**1.11 NOTE TAKING**

 You may take notes during the trial, but you are not required to do so. If you decide to take notes, do not let your note taking distract you from hearing and seeing all the evidence.

 Your notes are to be used only by you to refresh your own recollection during deliberations. Do not read your notes aloud or show them to other jurors. During deliberations, the recollection of a juror who took notes is not necessarily more accurate than the recollection of another juror who did not take notes.

 During each recess, you must leave your pads and pencils on your chairs. Your notes are kept confidential by being locked up overnight and placed on your chairs each morning. After you have completed your deliberations, your notes will be collected and shredded.

 Use Note

This instruction should be given if the jury is permitted to take notes. Each juror's pad should have a number on the back to indicate its user.

 Comment

There has been considerable controversy among trial judges over the wisdom of allowing jurors to take notes during a trial. Some judges have expressed the view that note‑taking distracts jurors from the evidence and that notes might carry untrue weight during deliberations. Other judges have felt that a ban on note‑taking frustrates jurors, especially when they see the trial judge taking notes, and makes it difficult for jurors to recall the evidence that they have heard.

This instruction borrows an approach that has been used successfully in a number of federal courts. It does not stop the trial judge from banning note‑taking. What it does is provide a procedure for the judge who believes that it is wise to allow jurors to take notes to do so in a way that will minimize the perceived negative aspects of note‑taking.

Pads should be collected each time the jury is excused so that nothing confidential will be leaked to outsiders and no juror will be exposed prematurely to another juror's thoughts.