**ICJI 1706 Defendant’s Constitutional Right Not to Be Compelled to Testify**

A defendant has a constitutional right not to be compelled to testify. The decision whether to testify is left to the defendant, acting with the advice and assistance of the defendant's lawyer. You must not draw any inference of guilt from the fact that the defendant did not testify [during the guilt phase of the trial] [or] [during the sentencing phase], nor should this fact be discussed by you or enter into your deliberations in any way.

Comment

This instruction should only be given **if the defendant elects not to testify** during either the guilt phase of the trial or the sentencing phase, or both. Use the applicable bracketed language.