

INTRODUCTION

[This introduction was approved in 2018. It condenses and combines the introductory and prefatory material that was previously published, and updates that material.]

The Wisconsin Jury Instructions-Criminal is the product of a cooperative effort between the Criminal Jury Instructions Committee and the University of Wisconsin. The partnership began in 1960 with an informal agreement between the University of Wisconsin-Extension, Department of Law, and the Board of Criminal Court Judges, then the parent body for the Committee. In 1978, the Wisconsin court system was reorganized and the old statutory boards, including the Board of Criminal Court Judges, were abolished. The Criminal Jury Instructions Committee was reconstituted as a standing committee of the Criminal and Traffic Section of the Wisconsin Judicial Conference. In 1986, the University of Wisconsin-Extension, Department of Law, was integrated with the University of Wisconsin Law School as its Office of Continuing Education and Outreach. In 2016, that office was renamed Continuing Education and External Affairs. Despite the structural changes in both the courts and the University, the cooperative effort has continued without interruption.

The project's origin is related to the adoption of a new Wisconsin Criminal Code in 1956 and several of the original Committee members and advisors had been leaders in that undertaking. The Board of Criminal Court Judges concluded that the newly-defined crimes required new jury instructions and that it was no longer sufficient to rely on instructions that may have been passed along informally from judge to judge. The Introduction to the 1962 Edition explained:

The Wisconsin Board of Criminal Court Judges, realizing that no ready reference work was available to assist the bench and bar in the preparation of jury instructions in criminal cases, authorized and directed [the Committee] . . . to study the problem and submit to the Board such suggested instructions as, in the Committee's opinion, would assist judges and trial lawyers in the submission of criminal cases to juries.

These were the Committee's principal objectives:

1. To prepare instructions that would accurately and concisely state the law in a way that would be meaningful and helpful to the jury.
2. To make readily available such instructions as a trial judge would likely need in the trial of a criminal case to a jury.

3. To revise instructions that had been in general use prior to the enactment of the Criminal Code of Wisconsin, which became effective July 1, 1956, and to make such changes therein as seemed to be advisable as a result of such enactment; and, generally, to relate the instructions to the new Criminal Code.

4. To make certain that all such instructions were in conformity with the decisions of the Wisconsin Supreme Court.

Introduction To The 1962 Edition – Judge Gerald Boileau, Chairman
Committee on Jury Instructions – Criminal

When the first edition was published in 1962 it was dedicated to the Committee's first chair, Circuit Judge Gerald Boileau from Wausau.

DEDICATION

The following resolution was unanimously passed by the Wisconsin Board of Criminal Court Judges at its annual meeting in June of 1961:

WHEREAS, the Hon. Gerald J. Boileau has been the only Chairman of the Board's Committee on Criminal Jury Instructions, and;

WHEREAS, the monumental work of this Committee, which will ultimately lead to the publication of model instructions for the use of this State, is due largely to the untiring and dynamic leadership of the Hon. Gerald J. Boileau, and;

WHEREAS, the Hon. Gerald J. Boileau has in the past made significant contributions to the advancement of his profession in that he has been Chairman of the Wisconsin Board of Circuit Judges, Chairman of the Wisconsin Board of Criminal Court Judges, a member of the Judicial Council of this State for many years, and Chairman of the Criminal Code Advisory Committee which drafted the new Criminal Code in its final version;

Be it therefore, resolved, that when Wisconsin Jury Instructions – Criminal is published, it be dedicated to the Hon. Gerald J. Boileau in recognition of his interest, his advice, and his time so freely given to his profession.

Expectations for how the instructions should be used were set out in the Preface to the original edition and remain accurate today.

Unlike instructions drafted for the purpose of a particular case, each instruction was, necessarily, drafted to cover the particular rule of law involved without reference to a specific fact situation. While the general instructions and the instructions on defenses and defensive matters may frequently be used without change, instructions on the substantive offenses may often have to be modified to fit the needs of the particular case. The user, therefore, should consider each instruction a model to be examined carefully before use for the purpose of determining what modifications are necessitated by the facts of the particular case. In addition, the effect of the instructions upon each other must be considered. When, for example, conspiracy or solicitation is submitted, it may be necessary to modify the instructions.

It is suggested that the comment and the footnotes be read fully and carefully before the instruction is used, in order that the user be informed of any conditions prerequisite to its use, alternative material for particular cases, and of other cautionary information. Words and phrases which are to be used alternatively appear in parentheses and italics. Words and phrases which are not appropriate to every case, but which should be given in some situations, are in brackets. Editorial directions which alert the user to alternatives or to the need to insert material or other instructions are found in brackets in the body of the instruction or in the comment.

The book itself may be cited as "Wis JI-Criminal" and each instruction by adding the appropriate number. . . . It is suggested, however, that these instructions be referred to by their citations only when the user requests that the instruction be given verbatim. If the attorney modifies one of these instructions, it is requested that he point out the nature of the change and the reason therefore.

PREFACE TO THE 1962 EDITION

John H. Bowers, Editor

As mentioned, several of the original members and advisors had strong ties to the development of the 1956 Criminal Code. The original judge members were:

Hon. Gerald J. Boileau, Wausau, Chairman
Hon. Herbert J. Steffes, Milwaukee

Hon. William E. Gramling, Waukesha
Hon. Milton L. Meister, West Bend
Hon. Clarence Whiffen, Racine
Hon. Henry Gergen, Beaver Dam [replaced Judge Whiffen in 1961]

The original advisory members were two outstanding criminal law experts: Assistant Attorney General William A. Platz and Professor Frank J. Remington. In speaking about them, the 1966 foreword stated: "The Committee could have found no better qualified individuals than William Platz and Frank Remington for technical advisors. Suffice it to say that the aid of these two men has been invaluable."

William Platz's contributions were further described in an in memoriam tribute published in 1980:

William A. Platz had no peer in the field of criminal law. For nearly four decades, he was counsel to every district attorney and every law enforcement officer in the State of Wisconsin, always available and willing, cheerfully, to give advice. And no more knowledgeable, trustworthy help was available anywhere.

He possessed not just a singular knowledge and devotion to the justice system but a keen wit and fine sense of humor as well. His wit and wisdom forever remain with all who knew this fine outstanding man.

Frank Remington's efforts were recognized in the foreword to the 1966 supplement:

Frank Remington has such impressive credentials in the field of criminal law that we need not spell them out here. He was one of the principal researchers on the massive revision of the Wisconsin Criminal Code. As a member of the Law School faculty since 1949, he has been specializing in the study of criminal law. He has brought nationwide distinction to the Law School as a center for research and teaching in criminal law and the administration of criminal justice.

John H. Bowers was the original editor/reporter for the publication. The Introduction to the 1980 Edition recognized his contributions:

The Committee has been fortunate to have the services of John H. Bowers, Attorney at Law, Madison, and former Deputy Attorney General, State of Wisconsin, as reporter and editor from 1961 through 1976. During that

time John was responsible for most of the reporting and drafting chores. His services over the years have been of the greatest importance.

Although the original conception of the project may have anticipated that the Committee would finish its work once the new Criminal Code was addressed, that proved not to be the case. After the publication of the original edition in 1962, supplements were published in 1966, 1967, 1971, 1974, and 1976. A new edition was published in 1980, increasing the page size of the hard copy to 8 1/2 by 11 from the original 6 by 9. As of July 2019, 57 supplements have been published to the 1980 edition.

Inquiries and suggestions from judges and lawyers are among the most important sources of new business for the Committee. It is always informative to receive questions and suggestions from those the Committee is trying to serve. You are encouraged to contact the reporter by phone, mail, or e-mail, or to consult with any member of the Committee. Copies of approved-but-not-published material are available from the reporter, as are working drafts.

A list of all judges who have served on the Committee and a list of advisory members and editors is provided beginning on the following page. Current members and advisors are listed on the title page.

Criminal Jury Instructions Committee

Bryce Pierson, Reporter
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Madison, WI 53706-1399
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**The Criminal Jury Instructions Committee
Members and Advisors**

Judges

Gerald Boileau	Marathon Co.	1960-1975 [Chair: 1960-1975]
William Gramling	Waukesha Co.	1960-1976
Milton Meister	Washington Co.	1960-1978
Herbert Steffes	Milwaukee Co.	1960-1975
Clarence Whiffen	Racine Co.	1960-1961
Henry Gergen	Dodge Co.	1961-1990 [Acting Chair: 1984-1990]
Ervin Zastrow	Walworth Co.	1965-1976 [Chair: 1975-1976]
James Levi	Portage Co.	1965-1984 [Chair: 1976-1984]
John Buchen	Sheboygan Co.	1974-1989
James Seering	Sauk Co.	1974-1989
Edwin Dahlberg	Rock Co.	1975-1998 [Chair: 1990-1998]
Hugh O'Connell	Milwaukee Co.	1976-1983
John Bartholomew	St. Croix Co.	1976-1989
Robert Stoltz	Washington Co.	1977-1978
Ronald Keberle	Marathon Co.	1979-1992
Robert Landry	Milwaukee Co.	1979-1991
Michael Torphy	Dane Co.	1979-1992
Donald Steinmetz	Milwaukee Co.	1979-1980
Fred Fink	Wood Co.	1980-1985
Patrick Madden	Milwaukee Co.	1983-1994
Richard Becker	Washington Co.	1984-1994
Fred Fleishauer	Portage Co.	1986-1996
Raymond Gieringer	Adams Co.	1988-1991
Mark Gempeler	Waukesha Co.	1988-1998
Gregory Peterson	Eau Claire Co.	1990-2002 [Chair: 1998-2002]
William Carver	Winnebago Co.	1990-2000
Victor Manian	Milwaukee Co.	1991-2003 [Chair: 2002-2003]
James Eaton	Barron Co.	1991-2001
Angela Bartell	Dane Co.	1992-2002
Michael Fisher	Kenosha Co.	1992-2002
James Schwalbach	Washington Co.	1994-1997
Thomas Doherty	Milwaukee Co.	1994-1998
Edward Zappen	Wood Co.	1996-2006 [Chair: 2003-2005]

John DiMotto	Milwaukee Co.	1997-2007 [Chair: 2005-2007]
Kitty Brennan	Milwaukee Co.	1998-2008
James Daley	Rock Co.	1998-2008 [Chair: 2007-2008]
Donald Zuidmulder	Brown Co.	1998-2008
Mark Mangerson	Marathon Co.	2000-2010 [Chair: 2008-2010]
Scott Needham	St. Croix Co.	2001-2011 [Chair: 2010-2011]
Don Hassin	Waukesha Co.	2002-2012 [Chair: 2011-2012]
Steve Ebert	Dane Co.	2002-2007
Annette Ziegler	Washington Co.	2002-2007
John Franke	Milwaukee Co.	2003-2008
Thomas Flugaur	Portage Co./	2006-2016 [Chair: 2012-2016]
Jeffrey Kremers	Milwaukee Co.	2007-2017 [Chair: 2016-2017]
John Damon	Trempeleau Co.	2007-2016
Mary Ann Sumi	Dane Co.	2007-2014
Rory Cameron	Chippewa Co.	2008-2016
Mel Flanagan	Milwaukee Co.	2008-2016
Rebecca Dallet	Milwaukee Co.	2008-2018
Andrew Bissonnette	Dodge Co.	2008-2013
Guy Reynolds	Sauk Co.	2011-2018
William Hanrahan	Dane Co.	2015-2020

Advisory Members

	Wis. Dept. Of Justice		Wis. State Public Defender
William Platz	1960-1975	Richard Martin	1993-1995
Bill Gansner	1976-1979	Randall Paulson	1996-2001
Edward Marion	1979-1980	Charles Vetzner	2001-2007
Marjorie Moeller	1980-1981		
Kirbie Knutson/ Chris Heikenen	1981-1986	Univ. of Wis. Law School	
David Becker	1987-2010	Frank J. Remington	1960-1996
Barbara Oswald	2010-2011	Walter Dickey	1995-1997
Gary Freyberg	2011-2017		
	Reporters		Copy Editors
Arnon Allen	1960-1961	Barbara Muckler	1966-1978
John Bowers	1961-1976	Roger Bruesewitz	1978-2001
Adv. Member	1976-1994		
George Frederick	1963-1966		

