**Preliminary Instructions**

**PRELIMINARY INSTRUCTION NO. 1**

MEMBERS OF THE JURY:

You have been selected and sworn as the jury to try the case of United States of America vs. [INSERT DEFENDANT NAME]. This is a criminal case meaning that the defendant is accused of committing certain crimes. You will decide if the defendant 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 have each taken an oath to “well and truly try the issues in the case now on trial” and render “a true verdict according to the evidence and instructions” that I will give you. The oath is your promise to do your duty as a member of the jury. Be alert. Pay attention. Follow my instructions.

**PRELIMINARY INSTRUCTION NO. 2**

The prosecution has filed a document—called an “Indictment”—that contains the charges against the defendant. In this case there are [INSERT NUMBER] charges. They are [INSERT CHARGES].

The Indictment is not evidence of anything. It is only a method of accusing a defendant of a crime. The Indictment will now be read.

[READ INDICTMENT]

The defendant has entered a plea of not guilty and denies committing the crimes. Every crime has component parts called “elements.” The prosecution 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 does not have to testify, call witnesses, present evidence, or prove his innocence.

**PRELIMINARY INSTRUCTION NO. 3**

**Proof Beyond a 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.

**PRELIMINARY INSTRUCTION NO. 4**

**Presumption of Innocence**

Remember, the fact that the defendant is charged with one or more crimes is not evidence of guilt. The law presumes that the defendant is not guilty of the crimes charged. This presumption persists unless the prosecution’s evidence convinces you beyond a reasonable doubt that the defendant is guilty. So long as a reasonable doubt exists, you must find the defendant not guilty.

**PRELIMINARY INSTRUCTION NO. 5**

**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:

* 1. As the judge I will supervise the trial, decide legal issues, and instruct you on the law.
  2. 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.
  3. 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.

**PRELIMINARY INSTRUCTION NO. 6**

**Evidence**

As jurors you will decide whether the defendant is 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.

**PRELIMINARY INSTRUCTION NO. 7**

**Types of Evidence**

There are two kinds of evidence: direct and circumstantial. Direct evidence is testimony by a witness about what that witness personally saw, heard or did. Circumstantial evidence is indirect evidence, that is, it is proof of one or more facts from which one can find another fact.

You may consider both direct and circumstantial evidence in deciding this case. The law permits you to give equal weight to both, but it is for you to decide how much weight to give to any evidence.

Statements and arguments of counsel are not evidence in the case. But, when the parties on both sides agree as to the existence of a fact, you must accept that fact as true.

Unless you are otherwise instructed, anything you may have seen or heard outside of the courtroom is not evidence, and must be entirely disregarded.

**PRELIMINARY INSTRUCTION NO. 8**

**Limited Purpose Evidence**

Some evidence is admitted for a limited purpose only. When I instruct you that an item of evidence has been admitted for a limited purpose, you must consider it only for that limited purpose.

**PRELIMINARY INSTRUCTION NO. 9**

**Judge’s Questions**

During the course of the trial, I might ask a witness a question. Do not assume that I hold any opinion on the matters to which my question may have related. You as jurors may consider what evidence you deem relevant.

**PRELIMINARY INSTRUCTION NO. 10**

**Credibility of Witnesses**

You are to determine which witnesses to believe, what parts of their testimony you believe, and what weight or value to give that testimony. In making these determinations, you may consider some or all of the following:

1. the demeanor and deportment of the witness;
2. the witness’ interest in the result of the trial;
3. any tendency to favor or disfavor one side or the other;
4. the probability or improbability of events having occurred the way the witness describes the events;
5. whether the witness was actually able to see or hear or otherwise perceive the things described;
6. whether this witness can now accurately recall the things the witness observed;
7. whether the witness is able to describe what he or she observed accurately and in a form that you can understand;
8. whether the witness made earlier statements or expressions that are consistent or inconsistent with what is now being said;
9. whether or not the witness speaks the truth.

Whatever tests you use, the value of a witness’ testimony is for you to determine.

**PRELIMINARY INSTRUCTION NO. 11**

**Bench Conferences**

From time to time during the trial it may become necessary for me to talk with the lawyers out of the hearing of the jury, either by having a conference at the bench when the jury is present in the courtroom, or by calling a recess. Please understand that while you are waiting we are working. The purpose of these conferences is not to keep relevant information from you, but to decide how certain evidence is to be treated under the rules of evidence and to avoid confusion and error. We will do what we can to keep the number and length of these conferences to a minimum. I may not always grant a request for a conference. Do not consider my granting or denying a request for a conference as any indication of my opinion of the case or of what your verdict should be.

**PRELIMINARY INSTRUCTION NO. 12**

**Juror’s Memory Controls**

At the end of the trial you will have to make your decision based on what you recall of the evidence. You will not have a written transcript to consult. I urge you to pay close attention to the testimony as it is given.

**PRELIMINARY INSTRUCTION NO. 13**

**Objections**

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.

When I sustain an objection to a question, ignore the question and do not guess what the answer would have been. Sometimes I might order that evidence be stricken from the record and that you disregard or ignore the evidence. When I do so, you must not consider that evidence.

Do not evaluate the evidence on the basis of whether objections are made. Do not allow yourselves to be to be influenced by my rulings. If I receive evidence after it is objected to by one of the lawyers, that only means that you may have that evidence for your consideration. What weight or value you place upon it is still for you to determine.

You must not disfavor lawyers who makes a legal objection to evidence, because that their job.

**PRELIMINARY INSTRUCTION NO. 14**

**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 lawyer 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.

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 a verdict. You will then hear closing arguments from the lawyers. 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 where you will discuss the case and reach a verdict. Keep an open mind until then.

**PRELIMINARY INSTRUCTION NO. 15**

**Rules Applicable to Recesses**

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. Do not do any research or visit any locations related to this case. If you inadvertently hear or see news stories about the case, or if you observe anything that seems to violate this instruction, report it immediately to a clerk or bailiff.

**PRELIMINARY INSTRUCTION NO. 16**

**Further Admonition About Electronic Devices**

Jurors have caused serious problems during trials by using computer and electronic communication technology. You may be tempted to use these devices to investigate the case, or to share your thoughts about the trial with others. However, you must not use any of these electronic devices while you are serving as a juror.

You violate your oath as a juror if you conduct your own investigations or communicate about this trial with others, and you may face serious consequences if you do. Let me be clear: do not “Google” the parties, witnesses, issues, or counsel; do not “Tweet” or text about the trial; do not use your phone to gather or send information on the case; do not post updates about the trial on Facebook pages; do not use Wikipedia or other internet information sources, etc. Even using something as seemingly innocent as “Google Maps” can result in a mistrial.

Please understand that the rules of evidence and procedure have developed over hundreds of years in order to ensure the fair resolution of disputes. The fairness of the entire system depends on you reaching your decisions based on evidence presented to you in court, and not on other sources of information.

Post-trial investigations are common and can disclose these improper activities. If they are discovered, they will be brought to my attention and the entire case might have to be retried, at substantial cost.

**PRELIMINARY INSTRUCTION NO. 17**

**Jury Notes**

If you wish, you may take notes to help you remember what a witness said. If you do take notes, please keep them to yourself until you and your fellow jurors go to the jury room to decide the case. Do not let note-taking prevent you from hearing other answers by the witnesses. When you leave at night you must leave your notes in the jury room.

If you do not take notes, you should rely on your own memory of what was said and not be overly influenced by the notes of other jurors. If you take notes remember that they are not evidence and may be incomplete. Do not be overly influenced by your notes. Rely on your own memory and the collective memory of the members of the jury.

**Final**

**instructions**

**FINAL INSTRUCTION NO. 1**

**Closing Roadmap**

Members of the jury, you now have all the evidence. Three things remain to be done:

First, I will give you additional instructions that you will follow in deciding this case.

Second, the lawyers will give their closing arguments. The prosecutor will go first, then the defense. Because the prosecution has the burden of proof, the prosecutor may give a rebuttal.

Finally, you will go to the jury room to discuss and decide the case.

**FINAL INSTRUCTION NO. 2**

**Juror Duties**

You have two main duties as jurors.

The first is to decide from the evidence what the facts are. Deciding what the facts are is your job, not mine.

The second duty is to take the law I give you in these instructions, apply it to the facts, and decide if the prosecution has proved the defendant guilty beyond a reasonable doubt.

You are bound by your oath to follow the instructions that I give you, even if you personally disagree with them. This includes the instructions I gave you before trial, any instructions I may have given you during the trial, and these instructions. All the instructions are important, and you should consider them as a whole. The order in which the instructions are given does not mean that some instructions are more important than others. Whether any particular instruction applies may depend upon what you decide are the true facts of the case. If an instruction applies only to facts or circumstances you find do not exist, you may disregard that instruction.

Perform your duties fairly. Do not let any bias, sympathy or prejudice that you may feel toward one side or the other influence your decision in any way. You must also not let yourselves be influenced by public opinion. Both the defendant and the public expect that you will carefully and impartially consider all the evidence in the case, follow the instructions that I give you, and reach a just verdict regardless of the consequences.

**FINAL INSTRUCTION NO. 3**

**Source of Law**

You are to look to these instructions as the sole source of the law that applies in this case. Some evidence may have included references to statutes or other statements of the law. In the event of any inconsistency between such statements and these instructions, these instructions control. If you have any questions about a law that may be relevant to this case, please consult me.

**FINAL INSTRUCTION NO. 4**

**Closing Arguments**

When the lawyers give their closing arguments, keep in mind that they are advocating their views of the case. What they say during their closing arguments is not evidence. If the lawyers say anything about the evidence that conflicts with what you remember, you are to rely on your memory of the evidence. If they say anything about the law that conflicts with these instructions, you are to rely on these instructions.

**FINAL INSTRUCTION NO. 5**

**Legal Rulings**

During the trial I have made certain rulings. I made those rulings based on the law, and not because I favor one side or the other. However, if I sustained an objection, if I did not accept evidence offered by one side or the other, or if I ordered that certain testimony be stricken, then you must not consider those things in reaching your verdict.

**FINAL INSTRUCTION NO. 6**

**Judicial Neutrality**

As the judge, I am neutral. If I have said or done anything that makes it appear that I have an opinion about the guilt or innocence of the defendant, that was not my intention. Do not interpret anything I have said or done as indicating that I have any particular view of the evidence or of the decision you should reach. Also, nothing in these instructions or the verdict form that I will give you is meant to suggest what your verdict should be.

**FINAL INSTRUCTION NO. 7**

**Evidence - Closing**

You must base your decision only on the evidence that you saw and heard here in court. Evidence includes:

* 1. what the witnesses said while they were testifying under oath; and
  2. any exhibits admitted into evidence.

Nothing else is evidence. The lawyers’ statements and arguments are not evidence. Their objections are not evidence. My legal rulings and comments, if any, are not evidence. In reaching a verdict, consider all the evidence as I have defined it here, and nothing else. You may also draw all reasonable inferences from that evidence.

**FINAL INSTRUCTION NO. 8**

**Witness Credibility**

In deciding this case you will need to decide how believable each witness was. Use your judgment and common sense. Let me suggest a few things to think about as you weigh each witness’s testimony:

* 1. How good was the witness’s opportunity to see, hear, or otherwise observe what the witness testified about?
  2. Does the witness have something to gain or lose from this case?
  3. Does the witness have any connection to the people involved in this case?
  4. Does the witness have any reason to lie or slant the testimony?
  5. Was the witness’s testimony consistent over time? If not, is there a good reason for the inconsistency? If the witness was inconsistent, was it about something important or unimportant?
  6. How believable was the witness’s testimony in light of other evidence presented at trial?
  7. How believable was the witness’s testimony in light of human experience?
  8. Was there anything about the way the witness testified that made the testimony more or less believable?

In deciding whether or not to believe a witness, you may also consider anything else you think is important.

You do not have to believe everything that a witness said. You may believe part and disbelieve the rest. On the other hand, if you are convinced that a witness lied, you may disbelieve anything the witness said. In other words, you may believe all, part, or none of a witness’s testimony.

Also, the weight of the evidence is not necessarily determined by the number of witnesses testifying as to the existence or non-existence of any fact. You may find that the testimony of a smaller number of witnesses as to any fact is more credible than the testimony of a larger number of witnesses to the contrary.

In deciding whether a witness testified truthfully, remember that no one’s memory is perfect. Anyone can make an honest mistake. Honest people may remember the same event differently.

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

**FINAL INSTRUCTION NO. 9**

**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 the witness previously 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 whether they affect the credibility of that witness. If you believe that a witness has been discredited, you may give the testimony of that witness whatever weight you think it deserves.

**FINAL INSTRUCTION NO. 10**

**Law Enforcement Officer’s Testimony**

You have heard the testimony of a law enforcement officer. The fact that a witness is employed in law enforcement does not mean that his or her testimony deserves more or less consideration than that of any other witness. It is up to you to give any witness’s testimony whatever weight you think it deserves.

**FINAL INSTRUCTION NO. 11**

**Fact Versus Expert Witnesses**

There are two types of witnesses: fact witnesses and expert witnesses. Usually a fact witness can testify only about facts that he or she can see, hear, touch, taste or smell. An expert witness has scientific, technical or other special knowledge that allows the witness to give an opinion. An expert’s knowledge can come from training, education, experience or skill. Experts can testify about facts, and they can give their opinions in their area of expertise.

You may have to weigh one expert’s opinion against another’s. In weighing the opinions of experts, you may look at their qualifications, the reasoning process the experts used, and the overall credibility of their testimony. You may also look at things like bias, consistency, and reputation.

Use your common sense in evaluating all witnesses, including expert witnesses. You do not have to accept an expert’s opinion. You may accept it all, reject it all, or accept part and reject part. Give it whatever weight you think it deserves.

**FINAL INSTRUCTION NO. 12**

**Defendant Testifying**

The defendant testified at trial. Another instruction mentions some things for you to think about in weighing testimony. Consider those same things in weighing the defendant’s testimony. Don’t reject the defendant’s testimony merely because he or she is accused of a crime.

**FINAL INSTRUCTION NO. 13**

**Defendant Not Testifying**

A defendant in a criminal case has an absolute right under our Constitution to choose whether or not to testify. In this case the defendant chose not to testify. Do not hold that choice against the defendant. Do not try to guess why the defendant chose not to testify. Do not consider it in your deliberations. Decide the case only on the basis of the evidence. The defendant does not have to prove that he or she is not guilty. The prosecution must prove the defendant’s guilt beyond a reasonable doubt.

**FINAL INSTRUCTION NO. 14**

**Summaries**

Certain summaries have been admitted into evidence. These summaries have been shown to you during the trial for the purpose of explaining facts that are contained in books, records, documents, and other evidence in this case. You may consider these summaries as you would any other evidence admitted during the trial and give them such weight or importance, if any, 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.

**FINAL INSTRUCTION NO. 15**

**Admissions**

There has been evidence that the defendant made statements in which the government claims he admitted certain facts. Evidence relating to any alleged statement, confession, admission or act by a defendant outside of court should be considered with caution and weighed with great care. In deciding what weight to give those statements, you should first examine whether each statement was, in fact, made and, if so, whether it was voluntarily and understandingly made. All such alleged statements, confessions, or admissions should be disregarded entirely unless the other evidence in the case convinces you beyond a reasonable doubt that the statement was made or done knowingly and voluntarily.

In determining whether a statement was knowingly or voluntarily made, you should consider the age, training, education, occupation, and physical and mental condition of the defendant, and his or her treatment while in custody or under interrogation. Also consider all other circumstances surrounding the statement.

If you determine that a statement of the defendant was knowingly and voluntarily made, you may give it such weight as you feel it deserves.

**FINAL INSTRUCTION NO. 16**

**Recollection of Jurors Controls**

If any reference by the court or by the attorneys to matters of evidence is inconsistent with your own recollection, it is your recollection that matters.

**FINAL INSTRUCTION NO. 17**

**Indictment**

The charging document in this case is called an Indictment. The Indictment is not evidence of anything. It is only a method of accusing a defendant of a crime.

The defendant pleaded “not guilty” to the charges in the Indictment. This means the United States must prove each element of the charged crimes beyond a reasonable doubt. I will give you instructions about these elements in a moment.

The relevant sections of the Indictment were read to you as part of the Preliminary Instructions. I will not reread the Indictment to you, but you may refer to the Preliminary Instructions in your deliberations.

**FINAL INSTRUCTION NO. 18**

**Consider Only the Crimes Charged**

You are here to decide whether the government has proved beyond a reasonable doubt that the defendant is guilty of the crimes charged. The defendant is not on trial for any act, conduct, or crime not specifically charged in the Indictment.

It is not up to you to decide whether anyone who is not on trial here should be prosecuted for the crimes charged. The question of the possible guilt of others should not enter your thinking as you decide whether this defendant is guilty.

**FINAL INSTRUCTION NO. 19**

**Proof of Indictment**

A criminal defendant can only be tried on an indictment. An indictment contains a section specifying the elements of each charged offense. While the United States is not required to prove everything alleged in the indictment, it must prove the elements of each of the charged offenses. I will later instruct you as to the elements of each of those offenses.

**FINAL INSTRUCTION NO. 20**

**Separate Crime Charged in Each Count**

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

**FINAL INSTRUCTION NO. 21**

**Offense Committed “On or About” a Date**

The Indictment 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 alleged date, it is not necessary for the government to prove that the offense was committed precisely on that date.

**FINAL INSTRUCTION NO. 22**

**Presumption of Innocence**

The defendant is presumed by the law to be innocent. The law does not require the defendant to prove his innocence or produce any evidence at all and it does not compel him to take the witness stand to testify. The government has the burden of proving the defendant is guilty beyond a reasonable doubt.

The defendant began the trial with a “clean slate”—with no evidence against him. And the law only permits you to consider the evidence that has been presented during the trial. You must consider each of the charged crimes individually. The prosecution always has the burden to prove guilt beyond a reasonable doubt. This burden never shifts to a defendant. For each charged crime you must decide whether the government has proven the defendant’s guilt beyond a reasonable doubt. You should not convict the defendant on mere suspicion or conjecture.

A reasonable doubt may arise not only from the evidence produced, but also from a lack of evidence. Since the prosecution must prove a defendant guilty beyond a reasonable doubt, a defendant has the right to rely on failure of the prosecution to establish such proof. A defendant may also rely on evidence brought out on cross-examination of witnesses for the prosecution. The law does not impose upon a defendant the burden or duty of producing any evidence at all.

It is not required that the government proves guilt beyond all possible doubt. The test is one of 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 the evidence leaves you firmly convinced that the defendant is guilty of the crime charged, you must find the defendant “guilty.” On the other hand, if there is a real possibility that he is not guilty, you must give the defendant the benefit of the doubt and return a verdict of “not guilty.”

**FINAL INSTRUCTION NO. 23**

**Do Not Consider Punishment**

In making your decision, do not consider what punishment could result from a verdict of guilty. Your duty is to decide if the defendant is guilty beyond a reasonable doubt. Punishment is not relevant to whether the defendant is guilty or not guilty.

**FINAL INSTRUCTION NO. 24**

**“Evidence” Defined**

The evidence consists of the sworn testimony of the witnesses, all exhibits received in evidence, and any other fact that I instruct you to accept. Statements and arguments of counsel are not evidence. Also, anything you may have seen or heard outside the courtroom is not evidence.

Some of you have taken notes during the trial. Such notes are only for the personal use of the person who took them.

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

**FINAL INSTRUCTION NO. 25**

**Objections by Counsel**

The lawyers have a duty raise appropriate objections. You must not disfavor a lawyer who makes a legal objection to evidence.

You are the sole judges of the credibility of all witnesses. It is your job to determine what weight and effect to give all evidence. You should not try to guess my opinion on the importance of any evidence because of my rulings on objections.

If I sustained an objection to a question, you must disregard the question entirely. You may not draw any inferences from the wording of the question or speculate as to what the answer might have been. Likewise, you may not consider anything which I ordered you to disregard. 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.

**FINAL INSTRUCTION NO. 26**

**Direct and Circumstantial Evidence**

Facts may be proved by direct or circumstantial evidence. The law does not treat one type of evidence as better than the other.

Direct evidence can prove a fact by itself. It usually comes from a witness who perceived firsthand the fact in question. For example, if a witness testified he looked outside and saw it was raining, that would be direct evidence that it had rained.

Circumstantial evidence is indirect evidence. It usually comes from a witness who perceived a set of related events, but not the fact in question. However, based on that testimony someone could conclude that the fact in question had occurred. For example, if a witness testified that she looked outside and saw that the ground was wet and people were closing their umbrellas, that would be circumstantial evidence that it had rained.

Before you can find the defendant guilty of any charge, there must be enough evidence—direct, circumstantial, or some of both—to convince you of the defendant’s guilt beyond a reasonable doubt. It is up to you to decide.

**FINAL INSTRUCTION NO. 27**

**Introduction to Substantive Law**

Now that I have explained the procedures and general instruction, I will explain the specific laws for each of the crimes at issue in this case.

**FINAL INSTRUCTION NO. 28**

[INSERT INSTRUCTIONS FOR SUBSTANTIVE LAW]

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**FINAL INSTRUCTION NO. 29**

AGENCY

18 U.S.C. § 2(b)

In order to sustain its burden of proof, it is not necessary for the United States to prove that the defendant personally did every act constituting the offense charged. As a general rule, whatever a person is legally capable of doing himself he can do through another acting as his agent. If the acts or conduct of another are deliberately ordered or directed by the defendant, or deliberately authorized or consented to by the defendant, then the law holds the defendant responsible for such acts or conduct just the same as if he did them.

**POST-ARGUMENT INSTRUCTIONS**

**POST-ARGUMENT INSTRUCTION NO. 1**

**Jury Deliberations**

You have now heard all of the evidence and the arguments of counsel. In a moment you will be taken to the jury room and each of you will be given a copy of these instructions. Any exhibits admitted into evidence will also available in the jury room.

Your attitude and conduct at the outset of the deliberations are important. It is rarely productive to express too firm an opinion before listening to the other jurors, because you may then be reluctant to reconsider your opinion. Remember that you are not advocates but rather judges of the facts.

In the jury room, discuss the evidence and speak your minds with each other. Open discussion should help you reach a unanimous agreement on a verdict. Listen carefully and respectfully to each other’s views and keep an open mind about what others have to say. I recommend that you not commit yourselves to a particular verdict before discussing all the evidence.

Try to reach unanimous agreement, but only if you can do so honestly and in good conscience. If there is a difference of opinion about the evidence or the verdict, do not hesitate to change your mind if you become convinced that your position is wrong. On the other hand, do not give up your honestly held views about the evidence simply to agree on a verdict, to give in to pressure from other jurors, or just to get the case over with. In the end, your vote must be your own.

Because this is a criminal case, every single juror must agree with the verdict before the defendant can be found “guilty” or “not guilty.” In reaching your verdict you may not use methods of chance, such as drawing straws or flipping a coin. Rather, the verdict must reflect your individual, careful, and conscientious judgment as to whether the evidence presented by the prosecutor proved each charge beyond a reasonable doubt.

**POST-ARGUMENT INSTRUCTION NO. 2**

**Foreperson Selection and Duties**

Among the first things you should do when you go to the jury room to deliberate is to appoint someone to serve as the jury foreperson. The foreperson should not dominate the jury’s discussion, but rather should facilitate the discussion of the evidence and make sure that all members of the jury get the chance to speak. The foreperson’s opinions should be given the same weight as those of other members of the jury. Once the jury has reached a verdict, the foreperson is responsible for filling out and signing the verdict form(s) on behalf of the entire jury.

For each offense, the verdict form will have two blanks—one for “guilty” and the other for “not guilty.” The foreperson will fill in the appropriate blank to reflect the jury’s unanimous decision. In filling out the form, the foreperson needs to make sure that only one blank is marked for each charge.

**POST-ARGUMENT INSTRUCTION NO. 3**

**Verdict Form**

You will be given the verdict form to take with you to the jury room. Your deliberations will be confidential. You will not be required to explain your verdict to anyone. 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.

Nothing in the verdict form is meant to suggest what verdict you should find. The verdict is your sole responsibility. I will now read the verdict form.

[READ VERDICT FORM]

**POST-ARGUMENT INSTRUCTION NO. 4**

**Verdict Form**

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

It is your duty to consult with one another and to deliberate. Your goal should be to reach an agreement if you can do so without surrendering your individual judgment. Each of you must decide the case for yourself, but do so only after impartially considering the evidence with your fellow jurors. Do not hesitate to reexamine your own views and change your position if you are convinced it is mistaken. But do not surrender your honest conviction as to the weight or effect of the evidence solely because of the opinion of your fellow jurors, or just to return a verdict.

You are judges—judges of the facts. Your sole interest is to determine the truth from the evidence in the case.

**POST-ARGUMENT INSTRUCTION NO. 5**

**Communication with the Court**

If you need to communicate with the court during deliberations, you may send a note through a court security officer signed by your foreperson or another juror. Do not attempt to communicate in any other way. Likewise, I will not communicate with any member of the jury as to the merits of the case other than in writing or in open court. Remember that you may not reveal, even to me, how you stand numerically or otherwise until you reach a unanimous verdict.

**POST-ARGUMENT INSTRUCTION NO. 6**

**Schedule for Deliberations**

You as jurors may determine the schedule for your deliberations. You may deliberate as late as you wish or recess at an appropriate time. You may set your own schedule for lunch and dinner breaks. Please notify me by a note when you plan to recess for the evening.