

In the Supreme Court of the State of Idaho

**RE: GRAND JURY
PROCEEDINGS**

ORDER

To allow for the impaneling of grand juries while also addressing public safety during grand jury proceedings, as well as mitigating the risk of the rise in COVID-19 cases, pursuant to Idaho Court Administrative Rule 48, grand jury proceedings shall be subject to the following standards until further order of the Court.

1. All provisions in Idaho Criminal Rules 6 – 6.5 remain in full force and effect except to the extent modified by this order.
 2. As used in this order, the “presiding judge” is the district judge who ordered that a grand jury be impaneled.
 3. A district judge may order the impaneling of a grand jury at any time during a calendar week unless the Administrative District Judge has determined on the Thursday prior to commencement of proceedings to impanel the grand jury:
 - a. The county in which the prospective grand jurors have been summoned has a seven-day moving average incidence rate of confirmed or presumed cases of COVID19 of 25.0 or greater per 100,000 population as reflected on the Cases by County page of the Idaho Department of Health and Welfare’s COVID-19 Data Dashboard available at www.coronavirus.idaho.gov;
- OR
- b. The county in which the prospective grand jurors have been summoned has a seven-day moving average incidence rate of confirmed or presumed cases of COVID19 of between 14.0 and 24.9 per 100,000 population and an upward or increasing 7-day trend as reflected by the Seven-Day Moving Average Incidence Rate on the Cases by County page of the Idaho Department of Health and Welfare’s COVID-19 Dashboard available at www.coronavirus.idaho.gov. An upward trend occurs when the seven-day moving average incidence rate for the current Thursday is higher than the seven-day moving average incidence rate for the prior Thursday;
 4. Notwithstanding the conditions set forth in paragraph two, an Administrative District Judge may, in the exercise of discretion, enter an order prohibiting the impaneling of a grand jury in a county where there are circumstances beyond the incidence rates which pose a substantial increase in the health or safety risks to grand jury participants. Such an

order shall be in writing and contain the factual basis for the determination and shall be submitted via email to the Administrative Office of the Courts.

5. If sufficient space to allow for adherence to safety requirements for prospective grand jurors or grand jurors is unavailable in the county courthouse, alternative locations with sufficient space may be utilized at the discretion of the Administrative District Judge for each district.
6. Each prospective grand juror shall be sent a COVID-19 Initial Screening Questionnaire for Prospective Grand Jurors which appears as Attachment A to this order. Prospective grand jurors must complete and return this questionnaire to the jury commissioner prior to appearing for proceedings to impanel a grand jury.
7. Any person sixty-five years of age or older is eligible to have grand jury service postponed for one year. *See Idaho Department of Health and Welfare, COVID-19 Guidance for Idaho Courtrooms and Juries: Public Health Risk Reduction Recommendations – June 29, 2020* (“Refrain from or consider refraining from calling on people who are 65 years of age or older for jury pools”).
8. The completed COVID-19 Initial Screening Questionnaire for Prospective Grand Jurors shall be available to the presiding judge.
9. Prospective grand jurors who report positive responses to any of the questions on the COVID-19 Initial Screening Questionnaire for Prospective Grand Jurors are eligible to have jury service postponed for one year.
10. Each time the grand jury meets, including during proceedings to impanel the grand jury, all persons entering the courtroom or designated facility shall be screened before entering. This screening shall include a noninvasive temperature check for temperature exceeding 100.3 degrees Fahrenheit and a series of questions regarding known exposures to COVID-19 and recent symptoms. For public health reasons, any persons demonstrating risk shall be denied entry to the courtroom or designated facility. The presiding judge shall be notified of any prospective grand juror or grand juror denied entry. Each county may determine the method by which court staff will notify the presiding judge. The health screening shall be in the form provided in Attachment B to this order.
11. All persons physically present in the courtroom or designated facility must remain a minimum of six feet away from all other persons at all times in the absence of permission from the presiding judge.
12. At all times, all persons in the courtroom or designated facility must wear a mask approved by the presiding judge unless that judge has granted an exception. In lieu of a face mask, with the permission of the presiding judge, a witness while testifying or an interpreter while interpreting may wear a face shield or be behind a transparent barrier so facial expressions and the mouth can be observed when speaking.
13. A verbatim record of all grand jury proceedings must be kept either by a certified court reporter or in the For the Record Software.
14. Access to hand sanitizer and bleach wipes must be available in any room in which grand jury proceedings are taking place. Access to a sanitation station, where hands can be washed with soap and water, must be available within the building.

15. Consistent with the Idaho Supreme Court Order of April 22, 2020, individuals who, in violation of these protocols, approach a grand juror or prospective grand juror, court services office, or other court participant, or are otherwise disruptive of the grand jury proceeding, or who enter a courthouse or designated facility where the grand jury is meeting in violation of these protocols, shall be denied access by anyone designated for courthouse security by the Administrative District Judge.
16. Any violation of this order may be dealt with through contempt proceedings set forth in Idaho Rule of Civil Procedure 75. Any violation witnessed by a judge may be addressed through summary contempt proceedings set forth in Rule 75(b).

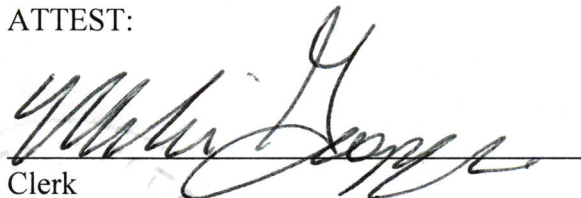
IT IS SO ORDERED.

DATED this 16 day of September, 2020.

By Order of the Supreme Court


Roger S. Burdick, Chief Justice

ATTEST:


Clerk

ATTACHMENT A

Date: _____

Juror # _____

COVID-19 initial screening questionnaire for prospective grand jurors

The virus that causes novel coronavirus disease (COVID-19) is primarily spread from person to person. Courtrooms are considered medium exposure risk environments. To help protect the health of Idahoans, an initial screening to determine eligibility to serve as a grand juror should be conducted. Answering the medical questions is solely for the purpose of determining whether a prospective grand juror can serve and the answers to the questions must be kept confidential.

1. Are you 65 years of age or older?

☐ No

☐ Yes

a. If yes, would you like your service to be postponed for one year?

☐ No

☐ Yes

2. Do you, or does anyone in your household, have any medical conditions that put you or a member of your household at high risk for COVID-19? Examples are, but are not limited to, chronic kidney disease, chronic obstructive pulmonary disease (COPD), immunocompromised (weakened immune system) from solid organ transplant, severe obesity (body mass index [BMI] of 30 or higher), serious heart condition (such as heart failure, coronary artery disease, or cardiomyopathies), sickle cell disease, or type 2 diabetes mellitus. [Note: COVID-19 is a new disease and this list is subject to change. Changes will be posted to <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html>.] Please explain:

a. If you answered yes to the above question, would you like your service to be postponed or would you like to remain as a prospective grand juror in your current month?

☐ No, keep me in my current month. I do not feel that my above listed condition will limit my ability to serve.

☐ Yes, please postpone my service for one year.

3. Are you a healthcare worker directly involved with the diagnosis, treatment, management, or care of patients who have or are suspected of having COVID-19? [Note: Healthcare workers include physicians, nurses, nursing assistants, emergency medical personnel, dental professionals and students, medical and nursing students, laboratory technicians, phlebotomists, pharmacists, therapists, hospital volunteers, and some administrative staff and environmental services staff.]

☐ No, keep me in my current month. I do not feel that my profession will limit my ability to serve.

☐ Yes, please postpone my service for one year.

If the answer to all of the above questions is NO, continue on to page 2.

4. Are you currently experiencing, any of the following symptoms?

- | | |
|---|--|
| <input type="checkbox"/> Chills | <input type="checkbox"/> New loss of taste or smell |
| <input type="checkbox"/> Cough | <input type="checkbox"/> Sore throat |
| <input type="checkbox"/> Shortness of breath/difficulty breathing | <input type="checkbox"/> Congestion or runny nose |
| <input type="checkbox"/> Fatigue | <input type="checkbox"/> Conjunctivitis ("pink eye") |
| <input type="checkbox"/> Muscle or body aches | <input type="checkbox"/> Nausea or vomiting |
| <input type="checkbox"/> Headache | <input type="checkbox"/> Diarrhea |

5. Do you feel feverish or have a temperature above 100°F? If a thermometer is available, please take your temperature before answering this question.

6. In the past 14 days, has **anyone in your household** tested positive for SARS-CoV-2 or COVID-19?

- ☐ No ☐ Yes

7. In the past 14 days, have you **been in close contact with anyone** else who has tested positive for COVID-19? Close contact means less than 6 feet apart for 15 minutes or more.

- ☐ No ☐ Yes

8. In the past 14 days, **have you tested positive** for SARS-CoV-2 or COVID-19 or been told by your health care provider that you might have COVID-19?

- ☐ No ☐ Yes

9. In the past 14 days, have you **been notified by your public health district** that you were or might have been in close contact with someone who tested positive for COVID-19?

- ☐ No ☐ Yes

10. Have you been tested for COVID-19 and are waiting to receive test results?

- ☐ No ☐ Yes

Return this completed questionnaire to the Jury Commissioner. You will be contacted by the Commissioner if there are any concerns about your service.

ATTACHMENT B

COVID-19 daily screening questionnaire for grand jurors

The virus that causes novel coronavirus disease (COVID-19) is primarily spread from person to person. To help protect the health of grand jurors and other people working at or visiting court facilities, grand jurors should be verbally screened for possible signs and symptoms of COVID-19. The questions below can be administered by telephone on the morning of the jury summons or in person prior to entering the court facility. If administering in person, both parties should wear a cloth face covering or facemask and precautions should be taken to ensure physical distancing or barrier protection. Answering the medical questions is solely for the purpose of determining whether a grand juror can serve and the answers to the questions must be kept confidential. The court may choose to use a touchless infrared thermometer upon arrival of a grand juror, but appropriate Personal Protective Equipment should be worn by the person checking temperatures. Note that temperature screening reduces, but does not eliminate, risk as not all people with COVID-19 have a fever.

1. Are you currently experiencing, any of the following symptoms?

- ☐ Chills
- ☐ Cough
- ☐ Shortness of breath or difficulty breathing
- ☐ Fatigue
- ☐ Muscle or body aches
- ☐ Headache
- ☐ New loss of taste or smell
- ☐ Sore throat
- ☐ Congestion or runny nose
- ☐ Conjunctivitis ("pink eye")
- ☐ Nausea or vomiting
- ☐ Diarrhea

2. Do you feel feverish or have a temperature above 100°F? If a thermometer is available, please take your temperature before answering this question. [Consider having the court offer thermometers to jurors as many households lack a thermometer for taking a person's temperature.]

The next questions (3-7) apply to the time since you were last here at court.

Since you were last here...

- 3. ... has anyone in your household tested positive for SARS-CoV-2 or COVID-19 or experienced any of the symptoms listed above?**
- 4. ... have you been in close contact with anyone other than a household member who has tested positive for SARS-CoV-2 or COVID-19?** Close contact means less than 6 feet apart for 15 minutes or more.
- 5. ... have you tested positive for SARS-CoV-2 or COVID-19 or been told by your health care provider that you might have COVID-19?**
- 6. ... have you been notified by your public health district that you were in close contact with someone who tested positive for SARS-CoV-2 or COVID-19?**
- 7. ... have you been tested for SARS-CoV-2 or COVID-19 and are waiting to receive test results?**

If the juror or prospective juror answers **yes** to any of the above questions, they should not enter the court facility and should promptly contact the jury commissioner for further instructions.