



Rule 6. Formation of the Grand Jury

Idaho Criminal Rule 6. Formation of the Grand Jury

(a) Number of Jurors. A grand jury must consist of 16 qualified jurors of the county in which the grand jury sits, but 12 or more members constitute a quorum. A grand jury can deliberate and take action if a quorum is present.

(b) Summoning Grand Juries. On 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 grand jurors must 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 must take place in a closed session with only a district judge, the prosecuting attorneys, the prospective jurors, the reporter or recorder, a clerk of the court, and any required interpreter present.

(c) Impaneling a Grand Jury. A district judge must impanel a grand jury of 16 jurors. The district judge must preside over the impaneling of the grand jury and in doing so has 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 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 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 them. If 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 § 19-1003, Idaho Code, the court must dismiss that prospective juror and choose another prospective juror at random from the panel summoned for the grand jury. The 16 selected jurors must 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



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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 must be recorded, either stenographically or electronically.

(d) Grand Jury Presiding Juror; Oath; Duties. After the grand jury is impaneled, the court must 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(c)(3), only it will refer to the person as the presiding juror of the grand jury. The presiding juror has 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 on 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) on 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 will be the truth, the whole truth and nothing but the truth, so help you God?";



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(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 have the right not to incriminate yourself which includes the right to remain silent and the right to refuse to answer any question that 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 file it with the court; and

(11) perform any other duties as prescribed by these rules or as directed by the court.

(e) Deputy Presiding Juror; Oath; Duties. The court must select one or more deputy presiding jurors and administer the presiding juror's oath to them. In the absence of the presiding juror, the deputy presiding juror acts 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 must give a charge to the jury stating in detail their powers, duties and authority and any other information which the court deems proper. The charge must be given orally to the jurors and a written copy must be given to the presiding juror.

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

(Adopted February 22, 2017, effective July 1, 2017.)

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