

[WITHDRAWN]

1 ~~[14-250. Jury procedure for various degrees of homicide.~~

2 ~~You have been instructed on the crimes of first degree murder, second degree murder,~~
3 ~~voluntary manslaughter and involuntary manslaughter.⁺ You must consider each of these crimes.~~
4 ~~You should be sure that you fully understand the elements of each crime before you deliberate~~
5 ~~further.~~

6 ~~You will then discuss and decide whether the defendant is guilty of murder in the first~~
7 ~~degree.⁺ If you unanimously agree that the defendant is guilty of murder in the first degree, you~~
8 ~~will return a verdict of guilty of murder in the first degree. If you do not agree, you should discuss~~
9 ~~the reasons why there is a disagreement.~~

10 ~~If, after reasonable deliberation, you do not agree that the defendant is guilty of murder in~~
11 ~~the first degree you should move to a discussion of murder in the second degree. If you~~
12 ~~unanimously agree that the defendant is guilty of murder in the second degree, you will return a~~
13 ~~verdict of guilty of murder in the second degree. If you do not agree you should discuss the reasons~~
14 ~~why there is a disagreement.~~

15 ~~If, after reasonable deliberation, you do not agree that the defendant is guilty of murder in~~
16 ~~the second degree, you should consider whether the defendant is guilty of voluntary manslaughter.~~
17 ~~If you unanimously agree that the defendant is guilty of voluntary manslaughter, you will return a~~
18 ~~verdict of guilty of voluntary manslaughter. If you do not agree, you should discuss the reasons~~
19 ~~why there is a disagreement.~~

20 ~~If, after reasonable deliberation, you do not agree that the defendant is guilty of voluntary~~
21 ~~manslaughter, you should consider whether the defendant is guilty of involuntary manslaughter.~~

[WITHDRAWN]

1 If you agree that the defendant is guilty of involuntary manslaughter, you will return a verdict of
2 guilty of involuntary manslaughter.

3 You may not find the defendant guilty of more than one of the foregoing crimes. If you
4 have a reasonable doubt as to whether the defendant committed any one of the crimes, you must
5 determine that he is not guilty of that crime. If you find him not guilty of all of these crimes, you
6 must return a verdict of not guilty.

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USE NOTES

9 1. — The form of this instruction must be altered depending on what crimes are to be
10 considered by the jury.

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

13 **Committee commentary.** — The district court must instruct the jury on every degree of
14 homicide for which there is evidence in the case tending to sustain such degree. *State v.*
15 *Ulibarri*, 67 N.M. 336, 355 P.2d 275 (1960). This could involve instructing the jury on various
16 types of first degree murder, second degree murder, voluntary manslaughter and involuntary
17 manslaughter. *Cf. State v. McFall*, 67 N.M. 260, 354 P.2d 547 (1960). UJI 14 250 attempts to
18 direct the method of jury consideration, recognizing the difficulty that juries can have with
19 homicide cases. The committee considered, but expressly decided against, advising the jury what
20 they should do if they are unable to reach any verdict. The instruction also satisfies the holding of
21 the supreme court in *State v. Jones*, 51 N.M. 141, 179 P.2d 1001 (1947). The instruction in that

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1 ~~case which required the jury to give to the defendant the benefit of doubt between degrees need~~
2 ~~not be given.]~~

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