

PRELIMINARY INSTRUCTIONS TO THE JURY

1. Introduction

[Ladies/Gentlemen or Members of the Jury,] you have been selected and sworn as the jury in this case. The defendant is accused of committing one or more crimes. You will decide if the defendant(s) is guilty or not guilty.

I will give you some instructions now and some later. You are required to consider and follow all my instructions.

Keep an open mind throughout the trial. At the end of the trial you will discuss the evidence and reach a verdict.

You took an oath to “well and truly try the issues pending between the parties” and to “render a true and just verdict.” The oath is your promise to do your duty as a member of the jury. Be alert. Pay attention. Follow my instructions.

2. Information, Plea and Burden of Proof

The prosecutor has filed a document—called an “Information”—that contains the charges against the defendant. The Information is not evidence of anything. It is only a method of accusing a defendant of a crime. The Information will now be read.

[Read Information]

The defendant has entered a plea of not guilty and denies committing the crime(s).

Every crime has component parts called “elements.” The prosecutor must prove each element beyond a reasonable doubt. Until then, you must presume that the defendant is not guilty. The defendant does not have to prove anything. He (she) does not have to testify, call witnesses, or present evidence.

3. Proof Beyond Reasonable Doubt

The prosecution has the burden of proving the defendant guilty beyond a reasonable doubt. Some of you may have served as jurors in civil cases, where you were

told that it is only necessary to prove that a fact is more likely true than not true. In criminal cases, the prosecution's proof must be more powerful than that. It must be beyond a reasonable doubt.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. There are very few things in this world that we know with absolute certainty, and in criminal cases the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you must find him guilty. If on the other hand, you think there is a real possibility that he is not guilty, you must give him the benefit of the doubt and find him not guilty.

4. Role of Judge, Jury and Lawyers

All of us, judge, jury and lawyers, are officers of the court and have different roles during the trial:

- As the judge, I will supervise the trial, decide legal issues, and instruct you on the law.
- As the jury, you must follow the law as you weigh the evidence and decide the factual issues. Factual issues relate to what did, or did not, happen in this case.
- The lawyers will present evidence and try to persuade you to decide the case in one way or the other.

Neither the lawyers nor I decide the case. That is your role. Do not be influenced by what you think our opinions might be. Make your decision based on the law given in my instructions and on the evidence presented in court.

5. Evidence

As jurors you will decide whether the defendant(s) is (are) guilty or not guilty. You must base your decision only on the evidence.

Evidence usually consists of the testimony and exhibits presented at trial. Testimony is what witnesses say under oath. Exhibits are things like documents, photographs, or other physical objects.

The fact that the defendant has been accused of a crime and brought to trial is not evidence. What the lawyers say is not evidence. For example, their opening statements and closing arguments are not evidence.

Rules govern what evidence may be presented to you. On the basis of these rules, the lawyers may object to proposed evidence. If they do, I will rule in one of two ways. If I sustain the objection, the proposed evidence will not be allowed. If I overrule the objection, the evidence will be allowed. Do not evaluate evidence on the basis of whether objections are made.

6. Order of the Trial

I will now explain how the trial will unfold.

The prosecution will give its opening statement. An opening statement gives an overview of the case from one point of view, and summarizes what that attorney thinks the evidence will show. Defense counsel may choose to make an opening statement right after the prosecutor, or wait until after all of the prosecution's evidence has been presented, or not make one at all.

You will then hear the prosecution's evidence. Evidence is usually presented by calling and questioning witnesses. What they say is called testimony. A witness is questioned first by the lawyer who called that witness and then by the opposing lawyer. **[For judges who permit juror questions add:** After the lawyers finish with their questions you will have the opportunity to submit questions. In a moment I will explain how to do this.]

Consider all testimony, whether from direct or cross-examination, regardless of who calls the witness.

After the prosecution has presented all its evidence, the defendant may present evidence, though the defendant has no duty to do so. If the defendant does present

evidence, the prosecution may then present additional evidence.

After both sides have presented all their evidence, I will give you final instructions on the law you must follow in reaching your verdict.

You will then hear closing arguments from the attorneys. The prosecutor will speak first, followed by the defense counsel. Then the prosecutor speaks last, because the government has the burden of proof.

Finally you will deliberate in the jury room. You may take your notes and any exhibits. You will discuss the case and reach a verdict.

7. Conduct of Jurors

From time to time I will call a recess. It may be for a few minutes or longer. During recesses, do not talk about this case with anyone—not family, not friends, not even each other.

Until the trial is over, do not mingle or talk with the lawyers, parties, witnesses or anyone else connected with the case. Court clerks or bailiffs can answer general questions, such as the length of breaks or the location of restrooms. But they cannot comment about the case or anyone involved.

The goal is to avoid the impression that anyone is trying to influence you improperly. If people involved in the case seem to ignore you outside of court, they are just following this instruction.

Until the trial is over, do not read or listen to any news reports about this case.

If you observe anything that seems to violate this instruction, report it immediately to a clerk or bailiff.

8. Note-taking

Feel free to take notes during the trial to help you remember the evidence, but do not let note-taking distract you. Your notes are not evidence and may be incomplete.

9. Juror Questions [Optional for judges who permit questions]

During the trial you may ask questions of the witnesses. However, to make sure the questions are legally appropriate, we will use the following procedure:

After the attorneys have finished questioning each witness, I will ask if you have any questions. If you do, please do not ask the question out loud. Write it down and hand it to the bailiff.

The bailiff will hand me your question. I will review it with the attorneys to make sure it is legally permissible. If the question is appropriate, it will be addressed. If not, I will tell you.