

## **JURY INSTRUCTIONS**

It is now my duty to instruct you on the law that applies to your deliberations. It is your duty to follow these instructions in reaching your verdict. Although you are the sole judges of the law and the facts on the question of guilt or innocence, you have the duty to accept and apply the law as given by the court. You must decide the facts from the testimony and other evidence and apply the law to those facts in reaching your verdict.

You must not single out any of these instructions and disregard others. The order in which the instructions are given does not indicate that one instruction is more important than another. If I have given you the impression that I have an opinion regarding any facts in this case, you are to disregard that impression. If I have given you the impression that I have an opinion concerning the guilt or innocence of the defendant, you are to disregard that impression.

### **BURDEN OF PROOF**

The defendant is presumed to be innocent until each element of the crime necessary to constitute his guilt is proven beyond a reasonable doubt. The Defendant is not required to prove that he is innocent. Thus, the defendant begins the trial with a clean slate.

The burden is upon the state to prove the defendant's guilt beyond a reasonable doubt. In considering the evidence, you must give the defendant the benefit of every reasonable doubt arising out of the evidence or out of the lack of evidence. If you are not convinced of the guilt of the defendant beyond a reasonable doubt, you must find the defendant not guilty.

While the state must prove guilt beyond a reasonable doubt, it does not have to prove guilt beyond all possible doubt. Reasonable doubt is based on reason and common sense and is present when, after you have carefully considered all the evidence, you cannot say that you are firmly convinced of the truth of the charge.

## EVIDENCE

You must determine whether or not a fact has been proven only from the evidence presented or from a lack of evidence. The evidence which you should consider consists of the testimony of witnesses [and of exhibits such as writings and physical objects] which the court has permitted the parties to introduce.

You must consider only evidence which was admitted during the trial. [You may not consider evidence which you were instructed to disregard, or to which an objection was sustained.]

Evidence is either direct or circumstantial. Direct evidence is evidence which, if believed, proves a fact. Circumstantial or indirect evidence is evidence which, if believed, proves a fact, and from that fact you may logically and reasonably conclude that another fact exists.

You cannot find a defendant guilty solely on circumstantial evidence unless the facts proved by the evidence exclude every reasonable hypothesis of innocence.

## CREDIBILITY

As jurors, you alone shall determine the weight and credibility or believability of the evidence. As the sole judges of the credibility of witnesses and of the weight their testimony deserves, you should scrutinize carefully the testimony given and the circumstances under which the witness has testified. In evaluating the testimony of a witness, you should consider his ability and opportunity to observe and remember the matter about which he testified, his manner while testifying, any reason he may have for testifying in favor of or against the state or the defendant, and the extent to which the testimony is supported or contradicted by other evidence.

The testimony of a witness may be discredited by showing that the witness will benefit in some way by the defendant's conviction or acquittal, that the witness is prejudiced or that the witness has any other reason or motive for not telling the truth. The testimony of a witness may be discredited by showing that the witness made a prior statement which contradicts or is inconsistent with his present testimony. Such prior statements are admitted only to discredit the witness -- not to show that the statements are true.

[You should judge the testimony of the defendant in the same manner that you judge the testimony of any other witness.]

The court instructs the jury, that in determining whether or not the accused has been identified as the person who committed the offense charged against him, if any such offense was committed, you must consider all of the testimony in the case, considering the means of identification; the circumstances under which he was identified, the opportunity for identifying the said accused; the influence, if any, brought to bear on persons claiming to identify the accused; the description of his apparel and/or a description of his physical characteristics as stated by the witnesses, and the probabilities or improbabilities that it was the accused, and if after so judging and weighing the evidence, you are not satisfied beyond a reasonable doubt that the accused has been correctly identified as the person who committed the offense charged in this bill of information, it will be your duty to find the accused not guilty. On the other hand, if you are satisfied, it will be your duty to find the accused guilty.

#### **BILL OF INFORMATION**

A Bill of Information is nothing more than a written, formal accusation against a defendant charging him with a crime. You are not to consider the Bill of Information as evidence against the defendant.

The mere filing of a Bill of Information creates no inference whatsoever that the defendant is guilty.

#### ATTORNEY'S STATEMENTS

Statements and arguments made by the attorneys are not evidence.

In the opening statements, the attorneys were permitted to familiarize you with the facts they expected to prove. In closing arguments, the attorneys were permitted to present for your consideration their contentions regarding what the evidence has shown or has not shown and what conclusions they think may be drawn from the evidence. Those opening statements and closing arguments are not to be considered as evidence.

The defendant is charged in this case with [Name of Crime(s)]

You must consider these counts separately in reaching your verdict. You should not find the defendant guilty on any count unless there is sufficient evidence that the defendant is guilty in some degree as to that count. You may find from the evidence that the defendant is guilty in some degree on one count, but not guilty on another count. Or you might reach a verdict as to one count, but unable to reach a verdict as to another count. In summary, you must find evidence of guilty beyond a reasonable doubt before finding the defendant guilty on any count. If you do not find that such evidence exists, then you should find the defendant not guilty.

#### OTHER CRIMES

You are instructed that the other crimes evidence serves a limited purpose and that the defendant cannot be convicted for any crime other than the one charged or any offense responsive to it.

[SPECIFICS OF CRIME(S), DEFINITION(S), AND RESPONSIVE VERDICTS]

Criminal intent may be specific or general.

Specific criminal intent is that state of mind which exists when the circumstances indicate that the defendant actively desired the prescribed criminal consequences to follow his act or failure to act.

General criminal intent is present when the circumstances indicate that the defendant must have adverted to the prescribed criminal consequences as reasonably certain to result from his act or failure to act. General criminal intent is always present when there is specific intent.

Whether criminal intent is present must be determined in light of ordinary experience. Intent is a question of fact which may be inferred from the circumstances.

You may infer that the defendant intended the natural and probable consequences of his acts.

You are not to consider sentencing. Sentencing is not the function of the jury. It is the duty and responsibility of the court.

You will remember at the beginning of this trial, I placed a restriction on you that you were not to discuss this case among yourselves. I now remove that restriction.

When you enter the jury room, it is your duty to consult with one another, to consider each other's views and to discuss the evidence with the objective of reaching a just verdict. Each of you must decide the case for yourself, but only after discussion and impartial consideration of the case with your fellow jurors.

You are not advocates for the state or the defendant. Do not hesitate to re-examine your own views and to change your opinion if you are convinced you are wrong. But do not surrender your honest belief as to the weight and effect of evidence solely because of the opinion of your fellow jurors or for the mere purpose of returning a verdict.

## INSTRUCTIONS ON FILLING OUT VERDICT FORM

In a few moments, the BAILIFF will hand you an envelope containing the verdict form(s) which lists the possible responsive verdicts from which you may choose for each crime charged.

The first thing you are to do is to elect a foreperson. Any one of the twelve of you may serve as a foreperson. Then you will begin deliberations, and when at least ten (10) of you have agreed upon one of the verdict(s) which are listed on the verdict form charging [NAME OF CRIME], then the foreperson is to write that verdict on the line provided under "Verdict of the Jury". The foreperson is to sign his or her name and put today's date. [Note: In capital cases a unanimous verdict is required]

When you have reached your verdict(s), simply advise the bailiff, and court will reconvene to receive your verdict(s).

As I previously instructed you, sentencing is not the function of the jury. It is the duty and responsibility of the Court alone.

If you have a question about the instructions I have given you, have the Foreperson write it down and give it to the bailiff. Please be sure in doing so not to reflect your vote or present thinking.

If during your deliberations you need to physically examine or review any object or document received into evidence in order to arrive at a verdict, please notify the bailiff and the requested item will be made available to you.

Court will now be at recess until verdicts are reached.