

THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

[234 PA. CODE CHS. 6 AND 1100]

Rule 1104, Jury Qualifications; No. 262, Criminal Procedural Rules, Doc. No. 2

The Criminal Procedural Rules Committee has prepared a Final Report explaining the March 28, 2000 amendments to Rule of Criminal Procedure 1104 (Juror Qualification Form, Lists of Trial Jurors, and Challenge to the Array) that make it clear that (1) the completed juror qualification forms are confidential and do not constitute a public record, (2) an attorney who requests the lists of trial jurors and juror qualification forms may inspect and copy or photograph those lists and forms, and (3) the questions on the juror qualification forms are limited to questions of the jurors' qualifications. In addition, the amendments remove from the rule ambiguous language. The Final Report follows the Court's Order.

Order

Per Curiam:

Now, this 28th day of March, 2000, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 29 Pa.B. 4430 (August 21, 1999), and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 733-34); and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the amendments to Rule 1104 are adopted as follows.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective July 1, 2000.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 1100. TRIAL

Rule 1104. Juror Qualification Form, Lists of Trial Jurors, and Challenge to the Array.¹

(A) *Juror Qualification Form and Lists of Trial Jurors.*

(1) The officials designated by law to select persons for jury service shall:

[(1)] (a) * * *

[(2)] (b) prepare, publish, and post lists of the names of persons to serve as jurors as provided by law; and

[(3)] (c) upon the request of the attorney for the Commonwealth or the defendant's attorney, furnish [a] the list containing the names of prospective jurors [summoned to try the case together with copies of the juror qualification forms returned by such prospective jurors.] prepared pursuant to paragraph (A)(1)(b); and

(d) make available for review and copying copies of the juror qualification forms returned by the prospective jurors.

¹ Rule 1104 will become Rule 630 as part of the reorganization and renumbering of the rules adopted March 1, 2000, effective April 1, 2001.

(2) The information provided on the juror qualification form shall be confidential and limited to questions of the jurors' qualifications.

(3) The original and any copies of the juror qualification form shall not constitute a public record.

* * * * *

Comment

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Paragraph (A) was amended in 1998 to require that the counties use the juror qualification forms provided for in Section 4521 of the Judicial Code, 42 Pa.C.S. § 4521. It is intended that the attorneys in a case may [request and receive copies of] inspect and copy or photograph the jury lists and the qualification forms for the prospective jurors summoned for their case. The information on the qualification forms is not to be disclosed except as provided by this rule or by statute. [See also] This rule is different from Rule [1107] 632, which requires that jurors complete the standard, confidential information questionnaire for use during voir dire.

Official Note: Adopted January 24, 1968, effective August 1, 1968; Comment revised January 28, 1983, effective July 1, 1983; amended September 15, 1993, effective January 1, 1994; September 15, 1993 amendments suspended December 17, 1993 until further Order of the Court; the September 15, 1993 Order amending Rule 1104 is superseded by the September 18, 1998 Order, and Rule 1104 is amended September 18, 1998, effective July 1, 1999; amended May 14, 1999, effective July 1, 1999; renumbered Rule 630 March 1, 2000, effective April 1, 2000; amended March 28, 2000, effective July 1, 2000.

Committee Explanatory Reports:

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Final Report explaining the March 28, 2000 amendments concerning availability and confidentiality of the juror qualification forms published with the Court's Order at 30 Pa.B. 1956 (April 15, 2000).

(Editor's Note: The following shows the amendments to new Rule 630. The ellipses refer to the existing text of the rule found at 30 Pa. B. 1477 (March 18, 2000).)

CHAPTER 6. TRIAL PROCEDURES IN COURT CASES

PART C. Jury Procedures

Rule 630. Juror Qualification Form, Lists of Trial Jurors, and Challenge to the Array.

(A) JUROR QUALIFICATION FORM AND LISTS OF TRIAL JURORS.

(1) The officials designated by law to select persons for jury service shall:

[(1)] (a) * * *

[(2)] (b) * * *

[(3)] (c) upon the request of the attorney for the Commonwealth or the defendant's attorney, furnish [a] the list containing the names of prospective jurors [summoned to try the case together with copies of the

juror qualification forms returned by such prospective jurors.] prepared pursuant to paragraph (A)(1)(b); and

(d) make available for review and copying copies of the juror qualification forms returned by the prospective jurors.

(2) The information provided on the juror qualification form shall be confidential and limited to questions of the jurors' qualifications.

(3) The original and any copies of the juror qualification form shall not constitute a public record.

* * * * *
Comment
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Paragraph (A) was amended in 1998 to require that the counties use the juror qualification forms provided for in Section 4521 of the Judicial Code, 42 Pa.C.S. § 4521. It is intended that the attorneys in a case may [request and receive copies of] inspect and copy or photograph the jury lists and the qualification forms for the prospective jurors summoned for their case. The information on the qualification forms is not to be disclosed except as provided by this rule or by statute. [See also] This rule is different from Rule [1107] 632, which requires that jurors complete the standard, confidential information questionnaire for use during voir dire.

Official Note: Adopted January 24, 1968, effective August 1, 1968; Comment revised January 28, 1983, effective July 1, 1983; amended September 15, 1993, effective January 1, 1994; September 15, 1993 amendments suspended December 17, 1993 until further Order of the Court; the September 15, 1993 Order amending Rule 1104 is superseded by the September 18, 1998 Order, and Rule 1104 is amended September 18, 1998, effective July 1, 1999; amended May 14, 1999, effective July 1, 1999; renumbered Rule 630 March 1, 2000, effective April 1, 2001; amended March 28, 2000, effective July 1, 2000.

Committee Explanatory Reports:

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Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1956 (April 15, 2000).

FINAL REPORT

Amendments to Pa.R.Crim.P. 1104

JUROR QUALIFICATION FORMS

On March 28, 2000, upon the recommendation of the Criminal Procedural Rules Committee, the Supreme Court of Pennsylvania amended Rule 1104 (Juror Qualification Form, Lists of Trial Jurors, and Challenge to the Array). These changes, which will become effective on July 1, 2000, make it clear that (1) the completed juror qualification forms are confidential and do not constitute a public record, (2) an attorney who requests the lists of trial jurors and juror qualification forms may inspect and copy or photograph those lists and forms, and (3) the questions on the juror qualification forms are limited to

questions of the jurors' qualifications. In addition, the amendments remove from the rule ambiguous language.

A. Background

The Committee received correspondence questioning the breadth and scope of Rule 1104. The correspondents found confusing the language "the officials designated by law to select persons for jury service shall . . . upon request of the attorney for the Commonwealth or the defendant's attorney, furnish a list containing the names of prospective jurors summoned to try the case together with copies of the juror qualification forms returned by such prospective jurors" (emphasis added). See Rule 1104(A)(3). The correspondents were unclear about what is intended by the phrases "jurors summoned to try the case" and "such prospective jurors." They were concerned that, if the phrases refer to the jurors who will be selected from the "pool of jurors" for a specific trial, the information may not be known until the day of trial. This interpretation would be a major problem for those judicial districts in which jurors are summoned on a specific day. On the other hand, if the phrases refer to the entire pool to whom the qualification forms had been sent, then it "would be a cumbersome, time consuming and expensive effort" to require the officials to furnish the copies of the juror qualification forms for all of the jurors summoned for a particular "trial term."

In view of this correspondence, the Committee reexamined Rule 1104(A) and agreed the ambiguity in the meaning of the phrases "jurors summoned to try the case" and "such prospective jurors" raised in the correspondence merited clarification in the rule. The Committee also agreed that an additional, correlative matter concerning the scope of the attorney's access to the forms should be clarified in Rule 1104.

Acknowledging that there are no reasons why an attorney should be denied access to the jury lists and qualification forms, the Committee first considered the reasons why an attorney might want to have copies of them. We identified two: (1) when the attorney is considering challenging the array; and (2) when the attorney wants to compare the answers on the qualification forms with the answers submitted by the jurors on the information questionnaires completed pursuant to Rule 1107. Although we agreed that an attorney should have access to the jury lists and qualification forms, the Committee also reasoned that after an attorney has the opportunity to review the lists and the forms, if the attorney wants copies or photographs of the lists or the completed juror qualification forms, the burden of making the copies or photographs should be on the attorney. We agreed that this requirement would prevent attorneys from pro forma requesting all the forms in every case, and would address the concerns of the correspondents that requiring the officials to make and pay for the copies would be a "cumbersome, time-consuming and expensive effort."

Next, the Committee reexamined the phrase "prospective jurors summoned to try the case," and agreed with the correspondents that the language is confusing because there does not appear to be a uniform or widely accepted definition of the phrase "summoned to try the case." See present Rule 1104(A)(3). From our review and the members' experiences in practice, the Committee identified three different time periods to which the language has been applied: 1) the jurors selected for service from the annual master list prepared by the jury selection commission pursuant to 42 Pa.C.S. § 4521(a); 2) the pool

of jurors summoned for service on a particular day; or 3) those jurors summoned for service and sent to a particular courtroom for voir dire. Practically speaking, the members agreed that the intent of the rule when amended in 1998 was to allow the attorneys access to the forms and lists in advance of trial as an aid if there will be a challenge to the array.

The Committee also considered a correspondent's suggestion that the rule include provisions addressing confidentiality, similar to the corresponding provisions in Rule 1107 (Juror Information Questionnaire). The correspondent strongly urged the Committee to consider a requirement that the juror qualification form does not constitute a public record. The Committee agreed with these comments and developed provisions providing for confidentiality and making it clear that the forms are not public records. We also agreed to make it clear that the questions on the qualification form should be limited only to the questions of juror qualifications.

B. *Discussion of Rule Changes*

Rule 1104 provides, inter alia, the procedures for the jury officials to follow in summoning individuals to serve as jurors in criminal cases. Paragraph (A) has been reorganized and supplemented by the inclusion of three new paragraphs.

New paragraph (A)(1) is divided into four paragraphs. Former paragraph (A)(1) has been renumbered (A)(1)(a), and former paragraph (A)(2) has been renumbered (A)(1)(b). Paragraph (A)(1)(c) has been fine-tuned to make it clear that the jury official is required to furnish the "list containing the names of prospective jurors" that is required to be prepared, published, and posted pursuant to paragraph (A)(1)(b) and 42 Pa.C.S. § 4521. In addition, the troublesome phrase "summoned to try the case" has been deleted. Finally, a new paragraph (A)(1)(d) makes it clear that, when requested by the attorney, the official is required to make available for "review and copying" copies of the juror qualification forms returned by the prospective jurors.

Also, two new paragraphs are included as part of paragraph (A). A new paragraph (A)(2) makes it clear that the information included on the juror qualification form is to be kept confidential and limited to questions of the jurors' qualifications. New paragraph (A)(3) makes it clear that the completed juror qualification form does not constitute a public record.

The Court has also approved revisions to the Rule 1104 Comment. First, the Comment explains that under paragraph (A)(1)(d) the attorneys may inspect and copy or photograph the jury lists and the qualification forms. This is accomplished by deleting the phrase "request and receive copies of" and adding in its place the language "inspect and copy or photograph." Second, as a measure of caution, and because the Committee perceives that there has been some confusion between the Rule 1104 Juror Qualification Form and the Rule 1107 Juror Information Questionnaire, the distinction between the two documents has been highlighted in the Rule 1104 Comment.

[Pa.B. Doc. No. 00-636. Filed for public inspection April 14, 2000, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Joint General Court Regulation; Trial and Orphans' Court Divisions; No. 2000-03

Distribution of Business within the Court of Common Pleas Nonprofit Corporations

The Pennsylvania Rules of Judicial Administration provide that the Orphans' Court Division of a Court of Common Pleas shall herein determine matters dealing with Nonprofit Corporations. See Pa.R.J.A. No. 2156. However, in certain instances, disputes concerning nonprofit corporations cannot, or ought not, be heard in the Orphans' Court Division, but rather should be heard in the Trial Division. The within Joint General Court Regulation is designed to clearly set forth the types of matters to be heard by the two divisions of the Court of Common Pleas of Philadelphia County.

1. *Matters to be heard by the Orphans' Court Division.* All matters wherein a Nonprofit Corporation is a party shall be heard in the Orphans' Court Division provided that the named purpose of the Nonprofit Corporation is charitable.

2. *Matters to be heard by the Trial Division.* All matters wherein a Nonprofit Corporation is a party shall be heard in the Orphans' Court Division provided that the stated purposes of the Nonprofit Corporation is noncharitable.

3. *Effective Date.* This Joint General Court Regulation shall become effective thirty days after publication in the *Pennsylvania Bulletin*.

This General Court Regulation is promulgated in accordance with Pa.R.J.A. No. 2156, Pa.O.C. Rule No. 1.2 and Pa.R.Civ.P.No. 239. The original Joint General Court Regulation shall be filed with the Prothonotary in a docket maintained for General Court Regulations issued by the President Judge of the Court of Common Pleas, and certified copies shall be submitted to the Clerk of Orphans' Court, the Civil Procedural Rules Committee, the Orphans' Court Procedural Rules Committee, Administrative Office of Pennsylvania Courts, and the Legislative Reference Bureau. Copies of the Regulation shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library, and the Law Library for the First Judicial District. The Joint General Court Regulation will also be posted on the First Judicial District's website at <http://courts.phila.gov>. The Joint General Court Regulation will also be posted on the First Judicial District's website at <http://courts.phila.gov>.

ALEX BONAVITACOLA,
President Judge

[Pa.B. Doc. No. 00-637. Filed for public inspection April 14, 2000, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Royland F. Cain, having been disbarred from the practice of law in the State of New Jersey, the Supreme Court of Pennsylvania issued an Order dated March 27, 2000, disbarring Royland F. Cain from the Bar of this Commonwealth. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted

attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
*Executive Director & Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 00-638. Filed for public inspection April 14, 2000, 9:00 a.m.]
