

STATE OF MINNESOTA
IN SUPREME COURT
ADM10-8049



**ORDER PROMULGATING AMENDMENTS TO
THE MINNESOTA RULES OF CRIMINAL PROCEDURE**

On February 27, 2024, we issued an order directing the Minnesota Supreme Court Advisory Committee on the Rules of Criminal Procedure (the Committee) to consider potential changes to the process for keeping sensitive information in juror questionnaires non-public. *See* In re Minn. Rules of Crim. Proc., No. ADM10-8049, Order at 1 (Minn. filed Feb. 27, 2024). In response to the order, the Committee filed a report on June 24, 2025, recommending changes to Rule 26.02 and to Form 50, the sample juror questionnaire in the Appendix to the Rules of Criminal Procedure. Rep. & Proposed Amends. to the Minn. Rules of Crim. Proc., No. ADM10-8049 (Minn. filed June 24, 2025). We opened a public comment period and received one comment from the Minnesota County Attorneys Association (MCAA) stating:

MCAA takes no position on the proposed amendments to Rule 26.02. MCAA is concerned about sensitive information of jurors becoming public. But we also recognize the strong constitutional presumption favoring public court proceedings. MCAA anticipates that district court judges and practitioners will balance the privacy interest of potential jurors with the need to obtain the information necessary to seat a fair and impartial jury.

We scheduled a public hearing in December 2025 but canceled the hearing after receiving no additional comments or requests to appear at the hearing.

Having carefully considered the Committee's recommendations, we agree with the proposed amendments to Rule 26.02 and Form 50 and adopt them.

We make two additional changes to Rule 26.02. First, we amend Rule 26.02, subd. 4(2), as follows:

(2) Sequestration of Jurors.

(a) Court's Discretion. The court may order that the examination of each juror take place outside of the presence of other chosen and prospective jurors, but with the defendant, parties, and public present. Regardless of the jury selection method used, the court has the discretion to permit jurors to be questioned about sensitive topics outside the presence of other chosen and prospective jurors, but in open court with the defendant, parties, and public present.

Second, we further amend the new Rule 26.02, subd. 4(4)(a), as proposed by the Committee, as follows:

(a) Constitutional Requirements for Closure of the Courtroom During Voir Dire. In considering the request to exclude the public during voir dire, the court must balance the juror's privacy interests, the defendant's right to a fair and public trial, and the public's interest in access to the courts. The court must not close the courtroom during voir dire unless the closure complies with the constitutional rights to a fair and public trial. Examination of prospective jurors outside the presence of other chosen and prospective jurors, but with the defendant, parties, and public present, is not a courtroom closure.¹

These amendments are consistent with the Committee's recommendations to balance the constitutional presumption that voir dire is public and the sensitive nature of certain voir dire questions.

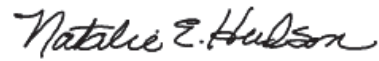
Based on all the files, records, and proceedings herein,

¹ For clarity, we emphasize that this quotation already incorporates the changes recommended by the Committee.

IT IS HEREBY ORDERED that the attached amendments to Rule 26.02 and Form 50 of the Minnesota Rules of Criminal Procedure are prescribed and promulgated as shown below. The amendments are effective on May 1, 2026.

Dated: April 13, 2026

BY THE COURT:

A handwritten signature in cursive script that reads "Natalie E. Hudson".

Natalie E. Hudson
Chief Justice

AMENDMENTS TO THE MINNESOTA RULES OF CRIMINAL PROCEDURE

[Note: In the following amendments, deletions are indicated by a line drawn through the words, and additions are indicated by a line drawn under the words.]

Rule 26.02 Jury Selection

Subd. 1. Jury List. The jury list must be composed of persons randomly selected from a fair cross-section of qualified county residents. The jury must be drawn from the jury list.

Subd. 2. Juror Information.

(1) Juror Lists.

(a) Jury Panel List With Demographic Information. Unless the court orders otherwise after a hearing, the court administrator must ~~furnish~~provide to the parties prior to trial~~to any party upon request~~, a list of persons on the jury panel, including name, city as reported on the juror qualification questionnaire, occupation, education, children's ages, spouse's occupation, birth date, reported race and whether or not of Hispanic origin, gender, and marital status. The panel list must be filed after the trial has concluded, if not already filed, and must be maintained as nonpublic due to the presence of juror race.

(b) Random Juror List. The random juror list that is generated for the case, and may be used during voir dire to indicate strikes, must not include juror race. The random juror list must be filed after the trial has concluded, if not already filed, and must be made available to the public.

(2) Anonymous Jurors. On any party's motion, ~~the court may restrict access to prospective and selected jurors' names, addresses, and other identifying information~~ if a strong reason exists to believe that the jury needs protection from external threats to its members' safety or impartiality, the court may restrict access to prospective and selected jurors' names, addresses, and other identifying information.

The court must hold a hearing on the motion and make detailed findings of fact supporting its decision to restrict access to juror information.

The findings of fact must be made in writing or on the record in open court. If ordered, jurors may be identified by number or other means to protect their identity. The court may restrict access to juror identity as long as necessary to protect the jurors. The court must minimize any prejudice the restriction has on the parties. The court's order must include specific direction on if and when juror identities must be made public.

(3) Supplemental Jury Questionnaires.

(a) Use of supplemental questionnaires. On the request of a party or on its own initiative, the court may order use of a jury questionnaire as a supplement to voir dire. The questionnaire must be approved by the court, and must be sworn to in court or signed by the prospective juror under penalty of perjury pursuant to Minnesota Statutes, section 358.116.

(b) Access to questionnaires. The questionnaire must advise jurors that their answers are part of the public record in the case. The court, the parties, and the questionnaire must not promise jurors that their responses will be kept nonpublic or confidential or that the questionnaire will be destroyed at the conclusion of the case. The court must tell prospective jurors that if sensitive or embarrassing questions are included on the questionnaire, instead of answering any particular questions in writing they may request an opportunity to address the court in camera, with counsel and the defendant present, concerning their desire that the answers not be public. When a prospective juror asks to address the court in camera, the court must proceed under subdivision 4(4) and decide whether the particular questions may be answered during oral voir dire with the public excluded.

(c) Copies and Filing. The court must ~~make the~~ provide copies of the completed questionnaires to the parties prior to trial available to counsel. After the trial has concluded the supplemental questionnaires that were used as part of voir dire, including the questionnaires completed by prospective jurors who were questioned but not impaneled, must be filed in the court file and made available to the public. Supplemental questionnaires must not be filed if they were completed by prospective jurors who were not questioned during the voir dire proceedings, or if the case was resolved prior to a jury being impaneled and sworn.

Subd. 3. Challenge to Panel. Any party may challenge the jury panel if a material departure from law has occurred in drawing or summoning jurors. The challenge must be made in writing and before the court swears in the jury. The challenge must specify grounds, and must comply with the General Rules of Practice, Jury Management Rules. The court must conduct a hearing to determine the sufficiency of the challenge.

Subd. 4. Voir Dire Examination.

(1) Purpose - How Made. ~~The court must allow the parties to conduct voir dire examination to discover grounds for challenges for cause and to assist in the exercise of peremptory challenges. The voir dire examination must be open to the public and the public must not be excluded unless the court has issued an order consistent with unless otherwise ordered under subdivision 4(4). The court must allow the parties to conduct voir dire examination to discover grounds for challenges for cause and to assist in the exercise of peremptory challenges.~~ The court must begin by identifying the parties and their respective counsel and by outlining the nature of the case. The court must question jurors about their qualifications to serve and may give the preliminary instructions in Rule 26.03, subd. 4. A verbatim record of the voir dire examination must be made ~~at any party's request.~~

(2) Sequestration of Jurors.

(a) Court's Discretion. The court may order that the examination of each juror take place outside of the presence of other chosen and prospective jurors, but with the defendant, parties, and public present. Regardless of the jury selection method used, the court has the discretion to permit jurors to be questioned about sensitive topics outside the presence of other chosen and prospective jurors, but in open court with the defendant, parties, and public present.

(b) Prejudicial Publicity. Whenever a significant possibility exists of exposure to prejudicial material, the examination of each juror with respect to the juror's exposure must take place outside the presence of other prospective and selected jurors.

(3) Order of Drawing, Examination, and Challenge.

(a) Jury Selection Methods. Three methods exist for selecting a jury:

(i) the preferred method found in paragraph (b), in which the parties make peremptory challenges at the end of voir dire;

(ii) the alternate method found in paragraph (c), in which a party exercises any peremptory challenge after questioning the prospective juror;

(iii) the preferred method for first-degree murder cases found in paragraph (d), in which each party questions the prospective juror out of the hearing of the other prospective and selected jurors.

(b) Preferred Method; Cases Other Than First-Degree Murder.

(i) The court must draw prospective jurors comprising the number of jurors required, the number of peremptory challenges, and the number of alternates.

(ii) The prospective jurors must take their place in the jury box and be sworn in.

(iii) The prospective jurors must be examined, first by the court, then by the parties, commencing with the defendant.

(iv) A challenge for cause may be made at any time during voir dire by any party. At the close of voir dire any additional challenges for cause must be made, first by the defense and then by the prosecutor.

(v) When the court excuses a prospective juror for cause, another must be drawn so that the number in the jury box remains the same as the number initially called.

(vi) After all challenges for cause have been made, the parties may alternately exercise peremptory challenges, starting with the defendant.

(vii) The jury consists of the remaining panel members in the order they were called.

(c) Alternate Method; Cases Other Than First-Degree Murder.

(i) The court must draw prospective jurors comprising the total of the number of jurors required and the number of alternates.

(ii) The prospective jurors must take their place in the jury box and be sworn in.

(iii) The prospective jurors must be examined, first by the court, then by the parties, commencing with the defendant.

(iv) On completion of the defendant's examination of a prospective juror, the defendant must be permitted to exercise a challenge for cause or a peremptory challenge.

(v) On completion of the defendant's examination and any challenge of a prospective juror, the prosecutor may examine the prospective juror and may exercise a challenge for cause or a peremptory challenge.

(vi) An excused prospective juror must be replaced by another. The replacement must be examined and challenged after all previously drawn jurors have been examined and challenged.

(vii) This process continues until the number of persons who will constitute the jury, including the alternates, have been selected.

(d) Preferred Method; First-Degree Murder Cases.

(i) The court must direct that one prospective juror at a time be drawn from the jury panel for examination.

(ii) The prospective juror must be sworn in.

(iii) The prospective juror must be examined, first by the court, then by the parties, commencing with the defendant.

(iv) On completion of defendant's examination, the defendant may exercise a challenge for cause or peremptory challenge.

(v) A prospective juror who is not excused after examination by the defendant may be examined by the state. The state may exercise a challenge for cause or peremptory challenge.

(vi) This process must continue until the number of jurors equals the number required plus alternates.

(4) Exclusion of the Public From Voir Dire. Voir dire proceedings are public. In those rare cases where it is necessary, the following rules govern orders excluding the public from any part of voir dire or restricting access to the orders or to transcripts of the closed proceeding.

~~(a) Advisory. When it appears prospective jurors may be asked sensitive or embarrassing questions during voir dire, the court may on its own initiative or on request of either party, advise the prospective jurors that they may request an opportunity to address the court in camera, with counsel and defendant present, concerning their desire to exclude the public from voir dire when the sensitive or embarrassing questions are asked.~~

~~(b) In Camera Hearing. If a prospective juror requests an opportunity to address the court in camera during sensitive or embarrassing questioning, the request must be granted. The hearing must be on the record with counsel and the defendant present.~~

~~(c) Standards. (a) Constitutional Requirements for Closure of the Courtroom During Voir Dire. In considering the request to exclude the public during voir dire, the court must balance the juror's privacy interests, the defendant's right to a fair and public trial, and the public's interest in access to the courts. The court may not close the courtroom during voir dire unless only if the closure complies with the constitutional rights to a fair and public trial. It finds a substantial likelihood that conducting voir dire in open court would interfere with an overriding interest, including the defendant's right to a fair trial and the juror's legitimate privacy interests in not disclosing deeply personal matters to the public. The court must consider alternatives to closure. Any closure must be no broader than necessary to protect the overriding interest. Examination of prospective jurors outside the presence of other chosen and prospective jurors, but with the defendant, parties, and public present, is not a courtroom closure.~~

~~(d) Refusal to Close Voir Dire. If the court determines no overriding interest exists to justify excluding the public from voir dire, the voir dire must continue in open court on the record.~~

~~(e) Closure of Voir Dire. If the court orders the determines that an overriding interest justifies closure of any part of voir dire, that part of voir dire must be conducted in camera on the record with counsel and the defendant present. The court must immediately reopen the proceedings to the public after the part of voir dire that was ordered to be conducted with the public excluded has concluded.~~

~~(f)(b) Findings of Fact and Order.~~ Any order excluding the public from a part of voir dire must be issued in writing or on the record. The court must set forth the reasons for the order, including specific findings adequate to support the closure ~~as to why the defendant's right to a fair trial and the jurors' interests in privacy would be threatened by an open voir dire.~~ The order must address any possible alternatives to closure and explain why the alternatives are inadequate.

~~(g) Record.~~ A complete record of the in camera proceedings must be made. On request, the record must be transcribed within a reasonable time and filed with the court administrator. The transcript must be publicly available, but only if disclosure can be accomplished while safeguarding the overriding interests involved. The court may order the transcript or any part of it sealed, the name of a juror withheld, or parts of the transcript excised if the court finds these actions necessary to protect the overriding interest that justified closure.

Comments

* * *

Once the panel of prospective jurors for a particular case has been determined, the judge or court personnel will instruct the panel on the use of the questionnaire. The preamble at the beginning of the Jury Questionnaire (Form 50) provides the basic information to the prospective jurors including their right to ask the court to permit them to answer any sensitive question orally or privately. On completion of the questionnaire, the court must make the questionnaire available to counsel for use in the jury selection process. The questionnaire may be sworn to either when signed or when the prospective juror appears in court at the time of the voir dire examination. Because of the information contained in the questionnaire, counsel will not need to expend court time on this information, but can move directly to follow-up questions on particular information already available in the questionnaire. However, the written questionnaire is intended only to supplement and not to substitute for the oral voir dire examination provided for by Rule 26.02, subd. 4.

The use and retention of jury questionnaires have been subject to a variety of practices. This rule provides that the questionnaire is a part of the jury selection process and part of the record for appeal and reflects current law. As such, the questionnaires should be preserved as part of the court record of the case. ~~See Rule 814 of the General Rules of Practice for the District Courts as to the length of time such records must be retained.~~ Additionally, see See Rule 26.02, subd. 2(2) as to restricting public access to the names, addresses, telephone numbers, and other identifying information concerning jurors and prospective jurors when the court determines that an anonymous jury is necessary.

It is recognized that the idea of the privacy of the questionnaire adds to the candor and honesty of the responses of the prospective jurors. However, in light of other applicable laws and the fact that the questionnaire is part of the record in the case, prospective jurors cannot be told that the questionnaire is confidential or will be destroyed at the conclusion of the case. ~~Rather, the jurors can be told, as reflected in the preamble to the Jury Questionnaire (Form 50), that they can ask the~~

~~court to permit them to answer sensitive questions orally and privately under Rule 26.02, subd. 4(4). This procedure should minimize the sensitive or embarrassing information in the written questionnaires and consequently the need for sealing or destroying them.~~

Jury selection is a part of the criminal trial record, which is presumed to be open to the public. Press-Enterprise Co. v. Superior Court of California (Press-Enterprise I), 464 U.S. 501, 505 (1984). The use of a jury questionnaire as part of jury selection is also a part of the open proceeding and therefore the public and the media have a right of access to that information in the usual case. See, e.g., Leshner Commc'ns, Inc. v. Superior Court of Contra Costa County, 224 Cal. App. 3d 774, 779 (1990).

The provision of Rule 26.02, subd. 4(1) governing the purpose for which voir dire examination must be conducted and the provision for initiation of the examination by the judge is taken from ABA Standards, Trial by Jury, 2.4. The court has the right and the duty to assure that the inquiries by the parties during the voir dire examination are "reasonable." The court may therefore restrict or prohibit questions that are repetitious, irrelevant, or otherwise improper. See State v. Greer, 635 N.W.2d 82, 87 (Minn. 2001) (holding no error in district court's restrictions on voir dire); State v. Bauer, 189 Minn. 280, 282, 249 N.W. 40, 41 (1933). However, the Minnesota Supreme Court's Task Force on Racial Bias in the Judicial System recommends in its Final Report, dated May 1993, that during voir dire lawyers should be given ample opportunity to inquire of jurors as to racial bias.

The purpose of Rule 26.02, subd. 4(3) is to achieve uniformity in the order of drawing, examination, and challenge of jurors, and also to provide a limited number of alternatives that may be followed, in the court's discretion. Hence, a uniform rule (26.02, subd. 4(3)(b)) is prescribed, which is to be followed unless the court orders the alternative. Rule 26.02, subd. 4(3)(c). An exception is that in cases of first-degree murder, Rule 26.02, subd. 4(3)(d) is to be preferred unless otherwise ordered by the court.

Rule 26.02, subd. 4(3)(b) is the rule to be followed unless the court orders otherwise and substantially adopts the method used in civil cases, so that in a criminal case 20 members of the jury panel are first drawn for a 12-person jury. See Minnesota Statutes, section 546.10; Minn. R. Civ. P. 48. After each party has exercised challenges for cause, commencing with the defendant, they exercise their peremptory challenges alternately, commencing with the defendant. If all peremptory challenges are not exercised, the jury must be selected from the remaining prospective jurors in the order in which they were called.

~~*For the definition of a felony conviction that would disqualify a person from service on the jury under Rule 26.02, subd. 5(1), see Minnesota Statutes, section 609.13. The term "related offense" in the rule is intended to be more comprehensive than the conduct or behavioral incident covered by Minnesota Statutes, section 609.035.*~~

~~Rule 26.02, subd. 7 (Objections to Peremptory Challenges) adopts and implements the equal protection prohibition against purposeful racial and gender discrimination in the exercise of peremptory challenges established in *Batson v. Kentucky*, 476 U.S. 79 (1986) and subsequent cases, including *J.E.B. v. Alabama ex rel. T.B.*, 511 U.S. 127 (1994) (extending the rule to gender-based discrimination). In applying this rule, the bench and bar should thoroughly familiarize themselves with the case law that has developed, particularly with respect to meanings of the terms “prima facie showing,” “race neutral explanation,” “pretextual reasons,” and “purposeful discrimination” used in the rule. See also *State v. Davis*, 504 N.W.2d 767 (Minn. 1993) (declining to extend the rule to religion), cert. denied sub. nom *Davis v. Minnesota*, 511 U.S. 1115 (1994).~~

~~The interpreter requirement in Rule 26.03, subd. 1(1) derives from Rule 8 of the General Rules of Practice for the District Courts and Minnesota Statutes, sections 611.30 to 611.34.~~

~~A defendant’s refusal to wear non-jail attire waives the provision in Rule 26.03, subd. 2 (Custody and Restraint of Defendants and Witnesses) and is not grounds for delaying the trial. A list of factors relevant to the decision to employ restraints is found in *State v. Shoen*, 578 N.W.2d 708, 713 (Minn. 1998).~~

~~Rule 26.03, subd. 5(3) requires the consent of the defendant and prosecutor when ordering jurors to separate overnight during deliberation. In *State v. Green*, 719 N.W.2d 664, 672-73 (Minn. 2006), the Minnesota Supreme Court concluded that a district court did not commit error in releasing jurors for the night when no hotel accommodations could be found within a reasonable distance of the courthouse despite an exhaustive effort, neither party could propose a means of accomplishing sequestration, and the trial court instructed jurors to have no discussions about the case and to not read newspapers, watch television, or listen to the radio.~~

* * *

FORM 50 - JURY QUESTIONNAIRE

The use of this Questionnaire is to assist lawyers and the court in the selection of a fair, impartial and neutral jury.

~~Your answers to the questions contained in the Questionnaire, like your answers to questions in open court during jury selection proceedings, are part of the public record in this case.~~

Your answers to the questions contained in the Questionnaire, like your answers to questions in open court during jury selection proceedings, are part of the public record in this case.

~~(If additional questions are asked that may elicit sensitive information, the following language should be included: if you object to answering any particular questions in writing because the answers will be sensitive or embarrassing to you, you may request an opportunity to address the court to ask that such answers be given orally and not disclosed to the public.)~~

DO NOT DISCUSS YOUR ANSWERS WITH ANY OF THE OTHER PROSPECTIVE JURORS.

1. Name _____
2. Place of residence (City, Village, or Township):
_____ Zip Code _____
3. How long have you lived in this location? _____
4. Where did you grow up? _____
How long have you lived in this County? _____
5. Your age _____
6. Are you currently (check one) single (never married) _____
separated _____ divorced _____ married _____ widowed _____?
7. How many years of school have you completed? _____
8. What high school(s) did you attend and the last calendar year you attended?

9. If you attended college or vocational school after high school, list:
 1. the name of the school,

- 2. major type of training,
- 3. dates attended,
- 4. degrees or certificates.

10. Are you currently: (check one)

employed full time _____ employed at more than one job _____
employed part time _____ temporarily laid off _____
unemployed _____ retired _____ homemaker _____ disabled _____ student _____

11. If employed or temporarily laid off, list occupation, name of employer and duties:

12. How long have you worked for this employer? _____

What previous jobs have you held? _____

13. Please describe the occupation and education of:

other adults in your household or, if divorced, your ex-spouse _____

your mother _____

your father _____

14. If you have any children, please list their age, sex, occupation if employed:

15. Have you ever served in the military? Yes _____ No _____

If yes, list the branch, place and date of service, rank at discharge and the type of discharge:

Are you now serving in a reserve unit? Yes ____ No ____

16. Please list the organizations to which you belong, in which you participate, or in which you have ever held any office. For example, service clubs, governmental bodies, unions or professional organizations, volunteer activities, educational or political groups, etc.:

Answer this question for other adults in your household:

17. Have you ever served on a jury? Yes ____ No ____

If yes, please list the year or years in which you served and whether the case was civil or criminal:

year	civil or criminal
_____	_____
_____	_____
_____	_____

If you served on a criminal jury was a verdict reached?

Yes ____ No ____ What was the charge? _____

18. Have you ever served on a grand jury? Yes ____ No ____

If yes, how many cases were presented to the grand jury on which you served?

If yes, did the grand jury return an indictment(s)?

Yes ____ No ____

19. Have you ever been called as a witness in court or given a statement in any legal proceeding? Yes ____ No ____

If yes, please describe the circumstances:

20. Do you have any close relatives or friends who are lawyers, judges, or are employed in any other job within the legal profession? Yes ____ No ____

If yes, list the name(s), relationship(s) and occupation(s):

21. Have you or any close relatives or friends ever been sued or sued someone else?

Yes ____ No ____

If yes, please explain: _____

22. Have you ever had any legal or medical training?

Yes ____ No ____

If yes, please describe: _____

23. Have you or any close relatives or friends ever been the victim of a crime?

Yes ____ No ____

If yes, please explain: _____

24. Have you ever been a witness to a crime, or ever been questioned by a law enforcement officer about a crime?

Yes ____ No ____

If yes, please explain: _____

25. Have you ever filed a complaint against someone with law enforcement?

Yes ____ No ____

If yes, please explain:

26. Have you or any close relatives or friends ever been charged with or accused of a crime?

Yes ____ No ____

If yes, please explain the circumstances and the results:

27. Have you or any close relatives or friends ever worked in law enforcement, such as for a police department, highway patrol, state crime bureau or sheriff?

Yes ____ No ____

If yes, please list their name(s), occupation(s), and employer(s):

28. Have you or any close relatives or friends ever worked for a fire department or rescue squad?

Yes ____ No ____

29. Do you have any close relatives or friends who have ever worked as a probation officer or in the prison system?

Yes ____ No ____

30. Do you have any religious or philosophical beliefs that would make it difficult for you to be a juror?

Yes ____ No ____

If yes, please explain:

31. Do you have any disabilities, physical, mental, or other problems which would make it difficult for you to sit as a juror?

Yes ____ No ____

If yes, please explain:

Do you have any limitations on your vision or hearing?

Yes ____ No ____

If yes, would a special seating assignment help you follow the trial and enable you to serve on the jury?

Yes ____ No ____

32. Have you or any close relatives or friends ever been addicted to anything, such as alcohol or drugs of any kind?

Yes ____ No ____

33. Are there any pressing matters that would distract you or prevent you from giving jury service your complete and undivided attention?

Yes ____ No ____

If yes, please explain:

I have given complete and honest answers to all of the questions above.

I declare under penalty of perjury that everything I have stated in this document is true and correct. Minn. Stat. § 358.116.

Dated: _____

Signature

County and state where signed:

~~(Added effective for criminal actions commenced or arrests made after 12 o'clock midnight January 1, 1999; amended December 10, 2003, effective February 1, 2004.)~~