



Recent Changes in Idaho Federal Courts

**Judge Candy Dale
U.S. Magistrate Judge
District of Idaho**

May 26, 2020



CLE Credit

Please Type Your Name and Bar Number in your
Zoom Profile

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If your Bar Number is not in the
box, please email it to
Dayna Ferrero at
dferrero@isb.idaho.gov
Thank you!

U.S. District and Bankruptcy Courts for the District of Idaho



We are a “consolidated” Court with the courtrooms for the District Court and the Bankruptcy Court in the same buildings—Boise, Pocatello and Coeur d’Alene—with shared administrative services.



Six active judges—Two District Judges, Two Magistrate Judges, and Two Bankruptcy Judges



Probation and Pretrial Services

Governance

Chief District Judge, Chief Bankruptcy Judge, and Chief Magistrate Judge

Board of Judges

Ninth Circuit Judicial Council

Judicial Conference of the United States

Responding to COVID-19

General Order 360 (March 17, 2020)

- Idaho Federal Court remains open, although Floors 4, 5 and 6 of the Federal Building in Boise and the Pocatello and Coeur d' Alene courthouses closed to the public.
 - Exceptions - Those having court business as a party, counsel, witness, or victim.
- Staff implement social distancing procedures, including telework, but intake counters remain open. Electronic filing mandatory for all filers, except pro se.
- Grand jury suspended and all jury trials scheduled to begin before May 11, 2020, continued until further order of the Court.
- Any delay in criminal cases deemed excludable time under the Speedy Trial Act, 18 USC Section 3161(h)(7)(A), because “the ends of justice served by ordering these continuances outweighs the best interest of the public and each defendant’s right to a speedy trial.”

Closing the Court and Courthouses

- Consistent with Governor Little's March 25, 2020 Self-Isolation (aka Stay at Home) Order.
- On March 27, 2020, General Order 362 superseded General Order 360, closing the courthouse floors in Boise and both courthouses in Pocatello and Coeur d'Alene to the public through April 15, 2020.
 - Exceptions: proceedings deemed essential by the presiding judge to be conducted by electronic means to the extent possible or otherwise held with the least number of people present in-person as possible and in accordance with social distancing practices.
 - Motions to be decided on the record, where possible, without in-court presentation of evidence.
 - Employees telework
 - All in-person meetings cancelled, postponed, or rescheduled to be conducted by electronic means
- Pro Se were allowed to email filings and mail was sorted by staff only one day per week. Limited CSO coverage.

The CARES Act

- March 27, 2020 - Congress passes the Coronavirus Aid, Relief, and Economic Security Act and signed into law by the President.
- Judicial Conference of the U.S. (upon recommendation of Conference Committees) makes findings required under the CARES ACT that permitted Chief District Judges to allow certain criminal proceedings to be conducted by video or audio conference.
- March 30, 2020 - Chief District Judge David Nye signs General Order 363 that provides authority for the District Court judges to conduct certain criminal proceedings by video or telephone, with the defendant's consent, that previously were not allowed under the federal rules. Authorization effective for 90 days or longer if the emergency persists.
- Public allowed access by telephone for all proceedings with prohibition against recording.



Motions for Release from Custody

Large Number of Motions Due to COVID-19 Pandemic:

Reconsideration of detention orders & requests for temporary release from custody.

General Order 364, effective April 2, set forth the procedure for filings made pursuant to the Bail Reform Act in response to COVID-19.

Collaboration among U.S. Attorney, Federal Defenders and CJA Panel Counsel, Probation and Marshal Service.

Virtual Proceedings Continue - Judge and Defendant appearing by video & other necessary parties appearing by video or phone.

Judges' staff and IT also worked remotely.

Electronic transmission of waiver forms and other documents became the norm.

Judges handle pleas and sentencings only if determined necessary.

Courthouses Remain Closed with Some In-Person Proceedings



On April 16th General Order 365 continues most of the provisions in General Order 362, until May 11th.

Including Suspension of All Grand Juries through May 31st, Absent An Order by the Chief Judge.



On May 11th General Order 367 continues most of the provisions in General Order 365.

Indicates the Court intends to follow staged approach taken by Governor Little for reopening Idaho.



Also on May 11th a Transition Plan is distributed by an internal committee.

Vetted by the Board of Judges, the Plan provides guidelines for reopening the Idaho Federal Courts that follows in large part the Governor's approach.



On May 18th Stage 2 began with Some In-Person Criminal Proceedings:

- Pleas & Sentencings
- 10 or less in the courtroom
- Other Proceedings by Phone & Video
- Employees Teleworking
- Social Distancing
- Public Access by Phone

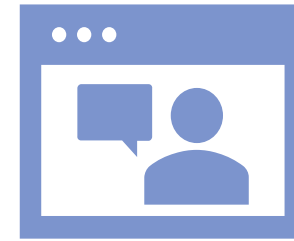
What to Expect Beginning June 1st



- Idaho & Idaho's Federal Courts enter Stage 3
- Gatherings larger than 50 (rather than 10) should be avoided
- Jury trials resume & Grand Juries convene
- appropriate distancing & other safety and health precautions



- Cloth Face Coverings (aka "mask") required for members of the public & all Court employees in common areas & in the Courtroom
- Other social distancing, hand sanitizing & other health and safety measures taken



Civil Hearings will resume either in person or by video (e.g., ZOOM)



Judicially supervised settlement conferences can resume

What's Beyond June 26, End of Stage 4

- What will be the new “normal”?
- What if there is a “second wave”?
- Opportunities?
- What does this mean for how we administer justice?
- Ramifications on the practice of law?
- Impact on Self Represented Litigants and Vulnerable Populations?

