

**CRIMINAL JURY INSTRUCTIONS**  
**(before Closing Arguments)**

You have heard the evidence. Now I will instruct you, and next you will hear final arguments of counsel. The Court and the jury have separate functions: you decide the disputed facts, and the Court provides the instructions of law. It is your sworn duty to accept these instructions and to apply the law as it is given to you. You are not permitted to change the law or to apply your own concept of what you think the law should be.

**Equality Under the Law**

In deciding the facts of this case, you must not be swayed by bias or prejudice or favor as to any party. Our system of law does not permit jurors to be governed by prejudice or sympathy or public opinion. Both the parties and the public expect that you will carefully and impartially consider all the evidence in the case, follow the law as stated by the Court, and reach a just verdict based on the evidence.

This case should be considered and decided by you as an action between people of equal standing in the community, and holding the same or similar stations in life. Individuals and the Government stand equal before the law and are to be dealt with as equals in a court of justice.

## **Indictment**

A criminal case begins with the filing of an Indictment. The Indictment informs Defendant that he/she has been charged with an offense. The fact it was filed may not be considered for any other purpose. A plea of “not guilty” is a denial of the charge and puts in issue all the essential elements of each offense charged.

The Indictment in this case charges the crimes were committed on various dates beginning around [DATE] and continuing through [DATE]. The proof need not establish with certainty the exact dates of the alleged crimes. It is sufficient if the evidence in the case establishes beyond a reasonable doubt the crimes were committed on dates reasonably near the alleged dates.

Your job is limited to deciding whether the Government has proved the crimes charged against Defendant. Whether anyone else should be prosecuted and convicted for these crimes is not a proper matter for you to consider. The possible guilt of others is no defense to a criminal charge. Do not let the possible guilt of others influence your decision in any way.

## **Burden of Proof and Reasonable Doubt**

Defendant pled not guilty to the crimes charged in the Indictment. Therefore, Defendant starts the trial with a clean slate, with no evidence at all against him/her, and the law presumes that he/she is innocent. This presumption of innocence stays with Defendant unless the Government presents evidence here in court that overcomes the presumption, and convinces you beyond a reasonable doubt that Defendant is guilty of a given crime.

This means Defendant has no obligation to present any evidence at all, or to prove to you in any way that he/she is innocent. It is up to the Government to prove Defendant is guilty, and this burden stays on the Government from start to finish. You must find Defendant is not guilty unless the Government convinces you beyond a reasonable doubt that he/she is guilty.

The Government must prove every element of each crime beyond a reasonable doubt. Proof beyond a reasonable doubt does not mean proof beyond all possible doubt. Possible doubts or doubts based purely on speculation are not reasonable doubts. A reasonable doubt is a doubt based on reason and common sense. It may arise from the evidence, the lack of evidence, or the nature of the evidence.

Proof beyond a reasonable doubt means proof which is so convincing that you would not hesitate to rely and act on it in making the most important decisions in your own lives. If you are convinced that the Government has proved Defendant guilty beyond a reasonable doubt, say so by returning a guilty verdict. If you are not convinced, say so by returning a not guilty verdict.

### **Evidence**

Evidence is all the testimony received from the witnesses, any exhibits admitted during the trial, and any facts stipulated by counsel. You must make your decision based only on the evidence you saw and heard here in court. Do not let rumors, suspicions, or anything else you may have seen or heard outside this courtroom influence your decision in any way.

Evidence may be direct or circumstantial, or both.

“Direct evidence” is the testimony given by a witness who has seen or heard the facts to which he or she testifies. It includes exhibits admitted into evidence.

Evidence may also be used to prove a fact by inference. This is referred to as circumstantial evidence. “Circumstantial evidence” is the proof of facts by direct evidence from which you may infer other reasonable facts or conclusions.

If a witness testified he saw it raining outside, and you believed him, that would be direct evidence it was raining. If someone walked into the courtroom wearing a raincoat covered with drops of water and carrying a wet umbrella, that would be circumstantial evidence from which you could conclude it was raining.

You may not make one inference from another inference, but you may draw more than one inference from the same facts or circumstances.

Direct evidence and circumstantial evidence inherently possess the same probative value, and both must be measured by the same standard of proof -- that is, proof beyond a reasonable doubt.

It is your job to decide how much weight to give the direct and circumstantial evidence. The law makes no distinction between the weight that you should give to either one, nor does it say that one is any better evidence than the other. You should consider all the evidence, both direct and circumstantial, and give it whatever weight you believe it deserves. You should use your common sense in weighing the evidence, considering it in light of your everyday experience with people and events.

### **Matters Not Evidence**

The evidence does not include the Indictment, opening statements, or closing arguments of counsel. The opening statements and closing arguments of counsel are designed to assist you; they are not evidence.

Remember that lawyers are not witnesses, and because it is your duty to decide the case solely on the evidence that you see or hear in the courtroom, you must not consider as evidence statements of the lawyers. There is an exception, and that is if the lawyers agree to any fact. Such agreement (called a stipulation or admission) will be brought to your attention, and it will then be your duty to regard such fact as being conclusively proved without the need for further evidence.

Also, you must disregard answers to questions stricken by the Court, or that you were instructed to disregard. You must not speculate as to why the Court sustained the objection to any question or what the answer to such question might have been. You must not draw any inference or speculate on the truth of any suggestion included in an unanswered question.

### **Credibility of Witnesses**

Another part of your job as jurors is to decide how credible or believable each witness was. This is your job, not mine. It is up to you to decide if a witness' testimony was believable, and how much weight you think it deserves. You are free to believe everything that a witness said, or only part of it, or none of it at all. But you should act reasonably and carefully in making these decisions.

Let me suggest some things for you to consider in evaluating each witness' testimony:

- Was the witness able to clearly see or hear the events?
- How good was the witness' memory?
- Was there anything that may have interfered with the ability of the witness to perceive or remember the events?
- How did the witness act while testifying?
- Did the witness have any relationship to the Government or Defendant, or anything to gain or lose from the case, that might influence the witness' testimony?
- Did the witness testify inconsistently while on the witness stand, or did the witness say or do something (or fail to say or do something) at any other time that is inconsistent with what the witness said while testifying?
- Was the witness' testimony supported or contradicted by other evidence that you found believable?

### **Impeachment by Prior Inconsistent Statement**

You may have heard testimony here in court from witnesses, other than Defendant, that was different from statements made before trial either in an interview or before a grand jury. This earlier statement was brought to your attention only to help you decide how believable the testimony was. You cannot use it as proof of anything else.

However, Defendant's prior statements may be considered as evidence.

### **Number of Witnesses**

Do not make any decisions based solely on the number of witnesses who testified. What is more important is how believable the witnesses were, and how much weight you think their testimony deserves. Concentrate on that, not how many.

### **Testimony of Defendant**

You have heard Defendant [NAME] testify. You should evaluate Defendant's testimony using the same considerations of credibility and believability that you use for any other witness.

### **OR**

Defendant has an absolute right not to testify. The fact that Defendant did not testify cannot be considered by you in any way. Do not even discuss it in your deliberations.

Remember that it is up to the Government to prove Defendant guilty beyond a reasonable doubt. It is not up to Defendant to prove he/she is innocent.

### **Exhibits**

A number of exhibits and testimony relating to them have been introduced or discussed. You will determine what weight, if any, an exhibit should receive in light of all the evidence, no matter who produced the exhibit. The numbering of the exhibits may not follow consecutively. There are several reasons for this. Some exhibits may not have been offered, some may be duplicates, or the Court may have rejected some exhibits because of a legal or other ruling. Do not guess or draw any inference because you do not have a particular numbered exhibit.

Also, you have seen or heard summary evidence in the form of a chart, calculation, or similar material. This summary was admitted because it may assist you in understanding the evidence that was presented. But the summary itself is not evidence of the material it summarizes, and it is only as valid and reliable as the underlying material it summarizes.

### **Inferring Required Mental State**

The charged offense requires proof of Defendant's state of mind, such as whether Defendant acted knowingly or with a certain intent. Ordinarily, there is no way that Defendant's state of mind can be proved directly, because no one can read another person's mind and tell what that person is thinking.

But Defendant's state of mind can be proved indirectly from the surrounding circumstances. This includes things like what Defendant said, what Defendant did, how Defendant acted, and any other facts or circumstances in evidence that show what was in Defendant's mind.

You may also consider the natural and probable results of any acts that Defendant knowingly did or did not do, and whether it is reasonable to conclude that Defendant intended those results. This, of course, is all for you to decide.

### **Character and Reputation of Defendant**

You may have heard testimony about Defendant's good character. You should consider this testimony, along with all the other evidence, in deciding if the Government has proved beyond a reasonable doubt that he/she committed the crime charged.



### **Other Acts of Defendant**

You have heard testimony that Defendant committed acts other than the ones charged in the Indictment. If you find Defendant did those acts, you can consider the evidence only as it relates to the Government's claim about Defendant's intent, motive, opportunity, plan, knowledge, identity, absence of mistake, or absence of accident. You must not consider it for any other purpose.

Remember that Defendant is on trial here only for the crime(s) of [CRIME], not for any other acts. Do not return a guilty verdict unless the Government proves the crime(s) charged in the Indictment beyond a reasonable doubt.

\* \* \*

This concludes the general instructions on certain preliminary matters. I will now give you instructions of law on the specific issues in this case.

\* \* \*

### **Punishment**

If you decide that the Government has proved Defendant guilty, then it will be my job to decide what the appropriate punishment should be.

Deciding what the punishment should be is my job, not yours. It would violate your oaths as jurors to even consider the possible punishment in deciding your verdict.

Your job is to look at the evidence and decide if the Government has proved Defendant guilty beyond a reasonable doubt.

\* \* \*