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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF ALASKA
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7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 v.

10 FRANCIS SCHAEFFER COX, COLEMAN
11 BARNEY, and LONNIE VERNON,

12 Defendants.
13
14

Case No. 3:11-CR-00022-RJB

COURT'S INSTRUCTIONS
TO THE JURY

Original

15
16 DATED this 13 day of June, 2012.

17
18 *Robert J. Bryan*
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20 Robert J. Bryan
United States District Judge
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INSTRUCTION NO. 1

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3 Members of the jury, now that you have heard all the evidence, it is my duty to instruct you on
4 the law that applies to this case. A copy of these instructions will be available in the jury room for you to
5 consult.

6 It is your duty to weigh and to evaluate all the evidence received in the case and, in that process,
7 to decide the facts. It is also your duty to apply the law as I give it to you to the facts as you find them,
8 whether you agree with the law or not. You must decide the case solely on the evidence and the law and
9 must not be influenced by any personal likes or dislikes, opinions, prejudices, or sympathy. You will
10 recall that you took an oath promising to do so at the beginning of the case.
11

12 You must follow all these instructions and not single out some and ignore others; they are all
13 important. Please do not read into these instructions or into anything I may have said or done any
14 suggestion as to what verdict you should return—that is a matter entirely up to you.
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INSTRUCTION NO. 2

The evidence you are to consider in deciding what the facts are consists of:

- (1) the sworn testimony of any witness;
- (2) the exhibits received in evidence; and
- (3) any facts to which the parties have agreed.

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INSTRUCTION NO. 3

Some of you have taken notes during the trial. Whether or not you took notes, you should rely on your own memory of what was said. Notes are only to assist your memory. You should not be overly influenced by your notes or those of your fellow jurors.

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INSTRUCTION NO. 4

In reaching your verdict you may consider only the testimony and exhibits received in evidence.

The following things are not evidence and you may not consider them in deciding what the facts are:

1. Questions, statements, objections, and arguments by the lawyers are not evidence. The lawyers are not witnesses. Although you must consider a lawyer's questions to understand the answers of a witness, the lawyer's questions are not evidence. Similarly, what the lawyers have said in their opening statements, will say in their closing arguments and at other times is intended to help you interpret the evidence, but it is not evidence. If the facts as you remember them differ from the way the lawyers state them, your memory of them controls.

2. Any testimony that I have excluded, stricken, or instructed you to disregard is not evidence. In addition, some evidence was received only for a limited purpose; when I have instructed you to consider certain evidence in a limited way, you must do so.

3. Anything you may have seen or heard when the court was not in session is not evidence. You are to decide the case solely on the evidence received at the trial.

INSTRUCTION NO. 5

Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact, such as testimony by a witness about what that witness personally saw or heard or did. Circumstantial evidence is indirect evidence, that is, it is proof of one or more facts from which you can find another fact.

You are to consider both direct and circumstantial evidence. Either can be used to prove any fact. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. It is for you to decide how much weight to give to any evidence.

INSTRUCTION NO. 6

In deciding the facts in this case, you may have to decide which testimony to believe and which testimony not to believe. You may believe everything a witness says, or part of it, or none of it.

In considering the testimony of any witness, you may take into account:

- (1) the witness's opportunity and ability to see or hear or know the things testified to;
- (2) the witness's memory;
- (3) the witness's manner while testifying;
- (4) the witness's interest in the outcome of the case, if any;
- (5) the witness's bias or prejudice, if any;
- (6) whether other evidence contradicted the witness's testimony or supported it;
- (7) the reasonableness of the witness's testimony in light of all the evidence; and
- (8) any other factors that bear on believability.

The weight of the evidence as to a fact does not necessarily depend on the number of witnesses who testify. What is important is how believable the witnesses were, and how much weight you think their testimony deserves.

INSTRUCTION NO. 7

A defendant in a criminal case has a constitutional right not to testify. You may not draw any inference of any kind from the fact that a defendant did not testify.

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INSTRUCTION NO. 8

Some of the defendants have testified. You should treat this testimony just as you would the testimony of any other witness.

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INSTRUCTION NO. 9

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3 You have heard testimony that defendants have made statements. It is for you to decide whether
4 the defendant made the statement, and if so, how much weight to give to it. In making those decisions,
5 you should consider all the evidence about the statement, including the circumstances under which the
6 defendant may have made it.
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INSTRUCTION NO. 10

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3 You have heard evidence that some witnesses have been convicted of crimes. You may consider
4 this evidence in deciding whether or not to believe a witness and how much weight to give to the
5 testimony of the witness.
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INSTRUCTION NO. 11

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3 You have heard testimony from witnesses who received immunity, benefits, and/or compensation
4 from the government in connection with this case.

5 In evaluating the testimony of such witnesses, consider the extent to which or whether their
6 testimony may have been influenced by this factor. In addition, you should examine the testimony of
7 such witnesses with greater caution than that of other witnesses.
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INSTRUCTION NO. 12

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3 You have heard testimony from informants who were involved in the government's investigation
4 in this case. Law enforcement officials may engage in stealth and deception, such as the use of
5 informants, in order to investigate criminal activities. Informants may assume the roles of members in
6 criminal conspiracies. There is no conspiracy, however, if the only person with whom a defendant
7 conspired was a government informant.
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INSTRUCTION NO. 13

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3 You have heard testimony from persons who, because of education or experience, were permitted
4 to state opinions and the reasons for their opinions.

5 Such opinion testimony should be judged like any other testimony. You may accept it or reject it,
6 and give it as much weight as you think it deserves, considering the witness's education and experience,
7 the reasons given for the opinion, and all the other evidence in the case.
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INSTRUCTION NO. 14

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3 The punishment provided by law for a crime is for the court to decide. You may not consider
4 punishment in deciding whether the government has proved its case against a defendant beyond a
5 reasonable doubt.
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INSTRUCTION NO. 15

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3 All people have a right to hold such beliefs they think are appropriate. All people have a
4 constitutional right to express such beliefs, even in a provocative, challenging or offensive manner, and
5 even if the speech advocates the use of force. Whether you agree or disagree with such expressions
6 should not be considered by you. You should consider such expressions of such beliefs only insofar as
7 such expressions are evidence relating to one or more of the crimes charged.
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INSTRUCTION NO. 16

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3 Because you must base your verdict only on the evidence received in the case and on these
4 instructions, I remind you that you must not be exposed to any other information about the case or to the
5 issues it involves. Except for discussing the case with your fellow jurors during your deliberations:

6 Do not communicate with anyone in any way and do not let anyone else
7 communicate with you in any way about the merits of the case or anything to do with it.
8 This includes discussing the case in person, in writing, by phone or electronic means, via
9 email, text messaging, or any Internet chat room, blog, website or other feature. This
10 applies to communicating with your family members, your employer, the media or press,
11 and the people involved in the trial. If you are asked or approached in any way about your
12 jury service or anything about this case, you must respond that you have been ordered not
13 to discuss the matter and to report the contact to the court.
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15 Do not read, watch, or listen to any news or media accounts or commentary about
16 the case or anything to do with it; do not do any research, such as consulting dictionaries,
17 searching the Internet or using other reference materials; and do not make any
18 investigation or in any other way try to learn about the case on your own.

19 The law requires these restrictions to ensure the parties have a fair trial based on the same
20 evidence that each party has had an opportunity to address. A juror who violates these restrictions
21 jeopardizes the fairness of these proceedings, and a mistrial could result that would require the entire
22 trial process to start over. If any juror is exposed to any outside information, please notify the court
23 immediately.
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INSTRUCTION NO. 17

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3 The indictment is not evidence. The defendants have pleaded not guilty to the charges. A
4 defendant is presumed to be innocent unless and until the government proves the defendant guilty
5 beyond a reasonable doubt. A defendant does not have to testify or present any evidence to prove
6 innocence. The government has the burden of proving every element of each charge against each
7 defendant beyond a reasonable doubt.
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INSTRUCTION NO. 18

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3 Proof beyond a reasonable doubt is proof that leaves you firmly convinced a defendant is guilty.
4 It is not required that the government prove guilt beyond all possible doubt.

5 A reasonable doubt is a doubt based upon reason and common sense and is not based purely on
6 speculation. It may arise from a careful and impartial consideration of all the evidence, or from lack of
7 evidence.

8 If after a careful and impartial consideration of all the evidence, you are not convinced beyond a
9 reasonable doubt that a defendant is guilty, it is your duty to find the defendant not guilty. On the other
10 hand, if after a careful and impartial consideration of all the evidence, you are convinced beyond a
11 hand, if after a careful and impartial consideration of all the evidence, you are convinced beyond a
12 reasonable doubt that a defendant is guilty, it is your duty to find the defendant guilty.

INSTRUCTION NO. 19

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3 A separate crime is charged against one or more of the defendants in each count. The charges
4 have been joined for trial. You must decide the case of each defendant on each crime charged against
5 that defendant separately. Your verdict on any count as to any defendant should not control your verdict
6 on any other count or as to any other defendant.

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8 All the instructions apply to each defendant and to each count unless a specific instruction states
9 that it applies only to a specific defendant or count.

INSTRUCTION NO. 20

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3 The Indictment charges that the offenses charged were committed on or about a certain date. It is
4 necessary for the government to prove beyond a reasonable doubt that the offense was committed on a
5 date reasonably near the dates alleged, it is not necessary for the government to prove that the offense
6 was committed precisely on the date charged.
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INSTRUCTION NO. 21

You are here only to determine whether the defendants are guilty or not guilty of the charges in the indictment. The defendants are not on trial for any conduct or offense not charged in the indictment.

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INSTRUCTION NO. 22

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3 Defendants Cox, Barney, and Vernon are charged in Count 1 of the Indictment with conspiring to
4 possess unregistered silencers and destructive devices in violation of Section 371 of Title 18 of the
5 United States Code. In order for a defendant to be found guilty of that charge, the government must
6 prove each of the following elements beyond a reasonable doubt:

7 First, beginning at a time unknown, but starting at least on or about August 1, 2009, and
8 continuing until on or about March 10, 2011, there was an agreement between two or more persons to
9 possess silencers and/or destructive devices, in the form of hand grenades and 37mm launchers
10 combined with a "Hornets Nest" anti-personnel round, that were not registered to them in the National
11 Firearms Registration and Transfer Record, with all of you agreeing on what was agreed to be possessed;

12 Second, the defendant became a member of the conspiracy knowing of at least one of its objects
13 and intending to help accomplish it; and
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15 Third, one of the members of the conspiracy performed at least one overt act after on or about
16 August 1, 2009 for the purpose of carrying out the conspiracy, with all of you agreeing on a particular
17 overt act that you find was committed.
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INSTRUCTION NO. 23

An overt act is an outward act done in furtherance of a conspiracy.

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INSTRUCTION NO. 24

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3 The overt acts alleged by the government in Count 1 of the indictment, at least one of which the
4 government must prove beyond a reasonable doubt, include the following:

5 1. In November, 2010, Cox was scheduled for a television interview before a local television
6 station in North Pole, Alaska. Prior to the interview, Cox, Barney, Vernon and others developed an
7 operational/tactical plan designed to provide armed security and protection for Cox based on Cox's
8 stated belief that a federal (and completely fictitious) "hit team" had been sent to Fairbanks to
9 assassinate him. Barney was the commanding officer of the armed security detail.

10
11 2. As part of the armed security detail/team, Cox, Barney, Vernon and others known and
12 unknown to the grand jury developed a tactical plan to provide security for Cox. Part of the tactical plan
13 included the wearing of body armor, the possession of hand grenades, arming with semi-automatic
14 weapons, the possession of 37mm launchers loaded with Hornets Nest anti-personnel rounds along with
15 the creation and implementation of a deadly force policy in the event the federal agents arrived to arrest
16 or attempt to kill Cox.

17 3. On or about November 23, 2010, as part of the security detail, Barney, Vernon, and others
18 known and unknown to the grand jury established a tactical and armed perimeter security force of militia
19 members around Cox while Cox was doing the television interview. This perimeter security force,
20 among other things, trespassed on the private property of local citizenry while "patrolling" on Cox's
21 behalf, constructed a vehicular funneling point in order to stop and inspect the vehicles and identities of
22 private citizens, and did, in fact, stop private citizens without lawful authority and under the force of
23 arms. With respect to these citizens, the security detail asked for names and identification and prevented
24 citizens from traveling either to their place of employment or their own private residences.

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26 4. While enacting this security detail, Barney and Vernon were armed with firearms. Barney
27 was armed with a semi-automatic assault rifle, an AR-15 .223 rifle. Attached to the "rail mount" of the
28 semi-automatic rifle was a 37mm launcher. Loaded inside the 37 mm launcher was a "Hornets Nest"
anti-personnel round. Vernon was armed with a semi-automatic assault rifle, a Sig Arms AR-15 .223
rifle. [Case 3:11-cr-00022-RJB Document 430 Filed 06/18/12 Page 25 of 64](#)

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3 5. On or about February 4, 2011, Cox instructed Vernon and another person to travel to
4 Anchorage to acquire hand grenades. Cox explained to Vernon that he has access to the explosive
5 described by Cox as "C-4", that he currently possessed some grenades with two-second fuses, and that
6 he knew how to make grenades operational. Vernon stated that he knew that a person could add
7 phosphorous to the grenades.
8

9 6. From February 4 through February 6, 2011, at the direction of Cox, Vernon and another
10 person travelled to and stayed in Anchorage for the purpose of obtaining hand grenades.

11 7. On or about February 4, 2011, while in Anchorage, VERNON met with others in an effort to
12 obtain grenade bodies and approximately 50 grenade fuses.

13 8. From February 4, 2011, through March 10, 2011, VERNON and COX discussed the location
14 of several self-described "weapons caches."

15 9. On or about February 12, 2011, in a meeting with Barney, Cox stated that he would like to get
16 grenades with "eight-second fuses." Cox also stated that he wanted powder for the grenades that was
17 stronger than what he currently had. Cox stated that they had two-second fuses on his grenades.

18 10. On or about February 21, 2011, Cox, Barney and another individual went to a "weapons
19 cache" and removed approximately eight grenades and an assortment of other weapons.

20 11. On or about February 26, 2011, Cox and Barney met with another person and requested to
21 purchase, and ordered a pistol and silencer matched set, agreeing to pay \$1,000 each. Cox later agreed
22 to trade a C-93 semi-automatic rifle, with a lower receiver, in lieu of the \$1,000 cash purchase price.
23 Cox stated that the lower end receiver would, after some modification, make the C-93 a fully automatic
24 firearm.
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INSTRUCTION NO. 24 (cont.)

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3 12. On or about March 1, 2011, Cox met with the same person that they ordered the pistol and
4 silencers from and ordered 25 grenades. Cox stated that the grenades he currently possessed had two-
5 second fuses. Cox asked if the grenades that were for sale were eight-second fuses and asked if he (Cox)
6 could get a volume discount on the price. Cox stated if they could get the price below \$70 per grenade,
7 he could buy as much as he wanted.

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9 13. On or about March 4, 2011, Cox was informed that only eight grenades were available at a
10 specific price. Cox replied he was under the impression he would be receiving 25 grenades. Cox
11 nevertheless agreed to purchase the eight hand grenades and thought the price was reasonable. Cox also
12 stated that once he got his family transported out of Alaska he was going to return to Alaska to wage
13 guerilla warfare.

14 14. On March 10, 2011, Cox and Barney met with the person with whom they had placed their
15 order for a pistol equipped with a silencer and grenades so that they could purchase these items. Cox
16 and Barney each received a pistol with a silencer and were arrested while in the process of examining the
17 four hand grenades, not knowing that the grenades were inert. Barney carried \$5,000 in cash on his
18 person for the purpose of purchasing additional guns and destructive devices.

19 15. From on or about February 19, 2011, and continuing up to March 10, 2011, Cox and Barney
20 stored the components for destructive devices, a fully automatic Sten 9mm machine gun, serial number
21 FB2539, and a .22 caliber firearm silencer and associated Walther P-22, .22 pistol, serial number
22 N063641 in a utility trailer on Barney's property.

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24 16. On March 10, 2011, Cox and Barney moved the white trailer from Barney's property and left
25 it parked in the parking lot of the Ice Park, in Fairbanks, Alaska. At that time, the trailer contained four
26 live smoke grenade fuses, 17 grenade bodies, black powder, chemical welding solution, a Sten 9mm
27 fully automatic machine gun, serial number FB2539, a Walther P-22 .22 caliber pistol, serial number
28 N063641, and .22 firearm silencer, two 37mm launchers, and four "Hornet's Nest" anti-personnel
rounds.

INSTRUCTION NO. 24 (cont.)

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3 17. On March 10, 2011, Vernon purchased a .22 pistol/silencer combination, and two hand
4 grenades from the same individual as Cox and Barney, not knowing that the grenades were inert.
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INSTRUCTION NO. 25

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3 Silencer means any device for silencing, muffling, or diminishing the report of a portable
4 firearm.
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INSTRUCTION NO. 26

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3 The term destructive device includes an explosive grenade and any combination of parts either
4 designed or intended for use in converting any device into an explosive grenade and from which an
5 explosive grenade may be readily assembled.

6 The term destructive device also includes any type of weapon by whatever name known which
7 will, or which may be readily converted to, expel a projectile by the action of an explosive or other
8 propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter.
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INSTRUCTION NO. 27

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3 A person has possession of something if the person knows of its presence and has physical
4 control of it, or knows of its presence and has the power and intention to control it.

5 More than one person can be in possession of something if each knows of its presence
6 and has the power and intention to control it.
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INSTRUCTION NO. 28

An act is done knowingly if a defendant is aware of the act and does not act or fail to act through ignorance, mistake, or accident. The government is not required to prove that the defendant knew that his acts or omissions were unlawful. You may consider evidence of the defendant's words, acts, or omissions, along with all the other evidence, in deciding whether the defendant acted knowingly.

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INSTRUCTION NO. 29

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3 A conspiracy is a kind of criminal partnership - an agreement of two or more persons to commit
4 one or more crimes. The crime of conspiracy is the agreement to do something unlawful; it does not
5 matter whether the crime agreed upon was committed.

6 For a conspiracy to have existed, it is not necessary that the conspirators made a formal
7 agreement or that they agreed on every detail of the conspiracy. It is not enough, however, that they
8 simply met, discussed matters of common interest, acted in similar ways, or helped one another. You
9 must find that there was a plan to commit at least one of the crimes alleged as an object of the conspiracy
10 with all of you agreeing as to the particular crime which the conspirators agreed to commit.
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12 One becomes a member of a conspiracy by willfully participating in the unlawful plan with the
13 intent to advance or further some object or purpose of the conspiracy, even though the person does not
14 have full knowledge of all the details of the conspiracy. One who willfully joins an existing conspiracy is
15 as responsible for it as the originators. One who has no knowledge of a conspiracy, but happens to act in
16 a way which furthers some object or purpose of the conspiracy, does not thereby become a conspirator.
17 A person does not become a conspirator merely by associating with one or more persons who are
18 conspirators, nor merely by knowing that a conspiracy exists.

19 An overt act does not itself have to be unlawful. A lawful act may be an element of a conspiracy
20 if it was done for the purpose of carrying out the conspiracy. The government is not required to prove
21 that the defendant personally did one of the overt acts.
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INSTRUCTION NO. 30

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3 Certain persons, who may be co-conspirators of Defendants Cox, Barney, and Vernon, may have
4 done or said things during the existence of the alleged conspiracy in order to further or advance its goals.

5 Since these acts may have been performed and these statements may have been made outside the
6 presence of Defendants Cox, Barney, and Vernon and even done or said without a defendant's
7 knowledge, these acts or statements should be examined with particular care by you before considering
8 them against a defendant who did not do the particular act or make the particular statement.
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10 Acts done or statements made by an alleged co-conspirator before a defendant joined a
11 conspiracy may also be considered by you. Acts done or statements made before an alleged conspiracy
12 began or after an alleged conspiracy ended, however, may only be considered by you against the person
13 who performed that act or made that statement.
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INSTRUCTION NO. 31

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3 A conspiracy may continue for a long period of time and may include the performance of many
4 transactions. It is not necessary that all members of the conspiracy join it at the same time, and one may
5 become a member of a conspiracy without full knowledge of all the details of the unlawful scheme or the
6 names, identities, or locations of all of the other members.

7
8 Even if a defendant did not directly conspire with the other defendants or other conspirators in
9 the overall scheme, the defendant has agreed to participate in the conspiracy if the government proves
10 each of the following elements beyond a reasonable doubt:

- 11 (1) the defendant directly conspired with one or more conspirators to carry out at least one of
12 the objects of the conspiracy;
- 13 (2) the defendant knew or had reason to know that other conspirators were involved with
14 those with whom the defendant directly conspired; and
- 15 (3) the defendant had reason to believe that whatever benefits the defendant might get from
16 the conspiracy were probably dependent upon the success of the entire venture.

17 It is not a defense that a person's participation in a conspiracy was minor or for a short period of
18 time.

INSTRUCTION NO. 32

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3 The term firearm, in addition to its regular meaning, includes a destructive device, a silencer, and
4 a machine gun.
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INSTRUCTION NO. 33

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3 Defendants Cox and Barney are charged in Count 2 of the Indictment with possession of
4 unregistered firearms, specifically, destructive devices in the form of a combination of parts either
5 designed or intended for use in converting any device into a destructive device and from which a
6 destructive device may be readily assembled, that is, hand grenades, in violation of Section 5861(d) of
7 Title 26 of the United States Code. In order for a defendant to be found guilty of that charge, the
8 government must prove each of the following elements beyond a reasonable doubt:
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10 First, between on or about February 4, 2011 and continuing until on or about March 10, 2011, the
11 defendant knowingly possessed a combination of parts that could be readily assembled into a destructive
12 device such as a hand grenade;

13 Second, the defendant intended to use the combination of parts as a weapon;

14 Third, the combination of parts were not registered to the defendant in the National Firearms
15 Registration and Transfer Record; and

16 Fourth, the defendant knew that it was a combination of parts either designed or intended for use
17 in converting a device into a destructive device and from which a destructive device could be readily
18 assembled, specifically hand grenades. It does not matter whether the defendant knew that the
19 combination of parts were not registered or had to be registered.
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INSTRUCTION NO. 34

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3 Defendant Cox is charged in Count 3 of the Indictment with possession of an unregistered
4 firearm, specifically a silencer in violation of Section 5861(d) of Title 26 of the United States Code. In
5 order for the defendant to be found guilty of that charge, the government must prove each of the
6 following elements beyond a reasonable doubt:

7 First, beginning at an exact time unknown to the grand jury, but at least from on or about January
8 8, 2008 and continuing until on or about March 10, 2011, the defendant knowingly possessed a silencer;

9 Second, the silencer was not registered to the defendant in the National Firearms Registration and
10 Transfer Record; and

11 Third, the defendant knew that it was a silencer. It does not matter whether the defendant knew
12 that the silencer was not registered or had to be registered.
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INSTRUCTION NO. 35

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3 Defendant Cox is charged in Count 4 of the Indictment with possession of an unregistered
4 firearm, specifically a machine gun in violation of Section 5861(d) of Title 26 of the United States Code.
5 In order for the defendant to be found guilty of that charge, the government must prove each of the
6 following elements beyond a reasonable doubt:

7 First, between on or about March 1, 2010 and continuing until on or about March 10, 2011, the
8 defendant knowingly possessed a machine gun;

9 Second, the machine gun was not registered to the defendant in the National Firearms
10 Registration and Transfer Record; and

11 Third, the defendant knew that it was a machine gun. It does not matter whether the defendant
12 knew that the machine gun was not registered or had to be registered.
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INSTRUCTION NO. 36

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3 A machine gun is any weapon which shoots, is designed to shoot, or can be readily restored to
4 shoot, automatically more than one shot, without manual reloading, by a single function of the trigger.
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INSTRUCTION NO. 37

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3 Defendant Cox is charged in Count 5 of the Indictment with Illegal Possession of a Machine
4 Gun, in violation of Section 922(o) of Title 18 of the United States Code. In order for the defendant to
5 be found guilty of that charge, the government must prove each of the following elements beyond a
6 reasonable doubt:

7 First, the defendant knowingly possessed a machine gun between on or about March 1, 2010 and
8 continuing until on or about March 10, 2011, and
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10 Second, that the defendant knew, or was aware of, the essential characteristics of the item which
11 made it a machine gun.
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INSTRUCTION NO. 38

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3 Defendant Cox is charged in Count 6 of the Indictment with making a firearm, specifically a
4 silencer in violation of Section 5861(f) of Title 26 of the United States Code. In order for the defendant
5 to be found guilty of that charge, the government must prove each of the following elements beyond a
6 reasonable doubt:

7 First, beginning at least from on or about January 8, 2008 and continuing until on or about March
8 10, 2011, the defendant knowingly made a silencer without the approval of the Secretary of the Treasury;
9 and
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11 Second, the defendant knew that it was a silencer. It does not matter whether the defendant knew
12 that he had to apply for or receive approval from the Secretary of the Treasury.
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INSTRUCTION NO. 39

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3 The term making includes manufacturing, putting together and/or altering, or otherwise
4 producing, a firearm.
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INSTRUCTION NO. 40

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3 Defendant Cox is charged in Count 7 of the Indictment with carrying a firearm during and in
4 relation to a crime of violence, that is, the conspiracy to possess unregistered silencers and destructive
5 devices in violation of Section 924(c) of Title 18 of the United States Code. In order for the defendant to
6 be found guilty of that charge, the government must prove each of the following elements beyond a
7 reasonable doubt:

8 First, on or about March 10, 2011, the defendant committed the crime of conspiracy to possess
9 unregistered silencers and destructive devices as charged in Count 1 of the indictment, which is a crime
10 of violence; and

11 Second, the defendant knowingly carried a firearm, a Glock .45 caliber, serial number MMT235,
12 during and in relation to that crime.
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INSTRUCTION NO. 41

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3 A defendant carried a firearm if he knowingly possessed it and held, moved, conveyed or
4 transported it in some manner on his person or in a vehicle. A defendant carried a firearm “during and in
5 relation to” the crime if the firearm facilitated or played a role in the crime.
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INSTRUCTION NO. 42

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3 Defendant Barney is charged in Count 8 of the Indictment with carrying a firearm during and in
4 relation to a crime of violence, that is, conspiracy to possess unregistered silencers and destructive
5 devices in violation of Section 924(c) of Title 18 of the United States Code. In order for the defendant to
6 be found guilty of that charge, the government must prove each of the following elements beyond a
7 reasonable doubt:

8 First, on or about March 10, 2011, the defendant committed the crime of conspiracy to possess
9 unregistered silencers and destructive devices as charged in Count 1 of the indictment, which is a crime
10 of violence; and

11 Second, the defendant knowingly carried a firearm or firearms during and in relation to that
12 crime.
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INSTRUCTION NO. 43

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3 Defendant Barney is charged in Count 9 of the Indictment with possession of an unregistered
4 firearm, specifically a destructive device in the form of a 37mm launcher loaded with a “Hornets Nest”
5 anti-personnel round in violation of Section 5861(d) of Title 26 of the United States Code. In order for
6 the defendant to be found guilty of that charge, the government must prove each of the following
7 elements beyond a reasonable doubt:
8

9 First, on or about November 23, 2010, the defendant knowingly possessed a destructive device;

10 Second, the destructive device was not registered to the defendant in the National Firearms
11 Registration and Transfer Record; and

12 Third, the defendant knew that it was a 37mm launcher loaded with a “Hornets Nest” anti-
13 personnel round. It does not matter whether the defendant knew that the destructive device was not
14 registered or had to be registered.
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INSTRUCTION NO. 44

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3 Defendant Cox is charged in Count 10 of the Indictment with possession of an unregistered
4 firearm, specifically a destructive device in the form of a "Hornets Nest" anti-personnel round and an
5 associated 37mm launcher in violation of Section 5861(d) of Title 26 of the United States Code. In order
6 for the defendant to be found guilty of that charge, the government must prove each of the following
7 elements beyond a reasonable doubt:
8

9 First, beginning at an exact time unknown, but at least from on or about November 23, 2010, and
10 continuing up to on or about March 10, 2011, the defendant knowingly possessed a destructive device;

11 Second, the destructive device was not registered to the defendant in the National Firearms
12 Registration and Transfer Record; and

13 Third, the defendant knew that it was a "Hornets Nest" anti-personnel round and an associated
14 37mm launcher. It does not matter whether the defendant knew that the destructive device was not
15 registered or had to be registered.
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INSTRUCTION NO. 45

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3 Defendant Barney is charged in Count 11 of the Indictment with possession of an unregistered
4 firearm, specifically a destructive device in the form of four "Hornets Nest" anti-personnel rounds and
5 two associated 37mm launchers, in violation of Section 5861(d) of Title 26 of the United States Code. In
6 order for the defendant to be found guilty of that charge, the government must prove each of the
7 following elements beyond a reasonable doubt:

8 First, on or about March 10, 2011, the defendant knowingly possessed a destructive device;

9
10 Second, the destructive device was not registered to the defendant in the National Firearms
11 Registration and Transfer Record; and

12 Third, the defendant knew that it was four "Hornets Nest" anti-personnel rounds and two
13 associated 37mm launchers. It does not matter whether the defendant knew that the destructive device
14 was not registered or had to be registered.

INSTRUCTION NO. 46

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3 Defendants Cox, Barney, and Vernon are charged in Count 12 of the Indictment with conspiring
4 to murder officers and employees of the United States in violation of Section 1117 of Title 18 of the
5 United States Code. In order for a defendant to be found guilty of that charge, the government must
6 prove each of the following elements beyond a reasonable doubt:
7

8 First, between on or about August 2009 and continuing up to on or about March 10, 2011, there
9 was an agreement between two or more persons to murder officers and employees of the United States;

10 Second, the defendant became a member of the conspiracy knowing of at least one of its objects
11 and intending to help accomplish it; and

12 Third, one of the members of the conspiracy performed at least one overt act after on or about
13 August 1, 2009 for the purpose of carrying out the conspiracy, with all of you agreeing on a particular
14 overt act that you find was committed.
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INSTRUCTION NO. 47

The overt acts alleged by the government in Count 12 of the indictment, at least one of which the government must prove beyond a reasonable doubt, include the following:

1. In the fall of 2009, Cox and another unindicted co-conspirator developed a plan to start a list of targets and compile personal information about individuals associated with the government. Cox periodically directed the unindicted co-conspirator to update the list and locate personal information, such as home addresses, of certain individuals employed by the State of Alaska (including law enforcement), and those in certain roles employed by the State of Alaska and the United States including federal law enforcement officers. In the spring of 2010, Cox met with the unindicted co-conspirator and directed the unindicted co-conspirator to add to the list certain federal officers and employees, including officers of the United States Marshals Service, the Transportation Security Administration, and the Department of Homeland Security Customs and Border Protection, and Alaska State Troopers. During this meeting, the unindicted co-conspirator drew a sketch of the federal building in Fairbanks, Alaska while Cox and the unindicted co-conspirator discussed how to identify federal law enforcement officers. Between the fall of 2009 and March 2011, Cox, Barney, and Vernon intended to rely on the list and corresponding information gathered in order to kill those individuals in the event of a “government collapse”, Cox’s arrest by law enforcement, and/or a planned takeover of government by them.

2. In November, 2010, Cox was scheduled for a television interview before a local television station in North Pole, Alaska. Prior to the interview, Cox, Barney, Vernon and others developed an operational/tactical plan designed to provide armed security and protection for Cox based on Cox’s stated belief that a federal (and completely fictitious) “hit team” had been sent to Fairbanks to assassinate him. Barney was the commanding officer of the armed security detail.

INSTRUCTION NO. 47 (cont.)

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3 3. As part of the armed security detail/team, Cox, Barney, Vernon and others known and
4 unknown to the grand jury developed a tactical plan to provide security for Cox. Part of the tactical plan
5 included the wearing of body armor, the possession of hand grenades, arming with semi-automatic
6 weapons, the possession of 37mm launchers loaded with Hornets Nest anti-personnel rounds along with
7 the creation and implementation of a deadly force policy in the event the federal agents arrived to arrest
8 or attempt to kill Cox.
9

10 4. On or about November 23, 2010, as part of the security detail, Barney, Vernon, and others
11 known and unknown to the grand jury established a tactical and armed perimeter security force of militia
12 members around Cox while Cox was doing the television interview. This perimeter security force,
13 among other things, trespassed on the private property of local citizenry while “patrolling” on Cox’s
14 behalf, constructed a vehicular funneling point in order to stop and inspect the vehicles and identities of
15 private citizens, and did, in fact, stop private citizens without lawful authority and under the force of
16 arms. With respect to these citizens, the security detail asked for names and identification and prevented
17 citizens from traveling either to their place of employment or their own private residences.
18

19 5. In December, 2010, Cox appeared at a hearing before the Hon. Jane F. Kauvar, in District
20 Court for the State of Alaska, at Fairbanks. Prior to Cox’s appearance, Cox, Barney, Vernon and other
21 members of the militia developed a tactical security plan in the event Cox was arrested by law
22 enforcement. As part of that security plan, the militia members developed a deadly force policy to use
23 against law enforcement. At the hearing, Cox told Judge Kauvar, among other things, that neither the
24 Alaska district court nor any government had any jurisdiction over him.

25 6. After a hearing in December 2010, Cox told an Alaska State Trooper that his militia had the
26 Alaska State Troopers out manned and outgunned and could have them all dead in one night. Cox failed
27 to appear for the next scheduled hearing on or about February 14, 2011 and a warrant was issued for his
28 arrest. Thereafter, Cox sought refuge in the homes of, respectively, Vernon and Barney.

INSTRUCTION NO. 47 (cont.)

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3 7. On or about February 4, 2011, Cox instructed Vernon and another person to travel to
4 Anchorage to acquire hand grenades. Cox explained to Vernon that he has access to the explosive
5 described by Cox as "C-4", that he currently possessed some grenades with two-second fuses, and that
6 he knew how to make grenades operational. Vernon stated that he knew that a person could add
7 phosphorous to the grenades.
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9 8. From February 4 through February 6, 2011, at the direction of Cox, Vernon and another
10 person travelled to and stayed in Anchorage for the purpose of obtaining hand grenades.

11 9. On or about February 4, 2011, while in Anchorage, Vernon met with others in an effort to
12 obtain grenade bodies and approximately 50 grenade fuses.

13 10. From February 4, 2011, through March 10, 2011, Vernon and Cox discussed the location of
14 several self-described "weapons caches."

15 11. On February 12, 2011, Cox held a meeting with others associated with the command staff of
16 the Alaska Peacemaker Militia. Cox advised that he was not going to appear for his upcoming court
17 hearing on February 14, 2011. Cox directed the others regarding actions they should take in the event
18 that Cox was arrested for failing to appear. Cox and others developed a "2-4-1" plan that if Cox or any
19 militia members were killed then Cox and the others would kill two other people (specifically law
20 enforcement, judges, or district attorneys) in return.
21

22 12. On or about February 12, 2011, in a meeting with Barney, Cox stated that he would like to
23 get grenades with "eight-second fuses." Cox also stated that he wanted powder for the grenades that was
24 stronger than what he currently had. Cox stated that they had two-second fuses on his grenades.

25 13. On or about February 12, 2011, Cox provided home addresses of law enforcement officers to
26 another individual and directed that individual to obtain the target list with additional information from
27 an unindicted co-conspirator and to conduct surveillance at law enforcement officers' homes.

28 14. On or about February 21, 2011, Cox, Barney and another individual went to a "weapons
cache" and removed approximately eight grenades and an assortment of other weapons.

INSTRUCTION NO. 47 (cont.)

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3 15. On or about February 26, 2011, Cox and Barney met with another person and requested to
4 purchase, and ordered a pistol and silencer matched set, agreeing to pay \$1,000 each. Cox later agreed
5 to trade a C-93 semi-automatic rifle, with a lower receiver, in lieu of the \$1,000 cash purchase price.
6 Cox stated that the lower end receiver would, after some modification, make the C-93 a fully automatic
7 firearm.

8
9 16. On or about March 1, 2011, Cox met with the same person that they ordered the pistol and
10 silencers from and ordered 25 grenades. Cox stated that the grenades he currently possessed had two-
11 second fuses. Cox asked if the grenades that were for sale were eight-second fuses and asked if he (Cox)
12 could get a volume discount on the price. Cox stated if they could get the price below \$70 per grenade,
13 he could buy as much as he wanted.

14 17. On or about March 4, 2011, Cox was informed that only eight grenades were available at a
15 specific price. Cox replied he was under the impression he would be receiving 25 grenades. Cox
16 nevertheless agreed to purchase the eight hand grenades and thought the price was reasonable. Cox also
17 stated that once he got his family transported out of Alaska he was going to return to Alaska to wage
18 guerilla warfare.

19 18. On or about March 7, 2011, Cox and a militia member traveled together in an attempt to
20 locate an unindicted co-conspirator in an attempt to acquire the list of targets described in paragraph 1 of
21 this section. Cox and the militia member were unable to locate the unindicted co-conspirator. Cox left
22 contact information for him at the residence of the unindicted co-conspirator. Later that evening, Cox
23 met in person with the unindicted co-conspirator in an attempt to obtain a copy of the target list which
24 Cox intended to distribute to other members of the militia.
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INSTRUCTION NO. 47 (cont.)

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3 19. On March 10, 2011, Cox and Barney met with the person with whom they had placed their
4 order for a pistol equipped with a silencer and grenades so that they could purchase these items. Cox
5 and Barney each received a pistol with a silencer and were arrested while in the process of examining the
6 four hand grenades, not knowing that the grenades were inert. Barney carried \$5,000 in cash on his
7 person for the purpose of purchasing additional guns and destructive devices.
8

9 20. From on or about February 19, 2011, and continuing up to March 10, 2011, Cox and Barney
10 stored the components for destructive devices, a fully automatic Sten 9mm machine gun, serial number
11 FB2539, and a .22 caliber firearm silencer and associated Walther P-22, .22 pistol, serial number
12 N063641 in a utility trailer on Barney's property.

13 21. On March 10, 2011, Cox and Barney moved the white trailer from Barney's property and left
14 it parked in the parking lot of the Ice Park, in Fairbanks, Alaska. At that time, the trailer contained four
15 live smoke grenade fuses, 17 grenade bodies, black powder, chemical welding solution, a Sten 9mm
16 fully automatic machine gun, serial number FB2539, a Walther P-22 .22 caliber pistol, serial number
17 N063641, and .22 firearm silencer, two 37mm launchers, and four "Hornet's Nest" anti-personnel
18 rounds.

19 22. On March 10, 2011, Vernon purchased a .22 pistol/silencer combination, and two hand
20 grenades from the same individual as Cox and Barney, not knowing that the grenades were inert.
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INSTRUCTION NO. 48

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3 In order for you to properly consider the charge of conspiracy to murder officers and employees
4 of the United States, you must understand the elements of the crime of murder of officers and employees
5 of the United States. The government is not required to prove these elements in this case, but the
6 government is required to prove that the defendants entered into an agreement to commit that crime.

7 The crime of murder of officers and employees of the United States has four elements:

8 First, the defendant unlawfully killed one or more officers and employees of the United States;

9 Second, the defendant did so with malice aforethought;

10 Third, the killing or killings were premeditated; and

11 Fourth, the victim or victims were killed while engaged in his/her official duties, or on account of
12 the performance of his/her official duties as an officer or employee of the United States.

13 Use of force is justified when a person reasonably believes that it is necessary for the defense of
14 oneself or another against the immediate use of unlawful force. However, a person must use no more
15 force than appears reasonably necessary under the circumstances.

16 Force likely to cause death or great bodily harm is justified in self defense only if a person
17 reasonably believes that such force is necessary to prevent death or great bodily harm.

18 A killing in self defense is not unlawful.

19 To kill with malice aforethought means to kill either deliberately and intentionally or recklessly
20 with extreme disregard for human life.

21 Premeditation means with planning or deliberation. The amount of time needed for
22 premeditation of a killing depends on the person and the circumstances. It must be long enough, after
23 forming the intent to kill, for the killer to have been fully conscious of the intent and to have considered
24 the killing.
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INSTRUCTION NO. 49

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3 Defendant Barney is charged in Count 13 of the Indictment with carrying a firearm during and in
4 relation to a crime of violence, that is, conspiracy to murder in violation of Section 924(c) of Title 18 of
5 the United States Code. In order for the defendant to be found guilty of that charge, the government must
6 prove each of the following elements beyond a reasonable doubt:

7
8 First, on or about November 23, 2010, the defendant committed the crime of conspiracy to
9 murder as charged in Count 12 of the indictment, which is a crime of violence; and

10 Second, the defendant knowingly carried a firearm, that is, a ParaUSA AR-15 .223 rifle, serial
11 number TR0645, during and in relation to that crime.

INSTRUCTION NO. 50

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3 Defendant Vernon is charged in Count 14 of the Indictment with carrying a firearm during and in
4 relation to a crime of violence, that is, conspiracy to murder in violation of Section 924(c) of Title 18 of
5 the United States Code. In order for the defendant to be found guilty of that charge, the government must
6 prove each of the following elements beyond a reasonable doubt:

7 First, on or about November 23, 2010, the defendant committed the crime of conspiracy to
8 murder as charged in Count 12 of the indictment, which is a crime of violence; and
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10 Second, the defendant knowingly carried a firearm, a Sig Arms .223 rifle, serial number
11 JS003732, during and in relation to that crime.
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INSTRUCTION NO. 51

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3 Defendant Cox is charged in Count 15 of the Indictment with carrying a firearm during and in
4 relation to a crime of violence, that is, conspiracy to in violation of Section 924(c) of Title 18 of the
5 United States Code. In order for the defendant to be found guilty of that charge, the government must
6 prove each of the following elements beyond a reasonable doubt:

7 First, on or about November 23, 2010, the defendant committed the crime of conspiracy to
8 murder as charged in Count 12 of the indictment, which is a crime of violence; and

9 Second, the defendant knowingly carried a firearm, that is, a handgun, during and in relation to
10 that crime.
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INSTRUCTION NO. 52

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3 Defendant Cox is charged in Count 16 of the Indictment with solicitation of others, that is the
4 defendants Barney and Vernon, and others, to engage in the murder of an officer of the United States in
5 violation of Section 373 of Title 18 of the United States Code. In order for the defendant to be found
6 guilty of that charge, the government must prove each of the following elements beyond a reasonable
7 doubt:

8 First, beginning at a time unknown, but starting at least on or about November 15, 2010, and
9 continuing up to on or about March 10, 2011, the defendant had the intent that another person engage in
10 conduct constituting the murder of an officer of the United States;
11

12 Second, the circumstances must be strongly corroborative of the intent; and

13 Third, the defendant solicited, commanded, induced, or otherwise endeavored to persuade the
14 other person to commit the murder of an officer of the United States.
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INSTRUCTION NO. 53

A defendant may be found guilty of a crime, even if the defendant personally did not commit the act or acts constituting the crime but aided and abetted in its commission. To prove a defendant guilty of aiding and abetting, the government must prove beyond a reasonable doubt:

First, the crime was committed by someone;

Second, the defendant knowingly and intentionally aided, counseled, commanded, induced or procured that person to commit each element of the crime; and

Third, the defendant acted before the crime was completed. It is not enough that the defendant merely associated with the person committing the crime, or unknowingly or unintentionally did things that were helpful to that person, or was present at the scene of the crime. The evidence must show beyond a reasonable doubt that the defendant acted with the knowledge and intention of helping that person commit the crime.

The government is not required to prove precisely which defendant actually committed the crime and which defendant aided and abetted.

INSTRUCTION NO. 54

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3 When you begin your deliberations, elect one member of the jury as your presiding juror who
4 will preside over the deliberations and speak for you here in court.

5 You will then discuss the case with your fellow jurors to reach agreement if you can do so. Your
6 verdict, whether guilty or not guilty, must be unanimous.

7 Each of you must decide the case for yourself, but you should do so only after you have
8 considered all the evidence, discussed it fully with the other jurors, and listened to the views of your
9 fellow jurors.
10

11 Do not be afraid to change your opinion if the discussion persuades you that you should. But do
12 not come to a decision simply because other jurors think it is right.

13 It is important that you attempt to reach a unanimous verdict but, of course, only if each of you
14 can do so after having made your own conscientious decision. Do not change an honest belief about the
15 weight and effect of the evidence simply to reach a verdict.
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INSTRUCTION NO. 55

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3 If it becomes necessary during your deliberations to communicate with me, you may send a note
4 through the bailiff, signed by any one or more of you. No member of the jury should ever attempt to
5 communicate with me except by a signed writing, and I will respond to the jury concerning the case only
6 in writing or here in open court. If you send out a question, I will consult with the lawyers before
7 answering it, which may take some time. You may continue your deliberations while waiting for the
8 answer to any question. Remember that you are not to tell anyone—including me—how the jury stands,
9 numerically or otherwise, on any question submitted to you, including the question of the guilt of the
10 defendant, until after you have reached a unanimous verdict or have been discharged.
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INSTRUCTION NO. 56

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3 A verdict form has been prepared for you. After you have reached unanimous agreement on a
4 verdict, your presiding juror should complete the verdict form according to your deliberations, sign and
5 date it, and advise the bailiff that you are ready to return to the courtroom.
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