

11.24

ISSUES IN AGGRAVATED BATTERY WITH A FIREARM

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

[1] *First Proposition:* That the defendant [(intentionally) (knowingly)] caused injury to another person; and

Second Proposition: That the defendant did so by discharging a firearm.

[or]

[2] *First Proposition:* That the defendant [(intentionally) (knowingly)] caused injury to another person; and

Second Proposition: That the defendant did so by discharging a firearm; and

Third Proposition: That the defendant knew that the other person was [(a peace officer) (a person summoned by a peace officer) (a correctional institution employee) (a fireman) (an emergency medical technician) (an ambulance driver) (a medical assistant) (a first aid attendant)]; and

Fourth Proposition: That the defendant did so

[a] while the [(peace officer) (correctional officer) (fireman) (emergency medical technician) (ambulance driver) (medical assistant) (first aid attendant)] was engaged in the execution of his official duties.

[or]

[b] to prevent the [(peace officer) (correctional officer) (fireman) (emergency medical technician) (ambulance driver) (medical assistant) (first aid attendant)] from performing his official duties.

[or]

[c] in retaliation for the [(peace officer) (correctional officer) (fireman) (emergency medical technician) (ambulance driver) (medical assistant) (first aid attendant)] performing his official duties.

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

720 ILCS 5/12-4.2 (West 1992) (formerly Ill.Rev.Stat. ch. 38, §12-4.2 (1991)), added by P.A. 86-980, effective July 1, 1990; amended by P.A. 87-921, effective January 1, 1993; P.A. 87-1256, effective July 1, 1993; and P.A. 88-433, effective January 1, 1994.

Give Instruction 11.23.

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 11.23 (see the Committee Note to Instruction 11.23).

The bracketed numbers in this instruction correspond with the bracketed numbers in Instruction 11.23. Select the alternative that corresponds to the alternative selected from the definitional instruction.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions 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.