

1.12. Preliminary Instruction to Jury Where Note Taking Is Permitted

Let me note first that when you took your seats, you found a notebook and pencil waiting for you. That is because I permit jurors in this courtroom to take notes during the trial if they want to, and to have their notes with them during deliberations.

Now I want to emphasize that none of you are required to take notes. Indeed, you should not do so if you think that note taking might distract your attention from the evidence or the testimony of the witnesses in the case. On the other hand, if you think that taking notes might better focus your attention on the witnesses and the evidence, or might better help you to recall what went on during the trial, you may feel free to take notes.

You should remember that your notes only are intended to be a help to your memory. They should not take precedence over your own independent recollection of the evidence. Moreover, those jurors who do not take notes should rely on their own memory of the evidence and should not be influenced by the fact that another juror has taken notes, since the notes only are for the note taker's personal use in refreshing his or her memory of the evidence.

Whenever there is a recess in the trial, please leave your notebooks and pencils on your seats. They will be left there during short recesses when I remain on the bench or the courtroom is locked, and they will be collected during overnight recesses and given to me to keep. At no time during or after the trial will anyone, including myself, look at any of your notes. At the end of the trial, after you have finished your deliberations, I will ask that each of you tear out your notes from your notebook and give them to your foreperson. In turn, I will ask the foreperson to give me your notes, and I will destroy them immediately after the return of your verdict. Again, neither I nor anyone else will look at any notes you have taken.

Authority: *Yeager v. Greene*, 502 A.2d 980, 988 (DC App. 1985).

Note: The above authority also recommends giving the following instruction, 1.2100, as a final when note taking is allowed.