

GRAND JURY INSTRUCTION #1

LADIES AND GENTLEMEN OF THE GRAND JURY:

You have been summoned to serve as grand jurors in a matter involving the death of _____, which occurred on or about _____, in _____ County, Nebraska.

Normally all investigations and decisions to prosecute or not prosecute individuals are the duty of the county attorney and deputies. In this case, [Neb. Rev. Stat. § 29-1401\(4\)](#) provides that the district court shall call a grand jury in any case where an individual has died while in custody of a law enforcement officer or detention personnel.

_____ will act as your legal advisor and will initially interrogate all witnesses who appear before the grand jury. Each of you as jurors will have the right to question witnesses if you desire, and through your foreperson you may request that additional witnesses not subpoenaed by the special prosecutor be called to appear before the grand jury for interrogation. You also have the right to request the production of documents or other evidence that you feel will be helpful to your investigation.

It is for you, the grand jury, to decide if anyone has violated any criminal statutes of the State of Nebraska in regard to these deaths.

You have the right pursuant to [Neb. Rev. Stat. § 29-1417](#) to visit the _____ County Jail and examine its condition. You are informed of rules, plans, or regulations established by the Jail Standards Board pursuant to [Neb. Rev. Stat. § 47-108](#).

An indictment is a formal accusation made against an individual charging that individual with a crime and "a true presentment" is the formal written charge of the indictment or what is called a "true bill". Your decision not to indict, for whatever reason, would result in "no true bill" of indictment being filed. In order for you to hand down a "true bill" of indictment there must be an affirmative vote of twelve or more members of the grand jury, determining, based on the evidence presented before you, that there is probable cause for finding an indictment or indictments and determining the violations to be included in an indictment or indictments, if any.

You may not return any indictment for perjury unless at least two witnesses to the same fact present evidence establishing probable cause to return such indictment. This is not to indicate that the court feels that perjury exists. The court is required by law to advise you as to the requirements for an indictment for perjury.

Your oath requires secrecy on your part. Therefore, you will not discuss any evidence, discussions, deliberations, opinions or statements made during the course of the grand jury proceedings to anyone at any time now or in the future, unless called upon to do so in a court of law. Further in this regard, you should avoid any discussion whatsoever dealing with the grand jury or its investigation. You should avoid any associations during the term of the grand jury which would or could influence you in your decisions as a grand juror. You should conduct yourself so that there is not even an appearance of impropriety. If any person attempts to contact you or influence you during the grand jury term, notify the bailiff or the court immediately, and the court will take proper action. In order for you to review your oaths, they are attached to these instructions.

A court reporter has been appointed to take down the testimony during your proceedings. The court reporter will not be present during your deliberation and vote.

The clerk of the district court will issue any subpoena or subpoena duces tecum that you or the special prosecutor requests. The clerk of the district court will administer the oath to all witnesses and provide them a certificate to be handed to the foreperson when the witness enters the grand jury room. If a witness refuses to testify, the fact of the refusal and the question or questions the witness refuses to answer and the reason for the refusal shall be communicated to the court and the court will deal with any such situation. _____ shall act as your bailiff, and he/she will provide communications you need to make with the court or others.

You are now officers of the court and have one of the highest duties and gravest responsibilities of citizenship. You must act fairly and impartially and not be swayed by any emotion. You should not be influenced by anything but the evidence. No prejudice or hate or fear or favor should influence you. You must use your common sense in reaching any conclusions and determining if you should indict or not indict. You are limited in your investigation to criminal acts, not civil wrongs or errors of judgments or policy decisions. You should bear in mind that the evidence you hear will be almost solely that of the prosecution and any person indicted will be brought to trial before a jury. It is important that you return indictments only where the evidence presented to you is clear and convincing.

You are forbidden from disclosing that any indictment has been found, if you so find, until it is filed in the district court.

Three of you have been selected as alternate jurors. They are:

_____ Alternate Juror #1
_____ Alternate Juror #2
_____ Alternate Juror #3

The alternates may question witnesses, review evidence, and participate in all discussion of the grand jury until the grand jury decides that no other evidence is necessary. At that time the alternates shall be separated from the regular grand jurors and shall take no active part in the deliberations or voting of the grand jury unless one or more of the regular grand jurors has been excused. The alternates shall fill vacancies in the order of their selection.

You may adjourn from time to time as you see fit until you have concluded your grand jury investigation.

_____ has been appointed foreperson of the grand jury by the court.

All communications with the court, clerk of the district court, bailiff, special prosecutor or any other person shall be through the foreperson.

Keep in mind throughout these proceedings your obligations of secrecy and also the grave responsibility placed upon you. Your power is great, but such power must be exercised with care. Your obligation is to see that justice is done, and you should be mindful that the grand jury is designed not only to bring to trial those who are accused, but also to protect those that are innocent.

You will keep the file in this proceeding and these instructions with you during your sessions and return them to the clerk of the district when not in session. In addition to your decision whether to indict or not indict, you may also issue a written report of the facts and circumstances surrounding this incident, and whether the decedent's death was accidental or suicide.

Pursuant to [Neb. Rev. Stat. § 29-1406\(2\)\(g\)\(i\)](#) if a "No True Bill" is returned, a Grand Jury Report shall be created and filed with the clerk of the district court.

Dated: _____

BY THE COURT:

Judge of the District Court