

VERDICT FORMS

In the 1999 edition of the MCJI, the Commission noted that detailed or specific verdict forms for this manual were probably not helpful since they were often case-specific and the subject of argument by the litigants.

In this publication, the Commission has also chosen to avoid particular format examples for the same reason. There are, however, suggested forms for enhancement situations, and lesser included offenses. As noted in the prior edition to this publication, all verdict forms should make clear that if alternative charges are involved, the defendant can only be convicted of one of the offenses. Also, see the problems occasioned by the verdicts in *State v. Scarborough*, 2002 MT 301, 302 Mont. 350, 14 P.3d 1202 and *Demontiney v. Twelfth Judicial District, et al.*, 2002 MT 161, 310 Mont. 406, 51 P.3d 476. In these cases the jury found the defendant not guilty of the greater, but guilty of the lesser offense. The Court determined that this was unacceptable.

The Commission recommends that the general verdict form be designed so that the jury is required to write out its verdict rather than simply entering a check mark next to the selected verdict. For example, in a case involving one charge with no alternative or lesser included offenses, the form would state:

We the jury, duly impaneled and sworn to try the issues in the above-entitled cause, enter the following unanimous verdict:

To the charge of _____,

(Write on the above line “guilty” or “not guilty”)

Dated _____

FOREPERSON