

Updates

The Committee added two new instructions:

Inst. 12.01B Firearms – Unanimity Required – Determining Whether Defendant Had Three Previous Convictions for Offenses Committed on Occasions Different from One Another (18 U.S.C. § 924(e)(1)) and Special Verdict Form

This instruction was added following Inst. 12.01A for use in the second phase on the different-occasions question when the government alleges three previous convictions under 18 U.S.C. § 924(e)(1). The Chapter 12 Table of Instructions and Introduction were also amended to show this new instruction.

Inst. 14.07C Unanimity Required – Determining Whether Death or Serious Bodily Injury Resulted from the Distribution, Dispensing or Manufacture of a Controlled Substance (§ 841) and Special Verdict Form 14.07C

This instruction was added to cover the “death or serious bodily injury” instructions that were relocated here from their previous location in Insts. 14.02B and 14.03B. The Chapter 14 Table of Instructions and Introduction were also amended to show the new instruction and reorganization.

The Committee updated the text and commentaries of existing instructions:

Inst. 12.02 Firearms – Using or Carrying a Firearm During and in Relation to a Crime of Violence or Drug Trafficking Crime (18 U.S.C. § 924(c)(1)(A)(i))

The definition of “during and in relation to” was amended to define “during” as a distinct element based on Supreme Court and Sixth Circuit cases; the Use Note was amended to list factors that increase penalties.

Inst. 13.01 Concealing a Material Fact in a Matter within the Jurisdiction of the United States Government (18 U.S.C. § 1001(a)(1))

The definition of “willfully” was amended to require knowledge of illegality based on a Sixth Circuit case.

Inst. 13.02 Making a False Statement in a Matter within the Jurisdiction of the United States Government (18 U.S.C. § 1001(a)(2))

The definition of “willfully” was amended to require knowledge of illegality based on a Sixth Circuit case.

Inst. 13.03 Making or Using a False Writing in a Matter within the Jurisdiction of the United States Government (18 U.S.C. § 1001(a)(3))

The definition of “willfully” was amended to require knowledge of illegality based on a Sixth Circuit case.

The Committee updated the Use Notes or Commentaries of the following instructions:

Inst. 8.03B Unanimity Not Required – Means

One Sixth Circuit case was added to the Commentary.

Inst. 10.01 Mail Fraud (18 U.S.C. § 1341)

Kousisis v. United States, 2025 WL 1459593 was added to the Commentary.

Inst. 10.02 Wire Fraud (18 U.S.C. § 1343)

Kousisis v. United States, 2025 WL 1459593 was added to the Commentary.

Inst. 10.05 Health Care Fraud (18 U.S.C. § 1347)

Discussion of the definition of “willfully” was expanded in the Commentary.

Inst. 12.03 Firearms – Possessing a Firearm in Furtherance of a Crime of Violence or
Drug Trafficking Crime (18 U.S.C. § 924(c)(1)(A)(i))

The Use Note was amended for consistency with Inst. 12.02 to list factors
that increase penalties.

In the following Controlled Substance instructions, the Use Notes or Commentaries were amended for consistency with the addition of new Inst. 14.07C Unanimity Required – Determining Whether Death or Serious Bodily Injury Resulted from the Distribution, Dispensing or Manufacture of a Controlled Substance (§ 841) and Special Verdict Form 14.07C. They were also amended for consistency with the reorganization that moved the “death or serious bodily injury” issues into this new instruction.

Inst. 14.01 Possession of a Controlled Substance with Intent to Distribute (21
U.S.C. § 841(a)(1))

Inst. 14.02A Distribution of a Controlled Substance (21 U.S.C. § 841(a)(1))

Inst. 14.02B Dispensing or Distribution of a Controlled Substance by a
Practitioner (21 U.S.C. § 841(a)(1))

Inst. 14.03A Manufacture of a Controlled Substance (21 U.S.C. § 841(a)(1))

Inst 14.03B Manufacture of a Controlled Substance by a Practitioner (21 U.S.C.
§
841(a)(1))

Inst 14.05 Conspiracy (21 U.S.C. § 846)

Inst. 14.07A Unanimity Required – Determining Amount of Controlled
Substance (§ 841) and Special Verdict Forms 14.07A-1 and 14.07A-2

Inst. 14.07B Unanimity Required – Determining Amount of Controlled

Substance (§ 846) and Special Verdict Forms 14.07B-1 and 14.07B-2

The instructions and commentaries include all cases decided through May 1, 2025. The Committee does not update the instructions annually but rather as needed.