

TAKING OF A VERDICT ¹

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COURT: Members of the jury, I have your note indicating that you have reached a verdict. Will the Clerk of the Court please take the verdict?

CLERK: Mr./Ms. Foreperson, has the jury agreed upon a verdict?

As to count (*specify count number and name of offense*) what is the jury's verdict?

[Repeat the foregoing question for each count the jury considered].

Members of the jury, your foreperson has announced the following verdict(s): (*Specify each count, name of crime, and verdict*).

Members of the jury, (is that / are those) your verdict(s)?
[Jurors should answer individually and collectively, yes or no].

COURT: If anyone said no, please raise your hand.

[The Court should state whether a juror has raised his/her hand. If no juror did, proceed as follows; otherwise, proceed as provided in CPL 310.80].

COURT: Do you wish the jury to be polled? ²

CLERK: [If yes, Clerk should ask each juror the following question:]

Juror # 1: Is the announced verdict(s) your verdict(s)?

Juror # 2: etc.

1. CPL 310.40 Verdict; rendition thereof

“1. The verdict must be rendered and announced by the foreperson of the jury in the courtroom in the presence of the court, a prosecutor, the defendant's counsel and the defendant; provided, however, that where the foreperson refuses or is unable to render and announce the verdict, the court may designate another

member of the jury to do so.

2. Before rendering and announcing the verdict, the foreperson of the jury, or such other member of the jury as may be designated by the court pursuant to subdivision one, must be asked whether the jury has agreed upon a verdict and must answer in the affirmative.”

2. CPL310.80 Recording and checking of verdict and polling of jury

“After a verdict has been rendered, it must be recorded on the minutes and read to the jury, and the jurors must be collectively asked whether such is their verdict. Even though no juror makes any declaration in the negative, the jury must, if either party makes such an application, be polled and each juror separately asked whether the verdict announced by the foreman is in all respects his verdict. If upon either the collective or the separate inquiry any juror answers in the negative, the court must refuse to accept the verdict and must direct the jury to resume its deliberation. If no disagreement is expressed, the jury must be discharged from the case....”

See also People v Simms, 13 NY3d 867, 871 (2009) (“Here, juror number 10’s response – ‘[w]ell it is my verdict, although I feel like I was pressured to make that decision’ – was unsure enough to require the trial judge to inquire further, as he did [*see People v Mercado*, 91 NY2d 960, 963 (1998) (‘[e]ven in the absence of an outright negative declaration, a juror’s response during polling may engender doubts about a full verdict and we have recognized the responsibility of a court to resolve any uncertainties’)]”).