

**MASSACHUSETTS SUPERIOR COURT GUIDELINES FOR
DRAFTING MODEL JURY INSTRUCTIONS,
USING THE JURY INSTRUCTION TEMPLATES,
AND ADAPTING MODEL INSTRUCTIONS FOR YOUR CASE**

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INTRODUCTION

These guidelines are intended to help with the work of the Superior Court's Model Jury Instruction Committee, and to help all Superior Court judges use and adapt the new model instructions and draft their own instructions where necessary. The committee adopted these guidelines in principle on May 19, 2020, with the understanding that committee may revise them in the future. These guidelines are in three parts.

Part One contains tips and standards for drafting model jury instructions. Section 1.1 describes best practices for crafting instructions that are easier to understand and to deliver. These tips can be used to improve any kind of legal writing. But they are particularly important when writing model instructions that will be given to jurors with widely varying experience and backgrounds. Section 1.2 spells out conventions for referring to parties and other people.

Section 1.3 deals with formatting. Section 1.3.1 describe the formatting standards for the Superior Court model instructions that are incorporated into the Microsoft Word styles used in the model jury instruction template; use of styles in general and of the model template in particular is covered separately in Part 2. Sections 1.3.2 and 1.3.3 explain the formatting standards for adding emphasis using bold type and for legal citations. One additional formatting tip is provided in § 1.3.4, which explains how to keep two paragraphs together on the same page, or prevent a paragraph from breaking across two pages, without inserting blank lines.

Part Two explains how to use the templates for model jury instructions and for complete civil and criminal instructions. It starts in § 2.1 with an explanation of how to use styles in MS-Word. Section 2.2 explains how to use the model jury instruction template, either to format a model instruction or as a starting point for drafting one's own instructions. Section 2.3 discusses the civil and criminal master jury instruction templates, which include suggested language for general instructions given in most every case.

Part Three addresses the preparation of case-specific jury instructions. Section 3.1 discusses judges' broad discretion to adapt the model instructions and to craft their own instructions. Section 3.2 describes best practices for adapting the model instructions for use in a particular case. Section 3.3 explains how to change the font in the models if you wish to do so, and how to copy from the model instructions without including the footnotes if you want to do that. Section 3.4 is a reminder that all the tips for crafting model instructions are worth following if you are crafting your own instructions from scratch.

1. DRAFTING MODEL JURY INSTRUCTIONS

1.1. Plain Language and Clarity

Jury instructions need to be both accurate and understandable.

When instructing a jury, we must correctly explain who has the burden of proving what. And we must correctly describe everything the jury needs to consider and agree upon. Inaccurate instructions lead to reversal on appeal. But accuracy is not enough.

We must also ensure that jurors can make sense of our instructions. Otherwise they will be flying blind. Even though appellate courts will presume that jurors understand instructions they are given, we serve justice better if we provide instructions that jurors of all backgrounds can actually absorb and follow.

The rest of this section suggests ways to draft model jury instructions that jurors are more likely to understand and therefore follow. The goal, as in all good legal writing, is to “embrace simplicity – while always resisting oversimplification.”¹

1.1.1. Use Short Sentences

Shorter sentences are better. They are easier to absorb. When you deliver your instructions orally, short sentences are punchier and help keep the jury engaged. And when you provide written copies of your instructions, short sentences are easier for all jurors to understand, whether they are avid readers or struggle with written texts.

“Short sentences add a pulse to your prose while giving the reader [or listener] much-needed breaks.”² That does not mean that every sentence must be pared to just a few words. Variety is useful. “You should have some 35-word sentences and some 3-word sentences. Just monitor your average, and work hard to keep it to about 20 words.”³

Too often, eager to explain every nuance, we instruct juries using sentences that are weighted down with complicated syntax and impenetrable dependent clauses. Instructions written this way are hard to follow. They also put juries to sleep.

So craft your instructions in small pieces. Break down what you need to convey into short sentences. Make one point. Then make the next logical point. And omit needless words so that each sentence is crisp, clear, and conversational.⁴

¹ See Bryan A. Garner, *Legal Writing in Plain English 2* (2d ed. 2013).

² Ross Guberman, *Point Taken: How to Write Like the World’s Best Judges* 181 (2015).

³ See Garner, *supra*, at 27.

⁴ See Garner, *supra*, at 24–25.

1.1.2. Use Short Paragraphs.⁵

What goes for sentences is true for paragraphs; shorter is better. When laying out model jury instructions, keep each paragraph to just a few sentences. No paragraph should be more than seven or eight lines long. Most should be shorter than that.

And the occasional one-sentence paragraph can really make a point stand out.⁶

Shorter paragraphs work better for juries and judges. When charging a jury, it is easier to read or work from instructions laid out in short, bite-sized paragraphs. Shorter paragraphs let the judge regularly look up and make eye contact with jurors, because they make it easy to find your place in the text again. That is true whether a judge reads from paper or an electronic screen when charging the jury. If a paragraph gets too long it is easy to lose track of one's place while charging a jury.

Jurors consulting copies of the written instructions during their deliberations will also welcome short paragraphs. Jury instructions are filled with difficult and abstract concepts that are brand new to most jurors. Paragraph breaks give jurors a chance to take a breath and absorb what they just (re)read.

If breaking a long paragraph into shorter ones gives you pause—because all of the sentences together explain one point—consider dividing it into smaller chunks and use indentation to link your main point with the supporting explanation, as is done here.

Your first point, the topic sentence of what would be a very long paragraph, should start at the normal left margin of the document. The prior paragraph is an example.

Then, each of the subsidiary points that explain the topic sentence can be formatted as smaller, indented paragraphs that appear below—as shown here. This technique creates extra visual clues to help keep your place while charging the jury, but makes clear that the indented paragraph explain the point made in the topic sentence.

1.1.3. Be Brief Where Possible

Jury instructions may need to cover a lot of ground. But it is important to avoid unnecessary repetition. The longer it takes to deliver a complete set of jury instructions, the more likely that jurors will not absorb everything you are telling them. So leave out what you can safely leave out.

⁵ See Garner, *supra*, at 88–90.

⁶ “[T]here’s nothing wrong with an occasional one-sentence paragraph. The superstition to the contrary is a remnant of half-remembered grammar-school lessons.” Garner, *supra*, at 88.

There is no need to express a single legal concept more than once. And if you make the same point in different ways, you may confuse jurors. “Every possible correct statement of law need not ... be included in jury instructions if the instructions as given are correct and touch on the fundamental elements of the claim.”⁷

Repetition may have had value in the past when judges only delivered instructions orally. When jurors did not receive copies or recordings of the instructions, it was important to repeat key points so they did not get lost. But today the best practice is to supplement oral instructions with written copies; judges may also choose to give jurors a recording of the oral instructions. So use repetition sparingly.

1.1.4. Use Simple Words

It is important to use words that all jurors understand. Avoid words not used in everyday speech. Where you must use a word that some jurors might not understand, you should explain what it means.

For example, in criminal cases you need to use the word “unanimous.” But you should also explain that means all jurors must agree on the verdict. The word “impartial” is another example. Many people find it confusing; some think it means “partial.” Better to say “unbiased” or “not biased” and explain what that means.

1.1.5. Avoid Abstract Terms

It is best to avoid abstract phrases that are unfamiliar to juries. For example, instructions should refer to the judge as “I,” not as “the Court.” And it is best to refer to the jurors as “you,” not “the jury.”

And we should not assume that jurors understand terms that are second nature to lawyers and judges. For example, judges should generally use the parties’ names rather than labels like “plaintiff” and “defendant.” See § 3.2.2. So model instructions should be formatted in a way that makes it easy to search for such labels and replace them with parties’ names. See § 1.2.1.

1.1.6. Avoid Legalisms

Many legal catchphrases are well understood by judges and lawyers. Others are not so easy to understand, but are part of regular legal discourse.

But legal phrases distract rather than inform jurors. Many jurors who hear a judge discuss “proximate cause” think they are being asked to figure out something called

⁷ *Kobayashi v. Orion Ventures, Inc.*, 42 Mass. App. Ct. 492, 503 (1997).

“approximate cause.” Other examples of unnecessary and confusing legalisms may include “unnatural sexual intercourse,” “joint venture,” and “third party.”

Where possible, leave out the legal phrase and just explain the concept in plain English.

1.1.7. Use Active Verbs—Try to Avoid Passive Ones

It is better to avoid the passive voice. Where possible, phrase instructions more directly.

What do we mean by active or passive voice? “In an active-voice construction, the subject does something (*The court dismissed the appeal*). In a passive-voice construction, something is done to the subject (*The appeal was dismissed by the court*).”⁸

Using the active voice has many advantages. It “generally saves words, says directly who does what, and makes for better, more interesting prose.”⁹ And it makes reading or listening easier because the active voice “meets the English speaker’s default expectation that the subject of a sentence will perform the action of the verb.”¹⁰

1.1.8. Use Positive Statements—Try to Avoid Negatives

Academic research shows that negative expressions are harder to process than positive statements.¹¹ So try to put things in positive terms, and avoid negative constructions, when crafting model jury instructions.

Sometimes negative constructions are necessary. In contrasting deadly with nondeadly force, for example, the latter probably has to be described as force that is neither intended nor likely to cause death or serious bodily harm.

But stop and think before keeping negative expressions in your final draft. If you can make a point or explain a concept in positive terms, it will be that much easier for jurors to understand your instruction.

⁸ Bryan A. Garner, *Legal Writing in Plain English* 36 (2d ed. 2013).

⁹ *Id.* at 38.

¹⁰ *Id.* at 36.

¹¹ See Janet Randall, “How Just Is Justice? Ask a Psycholinguist,” in *Grammatical Approaches to Language Processing* 275, 281 (2019).

1.1.9. Prefer Active Verbs over Nouns Derived from Verbs¹²

Academic research also shows that listening or reading comprehension falls off when a text uses noun forms of verbs. “Nominalizations” are abstract nouns built from verbs. They often but not always end in *-ion*.

Active verbs can often substitute for these abstract nouns. For example, instead of telling a jury they may take something “into consideration,” one could instruct the jury that they are free to “consider” something.

Noun forms of verbs are harder to process because they leave out the subject or object that would normally be associated with the verb. Our brains struggle to fill the implicit gap. As we parse a sentence with noun forms of verbs, we automatically try to put the missing subject or object back in; that is distracting and interferes with understanding.¹³

Here is an example from California, which has made a concerted effort to translate model instructions into English. Previously, the California models included this general instruction: “Failure of recollection is common. Innocent misrecollection is not uncommon.”¹⁴ The new version uses wording that most jurors are much more likely to understand: “People often forget things or make mistakes in what they remember.”¹⁵

The old version was confusing for many reasons. One is that it contained three nouns derived from verbs, without stating who is failing, what they are not recollecting, or who is misrecollecting what. The new version of this instruction uses verbs and explicit subjects or objects: “people ... forget things” or “make mistakes.”

So, when drafting model instructions, use simple nouns and verbs. Avoid noun forms of verbs. Using a verb rather than its noun form will make an instruction easier to follow.¹⁶

1.1.10. Be Direct—Try to Avoid General Statements of Law

In explaining the elements of a charge or claim, one should keep the jury focused on what the Commonwealth or plaintiff must prove. Avoid general descriptions of legal

¹² See Janet Randall, *supra*, at 277 & 281; Bryan A. Garner, *supra*, at 53–55; Nancy S. Marder, “Bringing Jury Instructions into the Twenty-First Century,” 81 *Notre Dame Law Review* 449, 477 (2006).

¹³ Janet Randall, *supra*.

¹⁴ California Jury Instruction Book of Approved Jury Instructions, Instr. No. 221 (5th ed. 1969).

¹⁵ Judicial Council of California Civil Jury Instructions, Instr. No. 107 (available at courts.ca.gov/partners/documents/Judicial_Council_of_California_Civil_Jury_Instructions.pdf).

¹⁶ Bryan Garner, *supra*, at 53.

principles. The aim is to tell jurors what they need to decide to resolve the case before them, not to teach them the law untethered to the verdict they must render.

It is more difficult for jurors to absorb and make sense of instructions that are stated as abstract principles. Even if the judge goes on to explain the point, injecting an abstract concept will distract jurors and impede their understanding.¹⁷ So instructions should “be as concrete as possible;” instead of conveying “abstract legal principles,” they “should tell jurors how to reach a verdict.”¹⁸

Here are several examples of common instructions that include abstract propositions, with suggestions on how to restate them more directly and concretely.

In rape cases, many juries have been told that “natural intercourse consists of inserting the penis into the female sex organ” and “unnatural sexual intercourse” includes “cunnilingus” (often undefined) or some other “intrusion” of a body part or other object into a woman’s genital opening. Statements phrased in this way make jurors struggle unnecessarily.

A more direct approach would be to explain what the Commonwealth must prove in light of the evidence in the case. Where the Commonwealth has presented evidence of vaginal penetration, one could instruct that the Commonwealth must prove the Defendant penetrated some part of the woman’s genital opening. The judge could then explain that the Commonwealth does not have to prove the Defendant penetrated the woman’s vagina (noting that this is the internal part of a woman’s genital area), but could also prove this element by showing the Defendant touched some part of the woman’s vulva or labia (the external part of a woman’s genital area).¹⁹ There is no need to mention or define “natural” or “unnatural” sexual intercourse.

Here’s a second example. When a crime includes an element of assault, jurors are often instructed that “an assault may be committed in one of two ways,” one type of assault “consists of an attempt to commit a battery” (sometimes juries are told this is an “attempted battery”) and the other type “consists of conduct that places another in

¹⁷ The problem is not new. See *United States v. Cohen*, 145 F.2d 82, 93 (2d Cir. 1944) (Learned Hand, J.) (“It is exceedingly doubtful whether a succession of abstract propositions of law, pronounced staccato, has any effect but to give [jurors] a dazed sense of being called upon to apply some esoteric mental processes, beyond the scope of their daily experience[.]”).

¹⁸ See Peter M. Tiersma, “Communicating with Juries: How to Draft More Understandable Jury Instructions,” 5 (National Center for State Courts), at <https://pdfs.semanticscholar.org/2213/44295ae490054fe852ae2219206086482892.pdf/>.

¹⁹ See *Commonwealth v. Donlan*, 436 Mass. 329, 336 (2002); *Commonwealth v. Gichel*, 48 Mass. App. Ct. 206, 213 (1999).

reasonable fear of bodily harm” (sometimes labeled a “threatened battery”). Further explanation of the attempted battery theory typically notes that “fear or apprehension on the part of the person assaulted is not an essential element of this type of assault.”

One could reframe the same points by stating that the Commonwealth must prove the defendant assaulted another person either by (a) trying to injure the person or to touch him or her without consent, or (b) by putting the other person in fear of being injured or touched without their consent. And one could explain that if the Commonwealth proves an assault in the first way it does not have to show that the other person was actually afraid of the defendant. Typical jurors will more easily understand instructions phrased this way, rather than telling them what assault “consists of” or that “apprehension ... is not an essential element.”

1.2. Referring to People in Model Instructions

1.2.1. Standard Abbreviations: PLF, DFT, CO-D, AVM, WNS.

When charging a jury, it is best to use names rather than generic descriptors like “plaintiff” or “defendant.” Jurors more easily understand instructions that refer to parties or other participants by name rather than legal terms. To the extent that charging judges choose to use such legal terms, they should define who they are talking about, usually in their pre-charge as well as in their final instructions.

To facilitate the use of names, model instructions should use a standard set of acronyms that a judge can easily replace with the names of those involved in a particular case. For “search and replace” to work, the acronyms must be letter combinations that generally do not appear in English words. Model instructions should use these acronyms, in all capital letters:

- Plaintiff = PLF
- Defendant = DFT
- Co-Defendant = CO-D
- Victim, Alleged = AVM
- Witness = WNS

Avoid the term “victim” unless it is undisputed that there is a victim, as where the defendant concedes that someone has been criminally assaulted and identification of the perpetrator is the only issue. The term “victim” is conclusive in nature and suggests a predetermination that a person has been wronged. When drafting model instructions use the acronym AVM so the charging judge can substitute the person’s name. If the

charging judge prefers to use the descriptor “alleged victim,” or even “victim,” the judge is free to do so. But model instructions should use the standard acronym.

1.2.2. Use Gender Inclusive Language

Make sure that model instructions use gender-neutral terms, rather than masculine or feminine words. Replace gendered terms with general neutral ones. For instance, substitute “mail carrier” for “mailman.” If you are speaking of a single hypothetical individual, use “person” instead of “man.”

Pronouns create a special problem. Linguistically, pronouns are words that refer to people by replacing names and other proper nouns. Pronouns indicate a person’s gender, but not all people identify by gender. The English language does not have a widely accepted gender-neutral third- person singular personal pronoun. Although people sometimes use “they” as a singular pronoun, do not do so in drafting model instructions; it sounds ungrammatical to some and may actually confuse jurors. Rework sentences in the plural to avoid gendered pronouns and possessives. When use of a gendered pronoun is unavoidable, use both male and female pronouns.

1.2.3. Avoid Terms that May Be Sexist or Demeaning

Gender bias can be subtle and unintentional. One must be alert to keep it out of model jury instructions.

For example, consider the terms “complaining witness” and “complainant,” which too often refer to an alleged victim in a sexual assault case. Both terms carry subtly negative connotations. “Complain” means to “express grief, pain, or discontent;” synonyms include “beef, bellyache, bitch, bleat, carp, fuss, kvetch,” among others.²⁰ Our case law often describes sexual assault victims as the “complaining witness.” It rarely describes any other alleged victims in that manner. As the vast majority of sexual assault victims are female or children, using this term subtly undermines the credibility of the witness and the seriousness of the allegation based on gender.²¹

²⁰ See <https://www.merriam-webster.com/dictionary/complain/> (visited Apr. 30, 2020).

²¹ In addition, it is arguably inaccurate or at least legally confusing to describe an alleged victim this way. Historically a “complaining witness” is the police officer or prosecutor who attests to facts in an arrest warrant application or criminal complaint, and thereby procures an arrest or initiates a criminal prosecution. See *C.M. v. Commissioner of the Dept. of Children and Families*, 97 Mass. App. Ct. 343, 350–351 (2020); accord *Rehberg v. Paulk*, 566 U.S. 356, 370 (2012). “A ‘complaining witness’ might not actually ever testify, and thus the term ‘witness’ in ‘complaining witness’ is misleading.” *Rehberg, supra*, quoting *Kalina v. Fletcher*, 522 U.S. 118, 135 (1997) (Scalia, J., concurring).

It is best to avoid these terms. In model instructions, use the placeholder AVM so that judges can easily replace it with the person's name. Or, if the instruction is not referring to a particular person, substitute a neutral phrase like "alleged victim."

1.3. Formatting Model Instructions

A jury instruction must be formatted to make it easy to use when charging a jury. The format must also continue to work after a judge copies a model into a case-specific set of instructions, using either one of the master templates or the judge's own document.

For ease of use, the format needs to work well for judges who print out their instructions and read from paper, and also for judges who read their instructions from the screen of a laptop or tablet. Either way, a judge must be able to see the words clearly and read them from some distance without hunching over the document. And the judge must be able to do so whether seated or standing at a podium. The format must also allow judges to look up and make frequent eye contact with jurors, rather than force judges to keep their eyes locked on the printed page. The standard format for model jury instructions achieves these goals. It is explained and shown in §§ 1.3.1–1.3.2.

For functionality after copying, citations must be presented in a way that makes them a useful resource, while making it easy for judges to delete the citations if they wish. And model drafters should use a simple formatting technique if they want to ensure that a certain paragraph or paragraphs will always print on one page. These points are covered in §§ 1.3.3–1.3.4.

1.3.1. Font and Spacing

Several formatting or “typographical” options determine whether a model instruction will be easy to read and use when charging a jury.²² Most important are the font or typeface, the size of the font, the amount of text on each line (a function of font or print size and margins), the space between each line, and how new paragraphs are started.²³

The general instructions subcommittee carefully compared and considered many options for each of these choices. It determined that 14-point is the right size for jury instructions; text at that size is big enough to be read at arms-length, but not too big. And the subcommittee concluded that charging a jury is easier with paragraphs that are set off from each other with extra space, rather than indented on the first line.²⁴

²² The design and layout of written text is called typography; the term encompasses everything that affects the visual appearance of written words. Good typography makes it easier to read text in the particular circumstances where it will be presented or used. The general instructions subcommittee followed many typographical tips and suggestions in an incredibly useful online guide by attorney, typeface designer, and typographer Matthew Butterick. See Butterick's *Practical Typography* 2d Ed., at <https://practicaltypography.com/>.

²³ See Butterick at <https://practicaltypography.com/typography-in-ten-minutes.html/>.

²⁴ As Butterick explains, “First-line indents and space between paragraphs have the same relationship as belts and suspenders. You only need one to get the job done. Using both is a

As for font choice, the subcommittee looked at a wide range of fonts that are supported on both Windows-based computers (like the laptops provided by the Trial Court) and Apple computers (for those of us who use them).

It considered the Times New Roman font because so many judges already use it for their jury instructions and written decisions. This font was created for the *Times* of London newspaper to be legible on newsprint and printed in columns. That is why it is so much narrower than most text fonts.²⁵ That makes the font a poor choice for jury instructions. It is just too hard to read.

The subcommittee also considered quite a few other serif and non-serif fonts.²⁶ Among the serif options, Palatino Linotype—which is the typeface used in these guidelines—was the most readable. The winning non-serif font is called Segoe UI Historic.

The subcommittee believes that the best, most readable format for model instructions uses 14-point Segoe UI Historic with appropriate line spacing. The **examples on the next page** show what a familiar jury instruction excerpt looks like at a 14-point size in Times New Roman, Palatino Linotype, and Segoe UI Historic. The version in Times New Roman is the hardest to read. The Palatino version is easy to read silently to oneself. But when charging a jury, reading aloud while making eye with jurors, the Segoe UI version seems to work best.

The model jury instruction template is set up using a 14-point Segoe UI Historic font and appropriate margins, line spacing, and paragraph spacing.²⁷ There is no need to learn how to set all of those parameters. Instead, the template uses a standard “style” that includes the selected format. Sections 2.1–2.2 explain how to use styles in general and how to use the model template in particular. Judges who would rather use a different font or point size, or double-spaced paragraphs, can change the models to match their personal preference. Section 3.3.1 explains how to change the font and point size; Section 3.3.2 explains how to switch to double-spacing with indented paragraphs.

mistake. If you use a first-line indent on a paragraph, don't use space between. And vice versa.” See Butterick at <https://practicaltypography.com/first-line-indent.html>.

²⁵ See Butterick at <https://practicaltypography.com/times-new-roman-alternatives.html>.

²⁶ “A serif is a decorative stroke that finishes off the end of a letters stem (sometimes also called the ‘feet’ of the letters). In turn, a serif font is a font that has serifs, while a sans serif is a font that does not (hence the ‘sans’),” as the word *sans* means *without* in French. <https://www.impactbnd.com/blog/sans-serif-vs-serif-font-which-should-you-use-when> .

²⁷ The template has one-inch left and right margins, sets line spacing within each paragraph at exactly 20 points (this puts 6 points of space between each line of 14-point text), and inserts an extra 6 points of space (for a total of 12 points) between each paragraph. One point equals 1/72 of an inch.

Times New Roman:

What is proof beyond a reasonable doubt? The term is often used and probably pretty well understood, though it is not easily defined. Proof beyond a reasonable doubt does not mean proof beyond all possible doubt, for everything in the lives of human beings is open to some possible or imaginary doubt. A charge is proved beyond a reasonable doubt if, after you have compared and considered all of the evidence, you have in your minds an abiding conviction, to a moral certainty, that the charge is true. When we refer to moral certainty, we mean the highest degree of certainty possible in matters relating to human affairs—based solely on the evidence that has been put before you in this case.

Palatino Linotype:

What is proof beyond a reasonable doubt? The term is often used and probably pretty well understood, though it is not easily defined. Proof beyond a reasonable doubt does not mean proof beyond all possible doubt, for everything in the lives of human beings is open to some possible or imaginary doubt. A charge is proved beyond a reasonable doubt if, after you have compared and considered all of the evidence, you have in your minds an abiding conviction, to a moral certainty, that the charge is true. When we refer to moral certainty, we mean the highest degree of certainty possible in matters relating to human affairs—based solely on the evidence that has been put before you in this case.

Segoe UI Historic:

What is proof beyond a reasonable doubt? The term is often used and probably pretty well understood, though it is not easily defined. Proof beyond a reasonable doubt does not mean proof beyond all possible doubt, for everything in the lives of human beings is open to some possible or imaginary doubt. A charge is proved beyond a reasonable doubt if, after you have compared and considered all of the evidence, you have in your minds an abiding conviction, to a moral certainty, that the charge is true. When we refer to moral certainty, we mean the highest degree of certainty possible in matters relating to human affairs—based solely on the evidence that has been put before you in this case.

1.3.2. For Emphasis Use Bold, Not Italics or Underlining

It is sometimes helpful to use **bold-faced type** to emphasize a word or phrase. The Introduction at page 1 above provides an example. It summarizes the three parts of these guidelines and uses a bold font to make obvious where the topic changes from the first part to the second and third.

This simple technique can be useful in drafting model instructions. Let's say you are drafting an instruction for a crime that has four elements. After listing the elements in summary form, the instruction goes on to explain each element in more detail. Bold emphasis can easily set off each part of what follows. The instruction might say that, "To prove the **first element**, the Commonwealth must show..." After explaining that point, it might then say something like, "As to the **second element**..."

If you wish to emphasize an occasional word or phrase, use a bold font. Do not use italics, underlining, bold italics, or bold underlining. Since the template uses a non-serif font, italics will not stand out visually and underlining will make words harder to read; bold print will provide a more obvious contrast. Indeed, even with a serif font like this Palatino, the best way to emphasize a word or phrase is with simple bold type.²⁸

1.3.3. Put Citations in Footnotes, Avoid Quotation Marks

When drafting model jury instructions, include all case and statutory citations as footnotes. Many judges appreciate citations that guide them to the key appellate case law and alert them to statutory nuances. Footnotes are generally much easier to use than endnotes. And, of course, no citations should be included in the main text because it would make the instruction much too hard to read aloud.

When citing a case a second time within a single model instruction, use a short form citation (such as *Russell*, 470 Mass. at 477–478). But do **not** use *Id.*, even if the second cite is to the same page as the first cite. Doing so is risky when drafting an instruction. It is too easy to insert new text with a new citation between two existing footnotes, and accidentally make an *Id.* refer to the wrong case.

Judges who prefer to give jurors written instructions with no footnotes and thus no citations can easily do so. It is a simple matter to delete footnotes from a model instruction, or any Word document, by searching for all the footnote marks and replacing them with nothing. Section 3.3.2 explains how.

²⁸ See Butterick, <https://practicaltypography.com/bold-or-italic.html> and <https://practicaltypography.com/underlining.html>.

Since some judges will prefer to delete the footnotes from model jury instructions, it is **best not to use quotation marks** when drafting a model—even if you are quoting from a statute or appellate decision. Otherwise a judge who deletes the footnotes will be left with confusing and unexplained quotation marks. If you want to indicate that certain language is quoted from a statute or decision, you can cite the source in a footnote and include a parenthetical that repeats, in quotes, the language from the original source.

1.3.4. “Keep Lines Together” and “Keep with Next”

Sometimes a page break makes something harder to read aloud than we would like. If a paragraph is only four or five lines long, we might want to make sure that all the lines are on one page instead of broken across two; that way we can see the entire paragraph in one place when instructing the jury. Other times we might want to make sure that two or three paragraphs all appear together on the same page. For example, if we are listing the elements of a charge or claim, we may want to make sure that they all print out on a single page.

Resist the urge to add blank lines to force a paragraph onto the next page! Adding blank lines inside a model instruction will create formatting problems for the judge who copies that text into the full set of instructions for a particular case.

Modern word processing software has simple formatting commands to accomplish these goals without having to insert blank lines that will later create problems.

The **Keep Lines Together** command will make sure that all of the lines of a particular paragraph print on a single page. If a paragraph with this format ends up at the bottom of the page, and normally a page break would split the paragraph in two, this formatting command has the effect of moving the entire paragraph to the next page.

The **Keep with Next** command will make sure that multiple paragraphs appear together on one page. If a paragraph with this format ends up at the bottom of the page, and normally the immediate next paragraph would be at the top of the following page, this formatting command has the effect of moving the first paragraph (the one with the **Keep with Next** format) onto the next page so it stays with the following paragraph.

Here is how to use either or both of these formatting commands:

Keeping Paragraphs on One Page

Keep Lines Together	right click inside the paragraph you want to format click <Paragraph> to open the paragraph formatting window click <Line and Page Breaks> at the top of that window put a ✓ next to “Keep lines together”
----------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Keep with Next right click inside the paragraph you want to format
click <Paragraph> to open the paragraph formatting window
click <Line and Page Breaks> at the top of that window
put a ✓ next to “Keep with next”

There is an **alternate way** to access these paragraph formatting commands. You can use this method if for some reason right-clicking is not working for you. The instructions for doing so vary slightly depending on whether you are using MS-Word on a Windows-based machine (like the laptops issued by the trial court) or on a MacOS-based machine (like an Apple iMac or MacBook). See below.

Alternate Way to Keep Paragraphs on One Page (Keep lines together or Keep with next)

Word for Windows put your cursor inside the paragraph you want to format
click the <Home> tab in the ribbon, near the top of the screen
find the <Paragraph> section of the menu that opens
click the tiny button to the right of the word “Paragraph”
 – it looks like an angle bracket with an arrow ↘ pointing down
 – this “dialog box launcher” opens a formatting window
put a ✓ next to “Keep lines together” or “Keep with next”

Word for Mac put your cursor inside the paragraph you want to format
click on <Format> in the menu line at the top of the screen
click on <Paragraph>
put a ✓ next to “Keep lines together” or “Keep with next”

1.3.5. Notes to Judges.

When drafting model instructions, use appropriate notes to the trial judge regarding when to use, delete, or modify particular model instructions. Such notes should be set off using angle brackets and formatted in bold italics, <***like this***>.

For example, if a section of a model instruction is not needed in every case, but it will be obvious when the instruction is needed and when it is not, one could include a note that says <***omit if not relevant***>. The model general instructions for criminal cases include this note at the beginning of the instruction to be given if the defendant does not testify.

2. USING THE JURY INSTRUCTION TEMPLATES

2.1. Selecting and Using Styles in Microsoft Word

The templates discussed below include standardized formatting for each part of a jury instruction. This makes it easy to keep things like headings, basic text, and numbered

lists of elements of a crime formatted consistently. The following sections explain which styles in the templates should be used for each part of a jury instruction.

To be able to use the templates and their built-in formatting, you need to understand how to use and select “styles” in MS-Word. It is easy, and well worth the few minutes it will take, to get acquainted with this important word processing feature.

Styles let you use consistent formatting for each part of a document, without having to change the format paragraph-by-paragraph. Each style gets a name and a set of specific formatting instructions. When you select and apply the style to a paragraph, all of those formatting instructions automatically apply to the paragraph. That allows you to select and use those formats without having to understand or take the time to change a myriad of individual settings every time you come to a new part of your document.

To select and apply a style to a particular paragraph in MS-Word, you need to open the “style pane” and click on the proper style. Follow these instructions:

Selecting a Paragraph Style

- | | |
|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Word for Windows | put your cursor inside the paragraph you want to format
click on the <Home> tab in the ribbon, near the top of the screen
find the <Styles> section of the menu that opens in the ribbon
click on the tiny button to the right of the word “Styles” <ul style="list-style-type: none">– it looks like an angle bracket with an arrow ↘ pointing down– this “dialog box launcher” opens the Styles Pane click on the Style you want to apply to that paragraph |
| Word for Mac | put your cursor inside the paragraph you want to format
click on the <Home> tab in the ribbon, near the top of the screen
at the far right, click on <Styles Pane>
click on the Style you want to apply to that paragraph |

2.2. The Model Jury Instruction Template

The model template is very easy to use. The following sections describe and explain how to use the key formatting styles (see § 2.1) contained in the template. The template contains formats for the title of each model instruction, the regular text, and indented, numbered, or bulleted paragraphs.

The template contains examples of each style and brief reminders of which style to use where. But when you are actually drafting a model instruction you can open a copy of the template, replace the text in the first heading line with the name of your instruction, hit return, delete the other reminder lines in the template, and starting writing.

Just make sure to use the right style in the right place and all model jury instructions will be formatted the same way.

There is also a **separate tutorial** that provides step-by-step and visual directions on how to use the template to format model instructions, consistent with the discussion below.

2.2.1. Introductory Title—Use the Style!

The first line of every model jury instruction should be a very short title. Use a phrase that would make sense and fit if copied into a table of contents.

To format the title properly, open the model instruction template and replace the bold reminder on the first line with your title. Do so **without** deleting the paragraph mark at the end of the line; that way you will be using the correct style. Once you finish your title, hit return.

As shown in the template, the proper style for this title or heading line is the JuryInst2 style. When you hit return, the next paragraph will automatically be formatted with the Jury Instruction Text style used for the body of the instruction. See § 2.2.2.

It may look like the title line in JuryInst2 style is just a regular paragraph with bold print turned on. But there is actually some extra formatting hidden from view that designate this as a heading of a certain level. That extra formatting matters if you use the “document map” feature of Word or use an automatic table of contents.

The civil and criminal master templates are designed to make it easy to generate a table of contents showing jurors where to find each part of the instructions. That feature will continue to work properly when judges copy model instructions into a master template to create a complete set of jury instructions for a particular case.

But this table of contents feature will work only if you use the JuryInst2 style for the heading of each model instruction. So use the style in the first line of the model template for the title of each model instruction.

2.2.2. Main Text and Indented Paragraphs

Regular text in a model instruction should use the Jury Instruction Text style. In the template, the blank line under the title uses this style. Start the body of your model instruction there. When you hit return, the next paragraph will have the same style. This style looks like the Segoe UI reasonable doubt example on page 13, above.

You may want to indent an entire paragraph, i.e. move it in from the left margin toward the center a little bit, to show it contains a subsidiary point and to help judges find their place while charging a jury. See § 1.1.2.

There are two ways to indent a paragraph. You could apply the Jury Instruction Indent style in the template. You could also use a menu command in Word to indent a paragraph, or a similar command to reverse the indent, as follows:

Increasing and Decreasing Paragraph Indents

Indenting a Paragraph click on the <Home> tab in the ribbon, near the top of the screen
find the <Paragraph> section of the menu that opens in the ribbon
in the top row, find and click on the <Increase Indent> icon
—it is supposed to look like a right arrow → pushing a paragraph

Unindenting a Paragraph to reverse the process, follow the first two instructions above, and then
in the top row, find and click on the <Decrease Indent> icon
—it is supposed to look like a left arrow ← pulling a paragraph

With either method, the paragraph will be indented 3/10 inch from the left margin. The model template has default tab stops and thus default indents every 3/10 of an inch. Microsoft sets the standard Word default to half an inch, because back in the day manual typewriters in this county had tab stops every half inch. But half an inch is more of an indent than you need to make a visual difference.²⁹ A 3/10 inch indent makes the indent obvious without creating unnecessary white space.

2.2.3. Numbered Elements

To create a numbered list of the elements of a crime, you should type the introductory sentence using the regular Jury Instruction Text style, and then use the Jury Instruction Elements style to format the numbered paragraphs.

For consistency, the **introductory sentence** of all model instructions should use standard wording to introduce the elements of a criminal charge or civil claim. When listing the elements that must be proved in a criminal case, the introductory sentence of a model instruction should be:

To prove DFT is guilty of CRIME, the Commonwealth must prove beyond a reasonable doubt that:

If a model civil instruction includes a list of elements of a claim, the introductory sentence should be:

To prove CIVIL CLAIM, PTF must prove that the following things are more likely true than not true:

Judges are free to vary this wording, just as they retain full discretion to modify all parts of a model instruction as they see fit. See § 3.1.

²⁹ See Butterick at <https://practicaltypography.com/first-line-indents.html>.

With respect to **formatting**, the Jury Instruction Elements style provides standard indents and margins for a numbered list,³⁰ but the numbering itself is **not** automatic. For each element you need to type the number, a period, and a tab, and then summarize the element.

Using this style, a numbered list of elements of a crime would look like this:

To prove DFT is guilty of possessing a loaded firearm, the Commonwealth must prove beyond a reasonable doubt that:

1. DFT knew he was in possession of an object;
2. the object was a firearm;
3. the firearm contained ammunition at some time while DFT had it in his possession; and
4. DFT knew that the gun was loaded.

There is a good reason not to use automatic numbering for a list of elements. Word is not very good at distinguishing between different numbered lists in the same document. If we use automatic numbering for element lists, when two or more models get put together into a single document, the second list will not restart the numbering. So the first indictment might have elements 1–4, and the second indictment would show elements 5–8. Since lists of elements are short, and it is easy enough just to type in the numbers, the Jury Instruction Elements style includes all the coding to create consistent and clear formatting, but no automatic numbering.

This style is set up so that when you hit a return the next paragraph will be another Jury Instruction Elements style. That makes it a little easier to write up a list of elements.

As a result, once you finish the last element and hit return, you will need to set the style of the next paragraph back to Jury Instruction Text. See § 2.1.

2.2.4. Bulleted Lists

The model template also includes a style for bulleted lists. The style discussed in the prior section for numbered lists should be used only for elements of crimes or civil claims. Lists of other things in model instructions should not be numbered. But it may sometimes be helpful to list other things in a bulleted format, without any numbers.

³⁰ In the Jury Instruction Elements style, the number is indented by 0.35", a tab to start the text brings you to a hanging indent of an extra 0.25", and the right margin is indented by 0.3".

The Jury Instruction Bullets style works a lot like the style for numbered elements, except it automatically puts in the bullet for each item in the list.

To create a bulleted list, you should type the introductory paragraph using the regular Jury Instruction Text style, and then use the Jury Instruction Bullets style for each item in the list.

Using this style, a bulleted list would look like this:

This is a made-up example of a bulleted list of very important things:

- first item in the list;
- then the second item, which if it happened to be long enough would wrap onto the next line this way; and
- then conclude.

The bullets style is set up so that when you hit a return the next paragraph will be another Jury Instruction Bullets style. That makes it a little easier to write a bulleted list.

As a result, once you finish the last item in the list and hit return, you will need to set the style of the next paragraph back to Jury Instruction Text. See § 2.1.

2.2.5. Internal Headings and Subheadings – Use the Styles!

You may want to include headings or even subheadings to introduce different sections of an instruction. You should not use more than two levels of headings.

As with the title of each instruction, if you include headings and subheadings you should use a word or phrase that would make sense and fit if was copied into a table of contents in a complete set of jury instructions. As explained in § 2.2.1, the main title needs to be formatted with the “JuryInst2” style to work properly in a table of contents.

If you use headings within an instruction, each heading should similarly be formatted with the “JuryInst3” style. And if you use an additional level of subheadings, each subheading should be formatted with the “JuryInst4” style. By using these styles, any headings or subheadings will appear in the table of contents in the civil and criminal master templates. The **accompanying tutorial** explains how to apply these styles.

After you turn on the heading or subheading style and type the short name of your heading, hit return. The next paragraph will automatically be formatted for regular text in the “Jury Instruction Text” style.

2.2.6. Footnotes—One Tab then Type the Text

The footnote text style is in 11-point font, so that the footnotes will be noticeably smaller than the text of the model jury instructions. As described in § 1.3.1, the template uses a font called Segoe UI Historic set in 14-point size, which looks like this:

The quick brown fox jumped over the lazy dog.

Footnotes will look like this:

¹ See *Commonwealth v. Russell*, 470 Mass. 464, 477-478 (2015).

When you insert a footnote in the normal manner, the footnote will automatically open with a footnote text style formatted to match the rest of the model template.

After inserting the footnote, you must type a single “Tab” in the footnote before starting to type the footnote text. This style formats footnotes with a small hanging indent; the reference number will be at the left margin, you then type a single tab, and all of the footnote text will be indented 2/10 of an inch. This helps set it off the footnotes and make a clearer visual distinction from the body of the instruction. The footnotes in these guidelines are set up this way, except of course they are in a different font from the model template.

2.3. The Civil and Criminal Master Templates

There are [or will be] two master jury instruction templates, one for civil cases and one for criminal matters. The templates contain generic instructions suitable for use in all cases. There is a place to add case-specific instructions. The templates are formatted with the same styles as the model jury instruction template and are set up so you can automatically generate a table of contents.

If you choose to use the master templates, or a version you have modified to your liking, you will need to add all necessary case-specific instructions for all of the criminal indictments or civil special questions that your jury will need to decide.

No judge is required to use these templates. You may prefer to use your own. Or you may wish to take the templates, tailor them to your liking, and from then on start with your own personal template. See § 3.1 regarding judicial discretion in crafting jury instructions. But the master templates provide a useful starting point.

Before using either template for the first time, make sure you have a basic understanding of how to use **Styles in Microsoft Word**. The briefest of tutorials can be found at § 2.1, above.

Both templates have defined Styles for several levels of headings. The heading styles serve two purposes. One is to generate a table of contents. The other is to make it easy to navigate within the document by jumping straight to another section.

2.3.1. Generating a Table of Contents

It is easy to update the table of contents in either template. Here's how:

Updating the Table of Contents

Word for Windows type <Control-A> to select the entire document
right click anywhere in the document
click on "Update Field"
click on "Update entire table"
click <OK>

Word for Mac type <Command-A> to select the entire document
follow the last 4 instructions above

2.3.2. Using the Navigation Pane

It is also very easy to use the **navigation pane** to jump to a particular section within a document that contains proper heading Styles. This feature works exactly the same in Windows or Mac OS. Here's how to use it:

Using the Navigation Pane

Word for Windows click the <View> tab in the ribbon, near the top of the screen
find the <Show> section of the menu that opens
put a ✓ next to "Navigation Pane" to open a list of headings
click on any heading title to move to that spot in the document

Word for Mac follow the same instructions

2.3.3. Adding Case-Specific Instructions

Each master template contains a particular place to add case-specific instructions. In the civil template, the instructions specific to the case should be added to the section called "Questions for the Jury to Answer." In the criminal template, navigate to the section called "Elements that the Commonwealth Must Prove."

Whether you start with a model instruction or write your own, if you use some version of the master templates it is very important that you use the proper style for each part of the document. The heading that introduces discussion of a particular indictment or special question must use the JuryInst2 style. See § 2.2.1. Otherwise the table of contents

will not work properly. For the other parts of the case specific jury instructions use the styles that are explained in §§ 2.2.2 to 2.2.5.

Model jury instructions will come with and be formatted using all of these styles. Where model jury instructions exist, you may copy the model into the template and then modify it to fit your case. See § 3, below. After you copy a model instruction you can delete the footnotes, which contain only citations, if you wish. See § 3.3.2 for instructions.

3. ADAPTING MODEL INSTRUCTIONS

3.1. Judicial Discretion

The model jury instructions are intended to be accurate, comprehensive, and clear, promoting juror comprehension.

Use of the model instructions is suggested, not mandated. The models are not intended to and do not limit judges' "broad discretion in framing the language that is used in jury instructions."³¹ All judges retain "considerable discretion ... both in determining the precise phraseology used and the appropriate degree of elaboration."³² "[T]he judge is under no obligation to charge the jury in the specific language requested by a party" or recommended by the model instruction committee.³³ The only jury instruction that must be given verbatim without variation is the reasonable doubt instruction mandated by the Supreme Judicial Court.³⁴

All judges are free, indeed encouraged, to adapt the model instructions to facts and issues in a particular case. Judges may also revise wording to make an instruction clearer or put it in a form with which the judge is more comfortable. What the Supreme Judicial Court has said about its own model homicide instructions is equally true of the Superior Court's model instructions; though use of the models is recommended, "judges are not required to deliver their instructions in any particular form of words."³⁵

³¹ See *City of Beverly v. Bass River Golf Mgmt., Inc.*, 92 Mass. App. Ct. 595, 603 (2018).

³² *Commonwealth v. Rogers*, 96 Mass. App. Ct. 781, 784 (2019), quoting *Commonwealth v. Newell*, 55 Mass. App. Ct. 119, 131 (2002).

³³ See *McEvoy Travel Bureau, Inc. v. Norton Co.*, 408 Mass. 704, 715 (1990).

³⁴ See *Commonwealth v. Russell*, 470 Mass. 464, 477–478 (2015).

³⁵ See *Commonwealth v. Howard*, 479 Mass. 52, 61 (2018), quoting *Commonwealth v. Sinnott*, 399 Mass. 863, 878 (1987).

3.2. Turning Models into Case-Specific Instructions

Where you decide to use a model instruction, there are certain modifications you should always consider making.

3.2.1. Make the Elements Case-Specific

Adapt the elements of an offense or a cause of action to the facts or issues in each case. Doing so eliminates extraneous portions of the instruction that could otherwise confuse or distract the jury.

For example, if in a contract case everyone agrees the parties entered into an enforceable contract, there is no need to instruct the jury on contract formation.

If a statute sets forth elements that cover many different crimes, such as the “witness intimidation” statute, G. L. c. 268, § 13B, instruct only on what is at issue in your case. For example, if the defendant is charged with intimidating a grand jury witness who was also a potential trial witness, you need instruct only on those portions of the statute that apply to the case.

3.2.2. Using Names

It is generally preferable to use peoples’ actual names over labels or generic descriptors. For example, use the party’s name rather than “plaintiff” or “defendant.” This helps avoid confusing the jury. Using names also often eliminates any concern over the need to avoid references that are gendered, sexist or demeaning. Using names can also avoid concerns over the use of labels such as “victim,” “complainant”, and “complaining witness,” which carry with them undesirable connotations. See § 1.2.1 (victim), § 1.2.3 (complainant, complaining witness). However, a judge may choose to refer to someone as a “victim” where the defendant concedes that someone has been criminally assaulted and identification of the perpetrator is the only issue.

When using actual names, you should employ the same level of formality in referring to all persons mentioned in your instructions. For instance, if you refer to an alleged victim as Ms. X, then call the defendant Mr. Y. If you prefer to use the first name of a child witness, e.g. Paul Brown, then you should call the defendant John Jones. This affords equal respect and dignity to everyone and avoids the risk that jurors may infer that the way the judge refers to someone implies a personal view or opinion.

3.2.3. How to Replace Model Abbreviations with Names

The model instructions use a standard set of acronyms as placeholders for references to a plaintiff (PLF), defendant (DFT), codefendant (CO-D), alleged victim (AVM), or witness (WNS). See § 1.2.1.

As a general rule, you should replace each of these references with the name of the person you are referring to. Jurors more easily understand instructions that refer to parties or other participants by name rather than legal terms. Of course, if for variety's sake you wish to refer to "the defendant" from time to time, you are free to do so. But make sure you search out and replace each of the placeholder acronyms in any model instruction.

If you want to do a global search for and replace of every instance of a particular acronym in a Word document, here is how to do so.

Global Search and Replace

- | | |
|-------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Word for Windows | type <Control-H> to open the "Find and Replace" window
in the "Find what" box, type DFT (or another acronym)
in the "Replace with", type the person's name (e.g. Mr. Blackstone)
click on <More> in the lower left corner
click on "Match Case"
click on <Replace All> at the bottom |
| Word for Mac | type <Shift-Command-H> to open the "Find and Replace" pane
click on the little gear symbol, to the left of the <Find> button
click on "Advanced Find and Replace"
click on the "Replace" tab at the top
in the top "Find what:" box, type DFT (or another acronym)
in the "Replace with:" box, type the name (e.g. Mr. Blackstone)
click the down arrow in the lower left corner
click on "Match Case"
click on <Replace All> |

This will replace every instance of the selected acronym or other text in the entire document, no matter where your cursor was when you started to find and replace. If you want to replace items in part of a document—but not in the entire document—then you should put your cursor at the point where you want to start, follow the instructions above, and click "Replace" (instead of "Replace All") to make replacements one-at-a-time.

3.3. Reformatting Model Instructions

3.3.1. Changing the Font or Print Size

The model jury instruction template and the civil and criminal master templates all use a non-serif font called Segoe UI Historic in 14-point size, because it is clean and easy to read when charging a jury. See § 1.3.1.

Some of you might prefer to use a different font or point size. You may prefer to substitute a serif font, like the Palatino font used in these guidelines. Others might want a different size, say 13-, 15-, or 16-point rather than the size used in the templates.

It is very easy to change the font or the print size if you prefer to use something else when charging your juries.

If you want to change the font that is preset in the templates, the way to do it is by modifying the **Normal** style. (See § 2.1 for an explanation of how to use Styles in Word.) The other styles in the templates are built off the Jury Instruction Text style. That way changing the font in that one style automatically changes the others as well. Here's how.

Changing the Font

Word for Windows

open the document that you want to revise
click on the <Home> tab in the ribbon, near the top of the screen
find the <Styles> section of the menu that opens in the ribbon
click on the tiny button to the right of the word "Styles"
— it looks like an angle bracket with an arrow ↘ pointing down
— this "dialog box launcher" opens a formatting window
scroll down in the style list to the "Normal" style
hover your cursor over the "Normal" style
click the down arrow ▼ that appears to the right
click <Modify Style...>
click the down arrow ▼ to the right of "Segoe UI Historic"
select the font you wish to use by clicking on its name
click the <OK> button at the lower right

Word for Mac

open the document that you want to revise
click on the <Home> tab in the ribbon, near the top of the screen;
at the far right, click on <Styles Pane>;
then follow the last 7 instructions above starting with "**scroll down.**"

You can change the print size that is preset in the templates in much the same way. The only differences are that instead of modifying the Normal style you will modify the

Jury Instruction Text style, and instead of selecting a new font you can increase or decrease the point size of the text. Here's how to do that.

Changing the Print Size

Word for Windows

open the document that you want to revise
click on the <Home> tab in the ribbon, near the top of the screen
find the <Styles> section of the menu that opens in the ribbon
click on the tiny button to the right of the word "Styles"
– it looks like an angle bracket with an arrow ↘ pointing down
– this "dialog box launcher" opens a formatting window
scroll down in the style list to the "**Jury Instruction Text**" style
either click the down arrow ▼ to the right of "14"
and select a different size font,
or click on "14" and type in a different number
– you could type 13 or 15, even though not in the drop-down list
click the <OK> button at the lower right

Word for Mac

open the document that you want to revise
click on the <Home> tab in the ribbon, near the top of the screen;
at the far right, click on <Styles Pane>;
scroll down in the style list to the "**Jury Instruction Text**" style
hover your cursor over the "Jury Instruction Text" style
click the down arrow ▼ that appears to the right
click <Modify Style...>, then
either click the down arrow ▼ to the right of "14"
and select a different size font,
or click on "14" and type in a different number
– you could type 13 or 15, even though not in the drop-down list
click the <OK> button at the lower right

3.3.2. Using Double-Spacing.

Some judges may prefer to work from instructions with double-spaced paragraphs that have an indented first line and much more space between each line, instead of the spacing in the models (which is described in section 1.3.1 above). Here is how to change the models' paragraph formatting to double-spacing with indented paragraphs, by modifying the **Jury Instruction Text** style.

Changing to Double-Spacing

Word for Windows

open the document that you want to revise
click on the <Home> tab in the ribbon, near the top of the screen
find the <Styles> section of the menu that opens in the ribbon
click on the tiny button to the right of the word “Styles”
– it looks like an angle bracket with an arrow ↘ pointing down
– this “dialog box launcher” opens a formatting window
scroll down in the style list to the “Jury Instruction Text” style
hover your cursor over the “Jury Instruction Text” style
click the down arrow ▼ that appears to the right
click <Modify Style...>
at the bottom left, where it says “Format,” click the down arrow
click on “Paragraph...”
click in the small box next to “Special” (under “Indentation”)
click on “First line” [*that will give you indented paragraphs*]
click on the small box next “Line spacing:” (under Spacing)
click on “Double” [*that will give you double-spacing*]
where it says “After: 8 pt,” change it to say “After: 0 pt”
[*since you do not need extra space between double-spaced paragraphs*]
click the <OK> button at the lower right
click on the next <OK> button at the lower right

Word for Mac

open the document that you want to revise
click on the <Home> tab in the ribbon, near the top of the screen;
at the far right, click on <Styles Pane>;
then follow the last 13 instructions above starting with “**scroll down.**”

3.3.3. Deleting Footnotes from Model Instructions.

Most of the model instructions include footnotes with citations. If you do not want the footnotes, there is an easy way to use or start with the model but delete the footnotes. Word allows you to search for all of the footnote marks in the text and replace them with nothing.³⁶ That deletes every footnote. Here’s how to do it.

³⁶ Actually this method replaces the footnote with one blank space. If you want to eliminate such double spacing after you have deleted footnotes, you should perform a find-and-replace that searches for two spaces and replaces each such instance with one space.

Deleting All Footnotes

Word for Windows type <Control-H> to open the “Find and Replace” window
in the “Find what” box, type “^f” (for the ^ symbol type shift 6)
leave the lower “Replace with” box blank
click on <Replace All> at the bottom

Word for Mac type <Shift-Command-H> to open the “Find and Replace” pane
in the top “find” box, type “^f” (for the ^ symbol type shift 6)
leave the lower “replace” box blank
click on <Replace All> immediately below

This will delete all of the footnotes in the entire document, no matter where your cursor was when you started to find and replace. If you want to delete footnotes from only part of a document, rather than delete all of the footnotes, you should put your cursor at the point where you want to start finding and deleting footnotes, follow the instructions above, but click “Replace” —instead of “Replace All”—to delete footnotes one-at-a-time.

Alternatively, one could copy text from a model instruction in a way that deletes the footnotes, by using the “Keep Text Only” past option, but that method will also delete or strip out all of the model’s formatting. Do not use that technique if you want to keep the model format. Better to use the method explained above, which deletes the footnotes but does not change any formatting.

3.4. Drafting Your Own Instructions

The model instructions cannot possibly cover every offense, cause of action, claim, or charge. Nor can they address every possible variation that you may encounter in a particular case. Judges remain free, and will have to, draft new instructions or substantially modify existing models to cover all charges, claims, and issues that arise in particular cases.

Following these guidelines should greatly assist you in crafting your own instructions. In particular, you may wish to keep in mind the tips for using plain language, achieving clarity, and referring to people that are discussed above in §§ 1.1 through 1.2.3.