

2300 INQUEST: PRELIMINARY INSTRUCTION

You have been summoned to serve as jurors at the inquest into the death of (name of deceased) to determine when, in what manner, and by what means (name of deceased) died.¹

The district attorney will make a brief opening statement to acquaint you with the circumstances of (name of deceased)'s death. After the district attorney's statement, you will hear the testimony of sworn witnesses and examine various courtroom exhibits.

It is your duty to scrutinize and to weigh the testimony of witnesses and to determine the effect of the evidence as a whole. You are the sole judges of the credibility of the witnesses and of the weight and credit to be given to their testimony.

In weighing the evidence, you may take into account matters of your common knowledge and your observations and experience in the affairs of life.²

You may find that the testimony of one witness is entitled to greater weight than that of another witness, or even of several other witnesses, and you may give it such weight in considering your verdict.³

In determining the weight and credit you should give to the testimony of each witness, you should consider interest or lack of interest in the result of this inquest, conduct, appearance, and demeanor on the witness stand, bias or prejudice, if any has been shown, the clearness or lack of clearness of recollections, the opportunity for observing and knowing the matters and things testified to by the witness and the reasonableness of the testimony.

You should also take into consideration the apparent intelligence of each witness, the possible motives for falsifying, and all other facts and circumstances which tend either to support or to discredit the testimony, and then give to the testimony of each witness such weight and credit as you believe its is fairly entitled to receive.⁴

After all the evidence is presented, you will be asked to answer a series of questions and return your verdict as to when, in what manner, and by what means (name of deceased) died.

Your verdict must be based only on the evidence presented and the law given to you by the court. Do not let any personal feelings of bias or prejudice about such things as race, religion, national origin, sex, or age affect your deliberations. Consider the testimony and the exhibits, and listen to the court's instructions concerning the law to be applied to facts of the case. Your verdict will be considered by the district attorney in determining whether criminal charges should be filed.

Do not begin your deliberations and discussion of the case until all the evidence is presented and I have instructed you on the law. Do not discuss this case among yourselves or with anyone else until you deliberate in the jury room. If you come in contact with the district attorney, witnesses, or relatives of the deceased, do not speak with them. Do not listen to any conversations about this case.⁵

[ADD WIS JI-CRIMINAL 55, NOTETAKING PERMITTED, OR WIS JI-CRIMINAL 56, NOTETAKING NOT ALLOWED.]

[ADD WIS JI-CRIMINAL 57 IF THE JURORS WILL BE ALLOWED TO ASK QUESTIONS.]

You will not have a copy of the written transcript of the inquest testimony available for use during your deliberations. [You may ask to have specific portions of the testimony read to you.] You should pay careful attention to all the testimony because you must rely primarily on your memory of the evidence and testimony introduced at the inquest.⁶

COMMENT

Wis JI-Criminal 2300 was originally published in 1998. This revision was approved by the Committee in June 2009. It adopted a new format and did not make any substantive changes.

This instruction is recommended for use before the presentation of evidence begins at an inquest and is intended to give the jurors a general idea of their duties and how the inquest will proceed.

Any other standard instructions may be added that may appear to be helpful or appropriate. Any that are added should be reviewed to assure that they do not contain a reference to "trial" or "beyond a reasonable doubt."

Final instructions and suggested verdict forms are provided in Wis JI-Criminal 2302.

1. This phrase is adopted from the juror's oath provided in § 979.05(4):

You do solemnly swear (affirm) that you will diligently inquire and determine on behalf of the state when, and in what manner and by what means, the person known as who is now dead came to his or her death and that you will return a true verdict thereon according to your knowledge, according to the evidence presented and according to the instructions given to you by the (judge) (court commissioner).

2. This is based on Wis JI-Criminal 195, Juror's Knowledge.

3. This is based on Wis JI-Criminal 190, Weight of Evidence.

4. The preceding three paragraphs are based on Wis JI-Criminal 300, Credibility of Witnesses.

5. Portions of the preceding two paragraphs are based on Wis JI-Criminal 50, Preliminary Instruction on Jurors' Conduct, modified for use in the context of an inquest jury.

6. This paragraph is the text of Wis JI-Criminal 58, Transcript Not Available for Deliberations; Reading Back Testimony. Its purpose is to correct any misimpressions jurors may have about the immediate availability of written transcripts of the inquest testimony. The second sentence is in brackets to emphasize that it is not intended to encourage jury requests for reading back testimony and to indicate

that its use is within the court's discretion.