

Faulk, Camilla

From: John Antosz [jantosz@co.grant.wa.us]
Sent: Thursday, June 16, 2011 3:26 PM
To: Faulk, Camilla
Subject: Proposed GR 31.

Hello Ms. Faulk

I understand the proposed changes to GR 31 focus on the implementation of proposed GR 31A. I request consideration of the following comments about proposed GR 31 relating to access to juror information.

The pertinent juror information sections of GR 31 state:

(j) Access to Juror Information. Individual juror information, other than name, is presumed to be private. After the conclusion of a jury trial, the attorney for a party, or party pro se, or member of the public, may petition the trial court for access to individual juror information under the control of court. Upon a showing of good cause, the court may permit the petitioner to have access to relevant information. The court may require that juror information not be disclosed to other persons.

(k) Access to Master Jury Source List. Master jury source list information, other than name and address, is presumed to be private. Upon a showing of good cause, the court may permit a petitioner to have access to relevant information from the list. The court may require that the information not be disclosed to other persons.

The above sections address access to “juror information” and the “master jury source list” (about 35,000 people in Grant County), but not the monthly panel (in Grant County, approximately 300 people) or the sub panel(s) appointed to a particular trial (usually about 60 people per trial). GR 31 allows access to a person’s names and other information for good cause from the master jury source list at any time and after conclusion of the trial, to a juror’s name and upon a showing of good cause, other information.

We send out juror questionnaires to prospective jurors determining qualifications to serve as required by RCW 2.36.072 and ask a few basic questions such as age, marital status, work, prior jury service and prior lawsuits. GR 31 is unclear whether a pre trial request for information about a panel (about 300 people) or subpanel (about 60 people) should be treated as one for “juror information” (in which case the court can only grant access to the juror’s name and other information for good cause *after trial*), or as one for the master jury source list (access can be granted to the name and address and other information for good cause *at any time*). This is question is more than academic, since attorneys have made such requests prior to trial.

Our court initially interpreted GR 31 to define panels as part of the Master Jury Source List subject to section (k) and sub panels as jurors subject to section (j). We revisited this interpretation because we always have provided the trial attorneys with a summary of the sub panel questionnaires at the beginning of the trial prior to jury selection. Also, in *State v Coleman*, 151 Wash. App. 614 (2009), the Court of Appeals held that juror’s answers to questionnaires are tantamount to information elicited during jury selection and any order to seal juror’s answers to questionnaires absent a *State v Bone-Club 128 Wash 2d 254 (1995)* analysis contravenes the right to a public trial in Article I, section 22 of the Washington Constitution. Under GR 31, “juror information” can’t be accessed until after the trial concludes, so apparently the sub panel juror information is to be treated as Master Jury Source List information. Yet, “jury source list” and “master jury list” have specific definitions in GR 18 and RCW 2.36.010 which do not square with the concept of a jury panel or sub panel.

One solution would be to further define “master jury source list” and “juror information” in paragraph c, the definition section of Rule 31. Another solution would be to define access to intermediate juror units situated in size and time between the initial large “master jury source list” and the final jury of 12.

Sincerely

John Antosz
Grant County Superior Court Judge