

005.50 GUIDE TO THE USE OF THIS BOOK

Need for Adaptation in Individual Cases

These instructions are intended to state the law applicable in typical fact situations. In some instances, the facts may call into play alternative rules of law or special rules, exceptions, or defenses and make the pattern instruction given in this book partially or totally inapplicable. The forms contain additional or substitute language at certain places in an attempt to suggest adjustment for frequently encountered factual variations, but to suggest all changes would be impossible. *Hence, all pattern instructions should be carefully read, and adaptations made, if necessary, before any instruction is given to the jury.*

One modification that may be consistently necessary is one with regard to the number and gender of persons treated in the instructions. Generally speaking, each defendant, victim, and witness is presumed to be male, and the third person singular form is utilized.

Use of Brackets, Parentheses, Footnotes, and Type Styles

For purposes of clarity and consistency, the Committee has used the following rules in editing its instructions:

- (1) The words to be spoken by the judge to the jury are in bold face type. For example: **So I charge that if you find from the evidence beyond a reasonable doubt that...**
- (2) Directions as to facts that the judge must fill in are set out in parentheses and are italicized. For example: ...on or about *(name date)*, *(name defendant)* intentionally...
- (3) Alternative words or phrases are indicated in brackets. For example: A [photograph] [map] [model] was introduced into evidence in this case... In this instance, only the appropriate word is to be used. Though explanatory footnotes are sometimes added, the judge must often determine from context whether choices in brackets are mutually exclusive or not.
- (4) Optional language is contained in parentheses. For example: The State must prove that the defendant acted intentionally (and

without justification or excuse). In this instance, the parenthetical phrase is to be given only when warranted by the evidence.

(5) Other suggestions or warnings are given in italicized "Note Well's" which are set off in the text of the instructions and in footnotes.

Two models to guide you in your use of this book are attached. The first is a "Model Jury Instruction" illustrating how introductory, substantive and concluding instructions should be selected from various parts of this book and combined to form one complete instruction for a particular case. The second model is a marked-up version of one substantive charge, illustrating how to prepare a particular pattern instruction for use in a given case. The Committee strongly recommends that the judge begin each use of a pattern instruction by photocopying the instruction in the book. Then, as illustrated in the second model, he should write in on the photo-copy, in place of the italicized directions as to facts, the specific names, dates and facts which apply to the case. Finally, he should cross out all headings, "Note Well's" and footnotes and all the bracketed and parenthetical phrases which do not apply to the case.

Numbering

There are three major parts in this book. Instructions in Part I (General) bear 100 series numbers; instructions in Part II (Substantive Offenses) bear 200 series numbers; and instructions in Part III (Defenses) bear 300 series numbers.

The Chapter numbering within Parts I and III is entirely arbitrary. In Part II (Substantive Offenses) the divisions as to subject matter follow in the main the numbering of articles in Chapter 14 of the General Statutes of North Carolina, though no attempt has been made to correlate instruction numbers with statutory section numbers. In this initial endeavor only one instruction in Part II deals with an offense not covered by Chapter 14 of the General Statutes. It has been placed in Chapter 70 (Traffic Offenses). In all parts, gaps are left for chapter and instruction numbers to be assigned in the future.