

Indecent Exposure

(Proposed New Instruction)

Tex. Penal Code § 21.08

February 28, 2026 Meeting

1 **CPJC 21.8__ Instruction—Indecent Exposure of Genitals**

2
3 **LAW SPECIFIC TO THIS CASE**

4
5 The state accuses the defendant of having committed the offense of indecent exposure.

6
7 **Relevant Statutes**

8
9 A person commits the offense of indecent exposure if the person exposes any part of his
10 genitals with intent to arouse or gratify the sexual desire of any person, and he is reckless about
11 whether another is present who will be offended or alarmed by his act.

12
13 **Definitions**

14
15 *Intent to Arouse or Gratify Sexual Desire*

16
17 A person acts with intent to arouse or gratify sexual desire if it is the person’s conscious objective
18 or desire to gratify sexual desire of any person.

19
20 *Recklessness About Whether Another Is Present Who Will Be Offended or Alarmed*

21
22 A person acts with recklessness about whether another who will be offended or alarmed by his
23 act is present if—

- 24
25 1. there is a substantial and unjustifiable risk that another will be present who will be offended
26 or alarmed by his act;
27 2. the risk is of such a nature and degree that its disregard constitutes a gross deviation from
28 the standard of care that an ordinary person would exercise under all the circumstances as
29 viewed from the person’s standpoint; and
30 3. the person is aware of but consciously disregards that risk.

31
32 **Application of Law to Facts**

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34 You must determine whether the state has proven, beyond a reasonable doubt, three
35 elements. The elements are that—

- 36
37 1. the defendant, in [county] County, Texas, on or about [date], exposed part of his genitals;
38
39 2. the defendant did this with intent to arouse or gratify [insert specific allegation from the
40 charging instrument, e.g., his own sexual desire or the sexual desire of [name]]; and
41
42 3. the defendant was reckless about whether another was present who was likely to be offended
43 or alarmed by his act [insert any specific allegation of reckless acts from the charging

1 *instrument raised by the evidence, e.g., by exposing himself in daylight in a parking lot*
2 *already in use inside Memorial Park].*

3
4 You must all agree on elements 1, 2, and 3 above.

5
6 If you all agree the state has failed to prove, beyond a reasonable doubt, one or more of the
7 three elements listed above, you must find the defendant “not guilty.”

8
9 If you all agree the state has proved, beyond a reasonable doubt, each of the three elements
10 listed above, you must [find the defendant “guilty”/consider whether a defense applies to this case].

11
12 *[Include defense if raised by the evidence. Then continue with the verdict form found in CPJC*
13 *2.1, the general charge.]*

14
15 **COMMENTS**

16 Indecent exposure is prohibited by and defined in Tex. Penal Code § 21.08(a). As amended by
17 the legislature to include new punishment ranges, the offense’s effective date is on September 1, 2025.

18 **Culpable Mental State—Committee Conclusions.** Section 21.08 has no definition of “intent to arouse
19 or gratify the sexual desire of any person,” but that mental state is part of the term *sexual contact* defined
20 by section 21.11(c) in the indecency with child statute. Tex. Penal Code § 21.11(c).

21
22 **Phrasing of Recklessness.** The Committee decided to rephrase the statutory phrasing of recklessness so
23 as to better conform to the meaning of the statutory language, which focuses on the actual or constructive
24 possibility of someone else’s presence rather than requiring that prese

