



**FROM THE COMMITTEE
ON MODEL CRIMINAL
JURY INSTRUCTIONS**

The Committee on Model Criminal Jury Instructions has adopted the following amended model criminal jury instruction, M Crim JI 3.11, addressing the jury's deliberations and verdict, in particular M Crim JI 3.11(6) describing the order of deliberations where lesser included offenses have been offered for the jury's consideration. This instruction is effective September 1, 2019.

[AMENDED] M Crim JI 3.11 Deliberations and Verdict

- (1) When you go to the jury room, you will be provided with a written copy [copies] of the final jury instructions. [A copy of electronically recorded instructions will also be provided to you.] You should first choose a foreperson. The foreperson should see to it that your discussions are carried on in a businesslike way and that everyone has a fair chance to be heard.
- (2) During your deliberations please turn off your cell phones or other communications equipment until we recess.
- (3) A verdict in a criminal case must be unanimous. In order to return a verdict, it is necessary that each of you agrees on that verdict. In the jury room you will discuss the case among yourselves, but ultimately each of you will have to make up your own mind. Any verdict must represent the individual, considered judgment of each juror.
- (4) It is your duty as jurors to talk to each other and make every reasonable effort to reach agreement. Express your opinions and the reasons for them, but keep an open mind as you listen to your fellow jurors. Rethink your opinions and do not hesitate to change your mind if you decide you were wrong. Try your best to work out your differences.
- (5) However, although you should try to reach agreement, none of you should give up your honest opinion about the case just because other jurors disagree with you or just for the sake of reaching a verdict. In the end, your vote must be your own, and you must vote honestly and in good conscience.

[Use the next paragraph when there are less serious included offenses:]

(6) I have already given you instructions regarding [a lesser offense / lesser offenses]. As to any count which includes a lesser offense, you must first consider the principal offense. If you all agree that the defendant is guilty of that offense, you need not consider the lesser offense(s). If you believe that the defendant is not guilty of the principal offense or if you cannot agree on that offense, you may consider the lesser offense(s). It is up to you to decide how long to consider the principal offense before discussing the lesser offense(s). You may go back to consider the principal offense again after discussing the lesser offense(s), if you want to.

(7) If you have any questions about the jury instructions before you begin deliberations, or questions about the instructions that arise during deliberations, you may submit them in writing in a sealed envelope to the bailiff.

Use Note

Paragraph (6) of this instruction is only used when the jury is instructed on less serious crimes. *See People v Handley*, 415 Mich 356, 329 NW2d 710 (1982). The remainder of the instruction should be given in every case.

History

M Crim JI 3.11 (formerly CJI2d 3.11) was CJI 3:1:15A, 3:1:18. Amended May, 2005; September, 2011; September, 2019.

Reference Guide

Court Rule

MCR 2.513(N)(2).

Case Law

People v Pollick, 448 Mich 376, 531 NW2d 159 (1995); *People v Hardin*, 421 Mich 296, 365 NW2d 101 (1984); *People v Handley*, 415 Mich 356, 329 NW2d 710 (1982).