



**FROM THE COMMITTEE
ON MODEL CRIMINAL
JURY INSTRUCTIONS**

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The Committee on Model Criminal Jury Instructions solicits comment on the following proposal by November 1, 2025. Comments may be sent in writing to Christopher M. Smith, Reporter, Committee on Model Criminal Jury Instructions, Michigan Hall of Justice, P.O. Box 30052, Lansing, MI 48909-7604, or electronically to MCrimJI@courts.mi.gov.

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PROPOSED

The Committee proposes amending the following instructions to eliminate an unnecessary element: M Crim JI 16.1 (First-degree Premeditated Murder), M Crim JI 16.4 (First-degree Felony Murder), M Crim JI 16.5 (Second Degree Murder), M Crim JI 16.6 (Element Chart First-degree Premeditated Murder and Second-degree Murder), M Crim JI 16.7 (Element Chart First-degree Felony Murder and Second-degree Murder), M Crim JI 16.8 (Voluntary Manslaughter), M Crim JI 16.10 (Involuntary Manslaughter), M Crim JI 16.11 (Involuntary Manslaughter – Firearm Intentionally Aimed), and M Crim JI 17.3 (Assault with Intent to Murder). The proposal primarily serves as a response to *People v Spears*, 346 Mich App 494 (2023), lv den ____ Mich ____ (December 13, 2024) (Docket No. 165768). Additionally, M Crim JI 16.8 has been modified for greater consistency with M Crim JI 16.9, and M Crim JI 16.11 has been modified to remove duplicative language and to reflect statutory involuntary manslaughter’s status as a cognate lesser included offense of murder, see MCL 750.329; *People v Smith*, 478 Mich 64 (2007). Deletions are in ~~striketrough~~, and new language is underlined.

[AMENDED] M Crim JI 16.1 First-Degree Premeditated Murder

(1) The defendant is charged with the crime of first-degree premeditated murder.¹ To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant caused the death of [*name deceased*], that is, that [*name deceased*] died as a result of [*state alleged act causing death*].²

(3) Second, that the defendant intended to kill [*name deceased*].³

(4) Third, that this intent to kill was premeditated, that is, thought out beforehand.

(5) Fourth, that the killing was deliberate, which means that the defendant considered the pros and cons of the killing and thought about and chose [his / her] actions before [he / she] did it. There must have been real and substantial reflection for long enough to give a reasonable person a chance to think twice about the intent to kill. The law does not say how much time is needed. It is for you to decide if enough time passed under the circumstances of this case. The killing cannot be the result of a sudden impulse without thought or reflection.

~~[(6) Fifth, that the killing was not justified, excused, or done under circumstances that reduce it to a lesser crime.]⁴~~

Use Notes

1. Second-degree murder is a lesser included offense of first-degree murder and should be instructed upon if supported by the evidence. *People v Cornell*, 466 Mich 335, 358 n13; 646 NW2d 127 (2002). Use M Crim JI 16.5 for this purpose. Manslaughter is also a lesser included offense of murder and should be instructed upon if supported by the evidence. *People v Mendoza*, 468 Mich 527; 664 NW2d 685 (2003). See M Crim JI 16.9 and 16.10. In lying-in-wait or poisoning cases, use M Crim JI 16.2 or 16.3, respectively. The Time and Place (Venue) instruction can be found at M Crim JI 3.10.

2. Where causation is an issue, see the special causation instructions, M Crim JI 16.15-16.23.

3. This is a specific intent crime.

~~4. Paragraph (6) may be omitted if there is no evidence of justification or excuse, and the jury is not being instructed on manslaughter or any offense less than manslaughter. Justification or excuse instructions may be inserted here, but they are more commonly given at a later time.~~

[AMENDED] M Crim JI 16.4 First-Degree Felony Murder

(1) The defendant is charged with first-degree felony murder. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant caused the death of [*name deceased*], that is, that [*name deceased*] died as a result of [*state alleged act causing death*].

(3) Second, that the defendant had one of these three states of mind: [he / she] intended to kill, or [he / she] intended to do great bodily harm to [*name deceased*], or [he / she] knowingly created a very high risk of death or great bodily harm knowing that death or such harm would be the likely result of [his / her] actions.

(4) Third, that when [he / she] did the act that caused the death of [*name deceased*], the defendant was committing [(or) attempting to commit / (or) helping someone else commit] the crime of [*state felony*]. For the crime of [*state felony*], the prosecutor must prove each of the following elements beyond a reasonable doubt: [*state elements of felony*].

~~[(5) Fourth, that the killing was not justified, excused, or done under circumstances that reduce it to a lesser crime.]*~~

[*Use (65) or (76) where factually appropriate:*]

(65) To establish an attempt, the prosecutor must prove beyond a reasonable doubt that the defendant intended to commit the crime of [*state felony*] and that [he / she] took some action toward committing that crime, but failed to complete it. It is not enough to prove that the defendant made preparations for committing the crime. Things like planning the crime or arranging how it will be committed are just preparations; they do not qualify as an attempt. In order to qualify as an attempt, the action must go beyond mere preparation, to the point where the crime would have been completed if it had not been interrupted by outside circumstances. To qualify as an attempt, the act must clearly and directly be related to the crime of [*state felony*] and not some other objective.

(76) The defendant must have been either committing or helping someone else commit the crime of [*state felony*]. To help means to perform acts or give encouragement, before or during the commission of the crime, that aids or assists in its commission. At the time of giving aid or encouragement, the defendant must have intended the commission of the [*state felony*].

Use Note

~~* — Paragraph (5) may be omitted if there is no evidence of justification or excuse, and the jury is not being instructed on manslaughter or any offense less than manslaughter. Justification or excuse instructions may be inserted here, but they are more commonly given at a later time.~~

[AMENDED]

M Crim JI 16.5

Second-Degree Murder

(1) [The defendant is charged with the crime of / You may also consider the lesser charge of] second-degree murder.¹ To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant caused the death of [*name deceased*], that is, that [*name deceased*] died as a result of [*state alleged act causing death*].²

(3) Second, that the defendant had one of these three states of mind: [he / she] intended to kill, or [he / she] intended to do great bodily harm to [*name deceased*], or [he / she] knowingly created a very high risk of death or great bodily harm knowing that death or such harm would be the likely result of [his / her] actions.³

~~[(4) Third, that the killing was not justified, excused, or done under circumstances that reduce it to a lesser crime.]⁴~~

Use Notes

1. Where there is a question as to venue, insert M Crim JI 3.10, Time and Place (Venue).

2. Where causation is an issue, see the special causation instructions, M Crim JI 16.15-16.23.

3. Second-degree murder is not a specific intent crime. *People v Langworthy*, 416 Mich 630; 331 NW2d 171 (1982).

~~4. Paragraph (4) may be omitted if there is no evidence of justification or excuse, and the jury is not being instructed on manslaughter or any offense less than manslaughter. Justification or excuse instructions may be inserted here, but they are more commonly given at a later time.~~

[AMENDED] M Crim JI 16.6 Element Chart—First-Degree Premeditated and Second-Degree Murder

First-Degree Premeditated Murder	Second-Degree Murder
(1) victim's death	(1) same
(2) death caused by defendant	(2) same
[(3) death not justified or excused or mitigated to manslaughter]*	[(3) same]*
(34) defendant actually intended to kill victim, <i>and</i>	(34) defendant actually intended to kill victim, <i>or</i> defendant intended to do great bodily harm to victim, <i>or</i> defendant knowingly created a very high risk of death or great bodily harm knowing that death or such harm would be the likely result of [his / her] actions
(45) defendant premeditated victim's death, <i>and</i>	
(56) defendant deliberated victim's death	

Use Note

This chart may be distributed to jurors when first-degree premeditated and second-degree murder are the only potential verdicts, *or* when jurors request further clarification of the differences between the two offenses. To avoid undue reliance on the charts, the committee recommends that they only be distributed when written copies of all instructions are also distributed to jurors. This chart is intended for the supplemental guidance of the jury, rather than as a substitute for the comprehensive murder definitions contained in M Crim JI 16.1, 16.4, and 16.5.

~~*Paragraph (3) may be omitted if there is no evidence of justification or excuse, and the jury is not being instructed on manslaughter or any offense less than manslaughter.~~

[AMENDED] M Crim JI 16.7 Element Chart—First-Degree Felony and Second-Degree Murder

First-Degree Felony Murder	Second-Degree Murder
(1) victim's death	(1) same
(2) death caused by defendant	(2) same
[(3) death not justified or excused]*	[(3) same]*
(34) defendant actually intended to kill victim, <i>or</i> defendant intended to do great bodily harm to victim, <i>or</i> defendant knowingly created a very high risk of death or great bodily harm knowing that death or such harm would be the likely result of [his / her] actions	(34) same
(45) defendant was committing or attempting to commit a specified felony at the time of the act causing victim's death	

Use Note

This chart may be distributed to jurors when first-degree felony and second-degree murder are the only potential verdicts, *or* when jurors request further clarification of the differences between the two offenses. To avoid undue reliance on the charts, the committee recommends that they only be distributed when written copies of all instructions are also distributed to jurors. This chart is intended for the supplemental guidance of the jury, rather than as a substitute for the comprehensive murder definitions contained in M Crim JI 16.1, 16.4, and 16.5.

~~*Paragraph (3) may be omitted if there is no evidence of justification or excuse, and the jury is not being instructed on manslaughter or any offense less than manslaughter.~~

[AMENDED] M Crim JI 16.8 Voluntary Manslaughter

(1) [The defendant is charged with the crime of _____
~~/You may also consider the lesser charge of*~~] voluntary manslaughter.¹ To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant caused the death of [*name deceased*], that is, that [*name deceased*] died as a result of [*state alleged act causing death*].

(3) Second, that the defendant had one of these three states of mind: [he / she] intended to kill, or [he / she] intended to do great bodily harm to [*name deceased*], or [he / she] knowingly created a very high risk of death or great bodily harm knowing that death or such harm would be the likely result of [his / her] actions.

~~[(4) Third, that the defendant caused the death without lawful excuse or justification.]~~

Use Note

*1. If instructions on voluntary manslaughter are being given as a lesser offense to murder, use M Crim JI 16.9.

[AMENDED] M Crim JI 16.10 Involuntary Manslaughter

(1) [The defendant is charged with the crime of _____/
You may also consider the lesser charge of] involuntary manslaughter. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant caused the death of [*name deceased*], that is, that [*name deceased*] died as a result of [*state alleged act causing death*].

[*Use (3) when gross negligence is alleged:*]

(3) Second, in doing the act that caused [*name deceased*]'s death, the defendant acted in a grossly negligent manner.¹

[*Use (4) when the act requires an intent to injure:*]²

(4) Second, in doing the act that caused [name deceased]'s death, the defendant intended³ to injure [name deceased]. The act charged in this case is assault and battery. The prosecution must prove the following beyond a reasonable doubt: First, that the defendant committed a battery on [name deceased]. A battery is a forceful or violent touching of the person or something closely connected with the person. The touching must have been intended by the defendant, that is, not accidental, and it must have been against [name deceased]'s will. Second, that the defendant intended to injure [name deceased].

~~[(5) Third, that the defendant caused the death without lawful excuse or justification.]⁴~~

Use Notes

1. For a definition of *gross negligence*, see M Crim JI 16.18.

2. An unlawful act ~~which~~ that is committed with the intent to injure is not limited to an assault and battery. The applicable elements of that offense are set forth in this instruction because assault and battery is the most common type of unlawful act needed to support a charge of involuntary manslaughter.

3. This is a specific intent variant of the crime.

~~4. Paragraph (5) may be omitted if there is no evidence of excuse or justification.~~

**[AMENDED] M Crim JI 16.11 Involuntary Manslaughter-Firearm
Intentionally Aimed**

(1) [The defendant is charged with the crime of _____/
~~You may also consider the lesser charge of~~] involuntary manslaughter. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant caused the death of [name deceased], ~~that is,~~
[name deceased] died as a result of ~~[state alleged act causing death]~~.

(3) Second, that death resulted from the discharge of a firearm.¹ ~~[A
firearm is an instrument from which (shot / a bullet) is propelled by the explosion
of gunpowder.]~~

(4) Third, at the time the firearm discharged ~~went off~~, the defendant was intentionally aiming or pointing it at [*name deceased*].

~~(5) Fourth, at that time, the defendant intended to point the firearm at~~
~~[*name deceased*].¹~~

~~[(6) Fifth, that the defendant caused the death without lawful excuse or~~
~~justification.]²~~

Use Note

1. ~~This is a specific intent crime.~~ *Firearm* is defined in MCL 750.222(e) as “any weapon which will, is designed to, or may readily be converted to expel a projectile by action of an explosive.”

~~2. Paragraph (6) should be given only if there is a claim by the defense that the killing was excused or justified.~~

[AMENDED] M Crim JI 17.3 Assault with Intent to Murder

(1) The defendant is charged with the crime of assault with intent to murder. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant tried to physically injure another person.

(3) Second, that when the defendant committed the assault, [he / she] had the ability to cause an injury, or at least believed that [he / she] had the ability.

(4) Third, that the defendant intended¹ to kill the person [he / she] assaulted ~~[, and the circumstances did not legally excuse or reduce the crime].²~~

Use Notes

¹. This is a specific intent crime.

². Where appropriate, give special instructions on particular defenses (see chapter 7), on mitigation (M Crim JI 17.4), and transferred intent (M Crim JI 17.17).