

IN THE SUPREME COURT OF FLORIDA

**IN RE: STANDARD JURY
INSTRUCTIONS CRIMINAL CASES
REPORT 2019-08**

CASE NO.: SC19-

To the Chief Justice and Justices of the Supreme Court of Florida:

This report, proposing amended instructions to the Florida Standard Jury Instructions in Criminal Cases, is filed pursuant to Article V, section 2(a), Florida Constitution.

	<u>Instruction #</u>	<u>Topic</u>
Proposal 1	8.6	Stalking
Proposal 2	8.7(a)	Aggravated Stalking
Proposal 3	8.7(b)	Aggravated Stalking
Proposal 4	8.7(c)	Aggravated Stalking
Proposal 5	8/7(d)	Aggravated Stalking

The proposals are in Appendix A. Words and punctuation to be deleted are shown with strike-through marks; words and punctuation to be added are underlined.

The proposals were published in the August 1, 2019 issue of the *Bar News*. No comments were received.

In Chapter 2019-167, § 31, Laws of Florida, the Legislature amended the stalking statute by creating an alternative way to “cyberstalk” in § 784.048(1)(d)2, Fla. Stat. The new definition of “cyberstalk” reads as follows:

2. To access, or attempt to access, the online accounts or Internet-connected home electronic systems of another person without that person’s permission,

As a result, the Committee amended the five standard stalking instructions to incorporate this new definition of “cyberstalk.”

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The Committee made two other changes. In instruction 8.7(b), the Committee deleted the reference to *Seese v. State*, 955 So. 2d 1145 (Fla. 4th DCA 2007), in the comment section and added that cite as an italicized note directly above the definition of “maliciously.” In instruction 8.7(d), the Committee added the *Seese* definition of “maliciously” because the crime covered in that instruction pertains to a defendant stalking a victim after a judge ordered the defendant not to have contact with the victim. This behavior is akin to the crime in instruction 8.7(b), which covers a defendant stalking a victim after a judge entered an injunction. The Committee did not add the *Seese* definition of “maliciously” into the other three stalking instructions until there is case law that holds the *Seese* definition applies to those crimes.

All votes were unanimous both pre- and post-publication. The Committee requests the Court to promulgate the five stalking instructions in Appendix A.

Respectfully submitted this 26th day of
September, 2019.

s/ Judge F. Rand Wallis
The Honorable F. Rand Wallis
Chair, Supreme Court Committee on
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CERTIFICATE OF FONT COMPLIANCE

I hereby certify that this report has been prepared using Times New Roman 14 point font in compliance with the font requirements of Florida Rule of Appellate Procedure 9.210(a)(2).

s/ Judge F. Rand Wallis
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