# TABLE OF CONTENTS

Resolution Committee Membership Introduction Acknowledgments

# **Standard of Appellate Review for Jury Instructions Generally**

#### **General Instructions**

# **Chapter 1.00 General Principles**

| Instruction |   |
|-------------|---|
| 1.01        | Introduction  |
| 1.02        | Jurors' Duties  |
| 1.03        | Presumption of Innocence, Burden of Proof, Reasonable Doubt |
| 1.04        | Evidence Defined  |
| 1.05        | Consideration of Evidence                                   |
| 1.06        | Direct and Circumstantial Evidence                          |
| 1.07        | Credibility of Witnesses                                    |
| 1.08        | Number of Witnesses   |
| 1.09        | Lawyers' Objections   |
|             |   |

### **Chapter 2.00 Defining the Crime and Related Matters**

| <br>apter 2.00 | Defining the elimit that Itelated Markets                                  |
|----------------|--|
| 2.01           | Introduction   |
| 2.01A          | Separate Consideration - Single Defendant Charged with Multiple Crimes     |
| 2.01B          | Separate Consideration - Multiple Defendants Charged with a Single Crime   |
| 2.01C          | Separate Consideration - Multiple Defendants Charged with Same Crimes      |
| 2.01D          | Separate Consideration - Multiple Defendants Charged with Different Crimes |
| 2.02           | Definition of the Crime  |
| 2.03           | Definition of Lesser Offense   |
| 2.04           | On or About  |
| 2.05           | Willfully  |
| 2.06           | Knowingly  |
| 2.07           | Specific Intent  |
| 2.08           | Inferring Required Mental State  |
| 2.09           | Deliberate Ignorance   |
| 2.10           | Actual and Constructive Possession   |
| 2.10A          | Actual Possession  |
| 2.11           | Joint Possession   |
|                |  |

## **Chapter 3.00 Conspiracy**

| 3.01A | Conspiracy to Commit an OffenseBasic Elements         |
|-------|---|
| 3.01B | Conspiracy to Defraud the United StatesBasic Elements |

| 3.02         | Agreement   |
|--------------|---|
| 3.03         | Defendant's Connection to the Conspiracy                                  |
| 3.04         | Overt Acts  |
| 3.05         | Bad Purpose or Corrupt Motive   |
| 3.06         | Unindicted, Unnamed or Separately Tried Co-Conspirators                   |
| 3.07         | Venue   |
| 3.08         | Multiple ConspiraciesMaterial Variance From the Indictment                |
| 3.09         | Multiple ConspiraciesFactors in Determining                               |
| 3.10         | Pinkerton Liability for Substantive Offenses Committed by Others          |
| 3.11A        | Withdrawal as a Defense to Conspiracy                                     |
| 3.11B        | Withdrawal as a Defense to Substantive Offenses Committed by Others       |
| 3.11C        | Withdrawal as a Defense to Conspiracy Based on the Statute of Limitations |
| 3.12         | Duration of a Conspiracy  |
| 3.13         | Impossibility of Success  |
| 3.14         | Statements by Co-Conspirators   |
| Chapter 4.00 | Aiding and Abetting   |
| 4.01         | Aiding and Abetting   |
| 4.01A        | Causing an Act  |
| 4.02         | Accessory After the Fact  |
| Chapter 5.00 | Attemnts  |
| 5.01         | Attempt-Basic Elements  |
| 5.02         | Sham Controlled Substance Cases   |
| 5.03         | Abandonment or Renunciation   |
| Chapter 6.00 | Defenses  |
| 6.01         | Defense Theory  |
| 6.02         | Alibi   |
| 6.03         | Entrapment  |
| 6.04         | Insanity  |
| 6.05         | Coercion/Duress   |
| 6.06         | Self-Defense  |
| 6.07         | Justification   |
| 6.08         | Fraud – Good Faith Defense  |
| 6.09         | Entrapment by Estoppel  |
| Chapter 7.00 | Special Evidentiary Matters   |
| 7.01         | Introduction  |
| 7.02A        | Defendant's Election Not to Testify                                       |
| 7.02B        | Defendant's Testimony   |
| 7.02C        | Witness Other than Defendant Invoking the Fifth Amendment                 |
| 7.03         | Opinion Testimony   |
| 7.04         | Impeachment by Prior Inconsistent Statement Not Under Oath                |
| 7.05A        | Impeachment of Defendant by Prior Conviction                              |
| 7.05B        | Impeachment of a Witness Other Than Defendant by Prior Conviction         |
| -            |   |

|    | 7.06A       | Testimony of a Paid Informant   |
|----|-------------|---|
|    | 7.06B       | Testimony of an Addict-Informant Under Grant of Immunity or Reduced             |
|    |             | Criminal Liability  |
|    | 7.07        | Testimony of a Witness Under Grant of Immunity or Reduced Criminal Liability    |
|    | 7.08        | Testimony of an Accomplice  |
|    | 7.09        | Character and Reputation of Defendant   |
|    | 7.10        | Age of Witness  |
|    | 7.11        | Identification Testimony  |
|    | 7.12        | Summaries and Other Materials Not Admitted in Evidence                          |
|    | 7.12A       | Secondary-Evidence Summaries Admitted in Evidence                               |
|    | 7.13        | Other Acts of Defendant   |
|    | 7.14        | Flight, Concealment of Evidence, False Exculpatory Statements                   |
|    | 7.15        | Silence in the Face of Accusation [withdrawn]                                   |
|    | 7.16        | Possession of Recently Stolen Property  |
|    | 7.17        | Transcriptions of Tape Recordings   |
|    | 7.18        | Separate ConsiderationEvidence Admitted Against Certain Defendants Only         |
|    | 7.19        | Judicial Notice   |
| Cł | apter 8.00  | Deliberation and Verdict  |
|    | 8.01        | Introduction  |
|    | 8.02        | Experiments, Research and Investigation   |
|    | 8.03        | Unanimous Verdict   |
|    | 8.03A       | Unanimity of Theory [withdrawn]   |
|    | 8.03B       | Unanimity Not Required – Means  |
|    | 8.03C       | Unanimity Required – Statutory Maximum Penalty Increased, Controlled Substances |
|    | 8.04        | Duty to Deliberate  |
|    | 8.05        | Punishment  |
|    | 8.06        | Verdict Form  |
|    | 8.07        | Lesser Offense, Order of Deliberations, Verdict Form                            |
|    | 8.08        | Verdict Limited to Charges Against This Defendant                               |
|    | 8.09        | Court Has No Opinion  |
|    | 8.10        | Juror Notes   |
| Cł | napter 9.00 | Supplemental Instructions   |
|    | 9.01        | Supplemental Instructions in Response to Juror Questions                        |
|    | 9.02        | Rereading of Testimony  |
|    | 9.03        | Partial Verdicts  |
|    | 9.04        | Deadlocked Jury   |
|    | 9.05        | Questionable Unanimity After Polling  |
|    |             |   |

# **Elements Instructions**

Chapter 10.00 Fraud Offenses 10.01 Mail Fraud (18 U.S.C. § 1341)

10.02 Wire Fraud (18 U.S.C. § 1343) 10.03 Bank Fraud (18 U.S.C. § 1344) 10.04 Fraud – Good Faith Defense

#### **Chapter 11.00 Money Laundering Offenses**

- 11.01 Money Laundering Domestic Financial Transaction (18 U.S.C. § 1956(a)(1)(A) (intent to promote the carrying on of specified unlawful activity))
- 11.02 Money Laundering Domestic Financial Transaction (18 U.S.C. § 1956(a)(1)(B) (knowing the transaction is designed to conceal facts related to proceeds))
- 11.03 Money Laundering International Transportation (18 U.S.C. § 1956(a)(2)(A) (intent to promote the carrying on of specified unlawful activity))
- 11.04 Money Laundering International Transportation (18 U.S.C. § 1956(a)(2)(B) (knowing that the transportation involves proceeds of some form of unlawful activity and that it is designed to conceal facts related to proceeds))
- 11.05 Money Laundering Undercover Investigation (18 U.S.C. § 1956(a)(3))
- 11.06 Money Laundering Engaging in Monetary Transactions in Property Derived from Specified Unlawful Activity (18 U.S.C. § 1957)

## **Chapter 12.00 Firearms Offenses**

- 12.01 Firearms Possession of Firearm by Convicted Felon (18 U.S.C. § 922(g)(1))
- 12.02 Firearms Using or Carrying a Firearm During and in Relation to a Crime of Violence or Drug Trafficking Crime (18 U.S.C. § 924(c)(1)(A)(i))
- Firearms Possessing a Firearm in Furtherance of a Crime of Violence or Drug Trafficking Crime (18 U.S.C. § 924(c)(1)(A)(i))

#### **Chapter 13.00 False Statements to the United States Government**

- Concealing a Material Fact in a Matter within the Jurisdiction of the United States Government (18 U.S.C. § 1001(a)(1))
- Making a False Statement in a Matter within the Jurisdiction of the United States Government (18 U.S.C. § 1001(a)(2))
- Making or Using a False Writing in a Matter within the Jurisdiction of the United States Government (18 U.S.C. § 1001(a)(3))

#### **Appendix**

18 U.S.C. § 1956 Laundering of monetary instruments – diagrams of offense