

I.1. GRAND JURY

Ladies and Gentlemen of the Grand Jury:

You have been selected to perform a very important function in the criminal justice system of this county. Thank you for your willingness to serve.

I. EXPLANATION OF DUTIES

Before you can function as a Grand Juror, the law requires that I inform you of your duties.

A. INVESTIGATE ALL OFFENSES

First, you shall investigate all public offenses which were committed or may be tried in this county. If any grand juror knows or has reason to believe that an offense has been committed, then that juror shall disclose it to the other grand jurors who may investigate it. A public offense is any act or omission forbidden by law and punishable as provided by law. There are two kinds of offenses: felonies and misdemeanors.

Felonies are offenses which may be punished by death or imprisonment for more than a year. All other offenses are misdemeanors.

As to felonies, whenever the legal evidence received by a Grand Jury establishes probable cause to believe that a felony has been committed and that a particular person has committed that offense, then the Grand Jury must return a true bill of indictment.

With regard to misdemeanors, you are not required to indict where no prosecuting witness appears, unless you determine it is necessary for the public good.

1. SPECIFIC OFFENSES

The Code of Alabama has many offenses. I am required to mention these specifically:

- a. Laws regulating the ownership, registration and carrying of weapons;
- b. Election laws;
- c. Manufacturing or selling of intoxicating liquors laws;
- d. Game and fish laws; and
- e. Law prohibiting corporations from contributing to campaign funds.

You should indict for the violation of these laws, as well as other offenses, if in your opinion the evidence justifies an indictment.

2. LEGAL EVIDENCE

In your investigation of a charge, you can receive no other evidence than that given by the witnesses before you or furnished by legal documentary evidence. All investigations shall be made according to the rules of evidence. The evidence must be competent, legal evidence. You must not indict on mere reports, suspicion or hearsay.

3. CONCURRENCE OF 12 JURORS

At least 12 of you must agree before you can indict. If that happens, the indictment must be endorsed "a true bill" and signed by the foreperson.

B. PERFORM INSPECTIONS AND EXAMINATIONS

Second, you are to perform certain inspections and examinations. The law specifically states you shall do the following:

1. Determine at least once annually the condition of the county jail [and the juvenile detention facility] in regard to its sufficiency for the safekeeping of prisoners and their accommodation and health, and inquire into the manner in which the jail has been kept since the last determination. You may personally inspect the jail and review all inspection records of the jail. If you find the jail is not constructed in the manner prescribed by law and so strongly and securely built as to prevent the escape of prisoners and properly ventilated, then you shall present your findings to the district attorney, sheriff and county commission for appropriate action.
2. Review the correctness of the sheriff's accounts with the state for feeding prisoners.
3. Examine the conditions of the county treasury and the bonds of all county officers, with regard to their correctness and sufficiency, and report upon those matters.
4. Examine the fee book of the probate judge to ascertain if any illegal fees have been received.
5. Examine the books and papers of the county superintendent of education.
6. Examine the audit reports furnished to the court and if necessary take appropriate action.

7. Inquire into any alleged misconduct or incompetency of any public officer in the county and, if you find that the officer should be removed from office, return a bill of impeachment and in the case of a judge forward a confidential report to the Alabama Judicial Inquiry Commission.

II. PROCEDURES

This completes my explanation of your duties. I now will explain certain procedures which you must employ in discharging your duties.

- A. You cannot be present or take part in the deliberation of the Grand Jury if you are the person charged, the victim, a witness, related by blood or marriage to the person charged or to the victim, or if you have any material interest in the matter under investigation.
- B. If your number is reduced below 13, that shall be called to my attention.
- C. The District Attorney shall attend the Grand Jury when you require. The DA may choose to attend to examine witnesses or give legal advice. The DA must not be present when you deliberate or vote on indictments.
- D. The Grand Jury may subpoena witnesses. The court can punish for contempt anyone refusing to appear.
- E. The Grand Jury shall be entitled to free access at all proper hours to all state, county and municipal offices and buildings located within the county and shall be entitled to examine without charge all records and papers of those offices in any way connected with your duties, unless privileged from disclosure by law.
- F. You shall attend each session of the Grand Jury. If you need to be excused from serving for one-half day or less, your foreperson can excuse you, but for longer periods the request for an excuse must be made to the court.
- G. Your oath requires you to do your work fairly and impartially. Keep your deliberations secret. Both during and after your deliberations, the law requires that you not disclose or discuss outside of the Grand Jury any matter under consideration. Injury and injustice might occur to a person if it were known that a particular matter had been before you. If made public, someone indicted might flee before being arrested.
- H. Upon the completion of your duties, you shall report to the court your written findings and file your true bills. This will complete your work and you will be recessed or discharged.

- I. The foreperson shall preside over Grand Jury proceedings and act as the court's representative by maintaining order, administering oaths, excluding unauthorized persons and persons acting in an unauthorized manner, and appointing officers within the Grand Jury as necessary for orderly functioning. The foreperson shall issue subpoenas for witnesses and records as needed, swear witnesses or cause them to be sworn by the DA, maintain a list of all witnesses appearing before the Grand Jury, sign all indictments, and submit a written report of the proceedings to the court. The foreperson may request the court initiate a contempt proceeding against any person who unlawfully refuses to testify or answer questions or whose conduct violates the rules or disrupts the Grand Jury proceedings.

Again thank you for serving. You may begin your work.

Use Notes

See 12-16-190 & ARCRP 12.3-12.8.

12-16-224 allows local court rule as to how the Grand Jury makes its report.

ARCRP 12.8 requires indictments be filed in open court by the foreperson in the presence of at least 11 other members of the Grand Jury.

[Adopted 11-13-2014.]

I..2. JUROR CONDUCT DURING TRIAL (Non-sequestered Jury)

It is important that you observe certain rules of conduct. These rules apply whenever court is not in session. Strict compliance with these rules will help insure a fair trial and avoid the case having to be retried.

These rules of conduct are as follows:

1. Do not discuss this case with anyone, including family members. Do not allow anyone to discuss it in your presence or hearing. If anyone even asks about it, you must say that you are under a court order not to discuss the case. Do not use any device, including cell phones and computers of any type, to call, email, text, tweet, post, blog, chat, photograph, video or record or use any social media, including Facebook, Myspace, LinkedIn, and Youtube to contact others or to comment or provide information in any way about the case. [Update examples as needed.] Do not discuss the case even with a fellow juror except during deliberation in the jury room. After your service as a juror is completed, then you may discuss the case with whomever you wish.
2. Do not read, watch or listen to anything about the case or the persons involved outside of what is presented to you in court. That includes television, newspapers, radio and the internet, including everything previously mentioned.
3. Do not speak with any attorney, party or witness in the case, even about unrelated matters, as it might appear to others that you were discussing the case.
4. Do not investigate anything about this case, including the facts, law or persons involved. Do not visit the scene of any occurrence in the case and do not conduct any experiment regarding the case. Do not consult any resource material such as a book or internet site or use any device such as the ones I previously mentioned. Your verdict in this case must be based solely on the evidence and the law presented during the trial.
5. Guard against any conduct which could give anyone reason to doubt your fairness and impartiality.

Use Notes

This instruction should be given before trial, before every recess and before deliberation.

[Adopted 11-13-2014.]

I..3. SEQUESTRATION OF JURORS

Until you have been discharged, it is absolutely necessary that all of you stay together. You must not separate, not even for a moment, unless allowed by me or the bailiff.

Use Notes

This instruction should be given at the beginning of the trial, before any recess and prior to deliberations. If the jury is not sequestered, it need not be given at all. See Instruction I.2.

At the end of the trial, the Court should consider the following additional procedures as necessary:

- A. Give written requested charges. Written requested charges should be received prior to, and incorporated within, the oral instruction.
- B. Take exceptions to oral charge and requests for additional charges.
- C. Deliver verdict forms and exhibits to jury.
- D. Excuse alternate jurors at the appropriate time. See ARCRP 18.4(g)(2).

[Adopted 11-13-2014.]

I.4. BURDEN OF PROOF

The burden of proving the defendant guilty rests upon the State of Alabama. The State has the burden of proving the defendant guilty beyond a reasonable doubt. In order to convict, the State must prove to each and every juror that the defendant is guilty beyond a reasonable doubt. If the State does not meet this burden of proof, then you must find the defendant not guilty.

Reasonable doubt is a doubt for which a reason can be given. It must be an actual doubt, and not a mere guess or opinion. It is not a forced or contrived doubt. Reasonable doubt is not a mere fanciful, vague, conjectural, or speculative doubt. A reasonable doubt is a doubt of a fair-minded juror honestly seeking the truth after careful and impartial consideration of all the evidence in the case. It is a doubt which arises from all or part of the evidence or from the lack of evidence and remains after a careful consideration of the evidence.

The State is not required to convince you of the defendant's guilt beyond all doubt, but beyond a reasonable doubt. Beyond a reasonable doubt does not mean that the State must prove guilt beyond every imaginable or speculative doubt or beyond all possibility of mistake, because that would be impossible. Mere suspicion or probability of guilt less than beyond a reasonable doubt is insufficient.

Use Notes

The federal instruction for the 11th Circuit defines reasonable doubt as follows:

"Thus, while the State's burden of proof is a strict or heavy burden, it is not necessary that a defendant's guilt be proved beyond all possible doubt. It is only required that the State's proof exclude any reasonable doubt concerning the defendant's guilt.

A reasonable doubt is a real doubt, based upon reason and common sense after careful and impartial consideration of all the evidence in the case.

Proof beyond a reasonable doubt, therefore, is proof of such a convincing character that you would be willing to rely and act upon it without hesitation in the most important of your own affairs. If you are convinced that the defendant has been proved guilty beyond a reasonable doubt, say so. If you are not, say so."

[Adopted 11-13-2014.]

I..5 BURDEN OF PROOF

(Alternative)

INTENTIONALLY OMITTED

See I.4

[11-13-2014.]

I.6 LESSER-INCLUDED OFFENSES

Within the offense of **[insert name of offense]** charged in the indictment is the lesser-included offense of **[insert name of lesser-included offense]**.

If, after you consider the offense charged in the indictment, you are not convinced beyond a reasonable doubt that the defendant is guilty of the offense of **[insert name of offense]** as charged in the indictment, you cannot find the defendant guilty of that offense.

Instead, you must next consider the evidence as to the lesser-included offense of **[insert name of lesser-included offense]** and determine whether the defendant has been proved guilty beyond a reasonable doubt of the lesser-included offense.

Use Notes

Continue as to any other lesser-included offenses as required.

[Adopted 11-13-2014.]

I..7 CONCLUSION

The defendant is charged with **[insert name of offense]**.

To convict, the State of Alabama must prove beyond a reasonable doubt each of the elements of **[insert name of offense]** charged. If you find from the evidence that the State has proved beyond a reasonable doubt each of the elements of the offense of **[insert name of offense]** as charged, then you shall find the defendant guilty of **[insert name of offense]**.

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements of the offense of **[insert name of offense]**, then you cannot find the defendant guilty of **[insert name of offense]**.

[Adopted 11-13-2014.]

I..8 CONCLUSION - MULTIPLE COUNTS

There are **[insert number of counts]** contained in the indictment. You must reach a verdict on each count in the indictment. You must consider the evidence as to each count separately and determine whether the defendant has been proved guilty of the offense charged in each count beyond a reasonable doubt.

[Adopted 11-13-2014.]

**I..9 FINDING ON PLEA OF NOT GUILTY BY REASON OF
MENTAL DISEASE OR DEFECT**

Intentionally Omitted

SEE §13A-3-1

[11-13-2014.]

I..10 RENDERING VERDICT

When you go into the jury room, you should first select a foreperson to lead your deliberations.

You will be given the possible verdict forms. When you have reached a verdict, the foreperson must complete the appropriate verdict form and then sign the form. The verdict must be unanimous; it must be the verdict of all twelve of you.

When you have reached a verdict and completed the form, notify the court attendant. We will then return to court to receive your verdict. It will be necessary for the jury to return to the courtroom to give your verdict.

Use Notes

The jury may need multiple forms where there are multiple counts, lesser-included offenses, or *Apprendi* issues such as aggravating factors.

[Adopted 11-13-2014.]

I..11 VERDICT FORMS

IN THE CIRCUIT COURT OF _____ COUNTY, ALABAMA

STATE OF ALABAMA

v.

CC NO. _____

GUILTY VERDICT

_____ We, the jury, find the defendant **[insert name of defendant]** guilty of the offense of **[insert name of offense]** as charged in **count _____ of** the Indictment.

[OR]

GUILTY VERDICT (LESSER INCLUDED)

_____ We, the jury, find the defendant **[insert name of defendant]** guilty of the offense of **[insert name of offense]**, a lesser included offense charged in **count _____ of** the Indictment.

OR

NOT GUILTY VERDICT

_____ We, the jury, find the defendant **[insert name of defendant]** not guilty of the offense of **[insert name of offense]** as charged in **count _____ of** the indictment.

OR

NOT GUILTY BY REASON OF SEVERE MENTAL DISEASE OR DEFECT VERDICT

_____ We, the jury, find the defendant **[insert name of defendant]** not guilty by reason of mental disease or defect of the offense of **[insert name of offense]** as charged in **count _____ of** the indictment.

Signature of Foreperson Printed Name of Foreperson Date

**Please initial the appropriate box, sign, print your name and date.
Your verdict must be unanimous. Only one box may be initialed.**

Do you unanimously agree that the State of Alabama has proven beyond a reasonable doubt that there was a drug sale and that the sale occurred within 3 miles of an educational facility/ public housing project?

Circle one: Yes No

Signature of Foreperson Printed Name of Foreperson Date

Do you unanimously agree that the State of Alabama has proven beyond a reasonable doubt the existence of the aggravating factor, _____?

Circle one: Yes No

Signature of Foreperson Printed Name of Foreperson Date

Use Notes

These are meant to be samples of jury verdict forms.
Tailor the form to the facts and law of each case.
Use only the applicable options.
Read the form and provide it to the jury.

[Adopted 11-13-2014.]

I..12 HUNG JURY

I understand that you have not been able to reach a verdict and that you believe that it is not likely that you will be able to arrive at one. Please listen closely to these instructions.

The Court is not going to release you at this time. You should make further efforts to arrive at a verdict. Each juror is entitled to his or her opinion of the evidence. If you cannot agree, a mistrial would be declared and this case may have to be tried again. There is no reason to believe that another jury would have better or clearer evidence than has been presented to you.

This does not mean that you should surrender an honest belief as to the weight or the effect of any evidence solely because of the opinion of other jurors or because of the importance of arriving at a decision. But you should give respectful consideration to each other's views and talk over any differences of opinion in a spirit of fairness and candor. If possible, you should resolve any differences and come to a common conclusion so that the case may be completed.

If it would be helpful, I can recharge you on a part of the law or answer a question concerning the law.

It is natural that differences of opinion will arise. When they do, each juror should not only express his or her opinion but also the facts and reasons upon which he or she bases that opinion. By reasoning the matter out, it may be possible for all jurors to agree. What I have said to you must not be taken as an attempt on the part of the Court to require or force you to surrender your honest and reasonable beliefs based on the law and the evidence in this case. My sole purpose is to impress upon you your duty and the desirability and importance of reaching a verdict if you can conscientiously do so.

You may retire and continue your deliberations.

[Adopted 11-13-2014.]