

Criminal Caseflow Management Plan for Idaho's Seventh Judicial District

Statement of Purpose

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

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

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

Section 1: Assignment of judges in the Seventh Judicial District

All magistrate judges are assigned matters specified in Idaho Code 1-2208 and Chapter 23, Title 1, Idaho Code. Additional matters may be assigned by the administrative district judge pursuant to Idaho Code 1-907. In addition, the Idaho Supreme Court may, by rule, specify additional categories to magistrate judges pursuant to Idaho Code 1-2210. Per March 1, 2001 Order signed by Chief Justice Linda Copple Trout, all attorney magistrate judges in the 7th Judicial District are authorized to do the following—

1. to accept guilty pleas in felony cases.
2. to appoint counsel for indigent defendants in all criminal proceedings and probation violation proceedings.
3. Upon assignment and approval from the Administrative District Judge, hear and determine proceedings where the damages claimed do not exceed \$25,000.00
4. In those counties where there is not a resident District Judge or the resident District Judge is absent, authorize the Attorney Magistrate Judges to:
 - a. Enter orders authorizing service of process pursuant to Idaho Code§ 5-508
 - b. Enter defaults and default judgments pursuant to I.R.C.P. 55 in all civil matters regardless of the nature of the action or the dollar value of any claim.

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

Backup judge coverage may be provided in instances of scheduling conflicts, judicial conferences, vacations, illness, lengthy jury or judge trials, 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 caseload management. The administrative district judge considers carefully the number and types of judges available within the district, as well as the availability of senior judges. Other considerations include population density, distribution and mix of caseloads, number of counties, geography and driving distances, the feasibility and desirability of specialization of caseloads, and societal and workload trends. The administrative district judge and trial court administrator continually monitor the assignment of judges and the effective use of existing resources.

Judicial assignments for the hearing of criminal cases in the Seventh 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, which are 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 I.C.A.R. 57, the time standards applicable to criminal cases are:

Felonies:

| | |
|-----------------|---|
| Magistrate Div. | 30 days from first appearance to order holding the defendant to answer in the district court or discharging the defendant |
|-----------------|---|

District Court 150 days from first appearance in district court

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:

Felonies:

Magistrate Div. 50% within 21 days
75% within 45 days
90% within 60 days
Measured from filing of complaint to order holding the defendant to answer in the district court or discharging the defendant

District Court 75% within 90 days
90% within 150 days
98% within 365 days
Measured from date of order holding the defendant to answer in district court to entry of judgment.

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

Section 2.2: Assignment of Cases

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

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

For felony and misdemeanor cases - Bingham, Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, and Teton Counties have an “individual calendar system” whereby the assigned judge presides over the felony or misdemeanor case from beginning to end, including post disposition hearings, with the exception that another judge may conduct the first appearance or arraignment, and another judge may preside over the preliminary hearing.

Cases involving the same criminal defendant are assigned or reassigned to a single magistrate and to a single district judge in Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, and Teton

Counties. In Bingham and Bonneville Counties misdemeanor and felony cases involving the same defendant are processed in the following manner:

1. Felony and felony probation violation charges arising out of the same incident are processed and assigned to the same judge
2. Felony, misdemeanor, infraction, and probation violation charges arising out of the same incident that are filed at the same time and prosecuted by the same entity
3. If a misdemeanor citation is issued and a felony complaint is filed later with additional charges, the cases will be consolidated pursuant to motion as soon as feasible (most likely at the misdemeanor pretrial), and the misdemeanor charge will follow the felony schedule.
4. If eventually the felony charge is reduced to a misdemeanor or dismissed; the District Judge will have the option of remanding or proceed with the misdemeanor sentencing. If the District Judge proceeds with sentencing, future PV issues will be heard by the assigned judge.

Note the definition of a “criminal case” adopted for use with the new Tyler Odyssey case management system:

(a) The defendant and all misdemeanor and felony charges resulting from a single incident are counted as a single case. Infractions must be filed separately by court rule, but may be consolidated [See I.C.R. 3(d)]. If multiple citations or complaints arise from a single incident, involving a single defendant, filed at the same time, misdemeanor and felonies associated with that incident are included in a single case.

(b) If the charging document contains multiple defendants involved in a single incident, a separate case will be created for each defendant, so that each defendant is counted as a single case. Idaho Criminal Rules and Misdemeanor Criminal Rules provide some exceptions:

- i) Two or more defendants can be joined in a single case pursuant to I.C.R. 8(b).
- (ii) Offenses based on two or more acts or transactions connected together or constituting part of a common scheme or plan may be consolidated pursuant to M.C.R. 3(e).

5. Felony, misdemeanor, infraction, and probation violation charges arising out of the same incident in the same county that are filed at the same time but prosecuted by different entities will be heard by an assigned District Judge and have two options regarding the prosecution:

- (a) A City Council and City Prosecutor may enter into a MOA with the County Prosecutor/County Commission, whereby the city prosecutor refers all the city misdemeanor charges, including probation violations, to the County Prosecutor for a resolution/disposition.
- (b) Alternatively, the District Judge, when scheduling the felony, misdemeanor, and probation violation charges arising out of the same incident, will provide notice and require both (all) prosecutors and possibly multiple public defenders to appear at all hearings and trials until all cases are resolved. If the felony charges

are reduced to a misdemeanor, the District Judge has the option to remand all the cases to a magistrate judge.

The infraction charge should be assigned a separate case number and scheduled on a separate track

6. Felony charges added to a misdemeanor/infraction/probation violation charge, or a group of misdemeanor/infraction/probation violation charges, at a time after the filing of the original misdemeanor/infraction/probation violation charges

Infraction should be separated and scheduled on a separate track – on the other cases a global resolution should be the goal.

Once the felony case is filed, all cases should be bundled together, and assigned to one District Judge and scheduled together for resolution/disposition. All attorneys and probation departments will be given notice to appear at the same time before the District Judge assigned. If a decision is made to reduce the felony to a misdemeanor, the District Judge will have the option to handle the sentencing or remand all the cases to a magistrate judge.

Felony charges (and their associated misdemeanor/infraction/probation violation charges) filed subsequent to a pending felony charge (and its associated misdemeanor/probation violation charges) arising out of a different incident but committed within the same county -same answer as #4 above. Global resolution is the goal of all cases with the same defendant. Separate case numbers may be assigned, but track and schedule all the cases together in front of one judge.

7. Felony charges (and their associated misdemeanor/infraction/probation violation charges) filed subsequent to a pending felony charge (and its associated misdemeanor/infraction/probation violation charges) out of a different incident but committed in different counties within the same district

District 7 will utilize Idaho Criminal Rule 20 to timely transfer cases as appropriate. District Judges should arrange a 3 to 5 way conference calls or meetings between judges, prosecutors, jail. Use the new ODYESSY software to identify these cases at the time of filing, and ensure any ORDERS drafted are thorough, factual, and complete and have all the correct case numbers for both counties.

Felony charges (and their associated misdemeanor/infraction/probation violation charges) filed subsequent to a pending felony charge (and its associated misdemeanor/infraction/probation violation charges) out of a different incident but committed in different counties and different districts in Idaho

Generally the same answer as #6. Separate case numbers will be assigned, but the assigned District Judges need to take the lead and arrange a conference call or meeting to determine if a global resolution on transferring and bundling all the cases for trial to one county can be arranged, or if trials or dispositions need to proceed separately in each county; determine which judge goes first in coordination with the impacted prosecutors, public defenders, and private counsel, and jails

If a problem-solving court is a possibility, take into consideration which courts are pre-adjudication versus post disposition.

8. Felony charges (and their associated misdemeanor/infraction/probation violation charges) and parole revocation proceedings arising out of the same incident

Use the new ODYESSY software to identify the defendants at the time of filing with other pending cases in the same county, other counties, and possibly other judicial districts, and ensure any ORDERS drafted are thorough, factual, and complete and have all the correct case numbers for both/all counties. Develop a statewide system of notifying judges that a defendant has other pending cases with notices that go out to all parties of record; Administrative Judge or designee may assign a “lead judge” to arrange conference calls or meetings.

Other cases are assigned to judges using the following procedure:

When a defendant has new charges filed; always assign back to the same judge (or if the judge has retired, back to the new assigned judge for that county.

For defendants with multiple pending cases, whether felony, misdemeanor, or probation violations, whenever feasible, enter early Orders of Consolidation into one case number; move to sever later if necessary

The Seventh Judicial District adheres to the provisions of I.C.R. 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.

Alternate judge orders in the ten counties are optional.

Section 2.3: Proactive Case Management

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

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

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

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

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

Early and Continuous Assessment

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

Prosecutors and defense counsel, at the time of the preliminary hearing; and the presiding judge should inquire if there are issues listed below that could be resolved that would facilitate settlement or move the case along.

When determining the most appropriate plan for a criminal case, the court at arraignment should prepare a scheduling order and inquire and ensure each item listed below is addressed:

1. Nature of the charge(s)/number of counts
2. Custody status of defendant(s)- need for a bond hearing and when to be scheduled
3. Number of co-defendants – which one will be tried first
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. Interpreters – the trial court administrator's office has the responsibility to find the interpreter, including the appropriate level of certification, and coordinate the scheduling with the clerks.
14. Whether Criminal mediation is feasible and when to schedule

Note: not listed in order of importance

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

1. At the preliminary hearing magistrate judges will inquire or become informed about case complexity and make a notation on an approved form in the felony file for review by the district judge at the time of felony arraignment.
2. At the felony arraignment the attorneys will advise the court of issues that may make the case more complex, require additional discovery, motions, witnesses, etc.
3. Sensitive issues can be raised privately with the court by the attorneys in an informal conference with the Court as needed.
4. A screening process for evaluating the potential of participation in a problem-solving court for each felony defendant, early after the charging process shall be developed and implemented.
5. Any changes in bond status will be immediately communicated to the jail so that families are assisted in making timely bond arrangements. A standard one page form to assist in this process will be approved throughout the district.

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:

| District Criminal | Mag. Felony | Mag. Misdemeanor |
|--|--|---|
| Initiating event: order binding case over to district court Filing of Information Arraignment Pre-trial conference Order for ADR/mediation Entry of plea Start of trial Filing of pre-sentence investigation Ending event: entry of judgment | Initiating event: Filing of complaint Initial appearance Arraignment Entry of Plea Ending event: order binding case over to district court | Initiating event: Filing of complaint Arraignment Pre-trial Entry of Plea Start of trial Ending event: Entry of judgment |

In criminal cases:

1. Hearings and trials are scheduled in a manner that minimizes delay and reduces the potential need for continuances. Motions to suppress that are filed by counsel must be noticed and have briefs or Memorandum of Authority attached with specific issues identified; Motions In Limine should be filed no later than the Pretrial conference (Rule 10). Prosecutors have 14 days to respond to Motions and submission of a brief with a factual and legal basis.

2. Every event (including the arraignment) is a meaningful opportunity for disposition.
3. Future action dates (based on interim case events) are always assigned and deadlines for those dates are enforced with the understanding that continuances can serve a meaningful purpose within the Court's discretion.
4. Requests for continuances are considered pursuant to Section 2.10 of this plan.
5. Best practice is to issue a Pretrial Order after the Pretrial conference, including early consideration of jury instructions

The Seventh Judicial District follows these practices to ensure that all scheduled events are meaningful:

1. Attorneys shall notify the Court of any pending probation violations on a previous felony at the time of the felony arraignment of a new felony.
2. Attorneys will advise the court and obtain a stipulation, if there is no objection, from opposing counsel at least one working day before the hearing (e.g., Friday if the hearing is Monday), if the hearing needs to be vacated.

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. Criminal mediation should be scheduled within the time standard of the case pursuant to Rule 2.8 of this plan.

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

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

1. For some of the busy high profile attorneys who consistently have scheduling conflicts, the court may need to double and triple set these attorneys; once one case resolves, go on to the next case.
2. Court clerks make arrangements for interpreter with the assistance of the TCA Administrative Assistant as needed, and give interpreters sufficient advance notice of the need for interpretation.
3. Prosecutors and Public defenders in Bonneville County are assigned to one judge to avoid scheduling conflicts.
4. A calendar pretrial is scheduled 5 to 10 days before the scheduled trial date requiring all attorneys with cases on the calendar to report to the judge the status of the case and likelihood of settlement.

For criminal cases that settle or plea, the judge will arrange a timely date for sentencing.

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

when a calendar has multiple cases scheduled; sometimes 3 to 20 cases, deputy clerks are trained using either email and phone calls to stay in contact with all attorneys on a calendar starting at least 5 to 10 days before the trial calendar to keep everyone apprised as to which cases have settled and their status on the calendar and whether a backup judge may be brought into assist.

The Seventh Judicial District maximizes the certainty that a trial will commence on the date set by: scheduling back-up judges when necessary to ensure all scheduled cases are heard and attorneys and parties will exhaust all possibilities of settlement prior to the day of trial.

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), I.C.R. 5 and 10 and I.M.C.R. 6 and should be appointed as described in I.C. 19 852-854.

The process for appointing counsel in the Seventh Judicial District is as follows:

1. When a defendant is booked in one of the 9 jails in the Judicial District, the jailer provides an application for a public defender.
2. On issued criminal summons, an application for public defender is included when the defendant is served.
3. A public defender should be appointed no later than the initial appearance, including probation violations.
4. Prosecutors and public defenders need to identify the need for conflict counsel early, and the entry of notations or flag be noted in the case management system to alert the clerks and judges at the Magistrate Judge initial appearance.
 - a. Prosecutors will implement practices to promptly identify potential conflicts that would require a conflict public defender.
 - b. Public Defenders will implement practices to promptly identify potential conflicts that would require a conflict public defender.
5. Whenever possible, if the same defendant has multiple charges but two public defenders, the cases will be reassigned to one public defender.
6. Regarding post-conviction motions, conflict counsel should be separate contract when ineffective counsel is an issue.
7. When an accused repeatedly requests continuances to obtain retained counsel, the

presiding judge holds a formal hearing in open court on the record and makes specific findings for the record while the accused is in court regarding the decision whether or not to continue the case.

8. When an accused asks to have appointed counsel removed and replaced, the presiding judge holds a formal hearing in open court on the record and makes specific findings for the record while the accused is in court regarding the decision whether or not to have counsel removed and replaced and whether or not to continue the case.
9. If the case is resolved the attorney of record must file a motion to withdraw with a proposed order, or continues as attorney of record through future proceedings, including probation violations. Such motion is not filed sooner than 42 days after entry of judgment, a rider review hearing, and/or decision on I.C.R. 35 Motions, whichever is later.
10. Judges do not allow repeated continuances to seek retained counsel.
11. Judges do not allow repeated requests for the removal and replacement of appointed counsel without sufficient good cause.

Section 2.6: Motion Practice

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.

In criminal cases:

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

2. Because motions to suppress can be dispositive, and have substantial potential for causing delay, courts specifically address such motions in the scheduling/trial order, with the expectation that they will be filed and ruled on in a timely manner.
3. Attorneys will identify possible suppression issues at the time of arraignment, if possible, so that the matter can proceed in a more timely way.

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

If an evidentiary motion is to be held, a separate time certain should be scheduled for the hearing

Briefs, memoranda, and controlling authority are required to be attached to all motions

Discovery motions should be fast tracked and scheduled by judicial clerks to ensure discovery is timely. If distance and geography is problematic, the discovery motion should be set by video conferencing or phone conferencing.

At sentencing hearings, if either side is going to call witnesses, the court should be advised in advance and provided reasonable notice.

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 I.C.R. 16. Appropriate discovery deadlines are firmly set in scheduling/trial orders for automatic disclosures, including I.R.E. 404(b) evidence, required by I.C.R. 16(a). Deadlines are also set for the submission of written discovery requests outlined by I.C.R. 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 I.C.R. 16(f) is expected and the imposition of sanctions allowed by this rule are used to curb abuses of the discovery process.

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

Deadlines set forth in the scheduling Order should be followed. The court should enforce the dates on its own motion. ;

In each county the prosecutor has established a written protocol for transmitting evidence between law enforcement; prosecutor, and defense counsel, including protocol for the late disclosure of reports, videos, audios, and lab reports.

At all scheduled pretrial conferences, the judge should ensure that discovery is complete and specifically inquire whether anything is missing.

Section 2.8: Early case resolution processes

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

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

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

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

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

1. The prosecutor should encourage early resolution by non-binding offers made before the 14 day preliminary hearing to encourage pleas at the preliminary hearing.
2. Whenever possible encourage Fast Tracking of burglary, drug possession, and DUI's with sentencing within 30 to 60 days of arrest; public defenders must meet with clients as soon as possible and communicate the early offers; judges should assist in incentivizing and encourage the early offers in these cases
3. Cases involving victims will follow a 60 to 90 day scheduling track, and complex cases may exceed 120 days.
4. Special efforts should be made on communicating early offers for the non-public defender cases
5. All criminal trial orders shall include alternative judge panels pursuant to Idaho Criminal Rule 25 (a)(6) to prevent delays associated with judge-shopping. The district policy is to have an active sitting judge preside over a conflict case if possible.
6. Judges should encourage the use of mediation when appropriate. However, mediation should not be used as a method of continuing a trial.

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, I.C.R. 18, and/or any other issues or concerns unique to each case.

In criminal cases, the Courts and attorneys also follow these practices:

1. Pretrial conferences are set at least 14 days before a trial.
2. All pretrial motions are filed in a timely manner, and in felony cases, pretrial motions are heard on or before the date of the pretrial conference. This requirement is subject to constitutional considerations that may require some flexibility.
3. A list of witnesses, exhibits and requested jury instructions are filed at least seven days before trial in felony cases and 48 hours before trial in misdemeanor cases.
4. Scheduling orders reference I.C.R. 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:

1. When additional briefing or materials are necessary before the judge considers the matter under advisement, the judge sets deadlines for submission of the briefing or materials clear to the attorneys and/or parties.
2. If the judge considers the matter under advisement at the conclusion of oral argument, the judge clearly states the same on the record.
3. If a matter is under advisement a proper notation of that fact is entered in the court's case management system train the clerks and train the judges
4. BEST PRACTICE - Every written decision contains a statement as to when the court considered the matter under advisement.
5. 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. The Seventh Judicial District will issue a local rule implementing this protocol.
6. Clerks are trained to willingly accept requests for 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 issue.

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

1. Jury instructions, witness lists, exhibit lists will be provided to the court and opposing attorneys at least 7 days prior to a felony jury trial.
2. Jury commissioners will provide properly numbered jury lists and questionnaires to the court and counsel for both parties at least 7 days prior to a felony jury trial.

Section 2.10: Continuances

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

A joint or stipulated motion for a continuance is not binding on the court (See I.C.R. 27). Stipulations and motions to continue must address all the pertinent factors listed below. Factor #1 is mandatory for all motions to continue (the reason for the request and when the reason arose).The factors the court considers in determining whether to grant a motion to continue include but are not limited to:

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

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

The judges of the Seventh Judicial District have adopted the following policy to implement the statewide policy on continuances in criminal cases:

1. Motions to continue joined in or filed by the defendant shall include a signed waiver of speedy trial by the defendant.
2. A next action date is required in all Orders of Continuance, along with the iteration of any relevant factor noted above.
3. Using ODYSSEY, attorney scheduling conflicts should be avoided to reduce the number of continuances.
4. Late Motions to Withdraw as Counsel must be set for a hearing and will not be automatically granted.
5. Substitution of Counsel at the last minute – general rule is new counsel must be ready for trial on the date scheduled.
6. Any hearing specifically scheduled by the court cannot be vacated or continued without a hearing.

Section 2.11: Management of Trials

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

Jury deliberations should adhere to the provisions of I.C.A.R. 65(b).

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

1. When practical encourage 9:00 am to 2:00 pm jury trial days when necessary to avoid scheduling problems
2. If possible cases are resolved at least 5 days before trial for the convenience of witnesses.
3. Use of senior judges to maintain the presiding judges calendar during lengthy trials.
4. Motions in limine must be filed in compliance with the trial order to resolve evidentiary issues prior to trial if possible. Motions in limine that are not made until after the trial

begins and which could have been made in advance of trial will, except in compelling circumstances, be denied.

5. Delays during trial for bench conferences, hearings outside the presence of the jury, and the like are minimized to the maximum extent possible.
6. Judges should submit proposed pre-proof and post-proof instructions to the attorneys prior to or on the first morning of trial.

Section 2.12: Post plea or verdict case management

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

The Seventh Judicial District takes the following additional steps to streamline the process of preparing presentence reports:

1. Applications for problem-solving courts to be more timely – must be filed at the time of plea.

The Seventh Judicial District takes the following steps to reduce the time between sentencing and the entry of an order of judgment and commitment embodying the court’s sentencing decision:

1. Supports the electronic submission of PSI’s
2. Judgments shall be e-mailed to the jail, IDOC and the attorneys as soon as possible after the sentencing.
3. Electronic signatures shall be used to facilitate the early availability of judgments as technologically possible.
4. If judgments cannot be made immediately available, the court shall use temporary custody orders, transmitted to the jails, to facilitate the transfer of the defendant to the custody of the Department of Correction, if ordered in the judgment.²
5. If defendant is in custody the PSI timeline is decreased by 7 to 14 days by IDOC

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

1. Post-conviction cases are referred to the original criminal case judge to facilitate knowledge of the case and timely resolution.
2. Upon filing of a petition for post-conviction relief, the case is immediately provided to the assigned Judge to review whether counsel should be appointed and whether to issue a notice of intent to dismiss per Idaho Code § 19-4906 and/or to set a scheduling conference.
3. Notice of Intent to Dismiss is utilized.

² Sample temporary custody order is attached to this plan.

4. A scheduling conference should be set within 14 days of the filing of the petition, unless the Court has executed a Notice of Intent to Dismiss.
5. Create a Scheduling Order Form to be used District-wide, timely schedule a status conference, consider scheduling a date for Summary Judgment or evidentiary hearing.
6. If requested, as possible, the participation by the defendant shall be allowed without transport and through telephone or video.

Section 2.14: Probation revocation proceedings³

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

The Seventh Judicial District takes the following steps to make the most effective use of the resources of the courts, prosecution, defense, and IDOC in resolving probation revocation matters:

1. If new charges are filed concurrent with the PV, the new case (whether felony or misdemeanor) should be assigned to the the PV judge and the cases tracked and scheduled together
2. IDOC needs to develop consistent protocols of when and how to request a probation violation – the same practice for all ten counties – including which cases to make a “recommendation”. Do not make a recommendation on violent offenses, sex offenders, DUI.

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.

³ Significant policy changes pertaining to felony probation are being implemented per SB1357 and monitored per SB1393 (Justice Reinvestment Initiative), passed by the Idaho Legislature in 2014. Modification to this section of the case district caseflow management plans will be necessary to accommodate future policy and/or procedural changes.

2. Administrative district judges and trial court administrators closely monitor reports for their districts to identify cases that are nearing or exceeding applicable time standards, areas where backlog may be developing, potential sources of systematic delay, and changes in overall caseloads and inequities that may be developing in caseload distributions that may require changes in judicial assignments.
3. Court clerks monitor case management reports regularly to ensure that all pending cases are scheduled for meaningful events through disposition.

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

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

1. District Judges and their clerks are encouraged to review the case management reports every 30 days, mandatory review every 60 days.
2. Administrative Judge and trial court administrator should regularly communicate with judges and their clerks not in compliance with time standards and have pending cases without a next action date.

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 I.C.A.R. 52. Determining the need for services is done in a number of ways, including the following:

1. 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.
2. A judge finds there is a need for language access services.
3. Court-personnel may receive notice directly from the public, attorneys, guardians, probation officers, law enforcement and other participants.
4. Outside agencies, such as social workers, law enforcement or correctional facilities notify the court about a LEP individual's need for auxiliary services for an upcoming event.

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

1. Trial court administrator office is the central contact to determine if and when a certified interpreter may be required and coordinates securing all certified interpreters with the 10 counties and 18 judges.
2. Court clerks are responsible for arranging for needed interpreters through the Trial Court Administrator's office.
3. Video conferencing for deaf interpreters and language interpreters used extensively for all non-evidentiary hearings in all ten counties.
4. All ten counties have access and use the "language identification flashcards."

Jury Operations

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

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

1. A district-wide administrative order is issued defining postponement and jury excuse practices and guidelines
2. A district-wide administrative order is issued defining how no-shows are processed and handled, including enforcement

Self-Represented Litigants

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

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

1. The court offers back-up counsel.
2. The Court extensively reviews >>>>>

Media relations

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

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

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

1. Written requests for still photography, video and audio recording, or broadcasting of a court proceeding must be made within 24 hours of the scheduled commencement of the proceeding on a form substantially similar to the one provided in I.C.A.R. 45. The court clerk shall immediately forward such requests to the judge.

Telephonic and other remote appearances

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

Pursuant to Criminal Rules 43.1 and 43.3, in the Seventh Judicial District, remote appearances are allowed

1. Video conferencing using broad band internet and broadcast quality video is available in courthouses and courtrooms in all ten counties. Judges are encouraged to use such technology in compliance with the Rules, including arraignments, mental health commitments, interpreting, expert witnesses, pretrial screening of offenders, public defender appointments with clients in the jail and other instances deemed constitutionally appropriate by the presiding judge.

The procedures for arranging a remote appearance are:

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

Section 2.17: Maintaining the Seventh Judicial District case management plan

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

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

The Seventh Judicial District maintains the case management plan through the following process(es):

1. Participating in regular bench/bar meetings to address and resolve caseflow management challenges and regular judge meetings to maintain consistency in practices within the District, and the annual criminal justice council meeting in each County.
2. Regular semi-annual meetings of appropriate Advancing Justice committees and additional persons as needed.