

REQUIRED JURY INSTRUCTIONS

This chart lists the most significant situations in which Massachusetts appellate courts have held that a particular jury instruction is required or desirable, if warranted by the evidence. (Instructions on the elements of specific offenses are not included.)

Model Jury Instruction No.	Subject	SHOULD BE GIVEN			Error to Give Over Defense Objection
		Required Sua Sponte	Required on Request	Suggested But Not Required	
1.100	Impaneling Jury — Individual voir dire required <ul style="list-style-type: none"> • if substantial risk that extraneous issues will influence jury • if case involves sexual assault against minor, or interracial rape or murder • if case involves lack of criminal responsibility (insanity defense) • if defendant and victim of different races in case involving crime of violence • if case may involve bias based on sexual orientation 		<ul style="list-style-type: none"> ✓ ✓ ✓ 	<ul style="list-style-type: none"> ✓ 	
	Impaneling Jury — Questions 1-4 to venire <ul style="list-style-type: none"> • [1] related to either party? • [2] have any interest in the case? • [3] expressed or formed an opinion? • [4] sensible of bias or prejudice? 	<ul style="list-style-type: none"> ✓ ✓ ✓ ✓ 			
	Impaneling Jury — Questions 5-6 to venire <ul style="list-style-type: none"> • [5] understand defendant is presumed innocent? • [6] understand Commonwealth has burden of proof beyond reasonable doubt and defendant need not present any evidence? 		<ul style="list-style-type: none"> ✓ ✓ 		
	Impaneling Jury — Other questions to venire <ul style="list-style-type: none"> • give greater credence to police officer as witness? • have you or immediate family been victim of a violent crime? 			<ul style="list-style-type: none"> ✓ ✓ 	
Various	Elements of offense(s)	✓			
1.160	Notetaking by Jurors			✓	
1.180	Questions to Witnesses from Jurors	✓			
1.240	Separation of the Jury	✓			
1.260	Extraneous Publicity (<i>where significant public interest</i>)			✓	
	Camera in the courtroom (<i>when cameras present</i>)			✓	
1.320	Withdrawn Charges or Codefendant			✓	
	Defendant's Absence Midtrial (<i>if jury may not consider on consciousness of guilt</i>)	✓			
2.120	No juror is better qualified because of occupation or reputation		✓		
2.160	Presumption of Innocence		✓		
2.180	Reasonable Doubt	✓			
2.220	What Is Evidence — Judicial Notice	✓			
2.240	Before and After Supplemental Instructions			✓	

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2009 Edition

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		Required Sua Sponte	Required on Request	Suggested But Not Required	
2.260	Credibility of prosecution witness testifying under plea agreement		✓		
2.280	Lesser Included Offense <ul style="list-style-type: none"> • if there is a basis to acquit on greater and convict on lesser • if not supported by evidence 		✓		✓
2.320	Multiple Incidents or Theories — Specific Unanimity		✓		
2.400	Witness invokes testimonial privilege before jury	✓			
2.480	Seating of Alternate Juror	✓			
3.100	Inferences that directly establish an element (not subsidiary inferences)		✓		
3.120	Specific Intent	✓			
3.260	Prima Facie Evidence	✓			
3.500	Absent Witness (if preconditions satisfied and judge allows to be argued)	✓			
3.520	Admission by Silence	✓			
3.560	Confessions and Admissions (Humane Practice)	✓			
3.580	Consciousness of Guilt		✓		
3.600	Defendant Does Not Testify		✓		
3.660	First Complaint (should be given when introduced and also in final instructions)	✓			
3.680	Impeachment by Prior Conviction		✓		
3.700	Impeachment by Prior Inconsistent Statement		✓		
3.740	Omissions in Police Investigations			✓	
3.800	Reputation of Defendant			✓	
3.820	Unrecorded Custodial Interrogation		✓		
9.100	Accident		✓		
9.120	Alibi			✓	
9.140	Entrapment		✓		
9.160	Identification (including honest mistake)		✓		
9.180	Intoxication (for specific intent crimes only)		✓		
9.200	Lack of Criminal Responsibility		✓		
	Consequences of "Not Guilty by Reason of Lack of Criminal Responsibility" verdict (should also be given at jury's request, and may be given sua sponte, if defense does not object)		✓		✓
9.240	Necessity or Duress		✓		
9.260	Self-Defense	✓			