

1.0 Introductory Comment

Jury instructions are intended to give the jurors, in understandable language, information to make the trial more meaningful and to permit them to fulfill their duty of applying the law to the facts as they find them. The Committee suggests that judges work with counsel to provide as complete a set of instructions as possible as early as possible to aid jurors in the understanding of the evidence, the standards to be applied, and the law that must be applied to the facts. Early discussion of the jury instructions has the dual benefit of focusing the court and counsel on the issues to be presented and the types of evidence to be admitted, as well as maximizing the capacity to anticipate problems before they arise. Preparation of instructions in advance of trial also eases the pressure at the end of the trial to assemble a set of instructions when counsel and the court may be short of time. It gives both the court and counsel time to avoid and/or correct errors.

The introductory instruction chapters are organized as follows: Preliminary Instructions (Chapter 1), Instructions in the Course of Trial (Chapter 2), and Instructions at the End of Case (Chapter 3).

Some potentially useful or applicable instructions that a judge may wish to consider can be found in the Comments to instructions; these suggested instructions cover changing practices and attitudes concerning participation by jurors in the trial by asking questions, restrictions on discussion among jurors, and technology.

Practices vary among judges on how complete introductory instructions should be. Some judges prefer to instruct initially only on the trial process (Chapter 1). Some prefer to instruct not only on the process but also on types of evidence to be presented and/or on deliberations (Chapters 2 and 3). Finally, some include all topics in Chapters 1, 2, and 3 as well as substantive law instructions for particular claims made. There is no right or wrong way to accomplish this task. It depends on the nature of the case, the preliminary rulings, and the legal culture of each district.

Some judges provide written instructions at the beginning of the trial that jurors keep throughout the trial. Other judges only provide a set of instructions at the end of the trial for use during deliberations. This is a matter of judicial preference and the demands of each case. The Committee recommends that a written copy of the concluding instructions be given to each juror for deliberations.