

1 **14-9002. [~~Children's~~] Children's court; explanation of trial procedure.**

2 **~~[LADIES AND GENTLEMEN]~~ MEMBERS OF THE JURY:**

3 This is a [~~children's~~] children's court proceeding in which the State of New Mexico has
4 filed a petition against the respondent _____ (*name of child*) alleging that
5 _____ (*child*) has committed a delinquent act.

6 In [~~children's~~] children's court, the respondent is referred to as a child. A child is any person
7 under the age of eighteen (18) years. Persons under eighteen (18) years are not charged with
8 crimes, but rather delinquent acts.

9 A delinquent act is any act that would be a crime if committed by an adult. The child in
10 this case _____ (*name of child*) is alleged to have committed the delinquent
11 act of _____ (*common name of crime*).

12 _____ (*name of child*) has denied committing the delinquent act. The child
13 is presumed to be innocent. The state has the burden to prove beyond a reasonable doubt that
14 _____ (*name of child*) committed the delinquent act charged in the
15 petition.

16 What I say now is an introduction to the trial of this case.

17 The [~~children's~~] children's court proceeding generally begins with the lawyers telling you
18 what they expect the evidence to show. Next, the evidence will be presented to you. The evidence
19 will be the testimony of witnesses, exhibits, and any facts agreed to by the lawyers. After you have
20 heard all the evidence, I will instruct you on the law. The lawyers will argue the case, and then you
21 will retire to the jury room to arrive at a verdict.

22 Your purpose as jurors is to find and determine the facts in this case from the evidence. It
23 is my duty to decide what evidence you may consider.

1 It is the duty of a lawyer to object to evidence the lawyer believes may not be proper, and
2 you must not hold [~~such~~] the objection against the state or the respondent [because of such
3 objections]. I will sustain objections if it is improper for you to consider the evidence. If I sustain
4 an objection to evidence, you must not consider [~~such~~] that evidence nor may you consider any
5 evidence which I have told you to disregard. You must not speculate about what would be the
6 answer to a question which I rule cannot be answered.

7 It is for you to decide whether the witnesses know what they are talking about and whether
8 they are being truthful. You may give the testimony of any witness whatever weight you believe
9 it merits.

10 You must decide the case solely upon the evidence received in court. You must not consider
11 anything you may have read or heard about the case outside the courtroom. During the trial and
12 your deliberations, you must avoid news accounts of the trial, whether they be on radio or
13 television or in the newspaper or other written publications. You must not visit the scene of the
14 incident on your own. You cannot make experiments with reference to the case.

15 Until you retire to deliberate the case, you must not discuss this case or the evidence with
16 anyone, even with each other. It is important that you keep an open mind and not decide any part
17 of the case until the entire case has been completed and submitted to you. Your special
18 responsibility as jurors demands that throughout this trial you exercise your judgment impartially
19 and without regard to any biases or prejudices that you may have.

20 [You are not permitted to take notes during the trial. In your deliberations you must rely
21 on your individual memories of the evidence in the case.]²

22 [You are permitted to take notes during trial, and the court will provide you with note
23 taking material if you wish to take them. However, if you choose to take notes, be sure that your

1 note taking does not interfere with your listening to and considering all the evidence. It is difficult
2 to take notes and at the same time pay attention to what a witness is saying. In your deliberations,
3 you should rely on your own memory of the evidence rather than on the written notes of another
4 juror. Do not take your notes with you at the end of the day or discuss them with anyone before
5 you begin your deliberations.]³

6 If an exhibit is admitted in evidence, you should examine it yourself and not talk about it
7 with other jurors until you retire to deliberate.

8 Ordinarily, the attorneys will develop all pertinent evidence. It is the exception rather than
9 the rule that an individual juror will find [~~himself or herself~~] themselves with a question
10 unanswered after the testimony is presented. However, should this occur, you may write out the
11 question and ask the bailiff to hand it to me. Your name as juror should appear below the question.
12 I must first pass upon the propriety of the question before it can be asked in open court. The
13 question will be asked if I deem the question to be proper.

14 No statement, ruling, remark, or comment which I make during the course of the trial is
15 intended to indicate my opinion [~~as to~~] about how you should decide the case or to influence you
16 in any way. At times, I may ask questions of witnesses. If I do, [~~such~~] these questions do not in
17 any way indicate my opinion about the facts or indicate the weight I feel you should give to the
18 testimony of the witness.

19 The prosecuting attorney will now make an opening statement if [~~he~~–~~she~~] the
20 prosecuting attorney desires. The [~~child's~~] child's attorney may make an opening statement if [~~he~~
21 ~~she~~] the child's attorney desires or may wait until later in the trial to do so.

