

INSTRUCTION NO. _____

**AMCI 101
RESPECTIVE DUTIES OF JUDGE AND JURY
CAUTIONARY INSTRUCTIONS**

(a) The faithful performance of your duties as jurors is essential to the administration of justice.

(b) It is my duty as a judge to inform you of the law applicable to this case by instructions, and it is your duty to accept and follow them as a whole, not singling out one instruction to the exclusion of others. You should not consider any rule of law with which you may be familiar unless it is included in my instructions.

(c) It is your duty to determine the facts from the evidence produced in this trial. You are to apply the law as contained in these instructions to the facts and render your verdict upon the evidence and law. You should not permit sympathy, prejudice, or like or dislike of any party to this action or of any attorney to influence your findings in the case.

(d) In deciding the issues, you should consider the testimony of the witnesses and the exhibits received in evidence. The introduction of evidence in court is governed by law. You should accept without question my rulings as to the admissibility or rejection of evidence, drawing no inferences that by these rulings I have in any manner indicated my views on the merits of the case.

(e) Opening statements, remarks during the trial, and closing arguments of the attorneys are not evidence, but are made only to help you in understanding the evidence and applicable law. Any argument, statements, or remarks of attorneys having no basis in the evidence should be disregarded by you.

(f) I have not intended by anything I have said or done, or by any questions that I may have asked, to intimate or suggest what you should find to be the facts, or that I believe or disbelieve any witness who testified. If anything that I have done or said has seemed to so indicate, you will disregard it.

(g) You cannot use cell phones and other communication devices for any purpose when in the jury room during deliberations.

INSTRUCTION NO. _____

**AMCI 103
JURY - PERSONAL OBSERVATIONS AND EXPERIENCES**

In considering the evidence in this case, you are not required to set aside your common knowledge, but you have a right to consider all the evidence in the light of your own observations and experiences in the affairs of life.



INSTRUCTION NO. _____

**AMCI 104
CREDIBILITY OF WITNESS**

You are the sole judges of the weight of the evidence and the credibility of the witnesses. In determining the credibility of any witness and the weight to be given his testimony, you may take into consideration his demeanor while on the witness stand, any prejudice for or against a party, his means of acquiring knowledge concerning any matter to which he testified, any interest he may have in the outcome of the case, the consistency or inconsistency of his testimony, its reasonableness or unreasonableness, and any other fact or circumstances tending to shed light upon the truth or falsity of his testimony.



Department of Transportation
Gazette

INSTRUCTION NO. _____

**AMCI 105
EXPERT WITNESS**

An expert witness is a person who has special knowledge, skill, experience, training, or education on the subject to which his testimony relates.

An expert witness may give his opinion on questions in controversy. You may consider his opinion in the light of his qualifications and credibility, the reasons given for his opinion, and the facts and other matters upon which his opinion is based.

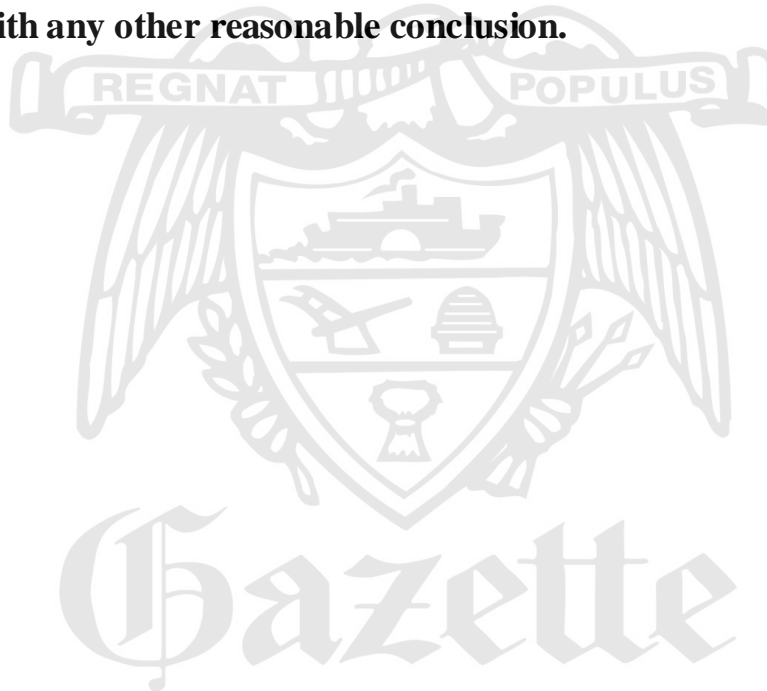
You are not bound to accept an expert opinion as conclusive, but should give it whatever weight you think it should have. You may disregard any opinion testimony if you find it to be unreasonable.



INSTRUCTION NO. _____

**AMCI 106
CIRCUMSTANTIAL EVIDENCE**

A fact in dispute may be proved by circumstantial evidence as well as by direct evidence. A fact is established by direct evidence when, for example, it is proved by witnesses who testify to what they saw, heard, or experienced. A fact is established by circumstantial evidence when its existence can reasonably be inferred from other facts proved in the case. However, circumstantial evidence must be consistent with the guilt of the defendant and inconsistent with any other reasonable conclusion.



INSTRUCTION NO. _____

**AMCI 107
BURDEN OF PROOF**

The State must prove beyond a reasonable doubt each element of the offense charged. On the other hand, the defendant is not required to prove his innocence.



INSTRUCTION NO. _____

**AMCI 108
FILING OF INFORMATION
NOT TO BE CONSIDERED AS EVIDENCE**

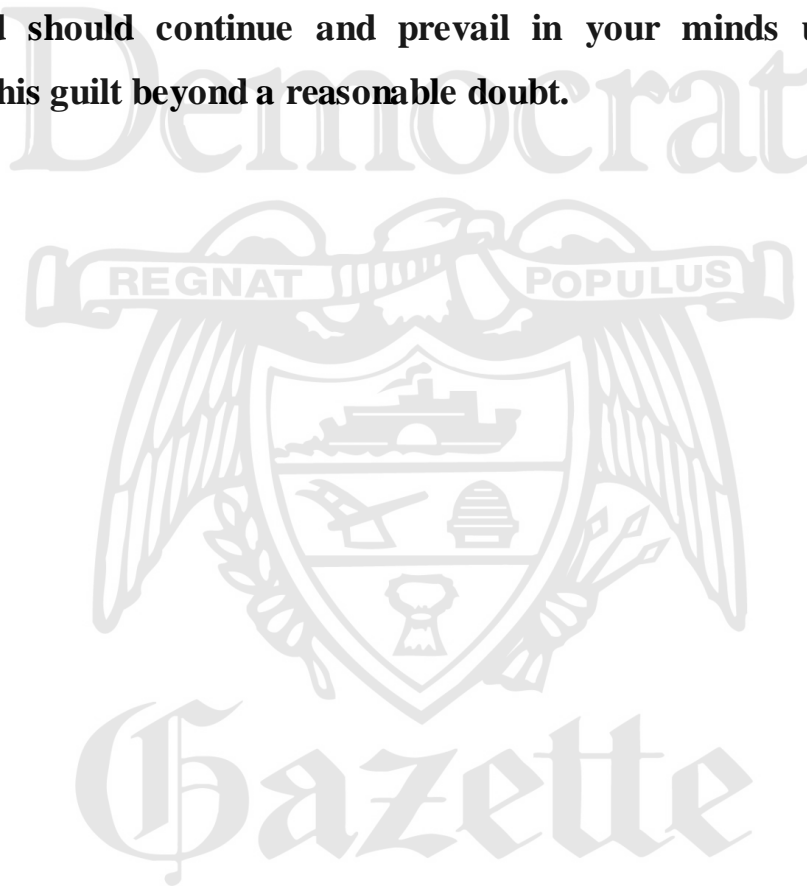
The filing of information is merely the means by which a person is brought to trial. It is not evidence and is not to be considered by you in determining the guilt or innocence of Gary Holmes.



INSTRUCTION NO. _____

**AMCI 109
PRESUMPTION OF INNOCENCE**

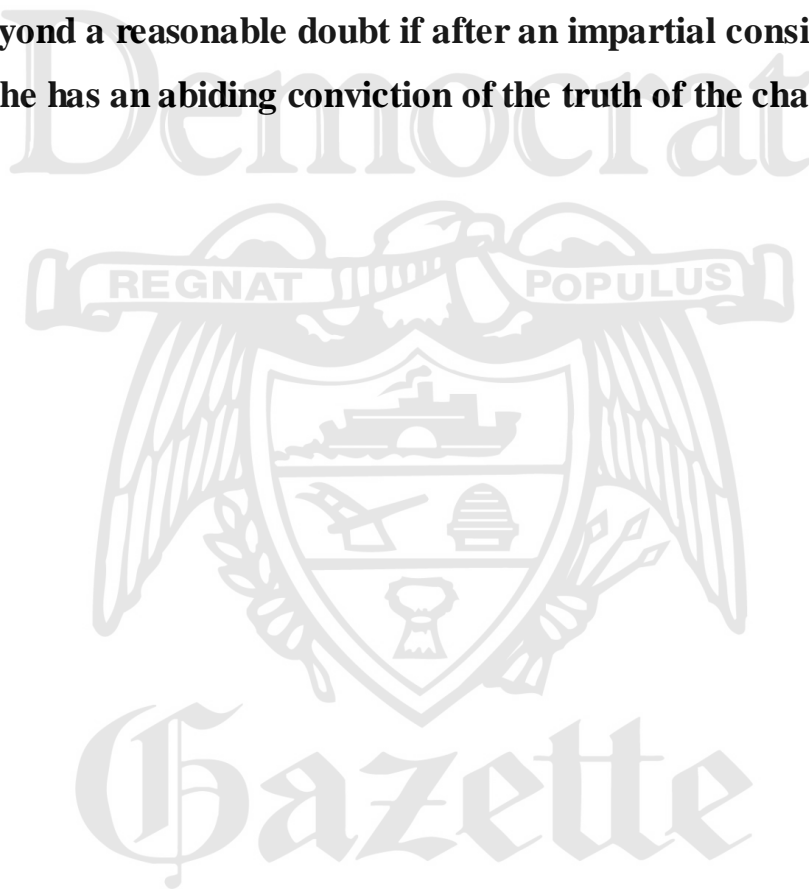
There is a presumption of the defendant's innocence in a criminal prosecution. In this case the defendant, Gary Holmes, is presumed to be innocent. That presumption of innocence attends and protects him throughout the trial and should continue and prevail in your minds until you are convinced of his guilt beyond a reasonable doubt.



INSTRUCTION NO. _____

**AMCI 110
REASONABLE DOUBT**

Reasonable doubt is not a mere possible or imaginary doubt. It is a doubt that arises from your consideration of the evidence and one that would cause a careful person to pause and hesitate in the graver transactions of life. A juror is satisfied beyond a reasonable doubt if after an impartial consideration of all the evidence, he has an abiding conviction of the truth of the charge.



INSTRUCTION NO. ___

**AMCI 2d 111
RIGHT OF THE DEFENDANT
NOT TO TESTIFY**

A defendant has an absolute constitutional right not to testify. The fact that Gary Holmes did not testify is not evidence of guilt or innocence and under no circumstances shall be considered by you in arriving at your verdict.



INSTRUCTION NO. _____
AMCI 2d 203
PREVIOUS CONVICTION IMPEACHMENT

Evidence that a witness has been convicted of a crime or crimes may be considered by you for the purpose of judging the credibility of a witness.



INSTRUCTION NO. _____
AMCI 2d 1002
FIRST DEGREE MURDER

Gary Holmes is charged with the offense of murder in the first degree.

To sustain this charge, the State must prove beyond a reasonable doubt that Gary Holmes acting alone or with one or more other persons committed Terroristic Act; and that in the course of and in furtherance of that crime, Gary Holmes, or a person acting with him caused the death of Acen King under circumstances manifesting extreme indifference to the value of human life.



INSTRUCTION NO. _____
AMCI 2d 1312
TERRORISTIC ACT

Gary Holmes is charged with the offense of committing a terroristic act. To sustain this charge the State must prove beyond a reasonable doubt that, while not in the commission of a lawful act and with the purpose of causing injury to another person or other persons or damage to property, Gary Holmes shot at a conveyance that was being operated or that was occupied by another person or other persons.

Definitions

““Purpose.”—A person acts with purpose with respect to his conduct or a result thereof when it is his conscious object to engage in conduct of that nature or to cause such a result.

INSTRUCTION NO. _____
AMCI 2d 7302
FIREARMS—POSSESSION BY FELON

Gary Holmes is charged with the offense of possession of a firearm. To sustain this charge the State must prove the following things beyond a reasonable doubt; that Gary Homes has been convicted of a felony and Gary Holmes possessed or owned a firearm.

Definitions

“Convicted of a felony.”—means that a court or jury previously made a determination that defendant was guilty of committing a felony (even though the court suspended imposition of sentence or placed defendant on probation), (but a person who has been granted a pardon explicitly restoring the ability to possess a firearm has not been convicted of a felony).

“Possess.”—means to exercise actual dominion, control, or management over a tangible object.

INSTRUCTION NO. ____

**AMCI 2d 8201-EXP F
STAGE ONE: USE OF A FIREARM**

The State has alleged that Gary Holmes employed a firearm as a means of committing Murder in the First Degree and Terroristic Act. To sustain this allegation the State must prove beyond a reasonable doubt that Gary Holmes employed a firearm as a means of committing the alleged Murder in the First Degree and Terroristic Act.

If you find Gary Holmes guilty of the offense of Murder in the First Degree and/or Terroristic Act, you will so indicate on the verdict form provided you. You will also make a finding about whether Gary Holmes employed a firearm as means of committing the offenses.

If you reach a verdict of not guilty, you will indicate this on the form.

DEFINITIONS

“Firearm” means any device designed, made, or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use, including such a device that is not loaded or lacks a clip or other component to render it immediately operable, and components that can readily be assembled into such a device.

INSTRUCTION NO. ____

AMCI 2d 8103

**STAGE ONE: STANDARD CONCLUDING INSTRUCTIONS
JURY NOT TO CONSIDER PUNISHMENT**

In your deliberations the subject of punishment is not to be discussed or considered by you. If you return a verdict of guilty, the matter of punishment will be submitted to you separately.



INSTRUCTION NO. _____

AMCI 2d 8104

STAGE ONE: STANDARD CLOSING INSTRUCTIONS

Members of the jury, when you reach the jury room you will elect one of your members as foreperson.

You will consider and complete the appropriate verdict form.

(Here the appropriate verdict forms will be read to the jury)

All twelve of you must agree on the verdict, but only the foreperson need sign the verdict form.

(Here the closing arguments for Stage One will be made)

The jury will now retire to the jury room to deliberate.

Gazette

AMCI 2d 8301-VF

STAGE ONE: STANDARD VERDICT FORM

We, the Jury, find Gary Holmes guilty of Murder in the First Degree.

FOREPERSON



AMCI 2d 8301-VF

STAGE ONE: STANDARD VERDICT FORM

We, the Jury, find Gary Holmes not guilty of Murder in the First Degree.

FOREPERSON



AMCI 2d 8302-VF

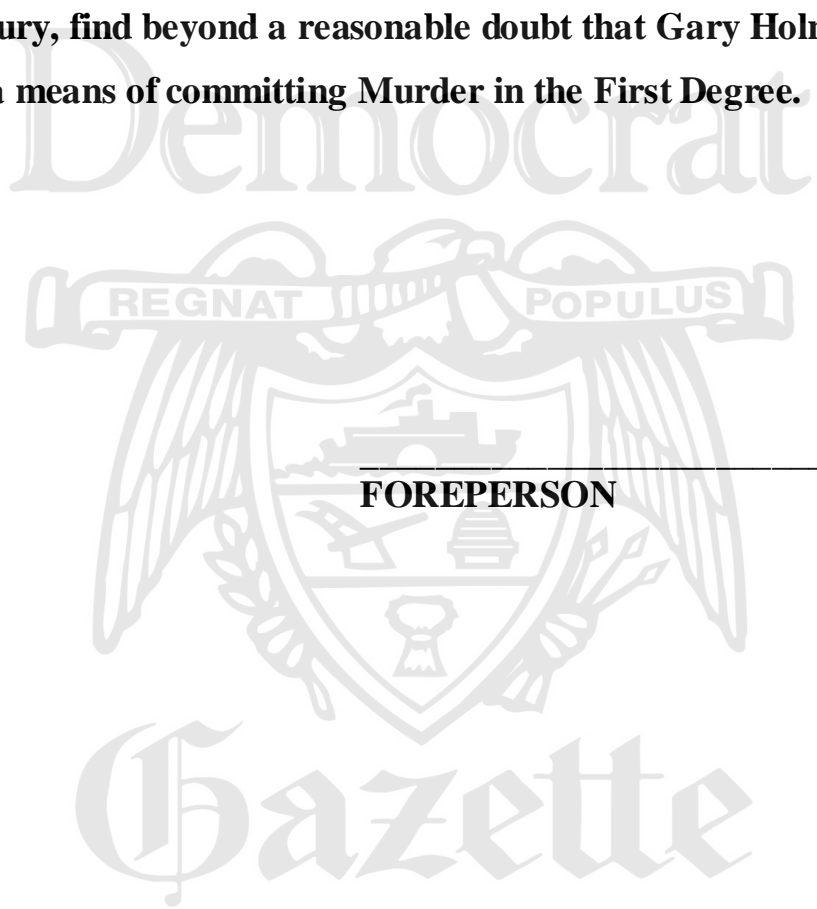
STAGE ONE: VERDICT FORM – FIREARM ENHANCEMENT

If you find Gary Holmes guilty of Murder in the First Degree, you shall complete the following:

Do you, the Jury, find beyond a reasonable doubt that Gary Holmes employed a firearm as a means of committing Murder in the First Degree.

_____ **Yes**

_____ **No**



FOREPERSON

AMCI 2d 8301-VF

STAGE ONE: STANDARD VERDICT FORM

We, the Jury, find Gary Holmes guilty of Terroristic Act.

FOREPERSON



AMCI 2d 8301-VF

STAGE ONE: STANDARD VERDICT FORM

We, the Jury, find Gary Holmes not guilty of Terroristic Act.

FOREPERSON



AMCI 2d 8302-VF

STAGE ONE: VERDICT FORM – FIREARM ENHANCEMENT

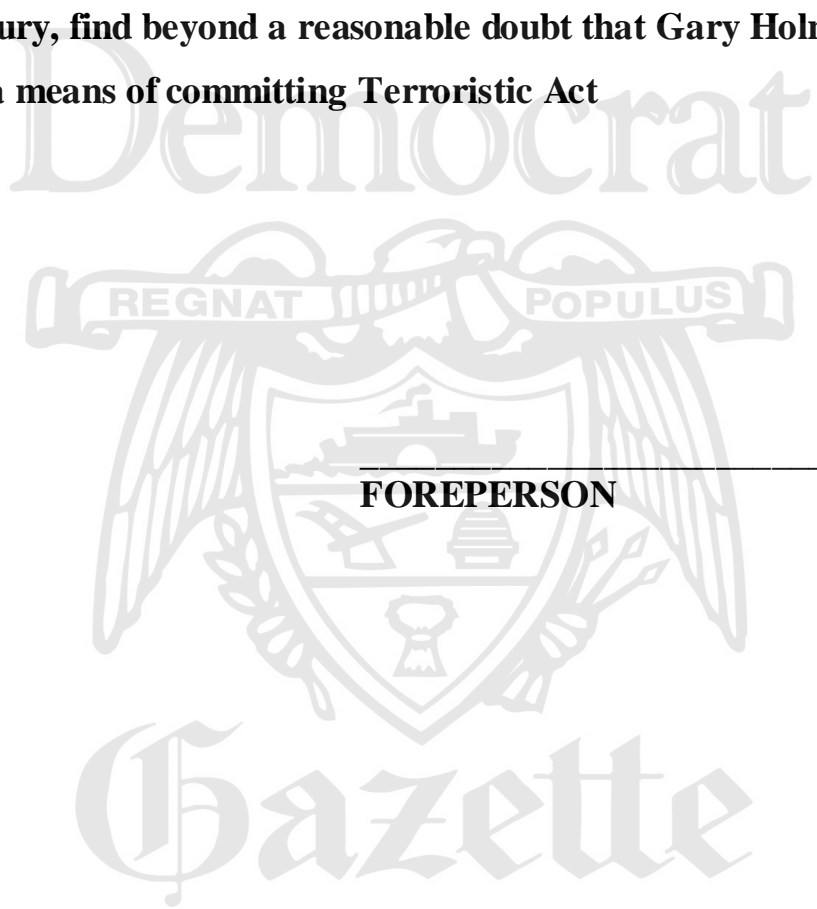
If you find Gary Holmes guilty of Terroristic Act, you shall complete the following:

Do you, the Jury, find beyond a reasonable doubt that Gary Holmes employed a firearm as a means of committing Terroristic Act

_____ **Yes**

_____ **No**

FOREPERSON



Democrat
STAGE
TWO
Gazette

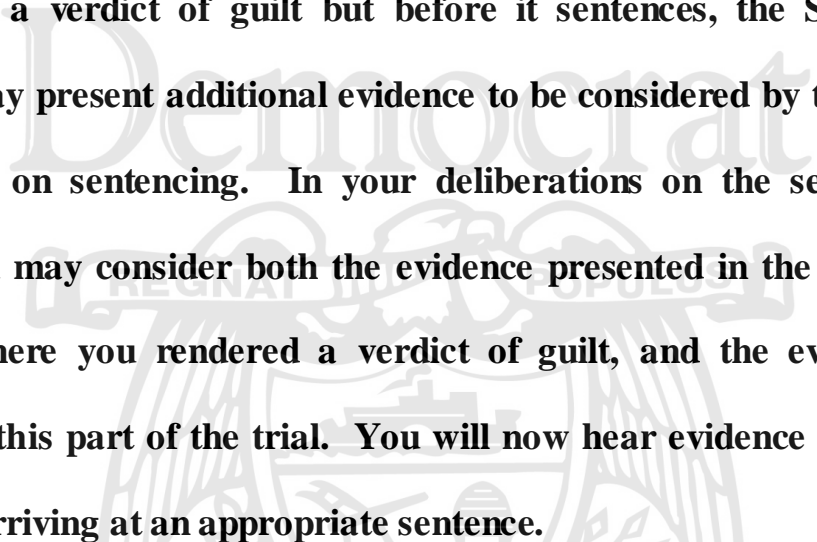


INSTRUCTION NO. _____

AMCI 2d 9001

STAGE TWO: ADDITIONAL EVIDENCE RESPECTING SENTENCING

You have found Gary Holmes guilty. The law provides that, after a jury returns a verdict of guilt but before it sentences, the State and the defendant may present additional evidence to be considered by the jury in its deliberations on sentencing. In your deliberations on the sentence to be imposed, you may consider both the evidence presented in the first stage of this trial, where you rendered a verdict of guilt, and the evidence to be presented in this part of the trial. You will now hear evidence that you may consider in arriving at an appropriate sentence.



INSTRUCTION NO. _____

AMCI 2d 9202
STAGE TWO:
EXTENDED TERM OF IMPRISONMENT:
HABITUAL OFFENDER--ORDINARY

You have found Gary Holmes guilty of the offense of Murder in the First Degree. The State has also alleged that Gary Holmes is subject to an extended term of imprisonment as a habitual offender. It is my duty to instruct you that Gary Holmes has previously been convicted of three (3) felony offenses and is classified as a habitual offender.

(Here the Court may advise the jury as to the nature of the previous convictions and the date and place of the previous convictions.)

The offense of Murder in the First Degree when committed by a habitual offender is punishable by imprisonment in the Arkansas Department of Corrections for a term of 10 to 60 years or life.

INSTRUCTION NO. _____

AMCI 2d 9202
STAGE TWO:
**EXTENDED TERM OF IMPRISONMENT:
HABITUAL OFFENDER--ORDINARY**

You have found Gary Holmes guilty of the offense of Terroristic Act. The State has also alleged that Gary Holmes is subject to an extended term of imprisonment as a habitual offender. It is my duty to instruct you that Gary Holmes has previously been convicted of three (3) felony offenses and is classified as a habitual offender.

(Here the Court may advise the jury as to the nature of the previous convictions and the date and place of the previous convictions.)

The offense of Terroristic Act when committed by a habitual offender is punishable by imprisonment in the Arkansas Department of Corrections for a term of 5 to 40 years or a fine not to exceed \$15,000.00 or both a term of imprisonment and a fine.

INSTRUCTION NO.____

**AMCI 2d 9203
EXTENDED TERM OF IMPRISONMENT-- FIREARM**

You have found Gary Holmes guilty of the offense of Murder in the First Degree and have further found that Gary Holmes employed a firearm as a means of committing the offense. Employing a firearm as a means of committing Murder in the First Degree is punishable by imprisonment in the Arkansas Department of Correction for an extended term not to exceed 15 years. The term of imprisonment for employing a firearm is in addition to any term of imprisonment for the offense of Murder in the First Degree.



Gazette

INSTRUCTION NO. ____
AMCI 2d 9203
EXTENDED TERM OF IMPRISONMENT-- FIREARM

You have found Gary Holmes guilty of the offense of Murder in the Terroristic Act and have further found that Gary Holmes employed a firearm as a means of committing the offense. Employing a firearm as a means of committing Terroristic Act is punishable by imprisonment in the Arkansas Department of Correction for an extended term not to exceed 15 years. The term of imprisonment for employing a firearm is in addition to any term of imprisonment for the offense of Terroristic Act.

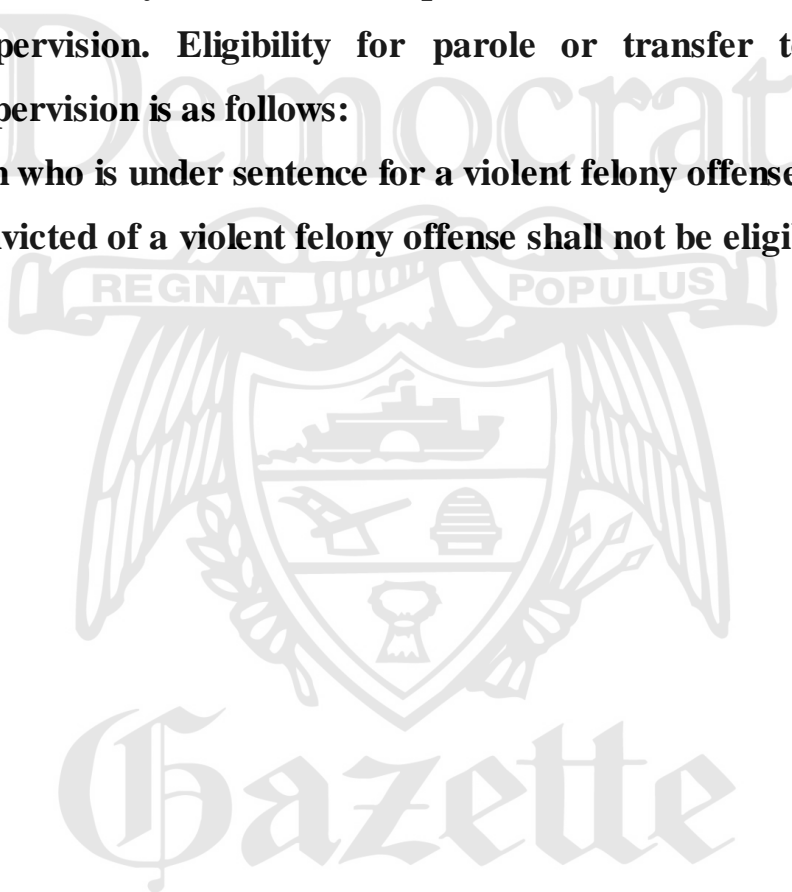
Gazette

INSTRUCTION NO.____
AMCI 2d 9406

**RELEASE ELIGIBILITY: PRIOR VIOLENT OR FELONY SEX
OFFENDER**

In your deliberations on the sentence to be imposed, you may consider the possibility that Gary Holmes will be paroled or transferred to community correction supervision. Eligibility for parole or transfer to community corrections supervision is as follows:

A person who is under sentence for a violent felony offense and has been previously convicted of a violent felony offense shall not be eligible for release on parole.



INSTRUCTION NO. ____

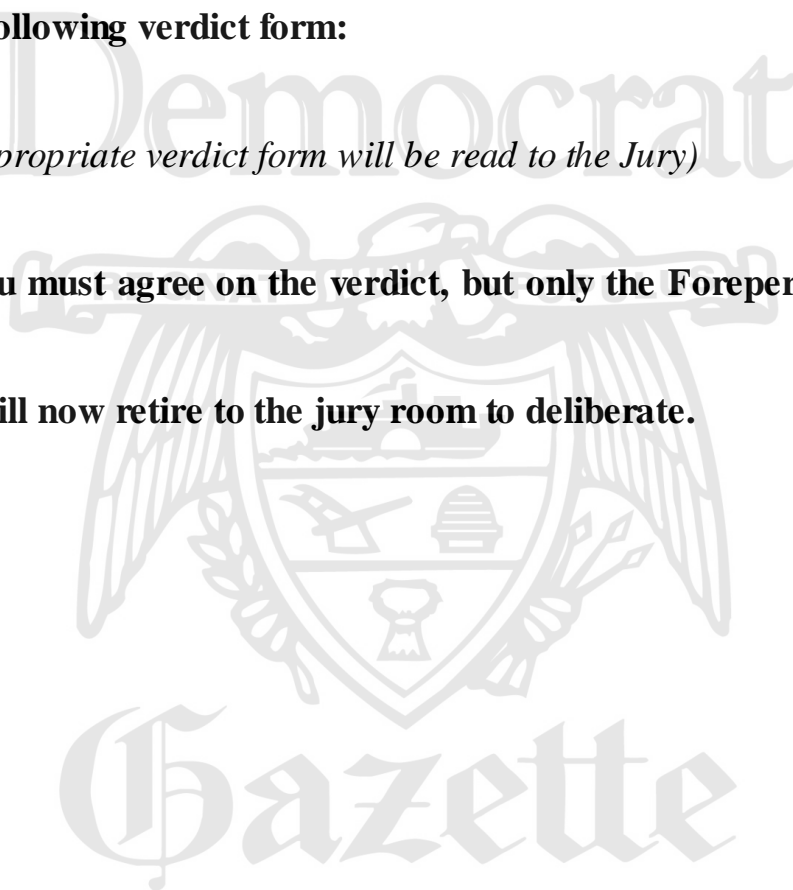
**CLOSING INSTRUCTION
AMCI 2d 9111
STAGE TWO:**

After hearing arguments of counsel, you will again retire to consider and complete the following verdict form:

(Here the appropriate verdict form will be read to the Jury)

All 12 of you must agree on the verdict, but only the Foreperson must sign the verdict.

The Jury will now retire to the jury room to deliberate.



AMCI 2d 9301-VF

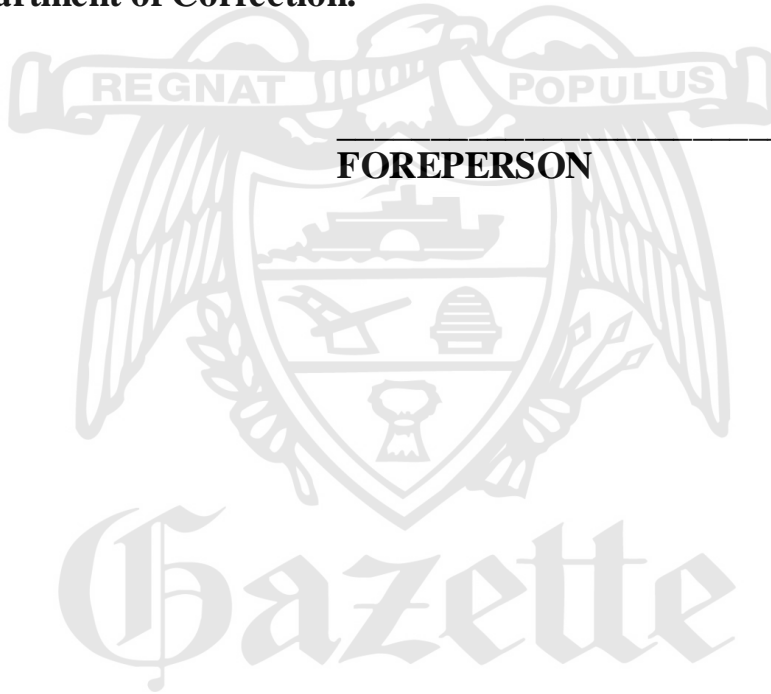
**STAGE TWO: STANDARD VERDICT FORM
CLASS Y FELONY**

We, the Jury, having found Gary Holmes guilty of Murder in the First Degree, fix his sentence at:

**A term of _____ in the
(not less than 10 nor more than 60 years, or life)**

Arkansas Department of Correction.

FOREPERSON



INSTRUCTION NO. _____

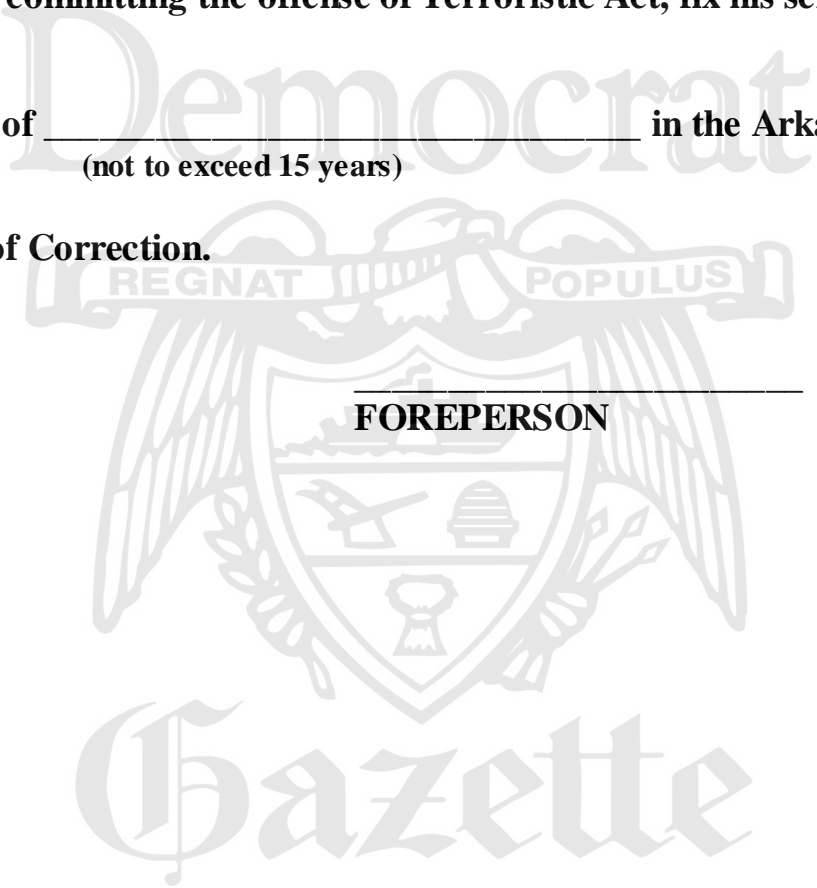
**AMCI 2d 9203-VF
STAGE TWO: FELONY INVOLVING USE OF A FIREARM
VERDICT FORM**

We, the Jury, having found that Gary Holmes employed a firearm as a means of committing the offense of Terroristic Act, fix his sentence at:

**A term of _____ in the Arkansas
(not to exceed 15 years)**

Department of Correction.

**_____
FOREPERSON**



INSTRUCTION NO. _____

**AMCI 2d 9301-VF
STAGE TWO: STANDARD VERDICT FORM
CLASS B FELONY**

We, the Jury, having found Gary Holmes guilty of Terroristic Act, fix his sentence at:

**A term of _____ in the Arkansas
(not less than 5 years nor more than 40)**

Department of Correction; or

**A term of _____ in the Arkansas
(not less than 5 years nor more than 40)**

**Department of Correction and a fine of _____
(not exceeding \$15,000)**

FOREPERSON