

Criminal Jury Instructions Committee

Minutes – October 16, 2020

Starr, Hon. Patricia (CHAIR)	X
Allen, Jamiel	
Beene, The Hon. James	
Bingert, Elizabeth	X
Breeze, Michael (Jose Padilla)*	X
Brewer, Hon. Maria	X
Carrion, Daniel	X
Chalk, Bruce H.	X
Dahl, Ellen	X*
Euchner, David	X
Govani, Kush	
Hawkins, Paul	X
Holmberg, Hon. Jason	
Holmes, Robb	
Hopkins, Hon. Stephen	X
Komrada, Karen	X
Lawson, Todd C	X
Linn, Jennifer (Ellen Dahl)*	
Liwski, Hon. Danelle	X
Mayhew, Sarah	X
McCarthy, Steve	
Steinberg, Shawn	X
Steinfeld, Mikel	X
Vietor, Greta	
Wallace, William	

*Proxies

1. Call to Order by The Honorable Patricia Starr: 1:30PM

2. Agenda Items:

- a. Discussion regarding minutes from 12/6/19 meeting
Minutes approved unanimously
 - Euchner moves to approve
 - Steinfeld seconds
 - Pass unanimously

3. Revisions to 7.05 (DCAC) and 13.07.02 Sex Trafficking of a Minor

A. 7.05 – Dangerous Crime Against a Child

- a. Bingert presents on her addition that conspiracy be defined as preparatory whether completed or uncompleted and is DCAC against children in second degree.
 - i. Discussion
 - 1. Euchner questions whether it needs to be in the jury instructions, because it's a sentencing question.
 - a. Steinfeld-if we include this sentencing information, where do we draw the line in including sentencing information in jury instructions?
 - 2. Judge Hopkins states that the addition is designed to assist in understanding law and believes it should stay in.
 - ii. Motion to approve the addition-Bingert
 - 1. Second-Steinberg
 - 2. Motion passes 9-7

B. 13.07.02 Sex Trafficking of a Minor

- a. Bingert proposes addition that this is an instruction for only offenses committed before August 9, 2017
 - i. No comments
 - ii. Motion to approve the addition-Bingert
 - iii. Second-Eichner
 - iv. Passes unanimously

4. Proposed Misdemeanor Instructions

- A. Proposed 14.03A.1, 14.03.A.2, 14.03.A.3, 14.03A.4-Public Indecency-Sexual contact, oral sexual contact, sexual intercourse, bestiality
 - a. Carrion presented this draft instruction to the committee for comment

- i. Discussion
 - 1. Steinfeld proposes combining them into a single instruction and bracketing the alternatives
 - a. Euchner agrees with the brackets so four separate instructions do not exist.
 - 2. Euchner proposes that the element of the presence of another person be added as the second element
 - ii. Motion to approve with above amendments-Carrion
 - 1. Second-Euchner
 - 2. Passes unanimously
- B. Proposed 24.06 Impersonating a Public Servant
 - a. Carrion presented this draft instruction to the committee for comment
 - i. Discussion
 - 1. Dahl recommends adding word “official” as the second to last word in element 2
 - 2. Steinfeld states this is consistent with statutory language
 - 3. Starr states the reference to a “peace officer” needs to be changed to “public servant”
 - b. Motion to approve with the above amendments-Carrion
 - i. Second-Euchner
 - ii. Passes unanimously
- C. Proposed 32-14.A-Prostitution
 - a. Carrion presents this draft instruction for comment
 - i. Discussion
 - 1. Comment that a footnote should be added stating that no case has stated that this is a jury-eligible offense
 - ii. Motion to approve with the above amendment-Carrion
 - 1. Second-Euchner
 - 2. Passes unanimously
- D. Proposed 39.19-Child Neglect
 - a. Carrion presents this draft instruction for comment
 - i. Discussion
 - 1. Comment is made that it needs to be changed to 36.19
 - 2. Comment is made that language of defendant having custody should be changed to “had custody”
 - 3. Comment made that in element 2 “its” should change to “the minor’s” and brackets should be inserted for the ensuing language
 - ii. Motion to approve with the above amendments-Carrion
 - 1. Second-Euchner
 - 2. Passes unanimously
- E. Proposed 28.693-Reckless driving
 - a. Carrion presents this draft instruction for comment

- i. No ensuing discussion
 - ii. Motion to approve-Carrion
 - 1. Second-Euchner
 - 2. Passes unanimously
- F. Proposed 28.8280 Careless or Reckless Aircraft Operation
 - a. Carrion presents this draft instruction for comment
 - i. Discussion
 - 1. Comment is made that “engenders” should be changed to “endangers”
 - 2. Lawson questions why this is a jury eligible offense
 - 3. Amendment decided to include a footnote stating no cases have decided whether this is a jury-eligible offense yet.
 - ii. Motion to approve with above amendments-Steinfeld
 - 1. Second-Euchner
 - 2. Passes unanimously
- G. Proposed 28.8282(A)(1)&(2)-Prohibited Operation
 - a. Carrion presents these draft instructions for comment
 - i. Discussion
 - 1. Euchner proposes combining (A)(1) & (A)(2)
 - 2. Comment is made that the draft instruction wording mirrors that in the statute
 - 3. Steinfeld proposes adding “was” before “incapable” to element 2 of (A)(2)
 - ii. Motion to approve subject to the above amendments-Carrion
 - 1. Second-Bingert
 - 2. Passes unanimously
- H. Proposed 28.8282 (C)(1)& (C)(2)-Prohibited Operation
 - a. Carrion presents these draft instructions for comment
 - i. Discussion
 - 1. Decision is reached to keep the instructions separate and not combine them
 - 2. Comment is made to remove the word “while” in element 2 of (C)(1)
 - ii. Motion to approve subject to above amendment-Carrion
 - 1. Second-Steinfeld
 - 2. Passes unanimously

5. Additional business

- a. Bingert suggests formation of subcommittee to review capital aggravating circumstances to change them and reorganize them.
- b. Bingert will head the subcommittee
 - i. Additional members will include Euchner, Dahl, and Steinfeld.

6. Call to the Public Completed

- a. No member of public present

7. Next meeting

- a. Currently set for November 20 at 1:30 p.m.

8. Adjourn

- a. Euchner moves to adjourn
 - i. Komrada seconds the motion.
 - ii. Motion passes unanimously.