

11.118 Issues In Aggravated Battery--Based On Use Of A Weapon Or Device

To sustain the charge of aggravated battery, the State must prove the following propositions:

First Proposition: That the defendant knowingly and by any means [(caused bodily harm to _____) (made physical contact of an insulting or provoking nature with _____)]; and

[1] *Second Proposition:* That the defendant used [(a deadly weapon other than by the discharge of a firearm) (an air rifle)].

[or]

[2] *Second Proposition:* That the defendant wore a [(hood) (robe) (mask)] to conceal his identity.

[or]

[3] *Second Proposition:* That the defendant knowingly [(shined) (flashed)] a [(laser gunsight) (laser device)] [(attached to a firearm) (used in concert with a firearm)] so that the laser beam struck upon or against _____.

[or]

[4] *Second Proposition:* That the defendant knowingly [(video) (audio)] recorded the offense with the intent to disseminate the recording.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

Committee Note

Instruction and Committee Note Approved April 13, 2016

720 ILCS 5/12-3.05(f) (West 2016) (formerly 720 ILCS 5/12-4.2 (West 1992)).

Give Instruction 11.117.

When applicable, give Instruction 4.35 defining the term “air rifle”.

Insert in the blanks the name of the victim.

Whenever the jury is to be instructed on an affirmative defense, this instruction must be combined with the appropriate instructions from Chapter 24-25.00. Because the additional

proposition or propositions that will thereby be included will require the jury to find that the defendant acted without legal justification, the Committee has concluded that the phrase “without legal justification” need not be used in this issues instruction, although it does need to be included in Instruction 11.117 (see the Committee Note to Instruction 11.117).

Use applicable subparagraphs, and bracketed material.

The bracketed numbers and letters are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.