

### 14-6002B. Necessarily included offense; verdict(s).<sup>1</sup>

To aid you in your deliberations and in returning your verdict, you will be provided both guilty and not guilty verdict forms for each of the crimes charged [in Count \_\_\_\_].<sup>2</sup> Unless you unanimously agree on a verdict, you should not sign a verdict form for that crime. Although you may deliberate on the crimes charged [in Count \_\_\_\_]<sup>2</sup> in any manner and order which you choose, you must return your verdicts for each offense [in Count \_\_\_\_]<sup>2</sup> in the order they are instructed.<sup>3</sup>

Under this procedure, if you unanimously find the defendant guilty of \_\_\_\_\_ (*greatest offense*),<sup>3</sup> you should sign the guilty verdict for that offense and should not proceed to reach a verdict on the remaining offense[s].<sup>4</sup> If, after reasonable deliberation, you do not reach a unanimous verdict on \_\_\_\_\_ (*greatest offense*), you should not sign a verdict form for that offense and should not proceed to reach a verdict on the remaining offense[s].<sup>4</sup>

You should only return a verdict on \_\_\_\_\_ (*next lower offense*) if you unanimously find the defendant not guilty of \_\_\_\_\_ (*greatest offense*). If you unanimously find the defendant not guilty of \_\_\_\_\_ (*greatest offense*), you must sign the not guilty verdict form for \_\_\_\_\_ (*greatest offense*) before returning a verdict on any other crime charged [in Count \_\_\_\_].<sup>2</sup>

If you unanimously find the defendant guilty of \_\_\_\_\_ (*next lower offense*), you should sign the guilty verdict for that offense [and should not proceed to reach verdicts on the remaining offenses].<sup>4</sup> If you do not reach a unanimous verdict on \_\_\_\_\_ (*next lower offense*), you should not sign a verdict form for that offense [and should not proceed to reach a verdict on the remaining offense[s]].<sup>4</sup>

[If you unanimously find the defendant not guilty of \_\_\_\_\_ (*next lower offense*), you must sign the not guilty verdict form for \_\_\_\_\_ (*next lower offense*) before returning a verdict on \_\_\_\_\_ (*lowest offense*)].<sup>4</sup>

[If you unanimously find the defendant not guilty of \_\_\_\_\_ (*greatest offense*) and \_\_\_\_\_ (*next lower offense*), you may then return a verdict on \_\_\_\_\_ (*lowest offense*). If you do reach a unanimous verdict on \_\_\_\_\_ (*lowest offense*), you should sign the corresponding verdict form for that offense. If you are not unanimous on a verdict, do not sign a verdict form for that offense].<sup>4</sup>

#### USE NOTES

1. This instruction should be given immediately after UJI 14-6002A NMRA.
2. If there is more than one count, identify the count charged.
3. Both guilty and not guilty forms should be submitted for each level of offense. This instruction is drafted to accommodate three levels of the offense: “greatest,” “next lower,” and “lowest,” but can be modified to account for any number of lesser-included offenses following the same procedure. The elements instructions for the offenses should be instructed in descending order and identified in this instruction by the names used in the elements instruction for that offense.
4. Use plural only if there are three or more crimes charged in the count.  
[Adopted by Supreme Court Order No. 20-8300-004, effective for all cases pending or filed on or after December 31, 2020.]