

FORMS UNDER THE MASONIC PENAL CODE

The Penal Code should be carefully studied and complied with in the instituting of a trial, the conduct thereof, and in reporting thereon to the Grand Lodge.

Initial Action:

First. Masonic Offenses. (Section 2101)

Second. Charges. (Section 2401) Written Charges (so far as proper to be written) shall be filed with the Master. **(See Item 23, Paragraph 3, herein)**

Third. Charges, Who May Prefer. (Section 2402)

Fourth. Duties of Lodge Officers. (Section 2501) Master and Wardens shall determine whether or not the allegations are sufficient Masonic offenses.

Fifth. Charges Read in Lodge. (Section 2503) After Charges have been approved by the Master and Wardens (as to their sufficiency and regularity) the Secretary shall read them in open Lodge at the first Stated Communication thereafter.

Sixth. Notification to Grand Master. (Section 2501) After Charges have been read in open Lodge, the Master shall notify the Grand Master.

Seventh. Grand Master Appoints Commission. (Sections 2301 and 2302) Fixes the date, hour and place for trial.

Eighth. Grand Master shall notify the Commission members, and the Master, of the date, hour, and place for trial. (Section 2302)

Ninth. Other Duties of Master. (Section 2501) The Master shall exercise extreme care that he performs all duties required of him prior to the trial. **(Arranging for a trial reporter is mandatory.)** He shall see that a true and correct copy of the charges be sent to the Chairman of the Commission prior to the trial.

Tenth. Accused Must Be Notified. (Section 2601) **(In person, unless otherwise authorized.)**

a. To prepare Summons **(See Form No. 5.)** Form of Summons.

b. There is no requirement that Counsel must be an Attorney at Law, although an Attorney at Law may, and often does, serve as Counsel.

c. If the Charges are filed by one Mason against another, and the burden of proof thereby rests with the accuser rather than with the Lodge, the accuser shall also be given instructions as to the date, hour and place of trial, and appropriate guidance concerning lawful counsel to assist him.

(Accuser should be informed that the burden of proof rests with him, and that he may plea his own cause, select Counsel to represent him, or he may appear with Counsel of his choice; provided however, that any Counsel he may select must be a Master Mason in good standing, and a member of an Idaho Lodge.)

Eleventh. Certificate of Service. (Form No. 6-or Form No. 7) (Sec. 2601) Personal Service is required unless Service by Certified Mail is authorized by the Grand Master.

Twelfth. Answer from Accused. If the accused does not respond as directed in the Summons, or the Master has any reason to believe that the accused or his Counsel may not appear at trial, the Master shall appoint Counsel for the defense.

(Only Master Masons in good standing may appear as Counsel.)

At the Trial: Procedures and Rules for Commission and Counsels.

(Chairman of the Commission, or Commission Chairman, is hereinafter referred to as "Chairman")

Master shall: (On date, prior to hour, at place of trial)

- a. Arrange hearing chambers providing for the needs of the Commission, Counsel and the accused, Master or accuser and Counsel, reporter (stenographer), and a seat from which witnesses may testify.
- b. Hand a true copy of the charges to the Chairman, and also to the reporter.

Chairman shall: (prior to calling Commission to Order)

Designate a member of the Commission to read charges when called for, and another to administer the Oath to any non-Masons who may be called to testify.

Thirteenth: At the appointed hour for trial, Chairman shall call the Commission to order as follows:

Chairman: "Brethren, this Commission appointed by the M.W. Grand Master is now called to order. The Worshipful Master of _____ Lodge No. _____ will designate the trial reporter for these proceedings." (done)

Chairman: "Brother _____, as the reporter of record for these proceedings, you will record all evidence taken, together with the actions of this Commission, and within thirty days hereafter deliver a written transcript in the approved form to _____ Lodge No. _____, A.F.&A.M. of Idaho."

Chairman: "Let the record show that Brothers _____, _____, _____, _____, and _____, members of this Commission are present."

Chairman: "Brethren, this Commission is assembled to hear the allegations of un-Masonic conduct against Brother _____, as Preferred by _____ Lodge No. _____, A.F.&A.M. of Idaho (or as preferred by _____ Lodge No. _____, A.F.&A.M. of Idaho, on behalf of **Brother _____, a member of that Lodge**) to receive the evidence presented by the prosecution and defense, and to determine the guilt or innocence of the accused."

Chairman: "All Master Masons who testify are hereby admonished that the testimony they shall give in the case here pending shall be given in accordance with their Masonic obligations and on their Masonic honor." (Section 2802)

Chairman: "Brother (Lodge Master or Sec.), you will offer the Charges, Summons, and Certificate of service for identification."

(As each document is offered, adequate questions and responses shall be required to identify it, and the Chairman shall mark each document as Exhibit No. 1, 2, etc.)

Charges should be --- Exhibit No. 1

Summons should be --- Exhibit No. 2

Certificate of Service should be --- Exhibit No. 3

If a Certificate of Service by certified mail is offered, the Authorization of the Grand Master should be presented and designated as --- Exhibit No. 4

Fourteenth: Chairman shall direct W.M. (or Lodge Sec.) to designate Counsels (**only Master Masons in good standing**) for the Lodge or the accuser, and for the defense.

(Section 2702). If Counsel has not been previously arranged, the Master or Chairman shall appoint Counsel for the defense, being certain that Counsel appointed is a Master Mason in good standing.

Reading of Charges:

Fifteenth: Chairman shall direct: "Brother _____, you will read Specification First of the Charges." (done)

After Specification First is read, Chairman shall ask the accused (**if present, or his Counsel if the accused is not present**) for a Plea of "Guilty" or "Not Guilty", and after Plea is given the Chairman shall declare: "A Plea of _____ is entered."

Chairman shall direct each succeeding Specification to be read separately, and require a Plea entered and declared in each instance.

(Section 2703) If the accused is not present, a Plea of "Not Guilty" shall be declared to each Specification by his Counsel or by the Chairman, and the trial shall proceed in all things as though the accused were present and had so answered in person.

Even though the accused is present and enters a Plea of "Guilty" to all Specifications, either (or both) Counsels may elect to offer evidence and testimony to establish any aggravating or mitigating circumstances relative to the alleged offense or offenses. Such evidence or testimony may be of assistance to the Commission in determining a just Sentence.

If such evidence or testimony is not offered, **or when it is completed**, either or both Counsels may offer a final argument (as in Items 21st and 22nd herein).

Witnesses and Testimony:

Sixteenth: When a Plea of "Not Guilty" has been entered to one or more of the Specifications, the Chairman shall direct Counsel for the Lodge or the accuser to proceed with the presentation of evidence and testimony.

Who may Testify. (Section 2801)

As each witness is called, Counsel shall proceed as follows:

"State your name." (response)

"Are you a Master Mason?" (response)

"To what Lodge do you belong?" (response)

When a witness is found to be a non-Mason, the designated member of the Commission shall administer the following Oath:

"You do solemnly swear that the testimony you shall now give in the case here pending, shall be the truth, the whole truth, and nothing but the truth, So Help You God."

(response --- "I do.")

Counsel who called witness shall proceed, after which opposing Counsel and members of the Commission may also question each witness.

As either Counsel desires to offer documents or material items as evidence, he shall request the Chairman to mark same as Exhibit No. _____. Counsel shall then enter testimony to properly identify each document or item so offered, after which he shall request that the item so marked and identified be admitted as evidence.

If there be no objection from opposing Counsel, such items may be admitted. If there is objection, the Commission shall rule to admit or reject.

Powers of Commission: (Section 2304)

The Commission shall determine what evidence, testimony, or questioning is to be admitted or excluded, and any member of the Commission may request the hearing chambers cleared while the Commission makes a decision on any controversial items to be admitted or excluded.

Seventeenth: When Counsel for the Lodge (or for the accuser) has presented all evidence and testimony, he shall so declare.

Witnesses and Procedures for Defense:

Eighteenth: Chairman shall direct Counsel for the Defense to call witnesses and proceed with evidence and testimony.

The same initial questions, and Oath (as in Item 16th herein) shall be administered to each witness.

Charges against Masons are restricted to un-Masonic conduct alone, and the written Specifications are sometimes the same or similar as those previously tried in a civil or criminal Court. Specifications are un-Masonic conduct only if they involve moral turpitude or violate Masonic obligations, charges, laws, usages and customs.

In defending each Specification, if the defense ELECTS to disprove a Verdict or Plea of "Guilty," which resulted in a previous civil or criminal Court, such defense voluntarily subjects THAT Specification to unlimited investigation in the Masonic trial.

Since the Verdict or Plea from a previous civil or criminal trial is probably already stated in the Specification, there is no additional injury to the defense because the Commission cannot alter any civil or criminal Sentence.

The Commission must determine **whether or not** the Specification is un-Masonic conduct, and its decision can affect **only** the future Masonic standing of the accused.

Nineteenth: When Counsel for the Defense has presented all evidence and testimony, he shall so declare.

Twentieth: Recall of Witnesses. Witnesses may be recalled (by either Counsel, or by the Commission), for additional testimony; and when any witness or witnesses have given additional testimony, opposing Counsel and members of the Commission may also re-question each witness re-called.

Final Argument: (Section 2901)

Twenty-first: When all evidence and testimony has been received, Counsel for the Lodge (or Counsel for the accuser) may offer a final argument.

(It is appropriate for the Chairman to limit such argument as may seem proper, but the request of each Counsel shall be considered in establishing such limit.)

Twenty-second: Chairman shall direct Counsel for the Defense to offer final argument.

(Time limit as previously established shall prevail.)

Deliberations:

Twenty-third: (Section 2902). Chairman shall direct all persons other than members of the Commission to retire, and the doors shall be closed for the deliberations of the Commission.

1. If the accused entered a Plea of "Guilty" to ALL Specifications, the Commission shall cast and record a unanimous Verdict of "Guilty" thereon, and proceed to determine the Sentence (Item 25th herein).
2. If a Plea of "Not Guilty" had been entered to one, or more, of the Specifications, the Commission shall determine the guilt or innocence on each Specification separately.
3. The Specifications in Masonic Charges must involve moral turpitude or the violation of Masonic obligations, charges, laws, usages and customs to be sufficient acts of un-Masonic conduct.

(As a part of the deliberations, and prior to the ballot on conviction or acquittal, a discussion of the evidence as it relates to Masonic obligations, Charges received by Masons during the degrees, and Masonic Law, is in order.)

Judgment and Verdict: (Section 2903, Paragraphs 1, 2, and 3)

Twenty-fourth: The Commission may convict or acquit the accused of a part, or all, of the Specifications.

If less than three (3) members of the Commission vote to convict (on each Specification) a Verdict of acquittal shall be entered.

- a. if the accused entered a Plea of "Guilty" on any Specification, the Commission shall cast and record a unanimous Verdict of "Guilty" on that Specification.
- b. on Specifications to which the accused entered a Plea of "Not Guilty", the members of the Commission shall evaluate the evidence individually, and vote "Guilty" or "Not Guilty" on such Specification or Specifications.

(The Chairman shall designate a member of the Commission to record the numbers of ballots severally cast for conviction on each Specification, and the record of such ballot shall be handed to the reporter at the conclusion of the trial to be included in the trial transcript.)

Sentence: (Sections 2904, 2905, 2906, and 2907)

Twenty-fifth: If the accused entered a Plea of "Guilty" **or was found "Guilty"** in one or more of the Specifications, the Commission shall fix the Sentence of expulsion, Suspension, or reprimand.

(Prior to ballot on Sentence, a discussion is in order to assure that each member of the Commission understands each Sentence and also the requirements for Reinstatement involved with each Sentence.)

First Ballot is taken on Expulsion:

Section 2905. If the accused entered a Plea of "Guilty", or is convicted by deliberation of the Commission, the first ballot on the Sentence shall be on "Expulsion."

Second Ballot is taken on Suspension:

Section 2906. If less than three (3) members of the Commission vote for expulsion, the ballot shall then be taken on "Suspension."

If the ballot results in "suspension", the Commission shall, by majority vote, fix the duration of the term of suspension.

Third Ballot is taken (if necessary) on Nature of Reprimand:

Section 2907. If less than three (3) members of the Commission vote for either expulsion or suspension, the Sentence shall be "reprimand." The Commission may, by majority vote, recommend the nature of the reprimand.

(Reprimand, where, when, and how given Section 3003.)

Announcement of Verdict, Sentence, and Right of Appeal:

Twenty-sixth: (Section 2908)

- a. When at least the accused and the accuser, with their Counsel, the Master and Secretary, and the reporter, have been readmitted to the trial chambers, the Chairman shall announce the Verdict.

(In case of acquittal, the proceedings are ended, and the Chairman shall dismiss the Commission.)

- a. In case of conviction, the Chairman shall immediately announce the Sentence.
- b. In case of conviction and Sentence, Chairman shall inform the accused and convicted of his Right of Appeal by presenting him a copy of Article XXXI of the Idaho Masonic Penal Code.

(If the accused and convicted is not present, the Lodge Secretary shall immediately inform him by Certified mail of the Verdict and Sentence, enclosing a copy of Article XXXI of the Idaho Masonic Penal Code.)

Twenty-seventh: Chairman shall declare the trial concluded and dismiss the Commission.

After the Trial:

Twenty-eighth: (Section 3104) Appeal, if desired by either the accused or any member of the Lodge.

Twenty-ninth: Secretary, within thirty (30) days after trial, must transmit to Grand Secretary a complete transcript of the trial, with a copy of all evidence therein, and retain a copy in the Lodge file.

Each and every fact must be shown in the record, as prescribed in the form of transcript to the Grand Lodge.

Thirtieth: Title. All proceedings of un-Masonic conduct must be entitled in the name of the Lodge against the accused brother.

Testimony. The Testimony taken on the trial shall be reduced to writing if proper to be written, and carefully preserved. The purpose being that all testimony used on the trial shall become a part of the record.

The record of testimony of each witness shall commence as follows:

_____, a Master Mason, a witness on behalf of the accuser (or accused, as the case may be) on his honor testified as follows:

— or —

_____, a profane, a witness on behalf of the accuser (or accused), on his Oath, duly administered, testified as follows:

FORM OF CHARGES FOR MASONIC OFFENSES

Charges should be definite, so as to allow the accused the opportunity to defend specifically; yet there are cases that do not require specifications of time and place, as the evidence will determine that, and the accused can question the witness and elicit the truth.

The charges should be substantially in the following form:

To the Worshipful Master, Wardens, and Brethren of _____ Lodge No. _____, A.F.&A.M.:

I hereby charge Brother _____, a member of this Lodge (or "a nonaffiliated Mason residing within the jurisdiction of this Lodge or a member of _____ Lodge of _____" as the case may be), with un-Masonic conduct (or immoral conduct), in this, to-wit:

Specification First. For that the said Brother _____, on or about the _____ day of _____, A.D. 20____, did (here state the facts constituting the offense, in ordinary and concise language).

Specification Second. For that the said, etc (proceed in the same manner as in the first specification).

Dated this _____ day of _____, A.D. 20__.

(Signed) _____, Junior Warden.

(Or by an affiliated Master Mason in good standing.)

[No. 2]

If the offense is a continuation of the same or like acts, such as habitual drunkenness or profanity, the statement may be thus:

For that the said Brother _____ on or about the _____ day of _____, A.D. 20____, and habitually from that day to the present time, did, etc.

[No. 3]

If different offenses are intended to be charged, each offense must be set forth in a separate charge, and after the first may commence thus:

I hereby further charge the said Brother _____ with un-Masonic (or immoral) conduct, etc. (specifying the facts of the offense as before explained).

The charges must be signed by the accuser and delivered to the Secretary of the Lodge, who should mark the same filed, thus:

Filed this _____ day of _____, A.D. 20__.

(Signed) _____, Secretary.

[No. 4]

The attestation of the charges by the Secretary may be as follows:

I hereby certify the foregoing to be a true copy of the original charges on file in my office.

Dated this _____ day of _____, A.D. 20__.

(Seal) _____, Secretary.

FORM OF SUMMONS

The Summons shall be substantially in the following form:

To Brother (**Full name of accused**):

Sir and Brother: You are hereby notified that at a Stated Communication of _____ Lodge No. _____, A.F.& A.M. of Idaho, held on the _____ day of _____, A.D. 20____, charges were preferred against you, an attested copy of which is hereto annexed, and that trial thereof will be held at _____ (Place & Address) on the _____ day of _____, A.D. 20__, commencing at _____ o'clock p.m., at which time and place you are hereby summoned to appear and make defense thereto.

You may appear in your own defense, you may select and send Counsel to represent and defend you, or you may appear with Counsel of your choice; provided however, and in accordance with the Idaho Masonic Penal Code, any Counsel you may select must be a Master Mason in good standing and a member of an Idaho Lodge.

You are requested to indicate your intentions for defense to:

(**Master's full name and address**)

on or before the _____ day of _____ A.D. 20____, and if you fail to so respond, _____ Lodge No. _____, A.F.&A.M. of Idaho, will arrange Counsel to represent and defend you.

Dated this _____ day of _____, A.D. 20____.

Lodge

Seal

Signed: _____

(Lodge Secretary)

[No. 6]

CERTIFICATE OF PERSONAL SERVICE
FORM OF SUMMONS

I hereby certify that on the _____ day of _____, A.D. 20____, (not less than ten days before trial), I delivered to Brother _____, personally the original summons of which the within is a copy, together with an attested copy of the charges therein referred to.

[No. 7]

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that on the _____ day of _____, A.D. 20____, I forwarded by mail to Brother _____, the original summons, of which the within is a copy, together with an attested copy of the charges therein referred to, addressed to him at _____, in the State of _____, where he resides, being more than _____ miles distant from this Lodge.

Dated this _____ day of _____, A.D. 20____.

_____, Secretary.

[No. 8]

CAPTION TO TRANSCRIPT

To the Most Worshipful Grand Lodge of Ancient Free and Accepted Masons of Idaho:

In the Matter of _____ Lodge No. _____, A.F.&A.M., against Brother
_____, charged with _____.

TRANSCRIPT TO GRAND LODGE

Masonic Hall, (Name of Place)

_____, A.D. 20__

Regular Communication of _____ Lodge No. _____, A.F.&A.M. Present
(here insert names of officers and members present).

The Lodge was opened in due form on the third degree, whereupon, among other proceedings, the Secretary read to the Lodge the following: (Here copy the charges preferred).

And afterward, on the _____ day of _____, A.D. 20__, I forwarded said charges to the Grand Master who thereupon appointed (here insert the time fixed) for the purpose of the trial of said brother on said charges.

And afterward, to-wit, on the _____ day of _____, A.D. 20__, I served (or caused to be served) on the accused an attested copy of said charges, and the following summons: (Here copy the summons.)

And afterward, on the _____ day of _____, A.D. 20__, said summons was filed in my office with the following return of service thereon- (Here copy the certificate of service of summons as per forms No. 6 or No. 7).

Masonic Hall (Name and Place)

_____, A.D. 20__

Trial of _____

The following members of the Commission appointed by the Grand Master for the trial of _____, being present, namely _____, _____, _____, _____, _____, the meeting was called to order by _____, Chairman of the Commission, who announced the object of the meeting to be for the trial of aforesaid Brother _____ on charges preferred (then let the record show whether the accused appeared himself or by attorney, or if not, who was appointed to conduct his defense; in short, all the facts of the trial, if then had, and if not, at what time the same was continued. If the trail then proceeded, or when it did proceed, all the facts occurring in the trial should be concisely stated, and the evidence of each witness in full, balloting on the charges, the number of affirmative and negative ballots cast on each charge and on the punishment, and the final result must appear in the record).

Attest: _____, Worshipful Master

_____, Secretary

If an appeal be taken, the transcript should proceed thus:

And afterwards, to-wit: On the _____ day of _____, A.D. 20____, there was filed in my office the following notice of appeal: (Here copy notice of appeal.)

On said notice of appeal is the following certificate of service thereof: (Here copy service or acceptance of notice.)

The Secretary will then add his certificate in the following form:

Hall of _____ Lodge No. _____, A.F. & A.M.
_____, A.D. 20_____

I, _____, Secretary of _____ Lodge No. _____, A.F. & A.M., hereby certify that the above and foregoing is a true and correct transcript of the charges, proceedings had, and evidence given in the trial of the case of _____ Lodge No. _____ against Brother _____ on the charges above set out.

Given under my hand and the seal of said Lodge hereto affixed, this _____ day of _____ A.D. 20_____

(Seal)

_____, Secretary

The **full and complete transcript of each separate case** must be sent up to the Grand Secretary, and must not include two persons in the same charge, or transcript. All papers should be duly attested by the Lodge seal.