

**Proposal 05-08
(P.R. 0142)**

Offered by the Supreme Court Committee on Jury Instructions in Criminal Cases

Rule 451. Instructions

(a) Use of IPI Criminal Instructions; Requirements of Other Instructions. (No changes.)

(b) Court's Instructions. (No changes.)

(c) Section 2–1107 of the Code of Civil Procedure to Govern. (No changes.)

(d) Procedure. (No changes.)

(e) Instructions Before Opening Statements. (No changes.)

(f) Instructions During Trial. (No changes.)

(g) Separate Proceeding When an Enhanced Sentence is Sought. When the death penalty is not being sought and the State intends, for the purpose of sentencing, to rely on one or more facts which are subject to the notice and proof requirements of Section 111-3(c-5) of the Code of Criminal Procedure, the court may, within its discretion, upon motion of a party or on its own motion, conduct a separate proceeding respecting the proof of any such fact. Such separate proceeding shall be conducted subject to the following:

(1) The court shall first conduct a trial through the rendition of verdict or verdicts on the issue of guilt under the procedures applicable to trials in other cases.

(2) After the verdict or verdicts are rendered on the issue of guilt, the court shall then conduct a separate proceeding before the same jury, or before the bench if jury was waived at trial or is waived for purposes of the separate proceeding, confined to the issue of whether or not the enhancement fact or facts exist respecting the offense or offenses on which the jury has returned verdicts of “guilty.” The order in which the parties may present evidence and argument and the rules governing admission of evidence shall be the same as at trial, with the burden remaining on the State to prove the fact or facts beyond a reasonable doubt. After the evidence is closed, the submission and giving of instructions shall proceed in accordance with Sections (a), (b), (c) and (d) of this Rule.

(3) The court may enter a directed verdict or judgment notwithstanding the verdict respecting any fact at issue in the separate proceeding.