

**IDAHO STATE PUBLIC DEFENSE COMMISSION
Proposed Core Contract Terms**

I. CASE TYPES

The Defending Attorney shall provide legal services for those persons deemed indigent and involved in the following types of cases:

- A. Capital
- B. Felony (non-capital)
- C. Misdemeanor
- D. Probation Revocation
- E. Appeals from Magistrate to District Court
- F. Juvenile
- G. Involuntary Mental Health Commitments
- H. Post-Conviction
- I. Child Protection
- J. Termination of Parental Rights, including appeals
- K. Criminal Contempt
- L. Extradition
- M. Misdemeanor and Delinquency Appeals, and felony appeals in the event the county does not qualify for the services of the State Appellate Public Defender

II. REPORTS AND INSPECTIONS

The Defending Attorney agrees to submit to the County the following reports at the times prescribed below. Failure to submit required reports may be considered a breach of this contract and may result in the County withholding payment until the required reports are submitted or the parties agreed to other corrective action.

A. Employee Profile

The Defending Attorney shall submit to the County 30 days after the final day of the fiscal year, a profile of positions for both legal and support staff who perform work under this Contract, distributed by type of case. The report will designate the name, position, and salary for each employee in a format to be provided. The County will not release this information except as required by law. The Defending Attorney will also identify any other attorney who has or will be providing services under this contract and in what capacity those services have been or will be provided. If the employee splits his/her work between work under this Contract and other business, the report will indicate the amount of time, designated either in hours or in a percentage of time, that employee devotes to private matters compared to work under this Contract.

B. Education and Training

The Defending Attorney shall submit to the County 30 days after the final day of the fiscal year a report for each attorney, MCLE and other training related to the Case Types identified in this contract and any other MCLE credits.

C. Caseload Reports

The Defending Attorney shall submit to the County 30 days after the final day of the fiscal year a report of the number of cases completed in the past year, categorized by Case Type.

D. Expenditure Reports for Operational (Non-Personnel) Expenses

The Defending Attorney shall submit to the County 30 days after the final day of the fiscal year a report including, for each month of the prior fiscal year, operational expenses incurred under the original appropriation, designated by Case Type, in the format to be provided. Any expenses which are incurred and are either extraordinary expenses, or for which a supplemental appropriation was needed, shall be included but separately designated.

E. Annual Subcontract/Conflict Attorney Use Report

If the Defending Attorney uses any subcontract attorneys in accordance with Section _____ (Assignment and Subcontracting), the Subcontracting Defending Attorney shall submit to the County a summary report.

F. Bar Discipline

The Defending Attorney will immediately notify the County in writing when it becomes aware that a complaint lodged with the Idaho State Bar (or any other state where the attorney is licensed) has resulted in reprimand, suspension, or disbarment of any attorney who is a member of the Defending Attorney's staff or working for the Defending Attorney.

G. Inspections

The Defending Attorney agrees to grant the County access to materials necessary to verify compliance with all terms of this Contract. At any time, upon reasonable notice during business hours and as often as the County may reasonably deem necessary for the duration of the Contract and a period of five years thereafter, the Defending Attorney shall provide to the County right of access to its facilities, including those of any subcontractor, to audit information relating to the matters covered by this Contract. Information that may be subject to any privilege or rules of confidentiality should be maintained by the Defending Attorney in a way that allows access by the County without breaching such confidentiality or privilege. The Defending Attorney agrees to maintain this information in an accessible location and condition for a period of not less than five years following the termination of this Contract, unless the County agrees in writing to an earlier disposition. Notwithstanding any of the above provisions of this paragraph, none of the Constitutional, statutory, and common law rights and privileges of any client are waived by this agreement.

H. Reporting Requirements for Defending Attorney Contracts

Defending Attorney shall comply with the reporting requirements set forth in Idaho Code 19-864 to include an annual report of the following information:

1. number of persons represented,
2. the crimes involved, (or the nature of the appointment)
3. the expenditures by category, i.e. investigators, evaluations, extraordinary travel, (other categories identified)
4. number of cases requiring appointment of conflict attorney

III. ESTABLISHMENT AND MAINTENANCE OF RECORDS

- A.** Defending Attorney agrees to maintain accounts and records, including personnel, property, financial, and programmatic records, which sufficiently and properly reflect all direct and indirect costs of services performed in the performance of this Contract, for a period of five (5) years after termination of this Contract unless permission to destroy them before that time period is granted by the County.
- B.** Defending Attorney agrees to maintain records which sufficiently and properly reflect all direct and indirect costs of any subcontracts or personal service contracts, for a period of five (5) years after termination of this Contract unless permission to destroy them before that time period is granted by the County. Such records shall include, but not be limited to, documentation of any funds expended by the Defending Attorney for said personal service contracts or subcontracts, documentation of the nature of the service rendered, and records which demonstrate the amount of time spent by each subcontractor personal service contractor rendering service pursuant to the subcontract or personal service contract.

IV. PERFORMANCE EXPECTATIONS TO BE CONSIDERED IN MODEL CONTRACTS FOR DEFENDING ATTORNEYS

A. American Bar Association’s Ten Principles of a Public Defense Delivery System:

The *Ten Principles* “constitute the fundamental criteria to be met for a public defense delivery system to deliver effective and efficient, high quality, ethical, conflict-free representation to accused persons who cannot afford to hire an attorney.” All ten of the *Principles* are interdependent. That is, the health of an indigent defense system cannot be assessed simply by rating a jurisdiction’s compliance on each of the ten criteria and dividing the sum to get an average “score.” Rather, indigent defense systems should be designed to meet the goals articulated in each and all of the *Ten Principles* in order to establish a system in which defense professionals have the time, tools, and resources to provide constitutionally effective assistance of counsel.

The ten principles, in their general provisions, are:

1. The public defense function, including the selection, funding, and payment of defense counsel, is independent.

2. Where the caseload is sufficiently high, the public defense delivery system consists of both a defender office and the active participation of the private bar.
3. Clients are screened for eligibility, and defense counsel is assigned and notified of appointment, as soon as feasible after clients' arrest, detention, or request for counsel.
4. Defense counsel is provided sufficient time and a confidential space within which to meet with the client.
5. Defense counsel's workload is controlled to permit the rendering of quality representation.
6. Defense counsel's ability, training, and experience match the complexity of the case.
7. The same attorney continuously represents the client until completion of the case.
8. There is parity between defense counsel and the prosecution with respect to resources and defense counsel is included as an equal partner in the justice system.
9. Defense counsel is provided with and required to attend continuing legal education.
10. Defense counsel is supervised and systematically reviewed for quality and efficiency according to nationally and locally adopted standards.

The Ten Principles, in their entirety, are attached as Addendum _____.

B. PERFORMANCE GUIDELINES OF THE NLADA

1. The Defending Attorney shall make reasonable effort to comply with the Performance Guidelines of the NLADA, attached as Addendum _____.

The reasonable effort includes legitimate and articulated reasons for deviating from any particular Performance Guideline. So long as the reason(s) for the deviation is legitimate and articulated, the deviation will be deemed a reasonable effort to comply with the identified NLADA Performance Guideline.

The *Guidelines* are comprehensive but not exhaustive. The language allows for flexibility. While some actions are absolutely essential, others are left to counsel's considered judgment and to the peculiarities of practice and law in each jurisdiction. In other words, rather than being a checklist of required actions, the *Guidelines* are a series of steps each attorney must consider performing on behalf of each client, applying professional discretion to determine whether each individual step is necessary in the client's case.

2. The guidelines are divided into nine sections:
 1. Role, Duties and Training and Experience of Counsel
 2. Pre-Trial Release Proceedings

3. Initial Appearance, Preliminary Hearing, and Prosecution Requests for Non-Testimonial Evidence
4. Investigation, Discovery, Theory of the Case
5. Pre-Trial Motions
6. Plea Negotiations
7. Duties at Trial
8. Sentencing
9. Post-Sentencing Duties

Each section contains multiple guidelines, which, taken together, define the role and duties of defense counsel. After each guideline there are references to “Related Standards” that include nationally recognized standards and codes (e.g., the ABA, the National Advisory Commission on Criminal Justice Standards and Goals, the National Study Commission on Defense Services, and various NLADA standards), statutes, regulations, and policy manuals developed by state and local public defender and assigned counsel programs. The commentary, supported by footnotes citing to primary legal and secondary materials, provides an explanation and rationale for each guideline.

V. PERFORMANCE REQUIREMENTS

The Defending Attorney agrees to make reasonable effort to provide the services and comply with the requirements of this Contract. The reasonable effort includes legitimate and articulated reasons for deviating from any particular Performance Guideline. So long as the reason(s) for the deviation is legitimate and articulated, the deviation will be deemed a reasonable effort to comply with the identified NLADA Performance Guideline.

- A.** Continuity of representation at all stages of a case, sometimes referred to as “vertical” representation, promotes efficiency, thoroughness of representation, and positive attorney/client relations. The Defending Attorney agrees to make reasonable efforts to continue the initial attorney assigned to a client throughout all stages of a case assigned in this Contract. Nothing in this section shall prohibit the Defending Attorney from making necessary staff changes or staff rotations at reasonable intervals, or from assigning a single attorney to handle an aspect of legal proceedings for all clients where such method of assignment is in the best interest of the eligible clients affected by such method of assignment.
- B.** The Defending Attorney agrees that an attorney will make contact with all clients within 5 working days from notification of case assignment.
- C.** Conflicts of interest may arise in numerous situations in the representation of indigent defendants. The Defending Attorney agrees to screen all cases for conflict upon assignment and throughout the discovery process, and to notify promptly the appropriate authority when a conflict is discovered. The Defending Attorney will refer to the Idaho Rules of Professional Conduct, as interpreted by Idaho State Bar Association and opinions of the state judiciary, and to the American Bar Association Standards for Criminal Justice in order to determine the existence and appropriate resolution of conflicts.

- D.** The Defending Attorney agrees to comply with American Bar Association Opinion No. 06-441 (2006), (Addendum __) and manage his or her caseload in accordance with that ABA Opinion and corresponding provisions of the Idaho Rules of Professional Conduct.
- E.** The parties agree that in almost all cases, Attorney can adequately and effectively defend an accused utilizing less than sixty (60) hours of attorney's time. When the defending attorney can establish that the defense of an accused will require more than sixty (60) hours of the attorney's time, the attorney must give notice to the County that the case will exceed sixty (60) hours and provide an estimate of the additional hours necessary for competent representation. After sixty (60) hours has been expended on a case, the attorney shall submit a motion and Order under seal, monthly invoices, documenting time spent and the task completed, to the Administrative District Judge of the district, for approval of the reasonable expenditure of time. Attorney shall submit the Order and an invoice to the Board for payment of services expended in excess of sixty (60) hours. This hourly limit shall be based upon complexity of legal issues, anticipated length of trial, voluminous evidence, and any other factors that require additional attorney time to provide an adequate defense of an accused.
- F.** Adequate support staff is critical to an attorney's ability to render competent assistance of counsel at the caseload levels described above. The parties agree and expect that at a minimum the Defending Attorney will employ support staff services for its attorneys at a level sufficient to allow the attorney to comply with his or her Performance Expectation as outlined in Section VII.
- G.** The Defending Attorney may determine the means by which support staff is provided. The use of interns or volunteers is acceptable, as long as all necessary supervision and training is provided to insure that support services do not fall below prevailing standards for quality of such services in this jurisdiction.
- H.** Contracting Boards and Defending Attorneys should treat a first degree murder case in which a death notice may be filed, as a Capital case until either the prosecuting attorney affirmatively declines to file a death notice or the time in which to file the death notice has passed. If the Defending Attorney is to be responsible for representing defendants in Complex Litigation cases, the following provisions apply. Complex Litigation cases require the assignment of one full-time attorney and a half-time investigator prior to completion, except for Capital cases which typically require two (2) full-time attorneys and one (1) full-time investigator, as well as the services of a mitigation specialist. Aggravated homicide cases are considered Capital cases until such time as an irrevocable decision is made by the Prosecuting Attorney not to seek the death penalty in the case. Complex Litigation cases remain pending until the termination of the guilt phase and penalty phase of the trial, or entry of a guilty plea. Upon entry of a verdict or guilty plea, such cases are complete for the purposes of accepting additional Complex Litigation cases. Payment for post-conviction, pre-judgment representation shall be negotiated. Other special provisions of this

Contract which relate to Complex Litigation are found in Section VII(B) (Minimum Qualifications) and Section VIII (Assignment of Complex Litigation).

- I. The Defending Attorney may use legal interns. If legal interns are used, they will be used in accordance with Idaho Bar Commission Rule 226.
- J. The Defending Attorney agrees that it will consult with experienced counsel as necessary and will provide appropriate supervision for all of its staff.
- K. Significant/material increases (need to define what this is) in work resulting from changes in court calendars, including the need to staff additional courtrooms, shall not be considered the Defending Attorney's responsibility within the terms of this Contract. Any requests by the courts for additional attorney services because of changes in calendars or work schedules will be negotiated separately by the Defending Attorney and the Board of County Commissioners. Such additional services shall only be required when funding has been approved by the Board of County Commissioners, and payment arranged by contract modification.

VI. TRAINING REQUIREMENTS

Defending attorneys providing public defense services shall participate in regular training programs on criminal defense law, including a minimum of seven (7) hours of continuing legal education annually or 21 hours every 36 months in areas relating to their public defense practice.

Attorneys in civil commitment and dependency practices should attend training programs in these areas

All contractors, law firms or public defender offices should develop manuals to inform new attorneys of the rules and procedures of the courts within their jurisdiction. In offices of more than seven attorneys, an orientation and training program for new attorneys and legal interns should be held to inform them of office procedure and policy. All attorneys should be required to attend regular training programs on developments in criminal law, criminal procedure, and the forensic sciences.

Every attorney providing counsel to indigent accused should have the opportunity to attend courses that foster relevant advocacy skills and to review professional publications and other media.

VII. EXPERIENCE REQUIREMENTS

A. In order to assure that indigent accused receive the effective assistance of counsel to which they are constitutionally entitled, defending attorneys shall meet the following minimum professional qualifications:

- 1. Satisfy the minimum requirements for practicing law in Idaho as determined by the Idaho Supreme Court; and

2. Be familiar with the statutes, court rules, constitutional provisions, and case law relevant to their practice area; and,
3. Be familiar with the Idaho Rules of Professional Conduct; and,
4. Be familiar with the NLADA Performance Guidelines; and,
5. Be familiar with the consequences of a conviction or adjudication, including possible immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction; and,
6. Be familiar with mental health issues and be able to identify the need to obtain expert services.

B. Defending attorneys' qualifications in Death Penalty Cases.

1. Each attorney acting as lead counsel in a first degree murder case in which a death notice has been filed or in a first degree murder case in which a notice of intent to seek the death penalty could be filed shall meet the following requirements:
 - a. The minimum requirements set forth in Section VII (A) and VII (C); and,
 - b. Be familiar with the 2003 ABA Guidelines for the appointment and performance of defense counsel in death penalty cases Standards for Capital cases; and,
 - c. Be familiar with the 2008 supplementary guidelines for the mitigation function of defense teams in death penalty cases; and,
 - d. Be familiar with the requirements as set forth in Idaho Criminal Rule 44.3.
2. The defense team in a first degree murder case in which a notice of intent to seek the death penalty has been filed or in a first degree murder case in which a notice of intent to seek the death penalty could be filed, should include, at a minimum, the two attorneys appointed pursuant to Idaho Criminal Rule 44.3, a mitigation specialist and an investigator. Psychiatrists, psychologists and other experts and support personnel should be added as needed.

C. Defending attorneys' qualifications in Felony Cases:

1. Each attorney representing a defendant accused of a crime or a penalty enhancement, which could result in a sentence of a term of incarceration of fifteen (15) years in the penitentiary or more or accused of a crime for which there is a mandatory minimum term of incarceration, shall meet the following requirements:
 - a. The minimum requirements set forth in Section VII(A); and has either:

- i. served three years as a prosecutor; or
 - ii. served three years as a public defender; or
 - iii. three years in a private criminal practice; and
 - b. Been trial counsel alone or with other trial counsel and handled a significant portion of the trial in three felony cases that have been submitted to a jury.
- 2. Each attorney representing a defendant accused of a crime punishable by less than fifteen years of incarceration years in the penitentiary, or facing a revocation of probation shall meet the following requirements:
 - a. The minimum requirements set forth in Section VII (A); and has either:
 - i. served two years as prosecutor; or
 - ii. served two years as public defender; or
 - iii. two years in a private criminal practice; and
 - b. Been trial counsel alone or with other counsel and handled a significant portion of the trial in two felony cases that have been submitted to a jury.
- 3. Each attorney representing a defendant who is a juvenile charged as an adult or where the juvenile has been waived to adult court shall meet the following requirements;
 - a. The minimum requirements set forth in Section VII (A); and has either:
 - i. served three years as a prosecutor; or
 - ii. served three years as a public defender; or
 - iii. three years in a private criminal practice; and
 - b. Been trial counsel alone or with other trial counsel and handled a significant portion of the trial in three felony cases that have been submitted to a jury; and,
 - c. Has obtained three (3) juvenile-specific MCLE training hours each year.

D. Defending attorneys’ qualifications in Juvenile Cases.

- 1. Juvenile Cases - Felony: Each attorney representing a juvenile in which the juvenile is being adjudicated for the commission of a felony for which the juvenile could be required to register on the sex offender registry or for initial commitment or recommitment shall meet the following requirements:
 - a. The minimum requirements set forth in Section VII(A); and has either:
 - i. Served three years as a prosecutor; or
 - ii. Served three years as a public defender; or
 - iii. three years in a private criminal practice, and
 - b. Been trial counsel alone or with other trial counsel and handled a significant portion of the trial in three felony cases that have been submitted to a jury; and,
 - c. Has obtained three (3) juvenile-specific MCLE training hours each year;
- 2. Juvenile Cases - Misdemeanor/other: Each attorney representing a juvenile in hearings upon motions to waive jurisdiction under the JCA pursuant to Idaho Code section 20-508; in hearings to examine the juvenile to determine if he is competent to proceed in Idaho Code section 20-519A, status offenses or in any misdemeanor proceeding shall meet the following requirements;

- a. Each attorney representing a defendant involved in a matter concerning a misdemeanor, shall meet the requirements as outlined in Section VII (A).

E. Defending attorneys’ qualifications in Misdemeanor and Criminal Contempt cases.

- 1. Each attorney representing a defendant involved in a matter concerning a misdemeanor, shall meet the requirements as outlined in Section VII (A).

F. Defending attorneys’ qualifications in Child Protection Actions (CPA) and Termination of Parental Rights proceedings.

- 1. Each attorney representing a client in a CPA or in a termination matter shall meet the following requirements:
 - a. The minimum requirements as outlined in Section VII(A); and
 - b. Shall have one (1) year CPA experience or have significant experience in handling complex litigation, civil litigation or have served as co-counsel in at least two dependency cases with another attorney who meets the required qualifications;
 - c. Attorneys in CPA matters should be familiar with expert services and treatment resources for substance abuse and other social services for families.
 - d. Attorneys representing children in CPA matters should have knowledge, training, experience, and ability in communicating effectively with children.

G. Defending attorneys’ qualifications in Mental Health Commitment Cases.

- 1. Each attorney representing a respondent shall meet the following requirements:
 - a. The minimum requirements set forth in Section VII (A); and
 - b. Each staff attorney shall be accompanied by counsel qualified under this section at his or her first two (2) civil commitment cases; and
 - c. Shall not represent a client in a commitment hearing unless he or she has either:
 - i. served one year as a prosecutor, or
 - ii. served one year as a public defender, or
 - iii. one year in a private civil commitment practice, or
 - iv. has previously been appointed in five (5) civil commitment hearings.

H. Defending attorneys’ qualifications in Problem Solving Courts.

- 1. Each attorney representing a client in a problem solving court (e.g., mental health court, drug diversion court, homelessness court) shall meet the following requirements:
 - a. The minimum requirements set forth in Section VII (A); and
 - b. The requirements set forth above for representation in the type of practice

delivery of legal services, or from the entry of counsel into the case through sentencing or necessary withdrawal after the substantial delivery of legal services. Nothing in this definition prevents the Defending Attorney from providing necessary legal services to an eligible client prior to arraignment, but payment for such services will require a showing pursuant to the Extraordinary Expenses paragraph below.

Client

A "client" is a person whom a state court has determined to be eligible for and entitled to court-appointed counsel at state expense, pursuant to Idaho Code §19-852 and §19-854.

Complex Litigation Cases

Complex Litigation refers to: 1) all Capital homicide cases, 2) all aggravated homicide cases, 3) those felony fraud cases in which the estimated attorney hours necessary exceeds sixty (60) hours, 4) cases which involve substantial scientific information resulting in motions to exclude evidence pursuant to controlling case law emanating from *Frye v. United States*, 293 F. 1013 (D.C. Cir. 1923), and *Daubert v. Merrell Dow*, 113 S.Ct. 2786 (1993), or similar opinions, and 5) other cases in which counsel is able to show the appropriate court in an ex parte proceeding that proper representation requires designation of the case as complex litigation.

Contractor or Subcontractor

"Contractor" or "Subcontractor" includes Contractor's agents, employees, members, officers, representatives, successors, and subcontractors.

Disposition

Disposition in criminal cases shall mean: 1) the dismissal of charges, 2) the entering of an order of deferred prosecution, 3) an order or result requiring a new trial, 4) imposition of sentence, or 5) deferral of any of the above coupled with any other hearing on that case number, including but not limited to felony or misdemeanor probation review, that occurs within thirty (30) days of sentence, deferral of sentence, or the entry of an order of deferred prosecution. No hearing that occurs after 30 days of any of the above will be considered part of case disposition for the purpose of this Contract except that a restitution hearing ordered at the time of original disposition, whether it is held within 30 days or subsequently, shall be included in case disposition.

Disposition includes the filing of a notice of appeal or a motion pursuant to Idaho Criminal Rule 35, if applicable. Nothing in this definition prevents the Agency from providing necessary legal services to an eligible client after disposition, but payment for such services will require a showing pursuant to the Extraordinary Expenses paragraph below. Disposition in other cases shall mean:

Disposition in a civil case shall mean: 1) the entering of a Final Judgment; 2) [define according to type of case—juvenile, family, etc.].

Law Firm

A "law firm" is a sole practitioner, partnership, or professional corporation which provides contract services to persons qualifying for court-appointed legal representation and which may engage in non-court-appointed legal representation.

Other Litigation Expenses

Other Litigation Expenses shall mean those expenses which are not part of the contract with the Agency, including expert witness services, language translators, laboratory analysis, and other

forensic services. It is anticipated that payment for such expenses will be applied for in the appropriate courts by motion and granted out of separate funds reserved for that purpose. Payment for mitigation specialists in Capital cases is included in this category.

Defending Attorney

A “Defending Attorney” is any licensed attorney employed by the office of public defender, contracted by the county or otherwise assigned to represent adults or juveniles at public expense.

Public Defense Commission (PDC) and "State of Idaho" includes the respective agents, employees, members, officers, representatives, and successors of PDC and State of Idaho.

Representational Services

The services for which the Contracting Authority is to pay the Defending Attorney are representational services, including lawyer services and appropriate support staff services, investigation and appropriate sentencing advocacy and social work services, and legal services including, but not limited to, interviews of clients and potential witnesses, legal research, preparation and filing of pleadings, negotiations with the appropriate prosecutor or other agency and court regarding possible dispositions, and preparation for and appearance at all court proceedings. The services for which the Contracting Authority is to pay the Defending Attorney do not include extraordinary expenses incurred in the representation of eligible clients. The allowance of extraordinary expenses at the cost of the Contracting Authority will be determined by a court of competent jurisdiction.

Idaho Supreme Court Case Processing and Reporting Rules for Criminal Cases

The Idaho Public Defense Commission has adopted the definition of a criminal case as defined by the Idaho Supreme Court. The definition is as follows:

A **new criminal case**¹ is defined, processed, and reported as follows:

1. A criminal case is initiated and counted at the filing of the charging document (citation, complaint, information, or indictment).
2. The defendant and all misdemeanor and felony charges resulting from a single incident are counted as a single case, even if it involves multiple citations or complaints.² Infractions must be filed separately, but may be consolidated [See IIR 3(d)]. 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:
 - a. Two or more defendants can be joined in a single case pursuant to I.C.R. 8(b).
 - b. 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).
3. In cases involving multiple charges, the case type is classified according to the most serious

¹ It is recommended that counts of criminal charges and criminal defendants also be tracked and reported.

² Uniform business practices will be developed regarding the addition of subsequent charges to an existing case as well as situations in which multiple prosecuting jurisdictions may file different charging documents resulting from the same transaction.

offense (i.e., if a defendant is charged with a misdemeanor and a felony in a single case, the case is classified as a felony).

4. The disposition of a criminal case is reported in the same case subtype that was used when the case was filed. For example, if a case is filed as a felony and is reduced to a misdemeanor prior to disposition, it is reported as a disposition of a felony. Similarly, if a case is filed as a misdemeanor and is amended to a felony, it is reported as a disposition of a misdemeanor.³
5. With respect to felony bound over to district court, the following rules apply:⁴
 - a. When a felony is filed in the magistrate division, it is counted as a new felony filing.
 - b. Upon the filing of the information and/or order binding the case over to the district court, the case is counted as a disposition of a felony in magistrate division and as a new felony filing in district court.
 - c. When disposed in district court, the case is counted as a disposition of a felony in the district court.
 - d. If the case is reduced to a misdemeanor and remanded to the magistrate division for the acceptance of a misdemeanor plea, the case is counted as a disposition of a felony in the district court and a remand of a felony in the magistrate division.⁵

Post-judgment actions in criminal cases are processed and reported as follows⁶:

1. In addition to new criminal cases, the following **post-judgment actions** will be tracked and reported separately⁷:
 - a) Motion to revoke probation
 - b) Motion for early discharge of probation
 - a. Motion to modify terms of probation
 - b. Defendant is transferred to a problem-solving court following a guilty plea/sentencing
 - c. Motion for contempt/Motion to show cause
 - d. Motion to amend or set aside judgment of conviction or set aside guilty plea
 - e. Motion to correct or reduce sentence
 - f. Motion for new trial
 - g. Motion for stay of execution
 - h. Motion to seal case
 - i. Motion for appellate bond
 - j. Case remanded to the magistrate division for acceptance of a misdemeanor plea⁸
2. The above post-judgment actions will be counted at the filing of a motion or, the issuing of an order for cases that are remanded to a lower court or transferred to a problem-solving court.

³ This rule does not impact reporting of disposition types, which will be reflected separately in the “manner of disposition” report. For instance, the disposition type might be “reduced to misdemeanor” or “amended to felony.”

⁴ Uniform definitions will be established for the purposes of reporting felony caseloads.

⁵ Uniform business practices relating to the remand of a criminal case are pending.

⁶ The Idaho Supreme Court rules for post-judgment actions deviate from those included in the *State Court Guide to Statistical Reporting*, which recommends reporting all such actions in a general “reopened cases” category.

⁷ This list of post-judgment actions will be re-evaluated once we are familiar with case processing in the new CMS and have established uniform business practices related to the processing of post-judgment actions.

⁸ Although a remand is not a post-judgment action, it is necessary to fully capture the movement of cases between the district court and the magistrate division to ensure statistical accuracy.

3. The disposition of any of the above listed post-judgment actions is counted as a disposition in the same post-judgment category that triggered the action.⁹

**Recommended Criminal Case Subtypes for Statistical Reporting
(District Court and Magistrate Division)**

Domestic violence	Public order (drunkenness, disorderly conduct, disturbing the peace, etc.)
Other assault/battery	Weapon
Rape/sexual assault/battery	DUI
Child sex abuse	Other motor vehicle
Elder abuse	Other felony (District Court only)
Other crimes against persons (murder, manslaughter, robbery, etc.)	Other misdemeanor (Mag. Div. only)
Property crimes (burglary, larceny, grand/petit theft, fraud, vandalism, etc.)	Appeals from Mag. Div. (District court only)
Drug	

⁹ This rule does not impact reporting of disposition types, which will be reflected separately in the “manner of disposition” report.