

## 72 From the Committee on Model Criminal Jury Instructions

The Committee on Model Criminal Jury Instructions has adopted the following amended model criminal jury instructions, M Crim JI 3.28, 3.29, 3.30, and 3.31, which are verdict forms, to provide a general “not guilty” option for each charged count. See *People v Wade*, 283 Mich App 462 (2009). These instructions are effective July 1, 2019.

### **[AMENDED] M Crim JI 3.28 Verdict Form (Multiple Counts)**

Defendant: \_\_\_\_\_

#### **POSSIBLE VERDICTS:**

You may return only one verdict on each count. Mark only one verdict for each count.

Count 1

\_\_\_ Not Guilty

\_\_\_ Guilty of \_\_\_\_\_

Count 2

\_\_\_ Not Guilty

\_\_\_ Guilty of \_\_\_\_\_

### **[AMENDED] M Crim JI 3.29 Verdict Form (Insanity Defense)**

Defendant: \_\_\_\_\_

#### **POSSIBLE VERDICTS:**

You may return only one verdict on each charge. Mark one verdict for each count.

Count 1

\_\_\_ Not Guilty

\_\_\_ Not Guilty by Reason of Insanity

\_\_\_ Guilty but Mentally Ill of \_\_\_\_\_

\_\_\_ Guilty of \_\_\_\_\_

Count 2

\_\_\_ Not Guilty

\_\_\_ Not Guilty by Reason of Insanity

\_\_\_ Guilty but Mentally Ill of \_\_\_\_\_

\_\_\_ Guilty of \_\_\_\_\_

### **[AMENDED] M Crim JI 3.30 Verdict Form (Lesser Offenses)**

Defendant: \_\_\_\_\_

#### **POSSIBLE VERDICTS:**

You may return only one verdict on each charge. Mark one verdict for each count.

Count 1

\_\_\_ Not Guilty

\_\_\_ Guilty of \_\_\_\_\_

Guilty of the Lesser Offense of:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Count 2

Not Guilty

\_\_\_ Guilty of \_\_\_\_\_

Guilty of the Lesser Offense of:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### **[AMENDED] M Crim JI 3.31 Verdict Form (Insanity Defense with Lesser Offenses)**

Defendant: \_\_\_\_\_

#### **POSSIBLE VERDICTS:**

You may return only one verdict on each charge. Mark one verdict for each count.

Count 1

\_\_\_ Not Guilty

\_\_\_ Not Guilty by Reason of Insanity

\_\_\_ Guilty but Mentally Ill of \_\_\_\_\_

\_\_\_ Guilty of \_\_\_\_\_

\_\_\_ Guilty but Mentally Ill of the Lesser  
Offense of \_\_\_\_\_

\_\_\_ Guilty of the Lesser Offense of \_\_\_\_\_

Count 2

\_\_\_ Not Guilty

\_\_\_ Not Guilty by Reason of Insanity

\_\_\_ Guilty but Mentally Ill of \_\_\_\_\_

\_\_\_ Guilty of \_\_\_\_\_

\_\_\_ Guilty but Mentally Ill of the Lesser  
Offense of \_\_\_\_\_

\_\_\_ Guilty of the Lesser Offense of \_\_\_\_\_

The Committee on Model Criminal Jury Instructions has adopted the following new model criminal jury instructions, M Crim JI 33.1, 33.1a, 33.1b, 33.1c, 33.1d, 33.1e, 33.1f and 33.1g, which are instructions for crimes that involve the use of animals for fighting, baiting, or shooting contrary to MCL 750.49. These instructions are effective July 1, 2019.

### **[NEW] M Crim JI 33.1 Possession or Sale of Animal for Fighting, Baiting, or Shooting**

(1) The defendant is charged with a crime involving possession or sale of an animal for [fighting/baiting/shooting]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant knowingly [owned/possessed/used/bought/sold/offered to buy or sell/imported/exported] [a/an] [identify kind of animal].

(3) Second, that the [identify kind of animal] was to be used [for the purpose of fighting/for the purpose of baiting/as a target to be shot at as a test of skill in marksmanship].

(4) Third, that the defendant knew that the [identify kind of animal] was to be used [for the purpose of fighting/for the purpose of baiting/as a target to be shot at as a test of skill in marksmanship].

#### **Use Note**

If the defendant raises an issue concerning “possession,” the jury may be instructed in accord with M Crim JI 12.7 and 11.34b.

### **[NEW] M Crim JI 33.1a Use of an Animal for Fighting, Baiting, or Shooting**

(1) The defendant is charged with a crime involving the use of an animal for fighting, baiting, or shooting. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

[Select (2), (3), (4) or (5) according to what has been charged:]

(2) First, that the defendant knowingly [was a party to/caused] the use of [a/an] [identify kind of animal] [for fighting/for baiting/as a target to be shot at as a test of skill in marksmanship].

(3) First, that the defendant [rented/obtained the use of] [a building/a shed/a room/a yard/grounds/premises] for the purpose of using [a/an] [identify kind of animal] [for fighting/for baiting/as a target to be shot at as a test of skill in marksmanship].

(4) First, that the defendant permitted the use of [a building/a shed/a room/a yard/grounds/premises] that belonged to [him/her] or that was under [his/her] control for the purpose of using [a/an] [identify kind of animal] [for fighting/for baiting/as a target to be shot at as a test of skill in marksmanship].

(5) First, that the defendant [organized/promoted/collected money for] the use of

[a/an] *[identify kind of animal]* [for fighting/for baiting/as a target to be shot at as a test of skill in marksmanship].

(6) Second, that the defendant knew that the *[identify kind of animal]* was to be used [for fighting/for baiting/as a target to be shot at as a test of skill in marksmanship].

### **[NEW] M Crim JI 33.1b Exhibitions of Animal Fighting, Baiting, or Shooting**

(1) The defendant is charged with a crime involving the exhibition of an animal for fighting, baiting, or shooting. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

*[Select (2) or (3) according to what has been charged:]*

(2) First, that the defendant was present at [a building/a shed/a room/a yard/grounds/premises/a vehicle/a venue] where preparations were being made for an exhibition of [a/an] *[identify kind of animal]* [for fighting/for baiting/as a target to be shot at as a test of skill in marksmanship].

(3) First, that the defendant was present at an exhibition of [a/an] *[identify kind of animal]* [for fighting/for baiting/as a target to be shot at as a test of skill in marksmanship].

(4) Second, that the defendant knew that an exhibition of *[identify kind of animal]* [for fighting/for baiting/as a target to be shot at as a test of skill in marksmanship] [was about to take place/was taking place].

### **[NEW] M Crim JI 33.1c Breeding, Buying, or Selling Animal Trained for Fighting, Baiting, or Shooting**

(1) The defendant is charged with a crime involving the breeding, buying or selling of an animal for [fighting/baiting/shooting]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant knowingly [bred/bought/sold/offered to buy or sell/exchanged/imported/exported] [(a/an) (identify kind of animal)/the offspring of (a/an) (identify kind of animal)] trained or used [for fighting/for baiting/as a target to be shot at as a test of skill in marksmanship].

(3) Second, that the defendant knew the *[identify kind of animal]* had been trained or

used [for fighting/for baiting/as a target to be shot at as a test of skill in marksmanship].

### **[NEW] M Crim JI 33.1d Possessing or Buying Equipment for Animal Fighting, Baiting, or Shooting**

(1) The defendant is charged with a crime involving the possession or sale of equipment used for animal [fighting/baiting/shooting]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant knowingly [owned/possessed/used/bought/sold/offered to buy or sell/transported/delivered] any device or equipment intended to be used for [(identify kind of animal) fighting/baiting (a/an) (identify kind of animal)/targeting [a/an] (identify kind of animal) to be shot at as a test of skill in marksmanship].

(3) Second, that the defendant knew the device or equipment was intended to be used for [(identify kind of animal) fighting/baiting (a/an) (identify kind of animal)/targeting [a/an] (identify kind of animal) to be shot at as a test of skill in marksmanship].

### **[NEW] M Crim JI 33.1e Inciting Animal Used in Fighting to Attack a Person**

(1) The defendant is charged with a crime involving inciting an animal trained or used for fighting to attack a person. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that [a/an] *[identify kind of animal]* was [trained or used for fighting/was the first- or second-generation offspring of an animal trained or used for fighting].

(3) Second, that the defendant knew that the *[identify kind of animal]* was [trained or used for fighting/the first- or second-generation offspring of an animal trained or used for fighting].

(4) Third, that the defendant incited the *[identify kind of animal]* to attack a person.

(5) Fourth, that the defendant intended to incite the animal to attack a person.

*[Use (6) when the attack is alleged to have caused death.]*

(6) Fifth, that the animal caused the death of that person.

### **[NEW] M Crim JI 33.1f Owning Animal Trained for Fighting—Attacking a Person**

(1) The defendant is charged with a crime involving ownership of an animal trained or used for fighting that attacked another person. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant owned [a/an] *[identify kind of animal]* that was [trained or used for fighting/the first- or second-generation offspring of a dog trained or used for fighting].

(3) Second, that the defendant knew the *[identify kind of animal]* was [trained or used for fighting/the first- or second-generation offspring of a dog trained or used for fighting].

(4) Third, that the *[identify kind of animal]* attacked another person without provocation.

*[Use (5) when the attack is alleged to have caused death.]*

(5) Fourth, that the *[identify kind of animal]* caused the death of that person.

#### **Use Note**

The section of the statute addressed by this instruction, MCL 750.49(13), provides only that first- or second-generation dogs are included, and not other fighting animals.

### **[NEW] M Crim JI 33.1g Owning Animal Trained for Fighting—Unrestrained**

(1) The defendant is charged with a crime involving ownership of an animal trained or used for fighting that was not securely restrained. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant owned [a/an] *[identify kind of animal]* that was [trained or used for fighting/the first- or second-generation offspring of (a/an) (identify kind of animal) trained or used for fighting].

(3) Second, that the defendant knew the *[identify kind of animal]* that was [trained or used for fighting/the first- or second-generation offspring of (a/an) (identify kind of animal) trained or used for fighting].

(4) Third, that the *[identify kind of animal]* [went beyond the property limits of its owner without being securely restrained/was not securely enclosed or restrained on the owner's property].