

UNITED STATES DISTRICT & BANKRUPTCY COURT  
DISTRICT OF IDAHO

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January 15, 2016

## NOTICE FOR PUBLIC COMMENT

The United States District Court's Local Rules Committee invites the public to review and provide comment on the proposed new District Court's Criminal Local Rule 58.3. A copy of the news rule is attached to this notice.

The proposed new rule will supersede and replace Criminal Local Rule [57.2](#).

You can obtain a copy of the local rules by going to the following URL: [http://www.id.uscourts.gov/district/forms\\_fees\\_rules/Civil\\_Rules.cfm](http://www.id.uscourts.gov/district/forms_fees_rules/Civil_Rules.cfm). There will also be a paper copy provided for reference at the United States Courthouses in Boise, Coeur d'Alene, and Pocatello. If you are unable to access the website, or not able to travel to a courthouse location, please call Kirsten Wilkinson, Chief Deputy of Operations at (208)334-9464.

**All public comments are due by Tuesday, February 16<sup>th</sup> at 5:00 p.m. (MST).** Please send your comments by email to [local\\_rulesDC@id.uscourts.gov](mailto:local_rulesDC@id.uscourts.gov), or by mail at the following address:

United States District Court, District of Idaho  
Attn: Kirsten Wilkinson, Chief Deputy of Operations  
550 West Fort Street  
Boise, ID 83724

If you have any question, you can send your question to [local\\_rulesDC@id.uscourts.gov](mailto:local_rulesDC@id.uscourts.gov), or please call (208)334-9464. Thank you.

## CRIMINAL LOCAL RULE 58.3

### FORFEITURE OF COLLATERAL IN LIEU OF APPEARANCE

**(a) Scope.** This Rule shall apply to petty offenses (as that term is defined in Rule 58(a)(3) of the Federal Rules of Criminal Procedure), whether originating under the applicable federal statutes or regulations, or applicable state statutes by virtue of the Assimilative Crimes Act, 18 U.S.C. § 13, occurring within the territorial jurisdiction of the United States District Court for the District of Idaho, including areas within the exterior boundaries of United States military installations, bases, institutions, Indian Country, and government reservations located on lands under the exclusive or concurrent jurisdiction of the United States

**(b) Forfeiture of Collateral.** Persons charged in this District with a petty offense for which a fixed sum payment is established pursuant to this Rule, may elect to post, in person or by mail, collateral in the amount specified for such offense and, upon waiver of the right to a hearing on the charge made, consent to the forfeiture of such collateral in lieu of appearance before the United States Magistrate Judge and all further proceedings. The forfeiture of collateral in lieu of appearance is a “civil penalty,” is not an admission of guilt, and shall not be deemed a criminal conviction in the District of Idaho, but there may be other consequences under other state and federal regulations. Any person so charged who does not elect to forfeit collateral in lieu of appearance shall be required to appear before the United States Magistrate Judge as prescribed by law, and upon conviction shall be subject to any penalty otherwise provided.

**(c) Arrest and Aggravated Offenses.** Nothing contained in this Rule shall be interpreted to prohibit or restrict otherwise existing authority of any law enforcement officer in proper circumstances to place persons under arrest. Further, where the law enforcement officer involved considers the circumstances of the offense to be aggravated, the officer may specify that appearance before the United States Magistrate Judge is required, in which case the collateral forfeiture procedure in this Rule shall not be available.

**(d) Collateral Schedules.** The schedules of fixed sum payments which may be deposited as collateral and forfeited in lieu of appearance shall be those established by General Orders as may be issued from time to time by this Court. The schedules shall be posted by the Clerk on the Court's website. Such General Orders may be issued by the Chief Judge of this Court on behalf of the Court, pending further General Orders of the full Court. Offenses for which no amount of collateral is shown require a mandatory appearance before a United States Magistrate Judge.

Notwithstanding the foregoing, the list of petty offenses for which collateral may be posted and forfeited or for which the offender must appear before a Magistrate Judge is not intended to be exhaustive. A Magistrate Judge may use his or her discretion whether to allow forfeiture of collateral or require an appearance for any offenses which are not listed

**(e) Failure to Forfeit Collateral and Appear.** When a person charged in this District with a petty offense for which a fixed sum payment is established pursuant to this Rule fails to post collateral and also fails to appear before the Magistrate Judge for initial appearance on the

date set by the Court, the Magistrate Judge may, when issuing a warrant for the person's arrest, increase the amount of collateral which may be forfeited to an amount not in excess of the maximum fine which could be imposed upon conviction.

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RELATED AUTHORITY

[General Order 296](#)

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