



Criminal Justice Section

The State Bar of Texas

Law Student Mentoring &
CRIMINAL LAW UPDATE

Houston: Friday, April 8

Written Materials

Jury Charges



from the State Bar
Criminal Pattern
Jury Charge Committee

Emily Johnson-Liu, Co-Chair

James McDermott, Co-Chair

Wendell Odom, Chair Emeritus

John Messinger, Vice-Chair

STREAMLINED PATTERN

	<p>STATE OF TEXAS § _____ COURT v. § _____ _____ § _____ COUNTY, TX</p>
<p>General Instructions</p>	<p style="text-align: center;">JURY INSTRUCTIONS</p> <p>The defendant, [name], is accused of [offense]. The defendant has pleaded “not guilty,” and you have heard all of the evidence that will be produced on whether the defendant has been proved guilty.</p> <p>Both sides will soon present final arguments. Before they do so, I must now give you the instructions you must follow in deciding whether the defendant has been proved guilty or not.</p> <p>You will have a written copy of these instructions to take with you and to use during your deliberations.</p> <p>First I will tell you about some general principles of law that must govern your decision of the case. Then I will tell you about the specific law applicable to this case. Finally, I will instruct you on the rules that must control your deliberations.</p> <p style="text-align: center;">GENERAL PRINCIPLES</p> <p>[Indictment is not evidence]</p> <p>[Presumption of innocence]</p> <p>Burden of Proof</p> <p>The burden of proof throughout the trial is always on the state. The defendant does not have the burden to prove anything. The state must prove every element of the offense beyond a reasonable doubt to establish guilt for the offense. If the state proves every element of the offense beyond a reasonable doubt, then you must find the defendant guilty. If the state does not prove every element of the offense beyond a reasonable doubt, then you must find the defendant not guilty. If, after you have considered all the evidence and these instructions, you have a reasonable doubt about whether the defendant is guilty, you must the defendant not guilty.</p> <p>[Jury as Fact Finder]</p> <p>[Evidence] (What is Evidence)</p> <p>[Admitted Exhibits] (How to Examine Exhibits)</p> <p>[Testimony] (Having Testimony Read Back)</p> <p>[The Verdict] (What Verdict of “Not Guilty” Means)</p> <p>[Defendant’s Right to Remain Silent]</p>
<p>Accusation</p>	<p>Accusation LAW SPECIFIC TO THIS CASE</p> <p>The state accuses the defendant of having committed the offense of [offense]. Specifically, the accusation is that the defendant [insert specific allegations, e.g., intentionally, knowingly, or recklessly caused bodily injury to [name] by shooting him with a gun, and thereby caused serious bodily injury to [name]].</p>

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Offense in the Abstract</p>	<p>Relevant Statutes <i>[tailored to remove statutory alternatives not supported by the accusation & proof]</i></p> <p>A person commits an the offense of <i>[offense]</i> if the person intentionally, knowingly, or recklessly causes bodily injury to another and thereby causes that person serious bodily injury.</p> <p>To prove that the defendant is guilty of aggravated assault, the state must prove, beyond a reasonable doubt, two elements. The elements are that—</p> <ol style="list-style-type: none"> 1.— the defendant caused serious bodily injury to another; and 2.— the defendant did this: <ol style="list-style-type: none"> <i>[include applicable mental state(s) as charged and raised by the evidence]</i> <ol style="list-style-type: none"> a.— intending to cause bodily injury to that person; b.— knowing that he would cause bodily injury to that person; or c.— with recklessness about whether he would cause bodily injury to that person.
	<p>Burden of Proof</p> <p>The state must prove, beyond a reasonable doubt, the accusation of aggravated assault.</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Definitions</p>	<p>Definitions</p> <p><i>Bodily Injury</i></p> <p>“Bodily injury” means physical pain, illness, or any impairment of physical condition.</p> <p><i>Serious Bodily Injury</i></p> <p>“Serious bodily injury” means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.</p> <p><i>Intentionally Causing Bodily Injury</i></p> <p>A person intentionally causes bodily injury to another if it is the person’s conscious objective or desire to cause the bodily injury to another.</p> <p><i>Knowingly Causing Bodily Injury</i></p> <p>A person knowingly causes bodily injury to another if the person is aware that the person’s conduct is reasonably certain to cause the bodily injury to another.</p> <p><i>Recklessly Causing Bodily Injury</i></p> <p>A person recklessly causes bodily injury to another if the person is aware of but consciously disregards a substantial and unjustifiable risk that the person’s action will cause bodily injury to another. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor’s standpoint.</p>

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Application Paragraph</p>	<p>Application of Law to Facts</p> <p>You must determine whether the state has proved, beyond a reasonable doubt, two elements. The elements are that—</p> <ol style="list-style-type: none"> 1. the defendant, in [county] County, Texas, on or about [date], caused serious bodily injury to [name] by [insert specific allegations, e.g., shooting [name] with a gun]; and 2. the defendant did this— <ol style="list-style-type: none"> a. intending to cause bodily injury to [name]; or b. knowing that he would cause bodily injury to [name]; or c. with recklessness about whether he would cause bodily injury to [name]. <p>[INSERT ANY CONCURRENT CAUSATION INSTRUCTION]</p> <p>You must all agree on elements 1 and 2 listed above, but you do not have to agree on the culpable mental states listed in elements 2.a, 2.b, and 2.c above.</p> <p>If you all agree the state has failed to prove, beyond a reasonable doubt, one or both of elements 1 and 2 listed above, you must find the defendant “not guilty.”</p> <p>If you all agree the state has proved, beyond a reasonable doubt, both of the two elements listed above, you must find the defendant “guilty.”</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Other Instructions</p>	<p>Evidence of Wrongful Acts Possibly Committed by Defendant</p> <p>Sufficiency of Testimony of Accomplice</p> <p>Art. 38.23 instructions</p> <p>Defenses / Affirmative Defenses</p> <p><i>(any definitions relevant to these instructions will be included w/ their instructions here)</i></p>
	<p style="text-align: center;">RULES THAT CONTROL DELIBERATIONS</p> <p>[foreperson duties]</p> <p>[Numbered list of rules:</p> <ol style="list-style-type: none"> 1. no discussions with nonjurors 2. deliberate only as a whole, 3. communicate with judge in writing 4. no independent investigation, 5. tell judge of outside influence by others] <p>[Use forms attached for verdict]</p>

VERDICT—NOT GUILTY

We, the jury, find the defendant, [name], not guilty.

Foreperson of the Jury

Printed Name of Foreperson

VERDICT—GUILTY

We, the jury, find the defendant, [*name*], guilty of [*offense*], as charged in the
[indictment/information].

Foreperson of the Jury

Printed Name of Foreperson

**CPJC 80.12 Instruction—Capital Murder—Murder of More than One
Person**

INSTRUCTIONS OF THE COURT

Accusation LAW SPECIFIC TO THIS CASE

The state accuses the defendant of having committed the offense of capital murder. ~~Specifically, the accusation is that the defendant intentionally or knowingly caused the death of [name] [insert specific allegations, e.g., by shooting [name] with a gun] and intentionally or knowingly caused the death of [name] [insert specific allegations, e.g., by stabbing [name] with a knife], and both murders were committed [during the same criminal transaction/during different criminal transactions but pursuant to the same scheme or course of conduct].~~

Relevant Statutes

A person commits ~~an~~the offense of capital murder if the person intentionally or knowingly causes the death of an individual and murders more than one person [during the same criminal transaction/during different criminal transactions but pursuant to the same scheme or course of conduct].

~~To prove that the defendant is guilty of capital murder, the state must prove, beyond a reasonable doubt, three elements. The elements are that—~~

~~1. the defendant intentionally or knowingly caused the death of an individual; and~~

~~2. the defendant intentionally or knowingly caused the death of another individual; and~~

~~3. both murders were committed [during the same criminal transaction/during different criminal transactions but pursuant to the same scheme or course of conduct].~~

[Include the following if an instruction on causation is appropriate but no issue of concurrent causation is raised by the facts.]

A person causes the death of another if, but for the person's conduct, the death of the other would not have occurred.

[Include the following if the facts raise an issue concerning concurrent causation.]

A person causes the death of another if, but for the person's conduct operating either alone or concurrently with another cause, the death of the other

would not have occurred, unless the concurrent cause was clearly sufficient to produce the result and the conduct of the person was clearly insufficient.

Burden of Proof

~~The state must prove, beyond a reasonable doubt, the accusation of capital murder.~~

Definitions

Intentionally Causing the Death of an Individual

A person intentionally causes the death of an individual if the person has the conscious objective or desire to cause that death.

Knowingly Causing the Death of an Individual

A person knowingly causes the death of an individual if the person is aware that his conduct is reasonably certain to cause that death.

Application of Law to Facts

You must determine whether the state has proved, beyond a reasonable doubt, three elements. The elements are that—

1. the defendant, in [county] County, Texas, on or about [date], intentionally or knowingly caused the death of [name] [insert specific allegations, e.g., by shooting [name] with a gun];

2. the defendant, in [county] County, Texas, on or about [date], intentionally or knowingly caused the death of [name] [insert specific allegations, e.g., by stabbing [name] with a knife]; and

3. both murders were committed [during the same criminal transaction/during different criminal transactions but pursuant to the same scheme or course of conduct].

[Include the following if the jury was instructed in the relevant statutes unit on concurrent causation.]

The state has the burden of proving that the defendant caused the death of [name]. To prove that the defendant caused the death of [name], the state must show, beyond a reasonable doubt, that either—

1. [concurrent cause] did not contribute to causing the death of [name];

2. [concurrent cause] was clearly insufficient, by itself, to cause the death of [name]; or

3. the conduct of the defendant was clearly sufficient to cause the death of [name] regardless of [concurrent cause].

[Continue with the following.]

You must all agree on elements 1, 2, and 3 of the offense of capital murder listed above.

If you all agree the state has failed to prove, beyond a reasonable doubt, one or more of elements 1, 2, and 3 listed above, you must find the defendant “not guilty.”

If you all agree the state has proved, beyond a reasonable doubt, all three elements listed above, you must find the defendant “guilty.”

[Insert any other instructions raised by the evidence. Then continue with the verdict form found in CPJC 2.1, the general charge, in Texas Criminal Pattern

Jury Charges—General, Evidentiary & Ancillary Instructions.]