**T.P.I. - CRIM. 7.04(f)**

**FIRST DEGREE MURDER (DETERMINING WHETHER THE DEFENDANT'S SENTENCE MUST BE EXPEDITED)**

Members of the Jury, you have unanimously determined the defendant's

sentence in the \_\_\_\_ count of indictment number shall be death.

It is now your duty to determine whether the defendant's sentence must be expedited. If you unanimously determine that the defendant's sentence must be expedited, then the sentence must be carried out within thirty (30) business days of the conclusion of any appeal and the exhaustion of all available methods of post-conviction relief.

For you to find that the defendant's sentence must be expedited, the state must have proven beyond a reasonable doubt the existence of the following essential elements:

(1)[(a) The offense involved the death of three (3) or more victims whom the defendant killed using one (1) or more weapons;

or]

[(b) The defendant committed the offense by using one (1) or more deadly weapons on the grounds of a public or private elementary, secondary or postsecondary school;

or]

[(c) The defendant committed the offense by killing a first responder who was acting in the course of the first responder's employment at the time of the offense;]

and

1. The evidence presented at trial proving the defendant's guilt was incontestable, which may include, but is not limited to:
   1. Video evidence depicting the defendant committing the offense;

or

* 1. Deoxyribonucleic acid evidence linking the defendant to the offense.

["Deadly weapon" means a firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury or anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.]

["First responder" means a firefighter, emergency services personnel, POST-certified law enforcement officer, or other person who responds to calls for emergency assistance from a 911 call; and includes capitol police officers, Tennessee highway patrol officers, Tennessee bureau of investigation agents, Tennessee wildlife resources agency officers, and park rangers employed by the division of parks and recreation in the department of environment and conservation.]

"Incontestable" means not subject to being disputed, called into question or controverted. Unlike beyond a reasonable doubt, "incontestable" means no doubt.

If you find that the state has proven beyond a reasonable doubt the essential elements listed above, then you, the jury, may, in your discretion, determine that the defendant's sentence of death must be expedited, and report your verdict on the verdict form, which shall be: "The defendant's sentence of death must be expedited." This verdict form will also require you to indicate the essential elements found. If you determine the defendant's sentence must be expedited, your verdict must be unanimous.

If you do not find beyond a reasonable doubt that the state has proven the essential elements listed above, then the defendant's death sentence must not be expedited, and you will report your verdict on the verdict form, which shall be "The defendant's sentence of death should not be expedited."

You will take with you the indictment and the Court's previous written instructions. You should follow such previous instructions as to the law of consideration of evidence, deliberations, reasonable doubt, witnesses and any other relevant matters.

You may now retire to consider your verdict and report that verdict on the below verdict form.

JUDGE

DATE

**Verdict Form - Determining Whether the Defendant's Death Sentence Must Be Expedited**

We, the Jury, unanimously find each of the following beyond a reasonable doubt: [CHECK ALL THAT APPLY]

[ The offense involved the death of three (3) or more victims whom the defendant killed using one (1) or more weapons;]

[or]

[ The defendant committed the offense by using one (1) or more

deadly weapons on the grounds of a public or private elementary, secondary or postsecondary school;]

[or]

[ The defendant committed the offense by killing a first responder who was acting in the course of the first responder's employment at the time of the offense;]

or

We, the jury, do not find *[this factor] [either of these factors] [any of these factors]* proved beyond a reasonable doubt.

and

The evidence presented at trial proving the defendant's guilt was

incontestable.

contestable.

or

The evidence presented at trial proving the defendant's guilt was

Therefore we, the Jury, unanimously find the following in our discretion: [ONLY CHECK ONE]

The defendant's sentence of death must be expedited.

or

The defendant's sentence of death should not be expedited.

JURY FOREPERSON JUROR

JUROR JUROR

JUROR JUROR

JUROR JUROR

JUROR JUROR

JUROR JUROR

DATE