



**MODEL CRIMINAL JURY INSTRUCTIONS COMMITTEE**  
**Meeting Minutes of:**  
**Thursday, May 17, 2012**  
**3:00 – 5:00 p.m.**  
**Held at the Supreme Court – 8th floor conference room**

**Attendees:**

Justice Coats (Chair), Judge Dailey (Vice Chair), Judge Lichtenstein (Vice Chair), Judge Egelhoff, Judge K. Romeo, Judge Samour, and Judge Tuttle.

**Telephone participants:**

Judge Burback, Judge Gilbert, Judge Greenacre, Judge Lammons, Judge Phillips, and Judge Warner.

**Staff:**

Andrew Field (Reporter)

**I. Approval of Minutes**

The Committee approved the minutes for the April 19, 2012, meeting.

**II. Committee Web Site**

The Reporter demonstrated the Committee's new web site for storing draft materials and provided the members with passwords and instructions on how to access it. The Chair encouraged members to use the web site to review the Reporter's ongoing work, and to submit comments and suggestions.

**III. Revisions to E:13 and E:14 (lesser-included instruction and verdict form).**

Judge Egelhoff informed the Committee that he and the Reporter had met and conducted additional research to address the Committee's consideration of whether it would be appropriate to draft special instructions that could be used when a jury: (1) unanimously agrees the defendant is not guilty of the greater offense (and, possibly, one or more lesser-included offenses); and (2) becomes deadlocked as to a lesser-included offense. Judge Egelhoff explained that he and the Reporter had concluded that such instructions would, if given at the point that the jurors are deadlocked, likely violate the prohibition against polling a jury for a partial verdict that was established in *People v. Richardson*, 184 P.3d 755, 765 (Colo. 2008). The Chair surveyed the members of the Committee (after extensive discussion), and determined that there was general consensus on this point.

Judge Egelhoff also discussed a model instruction and set of verdict forms that he and the Reporter had concluded could be used, consistent with *Richardson* and section 18-1-408(8), to provide a jury with a mechanism for returning not guilty verdicts on individual counts (if the court elected, as a matter of discretion, to so instruct the jury prior to deliberations) . The Committee engaged in a wide-ranging debate of several related issues, primarily focused on whether it would be better to include model alternative language in a comment or, instead, briefly explain the *Richardson* issue and leave it to litigants to propose instructional language. The Chair then polled the Committee, ascertained that there was a division of opinion concerning the advisability of including model language, and directed the Reporter to draft alternative comments – reflecting the divergent approaches – that the Committee could review before making a final decision.

#### **IV. Review of the Reporter’s proposed revisions to Chapter G-1 (Culpability) and Chapter G-2 (Inchoate Offenses).**

The Committee unanimously agreed that the current version of the joint operation instruction, COLJI-Crim. G1:01 (2008), provides sufficient specificity concerning the applicability of the various mental states, and that it does not require substantial revision.

The Committee began a discussion of the remaining materials in Chapters G-1 and G-2, but curtailed it due to time constraints. The Chair scheduled a continuation of this review for the next meeting.

#### **III. Next Meeting**

The next meeting will be held in the same location, at the same time, on Thursday, June 21, 2012.

The Chair will set an agenda and have the Reporter distribute relevant written materials in advance of the meeting.

The Chair adjourned the meeting at 4:55 p.m.

Respectfully submitted,

Andrew Field, Reporter.