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Jury Nullification: The Current State of the Law
By Louisa M.A. Heiny
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Abstract:

In 2018, the Utah legislature considered a proposed bill that would have explicitly granted jurors the right to nullify in criminal cases. This research, done in preparation for committee testimony, contains the most up-to-date law on the topic. It includes a fifty-state survey on whether juries in various jurisdictions are (1) given the right to consider the possible sentencing penalty before rendering a verdict; (2) told they may disregard the law; or (3) instructed on the right to nullify. Additionally, the research includes fifty-state survey data on whether judges may lie to juries about the right to nullify, and how various jurisdictions treat attempts by outside organizations to notify potential jurors of their right to nullify.

Jurisdiction	Consider Penatly?	Answer.	May the jury disregard the law?	Answer.
Alabama	I.2 (2014) Juror Conduct During Trial (Non-sequestered jury): "Your verdict in this case must be based solely on the evidence and the law presented during the trial." PRESUMPTIVE SENTENCING STANDARDS I.A. (Aggravating Factors)"Your verdict in this case must be based solely on the evidence and the law presented during the trial."	Not directly.	From the Civil Model Jury Instructions: "In a jury trial, my role is to move the trial along; to rule on objections and other legal questions; and to explain the law and how you use it to reach a verdict. <i>Your role as jurors is to follow the law as I explain it to you.</i> Your verdict must be based on the facts you decide from the evidence and the law I have explained to you." 1 Ala. Pattern Jury Instr. Civ. 1.02 (3d ed.)	N/A (Criminal Model Jury Instructions unavaible).
Alaska	Punishment Not To Be Considered: "In your deliberations <i>do not discuss or consider the subject of possible penalty or punishment</i> . That subject must not in any way affect your verdict." Model Jury Instructions for Alaska, 1.49 (1999)(Emphasis added).	No.	Evaluation of the Evidence: "[After opening statements, you will] [You are about to] hear the evidence in this case. The evidence consists of the sworn testimony of witnesses and any exhibits admitted into evidence by the court. You should consider the evidence in light of your common sense and experience in life but cannot consider any information not admitted as evidence by the court. At the end of the trial, it will be your job to decide how much weight to give to the evidence and evaluate the evidence according to the instructions that the court will give you. <i>These instructions contain the law that must be applied in this case.</i> When you consider the evidence, you must not be influenced by sentiment, prejudice, passion or public opinion. <i>You must base your verdict upon a fair consideration of the evidence.</i> " Model Jury Instructions for Alaska, 1.07 (1999)(Emphasis added).	Not explicitly.

Jurisdiction	Consider Penaltly?	Answer.	May the jury disregard the law?	Answer.
Arizona	Standard Criminal 7 — Jury Not to Consider Penalty: "You must decide whether the defendant is guilty or not guilty by determining what the facts in the case are and applying these jury instructions.... <i>You must not consider the possible punishment when deciding on guilt; punishment is left to the judge .</i> " Model Jury Instructions for Arizona, 7, at 18–19 (2016) (Emphasis added); SOURCE: RAJI (Criminal) No. 7 (1996); State v. Koch, 138 Ariz. 99, 105, 673 P.2d 297, 303(1983); State v. Van Dyke, 127 Ariz. 335, 337, 621 P.2d 22, 24 (1983).	No.	Preliminary Criminal 2 - Duty of Jurors "You will hear the evidence, decide the facts, and then apply the law I will give to you to those facts. That is how you will reach your verdict. <i>In doing so you must follow that law whether you agree with it or not.</i> " Model Jury Instructions for Arizona, 2, at a (2016) (Emphasis added)	No.
Arkansas	12. (AMCI 2d 8103) " <i>In your deliberations the subject of punishment is not to be discussed or considered by you. If you return a verdict of guilty, the matter of punishment will be submitted to you separately.</i> " 2-95 Arkansas Model Jury Instructions - Criminal AMCI 9501	No.	AMCI 2d 101 RESPECTIVE DUTIES OF JUDGE AND JURY--CAUTIONARY INSTRUCTIONS : (a) The faithful performance of your duties as jurors is essential to the administration of justice.; (b) It is my duty as judge to inform you of the law applicable to this case by instructions, <i>and it is your duty to accept and follow them as a whole, not singling out one instruction to the exclusion of others. You should not consider any rule of law with which you may be familiar unless it is included in my instructions .</i> ; (c) It is your duty to determine the facts from the evidence produced in this trial. You are to apply the law as contained in these instructions to the facts and render your verdict upon the evidence and law. Do not do any research on the internet or otherwise; or any investigation about the case or the parties on your own. You should not permit sympathy, prejudice, or like or dislike of any party to this action or of any attorney to influence your findings in this case." 1-1 Arkansas Model Jury Instructions - Criminal AMCI 2d 101. (PROPOSED).	No.
California	101. Cautionary Admonitions: Jury Conduct (Before, During, orAfter Jury Is Selected): "You must reach your verdict without any consideration of punishment." California Criminal Jury Instructions at 6 (2017). "Do Not Consider Punishment. People v. Nichols (1997) 54 Cal.App.4th 21, 24 [62 Cal.Rptr.2d 433]." at pg 1031	No.	" <i>You must follow the law as I explain it to you, even if you disagree with it .</i> If you believe that the attorneys' comments on the law conflict with my instructions, you must follow my instructions." California Criminal Jury Instructions at 27.	No.

Jurisdiction	Consider Penalty?	Answer.	May the jury disregard the law?	Answer.
Colorado	E:01 DUTIES OF JUDGE AND JURY: "If you decide that the prosecution has proved beyond a reasonable doubt that the defendant is guilty, it will be my job to decide what the punishment will be. In making your decision, <i>you must not consider punishment at all.</i> " Model Criminal Jury Instructions for Colorado at 187–88 (2010) (Emphasis added).	No	"It is my job to decide what rules of law apply to the case. While the attorneys may comment on some of these rules, you must follow the instructions I give you. <i>Even if you disagree with or do not understand the reasons for some of the rules of law, you must follow them.</i> No single instruction describes all the law which must be applied; the instructions must be considered together as a whole." Model Criminal Jury Instructions for Colorado at 187 (2010) (Emphasis added).	No.
Connecticut	2.10-3 Sympathy/ Bias: "In deciding whether the defendant is guilty or not guilty, <i>you should not concern yourselves with the punishment or potential consequence in the event of a conviction.</i> This is a matter exclusively within the court's function under the limitations and restrictions imposed by statute. You are to find the defendant guilty or not guilty uninfluenced by the possible punishment or consequence that may follow conviction." Model Jury Instructions for Connecticut, 2.10-3 (2015) (Emphasis added)	No.	1.12 Role of the Jury: "As a juror, you may draw any and all inferences that you find reasonable and logical from the evidence you hear. You will follow the instructions as to the law that applies in this case as I will explain it to you. <i>You must follow the instructions as to the law, whether or not you agree with it.</i> As jurors you must put aside your personal opinions as to what the law is or should be, and you must apply the law as I instruct." Model Jury Instructions for Connecticut, 1.12 (2016) (Emphasis added)	No.

Jurisdiction	Consider Penaltly?	Answer.	May the jury disregard the law?	Answer.
Deleware	2.2 Verdict Based on the Evidence: "Your verdict must be based solely and exclusively on the evidence in the case. You cannot be affected by passion, prejudice, bias, or sympathy. You must fairly and impartially consider all of the evidence. You must not, under any circumstances, allow any sympathy you might have for anyone to influence you in any degree whatsoever in arriving at your verdict. You must determine whether the defendant is guilty or not guilty solely from the evidence presented during the trial." Model Jury Instructions for Deleware, 2.2 (2015) (Emphasis added). 4.24 Sympathy: "Your verdict must be based solely and exclusively on the evidence presented during trial. You may not be influenced by passion, prejudice, sympathy, or any other motive except a fair and impartial consideration of the evidence. Yyour deliberations must not be influenced by any sympathy you may feel for the people involved in this case.. I am not instructing you to feel no sympathy. It is only natural and human to sympathize with people and their families who either have been victims of crime or accused of committing a crime. However, you must not to allow that sympathy to enter into the consideration of the case or to influence your verdict."	Not directly.	2.1 Duty and Function of Judge and Jury: "You have now heard all of the evidence that is going to be presented in this case. You have heard the arguments of the attorneys. I shall not review the evidence because you, the jury, are the sole and exclusive judges of the facts of the case; the credibility of the witnesses; and the weight and the value of the evidence. I will now instruct you on the law. You must listen to all of the instructions together in reaching your verdict. Copies of these instructions will be made available to you during your deliberations in order to assist you in making your decision. It is your duty as jurors to determine the facts only from the evidence in this case. Ito the facts as you find them to be."	No.

Jurisdiction	Consider Penalty?	Answer.	May the jury disregard the law?	Answer.
Florida	3.10 RULES FOR DELIBERATION: "Your duty is to determine if the defendant has been proven guilty or not, in accord with the law. <i>It is the judge's job to determine a proper sentence if the defendant is found guilty.</i> " Model Jury Instructions for Florida 3.10 (2012) (Emphasis added).	No.	2.1 Preliminary Instructions: "It is the judge's responsibility to explain the law to you. It is your solemn responsibility to determine if the State proved its accusation beyond a reasonable doubt against (defendant) in accordance with the law that I provide to you. Thus, the province of the jury and the province of the court are well defined, and they do not overlap. This is one of the fundamental principles of our system of justice." Model Jury Instructions for Florida 2.1 (2012). " <i>You must follow the law as it is set out in these instructions. If you fail to follow the law, your verdict will be a miscarriage of justice.</i> There is no reason for failing to follow the law in this case. All of us are depending upon you to make a wise and legal decision in this matter." Model Jury Instructions for Florida 3.10 (2012) (Emphasis added).	No.
Georgia	"You are only concerned with the guilt or innocence of the defendant. You are not to concern yourselves with punishment." 1.70.20 Sentencing, Responsibility for, <i>Georgia Suggested Pattern Jury Instructions - Criminal</i> , .70.20 (4th Ed. 2017)	No.	"Under our system, <i>it is my duty as the trial judge to determine the law that applies to this case and to instruct you, the jury, on the specific rules of law that you must apply to the facts in arriving at a verdict.</i> I am giving you some of those instructions now. I will give you more detailed instructions after the evidence has been presented and the lawyers have made their closing arguments....The jury has a very important role. It is your duty to determine the facts of the case and to apply the law to those facts. <i>I will instruct you on the laws that apply to this case, but you must determine the facts from the evidence.</i> " 0.01.00 Preliminary Jury Instructions, <i>Georgia Suggested Pattern Jury Instructions - Criminal</i> 0.01.00	No (weak).

Jurisdiction	Consider Penaltly?	Answer.	May the jury disregard the law?	Answer.
Hawaii	<p>8.01 PENALTY OR PUNISHMENT NOT TO BE DISCUSSED: <i>"You must not discuss or consider the subject of penalty or punishment in your deliberations of this case."</i> Model Jury Instructions for Hawai'i, 8.01 (2005) (Emphasis added).</p> <p>Commentary: <i>See State v. Moellen</i>, 50 Haw. 110, 433 P.2d 136 (1967)(jury does not determine punishment). This instruction may need modification when the issue of guilt or punishment may be relevant to an issue, such as when testimony is provided pursuant to a plea agreement and the testifying witness has received a reduced penalty or punishment as inducement for his/her testimony, or when punishment may be relevant to the defense of entrapment.</p>	No.	<p>"The judge is the judge of the law, and at the conclusion of the case, after you have heard all the evidence and the arguments of counsel, I will instruct you in full as to the law applicable to the case. <i>It will be your duty to accept the law as defined in these instructions and to follow it.</i>" Model Jury Instructions for Hawai'i, 1.01 (2005) (Emphasis added).</p>	No.
Idaho	<p>ICJI 106 PUNISHMENT NOT A CONCERN: <i>"Do not concern yourself with the subject of penalty or punishment. That subject must not in any way affect your verdict. If you find the defendant guilty, it will be my duty to determine the appropriate penalty or punishment."</i> Model Jury Instructions for Idaho, 106 (2010) (Emphasis added).</p>	No.	<p>ICJI 104 TRIAL PROCEDURE & EVIDENCE "Your duties are to determine the facts, to apply the law set forth in my instructions to those facts, and in this way to decide the case. In so doing, <i>you must follow my instructions regardless of your own opinion of what the law is or should be, or what either side may state the law to be</i>. You must consider them as a whole, not picking out one and disregarding others. The order in which the instructions are given has no significance as to their relative importance. The law requires that your decision be made solely upon the evidence before you. " Model Jury Instructions for Idaho, 104 (2010) (Emphasis added).</p>	No.

Jurisdiction	Consider Penaltly?	Answer.	May the jury disregard the law?	Answer.
Illinois	1.01 The Functions Of The Court And The Jury [4]" <i>You are not to concern yourself with possible punishment or sentence for the offense charged during your deliberation</i> . It is the function of the trial judge to determine the sentence should there be a verdict of guilty." Model Jury Instructions for Illinois, 1.01 [4] (2014) (Emphasis added).	No.	1.01 The Functions Of The Court And The Jury "Members of the jury, the evidence and arguments in this case have been completed, and I now will instruct you as to the law.:[2] <i>The law that applies to this case is stated in these instructions, and it is your duty to follow all of them</i> . You must not single out certain instructions and disregard others.; [3] It is your duty to determine the facts and to determine them only from the evidence in this case. You are to apply the law to the facts and in this way decide the case." Model Jury Instructions for Illinois, 1.01 [1–3] (2014) (Emphasis added).	No.
Indiana	Instruction No. 13.3500. Penalty Imposed by Court. "These instructions do not contain any information concerning a possible sentence. <i>The Court alone is responsible for sentencing if there is a conviction.</i> "Model Jury Instructions for Indiana, 13.3500 (2014) (Emphasis added).	No.	Instruction No. 1.0300. Law and Facts. "Under the Constitution of Indiana <i>you have the right to determine both the law and the facts. The Court's/my instructions are your best source in determining the law.</i> " Model Jury Instructions for Indiana, 1.0300 (2014) (Emphasis added).	Yes.
Iowa	100.13 Punishment Not For Jury: "The duty of the jury is to determine if the defendant is guilty or not guilty. In the event of a guilty verdict, <i>you have nothing to do with punishment</i> ." Model Jury Instructions for Iowa, 100.13 (2016) (Emphasis added).	No.	100.8 Consideration of Instructions " <i>You must determine whether the defendant is guilty or not guilty from the evidence and the law in these instructions. My duty is to tell you what the law is. Your duty is to accept and apply this law and to decide all fact questions</i>You must consider all of the instructions together. No one instruction includes all of the applicable law. As you consider the evidence, do not be influenced by any personal sympathy, bias, prejudices or emotions. Because you are making very important decisions in this case, you are to evaluate the evidence carefully and avoid decisions based on generalizations, gut feelings, prejudices, sympathies, stereotypes, or biases. The law demands that you return a just verdict, based solely on the evidence, your reason and common sense, and these instructions. As jurors, your sole duty is to find the truth and do justice." Model Jury Instructions for Iowa, 100.8 (2016) (Emphasis added).	No.

Jurisdiction	Consider Penatly?	Answer.	May the jury disregard the law?	Answer.
Kansas	50.080 Penalty Not to Be Considered by Jury: Your only concern in this case is determining if the defendant is guilty or not guilty. The disposition of the case thereafter is not to be considered in arriving at your verdict. Pattern Instructions Kansas Criminal 50.080 (4th Ed.).	No	68.010 Concluding Instruction "When you retire to the jury room you will first select one of your members as Presiding Juror. The person selected will preside over your deliberations, will speak for the jury in Court, and will sign the verdict upon which you agree. <i>Your verdict must be founded entirely upon the evidence admitted and the law as given in these instructions.</i> Your agreement upon a verdict must be unanimous." Pattern Instructions Kansas Criminal 68.010 (4th Ed.). 50.040 Consideration and Binding Application of Instructions " <i>It is my duty to instruct you in the law that applies to this case, and it is your duty to consider and follow all of the instructions</i> . You must decide the case by applying these instructions to the facts as you find them." Pattern Instructions Kansas Criminal 50.040 (4th Ed.).	No.

Jurisdiction	Consider Penaltly?	Answer.	May the jury disregard the law?	Answer.
Kentucky	<p>It appears that Kentucky allows juries to assess penalties in almost every case, however, this does occur after the intial guilty/not guilty determination. "We remain adamant that sentencing issues must not be raised prior to the penalty phase of trial as a means to impermissibly influence the jury to convict based on the desired penalty rather than on the elements of each given offense. However, there are legitimate and appropriate reasons to inform a venire of the range of penalties that it may be called upon to impose as well as rational and logical reasons to discuss the potential penalties in the context of a defendant's possible motivations during closing argument. The hard line laid out in Carter is unworkable in that its application unduly restricts the discussion of information that needs to be imparted during the jury selection process. Further, it is unnecessary in light of the protections provided by the Kentucky Rules of Evidence which allow for the introduction of evidence that is relevant and not unduly prejudicial. See KRE Chapter 4. We therefore overrule Carter v. Commonwealth insofar as it holds that sentencing information is always inadmissible during the guilt/innocence phase of the trial." <i>Norton v. Com.</i>, 37 S.W.3d 750, 753 (Ky. 2001).</p>	Not really. Lots of caselaw.	<p>"It is fundamental that the jury must pass on all questions of fact. In fact, under the principle of "jury nullification," the jury always has the option to disbelieve the evidence offered to prove guilt and return a verdict of acquittal. For that reason, every fact essential to a conviction must be submitted for a decision by the jury, and the court must not assume any such fact. It is the jury's duty to affix criminal responsibility, and the judge should not invade the province of the jury. Instructions which assume as facts propositions which are controverted and which the jury has the right to determine are erroneous. An instruction should be so framed that the jury cannot construe the language as an assumption by the court that the defendant is guilty of the offense charged. It should "avoid even the appearance of assuming as true certain facts which the jury themselves are required to pass on and determine adversely to the defendant before they can find him guilty." However, issues of law, such as the proper interpretation to be given to penal statutes, are reserved for judicial decision." 1-1 Cooper & Cetrulo, Kentucky Jury Instructions § 1.09</p>	Maybe?

Jurisdiction	Consider Penaltly?	Answer.	May the jury disregard the law?	Answer.
Louisiana	<p>§ 3:9. Sentence—Optional in cases not punishable by death or life imprisonment: <i>Sentencing is not the function of the jury. It is the duty and responsibility of the court. However, in order to assure that you are fully advised of the law, I have chosen to inform you of the penalty provided by the statute</i> :In this case, if you convict the defendant of , the court may sentence him to serve a term of imprisonment for a period not to exceed years [with or without hard labor] [or may sentence him to pay a fine in an amount not to exceed dollars, or both] [without benefit of parole, probation, or suspension of sentence].</p> <p>"In cases not punishable by death or life imprisonment, the question of instructing the jury regarding the penalty which may be imposed in the event of conviction is left to the discretion of the trial court. The court may, but is not required to, give such an instruction. <i>See State v. Blackwell</i> , 298 So. 2d 798 (La. 1973). In view of the discretion Blackwell vests in courts, the instruction is offered should the judge deem such appropriate."</p>	Yes.	<p>§ 3:1. Duty to follow law as instructed: "It is now my duty to instruct you on the law that applies to your deliberations. It is your duty to follow these instructions in reaching your verdict. Although you are the sole judges of the law and the facts on the question of guilt or innocence, <i>you have the duty to accept and apply the law as given by the court</i> . You must decide the facts from the testimony and other evidence and apply the law to those facts in reaching your verdict. You must not single out any of these instructions and disregard others. The order in which the instructions are given does not indicate that one instruction is more important than another."</p>	No.

Jurisdiction	Consider Penalty?	Answer.	May the jury disregard the law?	Answer.
Maine	<p>§ 6-6 Consequences of Verdict of No Concern. Instruction. "In your deliberations you must focus solely on deciding the facts from the evidence in accordance with the instructions I am giving you. <i>You must not consider or be concerned about the possible consequences of any verdict you may reach.</i> "</p>	No.	<p>§ 6-2 Opening Remarks: Juror Responsibility. Instruction. "Now that you have heard the evidence and argument of counsel, it is my duty to instruct you about the law that applies to this case. <i>You must follow the law stated in these instructions, and apply that law to the facts as you find the facts from the evidence in the case. [It is your sworn duty to apply the law exactly as I give it to you, whether you agree with the law or not.]</i> It is [also] your sworn duty to decide the case considering only the evidence that has been presented in this trial."</p> <p>The words in brackets should be used only if juror disagreement with the law or jury nullification is a serious concern. Using such words in a trial when there is no basis for concern may appear officious. For a discussion of the jury's obligation to follow the law and jury nullification issues, see <i>State v. Masker</i>, 2007 ME 4, ¶¶ 7–9; <i>United States v. Sepulveda</i>, 15 F.3d 1161, 1190 (1st Cir. 1993). The reference in the first sentence to having heard argument of counsel would need to be adjusted in cases when the court instructs the jury prior to counsel's closing arguments.</p>	No.

Jurisdiction	Consider Penalty?	Answer.	May the jury disregard the law?	Answer.
Maryland	<p>MPJI-Cr 2:01 JURY'S DUTY TO DELIBERATE "The verdict must be the considered judgment of each of you. In order to reach a verdict, all of you must agree. In other words, your verdict must be unanimous. You must consult with one another and deliberate with a view to reaching an agreement, if you can do so without violence to your individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. During deliberations, do not hesitate to reexamine your own views. You should change your opinion if convinced you are wrong, but do not surrender your honest belief as to the weight or effect of the evidence only because of the opinion of your fellow jurors or for the mere purpose of reaching a verdict."</p> <p>Maryland law requires that "the burden of proof operate with respect to each juror individually." <i>Mills v. State</i>, 310 Md. 33, 60, 527 A.2d 3, 15 (1987), vacated on other grounds, 486 U.S. 367 (1988). Moreover, the failure to reach a unanimous verdict on all issues, at the guilt/innocence phase of a criminal trial, results in a hung jury, but does not result in a verdict against the party with the burden of persuasion. <i>Id.</i> at 49-68, 527 A.2d at 10-20. <i>As a general rule, a jury should not be told about the consequences of its verdict. Instead, the jury should be focused on the issue before it—the guilt</i></p>	Not directly.	<p>MPJI-Cr 2:00 BINDING NATURE OF INSTRUCTIONS A. "Members of the jury, the time has come to explain the law that applies to this case. <i>The instructions that I give about the law are binding upon you. In other words, you must apply the law as I explain it in arriving at your verdict.</i> On the other hand, any comments that I may have made or may make about the facts are not binding upon you and are advisory only. You are the ones to decide the facts and apply the law to those facts."</p>	No.

Jurisdiction	Consider Penaltly?	Answer.	May the jury disregard the law?	Answer.
Massachusetts	Instruction 2.120 FUNCTION OF THE JURY 5. Sentencing consequences. "Your function as the jury is to find the facts and to decide whether, on those facts, the defendant is guilty of the crime charged. By contrast, my function as the judge is to impose sentence if the defendant is found guilty. <i>You are not to consider the sentencing consequences of your verdict at all</i> , so please put any issues about sentencing out of mind."	No.	Instruction 2.100 FUNCTION OF THE JUDGE: "I now ask you to give me that same close attention, as I instruct you on the law. My function as the judge in this case has been to see that this trial was conducted fairly, orderly and efficiently. It was also my responsibility to rule on what you may consider as evidence, and to instruct you on the law which applies to this case. <i>It is your duty as jurors to accept the law as I state it to you.</i> You should consider all my instructions as a whole. You may not ignore any instruction, or give special attention to any one instruction. <i>You must follow the law as I give it to you whether you agree with it or not .</i> " Instruction 2.120 FUNCTION OF THE JURY: You must apply the law as I give it to you to the facts as you determine them to be, in order to decide whether the Commonwealth has proved the defendant guilty of this charge (these charges).	No.
Michigan	M Crim JI 2.23 Penalty " <i>Possible penalty should not influence your decision</i> . It is the duty of the judge to fix the penalty within the limits provided by law."	No.	M Crim JI 2.4 Function of Court and Jury "(1) My responsibilities as the judge in this trial are to make sure that the trial is run fairly and efficiently, to make decisions about evidence, and to instruct you about the law that applies to this case. <i>You must take the law as I give it to you</i> . Nothing I say is meant to reflect my own opinions about the facts of the case. As jurors, you are the ones who will decide this case.; (2) Your responsibility as jurors is to decide what the facts of the case are. This is your job, and no one else's. You must think about all the evidence and all the testimony and then decide what each piece of evidence means and how important you think it is. This includes how much you believe what each of the witnesses said."	No.

<p>Jury nullification. Though "the jury has the power to bring in a verdict in the teeth of both law and facts," <i>the defendant has no right to an instruction informing the jury that they have the de facto power of "jury nullification."</i> <i>Horning v. District of Columbia</i>, 254 U.S. 135, 138, 41 S.Ct. 53, 54 (1920); <i>Sparf v. United States</i>, 156 U.S. 51, 102, 15 S.Ct. 273, 295 (1895); <i>Commonwealth v. Fennette</i>, 398 Mass. 658, 670-671, 500 N.E.2d 1290, 1297-1298 (1986); <i>Commonwealth v. Diaz</i>, 19 Mass. App. Ct. 29, 33 n.4, 471 N.E.2d 741, 744 n.4 (1984). When the judge charges as to lesser included offenses, and in other appropriate circumstances, the judge should charge that the jurors have a duty, if they conclude that the defendant is guilty, to return a verdict of guilty of the highest crime which has been proved beyond a reasonable doubt. <i>Commonwealth v. Johnson</i>, 399 Mass. 14, 17, 502 N.E.2d 506, 507 (1987); <i>Commonwealth v. Dickerson</i>, 372 Mass. 783, 797, 364 N.E.2d 1052, 1061 (1977).</p>	

Jurisdiction	Consider Penaltly?	Answer.	May the jury disregard the law?	Answer.
Minnesota	<p>CRIMJIG 3.01 Duties of Judge and Jury: "(In your determination of the facts, you are not to consider the possible penalties. That consideration is the responsibility of the court exclusively. Your only duty is to determine whether or not the guilt of the defendant has been proved beyond a reasonable doubt without reference to any possible penalty which may accrue.)"</p> <p>The imposition of punishment is a responsibility of the court, and the jury should not consider it. <i>State v. Finley</i>, 214 Minn. 228, 8 N.W.2d 217 (1943).</p>	No.	<p>CRIMJIG 3.01 Duties of Judge and Jury: "It is your duty to decide the questions of fact in this case. It is my duty to give you the rules of law you must apply in arriving at your verdict. <i>You must follow and apply the rules of law as I give them to you, even if you believe the law is or should be different</i> . Deciding questions of fact is your exclusive responsibility. In doing so, you must consider all the evidence you have heard and seen in this trial, and you must disregard anything you may have heard or seen elsewhere about this case."</p>	No.
Mississippi	<p>Miss. Plain Lang. Model Jury Instr. Crim. 101: "The defendant and the State have a right to expect that you will carefully consider and weigh the evidence and apply the law to the facts. Your verdict must be based only on the evidence and the law. The evidence that you are to consider is the witnesses' testimony and any exhibits which were admitted into evidence."</p>	Not directly.	<p>Miss. Plain Lang. Model Jury Instr. Crim. 100 "It is my duty as the judge to make sure that the trial is conducted in a fair and orderly way. I will also instruct you on the law that applies to this case. <i>You are required to follow the law as I explain it to you.</i> " Miss. Plain Lang. Model Jury Instr. Crim. 101: "<i>You are not to question whether any rule of law is a good rule of law or not. Even if you have an opinion as to what the law should be, you must decide the case based on what the law is, as defined in the jury instructions</i> . If you decide the case based on what you think the law should be, it would violate your sworn duty as a juror."</p>	No.
Missouri	N/A without payment		N/A without Payment	

Jurisdiction	Consider Penaltly?	Answer.	May the jury disregard the law?	Answer.
Montana	"You are to be governed solely by the evidence introduced in this trial and the law as stated to you by me. The law forbids you to be governed by mere sentiment, conjecture, sympathy, passion, prejudice, public opinion or public feeling. Both the State and the Defendant have a right to demand, and they do demand and expect, that you will act conscientiously and dispassionately in considering and weighing the evidence and applying the law of the case." Montana Criminal Jury Instructions, 1-102 Preliminary Instruction 2	Not directly.	1-102 Preliminary Instruction 2 "It is my duty to instruct the jury on the law that applies to this case, and <i>it is your duty as jurors to follow the law as I shall state it to you</i> . No remarks I make or instructions I give are intended to express my opinion as to the facts in this case or what verdict you should return. You should take the law in this case from my instructions alone. <i>You should not accept anyone else's version as to what the law is in this case. You should not decide this case contrary to these instructions, even though you might believe the law ought to be otherwise.</i> " Montana Criminal Jury Instructions, 1-102 Preliminary Instruction 2	No.
Nebraska	NJI2d Crim. 9.5 Jury Not to Consider Disposition: "Your duty is to decide whether the defendant is guilty or not guilty [or not responsible by reason of insanity] (of each of the crimes charged). My duty is to decide what happens to the defendant if you decide that (he, she) is guilty [or not responsible by reason of insanity]. <i>You must make your decision without considering what will happen to the defendant ."</i>	No.	NJI2d Crim. 9.1 Function of Judge, Jury, and Counsel :"(2) It is my duty to tell you what the law is. It is your duty to decide what the facts are and to apply the law to those facts. In determining what the facts are you must rely solely upon the evidence in this trial and that general knowledge that everyone has. You must disregard anything else you know about the case.; (3) <i>You must apply the law in these instructions, even if you believe that the law is or should be different</i> . No one of these instructions contains all of the law applicable to this case. You must consider each instruction in light of all of the others. The law demands of you a just verdict. You must not indulge in any speculation, guess, or conjecture. You must not allow sympathy or prejudice to influence your verdict."1 Neb. Prac., NJI2d Crim. 9.1 (2016-2017 ed.)	No.
Nevada	N/A		N/A	

Jurisdiction	Consider Penalty?	Answer.	May the jury disregard the law?	Answer.
New Hampshire	POSSIBLE PUNISHMENT NOT RELEVANT "The possible punishment of the defendant if you return a guilty verdict should not influence your decision. The duty of imposing sentence is for the judge. You should consider the evidence presented and base your verdict only on the evidence <i>without considering the issue of punishment</i> ." Model Jury Instructions for New Hampshire, at 44 (2010)(Emphasis added).	No	"It is your duty as jurors to follow all of the instructions I am about to give you. <i>Regardless of any opinion you may have as to what the law ought to be, the law as I explain it to you is the law you must follow in reaching your verdict.</i> It is up to you to decide the facts. Thus, you must decide the facts solely from the evidence in this trial. You must apply the law given to you in these instructions to the facts and in this way reach a fair and just verdict." Model Jury Instructions for New Hampshire, at 28 (2010)(Emphasis added).	No.
New Jersey	"It is your sworn duty to arrive at a just conclusion after considering all the evidence which was presented during the course of the trial." N.J.S.A. CRIMINAL FINAL CHARGE	Not directly.	"The function of the judge is separate and distinct from the function of the jury. It is my responsibility to determine all questions of law arising during trial and to instruct the jury as to the law which applies in this case. <i>You must accept the law as given to you by me and apply it to the facts as you find them to be.</i> " N.J.S.A. CRIMINAL FINAL CHARGE	No (Weak).
New Mexico	Unable to locate pertinent jury instruction. "UJI Crim. 50.06 embodies the long-established New Mexico principle that the function of a jury in a criminal trial is limited to determining guilt or innocence. "In this jurisdiction the jury have [sic] nothing whatever to do with the question of punishment. The sole question is whether the defendant is guilty or not guilty of the charge. It [is] no concern of the jury what punishment the law prescribe[s]." State v. Ellison, 19 N.M. 428, 442, 144 P. 10, 14 (1914) (emphasis added) (citations omitted). See United States v. Greer, 620 F.2d 1383 (10th Cir.1980); State v. Evans, 85 N.M. 47, 508 P.2d 1344 (Ct.App.1973). By contrast, Instruction No. 16 expressly directs the jury to consider the mandatory firearm enhancement sentence, directly and blatantly contradicting the admonishment of UJI Crim. 50.06 that a jury is not to consider the consequences of its verdict." State ex rel. Schiff v. Madrid, 101 N.M. 153, 155, 679 P.2d 821, 825 (New Mex. 1984).	No (but no jury instruction to that effect).	Introduction to preliminary instructions: As the trial begins, I have some instructions for you. These instructions, along with those previously given, are preliminary only and may be changed during or at the end of the trial. All of you must pay attention to the evidence. <i>After you have heard all of the evidence I will read the final instructions of law to you. You will also receive a written copy of all instructions. You must follow the final instructions in deciding the case.</i>	No (Weak).

Jurisdiction	Consider Penaltly?	Answer.	May the jury disregard the law?	Answer.
New York	Sentence: "In your deliberations, you may not consider or speculate about matters relating to sentence or punishment. If there is a verdict of guilty, it will be my responsibility to impose an appropriate sentence." CPL 300.10(2)	No.	Pre-Summaton Instructions: "Fourth, remember, <i>under our law, I am responsible for explaining the law</i> , not the lawyers."	No (weak).
North Carolina	N/A. Unable to locate.	N/A.	"Members of the jury: All of the evidence has been presented. It is now your duty to decide from this evidence what the facts are. <i>You must then apply the law which I am about to give you to those facts. It is absolutely necessary that you understand and apply the law as I give it to you, and not as you think it is, or as you might like it to be .</i> This is important because justice requires that everyone tried for the same crime be treated in the same way and have the same law applied. " N.C.P.I.—Criminal 101.05FUNCTION OF THE JURY., General Criminal Volume, Replacement June 2011	No.
North Dakota	§ K - 5.45 Penalty or Punishment 1985: In deciding the guilt or innocence of the Defendant, <i>you must not discuss or consider any possible penalty or punishment</i> as that matter lies with the Court and other governmental agencies. ND. J.I. Crim. § 5.45	No.	§ K - 5.51 Duty to Accept Law From Court 2010: While you are the sole judges of fact in this case, it is your duty to accept the law as it is given to you by the Court in these instructions and to apply the law to the facts as you shall find them to have been proved. <i>You have no right to disregard the law and look for any theory unsupported by credible evidence upon which to build a verdict one way or the other, nor to return a verdict based upon your own notions of what the law is or ought to be .</i> ND. J.I. Crim. § 5.51. Note: <i>State v. McClary</i> , 2004 ND 98, 679 N.W.2d 455	No.

Jurisdiction	Consider Penalty?	Answer.	May the jury disregard the law?	Answer.
Ohio	CR 207.31 Common closing remarks: sample instruction [Rev. 8/6/14]: 5. PUNISHMENT. " <i>You may not discuss or consider the subject of punishment. Your duty is confined to deciding the guilt or innocence of the defendant. In the event that you make a finding of guilty, the duty to decide punishment is placed by law upon this Court.</i> " 2 OJI-CR 207.31, 2 CR Ohio Jury Instructions 207.31	No.	CR 207.01 Introduction: sample instruction [Rev. 12-11-10]: 1. GENERAL.: "Members of the jury, you have heard the evidence and the arguments of counsel. The Court and jury have separate functions. The jury decides the disputed facts and the <i>Court provides you with the instructions of law. It is your sworn duty to accept these instructions and apply the law as I give it to you. You are not permitted to change the law or to apply your own idea of what you think the law should be.</i> " 2 OJI-CR 207.01, 2 CR Ohio Jury Instructions 207.01.	No.
Oklahoma	RETURN OF VERDICT -- BASIC INSTRUCTION If you find beyond a reasonable doubt that the defendant committed the crime of [Crime Charged], you shall return a verdict of guilty by marking the Verdict Form [for the crime of (Crime Charged)] appropriately. If you have a reasonable doubt of the defendant's guilt of the charge of [Crime Charged], or you find that the State has failed to prove each element of [Crime Charged] beyond a reasonable doubt, you shall return a verdict of not guilty by marking the Verdict Form [for the crime of (Crime Charged)] appropriately. <i>If you find the defendant guilty, you shall then determine the proper punishment.</i> The crime of [Crime Charged] is punishable by [State Range of Punishment]. When you have decided on the proper punishment, you shall fill in the appropriate space on the Verdict Form [for the crime of (Crime Charged)] and return the verdict to the Court. Uniform Jury Instructions for Oklahoma, § 10-13 (2nd Ed.).	No. But do determine sentence.	GENERAL CLOSING CHARGE - FUNCTION OF THE JURY: It is your responsibility as jurors to determine the facts from the evidence, <i>to follow the rules of law as stated in these instructions</i> , to reach a fair and impartial verdict of guilty or not guilty based upon the evidence, <i>[and to determine punishment if you should find the defendant guilty]</i> pursuant to your instructions. You must not use any method of chance in arriving at a verdict, but must base your verdict on the judgment of each juror. Uniform Jury Instructions for Oklahoma, § 10-2 (2nd Ed.).	No.

Jurisdiction	Consider Penaltly?	Answer.	May the jury disregard the law?	Answer.
Oregon	FUNCTIONS OF THE COURT AND JURY: "Do not consider what sentence might be imposed by the court if the defendant is found guilty."	No.	FUNCTIONS OF THE COURT AND JURY:"It is your sole responsibility to make all the decisions about the facts in this case. You must evaluate the evidence to determine how reliable or how believable that evidence is. When you make your decision about the facts, you must then apply the legal rules to those facts and reach your verdict. Remember, however, that <i>your power to reach a verdict is not arbitrary</i> . When I tell you what the law is on a particular subject or tell you how to evaluate certain evidence, you must follow these instructions ." OR-JICRIM 1005, UCrJI 1005. PRECAUTIONARY INSTRUCTIONS"In performing your roles, you must, of course, be fair and impartial. You must follow the law whether you agree with it completely or not. [That is just part of living in a democracy.] You must not allow yourself to be influenced at all by personal feelings, sympathy for, or prejudice against anyone involved in this case." OR-JICRIM 1004, UCrJI 1004	No.
Pennsylvania	7.05 (Crim) Role of Jury--Deliberations; Verdict Must be Unanimous: [4. In arriving at a verdict, you should not concern yourselves with any possible future consequences of your verdict, including what the penalty might be if you should find the defendant guilty. The question of guilt and the question of penalty are decided separately.] PA-JICRIM 7.05, Pa. SSJI (Crim), §7.05 (2016).	No.	2.01 (Crim) Roles of Jury, Court, and Counsel; Description of Trial Procedures: "4. It is my responsibility to decide all questions of law. You must follow my rulings and instructions on matters of law whether or not you agree with them. I am likely to give other instructions during the trial in addition to these preliminary instructions and my final charge. You should consider all of my instructions as a connected series. Taken together, they constitute the law that you must follow." PA-JICRIM 2.01, Pa. SSJI (Crim), §2.01 (2016).	No.
Rhode Island	N/A		N/A	

Jurisdiction	Consider Penaltly?	Answer.	May the jury disregard the law?	Answer.
South Carolina	§ 1-1 General Instructions - Basic Charge (Given at Conclusion of Trial): "The defendant is entitled to every inference in his favor which can reasonably be drawn from the evidence. When two inferences may be drawn from the same set of facts, one consistent with a verdict of guilty and one inference consistent with a verdict of not guilty, the defendant is entitled to the inference which is consistent with a verdict of not guilty. You cannot find the defendant guilty based upon suspicion, conjecture, or speculation, no matter how strong. A conviction can only be based upon proof of guilt beyond a reasonable doubt. If the proof does not meet that standard, you must find the defendant not guilty." SC-JICRIM 1-1, Anderson, S.C. Requests to Charge - Criminal, § 1-1.	Not directly.	§ 1-1 General Instructions - Basic Charge (Given at Conclusion of Trial): "By the very same Constitution and laws which make you the finders of the facts and evidence in this case, <i>I am, as the trial judge, made the sole and only instructor in the law. You must accept as correct the law as I charge it to you to be the correct law. In that regard, neither you nor I should be concerned with what the law ought to be in this State</i> , but rather what I charge you the law actually is in this State. You must accept under your oath the law as I charge it to you." SC-JICRIM 1-1, Anderson, S.C. Requests to Charge - Criminal, § 1-1.	No.
South Dakota	N/A. Unable to locate.		N/A	
Tennessee	T.P.I.—Crim. 1.00 Preliminary jury instructions: (Optional) "If after your deliberations you find the defendant(s) guilty of any offense, the Court will set the punishment at a separate sentencing hearing. <i>The jury will not be involved in setting the punishment</i> . [Modify for LWOP and Death Penalty.]" 7 Tenn. Prac. Pattern Jury Instr. T.P.I.-Crim. 1.00.	No.	T.P.I.—Crim. 1.08 Jury: Judges of facts and law: You are the exclusive judges of the facts in this case. Also, <i>you are the exclusive judges of the law under the direction of the court</i> . You should apply the law to the facts in deciding this case. You should consider all of the evidence in the light of your own observations and experience in life. 7 Tenn. Prac. Pattern Jury Instr. T.P.I.-Crim. 1.08.	Yes.

Jurisdiction	Consider Penaltly?	Answer.	May the jury disregard the law?	Answer.
Texas	<p>Texas also has a system where juries set the punishment, but this is done after the guilt determination: COMMENT: The directive that the trial judge instruct the jury when the jury is to assess punishment is set out in Tex. Code Crim. Proc. art. 37.07, § 3(b). The provisions for instructions on parole and good conduct time are set out in Tex. Code Crim. Proc. art. 37.07, § 4.</p> <p>Art. 37.07. Verdict Must Be General; Separate Hearing on Proper Punishment. Sec. 1. (a) The verdict in every criminal action must be general. When there are special pleas on which a jury is to find they must say in their verdict that the allegations in such pleas are true or untrue. (b) If the plea is not guilty, they must find that the defendant is either guilty or not guilty, and, except as provided in Section 2, they shall assess the punishment in all cases where the same is not absolutely fixed by law to some particular penalty. (c) If the charging instrument contains more than one count or if two or more offenses are consolidated for trial pursuant to Chapter 3 of the Penal Code, the jury shall be instructed to return a finding of guilty or not guilty in a separate verdict as to each count and offense.</p>	No (Special).	§ CPJC 2.1 Instruction: Jury as Fact Finder: "As the jurors, you review the evidence and determine the facts and what they prove. You judge the believability of the witnesses and what weight to give their testimony. In judging the facts and the believability of the witnesses, <i>you must apply the law provided in these instructions</i> ." Texas Criminal Pattern Jury Charges § CPJC 2.1	No.

Jurisdiction	Consider Penalty?	Answer.	May the jury disregard the law?	Answer.
Utah	CR215 Do Not Consider Punishment. "In making your decision, do not consider what punishment could result from a verdict of guilty. Your duty is to decide if the defendant is guilty beyond a reasonable doubt. Punishment is not relevant to whether the defendant is guilty or not guilty." MUJI 2d CR CR215	No.	CR202 Juror Duties. "You have two main duties as jurors. The first is to decide from the evidence what the facts are. Deciding what the facts are is your job, not mine. <i>The second duty is to take the law I give you in the instructions</i> , apply it to the facts, and decide if the prosecution has proved the defendant guilty beyond a reasonable doubt. <i>You are bound by your oath to follow the instructions that I give you, even if you personally disagree with them</i> . This includes the instructions I gave you before trial, any instructions I may have given you during the trial, and these instructions. All the instructions are important, and you should consider them as a whole. The order in which the instructions are given does not mean that some instructions are more important than others. Whether any particular instruction applies may depend upon what you decide are the true facts of the case. If an instruction applies only to facts or circumstances you find do not exist, you may disregard that instruction. Perform your duties fairly. Do not let any bias, sympathy or prejudice that you may feel toward one side or the other influence your decision in any way. [You must also not let yourselves be influenced by public opinion.]" MUJI 2d CR CR202	No.
Vermont	§ 081 Do Not Consider Consequences: CR02-081:DO NOT CONSIDER CONSEQUENCES "In your deliberations, <i>you are not to consider what happens after your verdict</i> . Under Vermont law, all matters after the verdict are solely the responsibility of the court." VT Criminal Jury Instructions § 1-2-081.	No.	§ 101 Introduction to Closing Instructions: CR01-101: INTRODUCTION: "Ladies and Gentlemen of the Jury: Now that you have heard the evidence and the arguments, I must instruct you on the law that applies to this case. You must find the facts from the evidence in the case, and <i>you must apply the law that I give you in these instructions</i> . You must not single out any one instruction as stating the law. You must consider the instructions as a whole. <i>You should not concern yourself with the wisdom of any rule of law, or any opinion you might have about what the law should be</i> . You may not base your verdict on bias, prejudice, or sympathy. VT Criminal Jury Instructions § 1-1-101.	No.

Jurisdiction	Consider Penalty?	Answer.	May the jury disregard the law?	Answer.
Virginia	<p>§ 24-442.Consideration of Evidence in Arriving at Proper Verdict.: Virginia : "The court instructed the jury as follows: You should not concern yourselves with what happens after your verdict, whatever it is, so you need to confine yourself to the evidence as presented, follow the instructions and come up with your verdict and not concern yourselves with what might happen after the verdict is rendered. That's for the court to take up after your verdict." <i>Kitze v. Com.</i> , 15 Va. App. 254, 422 S.E.2d 601 (1992).</p> <p>§ 36.Instructing as to Reaching Verdict and as to Punishment. "There is an important distinction between instructions that properly further the goal of truth in sentencing by removing the possibility that a jury will act upon misconceptions, and those instructions that have the improper effect of inviting the jury to speculate concerning the likelihood of future actions that may ultimately affect the length of a defendant's incarceration.</p> <p>It is plain error to tell the jury that under as established rule and in the ordinary course of events such sentence as it may impose will not be suffered but will be substantially diminished. It is the full measure of their duty to inflict such punishment as appears to be just and proper." 1-IV Instructions for Virginia and West Virginia</p>	No.	§ 29.Invasion of Province of Jury.—"The instruction of a court to the jury ought not to involve matters of fact as well as of law. It is the duty of the court to give the law and of the jury to apply it to the facts. In the trial of criminal cases the jury should apply the law as given by the court, whether it is for or against the defendant" 1-IV Instructions for Virginia and West Virginia § 29	No?
Washington	<p>WPIC 1.02 Conclusion of Trial—Introductory Instruction: "[You have nothing whatever to do with any punishment that may be imposed in case of a violation of the law. You may not consider the fact that punishment may follow conviction except insofar as it may tend to make you careful.]" 11 Wash. Prac., Pattern Jury Instr. Crim. WPIC 1.02 (4th Ed).</p>	No. (Sort of)	<p>WPIC 1.02 Conclusion of Trial—Introductory Instruction: "It is your duty to decide the facts in this case based upon the evidence presented to you during this trial. It also is your duty to accept the law from my instructions, regardless of what you personally believe the law is or what you personally think it should be. You must apply the law from my instructions to the facts that you decide have been proved, and in this way decide the case." 11 Wash. Prac., Pattern Jury Instr. Crim. WPIC 1.02 (4th Ed).</p>	No.

Jurisdiction	Consider Penaltly?	Answer.	May the jury disregard the law?	Answer.
West Virginia	§ 36.Instructing as to Reaching Verdict and as to Punishment. "There is an important distinction between instructions that properly further the goal of truth in sentencing by removing the possibility that a jury will act upon misconceptions, and those instructions that have the improper effect of inviting the jury to speculate concerning the likelihood of future actions that may ultimately affect the length of a defendant's incarceration. It is plain error to tell the jury that under as established rule and in the ordinary course of events such sentence as it may impose will not be suffered but will be substantially diminished. It is the full measure of their duty to inflict such punishment as appears to be just and proper." 1-IV Instructions for Virginia and West Virginia § 36	Maybe?	§ 29.Invasion of Province of Jury.—"The instruction of a court to the jury ought not to involve matters of fact as well as of law. It is the duty of the court to give the law and of the jury to apply it to the facts. In the trial of criminal cases the jury should apply the law as given by the court, whether it is for or against the defendant" 1-IV Instructions for Virginia and West Virginia § 29	No?
Wisconsin	N/A without payment		N/A without Payment	
Wyoming	It is not error to instruct the jury in a criminal case that they have nothing to do with the punishment of defendant in case of his conviction, and that, in determining the guilt or innocence of the defendant, they have no right to consider what punishment he might or might not receive in the event of his conviction. <i>Nicholson v. State</i> , 18 Wyo. 298, 106 P. 929 (Wyo. 1910).	N/A. Model Jury Instruction had to be purchased form State Bar Ass.	N/A	

	Judge/Jury Instruction on Right to Nullify?	Can Judge Lie to Jury about Power to Nullify?	Pamphlets about Jury Nullification
Federal	<ul style="list-style-type: none"> • "It is true, the jury may disregard the instructions of the court, and in some cases there may be no remedy. But it is still the right of the court to instruct the jury on the law, and the duty of the jury to obey the instructions." <i>Sparf v. United States</i>, 156 U.S. 51, 72 (1895). • "The judge cannot direct a verdict it is true, and the jury has the power to bring in a verdict in the teeth of both law and facts." <i>Horning v. District of Columbia</i>, 254 U.S. 135, 138 (1920). • "This so-called right of jury nullification is put forward in the name of liberty and democracy, but its explicit avowal risks the ultimate logic of anarchy." <i>U.S. v. Dougherty</i>, 473 F.2d 1113, 1133 (D.C. Cir. 1972). • "An explicit instruction to a jury conveys an implied approval that runs the risk of degrading the legal structure requisite for true freedom, for an ordered liberty that protects against anarchy as well as tyranny." <i>U.S. v. Dougherty</i>, 473 F.2d 1113, 1137 (D.C. Cir. 1972). 		<ul style="list-style-type: none"> • <i>Verlo v. City and County of Denver</i>, 124 F. Supp. 3d 1083, 1091 (D. Colo. 2015). [Jury nullification literature was distributed in plaza outside of courthouse] <p>"The Court "must first decide whether [the speech at issue] is speech protected by the First Amendment, for, if it is not, we need go no further." There appears to be no contest on this point. The Second Judicial District has raised no argument that any part of the message conveyed by the pamphlets is unprotected by the First Amendment. Accordingly, the Court deems it conceded for preliminary injunction purposes that Plaintiffs are likely to succeed on the question of whether the First Amendment protects their message."</p> <hr/> <p>Final Findings of Fact by Judge William J. Martinez, filed 7/27/17 (http://fija.org/aie653l/wp-content/uploads/173-Final-Findings-of-Fact-and-Conclusions-of-Law-Ordered.pdf)</p> <p>On this record one could argue that jury nullification is less the cause that Plaintiffs seek to advance than is the cause of preserving their own perceived entitlement to emphatically disrupt the essential operations of the state judicial system, on whatever pretense, at whatever cost. Plaintiffs have manifestly failed to realize that "the unhindered and untrammelled functioning of our courts is part of the very foundation of our</p>

			<p>constitutional democracy,” <i>Cox</i>, 379 U.S. at 562, including the court system’s ability to protect <i>Plaintiffs’ own First Amendment freedoms</i>.</p> <ul style="list-style-type: none">• <i>Braun v. Baldwin</i>, 346 F.3d 761, 764 (7th Cir. 2003). [Jury nullification literature distributed in courthouse lobby] <p>“A defendant’s lawyer isn’t permitted to argue to the jury that it should disregard the law—a restriction on speech that does not violate the Constitution. <i>Currier and Braun</i> have no greater right than a criminal defendant’s lawyer to tell jurors in the courthouse to disobey the judge’s instructions.”</p> <ul style="list-style-type: none">• <i>United States v. Ogle</i>, 613 F.2d 233 (10th Cir. 1979). [Ogle contacted a juror to discuss booklet entitled “A Handbook for Jurors,” which advocated for jury nullification, and was found guilty of knowingly and corruptly endeavoring to influence, impede and obstruct the due administration of justice in a case then pending in the United States District Court.] <p>The defendant also argues that the evidence is legally inadequate to establish that the defendant acted corruptly. However, if the jury believed the testimony of Mrs. Lagoni and that of Mrs. Hansen with respect to their conversations with the defendant and with one another, the evidence cannot be said to be insufficient. The defendant went into court and was given permission by the judge to take notes, and according to Mrs. Hansen he</p>
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			<p>caught her eye. This, in addition to the testimony of Mrs. Lagoni, which has been detailed above, supports the conclusion that he sought to influence her decision in the case, particularly if the jury believed that he was seeking to get a copy of the pamphlet "A Handbook for Jurors" into her hands. The inference could flow from all of this that there existed an intent on the part of Ogle to willfully and corruptly obstruct and impede the due administration of justice. The jury was, of course, at liberty to accept the testimony given by Mrs. Lagoni and Mrs. Hansen and to reject that of the defendant that he was merely calling in order to rearrange a dinner engagement.</p> <ul style="list-style-type: none">• <i>Heicklen v. U.S. Dept. of Homeland Sec.</i>, No. 10 Civ. 2239(RJH)(JLC), 2011 WL 3841543 at *12–13 (S.D.N.Y. 2011). [Pamphlet advocating for jury nullification distributed outside US Courthouse in Manhattan] <p>"Supreme Court and Second Circuit precedent are clear that a courthouse is a non-public forum." And, it is a forum that extends to "court lands"—here, the plaza in front of the Courthouse. In such nonpublic fora, "governmental restrictions on expressive conduct or speech are constitutional so long as they are reasonable in light of the use to which the forum is dedicated and are not an effort to suppress expression merely because public officials oppose the speaker's view."</p> <p>The regulation at issue here meets this test. It is content neutral and refers to all "pamphlets, handbills, or flyers" without regard to the speaker's view. Moreover, it is reasonable in light of the use to which the</p>
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			<p>forum is dedicated. A courthouse serves to facilitate the government's judicial functions:</p> <p>A courthouse serves ... to provide a locus in which civil and criminal disputes can be adjudicated. Within this staid environment, the presiding judge is charged with the responsibility of maintaining proper order and decorum. In carrying out this responsibility, the judge must ensure that the courthouse is a place in which rational reflection and disinterested judgment will not be disrupted.</p> <p>In light of this purpose, expressive activities inside and outside a courthouse can interfere with a court's attendance to its business. This is particularly so here because Heicklen's purpose in distributing literature to prospective jurors was to encourage those who ended up being seated on a jury to "judge the law as well as the facts." ... In sum, Heicklen has failed to demonstrate that his conduct is deserving of First Amendment protection.</p> <p>Dismissed by Judge Kimba M. Wood → http://www.constitution.org/jury/pj/10-cr-01154-KMW_order.pdf</p> <p>http://www.nytimes.com/2012/04/20/nyregion/indictment-against-julian-heicklen-jury-nullification-advocate-is-dismissed.html</p>
Alabama	NO PERTINENT CASE LAW		
Alaska	"We reject this argument and the doctrine of nullification. The jury has a duty, albeit unenforceable, to decide a criminal case on the law and the evidence." <i>Hartley v. State</i> , 653 P.2d 1052, 1055 (Alaska Ct. App. 1982).		<p><i>Turney v. State</i>, 936 P.2d 533, 541 (Alaska 1997).</p> <p>[Turney convicted of jury tampering after telling prospective jurors to call 1-800-TEL-JURY. A recorded message from the Fully Informed Jury Association discusses jury nullification.</p>

			Speech aimed at influencing the juror's conduct as a juror, i.e., the juror's execution of the responsibilities imposed by the trial court in a particular case, is not constitutionally protected.
Arizona	"Paredes–Solano has not cited, nor have we found, any Arizona or federal authority supporting his argument that he was entitled to a jury nullification instruction. But, we find extremely persuasive the substantial jurisprudence from the federal courts concluding defendants are not entitled to such an instruction." <i>State v. Paredes-Solano</i> , 222 P.3d 900, 908 (Ariz. Ct. App. 2009).		
Arkansas	<ul style="list-style-type: none"> • All questions of law arising during the trial shall be decided by the court, and the jury shall be bound to take the decisions of the court on points of law as the law of the case. - ARK. CODE ANN. § 16-89-107(a)(3) (2017) • "Furthermore, defendants under our laws are not entitled to a jury-nullification instruction." <i>Bower v. State</i>, No. CR 09-1111, 2010 WL 4680196 (Ark. 2010). 		
California	"Jury nullification is contrary to our ideal of equal justice for all and permits both the prosecution's case and the defendant's fate to depend upon the whims of a particular jury, rather than upon the equal application of settled rules of law ... We reaffirm, therefore, the basic rule that jurors are required	<p><i>People v. Fernandez</i>, 31 Cal.Rptr.2d 677, 678–80.</p> <p>After some hours of deliberation, the jury sent the following note to the court regarding the count of battery with serious bodily injury: "Only due to 'aiding & abetting' we find Jose</p>	

	<p>to determine the facts and render a verdict in accordance with the court's instructions on the law. A juror who is unable or unwilling to do so is "unable to perform his [or her] duty" as a juror (§ 1089) and may be discharged." <i>People v. Williams</i>, 21 P.3d 1209, 1223 (Cal. 2001).</p>	<p>Fernandez guilty of 'Battery w/ serious **679 bodily injury.' Due to the letter of the law we must determine that the injuries incurred [<i>sic</i>] were 'serious', even though our feelings don't follow this. Do we, as a jury have the option to give the lesser crime of 'Assault' even though we all agreed upon the original charge?" The court's response to the jury was short and to the point: "No." ²</p> <p>Footnote 2: "It would have been better for the judge to have read to the jury CALJIC No. 1.00."</p> <p>CALJIC 1.00 Respective Duties of Judge and Jury</p> <p>"You must accept and follow the law as I state it to you, regardless of whether you agree with it ... You must not be influenced by sentiment, conjecture, sympathy, passion, prejudice, public opinion or public feeling. Both the People and a defendant have a right to expect that you will conscientiously consider and weigh the evidence, apply the law, and reach a just verdict regardless of the consequences."</p> <p>HOLDING:</p> <p>"...the trial court simply could have told the jury to reread the instructions given instead of giving the response it did. However, the court did not err in refusing to tell the jury that if it had found unanimously that appellant was guilty of the greater offense, it could nonetheless return a verdict of guilty</p>	
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		of the lesser offense instead. Such a response would have been tantamount to telling the jurors to let their emotions govern their decision and to disregard the law."	
Colorado	"Additionally, we agree with the People that courts need not promote nullification, and we reiterate that while jurors have the power to nullify, there is no right to nullification." <i>People v. Waller</i> , No. 14CA10009, 2016 WL 4247807, at *14 (Colo. App. 2016).		http://www.denverpost.com/2015/08/18/jury-nullification-is-not-a-crime-denver/ https://www.csindy.com/coloradosprings/jurors-dismissed-doug-bruce-tainting-alleged/Content?oid=1108779
Connecticut	"... the legitimate purpose of deterring jury nullification ... may be served, however, by the use of other, more appropriate language; indeed, the trial court employed such language in the present case: "If and when the presumption of innocence has been overcome by evidence proving beyond a reasonable doubt that the accused is guilty of the crime or crimes charged, then it is the sworn duty of the jury to enforce the law and to render such verdicts." Because we agree with the state that it has a legitimate interest in deterring jury nullification, we expressly approve of, and strongly encourage, the use of this language." <i>State v. Delvalle</i> , 736 A.2d 125, 129 n.10 (Conn. 1999).		
Delaware	"It goes without saying that neither the State nor the defendant has a right to proceed with a nullification juror on the jury. Jury nullification is the antithesis to a right to a fair trial by an impartial		

	jury." <i>State v. Lum</i> , No. 1408022157, 2016 WL 3639975 at *4 (Del. Super. 2016).		
Florida	<ul style="list-style-type: none"> • Fla. R. Crim. P. Rule 3.3360: The following oath shall be administered to the jurors: "Do you solemnly swear (or affirm) that you will well and truly try the issues between the State of Florida and the defendant and render a true verdict according to the law and the evidence, so help you God?" If any juror affirms, the clause "so help you God" shall be omitted. • "This right we have recognized is more accurately described as the right to the availability of a partial jury nullification. The failure to empower the jury to accomplish such a partial jury nullification is treated as a structural defect that necessarily vitiates the defendant's right to a fair trial. Nothing in the Florida Constitution, the Florida Statutes, or the Florida Rules of Criminal Procedure supports our recognition of such a right of access to a partial jury nullification." <i>Haygood v. State</i>, 109 So.3d 735, 749 (Canady, J., dissenting). 		https://www.copblock.org/7192/man-sentenced-for-pamphleteering/ http://articles.orlandosentinel.com/2011-07-26/news/os-casey-anthony-free-speech-trial-20110726_1_orange-and-osceola-courthouses-jury-pamphlets-julian-heicklen
Georgia	"While a jury does have a de facto power of nullification, i.e., the power to acquit the defendant regardless of the strength of the evidence against him, it also has a duty to convict if the evidence proves the defendant guilty beyond a reasonable doubt. A trial		

	court can correctly refuse to charge the jury on the principle of nullification.” <i>Andrews v. State</i> , 473 S.E.2d 247, 249 (Ga. Ct. App. 1996).		
Hawaii	Hawaii Revised Statutes (HRS) § 626-1, Rule 1102: “The court shall instruct the jury regarding the law applicable to the facts of the case, but shall not comment upon the evidence. It shall also inform the jury that they are the exclusive judges of all questions of fact and the credibility of witnesses.” “On balance we are persuaded by the position adhered to by most jurisdictions. Therefore, we conclude that Defendant had no substantial right to an instruction informing the jury of jury nullification or to the deletion of an instruction informing the jurors that they were to follow the law as given them by the court.” <i>State v. Hatori</i> , 990 P.2d 115, 122 (Haw. Ct. App. 1999).		
Idaho	NO PERTINENT CASE LAW		
Illinois	“The power of jury nullification exists, but it is not authorized by the law. A defendant has no right to have the jury defy the law or ignore the undisputed evidence.” <i>People v. Montanez</i> , 667 N.E.2d 548, (Ill. App. Ct. 1996).	<i>People v. Smith</i> , 694 N.E.2d 681, 683–85 (Ill. App. Ct. 1998). During deliberations, the jury sent an inquiry to the trial judge. The trial judge's discussion with the attorneys concerning the inquiry was as follows: “THE COURT: The note which I am marking as Court's Exhibit 1 states: [‘]Your Honor, twelve out of twelve agree to meeting the following propositions: one, defendants knowingly caused harm to Miss Ray; two, did the above in a public place of	

		<p>amusement; three, degree of force was not justified. Realizing this indicates aggravated battery, do we have the option of downgrading to a charge of battery?["]</p> <p>....</p> <p>THE COURT: What they just said to me-[prosecutor], let me read it again. Defendants knowingly caused harm to Miss Ray. They did it in a public place of amusement. It was not justified. They realize this constitutes aggravated battery, and they want to know that even though they find proposition 1, 2, and 3, can they find- can they downgrade to battery. That's against my instructions.</p> <p>[PROSECUTOR]: That's right.</p> <p>THE COURT: So I am going to indicate no in response to the question.</p> <p>[DEFENDANT'S ATTORNEY]: Then that would be a response over our objection.</p> <p>THE COURT: Yes, over defendant's objection."</p> <p>The determination of whether to issue supplemental instructions in response to an inquiry from the jury rests in the discretion of the trial court, and the trial court has a duty to provide supplemental instructions where clarification is requested, the original</p>	
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		<p>instructions are incomplete, and the jurors are manifestly confused.</p> <p>The question indicated all 12 jurors agreed that all the elements of aggravated battery had been proved. The answer given by the trial court to the jury's inquiry in this case was direct and simply paraphrased an instruction already given to it.</p> <p>"If you find from your consideration of all the evidence that each one of these propositions has been proven beyond a reasonable doubt, you should find the defendant guilty."</p> <p>Furthermore, the jurors were provided three verdict forms: (1) not guilty, (2) guilty of aggravated battery, and (3) guilty of battery. They were instructed to select the verdict form which reflected their verdict as to defendant. In addition, they were advised that the jury instructions contained the law applicable to this case and that it was their duty to follow all the instructions and not to disregard some. In this case, the response given by the trial judge to the jury's inquiry was the correct response in light of the objection raised by defendant. The trial court's response clarified the confusion. That response did not result from an abuse of discretion.</p>	
Indiana	<ul style="list-style-type: none">Indiana Constitution Art. 1, § 19: "In all criminal cases whatever, the jury shall have the right to determine the law and the facts."		

	<ul style="list-style-type: none"> • "However, " "[n]otwithstanding Article I, section 19 of the Indiana Constitution, a jury has no more right to ignore the law than it has to ignore the facts in a case.' Thus, contrary to Lohmiller's assertion, Article I, section 19 does not provide a right for jury nullification." <i>Lohmiller v. State</i>, 884 N.E.2d 903, 911 (Ind. Ct. App. 2008). 		
Iowa	<p>"... we have long held in this jurisdiction that a district court jury is obliged not only to receive but to follow the court's instructions on the law. The instructions are binding, not merely advisory ... jurors have the power, but not the right, to do as they please ... It is one thing to recognize jurors have the power not to do their duty and quite another to tell them they have a right not to do their duty." <i>State v. Willis</i>, 218 N.W.2d 921, 924 (Iowa 1974).</p>		
Kansas	<p>"Although it must be conceded that the jurors in a criminal case have the raw physical power to disregard both the rules of law and the evidence in order to acquit a defendant, it is the proper function and duty of a jury to accept the rules of law given to it in the instructions by the court, apply those rules of law in determining what facts are proven and render a verdict based thereon." <i>State v. McClanahan</i>, 510 P.2d 153, 160 (Kan. 1973).</p>		
Kentucky	<p>"However, the right to disbelieve the evidence does not equate to the right to disregard the law. Thus it is</p>		

	improper to instruct the jury that it has a right to find the defendant not guilty even though the evidence proves his guilt beyond a reasonable doubt ...” <i>Medley v. Commonwealth</i> , 704 S.W.2d 190, 191 (Ky. 1985).		
Louisiana	“There is no authority to support Chatman's argument that the jury should be instructed on the right of jury nullification. The failure to give a requested instruction regarding jury nullification does not constitute reversible error because it was not a miscarriage of justice, it did not prejudice the substantial rights of the defendant, and it did not violate a constitutional or statutory right.” <i>State v. Chatman</i> , 981 So.2d 260, 271 (La. Ct. App. 2008).		
Maine	“It may be a reality of life that jury nullification occurs in some cases, but we have never recognized jury nullification as a right of a defendant. We have long held that it is the function of the court to instruct jurors on the law, and it is the duty of the jurors to decide the facts and be governed by the law as it is stated by the court.” <i>State v. Masker</i> , 912 A.2d 583, 585 (Me. 2007).		
Maryland	<ul style="list-style-type: none"> Constitution of Maryland, Declaration of Rights, Article 23: “In the trial of all criminal cases, the Jury shall be the Judges of Law, as well as of fact, except that the Court may pass upon the 		

	<p>sufficiency of the evidence to sustain a conviction.”</p> <ul style="list-style-type: none"> • “That provision [Maryland Constitution] contemplates that it is within the proper province of the jury to resolve conflicting interpretations of the law and to decide whether the law should be applied in dubious factual situations. It does not confer upon them, however, untrammelled discretion to enact new law or to repeal or ignore clearly existing law as whim, fancy, compassion or malevolence should dictate, even within the limited confines of a single criminal case.” <i>Hamilton v. State</i>, 277 A.2d 460, 464 (Md. Ct. Spec. App. 1971). 		
Massachusetts	<p>“Jury nullification is inconsistent with a jury’s duty to return a guilty verdict of the highest crime proved beyond a reasonable doubt. There was no error, and counsel was not ineffective for failing to request an instruction the defendant was not entitled to receive.” <i>Commonwealth v. Kirwan</i>, 860 N.E.2d 931, 943 (Mass. 2007).</p>		
Michigan	<p>“It appears that the issue of a criminal defendant’s right to a jury “nullification” instruction has not been addressed in this state. Federal courts have uniformly held that no such right exists ... Our Supreme Court has also recognized that juries in criminal cases have the power to dispense mercy by returning verdicts less than warranted by the evidence. However, the Supreme Court has also held that,</p>		<p>https://www.usnews.com/news/articles/2017-06-02/jury-convicts-ex-pastor-who-shared-jury-nullification-fliers</p> <p>https://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/12/02/felony-prosecution-for-distributing-pro-jury-nullification-leaflets-outside-courthouse/?utm_term=.419beacfca85</p>

	although the jury has the power to disregard the trial court's instructions, it does not have the right to do so. The trial court correctly denied defendant's requested instruction." <i>People v. St. Cyr</i> , 341 N.W.2d 533, 534 (Mich. Ct. App. 1983).		http://fox17online.com/2016/03/23/felony-charge-dropped-for-man-after-passing-out-jury-rights-filers/
Minnesota	"It is clear that the jury in a criminal case has the power of lenity—that is, the power to bring in a verdict of not guilty despite the law and the facts ... We do not believe that the constitution mandates an instruction in a criminal case which would encourage the jury to acquit for impermissible reasons—that is, an instruction which informed the jury of its raw power of lenity." <i>State v. Perkins</i> , 353 N.W.2d 557, 561–62 (Minn. 1984).		
Mississippi	"The principle of jury nullification is a familiar one, and there can be no doubt of the jury's power to ignore the law and, via the Double Jeopardy Clause, protect and insulate an accused from further prosecution. We have held repeatedly, however, that no such instruction should be given the jury. <i>A fortiori</i> , an instruction that implicitly condemns jury nullification is not error." <i>Hansen v. State</i> , 592 So.2d 114, 140 (Miss. 1991).		
Missouri	"Jury nullification is at best a collateral consideration in this case. It is enough to say that while courts recognize that jury nullification may occur from time to time, the practice is not encouraged in either Missouri or federal courts. This state uses pattern instructions in		

	criminal and civil cases. No instruction on jury nullification exists, and no case can be found in Missouri where such an instruction was sanctioned." <i>State v. Hunter</i> , 586 S.W.2d 345, 347–48 (Mo. 1979) (en banc).		
Montana	"The court was also correct not to instruct the jury that it may ignore the law and find the defendant not guilty even if he had violated the statute in question." <i>State v. Pease</i> , 740 P.2d 659, 663 (Mont. 1987).		
Nebraska	"Although a jury may acquit an accused even if its verdict is contrary to the law and the evidence, the defendant is not entitled to have the jury instructed about the power of jury nullification." <i>State v. Green</i> , 458 N.W.2d 472 (Neb. 1990).		
Nevada	"The State objected to Warren's proposed instructions because they were factoids and not really instructions, the subject of penalty and punishment was not appropriate for jury consideration, and the case law excerpts seemed to ask for jury nullification and for the jurors to take the law into their own hands. The district court determined that the instructions were not relevant and sustained the State's objections. We have reviewed the proposed instructions and conclude that the district court did not abuse its discretion in this regard." <i>Warren v. State</i> , No. 60126, 2013 WL 3895355, at *2 (Nev. 2013).		

<p>New Hampshire</p>	<p>HB 133 passed the House by a 170-160 vote, but the Senate Judiciary Committee voted 5-0 to reject it. The bill would have required criminal judges to give specific jury instruction on jury nullification: <i>"If you have a reasonable doubt as to whether the state has proved any one or more of the elements of the crime charged, you must find the defendant not guilty. However if you find that the state has proved all the elements of the offense charged beyond a reasonable doubt, you should find the defendant guilty. Even if you find that the state has proved all of the elements of the offense charged beyond a reasonable doubt, you may still find that based upon the facts of this case a guilty verdict will yield an unjust result, and you may find the defendant not guilty."</i></p> <p>http://gaveltogavel.us/2017/05/05/new-hampshire-senate-committee-rejects-specific-language-judges-use-jury-nullification-house-approved-170-160/</p> <p>This bill was part of 20+ year effort to require a jury nullification instruction. See http://gaveltogavel.us/2017/01/12/after-20-years-of-trying-new-hampshire-legislature-again-to-take-up-mandatory-jury-nullification-instruction/.</p> <p><i>Wentworth</i> instruction: "The test you must use is this: If you have a reasonable doubt as to whether the State has proved any one or more of the elements of the crime charged,</p>	<p><i>State v. Bonacorsi</i>, 648 A.2d 469, 470–72 (N.H. 1994).</p> <p>"During its deliberations, the jury sent the following question to the trial judge: During his summation [t]he defense attorney held up the copy of a law that supposedly allows the jury to come to a not guilty verdict even though they felt that the defendant is actually guilty-if they feel the consequences of this verdict would be harmful to all or anyone concerned. Is this in fact a law and could we be shown this.</p> <p>The trial judge refused the defendant's request to inform the jury of "the prerogative to return not guilty verdicts, even if the State has proven the defendant guilty." He also refused to reiterate any portion of his jury instructions. Instead, the trial court answered the jury's question: "You are to follow the court's instructions."</p> <p>The jury's question specifically asked if the nullification doctrine, as argued by defense counsel, was "a law." The question generally inquired if such a power existed. Had the trial court answered in the negative, the jury might have understood the response to remove nullification from their consideration. The trial court's response, however, directed the jury to review the entire charge, which included the language of the earlier "reasonable doubt" instructions. The response neither</p>	
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	<p>you must find the defendant not guilty. However, if you find that the State has proved all of the elements of the offense charged beyond a reasonable doubt, you should find the defendant guilty.”</p> <p>“We have recognized that use of the term “should” in a <i>Wentworth</i> charge provides “the equivalent of a jury nullification instruction,” in that the jurors are notified that they may acquit the defendant even if the State proved beyond a reasonable doubt each element of the offenses charged.” <i>State v. Paris</i>, 627 A.2d 582, 589 (N.H. 1993).</p> <p>“... a trial court is vested with the discretion to determine whether or not the facts of a particular case warrant such an instruction when it has been requested by a party.” <i>State v. Mayo</i>, 480 A.2d 85, 87 (N.H. 1984).</p>	<p>resolved a factual issue nor superseded the exercise of the jurors' own judgment. Based on our review of the record in this case, we find that the trial court's answer served as an adequate response to the jury's question and the defendant's request for supplemental instructions; a more specific response was not required.”</p>	
New Jersey	<p>“Jury nullification is an unfortunate but unavoidable power. It should not be advertised, and, to the extent constitutionally permissible, it should be limited. Efforts to protect and expand it are inconsistent with the real values of our system of criminal justice.” <i>State v. Ragland</i>, 519 A.2d 1361, 1372 (N.J. 1986).</p>		
New Mexico	<p>No case law on nullification instruction, but ...</p> <p>“The trial court expressed its concern that testimony of religious leaders and lawyers regarding the propriety of the</p>		

	death penalty was not relevant mitigating evidence, and it may urge jury nullification of state law. We agree ... proportionality review is a function of this Court, not the jury." <i>State v. Clark</i> , 990 P.2d 793, 806–07 (N.M. 1999).		
New York	" It is well settled that the jury's function is to apply the legal definition of the crime to the evidence and to convict if it is satisfied that each of the elements of the crime has been established beyond a reasonable doubt. While there is nothing to prevent a petit jury from acquitting although finding that the prosecution has proven its case, this so-called "mercy-dispensing power", as defendant concedes, is not a legally sanctioned function of the jury and should not be encouraged by the court." <i>People v. Goetz</i> , 532 N.E.2d 1273, 1274 (N.Y. 1988).		
North Carolina	"... affirmative instructions on jury nullification are improper ..." <i>State v. Lang</i> , 264 S.E.2d 821, 828, remanded on other grounds, 272 S.E.2d 123 (1980).		
North Dakota	NO CASE LAW		
Ohio	"While we recognize that a jury may render a verdict at odds with the evidence or the law, we agree with the courts noted above that a trial court is not required to inform the jury about jury nullification. Such information would convey an implied approval of jury nullification ..." <i>State v.</i>		

	<i>Jackson</i> , No. 00AP-183, 2001 WL 138089 at *13 (Ohio Ct. App. 2001).		
Oklahoma	<p>"In capital cases, an instruction on this issue would inform the jury of its right to return a sentence of life no matter how great the weight of evidence supporting the circumstances. However, the courts have almost uniformly held that a criminal defendant is not entitled to such an instruction ... Although a trial judge may, in the exercise of his sound discretion, give such an instruction, it is not error for him to refuse the request." <i>Walker v. State</i>, 723 P.2d 273, 284 (Okla. Crim. App. 1986).</p>		
Oregon	<p>Oregon Constitution Art. I, §16: "... the jury shall have the right to determine the law, and the facts under the direction of the Court as to the law, and the right of new trial, as in civil cases."</p> <p>"...we conclude that Article I, section 16, merely acknowledges that which is inherent in all juries—the power to acquit; it is not a grant of authority to a defendant to ask a jury to exercise that power despite the applicable law as instructed by the court." <i>State v. Hoffman</i>, 677 P.2d 72, 73 (Or. Ct. App. 1984).</p>		
Pennsylvania	<p>NO PERTINENT CASE LAW ON A NULLIFICATION INSTRUCTION</p> <p>"In support of this argument, the Commonwealth notes the significance of the mandatory feature of § 9711 to</p>		

	<p>the capital sentencing scheme, describing it as necessary to forestall the problems of arbitrariness and potential jury nullification identified in <i>Furman v. Georgia</i>, 408 U.S. 238, 92 S.Ct. 2726, 33 L.Ed.2d 346 (1972) (plurality) and <i>Woodson v. North Carolina</i>, 428 U.S. 280, 96 S.Ct. 2978, 49 L.Ed.2d 944 (1976) ... The Pennsylvania death penalty statute does not allow a jury to avoid imposition of the death penalty through the exercise of unbridled discretion to grant mercy or leniency ...”</p> <p><i>Commonwealth v. Graham</i>, 661 A.2d 1367, 1372 (Pa. 1995).</p>		
Rhode Island	<p>“While we concede that a jury may render a verdict that violates the law, when this is done, it is a violation of the legal responsibility of the jurors. Certainly, it would be erroneous and improper for a court to lend its approval to such lawless conduct, even if no sanction could be imposed for its exercise. The fact that a person or persons may ignore legal requirements with impunity does not make this failure a right.” <i>State v. Champa</i>, 494 A.2d 102, 106 (R.I. 1985).</p>		
South Carolina	NO CASE LAW		
South Dakota	NO PERTINENT CASE LAW ON NULLIFICATION INSTRUCTION		
Tennessee	<p>“On the issue of jury nullification, although juries sometimes find contrary to the applicable law and evidence of a case, a trial court should not, as defendant seems to be</p>		

	demanding, inform a jury that it may disregard applicable law in reaching its verdict." <i>State v. Taylor</i> , 771 S.W.2d 387, 397 (Tenn. 1989).		
Texas	"Although jury nullification is a recognized aspect of our jury system, there is no constitutional implication that would require a trial judge to instruct the jury on nullification." <i>Mouton v. State</i> , 923 S.W.2d 219, 221 (Tex. App. 1996).	<p><i>Duke v. State</i>, No. 01-16-00245-CR, 2017 WL 3140126 at *1–2 (Tex. App. 2017).</p> <p>During voir dire, in response to a question from a veniremember, the trial court informed the venire that a jury does not have the right to nullify:</p> <p>VENIREMEMBER: I have one question about a point of law in this matter. Do we still have the right of jury nullification of the law in the state of Texas?</p> <p>TRIAL COURT: No.</p> <p>VENIREMEMEBER: And if we do, can you explain what that is?</p> <p>TRIAL COURT: No, you do not.</p> <p>VENIREMEMBER: We don't have the right to rule—we don't have the right to jury nullification?</p> <p>TRIAL COURT: No.</p> <p>VENIREMEMBER: All right.</p> <p>Duke made no objection to the trial court's comments, and the trial court never explained to the rest of the venire what "jury nullification" means.</p> <p>Later, the State moved to dismiss the veniremember due to his question about "jury nullification," and Duke agreed.</p> <p>The jury found Duke guilty, and the trial court sentenced him to 35 years' confinement. Duke appeals.</p>	

		<p>Duke contends that, by “informing the venire that the jury has no right to nullify,” the trial court denied him his “right to trial by jury” guaranteed by the United States and Texas constitutions.</p> <p>Jury nullification does exist as part of our legal system. <i>Id.</i> Once in the jury room after the close of the evidence, each juror has the power to vote his or her conscience and thus has the power to nullify or disregard the trial court's instructions ... Nevertheless, jury nullification “is not a legal standard” Although the jury has the <i>power</i> to nullify, “it is the <i>duty</i> of the jury to follow the law as it is laid down by the court.”</p> <p>Therefore, a trial court may inform the jury that it has a <i>duty</i> to follow the law ... The trial court, therefore, did not commit fundamental error in informing the veniremember—and the jurors who heard the exchange—that there is no right to jury nullification.</p>	
Utah	<p>NO CASE LAW</p> <p>Order on Plaintiff's Motions in Limine and Defendants' Motion in Limine Re: Posting of a Sign in <i>Turner v. University of Utah Hospitals and Clinics</i> (11/20/14) (1)(e): “The Court reserves ruling on Plaintiff's motion to preclude jury nullification and tort reform type statements and arguments at trial.”</p>		

Vermont	<p>"... jurors cannot be called to account for their verdict. This, however, is far from saying that it is their legal province to override the law laid down by the court, and to declare it for themselves." <i>State v. Burpee</i>, 25 A. 964, 968 (Vt. 1892).</p> <p>"Defendant recognizes, nevertheless, that juries do not have the power to decide questions of law in Vermont ... Defendant offers no persuasive basis for rejecting the majority rule, and we decline to do so." <i>State v. Findlay</i>, 765 A.2d 483, 488–89 (Vt. 2000).</p>		
Virginia	<p>"Although jury nullification undoubtedly occurs in some situations, the right to due process does not entitle a party to encourage such behavior." <i>Walls v. Commonwealth</i>, 563 S.E.2d 384, 388 (Va. Ct. App. 2002).</p>		
Washington	<p>"We agree with the reasoning in <i>Meggyesy</i> that such an instruction is equivalent to notifying the jury of its power to acquit against the evidence and that a defendant is not entitled to a jury nullification instruction." <i>State v. Bonisisio</i>, 964 P.2d 1222, 1229 (Wash. Ct. App. 1998).</p>		
West Virginia	<p>"...there remains an abiding respect for the <i>power</i> of the jury to nullify oppressive law, even if there is no express <i>right</i> on the part of the jury to do so." <i>State v. Morgan Stanley & Co., Inc.</i>, 459 S.E.2d 906, 916 (Va. 1995).</p>		
Wisconsin	<p>"The nullification power, such as it is, stems from the prohibition against</p>		

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	double jeopardy-the government's inability to appeal from even the most lawless acquittal ... this power does not translate to a <i>right</i> to have a jury decide a case contrary to law or fact, much less a right to an instruction telling jurors they may do so or to an argument urging them to nullify applicable laws." <i>State v. Bjerkaas</i> , 472 N.W.2d 615, 619 (Wis. Ct. App. 1991).		
Wyoming	"Instruction about jury nullification, or on the other hand the excising of instructions that the jury is to follow the law, is not a right afforded to a criminal defendant in this state or elsewhere. There is no reason to overturn the long-settled rule that the jury should be instructed to follow the law." <i>Henderson v. State</i> , 976 P.2d 203, 207 (Wyo. 1999).		