

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

### **Idaho Criminal Rule 6.1. Prosecuting Attorney's Role with Grand Jury**

**(a) Attend Grand Jury Sessions.** The prosecuting attorney of the county in which the grand jury is sitting, or one or more deputies, or a special prosecuting attorney may attend all sessions of the grand jury, except during the deliberations of the grand jury after the presentation of evidence.

**(b) Powers and Duties.** The prosecuting attorney has the power and duty to:

- (1) present to the grand jury evidence of any public offense, however, when a prosecutor conducting a grand jury inquiry is personally aware of substantial evidence which directly negates the guilt of the subject of the investigation the prosecutor must present or otherwise disclose that evidence to the grand jury;
- (2) at the commencement of a presentation of an investigation to the grand jury, inquire as to whether there are any grounds for disqualification of any grand juror and advise the presiding juror of the possible disqualification of a juror;
- (3) list the elements of an offense being investigated by the grand jury, before, during or after the testimony of witnesses;
- (4) advise the grand jury as to the standard for probable cause, and tell them that if a person refuses to testify this fact cannot be used against him or her;
- (5) issue and have served grand jury subpoenas for witnesses;
- (6) present opening statements and/or instruct the grand jury on applicable law; and
- (7) prepare an indictment for consideration by or at the request of the grand jury.

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

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