

TITLE 19
CRIMINAL PROCEDURE

CHAPTER 10
FORMATION OF GRAND JURY

19-1001. CHALLENGE -- BY WHOM MADE. The people, or a person held to answer a charge for a public offense, may challenge the panel of a grand jury, or an individual juror.

[(19-1001) Cr. Prac. 1864, sec. 177, p. 235; R.S., R.C., & C.L., sec. 7607; C.S., sec. 8771; I.C.A., sec. 19-901.]

19-1002. GROUNDS FOR CHALLENGE TO PANEL. A challenge to the panel may be interposed for one or more of the following causes only:

1. That the requisite number of ballots was not drawn from the jury box of the county.
2. That notice of the drawing of the grand jury was not given.
3. That the drawing was not had in the presence of the officers designated by law.

[(19-1002) Cr. Prac. 1864, sec. 178, 235; R.S., R.C., & C.L., sec. 7608; C.S., sec. 8772; I.C.A., sec. 19-902.]

19-1003. GROUNDS FOR CHALLENGE TO INDIVIDUAL JURORS. A challenge to an individual grand juror may be interposed for one or more of the following causes:

1. That he is a minor.
2. That he is an alien.
3. That he is insane.
4. That he is a prosecutor upon a charge against the defendant.
5. That he is a witness on the part of the prosecution, and has been served with process or bound by an undertaking as such.
6. That he has formed or expressed an unqualified opinion or belief that the defendant is guilty or not guilty of the offense charged; but a hypothetical opinion, founded on hearsay or information supposed to be true, unaccompanied with malice or ill will, shall not disqualify a grand juror or be a cause of challenge.
7. That a state of mind exists on his part in reference to the case, or to either party, which satisfies the court that he cannot act impartially and without prejudice to the substantial rights of the party challenging.

[(19-1003) Cr. Prac. 1864, sec. 179, 235; R.S., R.C., & C.L., sec. 7609; C.S., sec. 8773; I.C.A., sec. 19-903.]

19-1004. FORM OF CHALLENGE. The challenges mentioned in the last three sections may be oral, or in writing, and must be tried by the court.

[(19-1004) Cr. Prac. 1864, sec. 180, 235; R.S., R.C., & C.L., sec. 7610; C.S., sec. 8774; I.C.A., sec. 19-904.]

19-1005. DECISION UPON CHALLENGE. The court must allow or disallow the challenge, and the clerk must enter its decisions upon the minutes.

[(19-1005) Cr. Prac. 1864, sec. 181, 235; R.S., R.C., & C.L., sec. 7611; C.S., sec. 8775; I.C.A., sec. 19-905.]

19-1006. CHALLENGE TO PANEL -- EFFECT OF ALLOWANCE. If a challenge to the panel is allowed the grand jury are prohibited from inquiring into the charge against the defendant, by whom the challenge was interposed. If, notwithstanding, they do so, and find an indictment against him, the court must direct it to be set aside.

[(19-1006) Cr. Prac. 1864, sec. 182, p, 235; R.S., R.C., & C.L., sec. 7612; C.S., sec. 8776; I.C.A., sec. 19-906.]

19-1007. CHALLENGE TO INDIVIDUAL -- EFFECT OF ALLOWANCE. If a challenge to an individual grand juror is allowed he can not be present or take part in the consideration of the charge as to which he was challenged against the defendant who interposed the challenge, or the deliberations of the grand jury thereon. The grand jury must inform the court of a violation of this section, and it is punishable by the court as a contempt.

[(19-1007) Cr. Prac. 1864, secs. 183, p. 235, 184; R.S., R.C., & C.L., sec. 7613; C.S., sec. 8777; I.C.A., sec. 19-907.]

19-1008. MANNER OF FILLING PANEL AFTER SUSTAINING CHALLENGE. If more than three challenges to individual grand jurors are allowed to the same defendant in reference to the same charge, the court must fill the panel to sixteen as to that charge by causing a sufficient number of competent jurors from those summoned and not before called, or if a sufficient number are not in attendance, then from the bystanders or from the body of the county to be sworn to act as jurors with the regular panel, upon the examination of that charge; and, if necessary to secure the full number of sixteen competent jurors, the court may require the sheriff to summon the required number.

[(19-1008) R.S., R.C., & C.L., sec. 7614; C.S., sec. 8778; I.C.A., sec. 19-908.]

19-1009. OBJECTIONS MUST BE BY CHALLENGE. A person held to answer to a charge for a public offense can take advantage of any objection to the panel or to any individual grand juror in no other mode than by challenge.

[(19-1009) Cr. Prac. 1864, sec. 185, p. 235; R.S., R.C., & C.L., sec. 7615; C.S., sec. 8779; I.C.A., sec. 19-909.]

19-1010. APPOINTMENT OF FOREMAN. From the persons summoned to serve as grand jurors and appearing, the court must appoint a foreman. The court must also appoint a foreman when the person already appointed is excused or discharged before the grand jury is dismissed.

[(19-1010) Cr. Prac. 1864, sec. 186, p. 235; R.S., R.C., & C.L., sec. 7616; C.S., sec. 8780; I.C.A., sec. 19-910.]

19-1011. OATH OF FOREMAN. The following oath must be administered to the foreman of the grand jury:

You, as foreman of the grand jury, will diligently inquire into and true presentment make, of all public offenses against the state of Idaho, com-

mitted or triable within this county, of which you shall have or can obtain legal evidence. You will keep your own counsel, and that of your fellows, and of the government, and will not, except when required in the due course of judicial proceedings, 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. You will present no person through malice, hatred, or ill will, nor leave any unrepresented through fear, favor or affection, or for any reward or the promise or hope thereof; but in all your presentments you will present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding, so help you God.

[(19-1011) Cr. Prac. 1864, sec. 187, p. 236; R.S., R.C., & C.L., sec. 7617; C.S., sec. 8781; I.C.A., sec. 19-911.]

19-1012. OATH OF JURORS. The following oath must be immediately thereupon administered to the other grand jurors present:

The same oath which your foreman has now taken before you on his part, you and each of you shall well and truly observe on your part, so help you God.

[(19-1012) Cr. Prac. 1864, sec. 188, p. 236; R.S., R.C., & C.L., sec. 7618; C.S., sec. 8782; I.C.A., sec. 19-912.]

19-1013. CHARGE TO JURY. The grand jury being impaneled and sworn, must be charged by the court. In doing so, the court must give them such information as it may deem proper, or as is required by law, as to their duties, and as to any charges for public offenses returned to the court or likely to come before the grand jury.

[(19-1013) Cr. Prac. 1864, sec. 189, p. 236; R.S., R.C., & C.L., sec. 7619; C.S., sec. 8783; I.C.A., sec. 19-913.]

19-1014. RETIREMENT AND DISCHARGE OF JURY. The grand jury must then retire to a private room and inquire into the offenses cognizable by them. On the completion of the business before them, they must be discharged by the final adjournment of the court.

[(19-1014) Cr. Prac. 1864, secs. 190, 191, p. 236; R.S., R.C., & C.L., sec. 7620; C.S., sec. 8784; I.C.A., sec. 19-914.]

19-1015. SPECIAL GRAND JURY. If an offense is committed during the sitting of the court, after the discharge of the grand jury, the court may, in its discretion, direct an order to be entered that the sheriff summon another grand jury.

[(19-1015) Cr. Prac. 1864, sec. 192, p. 236; R.S., R.C., & C.L., sec. 7621; C.S., sec. 8785; I.C.A., sec. 19-915.]

19-1016. SPECIAL GRAND JURY -- CONTENTS AND DELIVERY OF ORDER. The order must require the sheriff to summon twenty persons, qualified to serve as grand jurors, to appear at a time specified, and a copy thereof, under the seal of the court, must, by the clerk be delivered to the sheriff.

[(19-1016) Cr. Prac. 1864, sec. 193, p. 236; R.S., R.C., & C.L., sec. 7622; C.S., sec. 8786; I.C.A., sec. 19-916.]

19-1017. SPECIAL GRAND JURY -- EXECUTION AND RETURN OF ORDER. The sheriff must execute the order and return it, with a list of names of the persons summoned.

[(19-1017) Cr. Prac. 1864, sec. 194, p. 236; R.S., R.C., & C.L., sec. 7623; C.S., sec. 8787; I.C.A., sec. 19-917.]

19-1018. DRAWING OF SPECIAL JURY. At the time appointed the list must be called over, and the names of those in attendance be written by the clerk on separate ballots and put into a box, from which a grand jury must be drawn.

[(19-1018) Cr. Prac. 1864, sec. 195, p. 236; R.S., R.C., & C.L., sec. 7624; C.S., sec. 8788; I.C.A., sec. 19-918.]