I.C.R. 6.1. Formation of the Grand Jury

Idaho Court Rule 6.1. Formation of the Grand Jury.

(a) Number of Jurors. A grand jury shall consist of sixteen (16) qualified jurors of the county wherein the grand jury is sitting, but twelve (12) or more members constitute a quorum. A grand jury can deliberate and take action if a quorum is present.

(b) Summoning Grand Juries. Upon motion by the prosecuting attorney to summon a grand jury, a district judge assigned by the Administrative District Judge may order that a grand jury be impaneled within any county of the judicial district at such times as the public interest requires. Sixteen (16) grand jurors shall be selected as provided in the Uniform Jury Selection and Service Act, Chapter 2 of Title 2, Idaho Code. The selection of the grand jury shall take place in a closed session with only a district judge, the prosecuting attorneys, the prosepective jurors, the reporter or recorder, a clerk of the court, and any required interpreter present.

(c) Impaneling a Grand Jury. A district judge shall impanel a grand jury of sixteen (16) jurors. The district judge shall preside over the impaneling of the grand jury and in doing so shall have the power and duty to:

(1) Administer, or direct the clerk to administer, an oath or affirmation to all prospective jurors that each of them will truthfully answer all questions propounded to them as to their qualifications to sit as jurors on the grand jury.

(2) Select, or direct the clerk to select, at random the names of sixteen (16) prospective jurors.

(3) Inquire of the prospective grand jurors to determine whether they are qualified to act as jurors and whether there are any facts which would constitute grounds for challenge against any of such jurors. In the event the court finds any prospective juror to be unqualified or subject to challenge as provided by the Uniform Jury Selection and Service Act, Chapter 2, of Title 2 and Section 19-1003, Idaho Code, the court shall dismiss such prospective juror and choose another prospective juror at random from the panel summoned for the grand jury. The sixteen (16) selected jurors shall be sworn to the following oath:

Do each of you, as jurors of the grand jury, affirm that you will diligently inquire into and true presentment make of all public offenses against the state of Idaho, committed or triable within this county, of which you shall have or can obtain legal evidence? That you will keep your own counsel, and that of the other members of the grand jury, and of the government and will not, except when required in the due course of judicial proceeding, disclose the testimony of any witness examined before you, nor anything which you or any other grand juror may have said nor the manner in which you or any other grand juror may have voted in any matter before you? That you will present no person through malice, hatred, or ill will, nor leave any unpresented through fear, favor or affection,

or for any reward or the promise of hope thereof? Do you therefore affirm that you will in all your presentments follow these instructions and present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding, so help you God?

(4) The impaneling of the grand jury shall be recorded, either stenographically or electronically.

(d) Grand Jury Presiding Juror - Oath - Duties. After the grand jury is impaneled, the court shall select one of the jurors as the presiding juror of the grand jury and administer an oath in the form of the oath in Rule 6.1(c)(3), only it will refer to the person as the presiding juror of the grand jury. The presiding juor shall have the following powers and duties:

(1) Preside over the grand jury until it is adjourned and discharged.

(2) Determine the time and place of commencement of each session of the grand jury and the time of adjournment of each session.

(3) Take roll of the jurors of the grand jury at the commencement of each session.

(4) Rule upon the disqualification of a grand juror.

(5) Convey to the court any requests of the grand jury for further advice or instructions during the sessions of the grand jury.

(6) Upon majority vote of the grand jury, direct the issuance of subpoenas for additional witnesses called to testify before the grand jury.

(7) Determine the sequence of the witnesses to be examined by the grand jury, with the advice of the prosecuting attorney, and discharge the witness when no further testimony of the witness is desired by the grand jury.

(8) Administer an oath or affirmation to all witnesses appearing before the grand jury by asking the witness, "Do you solemnly swear or affirm that the testimony that you shall give in the issue pending before this jury shall be the truth, the whole truth and nothing but the trust, so help you God?"

(9) Advise target witnesses prior to testifying, or as soon as their status becomes known, by reading the following advice:

You are advised that you are one of the subjects or suspects in this grand jury investigation. You therefore have the right against self incrimination which includes the right to remain silent and the right to refuse to answer any question which might incriminate you. You have the right to request permission to leave the jury and consult with your attorney or counsel at any time, but you do not have the right to have your counsel with you before the grand jury. Any statements made by you may be used against you in any subsequent prosecution. If you give any false answers to questions you may be prosecuted for the felony crime of perjury. Do you understand these rights?

(10) Prepare or cause to be prepared and sign any indictment found by the grand jury and transmit the same to the court.

(11) Perform such other duties as prescribed by these rules or as directed by the court.

(e) Deputy Presiding Juror - Oath - Duties. The court shall select one or more deputy presiding jurors and administer the presiding juror's oath to them as deputy presiding jurors. In the absence of the presiding juror, the duputy presiding juror shall act as the presiding juror in the sequence directed by the district judge, if more than one has been selected, without further order of the court.

(f) Charge to Jury. After the grand jury has been sworn, the court shall give a charge to the jury setting forth in detail their powers, duties and authority and any other information which the court deems proper. Such charge shall be given orally to the jurors and a written copy shall be given to the presiding juror.

(g) Excuse of a Juror. At any time, for good cause shown, the court or the presiding juror may excuse a juror temporarily or permanently.

(Adopted March 30, 1994, effective July 1, 1994.)

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