

14-5110. Inability to form a deliberate intention to take away the life of another or to know conduct was greatly dangerous to life.¹

An issue you must consider in this case is whether the defendant was [intoxicated from use of (alcohol) (drugs)]² [or] [suffering from a mental disease or disorder]. You must determine whether or not the defendant was _____³ and if so, what effect this had on the defendant's [ability to form the deliberate intent to take away the life of another]² [or] [subjective knowledge that the defendant's conduct was greatly dangerous to the lives of others].

The burden is on the state to prove beyond a reasonable doubt that the defendant was capable of [forming a deliberate intention to take the life of another]² [or] [knowing that the defendant's conduct was greatly dangerous to the lives of others]. If you have a reasonable doubt as to whether the defendant was capable of [forming a deliberate intention to take away the life of another]² [or] [knowing the dangerousness of the defendant's conduct], you must find the defendant not guilty of a first-degree murder by [deliberate killing]² [or] [an act greatly dangerous to life].

USE NOTES

1. This instruction may be given only for a willful and deliberate murder or a depraved mind murder and should immediately follow UJI 14-201 NMRA when the defendant has relied on the defense of "diminished responsibility" or "inability to form specific intent." If, in a "mental disease or disorder" case, the defendant has also relied on the complete defense of insanity, this instruction should follow UJI 14-5101 NMRA. If this instruction is given, add to the essential elements instruction for the offense charged, "The defendant was not [intoxicated from use of (alcohol) (drugs)]² [or] [suffering from a mental disease or disorder] at the time the offense was committed to the extent of being incapable of [forming an intent to take away the life of another]² [or] [knowing the dangerousness of the defendant's conduct]."

2. Use only the applicable bracketed phrase. If intoxication is in issue, use only the applicable source of intoxication.

3. Repeat bracketed and parenthetical words used in the first sentence.
[As amended, effective January 1, 1997; as amended by Supreme Court Order No. 19-8300-016, effective for all cases pending or filed on or after December 31, 2019.]