, Janica Bisharat (208) 947-7417.

22.2 PRIORITY OF APPOINTMENT FOR INTERPRETERS

An interpreter shall be appointed when an interpreter is requested or when the appointing authority determines that a principal party in interest or witness does not communicate in or understand the English language sufficiently to permit effective participation in a court proceeding. Appointing authority is defined as a district or magistrate judge, including pro tem and retired judges within the scope of their appointments, or the judge's designee.

In any court proceeding in which an interpreter is required, the appointing authority shall appoint an interpreter according to the following priority:

1. a certified interpreter,
2. a conditionally approved interpreter,

3. a qualified interpreter.

The appointing authority may appoint an interpreter of lower priority on the foregoing list only when good cause exists. Good cause includes, but is not limited to, a determination made prior to the proceeding by the appointing authority that:

1. Given the totality of the circumstances, including the nature of the proceeding and the potential penalty or consequences involved, the services of an interpreter of higher priority are not reasonably available to the appointing authority; or
2. The current list of certified interpreters maintained by the Idaho Supreme Court does not include an interpreter certified in the language spoken by the non-English speaking person. The court is not required to articulate such a determination in a court proceeding, unless the appointment of an interpreter is challenged by a party. If a party challenges the appointment of an interpreter, the court shall make a determination on the record as to whether the appointment of the interpreter conforms with the provisions of I.C.A.R. 52.

22.3 INTERPRETER OATH

All court-appointed interpreters, before commencing their duties, shall take the following oath:

"Do you solemnly swear or affirm that you will interpret and/or translate accurately, completely, and impartially, using your best skill and judgment in accordance with the standards prescribed by law and the Idaho Code of Professional Responsibility for Interpreters in the Judiciary?"

Pursuant to I.C.A.R. 52, a district judge or magistrate judge may administer the oath to an interpreter in writing, and the written oath shall be filed with the clerk of the district court for the county. Once the oath has been filed, it shall remain in effect until such time as the interpreter is removed under subsection (f) of the rule, and while the written oath remains in effect it need not be administered to the interpreter at any subsequent court proceeding in the county.

22.4 COST OF INTERPRETER SERVICES

In all court proceedings in which an interpreter is appointed, the court shall determine a reasonable fee for the interpreter's services, which shall be paid out of the district court fund or paid by the county as prescribed by law.

22.5 LOCATING COURT INTERPRETERS FOR LANGUAGES OTHER THAN SPANISH

Once a determination has been made that a court interpreter is needed, court personnel must gather information relating to the language or dialect of the non-English-speaking

individual, the region the person is from, or other cultural or sociological traits. In many cases, the more information gathered regarding the non-English-speaking person, the easier it will be to locate an interpreter who will meet their language needs.

Following is a list of resources that may assist court personnel in locating an interpreter for languages other than Spanish:

- Court interpreter rosters maintained by the Administrative Office of the Courts (http://www.isc.idaho.gov/intpret_cov.htm)
- AT&T Language Line Services provides interpretation services 24 hours a day, 7 days a week for many different languages.
- The National Association of Judicial Interpreters and Translators (www.najit.org) and the American Translators Association (www.atanet.org) are two national organizations that maintain directories that contain a great deal of information, including an interpreter's language, experience, certification, and location.
- Websites such as www.ethnologue.com, www.infoplease.com/countries, or <http://www.odci.gov/cia/publications/factbook/index.html> can be helpful in order to determine the country and also the region in which a particular language is spoken. Knowing the country or region of origin can help locate a group of immigrants that have settled in the United States. Then, the courts in that area should be contacted in order to check for availability of interpreters for that particular language.
- Contact the appropriate embassy (www.embassy.org).
- Contact a college or university with a large language program.
- The Consortium for State Court Interpreter Certification website includes a list of program managers for the 36 member states. The website can be found through the National Center for State Court's website under NCSC Projects and Court Interpretation (<http://www.ncsconline.org>).

If you come to a point where you have exhausted these resources, please contact the Court Interpreter Program Manager, Janica Bisharat, at (208) 947-7417 or jbisharat@idcourts.net.

CLERK OF THE DISTRICT COURT MANUAL

23.0 ACCESS TO COURT RECORDS

Revised October 2006

23.1 OVERVIEW

Although most of the Court's records are open to the public, many are not. The question of who may have access to Court records and under what circumstances is generally governed by Idaho Court Administrative Rule 32. I.C.A.R. 32 also addresses how a person asks to see a court record and how that request should be handled.

In accordance with Rule 32(j), efforts should be made to respond promptly to requests for records.

23.2 REQUESTING ACCESS TO COURT RECORDS

Who May Ask:

Any person may request access to court records. (R32 (g)).

Reasons for Asking:

No reason is required to see a court record, except as to adoptions and terminations where medical information is being sought. (R32 (d)(9) & (10)).

Form of Request to See Court Records:

1. Requests need not be in writing, especially where rights of access are clear and the record requested is readily available.
2. A written request may be required, however, if disclosure of the records is questionable, or if the request is "so involved or lengthy as to need further definition." (R32 (g)). (See attached Form 1 for a sample request form).
3. Proof of identity may be required to see records which are not open to the public. The Custodian of the record should make a photocopy of such proof and attach it to the request.
4. The request must clearly identify each record requested so that the custodian can locate the record without doing extensive research. Continuing requests for documents not yet in existence need not be considered. (Rule 32(g))

Clerical Duties - Responding to a Request for Access to Court Records:

1. Refer the requester to the custodian of the record or, if the request is in writing, refer the request to the custodian. (For records in a case file, the custodian is the elected clerk, or a deputy or deputies designated in writing. For records not in a case file, the custodian is the trial court administrator, or a judge designated by the administrative judge.)
2. If a custodian is not immediately available, or if you are a custodian and are unsure whether the record requested is open (or if you believe it to be closed), or if the request will take some time to fulfill, give the requester a Records Request Form (Form 1, below) to complete. If the record is open and available, a written request is not necessary.
3. Within three working days from the receipt of either an oral or written request, the Custodian must either disclose the records requested; **OR**
 - A. refer the request to the Custodian Judge for determination; **OR**
 - B. deny the request in writing, (see Form 1); **OR**
 - C. notify the person making the request that it will take more than three days to determine if the request should be granted, and that a response will be made within 10 working days from the receipt of the request. (Form 1) (R32 (j)).
4. If the documents requested are disclosed, no further action is required.
5. Place copies of all request related documents in the storage file maintained in your court. (See Maintaining Copies of Requests, below.)

23.3 OTHER ACCESS RELATED ISSUES

Restrictions on Certain Requests:

The custodian is not under a duty to compile or summarize information contained in records, nor is the custodian obligated to create new records for the requesting party. The custodian may also deny a request for a copy of all or part of a transcript of an administrative or judicial proceeding or other voluminous publication or document when by rule or statute it may be obtained from the preparer of such record after payment of a fee. (R32 (j))

Permissible Charges and Effects of Nonpayment:

1. Payment for the costs of copying records should be obtained **in advance of making copies**. For case file records, the costs are specified in Idaho Code § 31–

3201 and are currently \$1 per page. For non-case file records, it is the actual cost of copying (excluding personnel costs), which costs may be designated by order of the Administrative District Judge.

2. Delay in payment extends the time for responding to the request. (R32 (m)).

Type of Access:

1. When access is granted, that person may examine the record and/or obtain copies (upon prepayment of applicable fees).
2. Examination should ordinarily take place under direct supervision of a custodian clerk or deputy, so that the custodian can insure the continuing integrity of the records.
3. Court records should not be removed from the court environment unless accompanied by a custodian, except when ordered by the custodian judge.

Maintaining Copies of Requests:

1. A file of written requests to see case file records, the responses to those requests, and any other related documents (including a copy of any written order by a Custodian Judge), should be maintained by the Custodian Clerk. Documents relating to requests for access to non-case file records shall be retained by the Trial Court Administrator, who is designated the Custodian of such records. (R32(h))
2. Retention Period. The length of time for retention of records requesting documents is not explicitly addressed in ICAR 37 or 38, which are the general rules relating to record retention standards. ICAR 32(n) says however that if a person disagrees with the ruling on their request for a record, they may sue under Idaho Code 9-343, which gives them 180 days, from the date of the mailing of the denial to file their petition. Once a petition has been filed, however ICAR 37 would control the further retention of the documents in that case.

23.4 COURT RECORDS

Court Records Defined:

According to ICAR 32(b)(4) a court's "records" includes all "documents, materials or records in the possession of the clerk, justice, judge, magistrate or staff of the court whether or not it is filed in a case before the court" and can consist of "letters, words, pictures, sounds or symbols or combinations thereof." This broad definition includes not only tape recordings, digital recordings, photographs, exhibits, and paper documents, but also the court's electronic records in ISTARs, its other computer files (including email), court reporters' stenographic notes and personnel files, to name just a few other items.

As noted above, although most of the Court's records are open to the public, many are not.

Public Records:

Rule 32 (c) provides that (with certain exceptions) the following records may be examined, inspected and copied. Nevertheless in certain kinds of cases, or where ordered by the court, these records too may be closed to the public.

1. Minutes, orders, opinions, findings of fact, conclusions of law, judgments, and notices.
2. Transcripts and recordings of trials and hearings and records offered or introduced as exhibits in trials or hearings.
3. Pleadings, motions, affidavits, responses, memoranda, briefs, etc.
4. Administrative or other records of the clerk, judge, magistrate or staff of the court unless exempt from disclosure by statute, case law, or court rule.

Closed Records:

ICAR 32(d) contains 22 subclauses listing records that are "exempt from disclosure"(that is, closed to the public). The following list is only a summary. Please refer to Rule 32 for complete details.

1. Records restricted by state or federal laws.
2. Presentence investigation reports.
3. Records relating to unreturned search and arrest warrants.
4. Unreturned search and arrest warrants and unreturned summonses in criminal cases.
5. Grand jury records including the names of the jurors.
6. Regular jury records if so ordered by the presiding judge.
7. All Child Protective Act cases, most cases under the former Juvenile Rehabilitation Act, and some cases under the current Juvenile Correction Act (all of them up to the admit/deny hearing; see Form 2, below, but note that the age of the offender and the nature of the offense can change the confidentiality requirements under the rule, and note also that schools may receive information in court records about a juvenile).

8. Mental commitment records.
9. Adoption records.
10. Terminations of parental rights.
11. Records relating to consent for a minor's abortion.
12. Documents filed "in camera," ("in camera" means "in chambers," and these records will have a judge's order making them confidential).
13. Domestic violence files, except for the orders of the court.
14. Psychological reports, home studies, substance abuse evaluations and other records not admitted into evidence that are gathered or created for the court to help it in making decisions in a case;
15. A judge's (and the judge's staff's) notes, memoranda, drafts, etc. used in preparing a final decision or order.
16. Personnel records.
17. Applications to be included on a court roster.
18. Computer programs and records which the court has acquired and agreed to maintain confidentially.
19. State law library records identifying a borrower's specific interests.
20. State bar records relating to attorney misconduct.
21. Applications for the bar examination and for admission to practice law.
22. Magistrate Commission and Judicial Council records.

Other Closed Records:

In addition to the specific records listed above, records that might be libelous, or which could embarrass or cause financial or physical harm to someone may be ordered sealed by a judge. (R32 (f)).

Clerical Duties – Closed Records:

1. If the entire case file is sealed make certain the outside of the physical case file is obviously marked as sealed and that the ISTARS case has been sealed in the system.

- A. To seal a case in ISTARs the clerk selects 'Cases' from the top menu bar. The clerk then selects 'seal case'. He/she then types in the case number for the case and clicks retrieve. A message will come up which states the cases is unsealed, do you want to seal it. The clerk clicks on yes, and the ISTARs record will be sealed, thus limiting who can have access to it according to the user's set up in the security table.
- B. To unseal a case the clerk goes through the same process as outlined in 'a' above, but the question will come up that the case is sealed, would you like to unseal it. The clerk clicks on yes to unseal the entire ISTARs case record thus making it visible to all.

Where only specific portions of the case file are sealed, the clerk should mark the entry in the register of actions "Document Sealed" indicating what has been sealed. By doing this only users who have been set up in the security table with rights to see sealed records will be able to see the name of the document on the ROA, other users will see a red banner stating "filed record sealed".

(When a partial record is sealed local practice may vary in what is required regarding the sealing of the entire physical file and corresponding ISTARs records or may be limited to only those documents ordered to be sealed as described in the above paragraph.)

- 2. When a clerk receives any request – oral or written – for inspection of records **which are exempt from disclosure**, the request should be immediately referred to the custodian of records for response or processing. THE RECEIVING CLERK SHOULD NOT DISCLOSE OR DENY THE EXISTENCE OF THESE RECORD(S).

Any requests that a clerk is not certain regarding what should or should not be disclosed should be forward to the custodian for further handling .

- 3. If upon examination of the record where the record or a portion of the record was previously sealed, a clerk or custodian determines that a sealing order has terminated, the sealed material or documents that were previously sealed with the order should then be physically marked as unsealed and the file folder marked accordingly if it involves the entire case file. If a single document or group of documents are no longer sealed in a case that is otherwise open to the public, the register of actions for those documents that are no longer sealed should be updated by un-checking the box in the ROA that states the document is sealed.

Note: Any Case which is sealed will not show up on the case history for an individual as seen by a user who does not have authority to "view" sealed records. For the users who do have authority to see sealed cases, the case will appear as all other cases do but will display a red banner stating that the case is sealed.

When an ROA is sealed the ROA code and the date and judge remain viewable to the user who does not have authority to see sealed case information, but the verbiage in the text box will be blocked by a red banner stating that the “Filed Record is Sealed”. The user who has authority to see sealed cases will see a red banner to the right of the text box stating that the “Filed Record is Sealed” all information about the ROA will be visible.

Exceptions to the Rule:

Otherwise closed records may be disclosed under the following conditions (R32 (n))

1. If approved by the custodian judge, a federal, state or local official (or their agent) may examine a closed record in the exercise of their official duties and powers; however, requests for numerous records or records from more than one county must be approved by the Chief Justice.
2. Parties to an action, and their attorneys, may examine the court file, unless restricted by order of the court.
3. A custodian may disclose statistical information that does not identify specific persons.
4. Employees may have access to their own personnel files.
5. Judges, clerks, trial court administrators, or other staff employed by or working under the supervision of the courts who are acting **within the scope of their duties** may have access to closed records.

23.5 CUSTODIANS AND CUSTODIAN JUDGES OF COURT RECORDS

1. For **case file records**, the Elected Clerk or a deputy designated in writing is the custodian, and the custodian judge is the presiding judge, or other judge designated in writing by the Administrative Judge;
2. For **non-case file records**, the Trial Court Administrator, or a designated judge, is the custodian; and the custodian judge is the Administrative District Judge, or a judge designated in writing by the Administrative Judge

23.6 MEDIA REQUESTS FOR COURT RECORDS AND ACCESS TO COURT PROCEEDINGS

Records Available to the Media:

Any record that is open to the public is available to a reporter or other media representative, and any record that is not open to the public is not available for inspection or copying by a member of the media. (For more information on records that are "exempt

from disclosure" under Court Administrative Rule 32, see Section 6.22.4, above.) However, because the needs of the media for court records can be extensive and regular, it is not uncommon for a court to provide certain accommodations for those needs which it might not do for the public, such as routinely setting aside files or copies of documents for later review without requiring a specific request. Such accommodations can provide efficiencies for court staff as well as for the media representative. However these accommodations must not alter what records or parts of records may be made available to the media. Where possible, it is best not to delay media access, and if for example, the file is unavailable because it is in a judge's office, contact should be made with the judge's secretary or clerk to determine whether the file can be temporarily removed.

Information Not In Court Records:

Sometimes a reporter may ask court staff for information that may not be in a court record, such as why a judge did (or didn't do) something, or the significance of a particular event in a case, or may even ask the court staff's opinion about particular individuals involved in the case or the court. Such questions should not be answered, except perhaps by saying, "I'm sorry, but I don't know the answer. Would you like to speak to my supervisor?" It may also be that your court has a particular person on staff who is assigned to talk to members of the media about such things, in which case you could refer the reporter to that person.

Media Guide for Reporters:

The Supreme Court has published a brochure entitled *The Courts of Idaho: A Media Guide for Reporters* which is available in hard copy in each courthouse and is on the Supreme Courts web site in both pdf and html format as *The Internet Guide to the Idaho Courts* (<http://www.isc.idaho.gov/media03.htm>). This is an electronic companion to the Media Guide. Topics in the *Internet Guide* are in the same order as topics in the *Media Guide*. Both *Guides* are designed to provide a quick source of basic information for journalists covering the Idaho court system. The *Internet Guide* contains links to numerous relevant laws and rules, as well as to other Internet sources of legal information and has been updated since the publication of the *Media Guide*.

High Interest Cases:

Where there is a high profile court case, there may be many requests for access to the file, which may not be convenient to the judge and staff who may also require access to the file. It may be useful to create a copy or copies of the complete file (or of selected documents) so that the "shadow" or "dummy" copy may be readily available to the press and public without inconveniencing the court. Copies of the documents and other case related information could also be placed on the Court's website, or other dedicated website, for even greater ease of access.

Broadcast Coverage and Photography:

There is one area in which members of the media have a privilege not given to the general public and that involves video, audio and/or photographic coverage of public proceedings, which is authorized and regulated under Idaho Court Administrative Rule 45. Where the request is to take photographs or broadcast outside of the courtroom in a public area such as a lobby or hallway, local practices differ, according to the order of the Administrative District Judge, with some districts requiring special approval beforehand, and some not. Check with your supervisor to see what your district's practice is. Form 3 (see below) provides a sample request for media permission to broadcast or photograph court proceedings.

Clerical Duties - Media Requests for Access to Court Records:

1. Refer the requester to the custodian of the record or, if the request is in writing, refer the request to the custodian.
2. If a custodian is not immediately available, or if you are a custodian and you are uncertain whether the record requested is open (or if you believe it to be closed), or if the request will take some time to fulfill, give the requester a Records Request Form (Form 1, below) to complete. If the record is open, the custodian may provide the record without a written request.
3. Within three working days from the receipt of either an oral or written request, the Custodian must either disclose the records requested; **OR**
 - A. refer the request to the Custodian Judge for determination; **OR**
 - B. deny the request in writing, (see Form 1); **OR**
 - C. notify the person making the request that it will take more than three days to determine if the request should be granted, and that a response will be made within 10 working days from the receipt of the request. (Form 1) (R32 (j)).
4. Place copies of all request-related documents in the storage file of records requests maintained in your court.

Form 1

REQUEST TO INSPECT OR COPY JUDICIAL RECORDS

Revised: June 9, 2005

Printed Name Address Telephone

requests examination and/or ____ copies of the following described records:

Date of Request

Signature of Requestor

ACTION TAKEN BY CUSTODIAN

☐ Request granted on ____, ____.

Cost \$____ per ____ TOTAL \$_____
(To be paid in advance.)

☐ Notice given to requestor that response will be delayed up to ten (10) working days from the date of the request.

☐ Request denied on _____, 20____.

Reason for Denial:

Custodian

REQUEST FOR RULING AFTER DENIAL BY CUSTODIAN

The Requestor is advised that a ruling by a judge may be demanded if a custodian has denied the request for records.

I request a ruling by the custodian judge.

Date of Request

Signature of Requestor

End of Form 1

Form 2

**IN THE DISTRICT COURT OF THE _____ JUDICIAL DISTRICT IN AND FOR
_____ COUNTY**

In the Interest of)	Order Regarding Confidentiality
)	of Juvenile Records and Proceedings
Johnny Doe, a minor)	Under ICAR 32

FINDINGS AND ORDER

☐ The juvenile is under 14 years of age or, if older, is not charged with a felonious act.

☐ The court's records and proceedings shall be open.

☐ The court's records and proceedings shall be closed.

☐ The juvenile is 14 years of age or older and is charged with a felonious act.

☐ The court's records and proceedings shall be open as provided by rule.

☐ The court's records and proceedings shall be closed due to extraordinary circumstances that justify confidentiality, specifically:

☐ This file, having been previously opened, is hereby closed pursuant to ICAR 32(d)(7)(C).

Date

Magistrate Judge

End of Form 2

Form 3

Request for Approval of Broadcasting or Photographing Court Proceedings

IN THE DISTRICT COURT OF THE _____ JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF _____

_____)	
Plaintiff)	Case Number _____
V.)	
)	Request for Approval to Broadcast
_____)	And/or Photograph Court Proceedings
Defendant)	

I hereby request approval to broadcast and/or photograph the following court proceeding:

Date: _____ Time: _____

Location: _____ Presiding Judge: _____

I have read Idaho Court Administrative Rule 45 governing cameras in the courtroom, and will comply in all respects with the Rule and the Orders of the Court.

_____	_____
Print Name	Signature

_____	_____
News Organization Represented	Date

* * * * *

ORDER

THE COURT, having considered the above Request for Approval, hereby orders that permission to broadcast and/or photograph the above hearing is:

☐ Denied

☐ Granted; under the following restrictions:

_____	_____
Date	District/Magistrate Judge

End of Form 3

CLERK OF THE DISTRICT COURT MANUAL

24.0 DESTRUCTION OF COURT RECORDS

Revised October 2006

24.1 APPLICABLE RULES

The Idaho Court Administrative Rules govern the retention and destruction of court records. ICAR 37 addresses civil records while ICAR 38 deals with criminal records (including infractions and juvenile records). In addition ICAR 39 supplements Rules 37 and 38 regarding the destruction of recordings; while ICAR 40 governs appellate court records. Please note that both Rule 37 and 38 provide that court records can be kept longer than is required.

24.2 IDENTIFYING RECORDS FOR DESTRUCTION

ICAR 37 and 38 specify which trial court records may be destroyed and which must be kept. Because it may not always be easy to determine how a particular document in a case file ought to be categorized under these rules, only experienced and knowledgeable court staff should be involved in identifying which documents must be kept and which may be destroyed. In case of doubt, please contact your supervisor, the clerk of court, the trial court administrator or the custodian judge before destroying or disposing of any court record.

24.3 NOTICE TO HISTORICAL SOCIETY

Before a court destroys or otherwise disposes of any court record, the State Historical Society must be notified of what records are going to be destroyed or disposed of, 90 days prior to their proposed destruction, or disposition. If the Historical Society wants any of the records, those items should not be destroyed, and arrangements should be made with the Historical Society for the transfer of those records. If the Historical Society does not respond within 90 days or notifies the court that it does not want the records, they can then be destroyed. If a court is microfilming or otherwise imaging court records, the Historical Society must still be notified before the original court document is destroyed.

Clerical Duties:

1. Prepare and send written notice of intent to destroy or dispose of documents or property to: State Historical Society: 2205 Old Penitentiary Rd., Boise, ID 83712-8250. The State Historical Society has 90 days to give notice that they have no interest in the records.
2. If you have any questions regarding the destruction of court records, please contact your supervisor, the Clerk of the District Court, Trial Court Administrator, or Administrative District Judge.

Exhibits:

In civil cases, exhibits, whether admitted or rejected, may be destroyed following 10 days notice to the parties after expiration of the time for appeal or from the determination of an appeal or from the determination of a proceeding following an appeal, whichever is later.

In criminal cases, exhibits, whether admitted or rejected, may be destroyed following 10 days notice to the parties after expiration of the time for appeal or from the determination of an appeal or from the determination of a proceeding following an appeal, whichever is later. However, if the sentence imposed was life imprisonment or death, then the exhibits must be kept while the defendant is incarcerated, on probation or parole, or in a rehabilitation program in connection with the conviction to which the records pertain.

Recordings, Stenographic Records & Tapes:

In both civil and criminal cases, recordings, stenographic records, and tapes may be destroyed 5 years from the date of hearing, and further, any recordings of any case can be destroyed when that case is eligible for destruction. Stenographic records can also be destroyed upon settlement of the reporter's transcript on appeal.

CLERK OF THE DISTRICT COURT MANUAL

25.0 CASE FILE FOLDER

Revised October 2006

The case file folder contains all papers filed in a case. ISTARs prints out a label that contains all of the information required on the file. If you choose not to use this procedure, please assure that the information below is contained on the outside of the file folder:

Criminal:

Case Number

County

Plaintiff and Defendant Name

Charges 1 through 3

Attorney for Prosecution

Attorney for Defense

Civil:

Case Number

County

Plaintiff and Defendant Name

Attorney for Plaintiff

Attorney for Defense

Juvenile:

Case Number

County

Subject and Party Name

Attorney for Subject

Attorney for Party

The ISTARS computer system has the capability to print out case file folder labels as outlined above. This process requires a dedicated printer.

Clerks may wish to utilize a color coding scheme to facilitate the storage and retrieval of court files. Several vendors manufacture case file folders that allow color coded case numbering to be attached. A color coding scheme reduces the possibility of mis-filing case files.

CLERK OF THE DISTRICT COURT MANUAL

26.0 COURTROOM SUPPLIES AND EQUIPMENT

Revised October 2006

☐ Microphones 4 speakers: Judge, Witness, Prosecuting Attorney, Defense Attorney.

☐ Recording device, audio tapes, or CD's.

☐ Audio/video equipment as required

☐ Two Counsel Tables--Witness stand

☐ Chairs

☐ Exhibit Labels:

Exhibit #, Case #, Date

☐ Paper clips

☐ Waste basket

☐ Stapler

Judges Bench:

☐ Water, cups

☐ Pens

☐ Forms

☐ Legal pad

☐ Name plate

☐ Staple remover

☐ Kleenex

☐ Rubber bands

☐ Court Calendar/Schedule of events.

Clerk (Same as Judges Bench plus the following):

- ☐ Markers and dry erase markers
- ☐ Scissors
- ☐ Tape
- ☐ Staples
- ☐ Witness, interpreter, jury, and bailiff oaths
- ☐ Forms
- ☐ Water and cups for Counsel Tables
- ☐ Extra audio tapes or CD's
- ☐ Evidence gloves
- ☐ Evidence bags/assorted sizes
- ☐ Jury Materials

CLERK OF THE DISTRICT COURT MANUAL

27.0 TRIAL PROCEDURES AND COURT MINUTES

Revised October 2006

27.1 PURPOSE

The content and detail of court minutes is often dictated by the type of case and the formatting wishes of the judge presiding over the case. Minutes are a summary of the events that occur in court hearing. They provide the Court or any interested party information about the happenings in a case without having to go to the verbatim testimony taken by the court reporter or the electronic recording made by the clerk. Learning the basic requirements of minute-taking for a particular judge is essential to the efficient operation of the court. All minutes should be compiled under the assumption that they may be included in an appeal to the Idaho Supreme Court. They are also essential to court clerks to complete data entry and the preparation of court documents after the court hearing. As a consequence, it is required that clerks keeping court minutes have a basic understanding of court proceedings, possess legible handwriting skills, typing/keyboard skills, demonstrate a command of grammatical and organizational skills.

27.2 FORM AND CONTENT

Clerical Duties:

All minutes have certain basic requirements regardless of the type or length of the hearing or trial. Some courts may utilize pre-printed forms with check off boxes for some of the required information or take their minutes in ISTARs. Some courts also print their minutes on colored paper to quickly locate them in the court file.

The minutes should include:

1. Court and case title "In the District Court of the Third Judicial District, etc." Indicate "Magistrate Division" if that is the case.
2. A list of the officers of the court for that hearing: Judge, Court Reporter, attorneys, plaintiff and defendant, court clerk and the interpreter if present.
3. Case number or numbers.
4. Audio recording information: date, time, and tape counter number. In multiple day trials, the new date should be shown at the beginning of each day's minutes.

The hour and minute is recorded:

- a. At the beginning of each hearing/trial

- b. Each new day of a multiple-day hearing/trial
 - c. All recesses and reconvening of court after each recess
 - d. When a jury retires to start their deliberations
 - e. When a jury returns to the courtroom with their final decision
 - f. At the conclusion of each hearing.
5. Type of hearing, i.e.: Arraignment, sentencing, motions hearings, trial, etc.
 6. The appearance or non-appearance of all parties.
 7. The giving of an oath.
 8. Each witness with the name correctly spelled and entered as given by the witness from the stand.
 9. Exhibits: In conjunction with the electronic minutes tab in ISTARs there is also an exhibits tab. The exhibits tab is accessible from the minutes tab, and allows the clerk to move back and forth easily to document the hearing minutes and exhibit information.

Note: Exhibit labels with the exhibit identification letter or number, case number and date need to be placed on each exhibit. The clerk is responsible for the safe keeping of all offered and admitted exhibits unless an offered exhibit is returned to a party or council. All offered and admitted exhibits need to be entered into ISTARs under the exhibits tab, along with the status of the exhibit, and location for storage)

- a. Note when each exhibit is marked and indicate the number or letter of the exhibit (It is recommended if an exhibit is marked in pre-trial, or before trial, show that fact in the minutes).

Note: Some courts ask attorneys to mark their exhibits prior to trial. In addition, the clerk may want to prompt the judge to request an exhibit list with the pre-marked exhibits itemized and columns for “offered” - “admitted” - “rejected” - etc.

- b. Identify the exhibit as given by the witness (or from the list of exhibits provided in Discovery).
- c. Note the offering of an exhibit for entry into evidence with notation of any objection.

- d. Identify each exhibit plainly as "Admitted," "Denied," or "Rejected," or "Illustrative Only" in the minutes. If "Not Admitted," enter that fact in the minutes. Admitted, Denied, or Rejected, Ruling Reserved, Illustrative Purposes Only, or Demonstrative Purposes Only are terms used in noting exhibits. If returned to counsel, note that in the minutes as well.
- e. Record ALL objections to exhibits, by whom they were made, and the Court's ruling. Objections are overruled or sustained, however, if the Court does not rule simply record "No ruling."
- f. If a COPY of an exhibit is ordered by the Court to be substituted for the original, so state in the minutes and make the substitution at the direction of the Court.

Examples:

"Plaintiff's Exhibit B was marked by the Clerk, identified by the witness as a picture of the damaged car, and offered for admission by Mr. ___. There was objection by Mr. ___, with argument by Mr. ___. The Court overruled the objection: PLAINTIFF'S EXHIBIT B WAS ADMITTED."

"Plaintiff's Exhibit B was marked by the Clerk, identified by the witness as a group of twelve pictures, offered for admission by Mr. ___, with no objection by Mr. ___. PLAINTIFF'S EXHIBIT B WAS ADMITTED."

"Plaintiff's Exhibit B was marked by the Clerk, identified by the witness as a group of twelve pictures, offered for admission by Mr. ___ with objection by Mr. ___. The Court admitted the exhibits for illustrative purposes only. PLAINTIFF'S EXHIBIT B WAS ADMITTED FOR ILLUSTRATIVE PURPOSES ONLY."

"Plaintiff's Exhibit B was marked by the Clerk, identified by the witness as a group of twelve pictures, offered for admission by Mr. ___ with objection by Mr. ___. Court sustained the objection. PLAINTIFF'S EXHIBIT B WAS DENIED."

Note: The Court should always announce when an exhibit has been marked or admitted into evidence. This is of assistance to the Court Reporter and clerk and is a necessity for electronic recording.

Note: Entering the exhibit information under the exhibits tab in ISTARS the clerk can easily print out a listing of all exhibits and their status for inclusion in the file along with the court minutes.

Testimony and Witnesses:

The usual progression of testimony is as follows:

- a. *DIRECT*--Initial examination by the attorney calling the witness.

- b. *CROSS-EXAMINATION*--Questioning by opposing counsel.
- c. *RE-DIRECT*--Subsequent questioning by calling party's attorney.
- d. *RE-CROSS*--Subsequent questioning by opposing counsel.
- e. *ANY FURTHER QUESTIONING* is simply noted as further questioning or argument, *i.e.* "There was further questioning by Mr. ___, and argument by Mr. ___."

The usual progression for witnesses is: (If a witness is called out-of-order, make special note.)

- a. Plaintiff's witness.
 - b. Defendant's witness.
 - c. Plaintiff's rebuttal witnesses are called to counter testimony of the defendant.
 - d. Defendant's rebuttal witnesses are called to counter rebuttal witnesses, generally.
- 12. All motions, stipulations, offers of proof, rulings, and orders of the Court.
 - 13. All objections, by whom they were made, any argument by opposing counsel, and the Court's ruling. If Court does not rule, type "No ruling."
 - 14. Make a record of opening, closing, and final arguments of respective counsel.
 - 15. Any other information directed by the Court to be included in the minutes.

27.3 SPECIFIC COURT PROCEEDINGS

Jury trials: The following items need to be entered into the record:

- 1. Roll call of the prospective jurors, showing how many answered the roll call and the names of those who do not answer. Any directive of the Court regarding those who are absent should be noted.
- 2. The names of each of the first prospective jurors in the order drawn.
- 3. Voir Dire examination of the panel or of each prospective juror. Details are not necessary, however, the fact that he/she was examined and by whom, whether

he/she was passed for cause or not, any objections, and the Court's ruling on each matter should be entered.

"David Smith was examined by Mr. ___, passed for cause; questioned by Mr. ___ with objection by Mr. ___. Overruled by the Court. Mr. Smith was passed for cause."

"David Smith was questioned by Mr. ___, who asked that Mr. Smith be excused for cause; Mr. ___ concurred, and the Court excused Mr. Smith for cause."

4. All challenges for cause, by whom made, and whether or not granted by the Court; the replacement name and voir dire examination of that person.
5. Peremptory challenges: review with the judge the method for recording peremptory challenges as practice may vary.
6. The names of the final jury panel in the order they are seated.
7. The fact that oaths were administered, including the voir dire oath, interpreter oath, oath given to the final jury panel, and the bailiff's oath. See Appendix ___ for the text of the oaths.
8. All admonitions of the Court to the jury, counsel, or witnesses.
9. The time of all recesses and re-convenings.
10. All roll calls or the waiving of the roll calls.
11. The verdict as announced by the court clerk.
12. Any polling of the jury and the answer by each juror to the polling question.

Criminal Arraignment: Be sure to include this information:

1. The charges pending against the defendant.
2. If the defendant appeared in person or failed to appear.
3. If a warrant was issued and the amount of bond.
4. If the bail bond was forfeited.
5. The status of the defendant, i.e.: in-custody, released on own recognizance, or bond, and what kind of bond (cash, surety, property, conditions).

6. Establishment of true name of defendant and any correction by interlineation. (Unless we have defined this elsewhere I suggest that we direct the clerk as to the correct way to do interlineations on the written documents.)

7. Advisement of rights, penalties and enhancements.

Note: The rights given in the Magistrates Division should be provided in written form, which the defendant signs, becoming a part of the defendant's file. If the defendant does not sign a form, the Magistrate will give those rights verbally. Any time they are given verbally without the defendant's signing an Acknowledgment of Rights form, an indication of the advisement needs to be included in the minutes.

8. Reading of Criminal Complaint or Criminal Information or waiver thereof.
9. If the defendant waived counsel, is going to hire private counsel, or the public defender was appointed.
10. In misdemeanor cases, plea of the defendant.
11. If the hearing was continued and why it was continued and any information regarding future court proceedings.
12. Any court ordered reports or evaluations.
13. The custody status at the conclusion of arraignment and if bond was set and the amount of cash or surety.

27.4 ITEMS REQUIRING SPECIAL ATTENTION

1. Minutes ARE NOT meant to be verbatim, however the advisement of rights, findings, and orders need to be documented in the minutes.
2. Bench Warrants- Note issuance of Bench Warrants AND Amount of Bond.
3. Bond Forfeitures- it is critical to note the forfeiture of a bond in the minutes.
4. Remands- note any remands to another Court, Sheriff's Office, Immigration and Naturalization Services, or Department of Correction.
5. Future hearings: it is critical to note dates and times of hearings set in Court; as the minutes may be the only reference there is by which to calendar a case. If a hearing is "Continued" be sure to state the reason.

27.5 SUMMARY

Essentially, minutes for any hearing are the same; the basics apply whether the case is juvenile, probate, civil or criminal, court trial or jury trial. The kinds of hearings are different, the sentencing or adjudication options may be diverse, and the approach may be a trial rather than just a hearing; however, you will always be required to document the same basic information. As you change from one kind of hearing to another, you learn to adapt to the kinds of special information each case needs to have included. When you learn the basics, it is quite a simple matter to include those special items each case needs to be complete.

27.6 ATTESTATION

Other state courts may request that a certificate of attestation be completed to verify a record for a foreign judgment.

Clerical Duties:

1. Complete the attached form.
2. Obtain the appropriate judges signature.
3. Sign the form.
4. Seal with the Court Seal.

CLERK OF THE DISTRICT COURT MANUAL

28.0 FORM OF PLEADINGS AND FILING REQUIREMENTS OF COURT

Revised October 2006

28.1 FILING REQUIREMENTS OF COURT DOCUMENT

The Idaho Rules of Civil Procedure specify the requirements for documents filed with the court. I.R.C.P. 10(a)(1) details the required form of the documents filed:

- Every pleading, motion, notice, or judgment or order of the court shall be typed with black ribbon or produced by a computer or word processor type printer of letter quality on white paper;
- It must contain a caption setting forth the names of the parties, the title of the district court, together with the assigned number of the action, the designation of the document or pleading and the names, addresses and phone numbers of the attorneys and the typewritten name of the person signing the pleading;
- All pleadings, motions, notices, judgments, or other documents filed with the court shall be typed on 8 1/2 x 11 inch paper;
- The body of all documents may be typed with double line spacing or one-and-one-half line spacing with a font size of not more than 10 letters per inch.
- Every pleading shall have the name or designation typed at the bottom of each page, and all attached exhibits must be legible and in a form that can be copied or be accompanied by a typewritten duplicate, and all handwritten exhibits shall be accompanied by a typewritten duplicate;
- In the complaint the title of the action shall include the names of the parties, but in subsequent pleadings it is sufficient to state the name of the party on each side with an appropriate indication of other parties;
- The title of the court shall begin four (4) inches from the top of the first page. The name, address and telephone number of the attorney, or person appearing shall be typewritten or printed above the title of the court in the space to the left of the center of the page and beginning at least two (2) inches below the top edge. The currently valid Idaho State Bar Number of the attorney shall be typewritten or printed immediately below the attorney's telephone number;
- Pleadings or motions requiring filing fees shall also contain designations of the category of the action, the nature of the document and filing fee category and filing fee.

Note: Many courts do accept documents that do not meet the requirements of the rule and you should not refuse to accept them for filing. If unsure, check with your supervisor or the judge.

- Prisoners incarcerated or detained in a state prison or county jail may file documents under this rule that are legibly hand-printed in black ink, in whole or in part, that otherwise conform to the requirement of this rule.

This rule does not apply to printed forms approved by the Supreme Court or the Administrative District Judge or distributed through the Court Assistance Office in the county where the lawsuit is pending. Such forms may be completed by legibly hand-printing in black ink or by typing. (I.R.C.P. 10(a)(1))

28.2 FILING WITH THE COURT

The documents can be filed with either the clerk or the judge as stated by the rule.

All papers brought to the court after the complaint required to be served upon a party shall be filed with the court either before service or within a reasonable time after service. Large documents, such as briefs, may be treated like an exhibit and do not have to be placed in the actual file folder. I.R.C.P. 5(d) (I.R.C.P. 7(b)(3); ICR 49(c))

The filing of pleadings and other papers with the court rules shall be made by filing them with the clerk or the judge. If the judge accepts the paperwork, he/she shall note the filing date, hour and minute and transmit them to the office of the clerk. The judge or clerk shall indorse upon every pleading and other paper the hour and minute of its filing. (I.R.C.P. 5(e))

Filing by Facsimile:

Any pleading or document except those documents requiring a filing fee or filed as proof of incarceration of a party to the action may be transmitted to the court for filing by a facsimile machine process. The clerk shall file stamp the facsimile copy as an original and the signature, court seal, and notary seal on the copy shall constitute the required signature and be considered as originals under Rule 11(a)(1). After a document is filed by facsimile, there is no need to mail that document to the court. Filings may be made to the court only during the normal working hours of the clerk and only if there is a facsimile machine in the office of the filing clerk of the court. Provided, documents over ten (10) pages in length cannot be filed by the facsimile machine process. (I.R.C.P. 5(e)(2))

Note: Consult your supervisor for the handling of identical copies received in the mail. The facsimile is the original and a procedure should be established in your court to prevent duplicate filings when copies of the original fax are subsequently sent in the mail.

Any facsimile machine process copy that is not transmitted directly to the court may be filed with the court. The clerk shall file stamp the facsimile copy as an original and the signature on the copy shall constitute the required signature under Rule 11(a)(1). There shall be no limit as to the number of pages of a facsimile copy which was not transmitted directly to the court by the facsimile machine process. (I.R.C.P. 5(e)(3))

Each county, on an individual basis, may elect to waive any or all of the restrictions of I.R.C.P. 5(e)(2) to the extent that (a) documents requiring a filing fee may be transmitted to the court for filing by a facsimile machine process provided that the fee is prepaid by credit card in accordance with the county's credit card acceptance policy; (b) filings may be made at any time, provided that filings received outside normal working hours or on any non-judicial day will be file stamped at 9:00 a.m. on the next judicial day; (c) documents of any length may be faxed. (I.R.C.P. 5(e)(4))

Exceptions for Faxing Documents in Criminal Cases (I.C.R. 49):

The following documents cannot be filed with the court by facsimile:

- Information or Complaint
- Search Warrant
- Warrant of Arrest
- Return on a Warrant or Service of a Warrant
- Any document filed as proof of incarceration of a party to the action

28.3 APOSTILLE

Definition: An apostille is a special seal applied by an authority to certify that a document is a true copy of an original. An apostille certifies the authenticity of the issuing official's or notary public's signature on the document, the capacity in which the person has acted, and identifies the seal/stamp which the document bears.

Purpose: Apostilles are available in countries, which signed the *Hague Convention Abolishing the Requirement of Legalization of Foreign Public Documents*, popularly known as *The Hague Convention*. This convention, created in 1961, replaced the time consuming chain certification process, where you had to go to four different authorities to get a document certified. Each country party to the Hague Convention designates an authority within its territory that can issue apostilles; for example, in the USA, it is the office of the state's secretary. Documents issued in a Convention Country which have been certified by an apostille are entitled to legal recognition in any other Convention Country. An apostille can be used whenever a copy of an official document from another country is needed.

Convention Apostille Certificate: If you have a document which you want legalized for use in another Convention country, the Convention certification called an "apostille" must be affixed to the document by a competent authority. The apostille is a pre-printed form prescribed by the Convention.

Clerical Duties:

If a person requests an APOSTILLE for the purpose of obtaining citizenship in another country or for any other reason, the procedure is:

1. Make a certified copy of the document requested from the court file for the required fee.
2. The person requesting the Apostille then will send the certified copy with a \$10.00 fee to the Secretary of State at the address below. The person should provide the name of the country to which the documents will be sent so the Secretary of State will be sure to provide the appropriate certification format for the receiving country.

MAILING ADDRESS:

State of Idaho
Office of the Secretary of State
Attn: Notary Department
P.O. Box 83720
Boise, ID 83720-0080

EXPRESS MAIL:

State of Idaho
Office of the Secretary of State
Attn: Notary Department
700 West Jefferson, Room 203
Boise, ID 83702

3. The clerk should make a cover sheet with the printed name and the correct spelling of the clerk who signed the certification seal to accompany the certified copy.

If questions, phone the Office of the Secretary of State at: (208) 334-2300, or see www.idsos.state.id.us/notary/apostill.htm.

CLERK OF THE DISTRICT COURT MANUAL

29.0 COLLECTIONS

Revised October 2006

I.C. Section 19-4708 allows the Clerk of the District Court, with the approval of the Administrative Judge, to enter into contract(s) for collection services for debts owed to the courts.

The ISTARS collections component is set up through Tables, Table Set Up, then Overdue Processing, by your system administrator.

Clerical Duties:

1. Once the collections component is set up, a Fail To Pay list will run each time you run Overdue Processing. The clerk should check each case on that list to make sure the amount due and date due is correct. If there is an error, make the correction. If you don't want the case turned over to the collection agency, delete the appropriate Failure To Pay Step under the Overdue History tab on the defendant screen. (There is separate processing for each charge and victim.) This will allow the Failure To Pay Step to process again when it is appropriate.
2. The Collections Report that needs to be run to turn the accounts over to the collection agency is found under Reports, External Agencies, Collection Agency. The cutoff date should be the date of the last Fail To Pay list you checked.

Note: The Collections Report will save a file to a floppy disk. You can then e-mail the report to your collection agency.

Each county will determine the frequency and schedule of running the report to refer cases to the collection agency.

IN-HOUSE COLLECTIONS

ISTARS allows you to develop your own documents and tailor them to your collections process. You need to create the documents you wish to use and have your system administrator insert them in the proper Step order in your Overdue processing setup.

Some courts may prefer to use a letter or notice that alerts the defendant that the account will be turned over to a collection company if he/she doesn't pay within a specified number of days, including the collection fees and balance due information.

If the individual court wants to proceed with an Order to Show Cause Hearing, they need to send an Affidavit of Failure to Pay to the Prosecutor, who will submit the paperwork for the Order to Show Cause. The Court gives the Prosecutor a hearing date and the Defendant is served with the Order to Show Cause, notifying him/her of the date and time to appear and show cause why they haven't paid their debt.

CLERK OF THE DISTRICT COURT MANUAL

30.0 PROFESSIONAL ETHICS

Revised October 2006

30.1 INTRODUCTION

Ethical issues for court staff often revolve around a few core concepts, which though not unique to courts, are of special concern because the court not only needs to be impartial and fair, it also needs to appear to be impartial and fair. The court therefore holds itself to the highest standards of conduct both out of respect for the Law and in order to justify the public's trust and confidence in our system of justice.

30.2 CORE ETHICAL CONCEPTS FOR COURT STAFF

Abuse of position occurs when a person uses their job to get something they want which they wouldn't get if they didn't have the job; or if they use their position to add a burden to someone else who wouldn't otherwise get that burden. For example, attempting to alter court records in a case which involved you would be an abuse of position.

Confidentiality refers to keeping a record or information away from everyone except those authorized to have that record or information. It sometimes means that even the existence of the record is a secret. (For example the existence of an arrest or search warrant before the arrest or the search has taken place is confidential.) The Supreme Court rule that governs confidentiality of court records (Idaho Court Administrative Rule 32) doesn't use the word 'confidential,' it talks about records that are "exempt from disclosure," but the idea is the same.

Conflict of interest occurs when a person has a personal stake and an official duty in regards the same thing. That's why judges can't judge their own cases, or why deputy clerks shouldn't be assigned to handle a file where they (or someone close to them) is involved in the case.

Impropriety may occur when a person who works for the court says or does something contrary to the values, principles or rules of the Court. For example, giving out confidential information to someone who isn't authorized to receive it is an impropriety. Wearing a political button or handing out political pamphlets while on duty would also be an impropriety. Expressing bias or prejudice about a person involved in a court case is an impropriety. In general, any unprofessional behavior at work may be an impropriety, although sometimes it's on the level of bad manners. Serious improprieties however may also be crimes, such as altering court records without authority, or embezzling. The **appearance of impropriety** may arise when a person says or does something that may be innocent, but which can be easily interpreted to reflect poorly on the court. For example, a deputy clerk whose parent's were being sued should not act as the in-court

clerk during their trial, even if the clerk were trustworthy in every way, even in fact if there were nothing the clerk could do that would effect the outcome of the case.

Stewardship and Good Faith refer to the highest levels of trustworthiness recognized in the law. A technical legal term which addresses this level of conduct is "fiduciary duty." People who work in the court have the ethical obligation to be scrupulously honest, diligent, and fair in the performance of their duties, and in their actions outside of the court, since they are stewards (that is caretakers) of a great public trust.

30.3 A MODEL CODE OF CONDUCT FOR COURT STAFF IN IDAHO

(Adopted from the Code of Conduct of the National Association of Court Managers, Revised: Oct. 17, 2002)

- A. Court staff should not use or attempt to use their official positions to obtain special benefits for themselves or others, or to impose special burdens on others.
- B. Court staff should not accept, ask for, or distribute gifts or favors which are intended to (or which may tend to) influence the performance of their duties, or the duties of others.
- C. Court staff should not be, or appear to be, unduly affected in the performance of their duties by any person's position, influence, or family relationship(s).
- D. Court staff should not accept any compensation or thing of value in return for their job related services except for what they receive from their employer for those duties.
- E. Court staff should use the court's property, supplies, funds, and other resources properly, and according to established procedures.
- F. Court staff should not allow, or appear to allow, their private interests or the private interests of others to interfere or conflict with the performance of their official duties.
- G. Court staff should not give legal advice, but may provide legal information about court processes and procedures when authorized to do so.
- H. Court staff should not disclose confidential information except as authorized by court rule, and should release information when authorized to do so.
- I. Court staff should restrict political activities to non-working hours and should not use or appear to use their position with the court in those activities.
- J. Court staff should perform their duties promptly, impartially, diligently, and courteously.

K. Court staff should not discriminate against, nor show bias or prejudice *towards any person while performing* their official duties.

L. Court staff should uphold the Constitution, laws and regulations of the United States and all other governments they serve.

M. Court staff should avoid activities that reflect poorly on the Court, or their positions.

N. Court staff should promote ethical conduct and should report improper conduct to the appropriate authorities, including any attempt to induce the violation of this ethical code.

30.4 CODE OF CONDUCT, RULE OF LAW

To Work for the Court

It was once said that service is the rent we pay for our place here on Earth.ⁱ It has also been said that the question of how we perform that service is one that each of us will answer with our lives.ⁱⁱ For example, there is a story toldⁱⁱⁱ of a young woman who, after graduating from school, went to work as a secretary for a company that made chewing gum. After a year or so she left the company - not because they weren't treating her well, or because there was no room for advancement, but because, after all, it was just chewing gum. Of course there's nothing wrong with paying the rent by honest work for a lawful business, but for her that wasn't enough. Perhaps she didn't want to look back at the end of her days and regret that the time and energy she'd spent contributing to chewing gum profits could have been spent as productively working as a secretary for an elementary school or a university, for a hospital or a nursing home, or for some charitable, religious or social service organization – that she could have made her living not just by working, but by working on tasks that led to a higher goal, towards a greater purpose.

That, at least, is not an issue for those of us who work in the court. We serve in an institution uniquely dedicated to higher goals and greater purposes and since this is so, our job performance should reflect and support that mission and vision. After all, the tax dollars that pay us could just as easily be spent vaccinating children, relieving disaster victims, providing college scholarships for the poor and gifted, cleaning fouled waters, researching crop pests, repairing roadways and bridges, or a host of other necessary or desirable governmental services. That means it matters what we do at work and how we do it, whatever our jobs may be. How then should we act when we're at work?

Many years ago in China, there lived an old man with a reputation for enlightened wisdom. One day, the new governor of the province came to test the old master's wisdom, asking him to state the fundamental moral principle of human life.^{iv} The master replied simply 'Always do good, never do evil.' The governor retorted that even a three year old would know enough to say that, and the old master replied that, even though a three year old might say it, an eighty year old had difficulty doing it.

The accompanying poem was written to help guide the actions and attitudes of the support staff who work for the Court - a place where it can also be difficult to always do good and never do evil; sometimes even in simple things, sometimes even for the most experienced.

Revised: February 25, 2003

I work for the Court. Maybe I file the papers;
Maybe I mail the notices; maybe I schedule
The courtrooms or answer the phones; maybe
I print reports about fines, fees and costs;
Maybe I work the front counter, or in a back office.
Wherever I work, I work for the Court.

I know my job well. I do it as well as I know how to do
Every day, all day long, whether or not I feel like working.
And I think about how to work faster and smarter and
About how things work best when we all work together,
Because I'm also a citizen—a waste hating taxpayer-
And it's one of my duties to make the Court better.

I treat everyone equally, whether I know them
And trust them and like them, or not. I give them
Good service, courtesy, and respect, but no special
Treatment and no special favors; and I understand
That if I can't help them (or if they won't let me),
I should send them on quickly to someone who can.

I give prompt access to the Court's public records
(I'll show anyone what can rightly be shown), but
Some things are sealed and exempt from disclosure,
Confidential or closed by Court rule or order and
Maybe none of your business, or even my own.
I don't go looking where I've no right to go and
You won't hear from me what's not yours to know.

No politics here, no tricks, no deception,
No bias, no prejudice, no misrepresentation,
No abuse of position, no conflicts of interest,
No bribes, no corruption, no covered-up faults,
No plots or conspiracies behind my Court's doors;
There's no place for these skeletons down in our vaults.

We serve one of the greatest of human endeavors,
To bring fair and impartial justice to all—young and old;
Strong or weak; families, strangers and neighbors-

So that all live together in peace and good order;
Protected from violence, force, fear, and fraud;
By compassionate, clear-sighted rules of law.

ⁱ Attributed to Shirley Chisholm, U.S. Congresswoman (1968-1982) and first African-American woman to run for president (1972).

ⁱⁱ Attributed to Victor Frankl, concentration camp survivor, neurologist, psychiatrist.

ⁱⁱⁱ Attributed to Abraham Maslow, psychologist, author, teacher.

^{iv} The Roaring Stream, Foster and Shoemaker, Editors; Ecco Press, Hopewell NJ, 1996; pp 84-85.

CLERK OF THE DISTRICT COURT MANUAL

31.0 MISCELLANEOUS

Revised October 2006

31.1 LIMITED ADMISSION / PRO HAC VICE

Idaho Bar Commission Rule (IBCR) 222 states that only active members of the Idaho State Bar may enter appearances for a party; sign stipulations; receive payment; or enter satisfaction of judgment, decree, or order in Idaho. However, attorneys who are not active members of the Idaho State Bar may petition on Idaho court for permission to appear pro hac vice pursuant to the same rule.

Requesting Attorney's Duties:

The attorney requesting permission to appear pro hac vice must submit a Motion for Limited Admission at the court he/she wishes to appear at (An Order for Admission should be included for the judge's signature after payment of the fee to the Bar), with copies served to all parties of the action. A copy of the Motion is submitted to the Idaho State Bar, accompanied by the \$200.00 fee at:

Idaho State Bar
PO Box 895
Boise, Idaho 83702

Clerical Duties:

1. When the court receives the Motion for Limited Admission, the clerk can fax a copy of the motion to the IBCR Membership Administrator at (208) 334-2764, requesting to be notified when the fee has been paid by the attorney.
2. When notified that the fee has been paid, send the Order for Admission to the Judge for signature.
3. When the Order for Admission is signed, enter the attorney on ISTARS noting pro hac vice next to his/her name. Send the attorney copies of the notices of any future hearings, along with a copy of the signed Order for Admission.

Note: Questions concerning the requirements of IBCR 222 should be directed to the Idaho State Bar Membership Administrator at (208) 334-4500.

Any clerk that is adding an attorney to a case and sees pro hac vice next to the attorney's name will need to refer to the above protocol.

Form:

ATTENTION: Membership Administrator, Idaho State Bar
(208) 334-2764

I am sending the first page of a request to appear pro hac vice. When the attorney has paid the fee, please fax the sheet back to me with an indication on the sheet as to when the fee was paid. I will then forward the request and Order to the judge for his signature.

My fax number is (208) 664-0639.

Thank you,

Deputy Clerk

Date

31.2 CORONER'S INQUEST/JURY

Pursuant to I.C. § 19-4301 through 19-4310, the Coroner's Inquest/Jury is held only when the Coroner has reasonable grounds to believe that a person has died:

- a) As a result of violence, whether apparently homicidal, suicidal or accidental,
or
- b) Under suspicious or unknown circumstances, or
- c) When not attended by a physician during his last illness and the cause of death can't be certified by a physician.

The Coroner is in charge of running the proceeding. The juror's oath is administered by the Coroner. *"Does each of you solemnly swear or affirm that you will faithfully discharge the duties of juror in this Coroner's Inquest, so help you God?"*

Clerical Duties:

1. Receive written report of material facts from coroner and place in properly designated file.
2. Receive transcribed testimony from coroner and place in properly designated file. (If the person is arrested before this can be filed, the testimony should be given to a magistrate judge.)

Note: Some counties choose to provide services of a clerk and courtroom facilities to assist the coroner, depending on local practices. The coroner may summon six persons qualified by law to serve as jurors to appear before him to hold said inquest.

CLERK OF THE DISTRICT COURT MANUAL

32.0 ACRONYMS

Revised October 2006

A Compilation of Common Acronyms in the Courts:

ADA	Americans with Disabilities Act
ADJ	Administrative District Judge
AJ	Administrative Judge
ADR	Alternative Dispute Resolution
AG	Attorney General
AKA	Also Known As
ALS	Administrative License Suspension
AOC	Administrative Office of the Courts
AOD	Alcohol and Other Drugs
ASFA	Adoption and Safe Families Act
BAC	Blood Alcohol Content
BCI	Bureau of Criminal Identification
BJA	Bureau of Justice Assistance
BMV	Bureau of Motor Vehicles
CASA	Court Appointed Special Advocates
CCJ	Conference of Chief Justices
CFS	Child and Family Services
CLASS	CaseLoad Analysis Support System
CMH	Children's Mental Health
COSCA	Conference of State Court Administrators
CPA	Child Protective Act
CPAI	Corrections Program Assessment Inventory
CPO	Civil Protection Order
DE	Designated Examiner
DJC	Department of Juvenile Corrections
DBA	Doing Business As

DJ	District Judge
DOA	Dead on Arrival
DOC	Department of Corrections <ul style="list-style-type: none"> Idaho Correctional Center (ICC) (Boise) Idaho Correctional Institution - Orofino (ICI-O) Idaho Maximum Security Institution (IMSI) (Boise) Idaho State Correctional Institution (ISCI) (Boise) North Idaho Correctional Institution (NICI) (Cottonwood) Pocatello Women's Correctional Center (PWCC) St. Anthony Work Camp (SAWC) South Idaho Correctional Institution (SICI) (Boise)
DOT	Department of Transportation
DSM IV – R	Diagnostic and Statistical Manual, 4th Ed. – Revised
DUI	Driving Under the Influence
DV	Domestic Violence
DVO	Domestic Violence Order
DVPO	Domestic Violence Protective Order
DWI	Driving While Intoxicated
DWP	Driving without privileges
DWS	Driving While Suspended
FRE	Federal Rules of Evidence
H&W	Health and Welfare (Dept. of)
IAC	Idaho Association of Counties
IAR	Idaho Appellate Rules
ICAR	Idaho Court Administrative Rules
ICR	Idaho Criminal Rules
ICWA	Indian Child Welfare Act
IICM	Idaho Institute for Court Management

IIR	Idaho Infraction Rules
IJR	Idaho Juvenile Rules
IRCP	Idaho Rules of Civil Procedure
IRE	Idaho Rules of Evidence
ISC	Idaho Supreme Court
ISP	Idaho State Police
ISTARS	Idaho Statewide Automated Record System
ITD	Idaho Transportation Department
JCA	Juvenile Corrections Act
JPO	Juvenile Probation Officer
L & L	Lewd and Lascivious
LSI – R	Level of Services Inventory – Revised
MJ	Magistrate Judge
MCR	Misdemeanor Criminal Rules
MPO	Misdemeanor Probation Officer
NCO	No Contact Order
NCSC	National Center for State Courts
NCJRS	National Criminal Justice Research Service
NDCI	National Drug Court Institute
OJJD	Office of Juvenile Justice and Delinquency Programs
OSC	Order to Show Cause
P&P	Probation and Parole (Field and Community Services)
PC	Probable Cause
PCR	Post Conviction Relief
PD	Public Defender
PERSI	Public Employment Retirement System
PO	Probation Officer
POST	Police Officer Standards and Training
PSI	Presentence Investigation/Investigator
PSR	Presentence Report
PV	Probation Violation

QDRO	Qualified Domestic Relations Order (pronounced ‘quad – row’)
RAI	Risk Assessment Instrument
RID	Registry of Interpreters for the Deaf
ROA	Register of Actions
SOL	Statute of Limitations
SS	Scilicet (contraction) meaning ‘To wit’
SSA	Social Security Administration
SSI	Supplemental Security Income
TCA	Trial Court Administrator
TCU – DS	Texas Christian University - Drug Screening
UA	Urinalysis
UCC	Uniform Commercial Code
UCCJEA	Uniform Child Custody Jurisdiction and Enforcement Act
YRA (now JCA)	Youth Rehabilitation Act

CLERK OF THE DISTRICT COURT MANUAL

33.0 GLOSSARY OF LEGAL TERMS MODIFIED AND SUPPLEMENTED FOR USE IN IDAHO

Revised April 2007

Legal terminology websites:

<http://dictionary.law.com/>

<http://www.legal-definitions.com/>

abstract of record—an abbreviated case history that is complete enough to show an appellate court that the questions presented for review have been reserved.

acknowledgment—a statement of acceptance of responsibility; the short declaration at the end of a legal paper showing that the paper was duly executed and acknowledged.

acquittal—the legal certification, usually by jury verdict, that an accused person is not guilty of the charged offense.

action in personam--(in per-so'nam)—an action determining the rights and interests of the parties themselves in the subject matter of the case.

action in rem--(in rem)—an action determining the title to property and the rights of the parties, not merely among themselves, but also against all persons at any time claiming an interest in that property.

adjudication—the legal process of resolving a dispute; the process of judicially deciding a case; also the judgment given.

administrative license suspension (ALS)—a law enforcement officer may seize the driver's license of an individual believed to be driving under the influence and issue a notice of suspension and a temporary driving permit to the driver. That individual the right to request a hearing within seven (7) days of the notice of suspension of his driver's license to show cause why he refused to submit to or to complete and pass evidentiary testing and why his driver's license should not be suspended. If the driver refused or failed to complete evidentiary testing and does not request a hearing before the court or did not prevail at the hearing, his driver's license will be suspended for one year for his first refusal and for two (2) years for the second refusal within ten (10) years. I.C. § 18-8002.

adversary system—the procedural system in the United States involving active and unhindered parties contesting with each other to put forth a case before an independent decision-maker.

affidavit—a voluntary declaration of facts written down and sworn to by the declarant before an officer authorized to administer oaths.

Alford plea—a guilty plea entered into by a defendant in connection with a plea bargain, without actually admitting guilt. *North Carolina v. Alford*, 400 U.S. 25, 91 S. Ct. 160 (1970).

alibi—a defense based on the physical impossibility of a defendant's guilt by placing the defendant in a location other than the scene of the crime at the relevant time.

allegation—something declared or asserted as a matter of fact, esp. in a legal pleading; a party's formal statement of a factual matter as being true or provable, without its having yet been proved.

alternative dispute resolution (ADR)—a procedure for settling a dispute by means other than litigation, such as arbitration, mediation, or minitrial. This process may occur prior to the filing of the civil action or may occur after the case is filed. A judge may choose to refer a case for alternative dispute resolution.

amended charge—in a criminal action, the prosecutor may petition the court to change the original charge to a less or more severe charge, typically as a consequence of a plea agreement. The reduced charged is known as an amended charge.

amicus curiae--(a-mi'kus ku'ri-e)—“friend of the court”; a person who is not a party to a lawsuit but who petitions the court or is requested by the court to file a brief in the action because that person has a strong interest in the subject matter.

ancillary bill or suit--(an'si-la-ri)—an action, either at law or in equity, that grows out of and is auxiliary to another suit and is filed to aid the primary suit, to enforce a prior judgment, or to impeach a prior decree.

annulment—A judicial or ecclesiastical declaration that a marriage is void. Unlike a divorce, an annulment establishes that marital status never existed in law. Grounds for annulment could include party under legal age, former spouse still living and former marriage still in force, either party of unsound mind, and consent obtained by fraud or force. I.C. § 32-501

answer—a defendant's first pleading that addresses the merits of the case, usually by denying the plaintiff's allegations.

appeal—a proceeding undertaken to have a decision reconsidered by bringing it to a higher authority; esp. the submission of a lower court's or agency's decision to a higher court for review and possible reversal.

appearance—a coming into court as a party or interested person, or as a lawyer on behalf of a party or interested person.

appellate court—a court having jurisdiction of appeal and review; not a “trial court.” In Idaho, appeals from the magistrates division are taken to the district court. Appeals from the district court are taken to the Idaho Supreme Court.

appellant—a party who appeals a lower court's decision, usually seeking reversal of that decision.

arbitration—a method of dispute resolution involving one or more neutral third parties who are usually agreed to by the disputing parties and whose decision is binding.

arraignment—the defendant is brought before the court and advised of the charge against him or her and the rights he or she has. If the charge is a misdemeanor the defendant enters a plea in the magistrate division. If the charge is a felony and the defendant is bound over on a felony to answer the charge in district court, the defendant enters a plea in the district court.

arrest of judgment—the staying of a judgment after its entry; esp., a court's refusal to render or enforce a judgment because of a defect apparent from the record.

assigned judge—the judge who made the final determination in a case or to whom the case is currently assigned.

at issue—taking opposite sides; under dispute; in question.

attachment—the seizing of a person's property to secure a judgment or to be sold in satisfaction of a judgment.

attorney of record—the lawyer who appears for a party in a lawsuit and who is entitled to receive, on the party's behalf, all pleadings and other formal documents from the court and from other parties.

BAC (blood alcohol content)—the concentration of alcohol in one's bloodstream, expressed as a percentage; used to determine whether a person is legally intoxicated. It is unlawful for any person who has a BAC of 0.08 or greater to drive or be in actual physical control of a motor vehicle within the state of Idaho. I.C. § 18-8004

BAC hearing—a formal court hearing in which a person whose driver's license has been seized petitions the court to show cause why he refused to submit to or to complete and pass evidentiary testing and why his driver's license should not be suspended. I.C. § 18-8002.

bail—a security such as cash or a bond; esp., security required by a court for the release of a prisoner who must appear at a future time.

bail bond—a bond given to a court by a criminal defendant's surety, guaranteeing that the defendant will duly appear in court in the future; a bond given to obtain a prisoner's release and to secure the prisoner's appearance to answer legal process.

bail bond forfeiture—If the defendant fails to appear, the surety surrenders the amount of the bail to the court. The surety has 90 days to deliver the defendant to any Idaho peace officer, in which case the bail will be exonerated. I.C. § 19-2927.

bail bond exoneration—a process by which the bond money paid to the court to ensure an individual's appearance in court is returned to that individual, typically when that person has been found not guilty.

bailiff—a court officer who maintains order during court proceedings and is given custody of the jury.

banc—(bangk)—bench; the place where a court permanently or regularly sits. An "en banc sitting" is a meeting of all the judges of a court, as distinguished from the sitting of a single judge.

bankruptcy—a federal court proceeding, usually triggered by insolvency, in which a person is relieved of most debts and undergoes a judicially supervised reorganization or liquidation for the benefit of that person's creditors. A federal bankruptcy proceeding typically suspends any case activity in which the debtor may be involved in state courts.

bench—the raised area occupied by the judge in a courtroom.

bench warrant—a warrant issued directly by a judge to a law-enforcement officer, esp. for the arrest of a person who has been held in contempt, has been indicted, has disobeyed a subpoena, or has failed to appear for a hearing or trial.

bifurcated trial—a trial that is divided into two stages, such as for guilt and punishment or for liability and damages.

binding instruction—an instruction requiring a jury to find for one party and against the other if the jury determines that a given set of facts exists.

Bind over—to hold a defendant for proceedings in the district court upon a finding of probable cause at a preliminary hearing that the defendant committed a crime or upon a waiver of preliminary hearing by the defendant.

brief—a written statement setting out the legal contentions of a party in litigation, esp. on appeal; a document prepared by counsel as the basis for arguing a case, consisting of legal and factual arguments and the authorities in support of them. Also termed *legal brief*.

burden of proof—a party's duty to prove a disputed assertion or charge.

calendar call—a court session in which the judge calls each case awaiting trial, determines its status, and assigns a trial date.

caption—the introductory part of a court paper stating the names of the parties, the name of the court, the docket or file number, and the title of the action.

certification—written declaration verifying that a form is a true and correct copy of the original.

certiorari—(ser'shi-o-ra'ri)—an extraordinary writ issued by an appellate court, at its discretion, directing a lower court to deliver the record in the case for review. Proceedings for a writ of certiorari are not applicable in the Idaho judicial system, except as the United States Supreme Court may grant certiorari on a case decided by the Idaho Supreme Court.

challenge to the array—a legal challenge to the manner in which the entire jury panel was selected, usually for a failure to follow prescribe procedures designed to produce impartial juries.

chambers—private office or room of a judge.

change of venue—the transfer of a lawsuit from one locale to another, usually because of questions of fairness..

Child Protective Act—(commonly referred to as CPA)—the statutory law dealing with the protection of neglected or abused children. I.C. § 16-1601 et seq.

circumstantial evidence—evidence based on inference and not on personal knowledge or observation.

civil protection order—an order issued by the court upon a showing that there is an immediate and present danger of domestic violence to the petitioner. The order may grant the petitioner temporary custody of children, restrain a party from committing acts of domestic violence, exclude the respondent from the dwelling which the parties share or from the residence of the petitioner, require the respondent to participate in treatment or counseling services, or other relief as the court deems necessary for the protection of a family or household member, including orders or directives to a peace officer. I.C. § 39-6306

claim—the aggregate of operative facts giving rise to a right enforceable by a court; the assertion of an existing right; a demand for money or property to which one asserts a right.

CLASS (Case Load Analysis Support System)—a statewide computer system used to gather statistics and case information from courts throughout Idaho.

code—a collection of statutes systematically arranged into chapters, table of contents and index, and promulgated by legislative authority. I.C. Idaho Code

codicil--(kod'i-sil)—a supplement or addition to a will, not necessarily disposing of the entire estate but modifying, explaining or otherwise qualifying the will in some way.

commit—to send a person to prison or to a mental health facility, esp. by court order.

common law—the body of law derived from judicial decisions, rather than from statutes or constitutions.

commutation—the substitution in a particular case of a less severe punishment for a more severe one that has already been judicially imposed on the defendant.

comparative negligence—a plaintiff's own negligence that proportionately reduces the damages recoverable from a defendant.

competency--in the law of evidence, the presence of those characteristics which render a witness legally fit and qualified to give testimony. All witnesses are presumed competent. I.R.E. 601.

complaint—the initial pleading that starts a civil action and states the basis for the court’s jurisdiction, the basis for the plaintiff’s claim, and the demand for relief.

concurrent sentence—two or more sentences of jail time to be served simultaneously.

condemnation—the determination and declaration that certain property (esp. land) is assigned to public use, subject to reasonable compensation; the exercise of eminent domain by a governmental entity.

conformed copy—an exact copy of a document bearing written explanations of things that were not or could not be copied, such as a note on the document indicating that it was signed by a person whose signature appears on the original.

consecutive sentence—Two or more sentences of jail time to be served in sequence.

conservator—a guardian, protector, or preserver; a person or institute appointed to manage the financial affairs and property of an incapacitated person.

contempt of court—conduct that defies the authority or dignity of a court or legislature, punishable usually by fine or imprisonment. “Direct contempt” is contempt that is committed in open court, as when a lawyer insults a judge on the bench. “Indirect contempt” is contempt that is committed outside the court, as when a party disobeys a court order.

corroborating evidence—evidence that differs from but strengthens or confirms other evidence (esp. that which needs support).

costs—an allowance for expenses in prosecuting or defending a suit. On occasions this may include attorney fees.

counterclaim—a claim for relief asserted against an opposing party after an original claim has been made; esp., a defendant’s claim in opposition to or as a setoff against the plaintiff’s claim.

court reporter—a person who records testimony, stenographically or by electronic or other means, and when requested, prepares a transcript.

court trial—a trial before a judge without a jury. The judge then renders the decision. Also termed *bench trial*.

cross-claim—a claim asserted between codefendants or coplaintiffs in a case and that relates to the subject of the original claim or counterclaim.

cross-examination—the questioning of a witness at a trial or hearing, or in the taking of a deposition, by the party opposed to the one who called the witness. The cross-examiner is typically allowed to ask leading questions but is traditionally limited to matters covered on direct examination and to credibility issues.

Custody Review Board—the board created by the Idaho legislature for the purpose of reviewing cases of certain, older juveniles in the custody of the Idaho Department of Juvenile Corrections and to issue an opinion to the Director as to whether that juvenile should be released from state custody or should remain in custody for an extended period of time to address competency, accountability, and community protection.

damages—money claimed by, or ordered to be paid to, a person as compensation for loss or injury.

debtor exam—after judgment has been entered on behalf of the plaintiff against a defendant in a civil matter, the plaintiff will want to collect the property or money

ordered paid to him by the court. The defendant is then brought back to the court and placed under oath to determine where the defendant's resources are located.

declaratory judgment—a binding adjudication that establishes the rights and other legal relations of the parties without providing for or ordering enforcement.

decree—traditionally, a judicial decision in a court of equity, divorce, or probate—similar to a judgment of a court of law.

default—a “default” in an action of law occurs when a party omits to plead within the time allowed or fails to appear at the trial.

default judgment—a judgment entered against a defendant who has failed to plead or otherwise defend against the plaintiff's claim, often by failing to appear at trial, or who does not comply with an order, esp., an order to comply with a discovery request.

defendant—a person sued in a civil proceeding or accused in a criminal proceeding.

de novo—(de no'vo)—“anew.” A “trial de novo” is the retrial of a case. An “appeal de novo” is an appeal in which the appellate court uses the trial court's record but reviews the evidence and law without deference to the trial court's ruling.

deponent—one who testifies by deposition.

deposition—a witness's out-of-court testimony that is reduced to writing for later use in court or for discovery purposes.

direct evidence—evidence that is based on personal knowledge or observation and that, if true, proves a fact without inference or presumption.

direct examination—the first questioning of a witness in a trial or other proceeding, conducted by the party who called the witness to testify.

directed verdict—a judgment entered on the order of a trial judge who takes over the fact-finding role of the jury because the evidence is so compelling that only one decision can reasonably follow or because it fails to establish a prima facie case.

discovery—the act or process of finding or learning something that was previously unknown. In Idaho the usual modes of discovery are depositions, interrogatories, requests for production of documents, and requests for admission.

dismissal without prejudice—a dismissal that does not bar the plaintiff from refiling the lawsuit within the applicable limitations period. A “dismissal with prejudice” bars the plaintiff from bringing or maintaining an action on the same claim or cause.

disqualification—a judge may disqualify him/herself or be disqualified from hearing a case. Judges may disqualify themselves if they know the party or otherwise have personal knowledge of circumstances associated with the case that would make it difficult for them to impartially hear the case. An attorney may disqualify a judge for cause if it is his/her opinion that the judge would not be able to hear the case in a fair and impartial manner.

dissent—a term commonly used to denote the disagreement of one or more judge of a court with the decision of the majority. To disagree with another or others; to render a minority opinion in the decision of a case; disagreement of an individual juror with the verdict, announced on the polling of the jury. (Ballentine's Law Dictionary)

district judge—a judge of the district court elected district wide or appointed by the governor following screening by the State Judicial Council. District judges have original jurisdiction in all cases, except for a few limited proceedings that may be initiated in the Supreme Court. However, by assignment many cases originate in the magistrates

division. The district court also hears appeals from decisions in the magistrates division and from various state agencies and commissions.

domicile—that place where a person has his true, fixed, and permanent home. A person may have several residences, but only one domicile.

domestic relations—a generic categorization of cases dealing with marriage, divorce, adoption, child custody and support, and other family related issues.

domestic violence proceedings—a process in which a person may petition the court to issue an order of protection from a spouse or family member who has threatened or harmed the person seeking the domestic violence protective order.

double jeopardy—the constitutional prohibition against more than one prosecution for the same crime, transaction or omission.

easement—an interest in land owned by another person, consisting in the right to use or control the land, or an area above or below it, such as a roadway, gateway or water line.

embezzlement—the fraudulent taking of personal property with which one has been entrusted.

eminent domain—the inherent power of a governmental entity to take privately owned property, esp. land, and convert it to public use, subject to reasonable compensation for the taking.

en banc—on the bench; all judges of the court sitting together to hear a cause.

enjoin—to require a person to perform or to refrain from some act by writ of injunction from a court.

entrapment—a law-enforcement officer's or government agent's inducement of a person to commit a crime, by means of fraud or undue persuasion, in an attempt to later bring criminal prosecution against that person.

equitable action—an action that seeks equitable relief, such as an injunction or specific performance, as opposed to damages.

escheat—(es-cheet)—the reversion of property (esp. real property) to the state upon the death of an owner who has neither a will nor any legal heirs.

escrow—(es'kro)—a legal document or property delivered by a promisor to a third party to be held by the third party for a given amount of time or until the occurrence of a condition, at which time the third party is to hand over the document or property to the promisee.

estoppel—(es-top'el)—a bar that prevents one from asserting a claim or right that contradicts what one has said or done before or what has been legally established as true.

et al.—an abbreviation of *et alia*, meaning “and others.”

et seq.—an abbreviation of *et sequentes*, or *et sequentia*, meaning “and those that follow.”

ex contractu—(ex kon-trak'tu)—in civil law rights and causes of action are divided into two classes: those arising ex contractu (“from a contract”) and ex delicto (“from a tort”).

ex delicto—(ex de-lik'to)—rights and causes of action arising from a wrong or “tort.”

executor—A person named by a testator to carry out the provisions in the testator's will. In Idaho called a “personal representative.”

exhibit—a document, record, or other tangible object formally introduced as evidence in court; also a document attached to and made part of a pleading, motion, contract, or other instrument.

ex parte—(ex par'tee)—On or from one party, usually without notice to or argument from the adverse party.

expert evidence—evidence about a scientific, technical, or professional issue given by a person qualified to testify because of familiarity with the subject or special training in the field.

ex post facto—(ex post fak'to)—“from a thing done afterward”; an act or fact occurring after some previous act or fact, and relating thereto; retroactively.

expunge—to destroy or erase.

extenuating circumstances—circumstances which render a crime less aggravated, heinous, or reprehensible than it would otherwise be.

extradition—the official surrender of an alleged criminal by one state or nation to another having jurisdiction over the crime charged.

fair arrest—any lawful physical restraint of another's liberty, whether in prison or elsewhere.

fair comment—a statement based on the writer's or speaker's honest opinion about a matter of public concern; fair comment is a defense to libel or slander.

fair preponderance—evidence sufficient to create in the minds of the triers of fact the belief that the party which bears the burden of proof has established its case.

false pretenses—the crime of knowingly obtaining title to another's personal property by misrepresenting a fact with the intent to defraud.

felony—a crime of a graver nature than a misdemeanor; an offense punishable by imprisonment in a penitentiary for more than a year or death.

fiduciary—(fi-du'shi-a-ri)—one who owes to another the duties of good faith, trust, confidence, and candor.

finding of fact—a determination by a judge, jury, or administrative agency of a fact supported by the evidence in the record, usually presented at the trial or a hearing.

forgery—the act of fraudulently making a false document or altering a real one to be used as if genuine.

fraud—a knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment.

fugitive warrant—a warrant that authorizes law-enforcement officers to take into custody a person who has fled from one state to another to avoid prosecution or punishment.

Full Faith and Credit—requires states to give effect to the legislative acts, public records, and judicial decisions of other states.

garnishment—a judicial proceeding in which a creditor asks the court to order a third party who is indebted to or is bailee for the debtor to turn over to the creditor any of the debtor's property held by that third party.

garnishee—a person or institution that is indebted to or is bailee for another whose property has been subjected to garnishment.

general assignment—the voluntary transfer, by a debtor, of all his property to a trustee for the benefit of all of his creditors.

grand jury—(see jury, grand).

gratuitous guest—in automobile law, the person riding at the invitation of the owner of a vehicle, or his authorized agent, without payment of a consideration or fare.

guardian—one who has the legal authority and duty to care for another's person or property, esp. because of the other's infancy, incapacity, or disability.

guardian ad litem—(ad li'tem)—a guardian, usually a lawyer, appointed by the court to appear in a lawsuit on behalf of an incompetent or minor party.

habeas corpus—(ha'be-as kor'pus)—“that you have the body”; the name given a variety of writs whose object is to bring a person before a court or judge. In most common usage, it is directed to the official or person detaining another, commanding him to produce the body of the prisoner or person detained so the court may determine if such person has been denied his liberty without due process of law.

harmless error—an error that does not affect a party's substantive rights or the case's outcome.

hearsay—evidence not proceeding from the personal knowledge of the witness. It should be noted that the law on hearsay is one of the more complicated areas of the law of evidence with many qualifications and exceptions. “‘Hearsay’ is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.” IRE 801.

holographic will—a will that is entirely handwritten by the testator. Idaho allows holographic wills; not all states do. The technical requirements for a valid holograph vary from state to state.

hostile witness—a witness who is biased against the examining party or who is unwilling to testify.

hung jury—a jury that cannot reach a verdict by the required voting margin.

hypothetical question—a trial device that solicits an expert witness's opinion based on assumptions treated as facts established by evidence.

impeachment of witness--an attack on the credibility of a witness by the testimony of other witnesses on evidence and by his own testimony during examination

implied contract—a contract in which the promise made by the obligor is not express, but inferred by his conduct or implied in law.

imputed negligence—negligence of one person charged to another; negligence resulting from a party's special relationship with another party who is originally negligent.

inadmissible—that which, under the established rules of evidence, cannot be admitted or received.

in camera—(in kam'e-ra)—“in a chamber”; in private.

incompetent evidence—evidence that is for any reason inadmissible.

indeterminate sentence--an indefinite sentence of “not to exceed” so many years, the exact term to be served being afterwards determined by parole authorities within the maximum limits set by the court or by statute.

indictment—the formal written accusation of a crime, made by a grand jury and presented to a court for prosecution against the accused person.

inferior court—any court subordinate to the chief appellate court in a particular judicial system.

information—a formal criminal charge made by a prosecutor without a grand-jury indictment.

infraction—a violation, usually of a rule or local ordinance, not punishable by incarceration.

injunction—a court order commanding or preventing an action.

in limine—“at the outset”; preliminarily, presented to only the judge, before or during trial.

instruction—a direction or guideline given by the judge to the jury concerning the law of the case.

inter alia—(in'ter a'li-a)—“among other things.”

inter alios—(in'ter a'li-os)—“among other persons”; between others.

interlocutory—interim or temporary, not constituting a final resolution of the whole controversy.

interrogatories—written questions submitted to an opposing party in a lawsuit as part of discovery.

intervention—the entry into a lawsuit by a third party who, despite not being named a party to the action, has a personal stake in the outcome.

intestate—of or relating to a person who has died without a valid will.

ipso facto—“by the fact itself”; by the very nature of the situation.

irrelevant—evidence not relating to or applicable to the matter at issue; not supporting the issue.

ISTARS—an acronym for Idaho Statewide Trial Court Automated Records System. ISTARS is a computer system used by Idaho's trial courts to assist in the processing of all cases filed at the trial court level.

judgment—a court's final determination of the rights and obligations of the parties in a case.

jurisdiction—a government's general power to exercise authority over all persons and things within its territory.

jurisprudence—the philosophy of law; the study of the general or fundamental elements of a particular legal system, as opposed to its practical and concrete details.

jury—a group of persons selected according to law and given the power to decide questions of fact and return a verdict in the case submitted to them.

jury, grand—a jury of inquiry whose duty is to receive complaints and accusations in criminal cases, hear the evidence and find bills of indictment in cases where they are satisfied that there is probable cause that a crime was committed and that a trial ought to be held.

jury, petit—the ordinary jury of twelve (or fewer) persons summoned and empaneled in the trial of a specific civil or criminal case. So called to distinguish it from the grand jury.

Juvenile Corrections Act—(commonly referred to as the JCA)—the statutory law dealing with children charged with violations of the law other than traffic offenses. I.C. § 20-501 et seq.

leading questions—a question that suggests the answer to the person being interrogated; esp. a question that may be answered by a mere “yes” or “no.” Generally prohibited on direct examination.

levy—a seizure; the legally sanctioned seizure and sale of property; the money obtained from such a sale.

libel—to defame someone in a permanent medium, esp. in writing.

lien—a legal right or interest that a creditor has in another's property, lasting usually until a debt or duty that it secures is satisfied.

limitation—a statutory period after which a lawsuit or prosecution cannot be brought in court.

lis pendens— “a pending lawsuit”; a notice, recorded in the chain of title to real property, required or permitted in some jurisdictions to warn all persons that certain property is the subject matter of litigation and that any interests acquired during the pendency of the suit are subject to its outcome.

litigate—to contest a suit in court; to test the validity of a claim by action.

locus delicti—(lo’kus de-lik’ti)—“place of the wrong”; the place where an offense is committed; the place where the last event necessary to making the actor liable occurs.

magistrate—a judge of the magistrates division of the district court. Magistrates have limited jurisdiction as determined by rules of the Supreme Court and the district court. They are selected by the Magistrates Commission and stand retention election on a “yes/no” ballot.

malfeasance—(mal-fe’zans)—a wrongful or unlawful act; esp., wrongdoing or misconduct by a public official.

malicious prosecution—the institution of a criminal or civil proceeding for an improper purpose and without probable cause. Once a wrongful prosecution has ended in the defendant’s favor, he may sue for tort damages.

mandamus—a writ issued by a superior court to compel a lower court or a government officer to perform mandatory or purely ministerial duties correctly.

mandate—an order from an appellate court directing a lower court to take specific action.

manslaughter—the unlawful killing of a human being without malice aforethought; may be either voluntary, upon a sudden impulse, or involuntary in the commission of some unlawful act.

material evidence—evidence having some logical connection with the consequential facts or the issues.

mediation—a method of nonbinding dispute resolution involving a neutral third party who tries to help the disputing parties reach a mutually agreeable solution.

mental disease or defect—(1) a defendant’s lack of mental capacity to understand the proceedings against him or to assist in his own defense; (2) a mental condition in a defendant excluding responsibility for the commission of an offense.

mesne—(meen)—intermediate; intervening.

minutes—the official record of proceedings; e.g., court minutes.

misdemeanor—a crime that is less serious than a felony and is usually punishable by fine, penalty, forfeiture, or confinement (usually for less than a year) in a place other than a prison.

misfeasance—a lawful act preformed in a wrongful manner.

mistrial—a trial that the judge brings to an end, without a determination on the merits, because of a procedural error or serious misconduct occurring during the proceedings; a trial that ends inconclusively because the jury cannot agree on a verdict.

mitigating circumstance—a fact or situation that does not constitute a justification or excuse for an offense, but which may be considered as reducing the degree of moral culpability.

moot—unsettled or undecided; having no practical significance.

moral turpitude—conduct that is contrary to justice, honesty, or morality.

motion in limine—a pretrial request that certain inadmissible not be referred to or offered at trial; usually made when the mere mention of evidence would prejudice the jury against the party.

multiplicity of actions—the existence of two or more lawsuits litigating the same issue against the same defendant.

murder—the unlawful killing of a human being with malice aforethought, either express or implied.

negligence—the failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation.

next friend—a person who appears in a lawsuit to act for the benefit of an incompetent or minor plaintiff, but who is not a party to the lawsuit and is not appointed as a guardian.

no bill—a grand jury's notation that insufficient evidence exists for an indictment on a criminal charge.

no contact order—a court order that prevents one person from having any contact with another.

nolo contendere—"I do not wish to contend"; defendant neither admits or denies a crime but accepts punishment as if he/she were guilty.

nominal party—a party who, having some interest in the subject matter of a lawsuit, will not be affected by any judgment but is nonetheless joined in the lawsuit to avoid procedural defects.

non compos mentis—(non kom'pos)—"not master of one's mind"; insane.

non obstante veredicto—(non ob-stan'te ve-re-dik'to)--notwithstanding the verdict. A judgment entered by order of court for one party, even though a jury verdict has been rendered for the opposing party.

notice to produce—in pretrial discovery, a party's written request that another party provide specified documents or other tangible things for inspection and copying.

nunc pro tunc—"now for then"; having a retroactive legal effect through a court's inherent power.

oath—a solemn declaration, accompanied by a swearing to God or a revered person or thing, that one's statement is true or that one will be bound to a promise.

objection—a formal statement opposing something that has occurred, or is about to occur, in court and seeking the judge's immediate ruling on the point.

of counsel—an attorney employed to assist in the preparation or management of the case, or its presentation on appeal, but who is not the principal attorney of record.

opinion evidence—a witness's belief, thought, or inference about a disputed fact.

order to show cause hearing--a hearing in which a person is ordered to appear in court and explain why the party took (or failed to take) some action or why the court should or should not grant some relief.

out of court—one who has no legal status in court is said to be "out of court," i.e., he is not before the court. For example, when a plaintiff, by some act of omission or commission, shows that he is unable to maintain his action, he is frequently said to have put himself "out of court."

own recognizance—the release of a defendant in a criminal case in which the court takes the defendant's word that he or she will appear for a scheduled matter or when told to appear.

panel—a list of persons summoned as potential jurors.

parol-evidence rule—the principle that a writing intended by the parties to be a final embodiment of their agreement cannot be modified by evidence that adds to, varies, or contradicts the writing..

parole—the release of a prisoner from imprisonment before the full sentence has been served.

party—one by or against whom a lawsuit is brought.

peremptory challenge—one of a party's limited number of challenges that need not be supported by any reason, although a party may not use such a challenge in a way that discriminates against a protected minority.

perjury—the act or an instance of a person's deliberately making material false or misleading statements while under oath.

petit jury—see jury, petit.

petition—a formal written request presented to a court or other official body.

plaintiff—the party who brings a civil suit in a court of law.

plea bargain—a negotiated agreement between a prosecutor and a criminal defendant whereby the defendant pleads guilty to a lesser offense or to one of multiple charges in exchange for some concession by the prosecutor, usually a more lenient sentence or a dismissal of the other charges.

pleading—the process by which the parties in a suit or action alternately present written statements of their contentions, each responsible to that which precedes, and each serving to narrow the field of controversy, until there evolves a single point, affirmed on one side and denied on the other, called the "issue" upon which they then go to trial.

polling the jury—the asking of each how member of a jury individually voted.

post-conviction relief—the procedure for a prisoner to request a court to vacate or correct a conviction or sentence.

power of attorney--an instrument granting someone authority to act as agent or attorney-in-fact for the grantor.

prejudicial error—synonymous with "reversible error"; an error that affects a party's substantive rights or the case's outcome, and is thus ground for reversal if the party properly objected.

preliminary hearing—a hearing held in the magistrates division on a felony charge to determine whether there is sufficient evidence to prosecute an accused person.

pretrial hearing—an informal meeting at which opposing attorneys confer, usually with the judge, to work toward the disposition of the case by discussing matters of evidence and narrowing the issues that will be tried..

preponderance of evidence—the greater weight of the evidence; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other.

presentment—a formal written accusation returned by a grand jury on its own initiative, without a prosecutor's previous indictment request.

presumption of fact—a type of rebuttable presumption that may be, but as a matter of law need not be, drawn from another established fact or group of facts.

presumption of law—a legal assumption that a court is required to make if certain facts are established and no contradictory evidence is produced.

probable cause hearing—a hearing to determine whether there is sufficient evidence to warrant the filing of a charge against a defendant.

probate—the judicial process by which a testamentary document is established to be a valid will; the proving of a will to the satisfaction of the court.

probation—a court-imposed criminal sentence that, subject to stated conditions, releases a convicted person into the community instead of sending the criminal to jail or prison.

probation violation—a person who has been found guilty or has admitted to committing a crime is often placed on probation by a judge. Typically there are conditions attached to probation that if they are not fulfilled, will result in violation of conditions of probation and may result in a probation being revoked.

pro se—representing himself or herself; without a lawyer.

prosecutor—a legal officer who represents the government in criminal proceedings.

proximate cause—a cause that directly produces and without which the event would not have occurred.

public defender—an attorney that is provided to defend an individual charged with a criminal offense who cannot afford to hire a private attorney.

punitive damages—damages awarded in addition to actual damages when the defendant acted with recklessness, malice, or deceit; punitive damages are intended to punish and therefore deter blameworthy conduct.

QDRO called “quad-row”—“Qualified Domestic Relations Order”; a special order used to accomplish payment of retirement or pension benefits to an ex-spouse.

quash--to terminate; to annul or make void.

quasi judicial—(kwa’si)—authority or discretion vested in an officer, wherein his acts are that of a judicial character.

quid pro quo—“something for something”; a thing that is exchanged for another thing of more or less equal value.

quo warranto—(kwo wo-ran’to)—a writ issuable by the state, through which it demands an individual to show by what right he exercises an authority which can only be exercised through grant or franchise emanating from the state.

reasonable doubt—an accused person is entitled to acquittal if, in the minds of the jury, his guilt has not been proved beyond a “reasonable doubt”; that state of the minds of jurors in which they cannot say they feel an abiding conviction as to the truth of the charge.

rebuttal—in-court contradiction of an adverse party’s evidence; the time given to a party to present contradictory evidence or arguments.

recusal—removal of oneself as judge or policy-maker in a particular matter, esp. because of a conflict of interest.

redirect examination—a second direct examination, after cross-examination, the scope ordinarily being limited to matters covered during cross-examination.

reduced charge—see amended charge

referee—a person to whom a cause pending in a court is referred by the court to take testimony, hear the parties, and report thereon to the court. He is an officer exercising judicial powers and is an arm of the court for a specific purpose.

register of actions—a chronological history of the events associated with a court case. The register of actions is typically maintained in a computerized format on the ISTARS computer.

remand—to order back to custody or send back; e.g., a defendant being remanded to the custody of the sheriff or on appeal being remanded to the lower court.

remittitur of record—the document filed with the Supreme Court Clerk's Office containing the decision made by the Supreme Court or Court of Appeals, usually remanding to lower court once appeal decided.

removal, order of—an order by a court directing the transfer of a cause to another court.

reply—the plaintiff's response to the defendant's counterclaim, plea, or answer.

respondent—the party against whom an appeal is taken; the party against whom a motion or petition is filed.

rest—a party is said to "rest" or "rest his case" when he has presented all the evidence he intends to offer.

retained jurisdiction—a judge, after sentencing an individual to a correctional institution may retain jurisdiction over that individual, which typically lasts 180 days. At the end of that time, the prisoner is returned to the court where his/her progress is evaluated to determine whether the original sentence should be imposed or the individual should be allowed on probation.

retainer—a client's authorization for a lawyer to act in a case; a fee paid to a lawyer to secure legal representation.

reviewed and retained—a generic term that indicates that a judge has reviewed a case file for progress and wishes to allow it to be retained on his calendar.

Rule 11 Plea Agreement—Idaho Criminal Rule 11—an agreement that the parties put together which may be binding or not binding.

Rule 35—Idaho Criminal Rule 35—a motion to reconsider sentence.

Rule 60(b)—Idaho Civil Rule 60(b)—a motion stating grounds for relief from a judgment or order.

rule of court—a rule governing the practice or procedure in a given court. Rules of court are either general or special: the former are the regulations by which the practice of the court is governed; the latter are special orders made in particular relief cases.

rule nisi, or rule to show cause—(ni'si)—a court order that will become absolute unless the adversely affected party shows the court, within a specified time, why it should be set aside.

search, unreasonable—an examination without authority of law of one's premises or person with a view to discovering stolen contraband or illicit property or some evidence of guilt to be used in prosecuting a crime.

search warrant—a judge's written order authorizing a law-enforcement officer to conduct a search of a specified place and to seize evidence.

self-defense—the use of force to protect oneself, one's family, or one's property from a real or threatened attack. The law of "self defense" justifies an act done in the reasonable belief of immediate danger. When acting in justifiable self-defense, a person may not be punished criminally nor held responsible for civil damages.

sentence—the judgment that a court formally pronounces after finding a criminal defendant guilty; the punishment imposed on a criminal wrongdoer.

separate maintenance—money paid by one married person to another for support if they are no longer living as husband and wife.

separation or exclusion of witnesses—an order of the court requiring all witnesses, except the plaintiff or defendant, to remain outside the courtroom until each is called to testify to prevent them from hearing the testimony of others.

sequestration—holding a jury separate and apart from outside contact to prevent tampering and exposure to public.

sheriff—a county’s chief police officer, usually elected, who in most jurisdictions acts as a custodian of the county jail, executes civil and criminal process, and carries out judicial mandates within the county.

sine qua non—(si’ne kwa non)—“without which not”; an indispensable condition or thing; something upon which something else depends.

slander—a defamatory statement expressed in a transitory form, esp. speech.

small claims—known as the “peoples’ court,” the small claims court handles disputes between people that involve monetary amounts of less than \$3,000. No jury trials are available in small claims nor are attorneys allowed to argue in small claims court.

Soldiers and Sailors Relief Act—a federal law that allows civil matters in which soldiers or sailors are involved to be suspended if the soldier or sailor is called into active duty during a national emergency.

specific performance—a court-ordered remedy that requires precise fulfillment of a legal or contractual obligation when monetary damages are inappropriate or inadequate, as when the sale of real estate or a rare article are involved.

stare decisis—(sta’re de-si’sis)—“to stand by things decided”; the doctrine of precedent, under which it is necessary for a court to follow earlier judicial decisions when the same points arise again in litigation.

state’s evidence—testimony provided by one criminal defendant—under a promise or immunity or reduced sentence—against another criminal defendant.

statute—a law passed by a legislative body.

statute of limitations—a statute establishing a time for suing in a civil case, based on the date when the claim accrued (as when the injury occurred or was discovered).

stay—the postponement or halting of a proceeding, judgment, or the like.

stipulation—a voluntary agreement between opposing parties concerning some relevant point.

subpoena—a writ commanding a person to appear before a court or other tribunal, subject to a penalty for failing to comply.

subpoena duces tecum—a subpoena ordering the witness to appear and to bring specified documents or records.

substantive law—the part of the law that creates, defines, and regulates the rights, duties, and powers of parties.

sue—to institute a lawsuit against another party.

summons—a court document used to commence a civil or criminal action or court proceeding which serves as a means of acquiring jurisdiction over a party.

supersedeas—(su per-se’de-as)—“you shall desist”; a writ or bond that suspends a judgment creditor’s power to levy execution, usually pending appeal.

talesman—(talz’man)—a person selected from among the bystanders in court to serve as a juror when the original jury panel has become deficient in number.

testimony—evidence that a competent witness under oath or affirmation gives at trial or in an affidavit or deposition.

tort—a civil wrong for which a remedy may be obtained, usually in the form of damages.
Tort Claims Act—statutory provisions setting forth the conditions for bringing actions against the state, state agencies, and employees.

transcript—a handwritten, printed, or typed copy of testimony given orally; esp., the official record of proceedings in a trial or hearing, as taken down by a court reporter.

transitory—actions are “transitory” when they might have taken place anywhere, and are “local” when they could occur only in some particular place.

trial de novo—(de no’vo)—a new trial on the entire case—that is, on both questions of fact and issues of law—conducted as if there had been no trial in the first instance.

true bill—in criminal practice, the endorsement made by a grand jury upon a bill of indictment when they find sufficient evidence to warrant a criminal charge.

under advisement—if during the course of a hearing, a question is posed that requires the judge to do research and make a decision, the judge may request the attorney to provide legal basis for their arguments. Upon receipt of those legal arguments, the judge takes the case under advisement to review the matter and to render a decision.

undue influence—the improper use of power or trust in a way that deprives a person of free will and substitutes another’s objective.

unlawful detainer—the unjustifiable retention of the possession of real property by one whose original entry was unlawful, as when a tenant holds over after lease termination despite the landlord’s demand for possession.

usury—the charging of an illegal rate of interest; an illegally high rate of interest.

vacate—to nullify or cancel; make void; invalidate.

venire—(ve-ni’re)—a panel of persons who have been selected for jury duty and from among whom the jurors are to be chosen.

venireman—(ve-ni’re-man)—a prospective juror; a member of the jury panel.

venue—(ven’u)—the proper or possible place for the trial of a lawsuit, usually because the place has some connection with the events that have given rise to the lawsuit.

verdict—a jury’s finding or decision on the factual issues of a case.

view—the visual observance by the court or jury of the scene or place of a crime or event.

voir dire—(vwor der)—“to speak the truth”; a preliminary examination of a prospective juror by a judge or lawyer to decide whether the prospect is qualified and suitable to serve on a jury.

waiver of immunity—the act of giving up the right against self-incrimination and proceeding to testify.

waiver of speedy trial—state law requires that a defendant be tried within a specified period of time. A defendant may waive that right to either greatly accelerate the criminal proceeding or to allow it to continue beyond the speedy trial deadline.

warrant of arrest—a warrant, issued only on probable cause, directing a law-enforcement officer to arrest and bring a person to court.

weight of evidence—the persuasiveness of some evidence in comparison with other evidence.

well—the area of the court where attorneys and their clients sit in the courtroom. There is usually a wall between the well and the spectators of the court.

will—a document by which a person directs his or her estate to be distributed upon death.

willful—voluntary and intentional, but not necessarily malicious.

with prejudice—with loss of all rights; in a way that finally disposes of a party’s claim and bars any future action on that claim.

withheld judgment--a criminal disposition in which a judge grants probation and other conditions deemed appropriate. If the defendant successfully completes the conditions as outlined by the judge, the judge will then dismiss the withheld judgment and the case, resulting in the defendant having a clean record.

without prejudice—without loss of any rights; in a way that does not harm or cancel the legal rights or privileges of a party.

witness—one who sees, knows, or vouches for something; one who gives testimony, under oath or affirmation (1) in person, (2) by oral or written deposition, or (3) by affidavit.

writ—a court’s written order, in the name of a state or other competent legal authority, commanding the addressee to do or refrain from doing some specified act.

CLERK OF THE DISTRICT COURT MANUAL

APPENDIX A

A Public Access Self-Assessment for the Idaho Courts

Idaho Supreme Court

Committee to Increase
Access to the Courts

Prepared by:

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INTRODUCTION

The Idaho Administrative Office of the Courts requested technical assistance from the National Center for State Courts (NCSC) in the area of public access. The request was for a Public Access Self-Assessment that could be used by the county courts in a self-evaluation of public accessibility to the courts.

THE PUBLIC ACCESS SELF-ASSESSMENT

The objective was to develop a self-assessment that would measure public access. The goal of the self-assessment is to allow the clerks, trial judges, and trial court administrators of the Idaho county courts to measure the “public access friendliness” of their courts. A self-assessment (rather than an assessment conducted by an outsider to the court) facilitates the development of public access improvement plans in the individual counties.

The self-assessment focuses on the six areas of public trust and confidence as defined by the Conference on Public Trust and Confidence that was held in Washington D.C. in May of 1999. The six areas of public trust and confidence are:

- Location
- Physical Structure
- Procedures
- Language
- Customer Service
- Electronic Public Access.

Also, the *Trial Court Performance Standards* concerning access to justice and public trust and confidence were integrated where applicable.

Location. The actual physical location of the courthouse is less important than the ease of locating the courthouse and accessibility to it: ease in the sense of how easy it is to find and accessibility in the sense of accessibility by public transportation and/or accessibility to sufficient and affordable parking. How easy is it for a stranger without a map to drive into the city via one of the main thoroughfares and find the courthouse by merely following the directional and street signs?

Evaluating the merits and drawbacks of the location may be heavily dependent upon the size of the city. In a larger city, a central location may be in a very congested area with safety concerns and a shortage of affordable parking. A location just outside the central area may be better in that there is still good accessibility by public transportation and affordable parking is available. However, in a smaller town, a central location may be more desirable. A central location in a small town permits people to walk to the court or, if coming from outside the town, to park at affordable rates.

There needs to be sufficient and affordable parking in proximity to the courthouse with an adequate number of spaces for peak times. Also, the parking area for the court needs to be clearly marked and free or at a very low cost.

Physical Structure. Does the courthouse project a dignified, yet not intimidating, presence upon approach? How easy is it to figure out which door(s) is the one to enter? Are there good signs on all approaches to the courthouse? If some doors are locked or not available for entrance by the public because of security concerns, is that clear before someone approaches? Or, do people have to walk all around the courthouse before they figure out how to get in. This becomes more important when the weather is inclement or where senior citizens or persons with impaired mobility are affected. Also, are

high traffic offices, such as fine and fees offices, conveniently located near the entrance so that people do not have to roam all over the courthouse looking for them?

What is the security system like? Are the personnel professional and able to inspire confidence in the security of the court? Does the court have enough security machines and personnel to avoid long backups at peak times such as first thing in the morning and right after lunch? Are the machines calibrated correctly so that they are not overly sensitive, causing people to be subjected to unnecessary searches? Are men and women personnel available to perform wandings or searches on their own sex?

A courthouse cannot have too many signs. A courthouse is often a place where people go infrequently and they may be unclear exactly what service area of the courthouse they need. Are there easy to read directional signs to the courtrooms, specific offices, restrooms, telephones, elevators, and lounge areas?

Is there a building layout prominently displayed at the entrance of the courthouse? If the court is in more than one building, is the building layout displayed before the security barrier so that people do not go through security unnecessarily? Are other related agencies, such as the sheriff's department or child support enforcement, that are in the court complex clearly noted?

Courts need to have an Information Desk at the entrance staffed with knowledgeable people. In a smaller court, the clerk's office may assume this function, but a sign pointing the way to "Information" is needed as one enters the courthouse. In addition to an Information Desk, the daily dockets or calendars need to be clearly posted and easy to read and understand.

The public needs to know that their opinions regarding the courts are respected. Is there a public suggestion box near the entrance along with a prominently displayed notice of whom the public can contact with complaints? Does the court have a mission statement and is this mission statement prominently displayed in the entrance area to inspire public trust and confidence?

It is important for the courthouse to have areas where people can wait comfortably and have private discussions rather than just benches in the hallway. Does the court have comfortable waiting rooms, especially separate waiting rooms for victims and witnesses? Are there conference or interview rooms available for litigants to meet with their attorneys? Are day care facilities or separate child waiting rooms available for those who had to bring their children?

Federal law mandates equal access to the courts for those with physical handicaps. How accessible is the courthouse for people in wheelchairs? Are the wheelchair accessible entrances, elevators, and restrooms clearly marked with good directional signs? Is there one service window at the clerk's office that has a lower counter to be accessible to those in wheelchairs? What accommodations does the court make for those who are sight or hearing impaired? Are audio instructions or an escort available to the sight impaired? Are there large-type instructions on how to negotiate the courthouse? A court can make the courtroom more accessible to the hearing impaired by improving the quality of courtroom acoustics and having sign language interpreters available.

Procedures. Court procedures can be very intimidating to a member of the public. Court employees often forget that the courts have their own jargon that can be incomprehensible to someone coming to the court to pay a ticket, testify at a hearing, or participate in a jury pool. Also, most people have to take off from work to attend to court business during the day. The combination of the specialized world of the courts and the need for the public to do their court business in a timely and

effective manner needs to be recognized by the courts. Most people do not have the time to spend the morning waiting for their case to be called during a block setting.

How does the court address these challenges? Has there been an effort to simplify procedures for the public and reduce paperwork and the need to call at several windows or offices to transact court business? Are docket calls set for time certain rather than block setting and does court start on time? Does the court have written informational pamphlets that clearly explain the court process and specialized areas such as how to obtain a protective order or participate in a jury? Are alternative dispute resolution services available and advertised to the public? Are jury instructions written in clear, easily understandable language?

Judges and court personnel play an important role in elucidating the arcane practices and procedures of the court to the public. Are court proceedings that should be open to the public, open to the public? Does the judge explain what is happening in the courtroom to the participants in non-legalese? Judges and court personnel also have the responsibility to reinforce the idea that all people are equal before the law by treating all people in the courtroom with respect and dignity.

Language. Given budgetary realities, the importance of the availability of all court materials and activities in a language other than English depends upon the number of non-English speaking people within the court's jurisdiction. But, all courts will have some litigants, witnesses, or jurors, who do not speak or read English and they need to have a way to accommodate these participants in the court system. In an area that has a number of non-English speaking people, court documents such as court instructions, forms, and brochures should be printed in the non-English language spoken in the area. Similarly, all signage in the courthouse and the courtroom should be bilingual. Bilingual court staff should be available in high contact areas. Court interpreters should be available for non-English speaking participants at hearings and trials. Ideally, these interpreters would be certified interpreters to ensure that justice was not impaired.

Customer Service. Customer service is probably the area where the greatest gain for public access can be made with the smallest amount of money. Being helpful does not have a high cost associated with it. The courts sometimes need to be reminded that they are in a service business. The court staff must be available to the public to answer questions and take time to explain the way the court works. Public service counters need to be adequately staffed to avoid excessive waits both during peak times and off-times. The people staffing the public service counters need to be friendly and courteous even though the public they are dealing with may not be friendly and courteous.

To provide the best service to the public, the court staff needs to be well trained in their respective responsibilities as well as cross-trained in other areas. The court staff is often in a delicate situation in interacting with the public at a time when the public is highly stressed. The importance of customer service can be emphasized to the employees with on-going training while teaching the distinction between being helpful and giving legal advice or help.

Given the limited hours of the courts, the courts need to be available via telephone during the day and after hours. Does the court have an after hours automated telephone system that supplies basic information such as opening times and directions? Is the court telephone number easy to find in the telephone book and is it listed several ways besides the "correct" way? Are individual offices listed in the telephone book so that the public can easily reach the office they need without going through the main switchboard? Are TDD phones available for the hearing impaired? And, most importantly, is the telephone system user friendly? An automated phone system should have no in-depth trees and there should be an

opportunity to talk to a live person at all times. Voice mail should be available and the staff need to make sure they update their messages so that it is clear whether they are in the office that day. It is also crucial that the staff return all messages promptly.

The courts also have to think about consumer friendliness in their dealings with the public. Are there photocopying services that are available at a low cost and in appropriate places? Are there different options besides cash to pay fines? Examples would include a court sponsored payment plan, accepting credit cards, accepting personal checks, having ATM machines located nearby, having a payment drop box or 24 hour electronic kiosk, and accepting payments by mail. Are the operating hours of the court more than 9 to 4 to accommodate working people? Do offices stay open during lunch? Are there Saturday or evening hours? In a slightly different vein, is the availability of the Idaho Volunteer Lawyers Program (IVLP), the Idaho Legal Aid Services (ILAS), and other pro bono attorneys well advertised?

Electronic Access. As more and more people log on to the Internet, it becomes important for courts to have a website that is as informative as possible. A website can show opening and closing times, the next day's docket, options on how to pay a fine, and an explanation of common court procedures. Similarly, information kiosks can be located in the courthouse entrance to show the current day's docket, a directory of court offices, and have a touch screen for commonly asked questions. Kiosks also can be used for payment of fines. They have the benefit of being available 24 hours and can be located off-site in heavily trafficked areas such as supermarkets and malls.

Public Access Self-Assessment

The Public Access Self-Assessment was developed by the Court Services Division of the National Center for State Courts. By using the self-assessment, Clerks of the District Court, Trial Court Administrators and Judges are able to measure the accessibility of their court to the public. The self-assessment will initiate the development of public access improvement plans in each county.

The self-assessment covers the six areas of public trust and confidence and incorporates Trial Court Performance guidelines where applicable.

- I. Location
- II. Physical structure
- III. Procedures
- IV. Language
- V. Customer Service
- VI. Electronic Public Access

Courts in Idaho can use the self-assessment to ask three basic questions:

- 1) How accessible is our court to the public at this time?
- 2) What areas does the court need to improve to become fully accessible to the public?
- 3) What steps can the court take to reach this goal?

Instructions for Use

This self-assessment evaluation is designed to be conducted by the Elected Clerk of the District Court, perhaps a deputy or two, along with the Trial Court Administrator. There is no “score” or “grade” generated from the evaluation. Rather, the evaluator answers each question by marking an *X* for “Yes” “No” or “Needs Improvement”. There is also room for written comments after each question. At the end of the evaluation, a review of those areas with an assessment of “No” or “Needs Improvement” will show the court what areas need to be improved and what areas are satisfactory.

I. Location of the Court

Yes No Improvement Needed

- | | | | |
|---|------------------------------|-----------------------------|-------|
| 1. Is the courthouse centrally located? If not, are their maps or guides that can be distributed and published to assist the public in locating the courthouse? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | _____ |
| 2. Are there street signs directing the way to the courthouse? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | _____ |
| 3. Is there adequate signage on all approaches to the courthouse? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | _____ |
| 4. Is the neighborhood safe, especially after dark? If not, can lighting and security measures be taken to improve safety? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | _____ |
| 5. Is there sufficient, affordable parking? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | _____ |
| • Proximity to courthouse | <input type="checkbox"/> Yes | <input type="checkbox"/> No | _____ |
| • Adequate number of spaces for peak times | <input type="checkbox"/> Yes | <input type="checkbox"/> No | _____ |
| • Free or very low cost | <input type="checkbox"/> Yes | <input type="checkbox"/> No | _____ |
| • Good lighting | <input type="checkbox"/> Yes | <input type="checkbox"/> No | _____ |
| • Snow removal of walks and parking spaces | <input type="checkbox"/> Yes | <input type="checkbox"/> No | _____ |

II. Physical Structure

- | | | | |
|---|------------------------------|-----------------------------|-------|
| 6. Does the courthouse project a dignified, yet not intimidating, appearance? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | _____ |
| 7. Is it easy to find the entrance(s) to the courthouse? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | _____ |

8. Is the security system effective? ☐ Yes ☐ No _____
9. Does the courthouse have a public suggestion box or other method to get suggestions for improvement? ☐ Yes ☐ No _____
10. Is there a building layout prominently displayed at the entrance to the courthouse? ☐ Yes ☐ No _____
11. Is there a notice of whom the public can contact with complaints? ☐ Yes ☐ No _____
12. Is there an information desk or front counter with knowledgeable staff? ☐ Yes ☐ No _____
13. Are the daily dockets or calendars clearly posted and easy to read and understand? ☐ Yes ☐ No _____
14. Are high traffic offices, such as fine and fees offices, conveniently located near the entrance? ☐ Yes ☐ No _____
15. Are there easy to read directional signs? ☐ Yes ☐ No _____
- To courtrooms? ☐ Yes ☐ No _____
 - To specific offices? ☐ Yes ☐ No _____
 - To restrooms? ☐ Yes ☐ No _____
 - To telephones? ☐ Yes ☐ No _____
 - To drinking fountains, vending machines, and lunchroom? ☐ Yes ☐ No _____
 - To other buildings in the court complex? ☐ Yes ☐ No _____
16. Are there comfortable waiting rooms/lounges with ample seating available? ☐ Yes ☐ No _____
17. Is the lighting in the courthouse adequate? ☐ Yes ☐ No _____
18. Are the restrooms clean and safe? ☐ Yes ☐ No _____
19. Are there phones available for use by the public? ☐ Yes ☐ No _____
20. Is there snack food or vending machines available to the public? ☐ Yes ☐ No _____

21. Are conference rooms/interview rooms available? ☐ Yes ☐ No _____
22. Are there separate waiting rooms for victims and other witnesses? ☐ Yes ☐ No _____
23. Are public elevators well located and clearly marked? ☐ Yes ☐ No _____
24. Is the courthouse accessible to people in wheelchairs? ☐ Yes ☐ No _____
- To service windows at the clerk's office ? ☐ Yes ☐ No _____
 - To courtrooms? ☐ Yes ☐ No _____
 - To restrooms? ☐ Yes ☐ No _____
25. Is the courtroom accessible to sight impaired people? ☐ Yes ☐ No _____
- Availability of audio instructions? ☐ Yes ☐ No _____
 - Availability of escorts? ☐ Yes ☐ No _____
26. Is the courtroom accessible to hearing impaired people? ☐ Yes ☐ No _____
- Quality of courtroom acoustics? ☐ Yes ☐ No _____
 - Availability of sign language interpreters? ☐ Yes ☐ No _____
27. Does the court allow telephone or teleconference hearings? ☐ Yes ☐ No _____

III. Procedures

28. Are court proceedings that should be open to the public open to the public? ☐ Yes ☐ No _____
29. Does court start on time? ☐ Yes ☐ No _____
30. Are docket calls or court calendars set for time certain rather than block setting? ☐ Yes ☐ No _____
31. Are there clearly written information pamphlet(s) available that explains the court process? ☐ Yes ☐ No _____
32. Has there been an effort to simplify procedures for the public and reduce paperwork? ☐ Yes ☐ No _____

33. Are the procedures and eligibility requirements for obtaining waiver of fees and costs clearly stated for reference by members of the public? ☐ Yes ☐ No _____
34. Are court instructions written in clear, easily understandable English with as little legal jargon as possible? ☐ Yes ☐ No _____
35. Are court forms written in clear, easily understandable English with as little legal jargon as possible? ☐ Yes ☐ No _____
36. Is there information available about how to obtain an attorney? Are there clear, easily understandable instructions for people representing themselves? ☐ Yes ☐ No _____
37. Is there counter assistance or brochures to familiarize the public with court procedures? Is there information available about how to contact the nearest Court Assistance Office? ☐ Yes ☐ No _____
38. Are jurors greeted and made comfortable? ☐ Yes ☐ No _____
39. Is the brochure and introductory videotape used to orient jurors? ☐ Yes ☐ No _____
40. Are jury procedures designed to minimize inconvenience to the jury pool? ☐ Yes ☐ No _____
41. Are jury instructions written in clear, easily understandable instructions? ☐ Yes ☐ No _____
42. Does the judge explain what is happening in the courtroom to the participants in non-legalese? ☐ Yes ☐ No _____
43. Does the judge and court personnel treat all people in the courtroom with respect and dignity? ☐ Yes ☐ No _____
44. Is the availability of alternative dispute resolution services well ☐ Yes ☐ No _____

advertised and information readily available in the courthouse?

IV. Language

45. Are court interpreters available for non-English speaking participants at hearings and trials? ☐ Yes ☐ No _____
- Certified interpreters ☐ Yes ☐ No _____
 - Qualified interpreters ☐ Yes ☐ No _____
46. Are court documents available in other languages for non-English speaking people? ☐ Yes ☐ No _____
- Court instructions ☐ Yes ☐ No _____
 - Court forms ☐ Yes ☐ No _____
 - Court brochures ☐ Yes ☐ No _____
47. As appropriate, is all signage in the building and in courtrooms bilingual? ☐ Yes ☐ No _____
48. Is there bilingual court staff available in high contact areas? ☐ Yes ☐ No _____

V. Customer Service

49. Is the court staff available to answer questions? ☐ Yes ☐ No _____
50. Is the court staff willing to take time to explain things to the public? ☐ Yes ☐ No _____
51. Is the court staff friendly and courteous? ☐ Yes ☐ No _____
52. Is the court staff well trained in their respective responsibilities and cross-trained in other areas? ☐ Yes ☐ No _____
53. Is there on-going training in-house for the court staff on interacting with the public? ☐ Yes ☐ No _____
- Are court staff allowed to take advantage of regional and state-wide training opportunities? ☐ Yes ☐ No _____
- Distinction between giving legal advice and legal help ☐ Yes ☐ No _____
 - Emphasis on service ☐ Yes ☐ No _____
 - Diversity Training ☐ Yes ☐ No _____
 - How often? ☐ Yes ☐ No _____

54. Are the public service counters adequately staffed to provide prompt service? (within how many minutes?)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
• During off-times	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
• During peak times	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
55. Is there an after hours automated telephone system that supplies basic information (opening times, directions)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
56. Is the court telephone number easy to find in the telephone book?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
• Listed several different ways besides the “correct” way	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
• Individual offices listed besides the main number	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
57. Are TDD telephones available?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
58. Is the telephone system user friendly?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
• Ability to get information on court case numbers, schedules and locations	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
• No in-depth trees	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
• Ability to talk to a living person at all times	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
• Availability of a phone directory	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
• Availability of voice mail	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
• Court staff voice mail message is clear, i.e. person is in office that day	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
• Court staff returns all phone messages by end of day	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
59. Are photocopying services available?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
• Low cost	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
• Located at appropriate places	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
• Timely?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
60. Are there different options to pay fines?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
• Credit cards accepted (Audiotex system)	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
• Personal checks accepted	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
• ATM located nearby	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
• Payment drop box	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
• By mail	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
61. Are the opening and closing time convenient for working people?	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____
• Has the court considered late afternoon or evening sessions for	<input type="checkbox"/> Yes	<input type="checkbox"/> No	_____

high volume proceedings such as traffic court?

- Are there Saturday hours ☐ Yes ☐ No _____
- Is the office open at lunch time? ☐ Yes ☐ No _____
- Open at least until 5:00 p.m.? ☐ Yes ☐ No _____

62. Is the availability of IVLP, ILAS, pro bono attorneys and other legal resources well-advertised? ☐ Yes ☐ No _____

VI. Electronic Access

63. Does the court have a web site? ☐ Yes ☐ No _____

- Showing how to reach the courthouse ☐ Yes ☐ No _____
- Showing opening and closing times ☐ Yes ☐ No _____
- Showing an explanation of common court procedures ☐ Yes ☐ No _____
- Showing options on how to pay a fine ☐ Yes ☐ No _____
- Showing the next day's docket/calendar ☐ Yes ☐ No _____

64. Is information readily available at the entrance to the courthouse? ☐ Yes ☐ No _____

- Showing current day's docket ☐ Yes ☐ No _____
- Showing a directory for court offices ☐ Yes ☐ No _____
- Responding to commonly asked questions ☐ Yes ☐ No _____