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To all District Court Judges:

I am pleased to distribute to you this 2009 revised edition of the District Court's Criminal Model Jury Instructions.

A judge is never more aware than when presiding over a jury trial of our mutual commitment to deliver "right and justice freely, . . . completely, and without any denial; promptly, and without delay; conformably to the laws." MASSACHUSETTS DECLARATION OF RIGHTS, ART. XI. An accurate and intelligible charge to the jury plays a pivotal role in that process. As the American Bar Association has noted, "Instructions to the jury should not only be technically correct but also expressed as simply as possible and delivered in such a way that they can be clearly understood by the jury." ABA STANDARDS FOR CRIMINAL JUSTICE, *Trial by Jury* § 15-3.6 (2d ed. 1980).

This new edition marks the 35th anniversary of the initial publication of these model jury instructions. Over the years they have embodied a major commitment by the District Court to inform our citizen jurors about the law not only accurately but also intelligibly and in plain English. The introductory essay on "Drafting a Plain Language Jury Instruction" sets out some of the principles that have guided this effort.

Since their initial publication in 1974, this set of model instructions has been greatly expanded and updated through the sustained research and drafting of many judges, assisted by staff of the Administrative Office of the District Court. The many supplemental instructions and extensive notes have assured that the model instructions do not become a rote script, but a starting point that can easily be tailored or supplemented for the particular case being tried.

Greatly expanded editions were published in 1988 and 1995 by the Committee on Juries of Six, chaired by Hon. Arthur Sherman (Cambridge), with members Hon. Neil Colicchio (East Boston), Hon. Wendie I. Gershengorn (Cambridge), Hon. Ernest S. Hayeck (Worcester), Hon. William B. McDonough (Holyoke), Hon. John B. Murphy, Jr. (Malden), Hon. Alphonse C. Turcotte (Chicopee), and Hon. Elbert Tuttle (Superior Court), with the help of Executive Director and General Counsel Michael J. Shea.

This 2009 revision has been accomplished by the Committee on Criminal Proceedings, chaired by Hon. Phyllis J. Broker (Woburn), and consisting of Assistant Clerk-Magistrate Catherine M. Coughlin (Newton), Hon. James F. X. Dinneen (Region 2), Assistant Clerk-Magistrate James J. Foley (Quincy), Chief Probation Officer Peter P. Heymanns (Holyoke), Hon. Rita Koenigs (Pittsfield), Hon. Michael C. Lauranzano (Lynn), Hon. Andrew L. Mandell (Fitchburg), Chief Probation Officer John M. Morganstern (Springfield), Hon. Tobey S. Mooney (New Bedford) and Hon. David S. Ross (Orange).

INTRODUCTION

The Committee was greatly assisted by the considerable legal talents of Deputy General Counsel Ellen S. Shapiro, with research assistance from Law Clerk Brien M. Cooper. The Committee's work has made a substantial contribution to the administration of justice in this Commonwealth, and they have the thanks of all the judges.

This new edition includes 27 model instructions that have been added and distributed since the last edition in 1995 and additionally includes 3 new model instructions that have not previously been distributed:

- 2.540 Subsequent Offense
- 7.240 Failing to Register as a Sex Offender
- 7.300 Giving False Name upon Arrest.

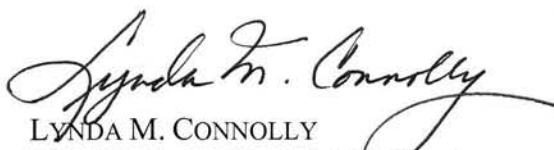
The Committee on Criminal Proceedings has also reworked the wording of another 36 model instructions, sometimes substantially. Finally, the notes for all instructions have been reviewed and the notes for 101 instructions have been revised to reflect legal developments since the 1995 edition.

The 2009 Edition includes two new charts. One is a chart of "Required Jury Instructions." This will provide judges with a convenient checklist of instructions that the appellate courts have required be given (either sua sponte or on request of the parties) or have affirmatively recommended. A chart of "Potential Money Assessments" has been appended to Instruction 2.520, which offers suggested dialogues for imposing sentence.

After consideration, the Committee decided to completely revise the numbering scheme for instructions in order to permit them to be grouped better. It is hoped that the advantages of the new groupings will offset any adjustments occasioned by the renumbering. The former numbers (and last revision date) are shown in the table of contents.

This new edition will be available in the "Criminal" area of both the District Court's intranet and internet sites (the latter at www.mass.gov/courts/districtcourt). Future updates will be posted on those sites.

Our sincere thanks to Massachusetts Continuing Legal Education, Inc., and to John M. Reilly, Esq., its Executive Director, and Maryanne G. Jensen, Esq., its Director of Publications, for their generosity in printing and distributing this new edition to the judges, and for making it available to the Bar and the public. We are sincerely grateful to MCLE for its many contributions to the District Court judiciary.


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