

**IN THE SUPREME COURT OF FLORIDA**

**IN RE: STANDARD JURY**

**INSTRUCTIONS IN CRIMINAL CASES**

**CASE NO.: SC14-**

**REPORT 2014-07**

To the Chief Justice and Justices of the Supreme Court of Florida:

This report, proposing new and amended instructions to the Florida Standard Jury Instructions in Criminal Cases, is filed pursuant to Article V, section 2(a), Florida Constitution.

	<u>Instruction #</u>	<u>Topic</u>
<b>Proposal 1</b>	<b>3.8(b)</b>	<b>Conviction of Certain Crimes as Impeachment</b>
<b>Proposal 2</b>	<b>11.7</b>	<b>Unlawful Sexual Activity with Certain Minors</b>
<b>Proposal 3</b>	<b>11.10(a)</b>	<b>Lewd or Lascivious Battery (Engaging)</b>
<b>Proposal 4</b>	<b>11.10(b)</b>	<b>Lewd or Lascivious Battery (Encouraging)</b>
<b>Proposal 5</b>	<b>11.10(c)</b>	<b>Lewd or Lascivious Molestation</b>
<b>Proposal 6</b>	<b>11.10(d)</b>	<b>Lewd or Lascivious Conduct</b>
<b>Proposal 7</b>	<b>11.10(e)</b>	<b>Lewd or Lascivious Exhibition (Presence of a Child)</b>
<b>Proposal 8</b>	<b>11.11</b>	<b>Lewd or Lascivious Offenses (Presence of Elderly/Disabled Person)</b>
<b>Proposal 9</b>	<b>11.13</b>	<b>Voyeurism</b>
<b>Proposal 10</b>	<b>11.17(a)</b>	<b>Solicitation of a Child for Unlawful Sexual Conduct Using Computer Services</b>
<b>Proposal 11</b>	<b>11.17(b)</b>	<b>Solicitation of a Parent of a Child for Unlawful Sexual Conduct Using Computer Services</b>
<b>Proposal 12</b>	<b>11.17(c)</b>	<b>Travelling to Meet a Minor</b>
<b>Proposal 13</b>	<b>11.17(d)</b>	<b>Travelling to Meet a Minor Facilitated by a Parent</b>
<b>Proposal 14</b>	<b>11.20</b>	<b>Transmission of Child Pornography</b>
<b>Proposal 15</b>	<b>11.21</b>	<b>Transmission of Material Harmful to Minors</b>
<b>Proposal 16</b>	<b>15.5</b>	<b>Resisting Recovery of Stolen Property</b>

The proposals are in Appendix A. Words and punctuation to be deleted are shown with strike-through marks; words and punctuation to be added are underlined.

Three post-publication comments were received; two from Assistant Public Defender Richard Summa, who requested an oral argument, if the Court schedules an oral argument, and one from the Florida Association of Criminal Defense Lawyers (“FACDL”). The Committee does not think an oral argument is necessary because the Committee agreed with Mr. Summa on the idea for which he requested an oral argument (discussed below). All comments are in Appendix B.

Appendix C contains the latest statutes.

### **PROPOSAL #1: INSTRUCTION 3.8(b) - CONVICTION OF CERTAIN CRIMES AS IMPEACHMENT**

Instructions that start with the number “2” are labeled “Instructions During Trial” and instructions starting with the number “3” are labeled “Final Charge to Jury.”

Given this categorization, the Committee realized that Instruction 3.8(b) is improperly numbered because it is designed to be given during the trial, at the time the evidence is admitted. Because Instruction 2.5 has the exact wording as Instruction 3.8(b), a majority of the Committee voted to delete Instruction 3.8(b).

A minority of members argued that it was so important for the jury to be reminded that it can only consider prior convictions for purposes of weighing credibility, Instruction 3.8(b) should be revised and made a part of the final charge to the jury.

The majority disagreed because the jurors would be instructed about the limited purpose at the time the evidence was admitted (Instruction 2.5) and then the Weighing the Evidence instruction (#3.9) would act as a reminder. Finally, the majority argued that to delete Instruction 3.8(b) would not change the status quo because it is not currently given as part of the final charge to the jury.

The proposal to delete Instruction 3.8(b) was published in The Florida Bar News on August 15, 2014. No comments were received. The Committee vote was 7-4 to delete (and reserve) Instruction 3.8(b).

### **PROPOSAL #2: INSTRUCTION 11.7 – UNLAWFUL SEXUAL ACTIVITY WITH CERTAIN MINORS**

The Committee amended Instruction 11.7 in order to reflect 2014 legislative changes to s. 794.05, Fla. Stat. and to incorporate a new statute, s. 775.0862, Fla. Stat. (See Appendix C.) The new statute creates an enhancement for certain sex

crimes listed in s. 943.0435(1)(a)1.a., Fla. Stat., if the sex crime was committed by an authority figure of a school against a student of the school. For those relevant sex crimes (which includes Unlawful Sexual Activity with Certain Minors), the Committee tracked the new statute and included definitions for “authority figure,” “school,” and “student.” The Committee used the same format for this new enhancement statute throughout the pertinent sex crimes-related proposals in this report.

For the elements section, the Committee worded element #1 to be consistent with the new definition of “sexual activity” in s. 794.05, Fla. Stat. Because there has been some confusion in cases involving a defendant’s finger having union, not penetration, with a victim’s vagina, the Committee added an italicized note for the judge right after element 1b that informs the judge that the definition of “an object” includes a finger. See, for example, *Garcia v. State*, 143 So. 3d 1105 (Fla. 2d DCA 2014).

The Committee also unanimously added a “*Give if applicable*” and a cite to *Lakey v. State*, 113 So. 3d 90 (Fla. 5th DCA 2013) to inform jurors that the definition of “an object” includes a finger. The Committee thought such an instruction was necessary because, in most sex crimes cases, the “object” is a finger. Note: The Committee is working on all standard sex crimes-related instructions to make them compatible and will file those proposals as soon as they are ready.

Additionally, the Committee added a “*Give if requested*” that states: “(Victim’s) **lack of chastity is not a defense to the crime charged.**” As support for that proposition, the Committee cited in italics to s. 794.05(3), Fla. Stat., which actually states: “The victim’s prior sexual conduct is not a relevant issue in a prosecution under this section.” With the exception of two members, the Committee did not think it appropriate to mimic that statute because members thought of instances where evidence of a victim’s prior sexual history was admitted as part of the defense and did not want the judge to instruct the jury that this evidence was not relevant. However, given s. 794.05(3), Fla. Stat., the majority of the Committee did think it appropriate for the standard instruction to include an option for trial judges to instruct on the idea that lack of chastity is not a defense. The two dissenters believed that the standard instruction should mimic s. 794.05(3), Fla. Stat.

The Committee also added a “*Give if requested*” to capture s. 794.021, Fla. Stat., which states: “When, in this chapter, the criminality of conduct depends upon the victim being below a certain specified age, ignorance of the age is no defense. Neither shall misrepresentation of age by such person nor a bona fide belief that such person is over the specified age be a defense.” As further support, the

Committee added an italicized cite for the judge to *Feliciano v. State*, 937 So. 2d 818 (*Fla. 1st DCA 2006*).

The proposal was published in The Florida Bar News on August 15, 2014. One comment was received from FACDL who argued that because the crime of Unlawful Sexual Activity with Certain Minors requires the victim to be 16 or 17 years of age, the enhancement of “authority figure of school committed sex crime against student of school” should have a definition of “student” as “a person 16 or 17 years of age...” No one on the Committee agreed with FACDL. The Committee thought that there would be no confusion between the elements section and the enhancement section and that it was better for the standard instruction to track the enhancement statute.

The Committee’s vote was 8-2 to file the proposal with the Court. As previously mentioned, the only objection from the two dissenters was the use of “lack of chastity is not a defense” as opposed to “(victim’s) prior sexual history is not a relevant issue....”

**PROPOSAL #3: INSTRUCTION 11.10(a) – LEWD OR LASCIVIOUS  
BATTERY (ENGAGING IN SEXUAL ACTIVITY)**

The Committee amended Instruction 11.10(a) so as to incorporate the new enhancement in s. 775.0862, Fla. Stat. In addition, the Committee is proposing a few other changes.

First, the Committee recommends that the statutory cite at the top of this instruction be amended to s. 800.04(4)(a)1., Fla. Stat.

Next, the Committee suggests that element #2b read as follows:

- b. [committed an act [upon] [with] (victim) in which the [anus] [vagina] of [(victim)] [(defendant)] was penetrated by an object. *The definition of “an object” includes a finger.***

The reason for these changes was to a) ensure that element 2b completely covered all possible variations of “sexual activity,” as defined in s. 800.04(1)(a), Fla. Stat. and b) help the judge avoid confusion in cases where a finger has union with a victim’s vagina but not penetration. Note: The Committee is working on the other standard sex crimes-related instructions to make them compatible and will file those as soon as they are ready.

The Committee also unanimously added an instruction for jurors to be informed that the definition of “an object” includes a finger, supported by *Lakey v. State*, 113 So. 3d 90 (Fla. 5th DCA 2013). The Committee thought such an instruction was necessary because the “object” is a finger in most sex crimes cases.

The Committee also added statutory cites for the parts of the instruction dealing with bona fide medical purposes, victim’s lack of chastity, and ignorance

of (victim's) age. Also, by putting "victim" in parenthesis, the trial judge is supposed to read the name of the victim.

Finally, the Committee added a note in the Comment section that if the state intends to bump the crime up from a second degree felony to a first degree felony because of a certain prior conviction, it is likely that *Apprendi v. New Jersey*, 530 U.S. 466 (2000) would require the state to prove to the jury that the defendant was over the age of 18. See s. 800.04(4)(c), Fla. Stat. in Appendix C.

The proposal was published in The Florida Bar News on August 15, 2014. One comment was received from FACDL who argued that the enhancement section should have a definition of "student" consistent with the element of the crime (victim has to be 12 or older but under the age of 16). As previously mentioned, the Committee unanimously disagreed and thought it better for the standard instruction to track the authority figure/student enhancement statute. FACDL also recommended that the Comment section be reworded to make it definite that the state must prove the age of the defendant to the jury beyond a reasonable doubt. No one on the Committee agreed with FACDL without an appellate opinion stating that proposition directly. The Committee thought its language of "It is likely that *Apprendi v. New Jersey*..." was sufficient.

Upon post-publication review, the Committee voted unanimously to file the proposal with the Court.

#### **PROPOSAL #4: INSTRUCTION 11.10(b) – LEWD OR LASCIVIOUS BATTERY (ENCOURAGING, FORCING, ENTICING)**

The Committee amended Instruction 11.10(b) to incorporate the new enhancement in s. 775.0862, Fla. Stat. The format for the enhancement section was the same as the format used in the previously-discussed proposals. Moreover, the FACDL comment about changing the definition of student was rejected for the same reason.

In addition, the Committee proposes a few other changes. First, the statutory cite at the top of the instruction should be to s. 800.04(4)(a)2, Fla. Stat. Second, in element #2, the Committee added an "[or]" to more accurately track the statute. Then, the Committee added a statutory cite for the definition of "sexual activity" and also added an instruction that "an object" includes a finger.

The Committee also added statutory cites above the sections regarding the victim's lack of chastity and the defendant's ignorance of the victim's age. The Committee put a parenthesis around the word "victim" so that the judge would use the name of the victim instead of the word "victim." Finally, the Committee added a comment about *Apprendi* likely requiring at least one additional finding for the enhancement in s. 800.04(4)(c), Fla. Stat.

The proposal was published in The Florida Bar News on August 15, 2014. One comment was received from FACDL who made the same arguments about the two enhancement sections (definition of “student” should be consistent with the element of that particular crime and comment should have more definite statement about *Apprendi*). The Committee’s response was the same as that discussed in the prior proposals. Upon post-publication review, the Committee voted unanimously to send the proposal to the Court.

**PROPOSAL #5: INSTRUCTION 11.10(c) – LEWD OR LASCIVIOUS MOLESTATION**

The Committee amended Instruction 11.10(c) so as to incorporate the new enhancement in s. 775.0862, Fla. Stat. In addition, the Committee proposes a few other changes. First, the Committee added an italicized cite to s. 800.04(2), Fla. Stat., above the section about the victim’s lack of chastity. The Committee also added the word “(victim’s)” to the “lack of chastity” sentence to be consistent with the other Lewd or Lascivious instructions. The Committee also added an italicized cite to s. 800.04(3), Fla. Stat. and put the word “(victim)” in parenthesis to be consistent with other Lewd and Lascivious instructions. Finally, in the Comment section, the Committee inserted a note regarding the possible enhancement in s. 800.04(5)(e), Fla. Stat., which increases the severity of the crime depending on prior criminal history and the age of the victim involved.

The proposal was published in The Florida Bar News on August 15, 2014. One comment was received from FACDL who made the same arguments about the two enhancement sections (definition of “student” should be consistent with the element of that particular crime and the comment should have a more definite statement about *Apprendi*). The Committee’s response was the same as that discussed in the prior proposals. Upon post-publication review, the Committee voted unanimously to send its proposal to the Court.

**PROPOSAL #6: INSTRUCTION 11.10(d) –LEWD OR LASCIVIOUS CONDUCT**

The Committee amended Instruction 11.10(d) to incorporate the new enhancement in s. 775.0862, Fla. Stat. The only other changes are some italicized headings and an updated Comment section. The proposal was published in The Florida Bar News on August 15, 2014. One comment was received from FACDL who made the same argument that the definition of “student” should be consistent with the element of the particular crime. The Committee’s response was the same

as that discussed in the prior proposals. Upon post-publication review, the Committee voted unanimously to send its proposal to the Court.

**PROPOSAL #7: INSTRUCTION 11.10(e) – LEWD OR LASCIVIOUS EXHIBITION PRESENCE OF CHILD**

The Committee amended Instruction 11.10(e) to incorporate the new enhancement in s. 775.0862, Fla. Stat. The other changes are some italicized headings, the insertion of an instruction that informs jurors that “an object” includes a finger, and an updated Comment section. The proposal was published in The Florida Bar News on August 15, 2014. One comment was received from FACDL who made the same argument that the definition of “student” should be consistent with the element of the crime. The Committee’s response was unchanged. Upon post-publication review, the Committee voted unanimously to send its proposal to the Court with one additional change. The Committee noticed that the misdemeanor crime of Exposure of Sexual Organs was listed in Category 2 in Instruction 11.11. The Committee concluded that Exposure of Sexual Organs should be listed in Category 2 in this instruction also.

**PROPOSAL #8: INSTRUCTION 11.11 – LEWD OR LASCIVIOUS OFFENSES COMMITTED UPON OR IN THE PRESENCE OF AN ELDERLY PERSON OR DISABLED PERSON**

The Committee amended Instruction 11.11 to incorporate the new enhancement in s. 775.0862, Fla. Stat. One other change was to cite s. 825.1025(1), Fla. Stat. in an italicized note instead of s. 847.001, Fla. Stat., because s. 825.1025(1), Fla. Stat. includes a definition of “sexual activity.”

The proposal was published in The Florida Bar News on August 15, 2014. One comment was received from FACDL who recommended that the enhancement for the new s. 775.0862, Fla. Stat., not be included in the standard instruction for this crime if the statute is to be interpreted in a way to protect only disabled adults or elderly persons. The FACDL comment led the Committee to realize that the crime in s. 825.1025, Fla. Stat., refers to “disabled persons” but the definition in s. 825.101(3), Fla. Stat., refers only to “disabled adults.” The Committee was unsure if the courts would limit the crime in s. 825.1025, Fla. Stat., to “disabled adults” and therefore retained the enhancement section for s. 775.0862, Fla. Stat. The Committee also added to the Comment section regarding the discrepancy. Upon post-publication review, the Committee voted 7-1 to file the proposal with the Court. The sole dissenter thought that the statute protects

“disabled persons” and therefore the instruction should have no reference to “disabled adult.”

### **PROPOSAL #9 – INSTRUCTION 11.13 - VOYEURISM**

In 2014, the legislature amended s. 810.14 Fla. Stat., which required a change to Instruction 11.13. The new statute is in Appendix C.

To track the statute, the Committee created one section to cover s. 810.14(1)(a) Fla. Stat., and another section to cover s. 810.14(1)(b) Fla. Stat. By doing so, the Committee did not find it difficult for the elements sections to capture the statute. No other changes were made to the existing instruction except to update the Comment section.

The proposal was published in The Florida Bar News on August 15, 2014. No comments were received. Upon post-publication review, the Committee voted unanimously to file the proposal with the Court.

### **PROPOSAL #10 – INSTRUCTION 11.17(a) – SOLICITING A [CHILD] [PERSON BY THE DEFENDANT TO BE A CHILD] FOR UNLAWFUL SEXUAL CONDUCT USING COMPUTER SERVICES OR DEVICES**

The Committee amended Instruction 11.17(a) to incorporate the new enhancement in s. 775.0862, Fla. Stat. The Committee made some other cosmetic changes such as putting the sentence regarding an undercover officer being involved in the detection of the crime before the first *Enhanced penalty* section and then streamlining that section. In addition, the Committee added an italicized cite to s. 847.001, Fla. Stat., directly above the definitions. The Committee also added an instruction to inform jurors that the definition of “an object” includes a finger, which is supported by *Lakey v. State*, 113 So. 3d 90 (Fla. 5th DCA 2013).

The proposal was published in The Florida Bar News on August 15, 2014. Initially, the Committee had made no changes to the elements section. However, a comment was received from Mr. Richard Summa of the 2<sup>nd</sup> Circuit Public Defender’s Office. (See Appendix B.) Mr. Summa argued that there is a difference between “to commit an illegal act” and “to engage in any unlawful sexual conduct...” which is the wording used in s. 847.0135(3)(a), Fla. Stat. The Committee was unsure whether Mr. Summa was correct about there being a difference. Nevertheless, the Committee thought it best to follow the statute and amended element #3 to track the statute. As a result of the Committee agreeing with Mr. Summa, the Committee does not believe an oral argument is necessary. Mr. Summa also sent the Committee a second comment wherein he argued for the deletion of the part of the instruction about an undercover officer being involved in



the detection of the crime is not a defense. (See Appendix B). Mr. Summa argued that this statement should not be included in the standard instruction because it does not relate to an element of the offense. The Committee unanimously disagreed. First, that sentence was taken from s. 847.0135(2)(d), Fla. Stat. Second, everyone on the Committee thought that jurors should be made aware of that law because almost all prosecutions for this crime involve a police officer pretending to be a child. The Committee's vote to send the proposal to the Court was unanimous.

**PROPOSAL #11 – INSTRUCTION 11.17(b) – SOLICITING A PARENT, LEGAL GUARDIAN, OR CUSTODIAN OF A CHILD FOR UNLAWFUL SEXUAL CONDUCT USING COMPUTER SERVICES OR DEVICES**

Almost all of the same changes made to Instruction 11.17(a) were made to Instruction 11.17(b). (The elements section did not need to be changed for Mr. Summa's comment.) Specifically, the part about the undercover officer was moved up higher in the instruction, the initial *Enhanced penalty* section was streamlined, an italicized cite to s. 847.001, Fla. Stat., was added, a section was added to inform jurors that "an object" includes a finger, and the new format for s. 775.0862, Fla. Stat., was included.

The proposal was published in The Florida Bar News on August 15, 2014. One comment was received from Mr. Summa who made the argument about deleting any mention of an undercover office detecting the crime. The Committee's response was the same as that outlined above. Upon post-publication review, the Committee voted unanimously to file the proposal with the Court.

**PROPOSAL #12 – INSTRUCTION 11.17(c) – TRAVELING TO MEET A MINOR**

The Committee amended Instruction 11.17(c) to incorporate the new enhancement in s. 775.0862, Fla. Stat. In addition, the Committee added an italicized cite to s. 847.001, Fla. Stat., for relevant definitions and inserted the new part about "an object" including a finger. The only other change was to add a sentence in the "Lesser Included Offense" section that informs everyone the courts may or may not consider the crime of Solicitation in s. 847.0135(3)(a), Fla. Stat., to be a necessary lesser included.

The proposal was published in The Florida Bar News on August 15, 2014. One comment was received from FACDL, who argued that the Comment section was incorrect because Solicitation is definitely a Category One lesser-included offense. (See Appendix B). The Committee did not agree with FACDL because there is a dispute as to whether convictions for solicitation and travelling violate

double jeopardy or were intended to be punished as separate offenses. The issue is currently before the Court in State v. Shelley, SC14-755. Upon post-publication review, the Committee voted unanimously to file the proposal with the Court.

**PROPOSAL #13 – INSTRUCTION 11.17(d) – TRAVELING TO MEET A MINOR FACILITATED BY A PARENT, LEGAL GUARDIAN, OR CUSTODIAN**

The changes made to 11.17(c) were also made to Instruction 11.17(d), except the possible lesser-included offense for this crime is s. 847.0135(3)(b), Fla. Stat. The proposal was published in The Florida Bar News on August 15, 2014. One comment was received from FACDL, who argued that the Comment section was incorrect because Solicitation is definitely a Category One lesser-included offense. (See Appendix B). The Committee did not agree with FACDL because there is a dispute as to whether convictions for solicitation and travelling violate double jeopardy or were intended to be punished as separate offenses. The issue is currently before the Court in State v. Shelley, SC14-755. Upon post-publication review, the Committee voted unanimously to file the proposal with the Court.

**PROPOSAL #14 – INSTRUCTION 11.20 – TRANSMISSION OF CHILD PORNOGRAPHY BY ELECTRONIC DEVICE OR EQUIPMENT**

A former chair of the committee (Judge Joseph Bulone) proposed that there be a standard instruction to cover this crime. The Committee did not find it difficult to track the statute in the elements section and to provide statutory definitions for “transmit,” “child pornography,” “minor,” “sexual conduct,” “simulated,” “deviate sexual intercourse,” “sexual bestiality,” “sodomasochistic abuse,” and “sexual battery.” The Committee added language about “an object” including a finger. The Committee also added the new enhancement section for s. 775.0862, Fla. Stat.

The proposal was published in The Florida Bar News on August 15, 2014. No comments were received. Upon post-publication review, the Committee voted unanimously to file the proposal with the Court.

**PROPOSAL #15 – INSTRUCTION 11.21 - TRANSMISSION OF MATERIAL HARMFUL TO MINORS BY ELECTRONIC DEVICE OR EQUIPMENT**

This proposal was also suggested by former chair Judge Joseph Bulone. The Committee did not find it difficult to track the statute in the elements section and to

provide statutory definitions for “harmful to minors,” “minor,” “nudity,” “sexual conduct,” “simulated,” “deviate sexual intercourse,” “sexual bestiality,” “sodomasochistic abuse,” “sexual battery,” and “sexual excitement.” The Committee added language about “an object” including a finger. The Committee also added the new enhancement section for s. 775.0862, Fla. Stat.

The proposal was published in The Florida Bar News on August 15, 2014. No comments were received. Upon post-publication review, the Committee voted unanimously to file the proposal with the Court.

### **PROPOSAL #16 – INSTRUCTION 15.5 – RESISTING RECOVERY OF STOLEN PROPERTY**

Although the Court did not approve a proposal for a standard instruction for this crime in *In re Standard Jury Instructions in Criminal Cases--Report No. 2011-03*, 95 So. 3d 868 (Fla. 2012), the Committee believed that a standard instruction for this crime was necessary because it is one step removed from a robbery involving merchandise taken from a retailer.

The elements section tracks the language of the statute. The Committee then provided statutory definitions for “theft,” “property,” “merchant,” and “merchandise.” The definition of “probable cause” was derived from federal and state case law.

The Committee concluded that the part of the statute that states: “. . . unless the individual did not know, or did not have reason to know, that the person seeking to recover the property was a law enforcement officer, merchant, etc.” was intended by the legislature to be an affirmative defense. The Committee also discussed language from *Lane v. State*, 867 So.2d 539 (Fla. 1st DCA 2004) that suggests the state must prove that the defendant knew the status of the victim. The Committee decided that this language in *Lane* was dictum but should not be ignored. Accordingly, the majority of the Committee voted to include an affirmative defense section in the standard instruction, but to give the trial judge the option to allocate the burden of persuasion of the affirmative defense to the state (which would comport with *Lane v. State*).

The proposal was published in The Florida Bar News on August 15, 2014. No comments were received.

Upon post-publication review, the Committee realized that there was one case that stated that a person could be convicted of both Theft and Resisting a Merchant. See *Stuckey v. State*, 972 So. 2d 918 (Fla. 5th DCA 2007). Accordingly, the Committee added an asterisk to the two “Thefts” listed in the box of lesser-included offenses along with an explanatory note in the Comment section. The Committee voted 10-1 to file the proposal with the Court. The sole dissenter

believed the standard instruction should allocate the burden of persuasion of the affirmative defense to the state because of *Lane v. State*, 867 So.2d 539 (Fla. 1st DCA 2004).

### **CONCLUSION**

The Standard Jury Instructions in Criminal Cases Committee respectfully requests the Court authorize for use the proposals for the jury instructions as set forth in Appendix A.

Respectfully submitted this 16th day of  
October, 2014.

s/ Jerri L. Collins

The Honorable Jerri L. Collins  
Chair, Supreme Court Committee on  
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### **CERTIFICATE OF SERVICE AND FONT COMPLIANCE**

I hereby certify that a true and correct copy of this report and the appendices were sent by e-mail through the portal to Assistant Public Defender Richard Summa at richard.summa@fldpd2.com; to Luke Newman at luke@lukenewmanlaw.com; and to William Ponall at ponallb@criminaldefenselaw.com; this 16th day of October, 2014.

I hereby certify that this report has been prepared using Times New Roman 14 point font in compliance with the font requirements of Florida Rule of Appellate Procedure 9.210(a)(2).

s/ Jerri L. Collins

HONORABLE JERRI L. COLLINS  
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