

IN THE DISTRICT COURT OF THE SIXTH JUDICIAL  
DISTRICT IN AND FOR THE STATE OF IDAHO

IN RE: PRELIMINARY HEARINGS.

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) Administrative Order 2020-03  
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The Idaho Supreme Court has issued an Order regarding the Governor's Proclamation declaring a State of Emergency concerning the operations of the courts within the State of Idaho. In consultation with the judges in the Sixth Judicial District, the following order is issued regarding preliminary hearings:

**Non-custodial defendants:**

1. All contested preliminary hearings set for non-custodial defendants are to be continued until after April 10, 2020.
  - a. Counsel are required to follow the protocol outlined in paragraph 3(a) and (b) with regard to the requirements of meeting and notification to the court.
2. All non-custodial defendants who wish to waive their preliminary hearing will appear telephonically or through video conferencing to enter such waiver.
  - a. Defense counsel shall be responsible for providing the court with a phone number where the defendant can be reached in order to conduct the hearing.
  - b. Counsel are required to follow the protocol outlined in paragraph 3(a) and (b) with regard to the requirements of meeting and notification to the court.

**In-custody defendants:**

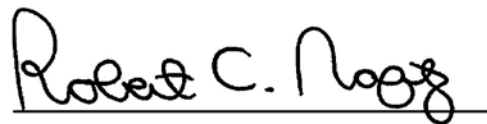
3. Unless an in-custody defendant waives their right to have their preliminary hearing beyond the 14-day requirement, the hearing will proceed as scheduled.
  - a. Prosecutors and defense attorneys are ordered to **meet and confer** at least **48 hours** prior to the scheduled preliminary hearing.
  - b. Defense attorneys **shall notify** the court at least **24-hours** in advance of the hearing whether the preliminary hearing will be waived or contested.
    - i. Failure to timely notify the court may result in the magistrate finding that extraordinary circumstances exist that require the continuance of the hearing.

- c. If the in-custody defendant chooses to waive his right to a preliminary hearing, then the magistrate shall conduct a hearing either telephonically or through video conferencing to accept the waiver.
- d. If the in-custody defendant chooses to contest the preliminary hearing then the defendant will be transported from the jail to the courthouse for the hearing.
  - i. If multiple contested preliminary hearings are scheduled during the same court session the following protocol will apply:
    1. All witnesses shall be notified that they are on stand-by to testify.
    2. Witnesses shall not enter the courthouse until they are notified by the prosecutor or defense attorney they are needed in the courtroom.
    3. Occupancy of the courtroom will be limited to:
      - a. Judge
      - b. Judicial assistant
      - c. Prosecutor
      - d. Defense attorney
      - e. Defendant
      - f. Testifying witness
      - g. Court Marshal/Bailiff
      - h. Court reporter (if required)

This Order does not otherwise limit the Magistrate's exercise of discretion with regard to preliminary hearings.

IT IS SO ORDERED.

DATED this 16<sup>th</sup> day of March, 2020.



ROBERT C. NAFTZ  
District Judge

cc:  
All Sixth District Prosecuting Attorneys  
All Sixth District Criminal Defense Attorneys  
All Sixth District Judges  
Kerry Hong, Sixth Judicial District Trial Court Administrator