USER'S GUIDE

Supreme Court Rule 451(a) requires that Illinois Pattern Jury Instructions, Criminal (IPI Criminal) "shall be used" whenever they contain an instruction applicable in a criminal case and the trial court determines that the jury should be instructed on the subject, unless the trial court determines the instruction does not accurately state the law. Ill. S. Ct. Rule 451(a) (eff. April 8, 2013).

The Illinois Supreme Court website now contains the current version of the IPI Criminal instructions. Because statutory changes and development in the case law occur from time to time that may not immediately be reflected in the instructions, the Committee recommends the user always compare the instruction to the current state of the law before use.

The comments below are intended to provide the user with some explanation of the scheme and organization employed in the criminal instructions.

Structure of IPI Criminal

Each statutory criminal offense has at least two instructions: a definitional instruction and a corresponding issues instruction. IPI Criminal contains additional instructions that (a) define a particular word or term, (b) instruct on affirmative defenses that may be raised, (c) provide verdict forms, and (d) illustrate the use of various instructions in sample sets.

Most definitional instructions define the offense according to the applicable statute. Definitional instructions are written in the present tense and the active voice. They are written in general terms and do not mention the specific defendant on trial.

Issue instructions separate each offense into elements, or propositions, that the State must prove beyond a reasonable doubt in order for the jury to find the defendant guilty. Issues instructions are written in the past tense and apply to the specific defendant on trial.

Both the definitional and the issues instructions should be given for the offense charged. In those situations where an issues instruction refers to an offense that is not charged – for example, in an attempt or solicitation case – only the definitional instruction of the underlying substantive offense should be given.

Some instructions define certain words or phrases used elsewhere in the instructions. These definitions should be given following the instructions in which the defined word or phrase is used. If additional definitions are needed and no instruction exists, use the prefatory language "The word _____ means…" and the appropriate statutory definition to draft a modified instruction. See also *Non-standard IPIs: Modifications* below.

Committee Notes

Every IPI Criminal instruction is followed by a Committee Note. Committee Notes serve as a "user's guide" for that individual IPI. To properly utilize IPI Criminal, the user must read the Committee Note following each instruction. If a Committee Note instructs that another IPI

should be given, that is a mandatory requirement. Committee Notes also may instruct that another IPI should be given but only in a particular circumstance. Committee Notes often include case law addressing substantive issues related to the instruction and its application.

Language and Punctuation

Use of the masculine pronoun "he" in these instructions is for convenience only. It does not reflect a judgment of any kind by the Court on gender identity or expression. Judges and practitioners should modify and adapt these instructions based on the facts of each case. The Committee notes that references to the parties and personal pronouns in these instructions may be modified to fit the particular circumstances of a case and do not warrant labeling the instruction as "modified" or "non-standard".

In some instances, the legislature has not included a mental state in the statute. When this has occurred, the Committee has usually included the three possible mental states. 720 ILCS 5/4-3 to 4-9; *People v. Sroga*, 2022 IL 126978, ¶ 16 (where statute does not prescribe a particular mental state applicable to an element of an offense (other than an offense which involves absolute liability), any mental state defined in 720 ILCS 5/4-4 (intent), 4-5 (knowledge) or 4-6 (recklessness) is applicable). Generally, conduct performed willfully is performed knowingly or with knowledge. *People v. Sevilla*, 132 Ill. 2d 113, 124 (1989); 720 ILCS 5/4-5. The user should include the mental state that conforms to the allegation in the charge.

In the Criminal IPIs, the word "and" is used to indicate additional, required language, while the word "or" is used to separate possible alternatives.

Brackets and parentheses have particular meanings in Criminal IPI. Brackets are used to group additional or optional material for use within the instruction. Brackets signal the user that a decision whether and what to include in the overall instruction is necessary. Words within brackets only (not within brackets and parentheses) indicate material that may be appropriate in certain situations. Parentheses are used inside brackets to separate possible alternatives, functioning like the word "or". Parentheses signal the user to choose between the different parenthetical words or phrases.

If a statute specifies more than one way for a person to violate the law, alternative theories of culpability or prosecution have been placed in brackets. When only one theory is warranted, the user should use only the applicable bracketed material and delete the remaining inapplicable material in the instruction.

Bracketed numbers within instructions are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury. A bracketed "or" ("[or]") indicates the user must choose between alternative paragraphs or propositions within the instruction when more than one alternative is applicable. Like bracketed numbers, a bracketed

"or" is present solely for the guidance of court and counsel and is not included in the instruction submitted to the jury.

Non-standard IPIs: Modifications

Situations may arise that require the modification of the current IPI or the drafting of a new instruction. For example, statutory changes may occur that have not yet been reflected in the instructions, the statutory definition of a word not defined in Criminal IPI is required, or issues instructions may not fit the facts and circumstances of the user's case.

Modified or non-IPI instructions are proper in the absence of a required instruction or where the trial court determines an instruction does not accurately state the law. Ill. S. Ct. Rule 451(a); *People v. Hudson*, 222 Ill. 2d 392, 399-400 (2006) ("[w]here there is no IPI jury instruction on a subject on which the court determines the jury should be instructed, the court has the discretion to give a non-IPI instruction"). If no IPI Criminal instruction exists on a subject on which the court determines the jury should be instructed, "the instruction given on that subject should be simple, brief, impartial, and free from argument." Ill. S. Ct. Rule 451(a). Any modified instruction should be drafted in the style of IPI instructions and labelled "modified" or "non-standard" when submitted to the trial judge.

References to the parties and personal pronouns in these instructions may be modified to fit the particular circumstances of a case and do not warrant labeling the instruction "modified" or "non-standard".