

SAMPLE VERDICT SHEETS

Introductory Note to Judge

The following “sample verdict sheets” are provided for the convenience of the bench. The first is a blank verdict sheet form; the others are applicable in specific cases: the same crime allegedly committed against more than one complaining witness; different crimes defined in the same article of the Penal Law allegedly committed against more than one complaining witness; counts submitted to the jury in the alternative (lesser included offenses); submission of inconsistent counts, together with counts submitted in the alternative; and the submission of counts and an affirmative defense. The CJI Committee recommends that verdict sheets be used in conjunction with the CJI2d charge entitled “Verdict Sheet Explained” found in the “General Charges.”

CPL 310.20(2) specifies in detail what a “verdict sheet” may contain. It reads:

“Upon retiring to deliberate, the jurors may take with them: ... A written list prepared by the court containing the offenses submitted to the jury by the court in its charge and the possible verdicts thereon. Whenever the court submits two or more counts charging offenses set forth in the same article of the law, the court may set forth the dates, names of complainants or specific statutory language, without defining the terms, by which the counts may be distinguished; provided, however, that the court shall instruct the jury in its charge that the sole purpose of the notations is to distinguish between the counts.” Amended L.1996, ch. 630, eff. October 4, 1996; L.2002, ch. 588, eff. September 24, 2002.

Under that statute’s authorization to list the “possible verdicts,” the Court of Appeals has held that a verdict sheet may also include: “a direction regarding the order in which the submitted charges should be considered.” *People v Cole*, 85 N.Y.2d 990, 992 (1995); *People v. Collins*, 99 N.Y.2d 14 (2000). The Court has also approved of a verdict sheet that included dates and the names of the victims. *People v. Brown*, 90 N.Y.2d 872 (1997).

The inclusion on the verdict sheet, without the consent of the parties, of items not authorized by statute is reversible error. *People v. Damiano*, 87 N.Y.2d 477 (1996)(The statute was amended after the decision in *Damiano* to permit the inclusion of some items *Damiano* and its predecessors held were precluded by the statute.) *Damiano* added that, as evidence of counsels’ consent, “we commend the practice of counsels’ initialing the verdict sheet after the trial court presents it for their review.” *Id.* at 483.

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Verdict Sheet

Blank Verdict Sheet Form

_____ Court of the State of New York

County of _____

-----X

The People of the State of New York

: Date:

: No.

against

: Judge:

: Lawyers:

,
Defendant.

-----X

Count	Crime Charged	Not Guilty	Guilty
1			
2			
3			

Verdict Sheet

Multiple Complaining Witnesses & Same Crime

_____ Court of the State of New York
County of _____

-----X

The People of the State of New York : Date:
: No.
against : Judge:
: Lawyers:

,
Defendant.

-----X

Count	Crime Charged	Not Guilty	Guilty
1	<i>(Name of Charged Crime; e.g. Robbery in the first degree)</i> (June 3, 2008; John Doe)		
2	<i>(Name of Charged Crime; e.g. Robbery in the first degree)</i> (June 10, 2008; Mary Doe)		
3	<i>(Name of Charged Crime; e.g. Robbery in the first degree)</i> (June 12, 2008; John Roe)		

Verdict Sheet

Multiple Complaining Witnesses & Crimes in Same Penal Law Article

_____ Court of the State of New York
County of _____
-----X

The People of the State of New York : Date:
: No.
against : Judge:
: Lawyers:

,
Defendant.

-----X

Count	Crime Charged	Not Guilty	Guilty
1	Rape in the First Degree (May 5, 2006; Mary Doe)		
2	Sex Abuse in the First Degree (May 5, 2006; Mary Doe)		
3	Rape in the First Degree (July 10, 2006; Jane Roe)		
4	Sex Abuse in the First Degree (July 10, 2006; Jane Roe)		

Verdict Sheet

Alternative Counts (Lesser Included Offenses)

See People v. Boettcher, 69 N.Y.2d 174 (1987).

_____ Court of the State of New York

County of _____

-----X

The People of the State of New York

: Date:

: No.

against

: Judge:

: Lawyers:

,
Defendant.

-----X

Count	Crime Charged	Not Guilty	Guilty
1	<i>Name of Charged Crime</i>		
	If you find the defendant guilty of count 1, do not consider count 2 and proceed to consider count 3. If you find the defendant not guilty of count 1, consider count 2, and then proceed to consider count 3.		
2	<i>Name of Lesser Included Offense</i>		
3	<i>Name of Second Charged Crime</i>		

Verdict Sheet

Inconsistent Counts and Alternate Counts

_____ Court of the State of New York
County of _____

-----X

The People of the State of New York : Date:
: No.
against : Judge:
: Lawyers:

,
Defendant.

-----X

Count	Crime Charged	Not Guilty	Guilty
1	Murder in the second degree		
	(with intent to cause the death of another person, he or she causes the death of such person.)		
2	Murder in the second degree		
	(under circumstances evincing a depraved indifference to human life, he or she recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes the death of another person.)		

Count	Crime Charged	Not Guilty	Guilty
	<p>As to counts 1 and 2, the verdict must be either not guilty of both counts, or guilty of one count and not guilty of the other count.</p> <p>If you find the defendant guilty of either count 1 or count 2, then do not consider count 3, Manslaughter in the first degree, and proceed to consider counts 4 and 5 and as to each of those counts render a verdict of guilty or not guilty.</p> <p>If you find the defendant not guilty of count 1 and not guilty of count 2, then consider count 3, Manslaughter in the first degree, and render a verdict of guilty or not guilty.</p>		
3	Manslaughter in the first degree		
	<p>If you find the defendant guilty of count 3, do not consider count 4.</p> <p>If you find the defendant not guilty of count 3, consider count 4.</p>		
4	Manslaughter in the second degree		
5	Criminal possession of a weapon in the third degree		

Count	Crime Charged	Not Guilty	Guilty
	<p>If you find that the People have not proved the Defendant guilty beyond a reasonable doubt of all of the elements of murder in the second degree, then you must find the defendant not guilty of murder in the second degree under count 1 (a), and proceed to consider count 2, Manslaughter in the first degree, and render a verdict of guilty or not guilty of that count.</p> <p>If you find the People have proven all the elements of murder in the second degree beyond a reasonable doubt, and that the defendant has not proven the affirmative defense by a preponderance of the evidence, then you must find the defendant guilty of murder in the second degree under count 1 (a), and you should then stop deliberating and report that you have reached a verdict.</p> <p>If you find the People have proven all the elements of murder in the second degree beyond a reasonable doubt, but that the defendant has proven the affirmative defense by a preponderance of the evidence, then you must find the defendant not guilty of murder in the second degree under count 1 (a) and guilty of manslaughter in the first degree under count 1 (b), and you should then stop deliberating and report that you have reached a verdict.</p>		
2	<p>Manslaughter in the first degree (with intent to cause serious physical injury to another person, causes the death of such person).</p>		

Count	Crime Charged	Not Guilty	Guilty