

CJI 3.1

Duties of Judge and Jury

- (1) Members of the jury, the evidence and arguments in this case are finished, and I will now instruct you on the law. That is, I will explain the law that applies to this case.
- (2) Remember that you have taken an oath to return a true and just verdict, based only on the evidence and my instructions on the law. You must not let sympathy or prejudice influence your decision.
- (3) As jurors, you must decide what the facts of this case are. This is your job, and nobody else's. You must think about all the evidence and the testimony and then decide what each piece of evidence means and how important you think it is. This includes whether you believe what each of the witnesses said. What you decide about any fact in this case is final.
- (4) It is my duty to instruct you on the law. You must take the law as I give it to you. If a lawyer says something different about the law, follow what I say. At various times, I have already given you some instructions about the law. You must take all my instructions together as the law you are to follow. You should not pay attention to some instructions and ignore others.
- (5) To sum up, it is your job to decide what the facts of the case are, to apply the law as I give it to you, and, in that way, to decide the case.

CJI 3.2

Presumption of Innocence, Burden of Proof, and Reasonable Doubt

- (1) A person accused of a crime is presumed to be innocent. This means that you must start with the presumption that the defendant is innocent. This presumption continues throughout the trial and entitles the defendant to a verdict of not guilty unless you are satisfied beyond a reasonable doubt that he is guilty.
- (2) Every crime is made up of parts called elements. The prosecutor must prove each element of the crime beyond a reasonable doubt. The defendant is not required to prove his innocence or to do anything. If you find that the prosecutor has not proven every element beyond a reasonable doubt, then you must find the defendant not guilty.
- (3) Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. A reasonable doubt is a fair, honest doubt growing out of the evidence or lack of evidence. It is not merely an imaginary or possible doubt, but a doubt based on reason and common sense. A reasonable doubt is just that -- a doubt that is reasonable, after a careful and considered examination of the facts and circumstances of this case.

CJI 3.3

Defendant Not Testifying

Every defendant has the absolute right not to testify. When you decide the case, you must not consider the fact that he did not testify. It must not affect your verdict in any way.

CJI 3.5

Evidence

- (1) When you discuss the case and decide on your verdict, you may only consider the evidence that has been properly admitted in this case. Therefore, it is important for you to understand what is evidence and what is not evidence.
- (2) Evidence includes only the sworn testimony of witnesses, the exhibits admitted into evidence, and anything else I told you to consider as evidence.
- (3) Many things are not evidence, and you must be careful not to consider them as such. I will now describe some of the things that are not evidence.
- (4) The fact that the defendant is charged with a crime and is on trial is not evidence.
- (5) The lawyers' statements and arguments are not evidence. They are only meant to help you understand the evidence and each side's legal theories. The lawyers' questions to witnesses are also not evidence. You should consider these questions only as they give meaning to the witnesses' answers. You should only accept things the lawyers say that are supported by the evidence or by your own common sense and general knowledge.
- (6) My comments, rulings, questions, and instructions are also not evidence. It is my duty to see that the trial is conducted according to the law, and to tell you the law that applies to this case. However, when I make a comment or give an instruction, I am not trying to influence your vote or express a personal opinion about the case. If you believe that I have an opinion about how you should decide this case, you must pay no attention to that opinion. You are the only judges of the facts, and you should decide this case from the evidence.
- (7) At times during the trial, I have excluded evidence that was offered or stricken

testimony that was heard. Do not consider those things in deciding the case. Make your decision only on the evidence that I let in, and nothing else.

- (8) Your decision should be based on all the evidence, regardless of which party produced it.

- (9) You should use your own common sense and general knowledge in weighing and judging the evidence, but you should not use any personal knowledge you may have about a place, person, or event. To repeat once more, you must decide this case based only on the evidence admitted during this trial.

CJI 3.6

Witnesses -- Credibility

- (1) As I said before, it is your job to decide what the facts of this case are. You must decide which witnesses you believe and how important you think their testimony is. You do not have to accept or reject everything a witness said. You are free to believe all, none, or part of any person's testimony.
- (2) In deciding which testimony you believe, you should rely on your own common sense and everyday experience. However, in deciding whether you believe a witness's testimony, you must set aside any bias or prejudice you may have based on the race, gender, or national origin of the witness.
- (3) There is no fixed set of rules for judging whether you believe a witness, but it may help you to think about these questions:
 - (a) Was the witness able to see or hear clearly? How long was the witness watching or listening? Was anything else going on that might have distracted the witness?
 - (b) Did the witness seem to have a good memory?
 - (c) How did the witness look and act while testifying? Did the witness seem to be making an honest effort to tell the truth, or did the witness seem to evade the questions or argue with the lawyers?
 - (d) Does the witness's age and maturity affect how you judge his or her testimony?
 - (e) Does the witness have any bias, prejudice, or personal interest in how this case is decided?
 - (f) Have there been any promises, threats, suggestions, or other influences that affected how the witness testified?
 - (g) In general, does the witness have any special reason to tell the truth, or any special reason to lie?

- (h) All in all, how reasonable does the witness's testimony seem when you think about all the other evidence in the case?

- (4) Sometimes the testimony of different witnesses will not agree, and you must decide which testimony you accept. You should think about whether the disagreement involves something important or not, and whether you think someone is lying or is simply mistaken. People see and hear things differently, and witnesses may testify honestly but simply be wrong about what they thought they saw or remembered. It is also a good idea to think about which testimony agrees best with the other evidence in the case.

- (5) However, you may conclude that a witness deliberately lied about something that is important to how you decide the case. If so, you may choose not to accept anything that witness said. On the other hand, if you think the witness lied about some things but told the truth about others, you may simply accept the part you think is true and ignore the rest.

CJI 3.10

Time and Place (Venue)

The evidence must convince you beyond a reasonable doubt that the crime occurred on or about [REDACTED], [REDACTED], within the [REDACTED]

CJI 3.11

Deliberations and Verdict

- (1) When you go to the jury room, you should first choose a foreperson. The foreperson should see to it that your discussions are carried on in a businesslike way and that everyone has a fair chance to be heard.
- (2) During your deliberations, please turn off your cell phones or other communications equipment until we recess.
- (3) A verdict in a criminal case must be unanimous. In order to return a verdict, it is necessary that each of you agrees on that verdict. In the jury room you will discuss the case among yourselves, but ultimately each of you will have to make up your own mind. Any verdict must represent the individual, considered judgment of each juror.
- (4) It is your duty as jurors to talk to each other and make every reasonable effort to reach agreement. Express your opinions and the reasons for them, but keep an open mind as you listen to your fellow jurors. Rethink your opinions and do not hesitate to change your mind if you decide you were wrong. Try your best to work out your differences.
- (5) However, although you should try to reach agreement, none of you should give up your honest opinion about the case just because other jurors disagree with you or just for the sake of reaching a verdict. In the end, your vote must be your own, and you must vote honestly and in good conscience.
- (6) I have already given you instructions regarding lesser offenses. As to any count which includes a lesser offense, you must first consider the principal offense. If you all agree that the defendant is guilty of that offense, you need not consider the lesser offense(s). If you believe that the defendant is not guilty of the principal offense or if you cannot agree on that offense, you may consider the lesser offense(s). It is up to you to decide how long to consider the principal offense before discussing the lesser offense(s). You may go back to consider the principal

offense again after discussing the lesser offense(s), if you want to.

CJI 3.13

Penalty

Possible penalty should not influence your decision. It is the duty of the judge to fix the penalty within the limits provided by law

CJI 3.14

Communications with the Court

- (1) If you want to communicate with me while you are in the jury room, please have your foreperson write a note and give it to the bailiff. It is not proper for you to talk directly with the judge, lawyers, court officers, or other people involved in the case.
- (2) As you discuss the case, you must not let anyone, even me, know how your voting stands. Therefore, until you return with a unanimous verdict, do not reveal this to anyone outside the jury room.

CJI 3.15

Exhibits

When you go to the jury room to deliberate, you may take your notes and full instructions.

If you want to look at any or all of the reference documents or exhibits that have been admitted, just ask for them.

CJI 3.16

Written or Electronically Recorded Instructions in the Jury Room

When you go to the jury room, you will be given a written copy of the instructions you have just heard. As you discuss the case, you should think about all my instructions together as the law you are to follow.

MCrim JI 4.1

Defendant's Statements As Evidence Against the Defendant

- (1) The prosecution has introduced evidence of a statement that it claims the defendant made.
- (2) Before you may consider such an out-of-court statement against the defendant, you must first find that the defendant actually made the statement as given to you.
- (3) If you find that the defendant did make the statement, you may give the statement whatever weight you think it deserves. In deciding this, you should think about how and when the statement was made, and about all the other evidence in the case. You may consider the statement in deciding the facts of the case.

CJI 4.3

Circumstantial Evidence

- (1) Facts can be proved by direct evidence from a witness or an exhibit. Direct evidence is evidence about what we actually see or hear. For example, if you look outside and see rain falling, that is direct evidence that it is raining.
- (2) Facts can also be proved by indirect, or circumstantial, evidence. Circumstantial evidence is evidence that normally or reasonably leads to other facts. So, for example, if you see a person come in from outside wearing a raincoat covered with small drops of water, that would be circumstantial evidence that it is raining.
- (3) You may consider circumstantial evidence. Circumstantial evidence by itself, or a combination of circumstantial evidence and direct evidence, can be used to prove the elements of a crime. In other words, you should consider all the evidence that you believe.

MCrim JI 4.9

Motive

(1) You may consider whether the defendant had a reason to commit the alleged crime, but a reason, by itself, is not enough to find a person guilty of a crime.

(2) The prosecutor does not have to prove that the defendant had a reason to commit the alleged crime. He only has to show that the defendant actually committed the crime and that he meant to do so.

CJI 4.16

Intent

The defendant's intent may be proved by what he said, what he did, how he did it, or by any other facts and circumstances in evidence.

CJI 5.2

Weighing Conflicting Evidence – Number of Witnesses

You should not decide this case based on which side presented more witnesses. Instead, you should think about each witness and each piece of evidence and whether you believe them. Then you must decide whether the testimony and evidence you believe proves beyond a reasonable doubt that the defendant is guilty.

CJI 5.6

Cautionary Instruction Regarding Accomplice Testimony

- (1) You should examine an accomplice's testimony closely and be very careful about accepting it.
- (2) You may think about whether the accomplice's testimony is supported by other evidence, because then it may be more reliable. However, there is nothing wrong with the prosecutor's using an accomplice as a witness. You may convict the defendant based only on an accomplice's testimony if you believe the testimony and it proves the defendant's guilt beyond a reasonable doubt.
- (3) When you decide whether you believe an accomplice, consider the following:
 - (a) Was the accomplice's testimony falsely slanted to make the defendant seem guilty because of the accomplice's own interests, biases, or for some other reason?
 - (b) Has the accomplice been offered a reward or been promised anything that might lead him to give false testimony?
 - (c) Has the accomplice been promised that he will not be prosecuted, or promised a lighter sentence or allowed to plead guilty to a less serious charge? If so, could this have influenced his testimony?
- (4) In general, you should consider an accomplice's testimony more cautiously than you would that of an ordinary witness. You should be sure you have examined it closely before you base a conviction on it

CJI 5.10

Expert Witnesses

(1) You have heard testimony from [REDACTED], who has given you his opinion as an expert in the field of [REDACTED]. Experts are allowed to give opinions in court about matters they are experts on.

(2) However, you do not have to believe an expert's opinion. Instead, you should decide whether you believe it and how important you think it is. When you decide whether you believe an expert's opinion, think carefully about the reasons and facts she gave for her opinion, and whether those facts are true. You should also think about the expert's qualifications, and whether her opinion makes sense when you think about the other evidence in the case.

CJI 5.11

Police Witness

You have heard testimony from witnesses who are police officers. That testimony is to be judged by the same standards you use to evaluate the testimony of any other witness.

CJI 11.1

Carrying Concealed Weapon-Pistol

In [REDACTED], the defendant is charged with the crime of carrying a concealed pistol. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

- (1) First, that the defendant knowingly carried a pistol. It does not matter why the defendant was carrying the pistol, but to be guilty of this crime the defendant must have known that he was carrying a pistol.
- (2) Second, that this pistol was concealed on or about the person of the defendant. Complete invisibility is not required. A pistol is concealed if it cannot easily be seen by those who come into ordinary contact with the defendant

CJI 11.34

Possession of Firearm at Time of Commission of Felony (Felony Firearm)

In [REDACTED], the defendant is also charged with the separate crime of possessing a firearm at the time he committed the crime of [REDACTED]. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

- (1) First, that the defendant committed the crime of first-degree premediate murder or second-degree murder, which has been defined for you. It is not necessary, however, that the defendant be convicted of that crime.
- (2) Second, that at the time the defendant committed that crime, he knowingly carried or possessed a firearm.

MCrim JI 11.34b

Felony Firearm-Possession

Possession does not necessarily mean ownership. Possession means that either:

(1) the person has actual physical control of the thing as I do with the pen I am now holding, or

(2) the person knows the location of the firearm and has reasonable access to it.

Possession may be sole where one person alone possesses the firearm. Possession may be joint where two or more people share possession.

CJI 16.1

First-degree Premeditated Murder

In [REDACTED], The defendant is charged with the crime of first-degree Premeditated Murder. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

- (1) First, that the defendant caused the death of [REDACTED], that is, that [REDACTED] died as a result of a gunshot wound.
- (2) Second, that the defendant intended to kill [REDACTED]
- (3) Third, that this intent to kill was premeditated, that is, thought out beforehand.
- (4) Fourth, that the killing was deliberate, which means that the defendant considered the pros and cons of the killing and thought about and chose his actions before he did it. There must have been real and substantial reflection for long enough to give a reasonable person a chance to think twice about the intent to kill. The law does not say how much time is needed. It is for you to decide if enough time passed under the circumstances of this case. The killing cannot be the result of a sudden impulse without thought or reflection.
- (5) Fifth, that the killing was not justified, excused, or done under circumstances that reduce it to a lesser crime.

CJI 16.5

Second-degree Murder

You may also consider the lesser charge of second-degree murder. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

- (1) First, that the defendant caused the death of [REDACTED] that is, that [REDACTED] died as a result of a gunshot wound.
- (2) Second, that the defendant had one of these three states of mind: he intended to kill, or he intended to do great bodily harm to [REDACTED] or he knowingly created a very high risk of death or great bodily harm knowing that death or such harm would be the likely result of his actions.

CJI 16.21

Inferring State of Mind

- (1) You must think about all the evidence in deciding what the defendant's state of mind was at the time of the alleged killing.
- (2) The defendant's state of mind may be inferred from the kind of weapon used, the type of wounds inflicted, the acts and words of the defendant, and any other circumstances surrounding the alleged killing.
- (3) You may infer that the defendant intended to kill if he used a dangerous weapon in a way that was likely to cause death. Likewise, you may infer that the defendant intended the usual results that follow from the use of a dangerous weapon.
- (4) A gun is a dangerous weapon.
- (5) Premeditation and deliberation may be inferred from any actions of the defendant which show planning or from any other circumstances surrounding the killing. The prosecutor need not prove a motive for the killing. But, you may consider evidence of motive in deciding if there was premeditation and deliberation. Motive by itself does not prove premeditation and deliberation.