

**STANDARD CRIMINAL JURY CHARGES
FOR JUDGE MARILYN CASTLE**

It is now my duty to instruct you on the law that applies to your deliberations. It is your duty to follow these instructions in reaching your verdict. Although you are the sole judges of the law and the facts on the question of guilt or innocence, you have the duty to accept and apply the law as given by the court. You must decide the facts from the testimony and other evidence and apply the law to those facts in reaching your verdict.

You must not single out any of these instructions and disregard others. The order in which the instructions are given does not indicate that one instruction is more important than another.

If I have given you the impression that I have an opinion regarding any fact in this case, you are to disregard that impression. If I have given you the impression that I have an opinion concerning the guilt or innocence of the defendant, you are to disregard that impression.

BURDEN OF PROOF: PRESUMPTION OF INNOCENCE

The defendant is presumed to be innocent until each element of the crime necessary to constitute his guilt is proven beyond a reasonable doubt. The defendant is not required to prove that he is innocent. Thus, the defendant begins the trial with a clean slate.

The burden is upon the state to prove the defendant's guilt beyond a reasonable doubt. In considering the evidence, you must give the defendant the benefit of every reasonable doubt arising out of the evidence or out of the lack of evidence. If you are not convinced of the guilt of the defendant beyond a reasonable doubt, you must find him not guilty.

REASONABLE DOUBT STANDARD

While the state must prove guilt beyond a reasonable doubt, it does not have to prove guilt beyond all possible doubt. Reasonable doubt is doubt based on reason and common sense and is present when, after you have carefully considered all the evidence, you cannot say that you are firmly convinced of the truth of the charge.

DUTY OF JURY TO FIND FACTS: EVIDENCE, WEIGHT AND CREDIBILITY

You must determine whether or not a fact has been proven only from the evidence presented or from a lack of evidence. The evidence which you should consider consists of the testimony of witnesses and of exhibits such as writings and physical objects which the court has permitted the parties to introduce.

You must consider only evidence which was admitted during the trial. You may not consider evidence to which an objection was sustained.

As jurors, you alone determine the weight and credibility of the evidence. As the sole judges of the credibility of witnesses and of the weight their testimony deserves, you should scrutinize carefully the testimony and the circumstances under which the each witness has testified. In evaluating the testimony of a witness, you may consider his or her ability and opportunity to observe and remember the matter about which he or she testified, his or her manner while testifying, any reason he or she may have for testifying in favor of or against the State or the defendant, and the extent to which the testimony is supported or contradicted by other evidence.

DIRECT AND CIRCUMSTANTIAL EVIDENCE

Evidence is either direct or circumstantial. Direct evidence is evidence which, if believed, directly proves a fact. Circumstantial or indirect evidence is evidence which, if believed, proves a fact and from that fact you may logically and reasonably conclude that another fact exists. An example of circumstantial evidence would be wet ground from which you might conclude that it had rained. An example of direct evidence would be the testimony of an eyewitness or participant in an event.

You cannot find a defendant guilty solely on circumstantial evidence unless the facts proven by the evidence exclude every reasonable hypothesis of innocence.

INDICTMENT AND INFORMATION NOT EVIDENCE

An indictment is only a written, formal accusation against a defendant charging him with a crime. You are not to consider the indictment as evidence against the defendant. You may not infer guilt from the mere filing of an indictment.

STATEMENTS AND ARGUMENTS OF COUNSEL NOT EVIDENCE

Statements made by the attorneys at any time during the trial are not evidence.

In the opening statements, the attorneys were permitted to tell you the facts they expected to prove. In closing arguments, the attorneys were permitted to present for your consideration their contentions regarding what the evidence has shown or has not shown and what conclusions they think may be drawn from the evidence.

The opening statements and the closing arguments are not to be considered as evidence.

VOLUNTARINESS OF STATEMENTS

If the state offers evidence of a statement by the defendant, you must first determine whether the statement was in fact made. You must then consider whether the statement, if made, was accurately recorded or repeated.

If you find that defendant made a statement, you must also determine the weight or value that the statement should be accorded, if any. In determining the weight or value to be accorded a statement made by a defendant, you should consider all the circumstances under which the statement was made. In making that determination, you should consider whether the statement was made freely and voluntarily, without the influence of fear, duress, threats, intimidation, inducement, or promises.

FAILURE OF DEFENDANT TO PRODUCE EVIDENCE OR TESTIFY

The defendant is not required to call any witnesses or to produce any evidence.

The defendant is not required to testify. No presumption of guilt may be raised, and no inference of any kind may be drawn from the fact that the defendant did not testify.

DUTY NOT TO CONSIDER SYMPATHY, BIAS, OR PREJUDICE

As jurors, you are not to be influenced by mere sympathy, passion, prejudice, or public opinion. You are expected to reach a just verdict.

CRIMINAL INTENT

An individual may only be convicted for those crimes for which he has the requisite mental state. Criminal intent may be specific or general.

Specific criminal intent is that state of mind which exists when the circumstances indicate that the defendant actively desired the prescribed criminal consequences to follow his act or failure to act.

[In order to convict a person of [charge(s)], the State must prove the existence of specific criminal intent. Thus, the prosecution must prove beyond a reasonable doubt that the defendant had specific intent to [].

General criminal intent is present when the circumstances indicate that the defendant, in the ordinary course of human experiences, must have adverted to the prescribed criminal consequences as reasonably certain to result from his act or failure to act. General criminal intent is always present when there is specific intent.

[In order to convict the defendant of [charge(s)], the State must prove only general criminal intent.]

Whether criminal intent is present, must be determined in light of ordinary experience. Intent is a question of fact which may be inferred from the circumstances.

You may infer that the defendant intended the natural and probable consequences of his acts.

EVALUATING WITNESSES

When you are weighing the credibility of a witness, you should consider the interest, if any, that the witness may have in the outcome of this case. You should consider the ability of the witness to know, remember, and tell the facts to you. You should consider his or her manner of testifying, as to sincerity and frankness, and you should consider how reasonable the witness's testimony seems to be in light of all of the other evidence.

You don't have to accept all of the testimony of a witness as being true or false. If you believe that a witness is trying to deceive you by falsifying any part of the testimony, then you have the right to reject that witness' entire testimony as being unworthy of belief. You might accept and believe those parts of the testimony that you consider logical and reasonable, and you

may choose not to believe those parts that seem impossible or unlikely.

EXPERT TESTIMONY

Normally, witnesses must testify only from first-hand knowledge, that is personal observation, and are not permitted to give an opinion about any part of the case. One exception to this rule is expert testimony. If a witness qualifies as an expert in a particular field, then the witness is permitted to express an opinion, so long as the opinion is on a matter within the witness' field of expertise. The witness must be able to back the opinion up with technical data, experience, or other information normally relied on by people in that field. You should consider each expert opinion given in this case, and give it the weight you think it deserves. If you decide that the opinion of an expert witness is not based on sufficient information, that the reasons given in support of the opinion are not sound, or that it is outweighed by other evidence, you have the right to give it little or no weight, or to disregard it entirely. The purpose of expert testimony is to help you understand highly technical matters that may have a bearing on the case, and about which your knowledge may be limited. It is designed to assist you in determining the facts and arriving at the truth, but it should not replace your own judgment. Your decision should be based on all of the evidence in the case, not just the expert testimony.

IMPEACHMENT: BIAS, INTEREST AND CORRUPTION

The testimony of a witness may be discredited by showing that the witness will benefit in some way by the defendant's conviction or acquittal, that the witness is prejudiced, or that the witness has any other reason or motive for not telling the truth.

IMPEACHMENT: PRIOR INCONSISTENT STATEMENT

The testimony of a witness may be discredited by showing that the witness made a prior statement which contradicts or is inconsistent with his present testimony. Such prior statements are admitted only to attempt to discredit the witness – not to show that the statements are true.

PRIOR BAD ACTS

Evidence has been presented concerning an alleged prior act involving [crime/behavior] by the defendant. Evidence that the defendant was involved in the commission of an offense other than the offense for which he is on trial is to be considered only for a limited purpose. The sole purpose for which the prior act may be considered is whether it tends to show guilty knowledge, absence of mistake or accident, intent, system, motive, [and/or] identity, [and/or the defendant's disposition toward,] [or his/her propensity to]. Remember the accused is on trial only for the offense charged. You may not find him guilty of this offense merely because he may have committed another offense previously. It is not to be considered by you as proof of the character of the defendant in order to show that he acted in conformity therewith.

IMPEACHMENT: PRIOR CONVICTION OF A WITNESS

The testimony of a witness may be discredited by showing that the witness previously was convicted of a crime. The conviction does not necessarily mean that the witness is failing to tell the truth. It is a circumstance you may consider, along with all other evidence, in deciding whether you believe any or all of his testimony.

[If the conviction of the witness is on appeal or has been challenged in a post-conviction proceeding, you may consider that fact as bearing on the weight to be given the evidence of the conviction.]

SEPARATE INCIDENTS

The Defendant is charged in [state the number] separate counts with [state the number] separate offenses. Each offense charged is to be evaluated as a separate and distinct act. You are not to infer guilt on any offense charged by the mere fact that you may believe he committed another offense. In evaluating guilty on each count, you are not to consider evidence relating to the other counts as proof of the character of the defendant in order to show that he acted in conformity therewith.

CHARACTER OF DEFENDANT

If you find that the defendant offered evidence of his good character, that testimony must be considered with and as a part of all evidence presented. Due weight must be given to the evidence of good character. You may think it improbable that a person of good character would commit such offenses. However, if you find that the state has proven the defendant's guilt beyond a reasonable doubt, it is your duty to find him guilty even though there may be evidence of good character.

OTHER CRIMES EVIDENCE

Evidence has been presented concerning another offense for which the defendant was convicted. The State was allowed to introduce this as evidence to establish motive, intent, knowledge and/or identity. It is to be considered by you only for that purpose. It is not to be considered by you as proof of the character of the defendant in order to show that he acted in conformity therewith.

BURDEN OF PROOF: JUSTIFICATION DEFENSES

If you find that the defendant has raised the defense that his conduct was justified, the state must prove that the defendant's conduct was not justified.

Remember, the state bears the burden of proving the guilt of the defendant beyond a reasonable doubt.

SELF-DEFENSE: HOMICIDE

A homicide is justifiable if committed in self-defense by one who reasonably believes that he is in imminent danger of losing his life or receiving great bodily harm and that the killing is necessary to save himself from that danger. The danger need not have been real as long as the defendant reasonably believed that he was in actual danger.

Some factors that you should consider in determining whether the defendant had a reasonable belief that the killing was necessary are:

1. The possibility of avoiding the necessity of taking human life by retreat or escape to avoid danger;

2. The excitement and confusion of the occasion;
3. The possibility of preventing the danger to himself by using force less than killing; and
4. The defendant's knowledge of his assailant's dangerous character.

You may consider any evidence of a history of assaultive behavior between the victim and the accused in determining the accused's state of mind as to the victim's dangerous character.

Thus, if you find:

1. That the defendant killed in self-defense; and
2. That the defendant believed that he was in danger of losing his life or receiving great bodily harm; and
3. That the defendant believed the killing was necessary to save himself from the danger; and
4. That the defendant's beliefs were reasonable in light of the circumstances;

Then you must find the defendant not guilty.

SELF-DEFENSE: NON-HOMICIDE

It is justifiable to use force or violence upon the person of another for the purpose of preventing a forcible offense against one's own person if the force used is reasonable and apparently necessary to prevent the offense.

A person who is not engaged in any unlawful activity and is in a place where he or she has a right to be has no duty to retreat before using force or violence for the purpose of preventing a forcible offense against his [or her] own person. In such circumstances, a person may stand his or her ground and meet force with force. The possibility of retreat shall not be considered as a factor in determining whether or not the person had a reasonable belief that the use of force or violence was reasonable and apparently necessary to prevent the forcible offense against his or her person.

Thus, if you find:

1. That the defendant committed the offense charged for the purpose of preventing a forcible offense against his person; and
2. That the amount of force or violence used was reasonable; and
3. That the force or violence used was apparently necessary to prevent the forcible offense;

Then you must find the defendant not guilty.

BURDEN OF PROOF: SELF-DEFENSE

A defendant who raises the defense that he acted in self-defense does not have the burden of proof on that issue. The state must prove beyond a reasonable doubt that the homicide was not committed in self-defense.

FLIGHT

If you find that the defendant fled immediately after a crime was committed or after the defendant was accused of a crime, the flight alone is not sufficient to prove that the defendant is guilty; however, flight may be considered along with all other evidence. You must decide whether such flight was due to consciousness of guilt or to other reasons unrelated to guilt.

AGGRESSOR DOCTRINE

A person who is the aggressor or who brings on a difficulty cannot claim the right of self-defense unless he withdraws from the conflict in good faith and in such a manner that his adversary knows or should know that he desires to withdraw and discontinue the conflict.

In determining whether the defendant was the aggressor, you must consider the nature of the confrontation and whether the victim's actions were a reasonable response.

Thus, if you find that the defendant was the aggressor or that he brought on the difficulty, you must reject his claim of self-defense unless you find:

1. That he withdrew from the conflict; and
2. That his withdrawal was in good faith; and
3. That he withdrew in a manner that put his adversary on notice that he wished to withdraw and discontinue the conflict.

DEFENSE OF OTHERS: HOMICIDE AND OTHER CASES

It is justifiable to use force or violence [or to kill] in the defense of another person when it is reasonably apparent that the person attacked could have justifiably used such means himself and when it is reasonably believed that such intervention is necessary to protect the other person.

Thus if you find that:

1. The defendant committed the offense charged while acting in defense of another person;
and
2. That it reasonably appeared to the defendant that the other person justifiably could have used such means himself; and
3. That the defendant reasonably believed that his intervention was necessary to protect the other person;

Then you must find the defendant not guilty.

ATTEMPT

Any person who, having a specific intent to commit a crime, does or omits an act for the purpose of and tending directly toward the accomplishing of his object is guilty of an attempt to commit the offense intended; and it shall be immaterial whether, under the circumstances, he would have actually accomplished his purpose.

Mere preparation to commit a crime shall not be sufficient to constitute an attempt; but lying in wait with a dangerous weapon with the intent to commit a crime, or searching for the intended victim with a dangerous weapon with the intent to commit a crime, shall be sufficient to constitute an attempt to commit the offense intended.

An attempt is a separate but lesser grade of the intended crime; and any person may be convicted of an attempt to commit a crime, although it appears on the trial that the crime intended or attempted was actually perpetrated by such person in pursuance of such attempt.

[Instructions for Charged Offense(s) and Responsive Verdicts]

COUNT I: _____

The defendant is charged with committing [charge] upon [name of victim].

[Definitions for crime]

Thus, in order to convict the defendant, you must find:

1. [Elements of crime]

RESPONSIVE VERDICTS: FORM OF VERDICT

To convict the defendant, you must find beyond a reasonable doubt that the state proved every element of [charge].

If you are not convinced that the defendant is guilty of the offense charged, you may find the defendant guilty of a lesser offense, if you are convinced beyond a reasonable doubt that the defendant is guilty of a lesser offense.

[The following offense(s) is a [are] responsive lesser offense(s):

[Lesser Offense]

[Lesser offense definition].

Thus, in order to convict the defendant of [lesser offense], you must find that the defendant [elements of lesser offense] upon [name of victim].

Therefore, the following verdicts may be returned:

Guilty;

Guilty of [lesser offense]; or

Not guilty.

Thus, if you are convinced beyond a reasonable doubt that the defendant is guilty of [charged crime], your verdict should be: “Guilty.”

If you are not convinced that the defendant is guilty of [charged crime], but you are convinced beyond a reasonable doubt that the defendant is guilty of [lesser offense], the form of your verdict should be “Guilty of [lesser offense].”

If the state has failed to prove beyond a reasonable doubt that the defendant is guilty of either of the offense charged or of a lesser responsive offense, the form of your verdict should be “Not guilty.”

DUTY TO DELIBERATE WITH VIEW TOWARD REACHING VERDICT

You will remember that I told you at the beginning of the trial that you were not to discuss the case among yourselves. I now remove that restriction. It is now your duty to consult with one another and to deliberate, with a view toward reaching agreement, if you can do so without violence to your individual judgment. You each must decide the case for yourself, but you should do so only after a consideration of the case with you fellow jurors, and you should not hesitate to change an opinion when you are convinced that you are wrong. Don't vote until you have

discussed the case thoroughly. Open your mind to the views and opinions of your fellow jurors and share your thoughts with them. However, you should not be influenced to vote in any way on any question which you have to decide merely by the fact that a majority of your fellow jurors favor such a decision if it is contrary to your honest belief.

You are not advocates for the state or the defendant(s). Do not hesitate to reexamine your own views and to change your opinion if you are convinced you are wrong. But do not surrender your honest belief as to the weight and effect of evidence solely because of the opinion of your fellow jurors or for the mere purpose of returning a verdict.

DUTIES OF JURY FOREMAN AND JURY'S VERDICT

When you retire to deliberate, you must elect one of your members to serve as foreperson.

When you reach a verdict, the foreperson must write the verdict on the back of the list of responsive verdicts which will be given to you. He or she must sign the verdict and deliver the verdict to me in open court.

[All twelve members of the jury must concur to reach a verdict in this case. Once all twelve of you agree on a verdict, you have reached a verdict.]

[All six members of the jury must concur to reach a verdict in this case. Once all six of you agree on a verdict, you have reached a verdict.]

When you have reached your verdict simply advise the bailiff, and court will convene to receive your verdict.

If you have a question about the instructions I have given you, have the Foreperson write it down and knock on the door to summon the bailiff and give it to the bailiff. Please be sure in doing so not to reflect your vote or present thinking. If you wish to have any instructions repeated, you may request it in this fashion and I will repeat such instructions as you have indicated.

[I wish to thank and excuse the alternate juror(s). Louisiana law does not permit you to participate in the deliberations. Your presence, however, was important for the trial of this case.]

Court will be at recess until a verdict is reached.

STATE OF LOUISIANA

15TH JUDICIAL DISTRICT COURT

VERSUS

DOCKET NO.:

LAFAYETTE PARISH, LOUISIANA

For purposes of your deliberation, this is a written list of the verdicts responsive to **Count**

I: _____ charged:

Guilty;

Guilty of _____;

Not guilty.

For purposes of your deliberation, this is a written list of the verdicts responsive to **Count**

II: _____ charged:

Guilty;

Not guilty.

STATE OF LOUISIANA

15TH JUDICIAL DISTRICT COURT

VERSUS

DOCKET NO.:

LAFAYETTE PARISH, LOUISIANA

VERDICT OF THE JURY

As to the Bill of Information that [name of defendant] did commit [charge], Count I:

WE, the jury, find the defendant, [name of defendant]:

As to the Bill of Information that [name of defendant] did commit [charge], Count II:

WE, the jury, find the defendant, [name of defendant]:

Signature of Foreman

Date