

Criminal Jury Instructions Committee

Minutes – November 22, 2019

Present in Person (10):

Hon. Patricia Starr
Mikel Steinfeld
Steve McCarthy
Carlos Carrion
Elizabeth Bingert
Karen Komrada
Todd Lawson
Judge Delia Neal (proxy for Hon. Jason Holmberg)

Present Telephonically (8):

Jennifer Linn (also acting as proxy for Leonard Ruiz)
David Euchner
Hon. Danelle Liwski
Hon. Maria Brewer
Jamiel Allen
Robb Holmes
Sarah Mayhew
Shawn Steinberg
William Wallace

Absent (5):

Hon. James P. Beene
Bruce Chalk
Hon. Stephen Hopkins
Hon. Jason Holmberg (Judge Neal acted as proxy)
Leonardo Ruiz (Jennifer Linn acted as proxy)
Michael Breeze
Paul Hawkins

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

2. Agenda Items:

- a. Sept. 27, 2019 meeting minutes approved unanimously with minor edit
- b. Revised definition of “Prohibited Weapon” (Carlos Carrion)
 - i. Carrion moves to adopt changes
 - ii. Hon. Starr second
 - iii. Motion Passes Unanimously**
 - iv. Hon. Starr moves to approve language in 3rd paragraph of comment section
 - v. Bingert second
 - vi. Motion Passes Unanimously**
- c. Revised “Modified LeBlanc” instruction for Felony Murder (Steinfeld)
 - i. Discussion
 - ii. Linn proposes bracketing phrase “less serious offense”
 - iii. Steinfeld modifies his proposal
 - iv. Carrion moves to adopt
 - v. Hon. Delia Neal second
 - vi. Motion Passes Unanimously**
- d. First Degree Murder of a Law Enforcement Officer
 - i. Linn proposes modification to proposed instruction
 1. Delete in line 1 “person, who the defendant knows is a”
 - ii. **Tabled** for 12/6/19 meeting
 - iii. Hon. Starr will research the issue and distribute her research
- e. Burden of Proof on Aggravating Factor of Permanently Incurable (Breeze)
 - i. **Tabled** – Breeze not present
- f. Alternate Proposals for Resisting Arrest (Euchner)
 - i. Linn proposes we table this until next year
 - ii. Discussion of Proposal A and Proposal B
 - iii. Lawson recommends tabling
 - iv. Euchner would like the committee to address the comments
 - v. Hon. Starr moves to add bracketed language to the current instruction
 1. “Whether the attempted arrest was legally justified is irrelevant.”
 - vi. Carrion second
 - vii. Motion Passes Unanimously**
 - viii. Carrion moves to adopt comments
 - ix. Hon. Starr second
 - x. Motion Passes Unanimously
 - xi. Carrion moves to address comma in Cagle citation
 - xii. Unknown second
 - xiii. Motion Passes Unanimously**

- xiv. Bingert volunteers to remove cites to Pacific Reporter – P.2d
 - g. New Offenses and Addition to Current Offense
 - i. 13.10 Abduction of a Child from a State Agency
 - 1. Edited to have two separate offenses with brackets and add language below the line instructing these are two separate offenses.
 - a. “comment: ARS 13-1310 created two separate offenses”
 - 2. Lawson moves
 - 3. Euchner second
 - 4. Motion Passes Unanimously**
 - ii. 29.10 Cruelty to Animals (additions)
 - 1. Lawson moves
 - 2. Steinfeld second
 - 3. Motion Passes Unanimously**
 - iii. 32-3227 Unauthorized Practice of a Health Professional
 - 1. Proposal – definition of “health professional” is moved below the line
 - 2. Hon. Delia Neal moves to have no action
 - 3. Steinfeld second
 - 4. Motion for no action **Passes**
 - a. Bingert, Lawson, Steinberg vote nay
 - h. Wrapup
 - i. More research needed on First Degree Murder of Law Enforcement Officer
 - ii. Carrion will be present for next meeting to act as chair for half of meeting when Hon. Starr will not be present
- 3. Call to the Public Completed**
- 4. Adjourn**
 - a. Euchner moves to adjourn
 - b. Stein second
 - c. **Motion passes unanimously**