

NOTICE TO THE BAR

DISTRIBUTION OF WRITTEN JURY INSTRUCTIONS (STATE V. O'BRIEN) -- CRIMINAL CASES -- SUPREME COURT ADOPTION OF RULE AMENDMENTS

In State v. O'Brien, 200 N.J. 520 (2009), the Supreme Court asked both the Civil Practice Committee and the Criminal Practice Committee to consider developing standards to guide judges in exercising their discretion to provide written instructions to the jury. In the previous rules cycle the Court adopted rule amendments relating to Civil cases as recommended by the Civil Practice Committee. This notice is to announce that the Court has approved rule amendments on this subject for Criminal cases.

Effective January 1, 2014, the Court has approved revisions to Rule 1:8-7 and Rule 1:8-8, as proposed by the Criminal Practice Committee, to require that written jury instructions be provided to the jury in all criminal cases, unless preparation of the instructions would cause an undue delay in the trial. The July 9, 2013 order adopting these amendments will be separately published. The later effective date of January 1, 2014 will afford judges and practitioners an opportunity to become familiar with this procedure before it becomes mandatory.

Pursuant to amended Rule 1:8-7, the parties in criminal cases, if directed by the court, shall make requests to charge in a format suitable for ready preparation and submission to the jury at a time directed by the court. Whenever practicable, the court will provide to counsel in advance of the charge conference a copy of its proposed jury charge, which is to be marked as a court exhibit, for counsel's review. In accordance with Rule 1:8-8, in criminal cases, the court shall submit two or more copies of its final instructions to the jury for the jury's use in the jury room during deliberations. The court may, however, dispense with the submission of the jury instructions in writing if it finds that preparation of written instructions will cause undue delay in the trial. Counsel's failure to submit written instructions upon request of the court in accordance with Rule 1:8-7(b) shall be a consideration for a finding of undue delay in the trial.

A Notice to the Bar issued on January 24, 2013, explained the Automated Model Criminal Jury Charges System (AMCJCS) for use by judges, court staff, and attorneys to generate criminal jury charges in accordance with the rule revisions. External users can access the AMCJCS by a link for the Criminal Model Jury Charges on the Judiciary's Internet website at <http://www.judiciary.state.nj.us/criminal/juryindx.pdf>.

Further, effective January 14, 2013, the Model Criminal Jury Charge Committee has approved a new charge entitled "Written Copy of Jury Instructions," for use when written instructions are provided to the jury. This new instruction is posted on the Judiciary's Internet website for the Criminal Model Jury Charges at <http://www.judiciary.state.nj.us/criminal/charges/wrtinst.pdf>.

/s/ Glenn A. Grant

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