

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Case No. *-cr*-JLK

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. *,

Defendant.

**JURY INSTRUCTIONS
AND VERDICT FORM**

INSTRUCTION NO. 1.1

Preliminary Instruction - How Trial Will Proceed

Members of the Jury:

In a moment I will give you some detailed instructions on this case and how you will go about reaching your decision. But first I will explain generally how this trial will proceed.

This criminal case has been brought by the United States government. I will sometimes refer to the government as the prosecution. The government is represented by (Assistant United States Attorney) *. The defendant, *, is represented by her lawyer, *.

The indictment charges * with three counts of misappropriating postal funds over three different periods of time (Counts 1-3) and seventeen counts of knowingly and willfully making false statements regarding postal sale transactions on seventeen different days (Counts 4-20).

The indictment stating these counts is the description of the charge made by the government against*; it is not evidence of guilt or anything else. * pleaded not guilty to each count and is presumed innocent. Like the indictment, her plea is not evidence. The government's charges in the indictment and the plea are merely the way by which a criminal case is brought to you for decision.* may not be found guilty by you on any count unless all twelve of you unanimously find that the government has proved her guilt on that count beyond a reasonable doubt.

The first step in the trial will be your selection as jurors. The second step is my reading of these instructions to you. Next will be the opening statements.

The government in its opening statement will tell you what evidence it intends to put before you. Just as the indictment is not evidence, neither is the opening statement. Its purpose is to help you understand what the evidence will be. It is a road map to show you what lies ahead.

After the government's opening statement, *’s attorney will make an opening statement. Likewise, her opening statement is not evidence, but is intended to inform you of her defense against the charges.

Evidence will be presented from which you will have to determine the facts. The evidence will consist of the testimony of witnesses, documents and other things received into the record as exhibits, and any facts about which the government and the defendant agree or I tell you to accept as true. It is always up to you how much weight to give to the evidence.

The government will offer its evidence first. After the government's evidence, * lawyer may present evidence, but he is not required to do so. I remind you that * is presumed innocent and it is the government that must prove * guilt beyond a reasonable doubt. If * submits evidence, the government may introduce rebuttal evidence.

At times during the trial, a lawyer may make an objection to a question asked by another lawyer, or to an answer by a witness. This means the lawyer is requesting that I make a decision on a particular rule of law. Do not draw any conclusion from such

objections or from my rulings on the objections. If I sustain an objection to a question, the witness may not answer it. Do not attempt to guess what answer might have been given if I had allowed the answer. If I overrule the objection, treat the answer as any other. If I tell you not to consider a particular statement, you may not refer to that statement in your later deliberations. Similarly, if I tell you to consider a particular piece of evidence for a specific purpose, you may consider it only for that purpose. Each of you is responsible for making sure that no juror bases a decision on matters that are not evidence.

During the course of the trial I may have to interrupt the proceedings to confer with the attorneys about the rules of law that should apply. Sometimes we will talk briefly, at the bench. But some of these conferences may take more time, so I will excuse you from the courtroom. I will try to avoid such interruptions whenever possible, but please be patient even if the trial seems to be moving slowly because conferences often actually save time in the end.

You are to consider all the evidence received in this trial and only the evidence received at trial. It will be up to you to decide what evidence to believe and how much of any witness's testimony to accept or reject.

After you have heard all the evidence on both sides, the government and the defense will each be given time for their final arguments. These arguments are not evidence. After these closing arguments, I will again instruct you on the rules of law you are to use in reaching your verdicts, and then you will retire to decide your verdicts.

During the course of the trial I may ask a question of a witness. If I do, that does not indicate I have any opinion about the facts in the case but am only trying to bring out facts that you may consider. From time to time during the trial I may also direct your attention to particular instructions of law.

Ordinarily, the attorneys will develop all the relevant evidence that will be necessary for you to reach your verdicts. However, in rare situations, a juror may believe a question is critical to reaching a decision on a necessary element of the case. In that situation, you may write out a question and provide it to the courtroom deputy at the next recess. I will then consider that question with the lawyers. If it is determined to be a proper and necessary question, I will ask it. If I do not ask it, I will tell you why and explain why such an answer cannot be considered in your deliberations.

If you would like to take notes during the trial, you may. On the other hand, you are not required to take notes.

If you decide to take notes, be careful not to get so involved in note taking that you become distracted, and remember that your notes will not necessarily reflect exactly what was said, so your notes should be used only as memory aids. Therefore, you should not give your notes precedence over your independent recollection of the evidence. You should also not be unduly influenced by the notes of other jurors. If you do take notes leave them in the jury room at night and do not discuss the contents of your notes until you begin deliberations.

During the course of the trial, you should not talk with any witness, or with [Defendant(s)], or with any of the lawyers at all. In addition, during the course of the trial you should not talk about the trial with anyone else. Also, you should not discuss the merits of this case among yourselves until you have gone to the jury room to make your decision at the end of the trial. It is important that you wait until all the evidence is received and you have again heard my instructions on the controlling rules of law before you deliberate among yourselves. In other words, keep an open mind and form no opinions until you can consider all the evidence and the instructions of law together.

During the course of the trial you will receive all the evidence you legally may consider to decide the case. Gathering any information on your own that you think might be helpful is against the law and would be a violation of your oath. Do not engage in any outside reading on this case, even including dictionaries or a bible, do not attempt to visit any places mentioned in the case, and do not in any other way try to learn about the case outside the courtroom. Part of my job is to protect you from outside influences. Your job is to confine your decisions to what takes place in this courtroom.

I wish I did not have to dwell on this topic, but recent events around the United States and recent technologies require me to point out that some common practices and habits many of you enjoy are strictly forbidden in your role as jurors. You may not, under any circumstances, have your cell phones, blackberries, iphones or the like on when court is in session. Whether you are here or away from the court during recess you may not “google, twitter, tweet, text message, blog, post” or anything else with those gadgets

about or concerning anything to do with this case. To do so could cause a mistrial, meaning all of our efforts would have been wasted and we would have to start all over again with a new trial before a new jury. If you were to cause a mistrial by violating these orders, you could be subject to paying all the costs of these proceedings and perhaps punished for contempt of court. What you may do is advise anyone who needs to know, such as family members, employers, employees, schools, teachers, or daycare providers that you are a juror in a case and the judge has ordered you not to discuss it until you have reached a verdict and been discharged from the case. At that point you will be free to discuss this case or investigate anything about it to your heart's delight.

If during the course of the trial you believe there is anything you need to know, please write down your request and give it to the courtroom deputy. She will give it to me and we will do our best to attend to it.

Fairness to all concerned requires that all of us connected with this case deal with the same information and with nothing other than the same information. The reason for this is that your decision in this case must be made solely on the evidence presented at the trial.

Finally, I note that the court reporter is making stenographic notes of everything that is said. This is basically to assist any appeals. You will *not* have a typewritten copy of the testimony available for your use during deliberations. On the other hand, any exhibits admitted at trial will be available to you during your deliberations.

INSTRUCTION NO. 1.2

Introduction to Instructions

In any jury trial there are, in effect, two judges. I am one of the judges; you are the other. I am the judge of the law. You, as jurors, are the judges of the facts.

It is my duty to preside over the trial and decide what evidence is proper for your consideration. When I exclude evidence, I am saying that evidence may not legally be considered by you. I am not telling you what is true or not true. It is your responsibility to decide that based on the evidence that you can legally consider.

It is also my duty to explain to you the rules of law that you must follow and apply in arriving at your verdicts. In explaining the rules of law that you must follow, I will first give you some general instructions that apply in every criminal case--for example, instructions about burden of proof and insights that may help you to judge the believability of witnesses. Then I will give you some specific rules of law that apply to this particular case and, finally, I will explain the procedures you should follow in your deliberations, and the possible verdicts you may return. These instructions will be given to you for use throughout the trial.

INSTRUCTION NO. 1.3

Duty to Follow Instructions

You, as jurors, are the judges of the facts. But in determining what actually happened – that is, in reaching your decision as to the facts – it is your sworn duty to follow all of the rules of law as I explain them to you.

You may not disregard or give special attention to any one instruction, or question the wisdom or correctness of any rule I may state to you. You must not substitute or follow your own notion or opinion as to what the law is or ought to be. It is your duty to apply the law as I explain it to you, regardless of the consequences.

In your deliberations you must see to it that no one else on the jury ignores the instructions or attempts to decide the case on anything other than the law and the evidence. It is always to be born in mind that our collective commitment is to equal justice under the law. Matters of race, creed, color, nationality and gender have no place in this process. To the best of your ability you are to judge others as you would want others to judge you under the law I give you. The very heart of justice is that all apply the same law to the same evidence and leave our personal desires out of it.

You should not read into these instructions, or anything else I may have said or done, any suggestion as to what your verdict should be. That is entirely up to you.

It is also your duty to base your verdict solely upon the evidence, without prejudice or sympathy. That was the promise you made and the oath you took.

INSTRUCTION NO. 1.4

Presumption of Innocence - Burden of Proof - Reasonable Doubt

The indictment or formal charge against * is not evidence of guilt. Indeed, * is presumed by the law to be innocent. The law does not require * to prove her innocence or produce any evidence at all. The government has the burden of proving * guilty beyond a reasonable doubt, and if it fails to do so, you must find * not guilty.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of *’s guilt. There are 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. It is only required that the government’s proof exclude any “reasonable doubt” concerning *’s guilt. A reasonable doubt is a doubt based on reason and common sense after careful and impartial consideration of all the evidence in the case. It is a doubt based on the evidence and not on a hunch, a guess or a whim.

If, based on your consideration of the evidence, you are firmly convinced that * is guilty of the crime charged, you must find her guilty. If on the other hand, you think there is a real possibility that the government failed to prove her guilt, you must give her the benefit of the doubt and find her not guilty.

INSTRUCTION NO. 1.5

Evidence—Defined

You must make your decision based only on the evidence that you see and hear [saw and heard] here in court. Do not let rumors, suspicions, or anything else that you may have seen or heard outside of court influence your decision in any way.

The evidence in this case includes only what the witnesses say [said] while they are [were] testifying under oath, the exhibits that I allow [allowed] into evidence, the stipulations that the lawyers agree [agreed] to and I accept [accepted], and the facts that I judicially notice [noticed]. Judicial notice is my recognition of commonly accepted facts such as time, date and place, as well as matters such as existing government regulations.

Nothing else is evidence. The lawyers' statements and arguments are not evidence. Their questions and objections are not evidence. My legal rulings are not evidence. And my comments and questions are not evidence.

During the trial, I will not [did not] let you hear the answers to some of the questions that the lawyers ask. I may also rule [also ruled] that you cannot see some of the exhibits that the lawyers want you to see. And sometimes I may order [ordered] you to disregard things that you saw or heard, or I may strike [struck] things from the record. You must completely ignore all of these things. Do not even think about them. Do not speculate about what a witness might have said or what an exhibit might have shown. These things are not evidence, and you are bound by your oath not to let them influence your decision in any way.

INSTRUCTION NO. 1.6

Evidence - Direct and Circumstantial - Inferences

Generally speaking, two types of evidence are available from which you may properly determine the facts of a case. One is direct evidence, such as the testimony of an eyewitness. The other is indirect or circumstantial evidence, that is, the proof of a chain of facts which point to the existence or non-existence of certain other facts.

As a general rule, the law makes no distinction between direct and circumstantial evidence. The law requires that you find the facts in accord with all the evidence in the case, both direct and circumstantial.

While you must consider only the evidence in this case, you are permitted to draw reasonable inferences from the testimony and exhibits, inferences you think are justified in the light of common experience. An inference is a conclusion that reason and common sense may lead you to draw from facts which have been proved.

By permitting such reasonable inferences, you may make deductions and reach conclusions that reason and common sense lead you to draw from the facts which have been established by the testimony and evidence in this case.

INSTRUCTION NO. 1.7

Credibility of Witnesses

It is your job to decide whether the government has proved [Def's] guilt beyond a reasonable doubt. In doing so, you must consider all of the evidence. This does not mean, however, that you must accept all of the evidence as true or accurate.

You are the sole judges of the credibility or “believability” of each witness and the weight to be given to the witness's testimony. An important part of your job will be making judgments about the testimony of the witnesses who testify in this case. This includes [Def], if [she] chooses to testify.

You should think about the testimony of each witness you hear [have heard] and decide whether you believe all or any part of what each witness has [had] to say, and how important that testimony is [was]. In making that decision, I suggest that you ask yourself a few questions: Did the witness impress you as honest? Did the witness have any particular reason not to tell the truth? Did the witness have a personal interest in the outcome in this case? Did the witness have any relationship with either the government or the defense? Did the witness seem to have a good memory? Did the witness clearly see or hear the things about which he/she testified? Did the witness have the opportunity and ability to understand the questions clearly and answer them directly? Did the witness's testimony differ from the testimony of other witnesses? When weighing the conflicting testimony, you should consider whether the discrepancy has to do with a material fact or

with an unimportant detail. And you should keep in mind that innocent misrecollection — like failure of recollection — is not uncommon.

If [she] testifies, [Def's] testimony should be weighed and [her] credibility evaluated in the same way as that of any other witness.

In reaching a conclusion on a particular point, or ultimately in reaching a verdict in this case, do not make any decisions simply because there were more witnesses on one side than on the other.

INSTRUCTION NO. 1.8

Impeachment by Prior Inconsistencies

You may hear [have heard] the testimony of witnesses who, before this trial, made statements that are [were] different from their testimony here in court.

These earlier statements will be [were] brought to your attention only to help you decide on the credibility of these witnesses. You cannot use the earlier statements as proof of anything else. You can only use them as one way of evaluating the witnesses' testimony here in court.

INSTRUCTION NO. 1.9

Expert Witness

Scientific, technical, or other specialized knowledge may assist you 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.

However, 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. 1.10

Non-testifying Defendant

The defendant, *, will not testify [did not testify] and I remind you that you cannot consider her decision not to testify as evidence of guilt. The Constitution of the United States grants to a defendant the right to remain silent and that right is vigorously guarded. That means the right not to testify, and you must not presume or infer guilt from the fact that a defendant does not take the witness stand and testify or call any witnesses.

INSTRUCTION NO. 1.11

Statement - Voluntariness

You may hear [have heard] evidence relating to statements attributed to * alleged to have been made after the commission of the crimes charged in this case but not made in court. You should always consider such statements with caution and weigh them with care. You should disregard any such statement entirely unless the other evidence in the case convinces you that it is more likely than not 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 *. You should also consider any evidence concerning her treatment while under interrogation if the statement was made in response to questioning by government officials, and all the other circumstances in evidence surrounding the making of the statement.

If, after considering all this evidence, you conclude it is more likely than not that *'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. 1.12

Exculpatory Statements

During the course of the trial, you may hear [heard] witnesses testify about statements made by the defendant, *, after she was confronted with some suggestion that she might have been guilty of the commission of a crime. The conduct of a defendant, including statements made and acts done upon being informed that a crime has been committed, or upon being confronted with a criminal charge, may be considered by you in the light of other evidence in the case in determining the guilt or innocence of the accused. When a defendant voluntarily offers an explanation or makes some statement tending to establish her innocence, and such explanation or statement is later shown to be false in whole or in part, you may consider whether this circumstantial evidence points to a consciousness of guilt. It is reasonable to infer that an innocent person does not ordinarily find it necessary to invent or fabricate a voluntary explanation or statement tending to establish her innocence. Whether or not evidence as to a defendant's voluntary explanation or statement points to a consciousness of guilt and the significance, if any, to be attached to any such evidence, are matters for your determination.

INSTRUCTION NO. 1.13

Jury's Recollection Controls

If any reference by me or by counsel to matters of testimony or exhibits does not coincide with your own recollection of that evidence, it is your recollection which controls during your deliberations and not my statements or statements of counsel.

You are the sole judges of the evidence received in this case.

INSTRUCTION NO. 3.1

Introduction to the Charged Offenses

* has been charged in the indictment with twenty counts of alleged criminal violations. Each count charges a separate crime. You should, therefore, consider each count, and the evidence pertaining to it, separately. The fact that you may find * guilty or not guilty as to one of the counts should not control your verdict as to any other offense charged.

In order for the government to prove that * committed the alleged crimes, it must prove the material elements for each crime beyond a reasonable doubt. I will now tell you what those elements are for each count.

INSTRUCTION NO. 3.2

**Counts 1 - 3: Misappropriation of Postal Funds
by Postal Service Employee**

* is charged in Counts 1, 2 and 3 with a violation of 18 U.S.C. section 1711.

This law makes it a crime for a postal employee to take for his or her own use money or property belonging to the Postal Service.

The indictment charges * with three counts of this crime, with each count alleging that * misappropriated a different amount of postal funds or property during a different period of time. The Indictment is attached to these instructions for your review, but in general it charges * with three instances of this crime as follows:

In Count 1, * is charged with misappropriating approximately \$16.42 in postal funds or property on or about February 7, 2008 through February 12, 2008, in violation of 18 U.S.C. § 1711.

In Count 2, * is charged with misappropriating approximately \$49.90 in postal funds or property on or about February 12, 2008 through March 20, 2008, in violation of 18 U.S.C. § 1711.

In Count 3, * is charged with misappropriating approximately \$11.97 in postal funds or property on or about March 20, 2008 through April 10, 2008, in violation of 18 U.S.C. § 1711.

The parties have stipulated that * was an employee of the United States Postal Service during the time period of each alleged crime.

To find * guilty of the crimes alleged in Counts 1, 2 and/or 3, you must be convinced that the government has proved each of the following elements beyond a reasonable doubt:

First, that on or about the period stated in the count you are considering, the postal money or property referred to in that count came into *'s possession while she was working for the Postal Service; and

Second, that * intentionally took the money or property referred to in the count you are considering for her own use and/or loaned the money or property to herself.

For each of Counts 1, 2 and 3, you may not convict * if you find that she did not take or loan the money or property at all, or you find that she took or loaned the money or property by mistake, or out of carelessness, or without realizing what she was doing. To convict * on Counts 1, 2 or 3, you must find that * took or loaned the money or property stated in each count with the purpose of using it herself.

INSTRUCTION NO. 3.3

Counts 4 - 20: Making a False Statement

* is charged in Counts 4 through 20 with a violation of 18 U.S.C. section 1001(a)(2).

This law makes it a crime for a person to make a false statement or representation knowingly and willfully concerning a material fact within the jurisdiction of the executive branch of the United States Government.

The indictment charges * with seventeen counts of this crime, with each count alleging that * made a false statement by submitting a financial report, Postal Service Form 1412, that falsely represented her postal sales transactions for a certain day. The indictment is attached to these instructions for your review, but in general it charges * with this crime for the postal sales transactions she reported on PS Form 1412 for each of the following days:

- | | |
|----------------------------|----------------------------|
| Count 4: February 7, 2008 | Count 5: February 8, 2008 |
| Count 6: February 11, 2008 | Count 7: February 12, 2008 |
| Count 8: February 13, 2008 | Count 9: March 4, 2008 |
| Count 10: March 5, 2008 | Count 11: March 6, 2008 |
| Count 12: March 17, 2008 | Count 13: March 24, 2008 |
| Count 14: March 31, 2008 | Count 15: April 1, 2008 |
| Count 16: April 2, 2008 | Count 17: April 3, 2008 |
| Count 18: April 4, 2008 | Count 19: April 8, 2008 |

Count 20: April 9, 2008

To find * guilty of this crime on any of Counts 4 through 20, you must be convinced that the government has proved each of the following elements beyond a reasonable doubt for the count you are considering:

First: * made a false statement or representation to the government; specifically by submitting a clerk financial report, PS Form 1412, that falsely represented her postal sale transactions for the date stated in the count you are considering;

Second: * made the statement knowing it was false (see Instruction No. 3.5);

Third: * made the statement willfully, that is deliberately, voluntarily and intentionally (see Instruction No. 3.6);

Fourth: the statement was made in a matter within the jurisdiction of the executive branch of the United States Government; and

Fifth: the statement was material to the United States Postal Service.

A fact is "material" within the meaning of this instruction if the fact has a natural tendency to influence or is capable of influencing a decision of the United States Postal Service. It is not necessary that the United States Postal Service was in fact influenced in any way.

INSTRUCTION NO. 3.4

On or About

You will note the indictment charges that the crime stated in each count was committed “on or about” certain time periods for Counts 1-3 and certain days for Counts 4 - 20. With respect to each count, the government must prove beyond a reasonable doubt that * committed the crime reasonably near the period of time or day stated in that count.

INSTRUCTION NO. 3.5

“Knowing” -- Defined

The term “knowing,” as used in Instruction No. 3.3 (Counts 4 -20, Making a False Statement) to describe the alleged state of mind of *, means that she was conscious and aware of her actions, realized what she was doing or what was happening around her, and did not act because of ignorance, mistake, or accident.

INSTRUCTION NO. 3.6

"Willfully" -- Defined

The term "willfully," as used in Instruction No. 3.3 (Counts 4 -20, Making a False Statement) to describe the alleged state of mind of Ms. Sitzman, means that she knowingly performed and acted deliberately and intentionally, "on purpose" as contrasted with accidentally, carelessly, or unintentionally.

INSTRUCTION NO. 3.7

Proof of Knowledge or Intent

The intent of a person or the knowledge that a person possesses at any given time may not ordinarily be proved directly because there is no way of directly scrutinizing the workings of the human mind. In determining the issue of what a person knew or what a person intended at a particular time, you may consider any statements made or acts done by that person and all other facts and circumstances received in evidence which may aid in your determination of that person's knowledge or intent.

You may infer, but you are certainly not required to infer, that a person intends the natural and probable consequences of acts knowingly done. It is entirely up to you, however, to decide what facts to find from the evidence received during this trial.

INSTRUCTION NO. 3.8

Caution - Consider Only Crime Charged

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

It is not up to you to decide whether anyone who is not on trial in this case should be prosecuted for the crimes 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 the government has proved * guilty of the crime charged.

INSTRUCTION NO. 3.9

Caution - Punishment

If you find * guilty on one or more of the counts stated in the indictment, it will be my duty to decide what the punishment will be. You should not discuss or consider the possible punishment in any way while deciding your verdict.

INSTRUCTION NO. 4.1

Jury - Deliberations

After the parties have made their closing arguments and I have instructed you for the final time, a court official will escort you to the jury room so you can begin your deliberations. You will have a copy of the instructions and verdict form that I will have just read, and any exhibits admitted into evidence will also be placed in the jury room for your review.

When you go to the jury room, you must elect one of you to serve as your Presiding Juror. He or she will preside over your deliberations and speak for you here in court.

You will then discuss the case with your fellow jurors to reach agreement if you can do so. Your verdict, whether it is guilty or not guilty, must be unanimous.

Each of you must decide the case for yourself, but you should do so only after you have considered all of the evidence, discussed it with your fellow jurors, and listened to the views of your fellow jurors. I offer some suggestions on how you might do this in the next jury instruction, entitled “Jury - The Deliberations Process.”

One thing you should do in your deliberations is to follow these jury instructions and the verdict form. Not only will your deliberations be more productive if you understand the legal principles on which any verdict must be based, but for a 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 stated in these instructions.

Your deliberations will be secret. You will never have to explain your verdict to anyone.

If you need to communicate with me during your deliberations, the Presiding Juror should write a message and give it to the Court Security Officer. I will reply in writing or bring you back into the court to respond to your message. Under no circumstances should you reveal to me, the Court Security Officer or anyone else not on the jury where you stand or what your vote might be until you have reached a verdict or I have discharged you.

Please bear in mind that a response takes considerable time and effort. I must first notify the attorneys to return to court. Then I must confer with them, consider their arguments and, decide upon the correct answer. In some instances further research might be required.

A verdict form has been prepared for your convenience. The Presiding Juror will write the unanimous answer of the jury in the space provided on the verdict form. At the conclusion of your deliberations, the Presiding Juror should date and sign the verdict form, and then all the other jurors should sign the verdict form. The Presiding Juror should then advise the Court Security Officer stationed outside the jury room that you have reached a verdict.

INSTRUCTION NO. 4.2

Jury - The Deliberations Process

Once you have elected your Presiding Juror as directed by the previous instruction, you are free to proceed as you agree is appropriate. Therefore, I am not directing you how to proceed, but I offer the following suggestions that other juries have found helpful so that you can proceed in an orderly fashion, allowing full participation by each juror, and arrive at a verdict that is satisfactory to each of you.

First, it is the responsibility of the Presiding Juror to encourage good communication and participation by all jurors and to maintain fairness and order. Your Presiding Juror should be willing and able to facilitate productive discussions even when disagreements and controversy arise.

Second, the Presiding Juror should let each of you speak and be heard before expressing his or her own views.

Third, the Presiding Juror should never attempt to promote nor permit anyone else to promote his or her personal opinions by coercion or intimidation or bullying of others.

Fourth, the Presiding Juror should make certain that the deliberations are not rushed to reach a conclusion.

If the Presiding Juror you select does not meet these standards, he or she should voluntarily step down or be replaced by a majority vote.

After you select a Presiding Juror you should consider electing a secretary who will tally the votes, help keep track of who has or hasn't spoken on the various issues,

make certain that all of you are present whenever deliberations are under way and otherwise assist the Presiding Juror.

Some juries are tempted to start by holding a preliminary vote on the case to “see where we stand.” It is most advisable, however, that no vote be taken before a full discussion is had on the issue to be voted on, otherwise you might lock yourself into a certain view before considering alternative and possibly more reasonable interpretations of the evidence. Experience has also shown that such early votes frequently lead to disruptive, unnecessarily lengthy, inefficient debate and ineffective decision-making.

Instead, I suggest the Presiding Juror begin your deliberations by directing the discussion to establishing informal ground rules for how you will proceed. These rules should assure that you will focus upon, analyze and evaluate the evidence fairly and efficiently and that the viewpoints of each of you is heard and considered before any decisions are made. No one should be ignored. You may agree to discuss the case in the order of the questions presented in the special verdict form or in chronological order or according to the testimony of each witness. Whatever order you select, however, it is advisable to be consistent and not jump from one topic to another.

To move the process of deliberation along in the event you reach a controversial issue, it is wise to pass it temporarily and move on to the less controversial ones and then come back to it. You should then continue through each issue in the order you have agreed upon unless a majority of you agrees to change the order.

It is very helpful, but certainly not required of you, that all votes be taken by secret ballot. This will help you focus on the issues and not be overly influenced by personalities. Each of you should also consider any disagreement you have with another juror or jurors as an opportunity for improving the quality of your decision and therefore should treat each other with respect. Any differences in your views should be discussed calmly and, if a break is needed for that purpose, it should be taken. As I mentioned at the beginning of this trial, each of you is responsible for making sure that no juror bases a decision on matters that are not evidence.

Each of you should listen attentively and openly to one another before making any judgment. This is sometimes called “active listening” and it means that you should not listen with only one ear while thinking about a response. Only after you have heard and understood what the other person is saying should you think about a response. Obviously, this means that, unlike TV talk shows, you should try very hard not to interrupt. If one of your number is going on and on, it is the Presiding Juror who should suggest that the point has been made and it is time to hear from someone else.

You each have a right to your individual opinion, but you should be open to persuasion. When you focus your attention and best listening skills, others will feel respected and, even while they may disagree, they will respect you. It helps if you are open to the possibility that you might be wrong or at least that you might change your mind about some issues after listening to other views.

Misunderstanding can undermine your efforts. Seek clarification if you do not understand or if you think others are not talking about the same thing. From time to time the Presiding Juror should set out the items on which you agree and those on which you have not yet reached agreement.

In spite of all your efforts, it is indeed possible that serious disagreements may arise. In that event, recognize and accept that “getting stuck” is often part of the decision-making process. It is easy to fall into the trap of believing that there is something wrong with someone who is not ready to move toward what may be an emerging decision. Such a belief is not helpful. It can lead to focusing on personalities rather than the issues. It is best to be patient with one another. At such times slower is usually faster. There is a tendency to set deadlines and seek to force decisions. Providing a break or more time and space, however, often helps to shorten the overall process.

You may wish from time to time to express your mutual respect and repeat your resolve to work through any differences. With such a commitment and mutual respect, you will most likely render a verdict that leaves each of you satisfied that you have indeed rendered justice.

VERDICT FORM

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Case No. *-cr-*-JLK

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. *,

Defendant.

VERDICT FORM

COUNT 1

We, the jury, upon our oaths, unanimously find the defendant, *, in Count 1 of the indictment (see Instruction No. 3.2):

___ Not Guilty

___ Guilty

COUNT 2

We, the jury, upon our oaths, unanimously find the defendant, *, in Count 2 of the indictment (see Instruction No. 3.2):

___ Not Guilty

___ Guilty

COUNT 3

We, the jury, upon our oaths, unanimously find the defendant, *, in Count 3 of the indictment (see Instruction No. 3.2):

____ Not Guilty

____ Guilty

COUNT 4

We, the jury, upon our oaths, unanimously find the defendant, *, in Count 4 of the indictment (see Instruction No. 3.3):

____ Not Guilty

____ Guilty

COUNT 5

We, the jury, upon our oaths, unanimously find the defendant, *, in Count 5 of the indictment (see Instruction No. 3.3):

____ Not Guilty

____ Guilty

COUNT 6

We, the jury, upon our oaths, unanimously find the defendant, *, in Count 6 of the indictment (see Instruction No. 3.3):

____ Not Guilty

____ Guilty

COUNT 7

We, the jury, upon our oaths, unanimously find the defendant, *, in Count 7 of the indictment (see Instruction No. 3.3):

____ Not Guilty

____ Guilty

COUNT 8

We, the jury, upon our oaths, unanimously find the defendant, *, in Count 8 of the indictment (see Instruction No. 3.3):

____ Not Guilty

____ Guilty

COUNT 9

We, the jury, upon our oaths, unanimously find the defendant, *, in Count 9 of the indictment (see Instruction No. 3.3):

____ Not Guilty

____ Guilty

COUNT 10

We, the jury, upon our oaths, unanimously find the defendant, *, in Count 10 of the indictment (see Instruction No. 3.3):

____ Not Guilty

____ Guilty

COUNT 11

We, the jury, upon our oaths, unanimously find the defendant, *, in Count 11 of the indictment (see Instruction No. 3.3):

____ Not Guilty

____ Guilty

COUNT 12

We, the jury, upon our oaths, unanimously find the defendant, *, in Count 12 of the indictment (see Instruction No. 3.3):

____ Not Guilty

____ Guilty

COUNT 13

We, the jury, upon our oaths, unanimously find the defendant, *, in Count 13 of the indictment (see Instruction No. 3.3):

____ Not Guilty

____ Guilty

COUNT 14

We, the jury, upon our oaths, unanimously find the defendant, *, in Count 14 of the indictment (see Instruction No. 3.3):

____ Not Guilty

____ Guilty

COUNT 15

We, the jury, upon our oaths, unanimously find the defendant, *, in Count 15 of the indictment (see Instruction No. 3.3):

____ Not Guilty

____ Guilty

COUNT 16

We, the jury, upon our oaths, unanimously find the defendant, *, in Count 16 of the indictment (see Instruction No. 3.3):

____ Not Guilty

____ Guilty

COUNT 17

We, the jury, upon our oaths, unanimously find the defendant, *, in Count 17 of the indictment (see Instruction No. 3.3):

____ Not Guilty

____ Guilty

COUNT 18

We, the jury, upon our oaths, unanimously find the defendant, *, in Count 18 of the indictment (see Instruction No. 3.3):

____ Not Guilty

____ Guilty

COUNT 19

We, the jury, upon our oaths, unanimously find the defendant, *, in Count 19 of the indictment (see Instruction No. 3.3):

___ Not Guilty

___ Guilty

COUNT 20

We, the jury, upon our oaths, unanimously find the defendant, *, in Count 20 of the indictment (see Instruction No. 3.3):

___ Not Guilty

___ Guilty

Dated this ___ day of _____, 2009.

Presiding Juror

