

# In the Supreme Court of the State of Idaho

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

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

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

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

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

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

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

Dated this 15 day of August, 2018.

By Order of the Supreme Court

R. Burdick

Roger S. Burdick, Chief Justice

ATTEST:

Karel A. Lehrman  
Clerk

I, Karel A. Lehrman, Clerk of the Supreme Court/  
Court of Appeals of the State of Idaho, do hereby  
certify that the above is a true and correct copy of  
the Order  
entered in the above entitled cause and now on  
record in my office.

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

KAREL A. LEHRMAN

Karel A. Lehrman  
Clerk

By: Melba J. Jones  
Chief Deputy



**Misdemeanor Caseflow Management Plans**

**5<sup>th</sup> District Plan**



## **Misdemeanor Caseflow Management Plan for Idaho's Fifth District**

### **Statement of Purpose**

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

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

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

### **Section 1: Assignment of judges in the Fifth District**

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

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

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

Judicial assignments for the hearing of criminal cases in the Fifth District are set forth in the Idaho State Bar Desk Book and are modified from time to time. They are also included in local rules,

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

which may be available on district court websites or on the Idaho Supreme Court website at <http://www.isc.idaho.gov/district-courts>.

## **Section 2: Management of Criminal Cases**

### **Section 2.1: Idaho Time Standards for Processing Criminal Cases**

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

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

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

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

**Misdemeanors:** 90 days from first appearance

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

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

### **Section 2.2: Assignment of Cases**

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

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

**The Fifth District employs the following case assignment process for misdemeanor cases:**

Cases involving the same criminal defendant are assigned or reassigned to a single magistrate and to a single district judge in the following manner:

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

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

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

Cases will be handled as provided in #1 above.

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

Cases will be handled on a case-by-case basis at this time, pending technological advances which would permit more expedient handling. If the prosecuting entities and the defendant stipulate to consolidate such cases, the consolidated cases will be heard in the county of the original charges.

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

Cases will be handled on a case-by-case basis at this time pending technological advances which would permit more expedient handling.

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

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

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

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

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

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

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

**Section 2.3: Proactive Case Management**

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

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



Ongoing review of cases is necessary to ensure that a future action or review date has been set by the court in every case. Scheduling will comply with the time standards adopted by the Idaho Supreme Court.

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

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

##### Early and Continuous Assessment

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

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

1. Nature of the charge(s)/number of counts
2. Custody status of defendant(s)
3. Number of co-defendants
4. The potential penalty
5. Anticipated pretrial motions
6. Need for expert witnesses and how financed; need for independent resource judge
7. Consideration of victims' rights
8. Need for forensic testing
9. Complexity of factual and legal issues
10. Likelihood of case going to trial/estimated length of trial
11. Whether the defendant has cases pending in other counties
12. Whether a problem-solving court might be an option for the defendant
13. Victims, witnesses or parties with special needs
14. Experts in court.
15. The possibility of mediation
16. Whether the Defendant needs additional time to meet conditions of the State's plea offer.

Note: not listed in order of importance

**The Fifth District follows these practices in developing case management plans for individual misdemeanor criminal cases:**

Within 30 days of arraignment, an informal settlement conference or status conference should be scheduled, and if appropriate, mediation will be considered. Trial should be scheduled within 90 days of the arraignment or first appearance. Mediation should take place at least 30 days prior to the trial.

Defendants seeking placement in a problem solving court will submit applications therefore at or before the time of plea.

**Scheduling of Events**

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

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

Initiating event: Filing of complaint or citation  
Arraignment/entry of plea  
Conditions of Release or Bail Hearing  
Informal Settlement Conference or Status Conference  
Pre-trial Conference  
Entry of Plea  
Start of trial  
Ending event: Entry of judgment

In misdemeanor criminal cases:

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

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

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

#### Calendar Setting

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

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

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

Trials will be set at the pretrial conference. Counsel shall advise the Court at that time of any attorney or witness scheduling issues. Failure to notify the Court of scheduling issues shall not be a ground for a continuance. Stipulations to continue or vacate hearings are not binding on the Court.

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

Counsel shall strictly adhere to the Court's starting time for hearings and trials and shall be considerate of unnecessary waiting time for witnesses and others. Law enforcement and witnesses under subpoena must be within 15 minutes of courthouse, have a cell phone or otherwise be on call.

**The Fifth District maximizes the certainty that a trial will commence on the date set by:**  
Encouraging compliance with the foregoing rules and pretrial orders.

#### **Section 2.5: Appointment of counsel**

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

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

The process regarding counsel in the Fifth District is as follows:

Counsel shall be prepared to try cases if they accept employment when cases are presently set, unless the Court approves otherwise. Judges must comply with *Faretta* and be familiar

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

## **Section 2.6: Motion Practice**

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

The substance and need for motions varies widely. Motions are generally classified as dispositive or non-dispositive. Because motions can significantly impact the time and expense necessary in any case, management of motions is an essential component of an effective and efficient case management plan. This management is best done in an early scheduling/trial order. Requiring compliance with the motion deadlines eliminates a significant potential for unreasonable delay. Courts do not allow the parties to modify discovery deadlines set forth in the scheduling order by stipulation without authorization of the court. The Court permits modifications of the scheduling order as necessary to advance justice and, if possible, without disturbing firm trial dates.

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

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

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

**Motions to Suppress:** A motion to suppress evidence shall:

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

If an evidentiary hearing is requested, no written response to the motion by the non-moving party is required, unless the court orders otherwise. At the conclusion of the evidentiary hearing, the court may provide a reasonable time for all parties to respond to the issues of fact and law raised in the motion and at the hearing.

Before setting hearings, counsel shall confer with opposing counsel to confirm availability and will schedule hearings through the Judge's clerk. Compliance with all time standards in the rules is expected.

### **Section 2.7: Discovery Practice**

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

In criminal cases:

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

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

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

### **Section 2.8: Early case resolution processes**

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

resolution, and effective case management. Prosecutors are encouraged to adopt programs that facilitate dispute resolution prior to filing a case.

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

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

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

**The court and attorneys in the Fifth District adhere to the following practices to obtain the earliest possible resolution of criminal cases:**

The Court strongly encourages: 1) early communication of plea offers; and 2) counsel to recognize that continuances are not favored and cases will either be settled or tried by the first trial date.

The Fifth District will continue to use the alternative judge panels pursuant to Idaho Criminal Rule 25 (a)(6).

### **Section 2.9: Pretrial Case Management**

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

**The Fifth District follows these guidelines for jury trial with respect to pretrial case management:**

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

### Checking the Status of Pending Case Matters

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

- When the judge requires additional briefing or materials before taking a matter under advisement, the judge shall request the additional briefing or materials and shall provide clear deadlines to the attorneys and/or parties for when the briefing or materials must be submitted.
- If the judge considers the matter under advisement at the conclusion of oral argument, the judge clearly states the same on the record.
- If a matter is under advisement a proper notation of that fact is entered in the court's case management system.
- Every written decision contains a statement as to when the court considered the matter under advisement.
- Attorneys and/or parties are advised that they are free to contact the court's clerk to inquire about the status of any case, proceeding, or pending decision 30 days after the matter is under advisement, without consequence.

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

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

Magistrates should issue pretrial scheduling orders as early as possible, advising the parties of pretrial scheduling deadlines and requirements.

### **Section 2.10: Continuances**

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

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

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

1. The reason for the request and when the reason arose.

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

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

Magistrates should require all requests for continuance to be in writing. If defense counsel requests a continuance, the magistrate should inquire of counsel whether the defendant has waived his or her right to a speedy trial or has otherwise consented to the request for a continuance.

#### **Section 2.11: Management of Trials**

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

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

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

Trials will start promptly as scheduled. Cases should be negotiated well in advance to avoid last minute trial cancellations. Except in rare and unusual circumstances, issues that could have been resolved prior to trial will not be heard during trial. Counsel will be prepared to schedule and call witnesses so as to avoid delays in the trial. Audio/visual evidence must be formatted to be displayed on either the Court's standard equipment or such other equipment as approved by the presiding judge.



**Section 2.12: Post plea or verdict case management**

A considerable portion of the time required to resolve a criminal case occurs after a defendant enters a plea of guilty or is found guilty at trial. Idaho courts work with their justice system partners (particularly the Idaho Department of Correction) to minimize the delays associated with presentence reports. The court timely prepares the judgment and commitment orders. Presentence investigations are governed by ICR 32 and I.C. Section 19-2524. Court clerks transmit PSI orders to IDOC District Offices immediately after they are entered, initiating the PSI process.

**The Fifth District takes the following additional steps to streamline the process of preparing for sentencings:**

Each party, shall if possible, provide all information regarding restitution to the opposing party, prior to sentencing.

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

Judgements should be prepared and entered immediately upon sentencing the defendant.

**Section 2.13: Post-conviction proceedings**

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

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

Upon becoming aware that a PCR has been filed, the Court will promptly address the issue of appointment of counsel and issue a scheduling order that establishes deadlines and conditionally sets an evidentiary hearing.

**Section 2.14: Probation revocation proceedings<sup>2</sup>**

A substantial part of the time of the court, the prosecution, the defense, and the misdemeanor probation department in an ordinary misdemeanor criminal case is devoted to the filing, processing, and resolution of probation revocation motions. Management of probation sentences both by the

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

misdemeanor probation department and the courts is an important part of both the punishment of and the treatment and rehabilitation of persons convicted of crimes, and well as protection of the community from further wrongdoing. Probation revocation is complicated by concurrent prosecution of the probationer for subsequent criminal conduct which forms in whole or in part the basis of the revocation petition.

All time standards applicable to misdemeanor criminal cases also apply to misdemeanor probation violations. Deviations from the time standards may be permitted on a case by case basis.

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

Magistrates should consider scheduling and informal settlement conference within 14 days of first appearance on the probation violation. Trial on the probation violation should be schedule within 30 days of the first appearance.

#### **Section 2.15: Effective and Consistent Monitoring of Case Management Reports**

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

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

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

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

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

Magistrates and clerks should regularly monitor data reports and identify cases that are nearing or exceeding applicable time standards. Such cases should be scheduled for status conferences as soon as reasonably possible. At the status conference, the parties shall be required to explain why the case has been delayed. The court, clerk and parties will then work together to ensure the case is resolved as quickly as possible.

### **Section 2.16: Special Considerations for District Plans**

#### **Language Access Services**

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

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

**The Fifth District adheres to the following practices to ensure the most efficient use of available certified and non-certified interpreter resources:**

ICAR 52 will be adhered to with special emphasis placed upon interpreter conflicts.

#### **Jury Operations**

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

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

- Jury Operations – We will strive for less required jury service time in each county.
- Judges are strongly encouraged to use pre-seating of jury to save both counsel and jurors' time.

### Self-Represented Litigants

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

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

Follow the *Faretta* dialogue and have a prepared script in each Judge's bench book.

### Media relations

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

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

**In the Fifth District, judges follow these standard procedures in dealing with requests for video coverage of criminal matters:**

- Make Media Guidelines available at all times.
- Hold annual meetings with the media.

### Telephonic and other remote appearances

IRCP 7(b)(4) and ICR 43.1 authorize the use of telephone or video conferencing to conduct hearings. Allowing parties, witnesses, interpreters, probation officers and attorneys to make court appearances without appearing personally in court can result in significant efficiencies and are allowed when they do not compromise the rights of a party. Stipulating to remote appearances by forensic testing personnel can reduce backlog in forensic testing requests.

**In the Fifth District, remote appearances are allowed as follows:**

Judges will consider remote appearances when appropriate to avoid unnecessary and costly travel expenses to the parties.

The procedures for arranging a remote appearance are:

To be arranged through in-court clerk with notice of at least 5 business days. Such hearings shall be arranged at a specific time on the docket so as not to interfere with other cases. Phone interpretation shall be arranged through the Court's interpreter staff. Court staff may inform parties or other interested persons of the procedures in place for arranging remote appearances.

Other circumstances unique to the Fifth District: None at this time.

**Section 2.17: Maintaining the Fifth District misdemeanor case management plan**

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

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

**The Fifth District maintains the misdemeanor case management plan through the following process(es):**

- Annual review with notice to the bar association requesting input via email.
- The court will conduct regular bench/bar meetings to address and resolve caseload management challenges.
- District-wide judge meetings will be held no less than yearly to maintain consistency in practices within the District.
- The Misdemeanor Caseload Management work group will meet as needed to review the plan for possible updates or revisions.

