**T.P.I. – CRIM. 11.03(c)**

**FIXING AGGREGATE VALUE**

**[Use 11.03(d) for forgery and criminal simulation offenses]**

If you find the defendant guilty of Count \_\_\_\_\_ beyond a reasonable doubt, you must go further and fix the range of value of the *[property] [services]*.

(A) Value is:

(1) the fair market value of the *[property] [services]* at the time and place of the offense; or

(2) if the fair market value of the property cannot be ascertained, the cost of replacing the property within a reasonable time after the offense.

[(B) The value of documents, other than those having a readily ascertainable fair market value, is:

(1) the amount due and collectible at maturity less any part that has been satisfied, if the document constitutes evidence of a debt; or

(2) the greatest amount of economic loss that the owner might reasonably suffer by virtue of loss of the document, if the document is other than evidence of a debt.]

[(C) If the *[property] [service]* has value that cannot be ascertained by the criteria set forth in parts (A) or (B), the property or service is deemed to have a value of less than fifty dollars ($50).]

[(D) If the defendant gave consideration for or had a legal interest in the *[property] [services]* which *[is] [are]* the object of the offense, the amount of consideration or value of the interest shall be deducted from the value of the *[property] [services]* ascertained under part (A), (B), or (C) to determine value.]

[(E) If the animal killed was a police dog, fire dog, search and rescue dog, service animal or police horse, the jury shall consider the value of the police dog, fire dog, search and rescue dog, service animal or police horse as both the cost of the animal and any specialized training the animal received.]

[(F) In determining the value of the property vandalized, the value of the property shall be fixed at the amount of the damage, the reasonable cost of repairing the damage to the property, or the cost of replacement of the property vandalized.]

[(G) In determining the value of the destruction or interference, the value of the destruction shall be fixed at the amount of the damage or the cost of replacement of the property. The value of the interference shall be fixed at the amount of the interference to the railroad.]

[(H) [For a violation of 16.01 and 16.03 and a violation of some provisions in 16.02 only] Value includes *[the face value of the creation of or amount of alteration to any financial instrument or of an electronic transfer of funds] [the cost of any alteration, damage, destruction or disruption to any computer, computer system, computer network, computer software, program, or data] [the market value of any unauthorized copy, in any form, including, but not limited to, any printed or electronic form of computer data, computer programs, or computer software residing in, communicated by, or produced by a computer or computer network] [the amount of any proceeds received, concealed or used]*.]

The state has the burden of proving this value beyond a reasonable doubt as defined in these instructions.

If you find the defendant guilty of only one of the criminal acts as set out in Count \_\_\_\_\_ beyond a reasonable doubt, you must go further and identify that criminal act and fix the range of value of the property in that one criminal act only.

If you find the defendant guilty of more than one criminal act as set out in Count \_\_\_\_\_ beyond a reasonable doubt, you must go further and identify each criminal act and fix the range of aggregated value[[1]](#endnote-1)1 of the property.

“Aggregated” means collected into one sum.

The monetary value of the property from multiple criminal acts which are charged in a single count shall be aggregated to establish value if you find, beyond a reasonable doubt, that the multiple criminal acts arose from a common scheme, a common purpose, a common intent, or a common enterprise. You may aggregate only the values of the property used to commit those criminal acts that arose from a common scheme, a common purpose, a common intent, or a common enterprise.

A “common scheme” involves multiple criminal acts committed pursuant to a systematic plan or plot or that are part of a larger, continuing plan or conspiracy.

A “common purpose” involves multiple criminal acts committed pursuant to the same objective, goal, or end.

A “common intent” involves multiple criminal acts committed with the same state of mind. That state of mind is a conscious objective or desire to engage in the multiple criminal acts proven.

A “common enterprise” involves multiple criminal acts committed pursuant to a single venture.

You will fix the aggregated value of the *[property] [services] [obtained] [killed] [vandalized] [destroyed] [interfered with]* along with your verdict by indicating which of the following ranges the aggregated value falls within:

1. One thousand dollars ($1,000) or less;
2. More than one thousand dollars ($1,000), but less than two thousand five hundred dollars ($2,500);
3. Two thousand five hundred dollars ($2,500) or more, but less than ten thousand dollars ($10,000);
4. Ten thousand dollars ($10,000) or more, but less than sixty thousand dollars ($60,000);
5. Sixty thousand dollars ($60,000) or more [**only for offenses committed on or after 7/1/12:** , but less than two hundred fifty thousand dollars ($250,000);
6. Two hundred fifty thousand dollars ($250,000) or more].]

If you find the defendant guilty of only one of the criminal acts set out in Count \_\_\_\_\_, your verdict shall be “We, the jury, unanimously find the defendant guilty of the act of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and set the value of the property at \_\_\_\_\_\_\_\_\_\_\_.

If you find the defendant guilty of more than one of the offenses set out in Count \_\_\_\_\_, your verdict shall be in the following form: “We, the jury, unanimously find the defendant guilty beyond a reasonable doubt of the following criminal acts, and further unanimously find that they each arose from a common scheme, a common purpose, a common intent, or a common enterprise:

1. The act of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_with a value of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;

2. The act of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ with a value of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;

[3]. The act of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ with a value of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;

[4]. The act of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ with a value of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;

[5]. The act of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ with a value of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ; and further find that the total aggregate value of the property is in the following range: \_\_\_\_ .

1. [↑](#endnote-ref-1)