MODEL CRIMINAL JURY INSTRUCTIONS COMMITTEE

REPORTER'S ONLINE UPDATE

Updated October 30, 2026

Introduction

The Committee intends to publish annual updates to the model jury instructions. During the periods between these formal publications, the Committee's Reporter will maintain a "Reporter's Online Update," which will include developments in case law relevant to the instructions. The update may also include substantive changes to instructions that the Committee has formally approved but that have yet to appear in the most recent edition.

Although the Committee expects that the Reporter's Online Update will be a valuable research tool, the Committee emphasizes that it will be an informal publication that is not subject to review by the Committee. Thus, users should not assume that the Committee will make modifications based on information that appears in the Reporter's Online Update.

The Reporter's summaries are purely descriptive; they do not include recommendations for how (or whether) to draft jury instructions based on the authorities that are summarized. Although each summary appears beneath a caption that corresponds to the most relevant model instruction(s), irrespective of whether the summarized authority refers to the model instruction(s), the use of this organizational structure here should not be construed as an indication that the Committee intends to modify an instruction, or a Comment.

The Committee encourages users to alert the Reporter of any errors at: mcjic@judicial.state.co.us.

I. Decisions of the Colorado Supreme Court

E:03 PRESUMPTION OF INNOCENCE, BURDEN OF PROOF, AND REASONABLE DOUBT

Teran Sanchez v. People, 2026 CO 60, ¶¶ 3, 25 n.4, 596 P.3d 326 (holding that the 2023 version of this instruction—which mirrored the current instruction except that it didn't include the added sentence regarding evidence or lack of evidence—was constitutional because it "neither lowers the burden of proof nor shifts that burden to the defendant").

E:15 SPECIAL VERDICT FORM (LESSER-INCLUDED OFFENSES)

People v. Mena, 2026 CO 42, ¶¶ 17–20, 25, 28–29 & n.3, 591 P.3d 1 (after jury said it was unanimous on charged offenses but couldn't reach verdict on lesser-included offenses, trial court declared mistrial on *all* charges: stating that when the jury returns a partial verdict—i.e., "a final verdict 'on some, but not all[,] of the greater degrees of the offense included within' a charge" (quoting *People v. Richardson*, 184 P.3d 755, 763 n.5 (Colo. 2008))—the trial court must "pick the best path"; clarifying that the court should "determine whether the jury is deadlocked or whether further deliberations would be helpful," at which point it "has discretion regarding how to proceed—for example, by giving supplemental instructions or by declaring a mistrial"; cautioning that the court *cannot* "ask the jury to clarify its verdict" or ask "which offenses the jury is deadlocked on"; but holding that this case involved "a jury's unsolicited and unambiguous partial verdict," thus nullifying any "concerns about juror coercion"; concluding that "the only logical inference from the jury's communication is that it had unanimously acquitted Mena of the completed acts," meaning the trial court abused its discretion in declaring a mistrial as to *all* charges rather than just the lesser-included offenses; noting that trial courts have "discretion regarding how and when to amend verdict forms," and citing COLJI-Crim. Instruction E:15, cmt. 1 (2025) as an example).

H:04 CONSENT OF VICTIM (OFFENSES INVOLVING BODILY INJURY, OR THREATENED BODILY INJURY)

People v. Gerle, 2026 CO 53, ¶ 6 n.1, 592 P.3d 1240 ("Consent is not a defense to assault that causes serious bodily injury as a matter of law." (citing § 18-

1-505(2), C.R.S. (2025))).

1.3:01.INT CRIME OF VIOLENCE—INTERROGATORY (DEADLY WEAPON) and 3-1:07 MURDER IN THE SECOND DEGREE

People v. Shockey, 2026 CO 10, ¶ 14, 585 P.3d 850 (holding that, where the jury found Shockey guilty of second-degree murder but answered "no" to an interrogatory asking whether he used a deadly weapon during the commission of the crime or in immediate flight therefrom, the verdict remained valid because the interrogatory response didn't negate any element of the murder conviction and the court could "discern the jury's unambiguous intent").

4-2:03 SECOND DEGREE BURGLARY

People v. Dilka, 2026 CO 12, ¶ 3, 584 P.3d 564 (holding that criminal violation of a protection order under section 18-6-803.5, C.R.S., constitutes "a crime against another person or property," meaning it can serve as a predicate crime for second-degree burglary).

6-4:01 CHILD ABUSE (KNOWINGLY OR RECKLESSLY) and 6-4:09.INT CHILD ABUSE—INTERROGATORY (DEATH)

People v. Ceus, 2026 CO 59, ¶¶ 39–40, 56 & n.10, 69, 73 n.14, 592 P.3d 1246 (Ceus was charged with child abuse resulting in death (class 2 felony), and trial court (1) modified Instruction 6-4:01 so that it only referred to "an accumulation of injuries that ultimately resulted in the death of a child" (rather than "in the death of a child or serious bodily injury to a child"), but (2) failed to give Instruction 6-4:09.INT asking if the child abuse "resulted in death": holding that the court erred because its instructions didn't require the jury "to explicitly find that the child abuse resulted in each girl's death"; noting that Comment 3 to Instruction 6-4:09.INT "offer[s] guidance on this very issue"; emphasizing that when the prosecution charges child abuse resulting in death as a class 2 felony, it must prove that the abuse resulted in death; clarifying, in the context of harmless-error review of Ceus's conviction, that "we are not inferring that the abuse resulted in death from the proof establishing the abuse itself," which would be impermissible per *People v. Dunaway*, 88 P.3d 619 (Colo. 2004)).

7-4:01 SOLICITING FOR CHILD PROSTITUTION (ANOTHER) and 7-4:02 SOLICITING FOR CHILD PROSTITUTION (ARRANGING)

People v. Vega Dominguez, 2026 CO 30M, ¶ 3, 592 P.3d 1219 (agreeing with *Randolph v. People*, 2025 CO 44, 570 P.3d 1022, that "the culpable mental state for soliciting for child prostitution is 'knowingly'").

7-4:10 INDUCEMENT OF CHILD PROSTITUTION and 7-4:11 PATRONIZING A PROSTITUTED CHILD (ACT)

People v. Vega Dominguez, 2026 CO 30M, ¶¶ 1–2, 34–36, 592 P.3d 1219 (considering whether Vega Dominguez's conviction for attempted patronizing a prostituted child violated equal protection because it allegedly stemmed from the same conduct as his conviction for attempted inducement of child prostitution, but carried a higher sentence; holding that any error wasn't obvious and thus wasn't plain; distinguishing *People v. Maloy*, 2020 COA 71, 465 P.3d 146, because unlike in that case, Vega Dominguez was convicted under the "by a child" prong of the statute rather than "of a child," meaning his case "involved potential distinctions between patronizing and inducing that were not at issue in *Maloy*").

8-3:09 ATTEMPT TO INFLUENCE A PUBLIC SERVANT

People v. Hupke, 2026 CO 31, ¶¶ 2–3, 589 P.3d 473 (rejecting Hupke's argument that, where he told his mother to lie to a parole officer to persuade the officer to lift Hupke's parole hold, he couldn't be culpable because section 18-8-306 only criminalizes a defendant's direct deceit; holding instead that "the phrase 'by means of deceit' in section 18-8-306 encompasses a defendant's use of a third party to engage in deception").

9-1:55.INT VEHICULAR ELUDING—INTERROGATORY (BODILY INJURY OR DEATH)

People v. Sloan, 2026 CO 63, ¶¶ 3–5, __ P.3d __ (holding that the trial court erred when its interrogatory asked the jury to find whether the "accident" resulted in death rather than whether the "vehicular eluding" resulted in death; but concluding that the error wasn't plain).

42:21 FAILURE TO FULFILL DUTIES AFTER INVOLVEMENT IN AN

ACCIDENT INVOLVING INJURY, SERIOUS BODILY INJURY, OR DEATH

Brown v. People, 2026 CO 51M, ¶ 2, 593 P.3d 883 (holding that *People v. Manzo*, 144 P.3d 551 (Colo. 2006), remains good law, meaning that when Brown was charged with both leaving the scene of an accident resulting in death and leaving the scene of an accident resulting in serious bodily injury, the prosecution didn't need to prove that he "acted with any culpable mental state").

II. Final Decisions of the Colorado Court of Appeals

C:01 OATH FOR WITNESSES

People v. Lopez, 2024 COA 26, ¶ 52, 550 P.3d 731 (holding that, where the trial court administered the oath to a ten-year-old witness by asking if he understood "the difference between what is true and what is not true" and by posing sample questions (e.g., "If I said you're wearing a blue shirt, would that be true?"), those questions didn't improperly bolster the witness's credibility but were instead "part of an age-appropriate oath" per CRE 603).

E:03 PRESUMPTION OF INNOCENCE, BURDEN OF PROOF, AND REASONABLE DOUBT

People v. Schlehuber, 2025 COA 50, ¶¶ 19–20, 28–34, 572 P.3d 641 (agreeing with *People v. Melara*, 2025 COA 48, 572 P.3d 619, that the absence of "lack of evidence" language in the 2022 model instruction didn't constitute structural error, but disagreeing that a court "should" include such language, and holding instead that "a court does not err by omitting that language"; further holding that a court's decision not to include "hesitate to act" language (which no longer appears in the model instruction) isn't error "so long as the instruction otherwise correctly defines the reasonable doubt standard"; approving of the current model instruction's language—that proof beyond a reasonable doubt "is proof that leaves you firmly convinced of the defendant's guilt," and that the prosecution fails to meet its burden "if you think there is a real possibility that the defendant is not guilty"—because it "give[s] the jury a complete picture of the reasonable doubt standard").

People v. Berumen, 2025 COA 93, ¶¶ 22–33, 583 P.3d 1264 (agreeing with *Schlehuber* that the 2022 model instruction is "an accurate statement of the law"; rejecting Berumen's argument that the phrases "firmly convinced" and "real possibility" lowered the prosecution's burden of proof to clear and convincing evidence, and noting that the instruction "requires *more* than proof that something is highly probable"; also rejecting the argument that the term "real possibility" shifts the burden, and remarking that in total, the instructions given at trial "repeatedly instructed the jury that the prosecution has the burden of proof"; recognizing that the 2022 instruction (unlike the current instruction) didn't include "lack of evidence" language, but holding that, although "it's best practice to instruct the jury to consider the lack of evidence in the case," the omission of such language "doesn't lower the prosecution's burden of proof").

People v. Simms, 2026 COA 51M, ¶¶ 21–33, 595 P.3d 719 (agreeing with *Schlehuber* and *Berumen*, and holding that the trial court didn't err in giving the jury the 2022 model instruction).

People v. Crow, 2026 COA 53M, ¶ 16, 595 P.3d 738 (agreeing with *Simms*, and holding that the trial court didn't err in giving the jury the 2022 model instruction).

E:12 MULTIPLE COUNTS (STANDARD CASE)

People v. Lopez, 2024 COA 26, ¶¶ 39, 43, 550 P.3d 731 (jury asked court if it could return verdicts on some charges and hang on others, and court simply re-read the multiple-counts instruction: holding that (1) the trial court didn't abuse its discretion by *not* telling the jury that it could hang, and (2) the court's re-reading of the multiple-counts instruction wasn't coercive).

F:77 CREDIBLE THREAT (STALKING; RETALIATION AGAINST A JUDGE; RETALIATION AGAINST AN ELECTED OFFICIAL; RETALIATION AGAINST A PROSECUTOR)

People v. Casper, 2025 COA 69, ¶ 34, 577 P.3d 489 (holding that even though the definition of "credible threat" doesn't contain a subjective mental state, that definition isn't facially unconstitutional because Casper was charged under section 18-3-602(1)(a), which required the People to prove that he

knowingly made a credible threat).

F:194 KNIFE

People v. Romero, 2025 COA 91, ¶ 16, 583 P.3d 449 (holding that because the definition of "knife" in section 18-12-101(1)(q) is limited to article 12, it doesn't apply for purposes of menacing).

F:273 PERSON WITH A DISABILITY

People v. Crow, 2026 COA 53, ¶ 3, 595 P.3d 738 (holding that under section 18-6.5-102(11)(c)—which defines a person with a disability in part as someone who is "unable to breathe without mechanical assistance"—the prosecution "need not prove that the victim's disability is permanent" but instead "need only prove that the victim's disability rendered the victim unable to breathe without mechanical assistance at the time of the offense").

F:332 SERIOUS BODILY INJURY

People v. Taylor, 2026 COA 50, ¶ 1, 594 P.3d 989 (extending *People v. Vigil*, 2021 CO 46, 488 P.3d 1150—which held that whether an injury involves a substantial risk of death depends on "the facts of the actual injury . . . not the risk generally associated with the type of conduct or injury in question"—to also apply to whether the injury involves "a substantial risk of protracted loss or impairment of the function of any part or organ of the body").

H:09 CHOICE OF EVILS

People v. Berumen, 2025 COA 93, ¶¶ 46–50, 583 P.3d 1264 (Berumen, believing that he was about to be arrested for sexual assault, redownloaded sexual videos despite knowing that the victim was underage so he could obtain evidence that the sex was consensual, and he was then charged with sexual exploitation of a child based on possession of those videos: holding that the trial court properly foreclosed Berumen from raising the choice of evils defense because, inter alia, he didn't establish that all viable alternatives to redownloading the videos were futile).

CHAPTER 1.3-8: HABITUAL PROCEEDINGS

People v. Fields, 2025 COA 84, ¶ 16, 581 P.3d 789 (holding that, where the trial court rather than the jury adjudicated Fields a habitual criminal, the error was harmless because while the jury was still empaneled, the prosecution presented overwhelming evidence that Fields's prior convictions "were separately brought and tried and arose out of distinct criminal episodes").

People v. Medina, 2026 COA 36M, ¶ 2, 592 P.3d 806 (holding that *Erlinger v. United States*, 602 U.S. 821 (2024)—which requires a jury to decide whether the defendant's prior convictions were committed on separate occasions—doesn't apply retroactively).

3-2:31.INT MENACING—INTERROGATORY (USE, OR SUGGESTED USE, OF A SPECIFIC WEAPON)

People v. Romero, 2025 COA 91, ¶¶ 5, 18, 583 P.3d 449 (holding that a small hatchet, which was "approximately ten inches long and consisted of a blade and a handle," qualified as a "knife" for purposes of menacing because it was "not meaningfully different from any other sharp-edged blade used for cutting and fitted with a handle," meaning the victim would fear "being wounded by cutting or stabbing").

People v. Simms, 2026 COA 51, ¶¶ 41–42, 595 P.3d 719 (holding that "a fist is not a bludgeon or simulated bludgeon under the felony menacing statute"; thus concluding that where the jury asked the trial court if a fist could be considered a bludgeon, the court erred by telling the jury to apply words' plain meaning rather than answering the question "no").

3-3:05 SECOND DEGREE KIDNAPPING (SEIZED AND CARRIED)

People v. Fields, 2025 COA 84, ¶¶ 26–28, 581 P.3d 789 (holding that the trial court erred when it defined "seized and carried" as" any movement, however short in distance," but concluding that the error wasn't plain because it wasn't obvious at the time of trial).

3-3:13 VIOLATION OF CUSTODY (COURT ORDER)

People v. Wilson, 2025 COA 94, ¶¶ 3, 17, 585 P.3d 248 (holding that the unit

of prosecution for violating a child custody court order is "the number of children affected, not the number of custody orders violated"; rejecting the argument that the crime requires "taking" a child, and holding instead that it can also be committed "by refusing to surrender a child").

3-4:10.INT SEXUAL ASSAULT—INTERROGATORY (FORCE OR VIOLENCE)

People v. Valdez, 2026 COA 9, ¶¶ 11–12, 17, 589 P.3d 497 (holding that the term "physical force" in this interrogatory "does not have to rise to the level of full-blown violence," and noting that "force commonly means 'strength or energy exerted or brought to bear'; 'cause of motion or change'; or 'active power'" (quoting Merriam-Webster Dictionary); further holding that the phrase "causes submission" "connotes the means by which the defendant effectuates the sexual assault"—i.e., "the means by which the defendant accomplishes the nonconsensual or assaultive nature of the sexual act").

3-6:01 STALKING (CREDIBLE THREAT AND CONDUCT) and 9-1:36 HARASSMENT (COMMUNICATION)

People v. Casper, 2025 COA 69, ¶¶ 24–35, 64–67, 577 P.3d 489 (noting that, whereas *Counterman v. Colorado*, 600 U.S. 66 (2023), addressed a prosecution under section 18-3-602(1)*(c)*, Casper was charged under section 18-3-602(1)*(a)*, and holding that because that subsection contains a "knowingly" element, the instructions in his case were "sufficient to meet the subjective mental state required under *Counterman*," as they "required the jury to make factual findings regarding Casper's subjective mental state about whether he was making a credible threat"; separately holding that harassment under section 18-9-111(1)(e) isn't a lesser included offense of stalking under section 18-3-602(1)(a)).

3-6:03 STALKING (SERIOUS EMOTIONAL DISTRESS)

People v. Conlon, 2025 COA 79M, ¶¶ 91–92, 580 P.3d 603 (stating that although *Counterman v. Colorado*, 600 U.S. 66 (2023), abrogated *People v. Cross*, 127 P.3d 71 (Colo. 2006), as to the mens rea for the "serious emotional distress" element, it didn't "wholly invalidate *Cross*"; applying *Cross* and holding that section 18-3-602(1)(c) isn't unconstitutionally

overbroad).

4-3:06 AGGRAVATED ROBBERY (SUGGESTION OR REPRESENTATION OF A DEADLY WEAPON)

People v. Ambrose, 2026 COA 39, ¶ 4, 594 P.3d 198 (holding that section 18-4-302(1)(d)—which in part proscribes a person who represents that he is "then and there so armed" with a deadly weapon—doesn't require the defendant to have represented that he had a deadly weapon "on his person" but instead only requires that he "represented that he then had a deadly weapon easily accessible and readily available for use").

4-4:06.INT THEFT—INTERROGATORY (VALUE)

People v. Bolden, 2026 COA 17, ¶¶ 9, 14–17, 590 P.3d 308 (holding that, while an item's discounted sale price constitutes *evidence* of value, "it does not establish value as a matter of law"; concluding that, where the discounted sale price of the stolen items was under $2,000 but a manager testified that their regular prices exceeded $2,000, the evidence was sufficient to sustain Bolden's conviction for felony theft (i.e., value of $2,000 or more); also holding that the trial court properly rejected Bolden's tendered "speculation" instructions—which told the jury that speculation was "insufficient evidence of value"—because (1) no caselaw required them, (2) the court separately instructed the jury that the prosecution had the burden to prove value, and (3) the parties "presented competent and detailed evidence of the merchandise's value"; finally holding that the trial court didn't err in rejecting Bolden's proposed instruction that the value of the stolen items was their "reasonable market value").

8-1:26 IMPERSONATING A PEACE OFFICER

People v. Coulier, 2026 COA 45, ¶ 1, 594 P.3d 204 (holding that for purposes of this crime, the term "an act" can involve "any conduct that is done while in [a peace officer's] pretended capacity").

9-1:59 FAILURE OR REFUSAL TO LEAVE PREMISES OR PROPERTY UPON REQUEST OF A PEACE OFFICER (NONCOMPLIANCE)

People v. Montoya, 2025 COA 89, ¶ 50, 583 P.3d 124 (holding that section 18-

9-119(2) "provides two ways of committing failure to leave the premises: (1) barricading and refusing to leave the premises when asked to do so by law enforcement or (2) refusing police entry by using or threatening to use force and refusing to leave the premises when asked to do so by law enforcement").

42:09 DRIVING UNDER THE INFLUENCE

People v. Schlehuber, 2025 COA 50, ¶¶ 50–54, 572 P.3d 641 (holding that, when the trial court admitted *the entirety* of the record of a prior Nebraska conviction, the court erred because "certain portions of the record were not relevant" and were unduly prejudicial, but concluding that the error was harmless because "the jury properly heard evidence that Schlehuber had three prior DUI convictions" and the court instructed the jury "that it could only consider the evidence to decide whether the prosecution had proved beyond a reasonable doubt that Schlehuber had three or more prior qualifying convictions"; cautioning that "such an instruction alone [will not] always make the erroneous admission of such evidence harmless").

III. Non-Final Decisions of the Colorado Court of Appeals

D:02 EVIDENCE LIMITED AS TO PURPOSE (CONTEMPORANEOUS)

People v. Jones, 2025 COA 43, ¶¶ 54–55, 571 P.3d 947 (rejecting the argument that, where the trial court instructed the jury that evidence of injuries was admitted "for a limited purpose to establish identity and lack of accident," the court's use of the word "establish" told the jury that Jones inflicted the injuries, and holding instead that the word "establish" didn't constitute plain error).

> Status: Petition for certiorari granted on other grounds. Oral arguments held on 9/22/26.

F:185 INTENTIONALLY (AND WITH INTENT)

People v. Schlitt, 2026 COA 65, ¶¶ 24, 30, __ P.3d __ (considering section 33-6-117(1)(a)(I), C.R.S., which prohibits hunting wildlife and removing trophy parts "with the intent to abandon the carcass or body"; holding that the statute prohibits "killing an animal and taking only its trophy parts if,

at the time that the hunter takes the trophy parts, he has the conscious objective of abandoning the carcass," regardless of whether he "returns later to harvest the carcass or ultimately abandons it"; thus holding that where Schlitt "initially took only [a] bear's trophy parts, failed to field dress the bear, left the carcass on some logs, and returned to harvest some meat only after learning that the authorities had been notified," the evidence was sufficient that he intended to abandon the carcass).

Status: Mandate not issued as of 10/29/26.

F:187 INTIMATE RELATIONSHIP

People v. Fonseca, 2026 COA 63, ¶ 2, __ P.3d __ ("[W]hether the defendant and the victim were in an intimate relationship for purposes of a domestic violence finding entails an objective, fact-intensive inquiry that depends on the totality of the evidence. Neither the brief duration of the relationship nor the parties' informal characterizations of it preclude a finding of an intimate relationship as a matter of law.").

Status: Mandate not issued as of 10/29/26.

F:79 CRIMINAL NEGLIGENCE

People v. Cooper, 2026 COA 44, ¶¶ 51–57 & nn.14–15, 595 P.3d 702 (prosecutor argued that Cooper was criminally negligent because, as paramedic who injected victim with ketamine, he failed to give adequate medical care; trial court rejected Cooper's tendered instruction—which defined criminal negligence as deviation from the standard of care that "a reasonable paramedic in Aurora, Colorado" would exercise—and instead gave this model instruction; after jury asked for definition or "description" of standard of care, court referred jury to existing instructions and said that words should "be given their common and ordinary meanings": stating that (1) "civil law may, in an appropriate case, set the baseline standard of care for criminal culpability," and (2) "the reasonable person for purposes of the criminal statute is a reasonable person to whom that standard applies"; noting that, while this standard is "an objective one," it's based on "the relevant circumstances, including the nature and purpose of the actor's conduct and the situation in which the actor finds himself"; holding that because this case involved "a medical professional provided medical

treatment to a person needing medical attention while under law enforcement's physical restraint," the trial court erred in rejecting Cooper's instruction, and emphasizing that the model instruction "didn't adequately articulate the applicable standard of care but rather left the jury in the dark"; noting that even if the court didn't err in its original instruction, it erred by "failing to clarify the issue for the jurors once they affirmatively indicated that they didn't know what standard to apply").

Status: Petition for certiorari pending as of 10/29/26.

F:134 EXPLOSIVE OR INCENDIARY DEVICE (POSSESSION, USE, OR REMOVAL), 4-1:01 FIRST DEGREE ARSON, and 4-1:02.INT FIRST DEGREE ARSON—INTERROGATORY (EXPLOSIVE)

People v. Rodriguez-Ortiz, 2025 COA 61, ¶¶ 77–82, 574 P.3d 1196 (rejecting the argument that section 18-12-109(1)(a)—which defines "explosive *or* incendiary device"—separates "explosives" from "incendiary devices," and holding instead that the word "or" means "and/or," meaning all items contained in the definition can qualify as *either* term; applying this holding to conclude that a Molotov cocktail is "either an explosive or an incendiary device," meaning it qualifies as an "explosive" under the sentence enhancer for first-degree arson).

Status: Petition for certiorari granted on other grounds. Oral arguments not yet held as of 10/29/26.

H:01 EFFECT OF IGNORANCE OR MISTAKE UPON CULPABILITY (MISTAKEN BELIEF OF FACT)

People v. Jargowsky, 2026 COA 66, ¶ 65, __ P.3d __ (holding that, where a pawn shop owner—charged with racketeering and money laundering for accepting stolen items—told police that she wouldn't "knowingly take a stolen item," this was evidence that "tended to negate the required mental state" of the charged crimes, meaning she wasn't entitled to a mistake of fact affirmative defense).

Status: Mandate not issued as of 10/29/26.

H:02 EFFECT OF IGNORANCE OR MISTAKE UPON CULPABILITY

(MISTAKEN BELIEF OF LAW)

People v. Jargowsky, 2026 COA 66, ¶ 66, __ P.3d __ (holding that Jargowsky's claim that "law enforcement expressly or implicitly assured her that she was not doing anything improper" didn't fall within any of the categories justifying a mistake of law affirmative defense).

Status: Mandate not issued as of 10/29/26.

H:10 USE OF PHYSICAL FORCE (SPECIAL RELATIONSHIPS)

People v. Cooper, 2026 COA 44, ¶¶ 62–66, 595 P.3d 702 (holding that, with respect to criminally negligent homicide, section 18-1-703(1)(e)(II) creates a traverse rather than an affirmative defense, meaning the trial court properly instructed the jury that, for the charge of criminally negligent homicide, (1) the prosecution need not "disprove use of physical force (special relationship)," and (2) a person doesn't act in a criminally negligent manner "if his conduct is legally justified" per the defense).

Status: Petition for certiorari pending as of 10/29/26.

H:32 REPORTING AN EMERGENCY DRUG OR ALCOHOL OVERDOSE EVENT

People v. Williams, 2026 COA 76, ¶¶ 1–3, __ P.3d __ (holding that the statute's requirement to "identify" yourself requires "a good faith reporter to identify herself only as the reporting party," not to "disclose her name"; thus concluding that, where Williams called 911 and cooperated with medical personnel as they treated her roommate's overdose but withheld her name from officers, she was entitled to immunity).

Status: Mandate not issued as of 10/29/26.

J:03 COMPLICITY and J:04 DEFENSES THAT ARE NOT AVAILABLE WHEN CRIMINAL LIABILITY IS BASED ON THE BEHAVIOR OF ANOTHER

People v. Cichuniec, 2026 COA 43, ¶¶ 70, 80–83, 595 P.3d 61 (Cichuniec was charged with assault as complicitor while co-defendant Cooper was charged as principal, and although Cooper's elemental instruction for

assault told jury that prosecution needed to disprove affirmative defense, Cichuniec's complicity instruction contained no such language: holding that, where the jury found Cichuniec guilty as a complicitor but acquitted Cooper as the principal, the verdicts weren't legally inconsistent; further holding that an affirmative defense isn't "a true element of the offense," meaning the prosecution need not disprove the defense in order to prove that another person "committed the crime" for purposes of complicity; emphasizing that "the principal's entitlement to assert an affirmative defense is irrelevant to a complicitor's culpability").

Status: Petition for certiorari pending as of 10/29/26.

5-1:04 FORGERY (PUBLIC RECORD OR INSTRUMENT)

People v. Schmidt, 2026 COA 52, ¶¶ 4, 28–31, 595 P.3d 1216 (holding that where Schmidt submitted a "public service letter" attesting that he'd completed a condition of his probation, the letter qualified as "legally fileable" under section 18-8-306 because there was "no indication that the district court prevented Schmidt from tendering the document to the court or refused to put it in the file"; disagreeing with *People v. Carian*, 2017 COA 106, 414 P.3d 34—which held that the statute refers to instruments "actually delivered to a public office or public servant pursuant to a legal mandate"—because that decision "appears to eliminate the distinction between *filed* and *fileable*").

Status: Petition for certiorari pending as of 10/29/26.

7-1:04 PROMOTION OF OBSCENITY TO A MINOR

People v. Simpson, 2026 COA 67, ¶ 2, __ P.3d __ (holding that the prosecution can demonstrate obscenity "without showing the allegedly obscene material to the jury").

Status: Petition for certiorari pending as of 10/29/26.

8-3:09 ATTEMPT TO INFLUENCE A PUBLIC SERVANT

People v. Schmidt, 2026 COA 52, ¶¶ 1, 23, 595 P.3d 1216 (stating that section 18-8-306 is designed "to criminalize deceitful acts that could *potentially*

influence a public servant"; thus holding that the prosecution doesn't need to prove "that the public servant had actual authority to act on the matter under consideration"—i.e., the crime still applies to a defendant "who intended to influence a public servant, and took deceitful action to do so, but happened to mistakenly believe the particular public servant actually had control over the requisite decision").

Status: Petition for certiorari pending as of 10/29/26.

8-7:08 RETALIATION AGAINST A WITNESS OR VICTIM

People v. Trujillo, 2025 COA 22, ¶¶ 29–34, 51–57, 568 P.3d 435 (stating that, per *People v. Hickman*, 988 P.2d 628 (Colo. 1999), the defendant "must intend to retaliate against the victim or witness for a specific reason: because of that person's 'status' as a witness to or victim of a crime"; holding that this model instruction, combined with the model instruction for "intent," failed to inform the jury "that the retaliation or retribution must be because of the witness's or victim's status as such"; noting that Trujillo's proposed instruction—which specified that the jury needed to find that she "intended the threat or act of harassment as retaliation or retribution *because of [her] perception of [the alleged victim's] relationship to a criminal proceeding*"—would have "cured this defect"; rejecting the argument that the theory of defense instruction—in which Trujillo claimed that she "never intended to threaten or harass [the victim] as an act of retaliation for [the victim] being a victim in another case"—salvaged the issue, and emphasizing that "a guilty verdict could only be premised on a finding that Trujillo intended to retaliate against [the victim] for [the victim's] status as a victim of or witness to [the] alleged crime"); separately holding that Trujillo's statement that "I'm going to beat your ass" didn't qualify as "fighting words," but remanding for the trial court to consider if it was a true threat under the subjective standard announced in *Counterman v. Colorado*, 600 U.S. 66 (2023)).

Status: Petition for certiorari granted. Oral arguments set for 11/17/26.

42:09 DRIVING UNDER THE INFLUENCE

People v. Chilleen, 2026 COA 69, ¶¶ 15–25, __ P.3d __ (holding that, where

Chilleen was charged with felony DUI and other crimes (including vehicular homicide), the trial court didn't abuse its discretion in denying his motion to bifurcate; assuming, where the prosecutor suggested in closing that Chilleen had a propensity to commit DUI, that the trial court erred in overruling Chilleen's objections, but concluding that he suffered no prejudice because overwhelming evidence indicated that he was driving; cautioning that "the mere inclusion of a limiting instruction is not always enough *on its own* to alleviate the risk of prejudice inherent in evidence of a defendant's prior convictions," and stating that courts "must protect the guardrails [the instruction] put into place"—e.g., by "instructing the jury to disregard a prosecutor's attempt to misuse prior conviction evidence for propensity purposes during closing argument").

Status: Mandate not issued as of 10/29/26.