§ 300.10 Court's charge; in general.

1. At the conclusion of the summations, the court must deliver a charge to the jury.

2. In its charge, the court must state the fundamental legal principles applicable to criminal cases in general. Such principles include, but are not limited to, the presumption of the defendant's innocence, the requirement that guilt be proved beyond a reasonable doubt and that the jury may not, in determining the issue of guilt or innocence, consider or speculate concerning matters relating to sentence or punishment. Upon request of a defendant who did not testify in his own behalf, but not otherwise, the court must state that the fact that he did not testify is not a factor from which any inference unfavorable to the defendant may be drawn. The court must also state the material legal principles applicable to the particular case, and, so far as practicable, explain the application of the law to the facts, but it need not marshal or refer to the evidence to any greater extent than is necessary for such explanation.

3. Where a defendant has raised the affirmative defense of lack of criminal responsibility by reason of mental disease or defect, as defined in section 40.15 of the penal law, the court must, without elaboration, instruct the jury as follows: "A jury during its deliberations must never consider or speculate concerning matters relating to the consequences of its verdict. However, because of the lack of common knowledge regarding the consequences of a verdict of not responsible by reason of mental disease or defect, I charge you that if this verdict is rendered by you there will be hearings as to the defendant's present mental condition and, where appropriate, involuntary commitment proceedings."

4. The court must specifically designate and submit, in accordance with the provisions of sections 300.30 and 300.40, those counts and offenses contained and charged in the indictment which the jury are to consider. Such determination must be made, and the parties informed thereof, prior to the summations. In its charge, the court must define

each offense so submitted and, except as otherwise expressly provided, it must instruct the jury to render a verdict separately and specifically upon each count submitted to it, and with respect to each defendant if there be more than one, and must require that the verdict upon each such count be one of the following:

(a) "Guilty" of the offense submitted, if there be but one; or

(b) Where appropriate, "guilty" of a specified one of two or more offenses submitted under the same count in the alternative pursuant to section 300.40; or

(c) "Not guilty"; or

(d) Where appropriate, "not responsible by reason of mental disease or defect."

5. Both before and after the court's charge, the parties may submit requests to charge, either orally or in writing, and the court must rule promptly upon each request. A failure to rule upon a request is deemed a denial thereof.

6. In a prosecution involving a charge of enterprise corruption, as defined in article four hundred sixty of the penal law, the court must specifically designate and separately submit for jury consideration those criminal acts which are contained and charged in the indictment and which are supported by legally sufficient trial evidence. Every criminal act which is not so supported shall be dismissed and stricken from the indictment. If legally sufficient trial evidence exists to support a lesser included offense which is also a criminal act within the meaning of subdivision one of section 460.10 of the penal law, such lesser offense shall be substituted. Such determination must be made and the parties informed thereof, prior to the summations. In its charge, the court must define each criminal act so submitted and, as when it may or must do so pursuant to sections 300.40 and 300.50 of this article, any lesser included offense that is also a criminal act within the meaning of subdivision one of section 460.10 of the penal law. It must instruct the jury to render a verdict separately and specifically upon each criminal act (and where necessary, any submitted lesser included offense) submitted to it with respect to each defendant. It must further explain to the jury that they may not consider a charge of enterprise

corruption against any defendant until they have separately and unanimously agreed that the defendant has committed each of at least three criminal acts alleged as part of the pattern of criminal activity, including any submitted lesser included offenses.