

# **Public Meeting of Criminal Jury Instructions Committee**

Minutes – September 29, 2017

## **Present in Person (8):**

Hon. Sam Myers

Brandon Brown

Mikel Steinfeld

Steve McCarthy

Kenneth Vick

Todd Lawson

Antonio Zuniga

Bruce Chalk

## **Present Telephonically (5):**

Jennifer Linn

David Euchner

Joel Chorny

Elizabeth Bingert

Rob Holmes

## **Absent (13):**

Hon. Maria Brewer

Hon. James Beene

Matthew Binford

Hon. Douglas Camacho

Carlos Carrion

Robert Gundacker

Paul Hawkins

Hon. John Lamb

Robert McWhirter

Victoria Otto

Leonardo Ruiz

Hon. Alicia Skupin

Hon. Gerald Williams

**1. Call to Order: 1:37PM by The Honorable Sam Myers**

- a. Meeting begins with an announcement that this committee is covered by the public meeting policy. Members must follow the agenda. Members should not discuss committee business by email. Instead, members can email Ilona or Judge Myers who will then distribute to the committee. The Crim RAJI committee is also required to keep minutes.

**2. Agenda Items:**

- a. Joel Chorny proposal 4.15 (Justification; Domestic Violence)
  - i. Discussion of Hon. Williams' emails.
  - ii. Discussion and modifications – Chorny proposal amended to include deadly physical force. Chorny proposes changes in use note. J. Myers proposes changes to use note.
  - iii. Joel Chorny moves, Zuniga second – Revised proposal passes unanimously as modified
- b. Judge Myers proposal 12.04 (Aggravated Assault)
  - i. Discussion
  - ii. Bruce Chalk moves to accept, Steinfeld second – Revised proposal passes unanimously as written
- c. Judge Myers proposal 12.04.09A (Aggravated Assault – Control of Officer's Firearm)
  - i. Discussion
  - ii. Steinfeld moves to accept, Brown second – Passes unanimously as written
- d. Judge Myers proposal 12.04.09B (Aggravated Assault – Control of Officer's Weapon other than a Firearm)
  - i. Discussion
  - ii. Brown moves to accept, Zuniga second – Passes unanimously as written
- e. Judge Myers proposal 12.04.09C (Aggravated Assault – Control of Officer's Implement other than a Firearm)
  - i. Discussion
  - ii. Steinfeld moves to accept, Chalk second – Passes unanimously as written
- f. Judge Myers proposal 13.07.B Sex Trafficking (Victim Under 18 Years of Age)
  - i. Discussion

- ii. Brown moves to accept, Steinfeld second – Passes unanimously as written
- g. Judge Myers proposal 13.08 (Trafficking of Persons for Forced Labor or Services)
  - i. Discussion – Brown initiates discussion. J. Myers proposes changes. Vick proposes changes
  - ii. Brown moves to accept, Zuniga second – Passes unanimously as modified
- h. Judge Myers proposal 23.08.01 (Terrorism)
  - i. Discussion
  - ii. Unanimous decision to place this on the agenda for next meeting. Tabled until next meeting.
- i. Judge Myers proposal 23.08.02.A (Making a Terrorist Threat)
  - i. Discussion
  - ii. Steinfeld moves to accept, Chalk second – Passes unanimously as written
- j. Judge Myers proposal 23.08.02.B (False Reporting of Terrorism)
  - i. Discussion
  - ii. Zuniga moves to accept, Steinfeld second – Passes unanimously as written
- k. Judge Myers proposal 23.08.03 (Unlawful Use of Infectious Biological Substance or Radiological Agent)
  - i. Discussion re language “another act in violation of this section”
  - ii. Lawson moves to accept, Zuniga second – Passes unanimously as modified
- l. Steve McCarthy proposal 23.10 (Fraudulent Schemes and Artifices)
  - i. Discussion
  - ii. Steinfeld moves to table, McCarthy second – tabled
- m. **BREAK** 2:50PM – Meeting Resumes 2:55PM
- n. Judge Myers proposal 31.22 (Unlawful Use of Electronic Firearm Tracking Technology)
  - i. Discussion- Lawson moves to reject, then withdraws motion
  - ii. Chalk moves to accept, Zuniga second – Majority Passes as written (Euchner opposed)
- o. Judge Myers proposal 32.12A (Child Sex Trafficking)
  - i. Discussion- Vick proposes modifications to first new paragraph

- ii. 3:03PM Elizabeth Bingert exits the meeting
  - iii. Discussion resumes
  - iv. Zuniga moves to accept, Chalk second – Passes unanimously as modified
- p. Judge Myers proposal 32.12B (Child Sex Trafficking)
  - i. Discussion
  - ii. Chorny moves to accept, Zuniga second – Passes unanimously as written
- q. Todd Lawson proposes changes to Non-Capital Aggravating Circumstances Instructions
  - i. Discussion
  - ii. Steinfeld moves to accept, Zuniga second – Passes unanimously as written
- r. Judge Myers proposes changes to Capital Jury Instruction 1.1 (Eligibility Phase- Nature of the Hearing), and 1.1A (Eligibility Phase- Nature of the Hearing- for Offenses Occurring On or After August 2, 2012)
  - i. Discussion – suggestion to update source to *Lynch v. Arizona*
  - ii. Steinfeld moves to accept, Brown second – Passes unanimously as amended
- s. Judge Myers proposes changes to Capital Jury Instruction 2.6 (Mitigation Assessment and the Sentence Burden of Proof)
  - i. Discussion
  - ii. A decision is made to table this proposal. Steinfeld will draft new proposal.
- t. Judge Myers proposes changes to Capital Jury Instruction 2.10 (Intellectual Disability)
  - i. Discussion
  - ii. Judge Myers proposes tabling for now. This will be circulated - Tabled

### **3. Meeting Adjourns 3:26PM**