**T.P.I. – CRIM. 31.01(a)**

**CONTROLLED SUBSTANCE:** ***[MANUFACTURE] [DELIVERY] [SALE]***

**SUPPLEMENTAL INSTRUCTION NUMBER ONE**

Members of the Jury, you have determined that the defendant is guilty of the *[manufacture] [delivery] [sale]* of a controlled substance as charged in Count \_\_\_\_\_\_\_\_ of the indictment.

It will now be your duty to determine whether or not the defendant has previously been convicted of two or more instances of the manufacture, delivery or sale of a controlled substance as set out in Count \_\_\_\_\_\_\_\_\_ .

Any record of prior convictions of the defendant is evidence which you may consider. A judgment of conviction of any person under the same name as that of the defendant may create an inference that the identity of such person is the same as the defendant. However, the jury is not required to make this inference. It is the exclusive province of the jury to determine whether the facts and circumstances shown by all the evidence in the case warrant the inference which the law permits the jury to draw.

If you find beyond a reasonable doubt that the defendant has been convicted of two or more prior convictions, then your verdict will be:

We, the jury, find the defendant, , guilty of the following prior convictions, and list below each conviction upon which we unanimously agree:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If, however, you find that the defendant does not have two or more prior convictions for two or more instances of the manufacture, delivery or sale of a controlled substance, or if you have a reasonable doubt thereof, then your verdict will be:

"We, the jury, find the defendant not guilty of Count \_\_\_\_\_\_\_."

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.