

INSTRUCTION NO. 1

INTRODUCTORY INSTRUCTION

MEMBERS OF THE JURY:

Now that you have heard the evidence, it becomes my duty to give you the instructions of the Court as to the law applicable to this case.

It is your duty as jurors to follow the law as stated in the instructions of the Court, and to apply the rules of law to the facts as you find them from the evidence received during the trial.

You are not to single out any one instruction alone as stating the law but must consider the instructions as a whole.

Neither are you to be concerned with the wisdom of any rule of law stated by the Court. Regardless of any opinion you may have as to what the law ought to be, it would be a violation of your sworn duty to base a verdict upon any other view or opinion of the law than that given in these instructions of the Court, just as it would be a violation of your sworn duty, as judges of the facts, to base your verdict upon anything but the evidence received in this case.

You are to disregard any evidence offered at trial that was rejected by the Court. You are not to consider the opening statements and the arguments of counsel as evidence. Their purpose is merely to assist you in analyzing and considering the evidence presented at trial.

The Court did not by any words uttered during the trial, and the Court does not by these instructions give or intimate or wish to be understood by you as giving or intimating, any opinions as to what has or has not been proven in this case, nor as to what are or are not facts in the case.

INSTRUCTION NO. 2

NO BIAS OR PREJUDICE AGAINST ANY PARTY

You have been chosen and sworn as jurors in this case to try the issues of fact presented by the allegations of the Information and the denial made by [Defendant] “not guilty” plea. You are to perform this duty without bias or prejudice as to any party. The law does not permit jurors to be governed by sympathy, prejudice, or public opinion. Both [Defendant] 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, regardless of the consequences.

In following my instructions, you must follow all of them and not single out some and ignore others. They are all equally important. And you must not read into these instructions or into anything the court may have said or done any suggestion as to what verdict you should return—that is a matter entirely up to you.

INSTRUCTION NO. 3

EFFECT OF “NOT GUILTY” PLEAS

The defendant [Defendant] has pleaded “not guilty” to the charges against him contained in a charging document called an Information. This plea puts at issue the essential elements of the offenses as described in these instructions and imposes on the United States the burden of establishing each of these elements by proof beyond a reasonable doubt.

INSTRUCTION NO. 4

INFORMATION NOT EVIDENCE

An Information is but a formal method of accusing [Defendant] of a crime. It is not evidence of any kind against him. [Defendant] is presumed to be innocent of the crime charged. Even though an Information has been returned against [Defendant], he begins this trial with absolutely no evidence against him.

INSTRUCTION NO. 5

CONDUCT CHARGED IN INFORMATION

[Defendant] is not on trial for any act or any conduct not specifically charged in the Information.

INSTRUCTION NO. 6

CAUTION—CONSIDER ONLY THE CRIME CHARGED

You are here to decide whether the government has proved beyond a reasonable doubt that [Defendant] is guilty of the crime charged. [Defendant] is not on trial for any act, conduct, or crime not charged in the Information.

It is not up to you to decide whether anyone who is not on trial in this case should be prosecuted for the crime charged. The fact that another person *also* may be guilty is no defense to a criminal charge.

The question of the possible guilt of others should not enter your thinking as you decide whether this Defendant has been proved guilty of the crime charged.

INSTRUCTION NO. 7

SEPARATE CRIME CHARGED IN EACH COUNT

A separate crime is charged in each count of the Information. Each count and the evidence pertaining to it should be considered separately. The fact that you may find [Defendant] guilty or not guilty as to one of the crimes charged should not control your verdict as to any other count.

INSTRUCTION NO. 8

PRESUMPTION OF INNOCENCE

The Information or formal charge against [Defendant] is not evidence of guilt. Indeed, [Defendant] is presumed by the law to be innocent. The law does not require [Defendant] to prove his innocence or produce any evidence at all, nor does it compel him in a criminal case to take the witness stand to testify. The government has the burden of proving [Defendant] guilty beyond a reasonable doubt, and if it fails to do so you must acquit him.

Although the government's burden of proof is a strict or heavy burden, it is not necessary that [Defendant]'s guilt be proved beyond all possible doubt. It is only required that the government's proof exclude any "reasonable doubt" concerning [Defendant]'s guilt. A "reasonable doubt" is a real doubt, based upon reason and common sense after careful and impartial consideration of all the evidence in the case.

Proof beyond a reasonable doubt, therefore, is proof of such a convincing character that you would be willing to rely and act upon it without hesitation in the most important of your own affairs. If you are convinced that [Defendant] has been proved guilty beyond a reasonable doubt, find him guilty. If you are not so convinced, find him not guilty.

INSTRUCTION NO. 9

“EVIDENCE” DEFINED

The evidence in this case consists of the sworn testimony of the witnesses, regardless of who may have called them; all exhibits received in evidence, regardless of who may have presented them; and all facts which may have been admitted or stipulated.

Statements and arguments of counsel are not evidence in this case. When, however, the parties stipulate or agree as to the existence of a fact, the jury must, unless otherwise instructed, accept the stipulation and regard that fact as conclusively proved.

Any evidence as to which an objection was sustained by the court, and any evidence ordered stricken by the court, must be entirely disregarded.

Anything you may have seen or heard outside the courtroom is not evidence, and must be entirely disregarded.

You are to consider only the evidence in this case. However, in your consideration of the evidence, you are not limited to the statements of the witnesses. On the contrary, you are permitted to draw from the facts which you find have been proved such reasonable inferences as seem justified in light of your experience. An inference is a deduction or conclusion which reason and common sense would lead you to draw from facts which are established by the evidence in the case. In the absence of such facts, you may not draw an inference.

You should weigh all of the evidence in the case, affording each piece of evidence the weight or significance that you find it reasonably deserves.

INSTRUCTION NO. 10

DIRECT AND CIRCUMSTANTIAL EVIDENCE

You may consider both direct and circumstantial evidence.

“Direct evidence” is the testimony of one who asserts actual knowledge of a fact, such as an eyewitness.

“Circumstantial evidence” is proof of a chain of facts or circumstances indicating the existence or the nonexistence of a particular fact, or the occurrence or nonoccurrence of a particular event.

For example, if the fact to be proved is whether Johnny ate the cherry pie, and a witness testifies that she saw Johnny take a bite of the cherry pie, that is direct evidence of the fact. If the witness testifies that she saw Johnny with cherries smeared on his face and an empty pie plate in his hand, that is circumstantial evidence of the fact.

There is no difference between the weight to be given to either direct or circumstantial evidence. Nor is a greater degree of certainty required of circumstantial evidence than of direct evidence. You should weigh all of the evidence in the case, giving each piece of evidence the weight or significance that you find it reasonably deserves.

INSTRUCTION NO. 11

EXCLUDED EVIDENCE

At times during the trial, I sustained an objection to a question. When an objection was sustained, it is your duty to disregard the question entirely. You may draw no inference from the wording of it or speculate as to what the witness might have said if he or she had been permitted to answer the question.

Likewise, when I ordered the jury to disregard something you saw or heard, or struck it from the record, you may not consider it or speculate about it. The same rule applies to any exhibits I did not permit you to see. You may not speculate about what the exhibit might have shown.

You must completely ignore all these things. Do not even think about them. These things are not evidence, and you are bound by your oath not to let them influence your decision in any way.

INSTRUCTION NO. 12

LAW ENFORCEMENT METHODS AND EQUIPMENT

Evidence has been received regarding law enforcement methods and equipment used in the investigation of this case. Likewise, evidence has been received concerning law enforcement methods and equipment which were not used in relation to the investigation.

You may consider this evidence for the purpose of evaluating the weight of the evidence produced by the government and the credibility of law enforcement personnel involved in the investigation. There is no legal requirement that the government, through its enforcement agents, must use all known or available crime detection methods or any particular type of equipment in its investigation. It is for you to decide the credibility of the evidence in light of the methods and equipment used. You are the sole judges of the credibility of the witnesses and the weight to be given to evidence.

INSTRUCTION NO. 13

EVIDENCE OF GOOD CHARACTER

There has been some evidence of the defendant's reputation for good character. You should consider such evidence along with all the other evidence in the case.

Evidence of good character may be sufficient to raise a reasonable doubt whether the defendant is guilty, because you may think it improbable that a person of good character would commit such a crime. Evidence of a defendant's character, inconsistent with those traits of character ordinarily involved in the commission of the crime charged, may give rise to a reasonable doubt.

You should also consider any evidence offered to rebut the evidence offered by the defendant.

You should always bear in mind, however, that the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence.

INSTRUCTION NO. 14

PRIOR CONVICTIONS

You have heard evidence that the defendant was convicted of [prior convictions]. [State the counts for which these prior convictions are relevant.]

The evidence that the defendant may have been convicted of another crime does not mean that he committed the crime charged in this case, and you must use the evidence only with regard to weighing and considering the element of the respective offense charged. You may find him guilty of the crimes charged here only if the government has proved beyond a reasonable doubt each element of the respective offenses charged in this case.

INSTRUCTION NO. 15

VOLUNTARINESS OF STATEMENT BY DEFENDANT

Evidence of any statement the defendant is alleged to have made after the commission of a crime charged in this case, but not made in court, should always be considered by you with caution and weighed with care. Any such statements should be disregarded entirely unless the other evidence in the case convinces you by a preponderance of the evidence that the statement was made knowingly and voluntarily.

In determining whether any such statement was knowingly and voluntarily made, you should consider, for example, the age, gender, training, education, occupation, and physical and mental condition of the defendant. You also should consider any evidence concerning his treatment while under interrogation if the statement was made in response to questioning by government officials. Finally, you should consider all other circumstances in evidence that surround the making of the statement.

If, after considering all this evidence, you conclude by a preponderance of the evidence that the defendant's statement was made knowingly and voluntarily, you may give such weight to the statement as you feel it deserves under all the circumstances.

INSTRUCTION NO. 16

PRIOR SIMILAR ACTS

Although you have heard evidence of [prior similar acts], the defendant is not on trial for that incident. You may consider that evidence only as it bears on the defendant's identity, knowledge, and skill, in this case, and for no other purpose. Of course, the fact that you have heard evidence about the [prior similar acts] and whether it is an act similar to the one charged in this case does not mean that the defendant necessarily committed the acts charged in this case.

You must not consider this as evidence of the defendant's character or that he acted in conformity with that character. You must not consider this evidence for any purpose except the limited purpose for which it was admitted.

INSTRUCTION NO. 17

NUMBER OF WITNESSES CALLED BY A PARTY

Your decision should not be determined by the number of witnesses testifying for or against a party. You should consider all the facts and circumstances in evidence to determine which of the witnesses you choose to believe or not believe. You may find that the testimony of a smaller number of witnesses on one side is more credible than the testimony of a greater number of witnesses on the other side.

INSTRUCTION NO. 18

JUDGING CREDIBILITY OF WITNESSES

You, as jurors, are the sole judges of the credibility of witnesses and the weight their testimony deserves. You may be guided by the appearance and conduct of the witnesses, or by the manner in which the witness testifies, or by the character of the testimony given, or by evidence to the contrary of the testimony given.

You should carefully scrutinize all of the testimony given, the circumstances under which each witness has testified, and every matter in evidence which tends to show whether a witness is worthy of belief. Consider each witness's intelligence, motive and state of mind, and demeanor and manner while on the stand. Consider the witness's ability to observe the matters as to which he or she has testified, and whether he or she impresses you as having an accurate recollection of these matters. Consider also any relation each witness may bear to either side of the case; the manner in which each witness might be affected by the verdict; and the extent to which, if at all, each witness is either supported or contradicted by other evidence in the case.

Inconsistencies or discrepancies in the testimony of a witness, or between the testimony of different witnesses, may or may not cause you to discredit such testimony. Two or more persons witnessing an incident or a transaction may simply see or hear it differently and innocent misrecollection, like failure of recollection, is not an uncommon experience. In weighing the effect of a discrepancy, always consider whether it pertains to a matter of importance or an unimportant detail, and whether the discrepancy results from innocent error or intentional falsehood.

After making your own judgment, you will give the testimony of each witness such weight, if any, as you may think it deserves.

INSTRUCTION NO. 19

PRIOR INCONSISTENT STATEMENTS BY A WITNESS

The testimony of a witness may be discredited by showing that the witness testified falsely concerning a material matter, or by evidence that at some other time the witness said or did something, or failed to say or do something, which is inconsistent with the testimony the witness gave at this trial.

If a prior statement was made under oath, you may consider it as evidence of the truth of the matter contained in that prior statement.

Otherwise, earlier statements of a witness were not admitted in evidence to prove that the contents of those statements are true. You may consider the earlier statements only to determine whether you think they are consistent or inconsistent with the trial testimony of the witness and therefore whether they affect the credibility of that witness. If you believe that a witness has been discredited in this manner, it is your exclusive right to give the testimony of that witness whatever weight you think it deserves.

INSTRUCTION NO. 20

LAW ENFORCEMENT WITNESS TESTIMONY

You have heard the testimony of a law enforcement officer. The fact that a witness may be employed by the federal government as a law enforcement officer does not mean that his or her testimony is necessarily deserving of more or less consideration or greater or lesser weight than that of an ordinary witness. You should consider and weigh the testimony the same as the testimony of the other witnesses and determine the weight and credibility to be given thereto by the same rules that apply to witnesses generally. It is your decision, after reviewing all of the evidence, whether to accept the testimony of the law enforcement witness and to give to that testimony whatever weight, if any, you find it deserves.

INSTRUCTION NO. 21

EYEWITNESS TESTIMONY

The value of eyewitness testimony depends on the opportunity the witness had to observe the offender at the time of the offense and to make a reliable identification later.

In evaluating such testimony you should consider all of the factors mentioned in these instructions concerning your assessment of the credibility of any witness, and you should also consider, in particular, whether the witness had an adequate opportunity to observe the person in question at the time of the offense. You may consider, in that regard, such matters as the length of time the witness had to observe the person in question, the prevailing conditions at that time in terms of visibility or distance and the like, and whether the witness had known or observed the person at earlier times.

You should also consider whether the identification made by the witness after the offense was the product of their own recollection. You may consider, in that regard, the strength of the identification, and the circumstances under which the identification was made, and the length of time that elapsed between the occurrence of the crime and the next opportunity the witness had to see the defendant.

If the identification by the witness may have been influenced by the circumstances under which the defendant was presented to them for identification, you should scrutinize the identification with great care.

INSTRUCTION NO. 22

EXPERT WITNESSES

In some cases, such as this one, scientific, technical, or other specialized knowledge may assist the jury in understanding the evidence or in determining a fact in issue. A witness who has knowledge, skill, experience, training or education, may testify and state an opinion concerning such matters.

You are not required to accept such an opinion. You should consider opinion testimony just as you consider other testimony in this trial. Give opinion testimony as much weight as you think it deserves, considering the education and experience of the witness, the soundness of the reasons given for the opinion, and other evidence in the trial.

INSTRUCTION NO. 23

FINGERPRINT EXAMINER

Fingerprint examiners, as a group, may develop skills not possessed by members of the general public, skills that may give rise to opinions useful to you in your deliberations. A fingerprint examiner may spend a substantial amount of time looking at latent or partial prints and comparing them with known or full prints. In the course of their work, forensic fingerprint examiners may have acquired skill in identifying significant similarities and differences between partial prints and known prints.

The fingerprint examiner's testimony is his opinion. It should not be considered by you as conclusive fact, but should be weighed along with all the evidence that you have heard in this case. His opinion should be treated the same as any other evidence, which means that you are free to give it the weight you believe it deserves. You may accept or disregard it in whole or in part.

Fingerprint examiners may be of assistance to you. However, their skill is practical in nature, and despite anything you may have heard, it does not have demonstrable certainty.

INSTRUCTION NO. 24

DEFENDANT'S RIGHT TO NOT TESTIFY

A defendant in a criminal case has an absolute right under our Constitution not to testify. The fact that [Defendant] did not testify must not be discussed or considered by the jury in any way when deliberating and in arriving at your verdict. No inference of any kind may be drawn from the fact that [Defendant] decided to exercise his privilege under the Constitution and did not testify.

As stated before, the law never imposes upon a defendant in a criminal case the burden or duty of calling any witnesses or of producing any evidence.

INSTRUCTION NO. 25

EFFECT OF GUILTY PLEAS

[Other people] have pled guilty to crimes arising out of the same or similar events for which [Defendant] is on trial. These guilty pleas are not evidence against [Defendant], and you may consider them only in determining the believability of [those other people].

INSTRUCTION NO. 26

POSSIBLE GUILT OF ANOTHER

The defendant is on trial only for acts or conduct specifically charged in the Information.

The defendant is not on trial for any other act or conduct.

It is not up to you to decide whether anyone who is not on trial in this case should be prosecuted for the crime charged. However, if the evidence points to the guilt of another, and there is reasonable doubt as to the guilt of the defendant, it is your duty to acquit the defendant.

INSTRUCTION NO. 27

ACCOMPLICE - CO-DEFENDANT - PLEA AGREEMENT

The government called as two of its witnesses alleged accomplices, who were named as a co-defendants in the Information. The government has entered into a plea agreement with the co-defendants, providing that the government may recommend a reduced sentence if they cooperated with the government and testified truthfully. Plea bargaining is lawful and proper, and the rules of this Court expressly provide for it.

An alleged accomplice, including one who has entered into a plea agreement with the government, is not prohibited from testifying. On the contrary, the testimony of an alleged accomplice, may by itself, support a guilty verdict. However, it is also the case that accomplice testimony is of such a nature that it must be scrutinized with great care and viewed with particular caution when you decide how much weight to give to that testimony. You should never convict a defendant upon the unsupported testimony of an alleged accomplice, unless you believe that testimony beyond a reasonable doubt. The fact that an accomplice has entered a guilty plea to the offense charged is not evidence of the guilt of any other person.

INSTRUCTION NO. 28

CO-CONSPIRATOR - VICARIOUS LIABILITY

You will recall that I have admitted into evidence against [Defendant] the acts and statements of [names of co-conspirators] because these acts were committed by persons who, the government charges, were co-conspirators of [Defendant].

The reason for allowing this evidence to be received against [Defendant] has to do with the nature of the crime of conspiracy. A conspiracy is often referred to as a partnership in crime. Thus, as in other types of partnerships, when people enter into a conspiracy to accomplish an unlawful end, each and every member becomes an agent for the other conspirators in carrying out the conspiracy. Accordingly, the reasonably foreseeable acts, declarations, statements and omissions of any member of the conspiracy and in furtherance of the common purpose of the conspiracy are deemed, under the law, to be the acts of all of the members, and all of the members are responsible for such acts, declarations, statements and omissions.

If you find, beyond a reasonable doubt, that [Defendant] was a member of the conspiracy charged in the Information, then any acts done or statements made in furtherance of the conspiracy by persons also found by you to have been members of that conspiracy, may be considered against [Defendant]. This is so even if such acts were done and statements were made in [Defendant]'s absence or without [his or her] knowledge. However, before you consider the statements or acts of a co-conspirator in deciding the issue of [Defendant]'s guilt, you must first determine that the acts and statements were made during the existence, and in furtherance, of the unlawful scheme. If the acts were done or the statements made by someone whom you do not find to have been a member of the conspiracy, or if they were not done or said in furtherance of the conspiracy, they may not be considered by you as evidence against [Defendant].

INSTRUCTION NO. 29

SUMMARIES

Certain summary lists have been admitted into evidence. These summary lists have been shown to you during the trial for the purpose of explaining facts that are allegedly contained in books, records, documents, and other evidence in this case. You may consider these summary lists as you would any other evidence admitted during the trial and give them such weight or importance, if any, as you feel they deserve. In making that decision, you should consider all of the testimony you heard about the way in which they were prepared.

INSTRUCTION NO. 30

RECOLLECTION OF JURORS CONTROLS

If any reference by the Court or by the attorneys to matters of evidence does not coincide with your own recollection, it is your recollection which should control during your deliberations.

INSTRUCTION NO. 31

INFLUENCE OF JUDGE ON VERDICT

If I have said or done anything in this case that makes it appear I have an opinion about the guilt or innocence of [Defendant], disregard it. You are the sole judges of the facts and should in no way be influenced by what I have done here except to follow my instructions on the law. Nothing said in these instructions and nothing in any form of verdict prepared for your convenience is meant to suggest or convey in any way or manner any intimation as to what verdict I think you should find. What the verdict shall be is the sole and exclusive duty and responsibility of the jury.

INSTRUCTION NO. 32

OBJECTIONS BY COUNSEL

It is the duty of the attorney on each side of the case to object when the other side offers testimony or other evidence which the attorney believes is not properly admissible. You should not show prejudice against any attorney or his client because the attorney has made objections.

Upon allowing testimony or other evidence to be introduced over the objection of any attorney, the Court does not, unless expressly stated, indicate any opinion as to the weight or effect of any such evidence. As stated before, the jurors are the sole judges of the credibility of all witnesses and the weight and effect of all evidence.

When the Court has sustained an objection to a question addressed to a witness, the jury must disregard the question entirely, and may draw no inference from the wording of it or speculate as to what the witness might have said if he or she had been permitted to answer the question.

INSTRUCTION NO. 33

OFFENSE COMMITTED “ON OR ABOUT” A DATE

The Information charges that the offenses alleged were committed “on or about” a certain date.

Although it is necessary for the government to prove beyond a reasonable doubt that the offense was committed on a date reasonably near the date alleged in the Information, it is not necessary for the government to prove that the offense was committed precisely on the date charged.

INSTRUCTION NO. 34

PUNISHMENT IS IRRELEVANT

The punishment provided by law for the offenses charged in the Information is a matter exclusively within the province of the Court and should never be considered by the jury in any way in arriving at an impartial verdict as to the guilt or innocence of the defendant.

Evidence you may have heard about a sentence or punishment of any witness was received only for you to assess the believability or credibility of that witness. You may not consider such evidence in arriving at your verdict as to the guilt or innocence of [Defendant].

INSTRUCTION NO. 35

INFORMATION OVERVIEW

The Information charges [Defendant] with [description of charges in the Information].

INSTRUCTION NO. 36

THE INFORMATION

The relevant sections of the Information were read to you as part of the Preliminary Instructions. The Court will not again read to you the Information. You may, however, refer to the Preliminary Instructions in your deliberations.

INSTRUCTION NO. 37

ELEMENTS OF COUNT

[Describe each count and the elements of each count].

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POST ARGUMENT INSTRUCTIONS

INSTRUCTION NO. 38

JURY DELIBERATIONS

You have now heard all the evidence and the arguments of counsel. In a moment you will be escorted to the jury room and each of you will be provided with a copy of the instructions that I have given you. Any exhibits admitted into evidence will also be placed in the jury room for your review.

When you go to the jury room, you should first select a foreperson, who will preside over your deliberations and will be your spokesperson here in the courtroom. I suggest that you should then review the instructions. Not only will your deliberations be more productive if you understand the legal principles upon which your verdict must be based, but for your verdict to be valid, you must follow the instructions throughout your deliberations. Remember, you are the judges of the facts, but you are bound by your oath to follow the law as stated in the instructions.

You will also be given the verdict form to take with you to the jury room. When you have reached unanimous agreement as to your verdict, you will have the foreperson fill it in, date and sign the form, and then return your verdict to the courtroom.

Your deliberations will be confidential. You will not be required to explain your verdict to anyone.

INSTRUCTION NO. 39

COMMENCEMENT OF DELIBERATIONS

The attitude and conduct of jurors at the outset of their deliberations are matters of considerable importance. It is rarely productive or good for a juror, upon entering the jury room, to make an emphatic expression of his or her opinion on the case or to announce a determination to stand for a certain verdict. When one does that at the outset, his or her sense of pride may be aroused, and he or she may hesitate to recede from an announced position if shown that it is wrong. Remember that you are not partisans or advocates in this matter, but are judges.

INSTRUCTION NO. 40

JURY DELIBERATIONS

The verdict must represent the considered judgment of each juror. In order to return a verdict, it is necessary that each juror agree to the verdict. Your verdict must be unanimous.

It is your duty, as jurors, to consult with one another, and to deliberate with a view to reaching an agreement, if you can do so without violence to individual judgment. Each of you must decide the case for yourself but do so only after an impartial consideration of the evidence in the case with your fellow jurors. During your deliberations, do not hesitate to re-examine your own views, and change your opinion, if convinced it is erroneous. But do not surrender your honest conviction as to the weight or effect of evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

Always remember, you are not partisans. You are judges —judges of the facts. Your sole interest is to seek the truth from the evidence in the case, without speculation or assumption.

INSTRUCTION NO. 41

COMMUNICATIONS WITH COURT DURING DELIBERATIONS

If it becomes necessary during your deliberations to communicate with the court, you may send a note through a court security officer, signed by your foreperson or by one or more jurors. No member of the jury should attempt to communicate with the court by any means other than a signed writing, and the court will never communicate with any member of the jury on any subject touching the merits of the case, other than in writing or orally here in open court.

You will note from the oath the court security officer will take that he, as well as any other person, is also forbidden to communicate in any way with any juror about any subject touching the merits of the case.

Bear in mind also that you are not to reveal to any person—not even to the court—how the jury stands numerically or otherwise until you have reached a unanimous verdict.

INSTRUCTION NO. 42

SCHEDULE FOR DELIBERATIONS

During your deliberations, you are able as a group to set your own schedule for deliberations. You may deliberate as late as you wish or recess at an appropriate time set by yourselves. You may set your own schedule for lunch and dinner breaks.

I do ask, however, that you notify the court by a note when you plan to recess for the evening.