

MAJOR PATTERN JURY INSTRUCTIONS - CRIMINAL

DEFINITIONS

MPJI 36.03 Sexual Intercourse—Definition

Sexual intercourse means

[that the sexual organ of the male entered and penetrated the sexual organ of the female and occurs upon any penetration, however slight] [or]

[any penetration of the vagina or anus however slight, by an object, [including a body part,] when committed on one person by another, whether such persons are of the same or opposite sex [except when such penetration is accomplished for medically recognized treatment or diagnostic purposes]] [or]

[any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex].

Note on Use

Use bracketed material as applicable.

MPJI 36.04 Forcible Compulsion—Definition

Forcible compulsion means physical force that overcomes resistance, or a threat, express or implied, that places a person in fear of death or physical injury to oneself or another person or in fear of being kidnapped or that another person will be kidnapped.

MPJI 36.05 Sexual Contact—Definition

Sexual contact means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desires of either party *[or a third party]*.

RAPE IN THE SECOND DEGREE

MPJI 36.23 Rape—Second Degree—Definition

A person commits the crime of rape in the second degree when he or she engages in sexual intercourse with another person *[by forcible compulsion] [or]. . .*

MPJI 36.24 Rape—Second Degree—Elements

To convict the defendant of the crime of rape in the second degree, each of the following three elements of the crime must be proved beyond a reasonable doubt:

(1) That on or about _____, the defendant engaged in sexual intercourse with _____;

(2) That the sexual intercourse occurred
[(a) by forcible compulsion] [or]

. . .

(3) That this act occurred in the State of Major.

If you find from the evidence that elements (1) and (3), and any of the alternative elements [(2)(a),] . . . have been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty. To return a verdict of guilty, the jury need not be unanimous as to which of alternatives [(2)(a),] . . . has been proved beyond a reasonable doubt, as long as each juror finds that at least one alternative has been proved beyond a reasonable doubt.

On the other hand, if, after weighing all the evidence, you have a reasonable doubt as to any one of elements (1), (2), or (3), then it will be your duty to return a verdict of not guilty.

RAPE OF A CHILD IN THE THIRD DEGREE

MPJI 36.44 Rape of a Child—Third Degree—Definition

A person commits the crime of rape of a child in the third degree when the person has sexual intercourse with a child who is at least fourteen years old but less than sixteen years old, who is not married to the person, and who is at least forty-eight months younger than the person.

MPJI 36.45 Rape of a Child—Third Degree—Elements

To convict the defendant of the crime of rape of a child in the third degree, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1) That on or about _____, the defendant had sexual intercourse with _____;

(2) That _____ was at least fourteen years old but was less than sixteen years old at the time of the sexual intercourse and was not married to the defendant;

(3) That _____ was at least forty-eight months younger than the defendant; and

(4) That this act occurred in the State of Major.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

COMMUNICATION WITH A MINOR FOR IMMORAL PURPOSES THROUGH ELECTRONIC COMMUNICATION

MPJI 66.10 Minor—Definition

“Minor” means any person under eighteen years of age.

MPJI 66.32 Communication with a Minor for Immoral Purposes Through Electronic Communication - Definition

A person commits the crime of communication with a minor for immoral purposes when he or she communicates with *[a minor] [or] [someone the person believes to be a minor]* for immoral purposes of a sexual nature.

Communication may be by words or conduct.

MPJI 66.33 Communication with a Minor for Immoral Purposes Through Electronic Communication – Elements

To convict the defendant of the crime of communicating with a minor for immoral purposes, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about _____, the defendant communicated with [_____] *[another person]* for immoral purposes of a sexual nature;
- (2) [That [_____] *[the other person]* was a minor;] [That the defendant believed [_____] *[the other person]* was a minor;]
- (3) That the communication was through electronic communication, and
- (3) That this act occurred in the *[State of Major] [City of] [County of]*.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

MPJI 66.33 Defense – Reasonable Belief of Age – Communication with a Minor for Immoral Purposes Through Electronic Communication

It is no defense to the crime of communication with a minor for immoral purposes through electronic communication that the defendant did not know _____ age. However, it is a defense which the defendant must prove by a preponderance of the evidence that the defendant made a reasonable bona fide attempt to ascertain the true age of the minor by requiring production of a driver’s license, marriage license, birth certificate , or other governmental or educational identification card or paper and did not rely solely on the oral allegations or apparent age of the minor.

