



OFFICE OF THE DISTRICT ATTORNEY
JACKSON COUNTY, OREGON
BETH HECKERT

Grand Jury Orientation Guide

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GRAND JURY GUIDE

I. INTRODUCTION

The grand jury is a group of seven people chosen at random from the larger pool of jurors called to service by the Circuit Court for Jackson County. The function of the grand jury is to make inquiries into crimes which were committed or are triable within Jackson County.

The grand jury listens to evidence presented by the District Attorney's Office in an effort to determine whether or not the person accused has committed a crime within Jackson County. If after hearing the case presented the grand jury is convinced that there is sufficient evidence, an indictment is returned. The indictment is the formal document charging an individual with the commission of a crime. A minimum of five members of the grand jury must agree to return an indictment.

Recording

The Oregon Statute states "The district attorney shall delegate the recording of grand jury proceedings to a grand juror and shall provide instruction to the grand juror concerning the audio electronic recording equipment and requirements of the recording". The grand juror shall record all testimony given before the grand jury including the case name and number, the name of each witness appearing before the grand jury and each question asked of, and each response by, a witness appearing before the grand jury.

At the end of hearing testimony on each matter, you will have to make your decision based on what you recall of the evidence. You will not have a written transcript to consult. Listening to recorded testimony is not possible.

The grand juror may not record the deliberations or voting of the grand jury. The grand juror may not record the information provided for a subpoena duces tecum.

If you are selected to operate the recording equipment, further instruction will be provided on the first day. Please arrive at 8:45 on the first day for instruction on the equipment. The statute also provides that a failure of an audio electronic recording device to record or the failure of a grand juror to operate the device in a manner that records the proceedings does not affect the validity of any prosecution or indictment.

Cell Phone, PDAs, laptops and other personal electronic devices

All cell phones, PDA's, laptops and other personal electronic devices must be turned off while you are in grand jury session and deliberations. Do not make any independent personal investigation into any facts or locations connected to the cases. Do not communicate any private or special knowledge about any of the facts of these particular cases to your fellow jurors. Do not use any map program or mapping system to attempt to view or locate any of the locations that may be discussed in the cases.

II. GENERAL INFORMATION

Jackson County utilizes four separate grand juries, which meet on Tuesday, Wednesday, Thursday and Friday. Sessions begin at 9:00 a.m. (**grand jurors should arrive by 8:55**), and are held at the District Attorney's Office, which is located at **815 West 10th Street, Medford.**

While every effort is made by the District Attorney's Office to keep the grand jury sessions as short as possible, sometimes a session will last until late afternoon because of the number of crimes committed during the preceding week.

Present at every sitting of the grand jury is the District Attorney or a Deputy District Attorney whose role is to advise the grand jury in relation to its duties and to examine witnesses. One or more of the following attorneys may conduct sessions of the grand jury:

District Attorney: Beth Heckert
Chief Deputy: Jeremy Markiewicz
Deputies:

| | |
|--------------------|------------------|
| Allan Smith | Alyssa Claseman |
| Terry Smith-Norton | Lucy Durst |
| Carmel Zahran | Kelly Hager |
| Ginger Greer | Melissa LeRitz |
| Zori Cook | Nick Geil |
| Ruby Herriott | Patrick Green |
| Benjamin Lull | Michael Cohen |
| Robin Klein | Samantha Olson |
| Matthew Anderson | Jordan Bailey |
| Sara Shaw | Elizabeth Girdan |

The average term of service for the grand jury in Jackson County is eight weeks. A grand juror is expected to attend every meeting of the grand jury to which the juror is assigned. If during the term a grand juror needs to be excused because of illness or an emergency, please contact Cynthia Ruthel at the Circuit Court Clerk's office **as soon as possible, 776-7171, extension 127 (or if no answer Kathy at ext. 6325, Cynthia at ext. 6695 or Beth at ext. 6197).** **Someone must tell you that you have been excused.** Please keep in mind that once a grand juror has been excused, that juror is removed from the grand jury panel for the remainder of the term and an alternate will be appointed to serve until the term's end.

III. CLASSIFICATIONS OF CRIME

Generally, there are two classes of crimes:

1. **Felonies:** those criminal acts which are punishable by incarceration for more than a year, in addition to any monetary fine imposed by the court.
 - a. In Oregon, maximum prison sentences range from five years for less serious felonies to twenty years for the most serious.
 - b. In cases of murder, the punishment is life imprisonment, except in cases of aggravated murder wherein the penalty may be death, or life without possibility of parole, or life with the possibility of parole.
2. **Misdemeanors:** those criminal acts which are punishable by incarceration in the county jail for a year or less, in addition to any monetary fine imposed by the court. Maximum sentences for these crimes range from thirty days to one year.

Both felonies and misdemeanors are further subdivided into Class A, B and C crimes. Class A felonies are more serious than Class B felonies. Class C felonies are more serious than Class A misdemeanors.

For the most part, grand jury inquiry is limited to felony cases. However, some misdemeanors will be presented in those cases in which they occur during the commission of a felony.

IV. LEGAL DEFINITIONS

Mental States:

For each crime charged, it is necessary to show that the defendant had a particular mental state to commit the crime. They are classified as follows:

1. **Intentionally:** the defendant acted with the objective of causing a particular result or to engage in particular conduct.
2. **Knowingly:** the defendant acted with an awareness that his/her conduct was of a particular nature or that a particular circumstance exists.
3. **Recklessly:** the defendant was aware of and consciously disregarded a substantial and unjustifiable risk, either that a particular result would occur or that a particular circumstance existed. Disregarding the risk must be a gross deviation from the standard of care that a reasonable person would observe in a similar situation.
4. **Criminal Negligence:** the defendant failed to be aware of a substantial or unjustifiable risk that a particular result would occur or that a particular circumstance existed. The risk must be of such nature and degree that failure to be aware of it constitutes a gross deviation from the standard of care a reasonable person would exercise in a similar situation.

Very often, the severity of the crime depends upon the mental state which is alleged. Crimes which are committed intentionally or knowingly are viewed as being more serious than those committed recklessly or with criminal negligence. For example, a homicide which is committed intentionally is murder, while those not committed intentionally range from manslaughter to criminally negligent homicide.

Weapons:

As with mental states, the use of a weapon during the commission of an offense may enhance the severity of the crime. Oregon law provides two definitions or categories of weapons:

1. **Dangerous weapons:** any instrument which under the circumstances it is used is readily capable of causing death or serious physical injury. Examples: knives, daggers, clubs, baseball bats, hammers, automobiles.
2. **Deadly weapons:** any instrument specifically designed for and presently capable of causing death or serious injury. Examples: handguns, rifles, bombs, hand-grenades.

The distinction between the two types of weapons is whether a given weapon was specifically designed to kill. If so, it is a deadly weapon. If it is not so specifically designed, but nonetheless could be used to kill or seriously injure a person, it is a dangerous weapon.

Injury:

1. **Serious physical injury:** physical injury which creates a substantial risk of death or which causes protracted disfigurement, impairment of health or a loss or impairment of a limb or any bodily organ.
2. **Physical injury:** impairment of physical condition or substantial pain.

V. OATHS AND INSTRUCTIONS

Grand Juror's Oath

ORS 132.060 provides that before the members of the grand jury enter upon the discharge of their duties, the following oath must be administered to them by or under the direction of the court:

You, as grand jurors for the County of Jackson, do solemnly swear that you will diligently inquire into, and true presentment or indictment make, of all crimes against this state committed or triable within this county that shall come to your knowledge; that you will keep secret the proceedings before you, the counsel of the state, your own counsel and that of your fellows; that you will indict no person through envy, hatred or malice nor leave any person not indicted through fear, favor, affection or hope of reward; but that you will indict upon the evidence before you according to the truth and the laws of this state, so help you God.

Witness Oath

ORS 132.100 requires that before a witness is allowed to testify before the grand jury the presiding juror of the grand jury or, in the absence of the presiding juror any other grand juror, shall administer an oath to any witness appearing before the grand jury.

The following form of oath or affirmation may be used to swear in a witness before the grand jury: **"Under penalty of perjury, do you solemnly swear or affirm that the evidence you shall give in the matter now pending shall be the truth, the whole truth and nothing but the truth?"**

Instructions of the Court

At the beginning of each term, the court instructs the grand jurors in their obligations, duties and powers.

The grand jury may inquire into crimes committed or triable in this county which shall come to their knowledge and present them to the court, either by presentment or indictment as provided by law.

You must not indict any person through envy, hatred or malice, nor leave any person not indicted through fear, favor, affection or hope of reward. You must indict according to the truth upon the evidence before you and the laws of this state.

Before you meet to hear cases, the court will appoint one of your numbers as presiding juror of the grand jury.

The presiding juror of the grand jury will administer an oath to any witness appearing before the grand jury and any other grand juror may administer the oath in his or her absence.

In the investigation of a charge for the purpose of indictment, you shall receive no evidence other than such as might be given on the trial of a person charged with the crime in question. The District Attorney will assist you on this phase of the investigation.

A report or a copy of a report made by an expert or technician in any scientific or professional field, shall, when certified by such person as a report made by him/her or as a true copy thereof, be received in evidence in the grand jury proceeding.

You are not bound to hear evidence for the defendant or the person under investigation. You are to weigh all the evidence submitted to you and, when you have reason to believe that other evidence within your reach will explain away any charge, you should order such evidence to be produced, and for that purpose you may require the District Attorney to issue process requiring the attendance of the witnesses before you.

The District Attorney may submit an indictment to the grand jury in any case when she has good reason to believe that a crime has been committed which is triable within the county and she is to attend your sittings, to advise you in relation to your duties or to examine witnesses in your presence, but no person other than the District Attorney or a

witness actually under examination can be allowed to be present during the sittings of the grand jury. Upon a motion filed by the District Attorney in this court, the judge may appoint a court recorder to attend the sittings of the grand jury to take and report the testimony in any matters pending before the grand jury. Upon order of this court for the proper examination of a witness appearing before the grand jury, an interpreter, guard, a medical attendant or a nurse may be appointed to be present in the grand jury room and shall attend such sittings. No person other than a member of the grand jury shall be present when the grand jurors are deliberating or when you are voting upon a matter before you. You must see that when you are deliberating or voting upon a matter before you that no one other than a member of the grand jury is present at such time.

An indictment cannot be found without the concurrence of at least five grand jurors who have heard all the testimony relating to the person indicted and when so found it must be endorsed "A True Bill" and such endorsement must be signed by the presiding juror of the grand jury.

When a person has been held to answer a criminal charge in this court and the indictment in relation thereto is not found "A True Bill", it must be endorsed "Not a True Bill" and this endorsement must be signed by your presiding juror and filed with the clerk, and remain a public-record; in the case of an indictment not found "A True Bill", against a person not held to answer, the same together with the minutes of the evidence in relation thereto, must be destroyed by the grand jury.

When an indictment is found, the names of the witnesses examined before the grand jury that returned the indictment and the names of those whose reports were received by the grand jury must be inserted at the foot of the indictment, or endorsed thereon, before it is filed with the clerk. The endorsement must show whether the witnesses gave testimony before the grand jury or filed a report. If the indictment be for a misdemeanor only, and any witness has voluntarily appeared before the grand jury to complain of the defendant, the name of the person so appearing must be marked or designated as private prosecutor.

As previously indicated, an indictment, when found by the grand jury, must be filed with the clerk and remain in her office as a public record. Until after the arrest of a defendant who has not been held to answer the charge, a confidential indictment or any order or process in relation thereto must not be inspected by any person other than the judge, the clerk of the court, the District Attorney or a peace officer in the discharge of a duty concerning the indictment, order or process.

No grand juror, reporter or other person except the District Attorney or a peace officer in the exercise of his/her duties in effecting an arrest shall disclose any fact concerning any indictment while it is not subject to public inspection and a violation of this is punishable as a contempt.

If an individual grand juror knows, or has reason to believe, that a crime has been committed which is triable in this county, he or she must disclose the same to the other

jurors who may thereupon investigate the same. An indictment or presentment, however, must not be found upon the statement of the grand juror unless he or she be sworn and examined as a witness. A grand juror who testifies as a witness before the grand jury shall not vote on the indictment nor be present during the deliberations thereon.

When the grand jurors are in doubt as to whether the facts, as shown by the evidence before them, constitute a crime in law, or whether the same has ceased to be punishable by reason of lapse of time or a former acquittal or conviction, the grand jury may make a presentment of the facts to the court without mentioning the names of individuals and ask the court to instruct them concerning the law arising thereon. A presentment is made to the court by the presiding juror in the presence of the grand jury and with the concurrence of five of their number who have heard all the testimony relating to the facts presented. The presentment is not to be filed or preserved beyond the sitting of the grand jury.

The grand jury may find an indictment when all the evidence before them taken together is such as in their judgment, if unexplained or uncontroverted, would warrant a conviction by a trial jury.

In addition to your duties as to inquiring into the commission of crimes triable in this county, the grand jury at least once a year must inquire into the condition and management of every correctional facility which includes every place used for the confinement of persons charged with or convicted of a crime or otherwise confined under court order in the county.

The grand jury shall be entitled to free access at all reasonable times to the correctional facilities in the county and shall have, without charge, access to all public records in the county pertaining thereto.

The grand jurors shall issue no reports other than a report of their inquiry into the condition and management of the correctional facilities in the county.

A grand juror cannot be questioned for anything he or she may say or any vote he or she may give, while acting as a grand juror, in relation to any matter legally pending before the grand jury, except for a perjury or false swearing of which he or she may have been guilty of in giving testimony before such jury.

When you retire, the first matter for you to do is to appoint one of your number as clerk and it is the duty of the clerk to keep the minutes of your proceedings (except the votes of the individual jurors) and of the substance of the evidence given to you.

Grand Jury Parking

Grand jurors may park in the main lot of the District Attorney's Office.

SAMPLE

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**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF JACKSON**

| | | |
|-------------------|---|-----------------------|
| STATE OF OREGON, |) | |
| Plaintiff, |) | |
| |) | INDICTMENT |
| vs. |) | |
| |) | |
| GEORGE WASHINGTON |) | Court No. 15CR0000001 |
| Defendant |) | |

The Defendant is accused by the Grand Jury for Jackson County of the following offenses:

Count 1: CRIMINAL MISCHIEF IN THE FIRST DEGREE
 (FSG= 03; C Felony; ORS 164.365)

Count 2: THEFT IN THE THIRD DEGREE
 (C Misdemeanor; ORS 164.043)

committed as follows:

COUNT 1 CRIMINAL MISCHIEF IN THE FIRST DEGREE

The defendant, on or about January 26, 1742, in Jackson County, Oregon did unlawfully and with intent to damage property, destroy a cherry tree, in an amount exceeding one thousand dollars, the property of George Washington, Sr., defendant having no right to do so nor reasonable grounds to believe that defendant had such right.

COUNT 2 THEFT IN THE THIRD DEGREE

The defendant, on or about January 26, 1742, in Jackson County, Oregon, did unlawfully and knowingly commit theft of cherries, of the total value of less than one hundred dollars, the property of another.

All of the above-described conduct being contrary to the statutes in such cases made and provided, and against the peace and dignity of the State of Oregon.

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JACKSON COUNTY DISTRICT ATTORNEY
Criminal Division • 815 West 10th St.
Medford, OR 97501 • (541) 774-8181

1 Dated at Medford, Oregon, in the County aforesaid, July 6, 1742.
2 The following witnesses appeared in person unless otherwise noted:
3 B. Franklin, MFS
4 Aaron burr, OSP Crime Lab, by report

Deputy District Attorney

True Bill _____

Not True Bill _____

Presiding Grand Juror

8 Beth Heckert
9 District Attorney
10 Oregon State Bar No. 872472

11 Arresting Agency Case #: / /
12 District Attorney Case #: 286690

13 SID# FBI# OLN# OR/

14 IDENTIFIERS: / Ht: Wt: Hair: Eyes:

15 DOB: 02/22/1732



(SAMPLE)
GRAND JURY
Tuesday, May 1, 2018

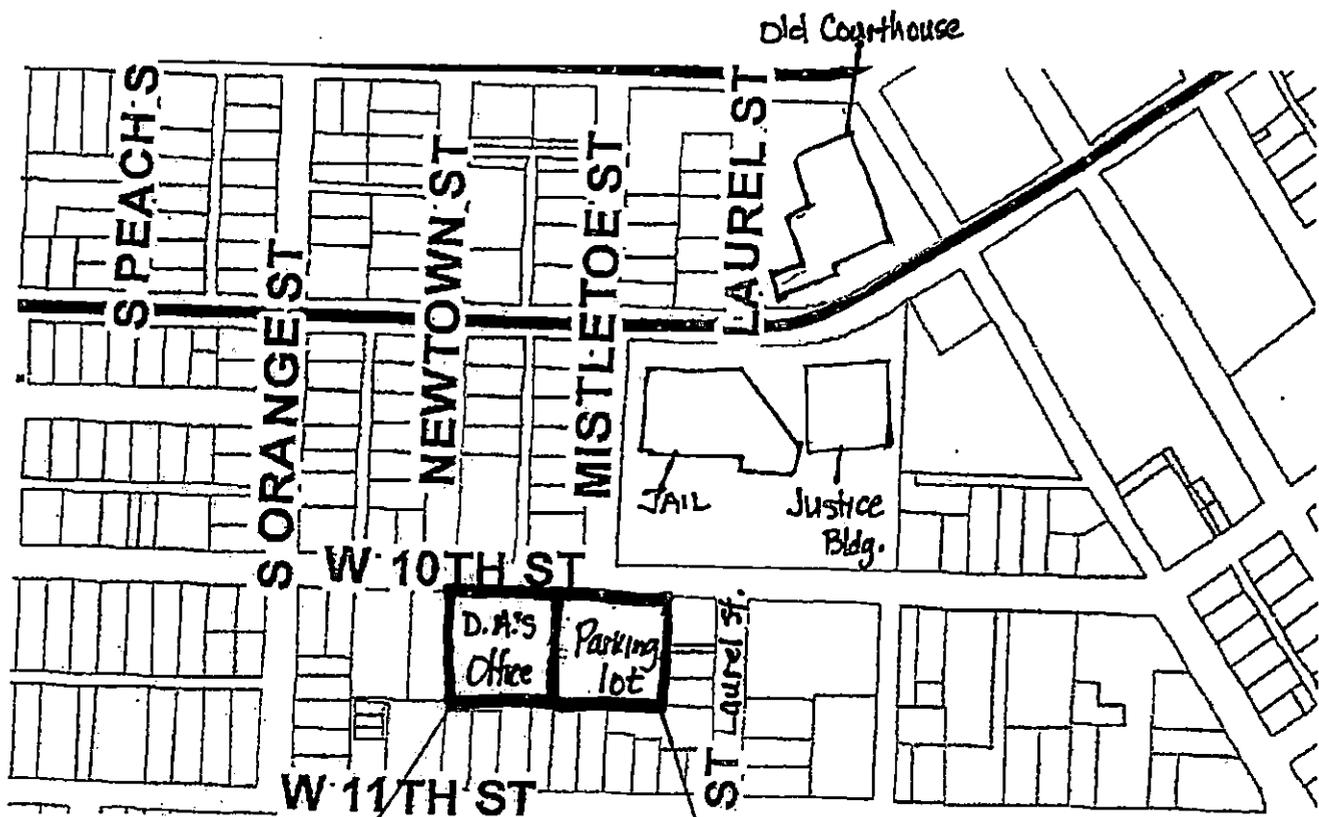
09:00 AM Jason Michael Smith 18CR000001
Unlawful Possession of Methamphetamine
287001 MFP 180016298/ZDC
John Jones, Medford Police Department
Jane Citizen
1001 2nd Street, Medford, Oregon

CO-DEFENDANT CASE

09:20 AM **Steven Allen Martin** 18CR000003
Theft in the First Degree
Burglary in the First Degree
287003 MFO 180016423/LC
Greg Wright, Oregon State Police
Joe Citizen ****TO TESTIFY BY SKYPE****
222 Main Street, Medford, Oregon

Sally Jane Moore 18CR000004
Theft in the First Degree
287004 MFO 150016423/LC

09:40 AM Tom Smith, MFP, to get subpoena Duces Tecum MFP18-2304



District Attorney's Office
815 W. 10th, Medford

Parking lot