

**IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO**

RE: UNIFORM PROCEDURES FOR)	
PROCESSING PROBATION)	ADMINISTRATIVE ORDER
VIOLATIONS AND APPLICATIONS)	
FOR EARLY DISCHARGE IN)	
FELONY CASES,)	08-03
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WHEREAS, Canon 3 of the Idaho Judicial Canons precludes ex-parte contact with the court outside the presence of the parties;

WHEREAS, the procedures throughout the Fifth Judicial District for the handling and processing Reports of Probation Violations and Applications for Early Discharge in felony cases are not uniform and may in some circumstances result in ex-parte contact with the court;

WHEREAS, it is necessary to establish a uniform procedure for the handling and processing of Reports of Probation Violations and Applications for Early Discharge in felony cases, the following procedure is hereby adopted and shall be utilized throughout the Fifth Judicial District:

(1) REPORTS OF PROBATION VIOLATIONS IN FELONY CASES:

A. THE PROBATION OFFICER SHALL PRESENT ANY REPORT OF PROBATION VIOLATION TO THE PROSECUTOR. ANY REPORT OF VIOLATION SHALL INCLUDE ANY PROGRESS OR SPECIAL PROGRESS REPORTS WHICH REFERENCE THE COMPLIANCE OR NONCOMPLIANCE OF THE DEFENDANT WITH THE TERMS OF HIS PROBATION.

B. THE PROSECUTOR SHALL DETERMINE IN A TIMELY MANNER IF THE STATE INTENDS TO PROCEED ON THE REPORT OF VIOLATION AND IF SO, SHALL FILE A MOTION TO

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REVOKE WITH THE REPORT OF VIOLATION ATTACHED AND SHALL SERVE THE SAME ON COUNSEL FOR THE DEFENDANT.

C. AT THE TIME OF THE FILING OF THE MOTION THE PROSECUTOR SHALL PRESENT A WARRANT OF ARREST AND/ OR SUMMONS FOR THE JUDGE'S CONSIDERATION FOR ISSUANCE TO COMPEL THE DEFENDANT TO APPEAR ON THE REPORTED VIOLATION.

D. IN THE EVENT THAT THE PROSECUTOR CHOOSES NOT TO PROCEED ON THE REPORTED VIOLATION, THE REPORT OF VIOLATION SHALL BE FILED WITH THE COURT AND SERVED ON COUNSEL FOR THE DEFENDANT WITHOUT A MOTION TO REVOKE AS THIS INFORMATION IS NECESSARY FOR THE COURT TO MAKE ANY FUTURE DETERMINATIONS IN ACCORDANCE WITH I.C. §19-2604.

(2) APPLICATIONS TO CHANGE PROBATION TERMS OR TO REQUEST EARLY DISCHARGE IN FELONY CASES:

A. THE PROBATION OFFICER SHALL PRESENT ANY APPLICATIONS FOR CHANGE OF PROBATION TERMS OR REQUESTS FOR EARLY DISCHARGE TO THE PROSECUTOR FOR HIS OR HER APPROVAL OR REJECTION.

B. THE PROSECUTOR, WITHIN FOURTEEN (14) DAYS OF RECEIPT OF THE APPLICATION SHALL APPROVE OR REJECT THE APPLICATION. IF THE PROSECUTOR APPROVES OF THE APPLICATION THE PROSECUTOR SHALL NOTE HIS APPROVAL ON THE APPLICATION AND SHALL FILE THE APPLICATION WITH THE COURT AND SERVE A COPY ON COUNSEL FOR THE DEFENDANT. THE COURT MAY THEN APPROVE THE APPLICATION OR AT ITS DISCRETION NOTICE THE APPLICATION FOR HEARING.

C. IF THE PROSECUTOR OBJECTS TO THE APPLICATION THE PROSECUTOR SHALL SET FORTH THE NATURE OF HIS OR HER OBJECTION AND SHALL FILE THE APPLICATION TOGETHER WITH THE OBJECTION WITH THE COURT WITH A COPY TO COUNSEL FOR THE DEFENDANT AND THE COURT SHALL NOTICE THE APPLICATION FOR HEARING.

D. ANY APPLICATION WOULD BE SUBMITTED TOGETHER WITH A PROPOSED ORDER, WHICH PROPOSED ORDER SHOULD BE IN A FORM SEPARATE FROM THE APPLICATION.

IT IS SO ORDERED.

DATED this 1st day of August, 2008.



Barry Wood, Administrative District Judge

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C: Dawn Anderson, District Mgr., Dept. of Correction, Probation & Parole
Magistrate Judges of the Fifth Judicial District
District Judges of the Fifth Judicial District

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