

A.
POLYGRAPH-FAVORABLE¹

I instruct you that the expert's opinion testimony as to the results of (his/her) examination merely indicates that at the time (he/she) questioned the defendant, in (his/her) expert opinion, the defendant was answering truthfully the relevant questions asked.²

The expert's opinion is probative evidence which may be considered by you along with all of the other evidence in the case.

However, you are not bound by this expert opinion. You should consider this opinion, but it is for you to determine what weight to give to this evidence, whether that be great or slight, or you may reject it. In examining this opinion, you may consider the reasons given for it, if any, and you may also consider the expert's qualifications and credibility.

It is always within the special function of the jury to decide whether the facts on which the answer of an expert is based actually exist, and the value or weight of the opinion of the expert is dependent upon and no stronger than the facts on which it is predicated.

Depending upon your decision as to the credibility and weight to give the evidence, the defendant must be found not guilty if the polygraph evidence raises in your mind a reasonable doubt as to the defendant's guilt. On the other hand, after considering the polygraph evidence along with all of the other evidence, if you are convinced that the State has proven all of the elements of the crime charged beyond a reasonable doubt, then you must find the defendant guilty. (You should consider each charge or count of the indictment separately).

¹ Includes Model Charge on "EXPERT TESTIMONY".

² State v. Jones, 224 N.J. Super 527 (App. Div. 1988). See also State v. Baskerville, 73 N.J. 230 (1977); State v. McDavitt, 62 N.J. 36, 47 (1972); State v. Valdez, 91 Ariz. 274, 371 P.2d, 894, 901 (Sup. Ct. 1962).