

Lesser Included Offenses¹

I am submitting for your consideration the offense of (specify the lesser included crime), which was not mentioned at the beginning of the trial.

That crime is called a lesser included offense of (specify the charged crime). As a result, our law requires that the jury consider (specify the charged crime) and (specify the lesser included crime) as follows:²

You can find the defendant not guilty of both charges, or guilty of one of the two charges.³ Thus, you will consider (specify the charged crime) and render a verdict of guilty or not guilty.⁴ If your verdict is guilty, you will not consider (specify the lesser included crime).⁵ If your verdict is not guilty, then you will consider (specify the lesser included crime).⁶

1. This charge contemplates a single charged crime and a single lesser included offense; in other circumstances, the court should modify as necessary.
2. CPL 300.50(1).
3. CPL 300.50(4).
4. *People v. Boettcher*, 69 N.Y.2d 174 (1987).
5. See CPL 300.50(4).
6. See CPL 300.50(4); *People v. Boettcher, supra*.