

JUDGE'S INQUIRY WHEN JURY REPORTS INABILITY TO REACH VERDICT¹

You have indicated that your deliberations have reached an impasse. Do you feel that further deliberations will be beneficial or do you feel that you have reached a point at which further deliberations would be futile?² Please return to the jury room to confer, and advise me of your decision in another note.

¹ This charge presumes that the jury already has indicated its deadlock and has been instructed about continuing deliberations. See Model Jury Charges, (Criminal), Judge's Instructions on Further Jury Deliberations (approved 1/14/13). It is the trial court's responsibility, in consultation with the parties, to determine when to inquire of the jury if further deliberations would be fruitful. The trial judge may not impose a time limit for further jury deliberations. State v. Nelson, 304 N.J. Super. 561, 566 (App. Div. 1997).

² When a jury states that it cannot come to a unanimous verdict, it is appropriate for a trial judge to ask whether the jury desires more time to deliberate. State v. Vergilio, 261 N.J. Super. 648, 655 (App. Div.) certif. denied, 133 N.J. 443 (1993). A trial judge has discretion to require further deliberations after a jury has announced a deadlock but may declare a mistrial after a reasonable period of deliberations based upon the length and complexity of the trial. State v. Adim, 410 N.J. Super. 410, 423-24 (App Div. 2009). If the jurors indicate that further deliberations would be futile, the court should grant a mistrial. This would not prevent a retrial. N.J.S.A. 2C:1-9d(2).