

No. 59995-0-1

**COURT OF APPEALS
OF THE STATE OF WASHINGTON,
DIVISION ONE**

In the Personal Restraint Petition of
ROLAND SPEIGHT, Petitioner.

FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR SAN JUAN COUNTY
#05-1-05003-6

RESPONSE TO PERSONAL RESTRAINT PETITION

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INTRODUCTION

Defendant Roland Speight's personal restraint petition raises three issues under State v. Bone-Club, 128 Wn.2d 254, 906 P.2d 629 (1995): (1) did the trial court close the courtroom simply by hearing motions in limine in chambers rather than in the courtroom; (2) do the Bone-Club factors support closing the courtroom temporarily to interview individual jurors on sensitive topics; and (3) did defendant Speight suffer actual prejudice from the temporary closure? San Juan County Superior Court Judge Alan Hancock heard motions in limine and interviewed individual jurors in chambers. Defendant Speight agreed to both proceedings.

Now on collateral attack, defendant Speight argues the trial court violated his federal and State constitutional rights to a public trial. Defendant agreed to the hearings in chambers because they protected his right to a fair trial. Furthermore, he did not suffer "actual prejudice" from these hearings, a necessary element for a personal restraint petition. Finally, under Bone-Club, the trial judge appropriately interviewed potential jurors individually, in a closed hearing, to discuss the personal, very sensitive reasons why they

might not be impartial in a rape trial. The State respectfully requests this court to deny defendant's petition for a new trial.

I. AUTHORITY FOR THE RESTRAINT OF PETITIONER

A San Juan County Superior Court jury convicted defendant Speight on two counts of second degree rape. He is currently incarcerated under a Judgment and Sentence entered August 1, 2005. (Appendix C to Defendant's Petition).

II. RESTATEMENT OF ISSUES PRESENTED.

Defendant's petition raises three issues:

A. To allege a violation of his right to public trial, defendant must point "to the trial court ruling in the record that purported to close the courtroom." State v. Brightman, 155 Wn.2d 506, 516 n.6, 122 P.3d 150 (2005). While jurors were filling out questionnaires, the trial judge heard motions in limine in chambers, but did not close the hearing to the public. Did the trial judge violate defendant's right to public trial by hearing motions in chambers rather than the courtroom?

B. The trial judge held a closed hearing in chambers to interview potential jurors who raised sensitive personal issues in the questionnaire. Defendant Speight agreed to this process, and

it was essential to choose a fair and impartial jury. Was the closed hearing appropriate under the Bone-Club factors?

C. To qualify for relief in a personal restraint petition, defendant Speight must prove he suffered “actual prejudice” from a constitutional violation. In re Rice, 118 Wn.2d 876, 884, 828 P.2d 1086 (1992). Here, defendant agreed to the in chambers hearings because he benefited from the process. Can defendant claim actual prejudice from the proceedings in hindsight?

III. STATEMENT OF FACTS.

Defendant’s petition challenges the constitutionality of two in chambers hearings: (1) argument and rulings on motions in limine; and (2) individual interviews with potential jurors on issues raised in the juror questionnaire. One important fact distinguishes these two hearings. The first hearing was open to the public, the second was closed. The record does not show the trial judge, at any time, asking a member of the public to leave. No one apparently was in the audience.*

A. The Motions in Limine

* The record of the voir dire is sparse. If questions of fact exist over the hearings, the State respectfully requests the Court to transfer the case to Superior Court for a reference hearing.

On the morning of May 24, 2005, the San Juan Superior Court prepared for defendant Speight's trial. The potential jurors gathered in the main courtroom to fill out the jury questionnaire. Meanwhile, the trial judge, counsel, clerk of the court, sheriff's deputy and the court reporter went into the judge's chambers for motions in limine. The trial judge did not close the courtroom, nor did he announce that the in chambers hearing was private. The hearing occurred in chambers because the courtroom was full with the jury pool.

No evidence suggests that this was a closed hearing. Before addressing the motions in limine, the court arraigned defendant Speight on the First Amended Information.

THE COURT: I'd like to have Mr. Speight arraigned on the First Amended Information. First of all, Ms. Kenimond [defense counsel], any objection to the filing of the First Amended Information, which does nothing more than – as the Court understands it, than adds the full name of the alleged victim in the counts here?

MS. KENIMOND: We have no objection, Your Honor. Additionally, we would waive formal reading here for arraignment purposes and ask the Court to enter a not guilty plea on his behalf.

(2ARP 4; Appendix G to Defendant's Petition). Had anyone wanted to view these proceedings, the trial court would have allowed it. It remained a public proceeding, in chambers.

The remainder of this first hearing covered the motions in limine. Because he was ruling on the admissibility of evidence, Judge Hancock had to hear these motions outside the presence of the jury. The jury pool was in the main courtroom, so Judge Hancock used his chambers.

B. Interviews with Individual Jurors

The second hearing in chambers was closed to the public. At the beginning of voir dire, the judge had jurors fill out questionnaires regarding any experiences they may have had with a sexual offense. As the questionnaire described,

some of these questions may call for information of a personal nature that you may not want to discuss in public. If you feel that your answer to any questions may invade your privacy or be embarrassing to you, you may so indicate on the form that you would prefer to discuss your answer in private. The court will give you an opportunity to explain your request for confidentiality outside the presence of other jurors.

(Juror Questionnaire; Appendix A). The court provided the form for the questionnaire, and defense counsel agreed to its use. (5/23/05 VRP 5-6).

During individual interviews, jurors revealed personal details on why they might not be impartial in a rape case. (2RP 13; Appendix H to Defendant's Petition) ("my fear is that I'm not going to be able to hear everything that's being said because as things start being described I'm going to go back to my own experience"). The trial judge dismissed many of the jurors for cause. (2RP 14, 17, 35, 40, 43, 72). As a result of this process, the court excused jurors who could not try the case fairly or impartially.

ARGUMENT

IV. STANDARD OF REVIEW

This Court grants relief on a personal restraint petition only when the petitioner makes a threshold showing of constitutional error from which he has suffered actual prejudice or nonconstitutional error that inherently results in a complete miscarriage of justice. In re Personal Restraint of Cook, 114 Wn.2d 802, 813, 792 P.2d 506 (1990). The petition must set forth the facts underlying the claim of unlawful restraint and the evidence available to support the factual allegations. In re Rice, 118 Wn.2d 876, 886, 828 P.2d 1086 (1992). A personal restraint petition must be supported by competent, admissible evidence. In re Personal Restraint of Dyer, 143 Wn.2d 384, 397, 20 P.3d 907 (2001).

V. DEFENDANT SHOULD NOT RECEIVE A NEW TRIAL FOR IN CHAMBERS PROCEEDINGS THAT PROVIDED HIM A FAIR TRIAL

Defendant's petition seeks a new trial for proceedings he agreed to or requested. "Because Speight was denied his constitutional public trial right during pretrial in limine rulings and the jury selection process, his convictions should be reversed and the case remanded for a new trial." (Supplemental Brief at 4-5). No constitutional violation occurred, however, for two reasons.

A. The Motions In Limine Were Not Closed To the Public

The trial court heard motions in chambers because the main courtroom was full. In effect, the public portion of the proceedings moved to the judge's chambers. This was not a constitutional violation because these pretrial proceedings remained public.

To allege a violation of his right to public trial, defendant must show that the trial judge closed the courtroom. State v. Brightman, 155 Wn.2d 506, 122 P.3d 150 (2005); In re Orange, 152 Wn.2d 795, 100 P.3d 291 (2004). This case is distinguishable from Brightman and In re Orange because there is no comparable ruling excluding the public. In Brightman the judge, sua sponte, told the parties that for security, he would not permit observers for the 2-3 days of voir dire. Brightman, 155 Wn.2d at 511. In In re

Orange, the judge while discussing jury selection stated: “I am ruling no family members, no spectators will be permitted in this courtroom during the selection of the jury because of the limitation of space, security, et cetera. That’s my ruling.” Orange, 152 Wn.2d at 802. The voir dire in that case lasted 3-4 days. Of particular importance to the Orange decision was that the court’s ruling prevented defendant’s friends and family from attending voir dire. Orange, 152 Wn.2d at 808-09, 812. In both Brightman and Orange, the trial court’s affirmative orders or rulings excluded the public from the courtroom for the entire voir dire. No similar ruling occurred here before the hearing on the motions in limine. The hearing remained open to the public.

B. Good Cause Existed Under Bone-Club To Close The Courtroom For Interviewing Individual Jurors

The trial judge did close the courtroom to interview individual jurors. Although the court did not review the Bone-Club factors before holding the interviews in chambers, the record supports protecting defendant’s right to a fair trial over the public’s right to observe this limited, extremely sensitive conversation.

Five factors must be present before a trial judge may close a courtroom to the public. Those factors are:

1. The proponent of closure or sealing must make a showing of a compelling interest, and where that need is based on a right other than an accused's right to a fair trial, the proponent must show a 'serious and imminent' threat to that right;
2. Anyone present when the closure motion is made must be given an opportunity to object to the closure;
3. The proposed method for curtailing open access must be the least restrictive means available for protecting the threatened interests;
4. The court must weigh the competing interests of the proponent of closure and the public;
5. The order must be no broader in its application or duration than necessary to serve its purpose.

State v. Bone-Club, 128 Wn.2d 254, 258-59, 906 P.2d 325 (1995).

While the trial court has a duty to make these findings before closing the courtroom, as long as the record is sufficient to support closure, the court should not reverse for failure to make specific findings. Findings on the Bone-Club factors enable a reviewing court to decide whether closure was warranted. Bone-Club, 128 Wn.2d at 260; see *also*, Press-Enterprise Co. v. Superior Court of California, Riverside County, 464 U.S. 501, 510, 104 S.Ct. 819, 78 L.Ed.2d 629 (1984) ("The [overriding] interest is to be articulated along with findings specific enough that a reviewing court can determine whether the closure order was properly entered.").

A number of courts have not required specific on-the-record findings as long as there was sufficient support in the record for the closure. See, Bowden v. Keane, 237 F.3d 125, 132 (2nd Cir. 2001); U.S. v. Farmer, 32 F. 3d 369 (8th Cir. 1994) (specific findings are not necessary as long as appellate court can glean from record sufficient support for partial, temporary closure); Woods v. Kuhlmann, 977 F.2d 74, 77 -78 (2nd Cir. 1992) (information gleaned from record was sufficient to support the partial, temporary closure of petitioner's trial.)

As Justice Madsen noted in Orange, a trial court's failure to make specific findings does not mean that defendant's constitutional right to public trial was violated.

It must be remembered that the ultimate question is whether there has been an abridgement of the defendant's right to an open trial. If a reviewing court can make the determination from the record that closure was warranted, the failure to engage in the five-step process, *in and of itself*, should not lead to a holding that a defendant's right to a public trial has, solely because of that failure, been abridged.

Orange, 152 Wn.2d at 827 (Madsen, J., concurring); but see State v. Frawley, ___ Wn. App. ___, 167 P.3d 593, 597 (2007) ("we review a trial judge's consideration of these factors as found in the record; we do not consider them for the first time on appeal...And, in any

event, the trial court record and the briefing on appeal here are inadequate to weigh and balance those factors”)

1. Defendant's Right To A Fair Trial Is The Compelling Interest

Defendant's right to a fair trial, before an impartial jury, satisfies the first factor -- a compelling interest in closure. “No right ranks higher than the right of the accused to a fair trial.” Press-Enterprise Company v. Superior Court of California, Riverside County, 464 U.S. 501, 508, 104 S.Ct. 819, 78 L.Ed.2d 629 (1984). The defendant's right to fundamental fairness in the jury selection process is a compelling interest. Press-Enterprise, 464 U.S. at 510.

Protecting jurors' privacy rights also is a compelling interest. Orange, 152 Wn.2d at 825 (Madsen, J., concurring); Press-Enterprise, 464 U.S. at 511 (prospective juror's privacy may be compelling interest where jury voir dire relates to deeply personal, sensitive matters); Petition of Tribune Co., 784 F.2d 1518, 1523 (11th Cir. 1986) (juror's privacy interests, along with government's interest in preserving secrecy of investigation were sufficient compelling interests warranting denial of public access to bench conferences concerning jury selection). The Washington court

rules acknowledge the legitimate privacy rights of jurors. GR 31(j) (individual juror information is presumed private).

The trial court and counsel held individual voir dire to allow jurors to speak candidly about their experience with sexual assault, their potential biases in a rape case, and their ability to be fair and neutral jurors. Individual voir dire protected jurors' privacy rights and defendant's right to a fair and impartial jury. These are compelling interests, warranting closure of a small, important part of voir dire.

2. Both Defendant and Any Person Present Had An Opportunity To Object

The trial judge announced in open court that he would begin interviewing jurors individually in chambers. (2RP 9; Appendix H to Defendant's Petition) At this point, defendant or a member of the public had an opportunity to object. Regarding defendant's right to public trial, the opportunity to object means the defendant's opportunity to object. State v. Gregory, 158 Wn.2d 759, 816 n.27, 147 P.3d 1201 (2006). There was no objection from any person present when the court announced it was going to conduct individual jury voir dire in chambers. Moreover, this was a

procedure that defendant Speight had agreed to, so he had no objection.

3. The Court's Limited Closure Was the Least Restrictive Means Available

The third factor requires that the method for closure be the least restrictive means to address the compelling interest. The limited individual allows prospective jurors to answer frankly and candidly. Here, the court's in chambers interviews enabled jurors to speak freely without tainting the jury pool.

4. The Trial Court's Resumption of Voir Dire In the Courtroom Shows Concern for the Public's Right to Observe

The fourth Bone-Club factor requires the court to weigh the competing interests of the parties advocating closure and the public. The trial court did not weigh these interests on the record. The court's rulings and pretrial process, though, show the proper balancing of defendant's right to a fair trial with the public's right to observe. By interviewing only those jurors who specifically requested it, the trial court balanced the defendant's right to a fair and impartial jury, and thus a fair trial, against the desire for open proceedings. The U.S. Supreme Court set forth an example of proper balancing in the context of jury voir dire in Press-Enterprise:

The jury selection process may, in some circumstances, give rise to a compelling interest of a prospective juror when interrogation touches on deeply personal matters that person has legitimate reasons for keeping out of the public domain. The trial involved testimony concerning an alleged rape of a teenage girl. Some questions may have been appropriate to prospective jurors that would give rise to legitimate privacy interests of those persons. For example a prospective juror might privately inform the judge that she, or a member of her family, had been raped but had declined to seek prosecution because of the embarrassment and emotional trauma from the very disclosure of the episode. The privacy interests of such a prospective juror must be balanced against the historic values we have discussed and the need for openness of the process.

To preserve fairness and at the same time protect legitimate privacy, a trial judge must at all times maintain control of the process of jury selection and should inform the array of prospective jurors, once the general nature of sensitive questions is made known to them, that those individuals believing public questioning will prove damaging because of embarrassment, may properly request an opportunity to present the problem to the judge *in camera* but with counsel present and on the record.

By requiring the prospective juror to make an affirmative request, the trial judge can ensure that there is in fact a valid basis for a belief that disclosure infringes a significant interest in privacy. This process will minimize the risk of unnecessary closure. The exercise of sound discretion by the court may lead to excusing such a person from jury service. When limited closure is ordered, the constitutional values sought to be protected by holding open proceedings may be satisfied later by making a transcript of the closed proceedings available within a reasonable time, if the judge determines that disclosure can be

accomplished while safeguarding the juror's valid privacy interests. Even then a valid privacy right may rise to a level that part of the transcript should be sealed, or the name of a juror withheld, to protect the person from embarrassment.

Press-Enterprise, 464 U.S. at 511-512 (citations and quotations omitted).

Only those jurors who requested it were interviewed in chambers. The remainder of voir dire occurred in the courtroom in the presence of the entire jury pool. There was no sealing of the transcript in this case. The court's limited individual voir dire in this case achieved the balancing advocated by the Supreme Court.

5. The Trial Court Narrowly Tailored The Closure Order

As noted above, the trial court closed voir dire for the shortest time possible to complete the individual interviews. On review, this court considers the duration of the closure, whether it was partial or complete, whether transcripts of the closed proceeding were available, and whether the closure affected any testimony. Bowden v. Keane, 237 F.3d 125, 1129-30 (2nd Cir. 2001); see also, In re Greensboro News, 727 F.2d 1320, 1325-26, cert. den. by Greensboro News Co. v. Flannery, 469 U.S. 829 (1984) (court found closure was limited because transcript of voir

dire process was recorded). Here, the individual voir dire extended only to those jurors who expressed a desire to be heard privately. The individual voir dire took a little more than an hour. It was recorded and that recording has not been sealed. The trial court narrowly tailored its order closing the courtroom, restricting public access only for a short time.

The Bone-Club factors strongly support the trial court's decision to interview individual jurors in chambers. Furthermore, the record supports the court's actions – given that trial courts for many years have interviewed jurors in chambers. It is an accepted, valuable practice to choose a fair and impartial jury. Defendant Speight should not receive a new trial simply because the trial court did not review the Bone-Club factors on the record.

VI. IF THE COURT ERRED BY CLOSING THE COURTROOM, IT WAS INVITED ERROR

Defendant's petition and request for a new trial conflicts with the invited error doctrine. This legal rule "prohibits a party from setting up an error ... and then complaining about it on appeal." In re Personal Restraint of Thompson, 141 Wn.2d 712, 723, 10 P.3d 380 (2000). The doctrine requires some affirmative action on the part of the defendant. Thompson, 141 Wn.2d at 724; see *also*, In

re Personal Restraint of Breedlove, 138 Wn.2d 298, 979 P.2d 417 (1999) (defendant invited error by entering into a plea agreement for a reduction of charges in exchange for an agreed, stipulated exceptional sentence); State v Huff, 119 Wn. App. 367, 373 n.6, 80 P.3d 633 (2003) (defendant's stipulation to out of state conviction and rejection of opportunity to have that judgment and sentence presented would be affirmative actions subject to the invited error doctrine).

Defendant Speight agreed to the in chambers hearings and benefited from them. (5/23/05 VRP 5-6). He cannot now claim that they deprived him of a fair trial. Furthermore, defendant cannot claim that he is arguing for the public's right to view his trial. "The general rule is that a person does not have standing to vindicate the constitutional rights of a third party." State v. Gutierrez, 50 Wn.App. 583, 591-592, 749 P.2d 213, *rev. den.* 110 Wn.2d 1032 (1988).

In this case, we do not have to consider the right of the press and the public to have access to criminal proceedings under the First Amendment. Only the defendants appeal, and base their closure argument exclusively on their Sixth Amendment right to a public trial.

U.S. v. Sherlock, 962 F.2d 1349, 1358 (9th Cir. 1989), *cert. den. by Charley v. U.S.*, 306 U.S. 958 (1992); *see also*, Commonwealth v. Horton, 753 N.E.2d 119, 128 (Mass. 2001) (defendant could not assert public's interest in open public proceedings as that interest is distinct from defendant's and defendant had not demonstrated that he had standing to assert the public's right). Only the *defendant's* right to a public trial is at issue.

If the court allows defendant to vindicate the public's right to an open trial, it places defense counsel in an impossible position. Closed courtrooms often benefit defendants – as individual voir dire illustrates in this case. Defense counsel can and must advocate only for defendant's rights at trial. Yet allowing defendants to speak for the public's right either creates a conflict for counsel at trial or an automatic new trial on appeal. Neither outcome is appropriate.

Defendant Speight wanted a closed courtroom to interview individual jurors. He should not receive a new trial because the trial court agreed with him.

VII. DEFENDANT SPEIGHT DID NOT SUFFER "ACTUAL PREJUDICE"

On direct appeal, Washington courts presume prejudice from a violation of the right to public trial. State v. Bone-Club, 128

Wn.2d 254, 261-262, 906 P.2d 325 (1995). But on collateral attack, defendant must still prove actual and substantial prejudice. Even if a constitutional error is per se prejudicial on direct appeal, the burden on a petitioner in a personal restraint petition to prove actual prejudice is waived only where the error results in a *conclusive* presumption of prejudice. In re Orange, 152 Wn.2d at 804 (emphasis added).

The United States Supreme Court noted in Waller v. Georgia, “the remedy should fit the violation.” Waller, 467 U.S. 39, 50, 104 S.Ct. 2210, 81 L.Ed.2d 31 (1984). Just as the windfall of a new trial was not in the public interest in that case, so too here. Waller, 467 U.S. at 50. In a Massachusetts opinion involving a similar issue, the court held:

In light of the defendant’s consent to the procedure, his presence throughout the voir dire, and the fact that the less public setting for the voir dire in all likelihood helped rather than harmed the defendant, we find no prejudice to the defendant from the setting in which this voir dire was conducted.

Commonwealth v. Horton, 753 N.E.2d at 128.

Here, a number of the prospective jurors who were individually questioned were removed for cause. Defendant Speight agreed to this process of voir dire, and it protected his right

to a fair and impartial jury, and thus his right to a fair trial. He suffered no prejudice, and has failed to demonstrate any actual prejudice, arising from the individual interviews.

CONCLUSION

The trial court's failure to examine the Bone-Club factors on the record does not entitle defendant Speight to a new trial. He benefited from the limited closure of the courtroom, and the record is sufficient to show the closure was justified. The State of Washington respectfully requests this Court to deny defendant's personal restraint petition.

DATED this 23rd day of October, 2007.

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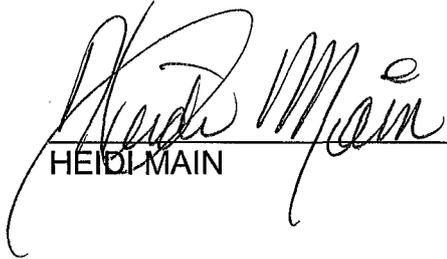
DECLARATION OF SERVICE

The undersigned declares under penalty of perjury under the laws of the State of Washington, that on the date stated below, I mailed or caused delivery of **Response to Personal Restraint**

Petition to:

Dana M. Lind
Nielsen Broman Koch PLLC
1908 E Madison St
Seattle WA 98122

DATED this 23rd day of October, 2007.


HEIDI MAIN

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APPENDIX A

#6

TO PROSPECTIVE JURORS

This questionnaire is designed to elicit information with respect to your qualifications to sit as a juror in a pending case. This questionnaire will substantially shorten the process of jury selection.

This questionnaire is part of the jury selection process. You must answer the questions to the best of your ability and you must fill out the questionnaire by yourself. As you answer the questions that follow, please keep in mind that there are no right or wrong answers, only complete and incomplete answers. Complete answers are far more helpful than incomplete answers because they make long questioning unnecessary and by doing that, they shorten the time that it takes to select a jury.

Please make every effort to answer each one of the questions. During the questioning by the attorneys and the court, you will be given an opportunity to explain or expand any answers if necessary. If you wish to make further comments regarding any of your answers, or if you feel that there is something important that we failed to ask, please include this information on the final sheet of the questionnaire.

Some of these questions may call for information of a personal nature that you may not want to discuss in public. If you feel that your answer to any questions may invade your privacy or be embarrassing to you, you may so indicate on the form that you would prefer to discuss your answer in private. The court will give you an opportunity to explain your request for confidentiality outside the presence of the other jurors.

After you have completed the questionnaire, please hand it to the Bailiff.

Thank you for your cooperation.

Alan R. Hancock

Hon. Alan R. Hancock, Judge
San Juan County Superior Court

JUROR QUESTIONNAIRE

Juror Number: 6

Introduction

The purpose of this questionnaire is to allow you to answer questions about your personal experiences that may relate to the current trial and to do so in a way that reduces embarrassment and maintains some privacy. The attorneys in the case may ask you about your answers to the questions in individual voir dire, without the public and other jurors present, to further maintain your privacy if you prefer. Please answer these questions as fully and honestly as you would any other voir dire questions.

Fill out the questionnaire and hand it to the bailiff when you are done. If a question does not apply, please indicate "N/A".

1) a) Have you ever been charged with, or arrested for, any sex crime or crime committed with "sexual motivation"?

Yes No

b) If yes, please list the crime(s) below.

c) How was the case above closed (e.g., charges dropped, arrested but never charged, acquitted at trial, found guilty at trial, case being appealed, etc.)?

d) If the charges were dropped or not filed, why?

e) How do you feel about the above experience?

2) a) Have you ever been privately accused of a sexual assault or other sexual impropriety (e.g., sexual harassment, etc.)?

Yes No

b) If yes, please describe the circumstances below.

c) Was any legal action suggested or mentioned by anyone on the matters in 2)b)?

Yes ___ No Please explain below.

d) How was the accusation resolved (e.g., accuser left town, I denied it, got fired, accuser's parents kept it quiet, etc.)?

e) How do you feel about the above experience?

3) a) Do you personally know anyone who has been accused of any sex crime or other sexual impropriety, either officially or privately?

Yes ___ No

b) Please describe the circumstances below.

c) What do you think about the above circumstances?

4) a) If you answered yes to any of the above, do you think that you could be fair in deciding similar issues in this case?

Yes No ___ Please explain below.

5) a) Are you ever concerned that someone would accuse you or a friend or loved one?

Yes ___ No Do not know ___

b) Why?

6) a) Are you concerned that a sexual offense may be committed against you, a friend, or a loved one?
Yes ___ No

b) Why?

7) Do you believe that these topics should be kept more private?
Yes ___ No Do not know ___ Please explain below.

8) Have you ever been the victim of a sexual assault; rape or other sexual impropriety?
Yes ___ No

9) If the answer to #8 is yes, do you know who committed the act?
Yes ___ No ___

10) If the answer to #9 is yes, was the act committed by a relative of the victim (please specify) _____
a friend of the victim _____
an acquaintance of the victim _____
a stranger to the victim _____

11) If you were sexually assaulted, etc., please indicate how old you were at the time. Age _____

12) If you were sexually assaulted, etc., please indicate if you were assaulted more than once and/or if by more than one person.

13) If you were sexually assaulted, etc., did you report the incident to anyone (e.g., a parent, counselor, friend or the police)?
Yes ___ No ___

14) If the answer to #13 is yes, to whom did you report the incident and what were the circumstances of your disclosure?

15) If you did report the act, was anyone ever prosecuted?
Yes ___ No ___

16) If they were prosecuted, were they convicted?
Yes ___ No ___ Please explain below.

17) If you were sexually assaulted, etc., did you suffer any physical injury as a result of the incident?
Yes ___ No ___

18) If you were sexually assaulted, etc., did you suffer any emotional distress as a result of the incident?
Yes ___ No ___

19) If you were sexually assaulted, etc., and if you did report the incident, do you believe you were treated fairly or reasonably by those to whom you reported the assault (e.g., relatives, friends, counselors, the police, etc.)?
Yes ___ No ___

20) Do you know if any friend, relative or acquaintance of yours has ever been sexually assaulted, raped or subjected to any sexual impropriety?
Yes No ___ Please explain below.

Drinking in college

21) If the answer is yes, do you know who committed the assault?
Yes ___ No

22) If the answer is yes, was the assault committed by
a relative of the victim _____
a friend of the victim _____
an acquaintance of the victim _____
a stranger to the victim *stranger*

23) How old was the victim when he or she was sexually assaulted?
22 or 23

24) Do you know if the victim of the sexual assault, etc. was assaulted more than once and/or by more than one person?
Yes ___ No Do not know ___

25) Was the sexual assault reported to anyone?
Yes No ___ Do not know ___

26) Was the perpetrator of the sexual assault ever prosecuted?
Yes No ___ Do not know ___

27) Was the perpetrator of the sexual assault ever convicted?
Yes ___ No ___ Do not know

28) Was the victim of the sexual assault physically injured?
 Yes No Do not know

29) a) Did the victim of the sexual assault suffer emotional distress?
 Yes No Do not know Please explain below.

30) Do you believe the victim of the sexual assault was treated fairly and reasonably by the authorities?
 Yes No Do not know Please explain below.

It was 25 yrs ago - Don't remember all the details

31) Do you believe you have any special training, knowledge or expertise in the subject matter of sexual assaults?
 Yes No Please explain below.

32) If you were the victim of a sexual assault, etc., and/or if you know a relative, friend or acquaintance who was a victim of sexual assault, etc., do you believe you would tend to favor or be prejudiced against either party to this case?
 Yes No Please explain below.

33) Have you ever contacted or had Child Protective Services, the police, or any social welfare agency come to your home regarding a child?
 Yes No

34) Have you ever participated in any juvenile court proceeding involving a child?
 Yes No

35) Do you belong to any organizations involved in protecting the rights of abused children or parents of abused children?
 Yes No

If you have answered "Yes" to any of the above questions, would you prefer that the attorneys question you individually in court, or would you be comfortable discussing your answers in front of others?

I request individual questioning.
 I do not request individual questioning.

