

**STATE BAR OF MICHIGAN  
2008-2009 COMMITTEE ANNUAL REPORT**

**Article VI §6, Bylaws of the State Bar of Michigan**

*No later than May 1 of each year, the chair of each committee and subentity of the Bar, with the assistance of the staff liaison, shall report to the Executive Director on a form provided by the State Bar on the activities and accomplishments of the committee or subentity.*

**Committee Name:** Standing Committee on Jury Instructions, Criminal

**Jurisdiction:** Draft proposed standard criminal jury instructions

**Chair(s) and Committee Members:**

Officer	Name	Address	Telephone	Email
Chair	Hon. William J. Caprathe	18 <sup>th</sup> Circuit Court, 1230 Washington Ave., Ste. 251, Bay City, MI 48078	989 895 4267	bcaprathe@netscape.net
Staff Liaison	Candace Crowley	306 Townsend, Lansing, MI 48933	517 346 6319	ccrowley@mail.michbar.org
Commissioner Liaison	Thomas C. Rombach			

Member/Advisor/Other	Term	Member/Advisor/Other	Term
J. Mark Cooney		LaNita R. Haith	
Frank K. Rhodes, III		Karen K. Plants	
Opolla Brown		Brandy Y. Robinson	
Hon. Thomas S. Eveland		Hon. Thomas L. Solka	
T. Lynn Hopkins		Ronald J. Bretz	
Walter C. Pookrum		Hon. Gene Schnelz	
Jeffrey T. Rogg		Hon. Brian R. Sullivan	
Thomas J. Vaillencourt, Jr.		Hon. Timothy M. Kenny (Reporter)	
Hon. John T. Hammond		Daniel D. Kopka	
Rudolph A. Serra			
Stephen M. Taratuta			
Hon. Annette M. Jurkiewicz-Berry			
Kym L. Worthy			
Hon. William J. Caprathe			

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**Committee Meeting Schedule:**

Please attach any additional information needed regarding Committee meetings as an addendum.

Meeting Type	Date	Location
Description		
Regular Committee Meeting	May 17, 2008	State Bar of Michigan
Regular Committee Meeting	September 20, 2008	State Bar of Michigan

**Resources provided by the State Bar of Michigan in support of committee work:**

Printing and distribution of agenda, meeting rooms and refreshments, staff liaison.

**Committee Activities:**

The committee met at the State Bar Building on May 17, 2008. CJI2d 20.18, Assault with Intent to Commit Criminal Sexual Conduct in the Second Degree; proposed Instruction CJI2d 12.9, Delivery of a Controlled Substance Causing Death, DJI2d 20.28 and CJI2d 5.8b Other Sex Acts with Minor; CJI2d 17.2a, Domestic Assault; CJI 2d 18.1, Armed Robbery; CJI2d 7.2(2), Murder: Defense of Accident; CJI2d 26.1 Receiving and Concealing Stolen Property; Proposed CJI2d.4.17, Drug Profile Evidence; CJI 20.2, Criminal Sexual Conduct in the Second Degree; and Assault, Placing in Fear were reviewed.

The committee met at the State Bar Building on September 20, 2008. It acted on five matters.

CJI2d.17.1, Definition of “Assault” was reviewed in light of the Supreme Court denial of leave in *People v Davis*, 277 Mich App 676 (2008). As a result, the assault instructions will now read that "the defendant did an act that would cause a reasonable person to fear or apprehend an immediate battery." All instructions defining assault will be changed according.

CJI2d 34.4, Criminal Non-Support. The committee adopted an instruction for the crime of failing to pay support for his/her former or current spouse/child[ren] including three elements to be proven beyond a reasonable doubt.

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CJI2d 20.4, Complainant Between Thirteen and Sixteen Years of Age. MCL 750.520c was amended effective July 1, 2008 and the committee amended the instruction to add two aggravating circumstances.

CJI2d 20.11(a) et al regarding aggravating circumstances for CSC1, CSC2 and assault with intent to commit CSC2. MCL 750.520c was amended effective July 1, 2008 and standard instructions are needed to set forth four aggravating circumstances. Instructions were proposed.

Identification Theft. The committee considered the need for identity theft instructions and decided that none were now necessary.

Chair Judge Charles Miel announced his retirement as chair of the committee, and Judge Randy Tahvonen resigned as reporter. State Bar President Edward Pappas appointed Judge William Caprathe as chair of the committee, and Judge Timothy Kenny as reporter.

Committee membership was reviewed to assure that prosecution and defense were fairly represented, and new appointments were made. A plain language expert was added to the committee, and ICLE provided all committee members with a publication entitled "Communicating with Juries: How to Draft More Understandable Jury Instructions" by Peter M. Tiersma.

**Future Goals and Activities:** The committee will continue to review and adopt criminal jury instructions.

**Other Information:**