

1 **14-6012. Multiple verdict forms; lesser included offenses.¹**

2 In this case, as to the charge of _____² [contained in Count _____],
3 there are [~~three~~] four possible verdicts [as to each defendant] [as to the
4 defendant[s] _____ (name)]

- 5 (1) guilty of _____;²
6 (2) not guilty of _____; [~~3~~]²
7 (3) [~~not guilty;~~] guilty of _____;³
8 (4) not guilty of _____;³

9 [~~Only one of the possible verdicts may be signed by you [as to each defendant] [as to the~~
10 ~~defendant[s] _____ (name).]~~]

11 You must consider each of these crimes. You should be sure that you fully understand the
12 elements of each crime before you deliberate further. You have the discretion to choose the manner
13 and order in which you deliberate on this Count, but you must return a unanimous verdict of not
14 guilty on _____² before entering a verdict on _____³.

15 You will [~~then consider~~] first decide whether [the] [a] defendant is guilty of the crime of
16 _____². If you unanimously find [~~him~~] the defendant guilty of [~~that~~
17 ~~crime~~] _____², then that is the only form of verdict which is to be signed as to this
18 Count. [~~If you have a reasonable doubt as to his guilt of that crime, you will go on to a consideration~~
19 ~~of the crime of _____³.]~~ If you unanimously find the defendant not guilty
20 of _____², then you should sign only the not guilty form as to
21 _____².

1 If, after reasonable deliberation, you do not reach a unanimous verdict on
2 _____², you should not sign a verdict form for that crime and you should not
3 proceed to reach a verdict on the remaining crime[s].¹

4 If you unanimously find the defendant not guilty of _____², you will then
5 go on to a consideration of the crime of _____³. If you unanimously find ~~him~~ the
6 defendant guilty of ~~[that crime]~~ _____³, then that is the only form of verdict which
7 should be signed. But if you ~~[have a reasonable doubt as to his guilt]~~ unanimously find the
8 defendant not guilty of the crime of _____³, then you should ~~[find him not guilty~~
9 ~~and]~~ sign only the not guilty form. If, after reasonable deliberation, you do not reach a unanimous
10 verdict on _____³, you should not sign a verdict form for that crime.

11 You may not find [the] [a] defendant guilty of more than one of the foregoing crimes. If
12 you have a reasonable doubt as to whether [the] [a] defendant has committed any one of the crimes,
13 you must determine that ~~he~~ the defendant is not guilty of that crime. If you find ~~him~~ the
14 defendant not guilty of all of these crimes, [in Count _____] you must return a verdict of
15 not guilty [as to this Count].

16
17 USE NOTES

18 1. This instruction assumes only one lesser included offense. The instruction must be
19 modified if there is more than one lesser included offense to the crime charged. For use when the
20 defendant's mental condition at the time of the offense is not an issue. ~~[This instruction should not~~
21 ~~be given for homicide charges or if insanity is an issue. For such charges, UJI 14-250 or UJI 14-~~
22 ~~5101 is to be given.]~~

23 2. Insert name of greater offense.

1 3. Insert name of lesser included offense.

2 [As amended by Supreme Court Order No. 20-8300-004, effective for all cases pending or filed
3 on or after December 31, 2020.]

4 **Committee commentary.** — *See* committee commentary under UJI 14-6010 NMRA.

5 In addition to this instruction, to avoid a double jeopardy bar on retrying charges after a
6 deadlock, the jury should be provided both guilty and not guilty verdict forms for each degree of
7 offense charged in a single count, “allowing the jury to indicate that it unanimously finds the
8 defendant not guilty on a greater offense even if deadlocked on a lesser offense,” and to “create a
9 clear record as to which offenses the jury has agreed and which it has deadlocked.” *State v. Lewis,*
10 2019-NMSC-001, ¶ 38, 433 P.3d 276.

11 [As amended by Supreme Court Order No. 20-8300-004, effective for all cases pending or filed
12 on or after December 31, 2020.]