

6.00
INCHOATE OFFENSES

6.01
**Definition Of Solicitation--Other Than Solicitation Of Murder Or Solicitation Of Murder
For Hire**

A person commits the offense of solicitation when, with intent that the offense of ____ be committed, he [(commands) (encourages) (requests)] another to commit ____.

The offense solicited need not have been committed.

Committee Note

720 ILCS 5/8-3 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §8-1, amended by P.A. 85-1030, effective July 1, 1988.

Give Instruction 6.02.

Do not use this instruction if the defendant is charged with solicitation of murder or solicitation of murder for hire; instead, use the appropriate instructions from Instructions 6.01A, 6.01B, 6.02A, and 6.02B.

The court must also give an instruction that defines the offense which is the alleged subject of the solicitation. However, the issues instruction for that offense should not be given in conjunction with the solicitation instruction. For example, if a defendant is charged with solicitation to commit robbery, Instruction 14.03 defining robbery would be given following this instruction, but Instruction 14.04 listing the issues in a robbery prosecution would not be given unless the defendant was also charged with the substantive offense of robbery.

The words “commands,” “encourages,” and “requests” are disjunctive methods by which the offense of solicitation can be committed. *See People v. Cole*, 91 Ill.2d 172, 435 N.E.2d 490, 61 Ill.Dec. 793 (1982). If the charging document alleges separate methods of solicitation in separate counts, the jury should receive one definitional Instruction 6.01 naming from the bracketed material each method alleged; but the jury should receive a separate Instruction 6.02 for the issues in each solicitation count.

720 ILCS 5/8-3 (West, 1999)(defense of incapacity to commit the offense) raises a legal issue which need not be covered by instructions.

For the relationships among inchoate offenses, *see People v. Stroner*, 96 Ill.2d 204, 449 N.E.2d 1326, 70 Ill.Dec. 722 (1983) (solicitation to commit murder is not a lesser included offense of conspiracy to commit murder and conspiracy to commit murder is not a lesser included offense of attempted murder on theory of accountability).

Insert in the blanks the name of the offense that is the alleged subject of the solicitation.

Use applicable bracketed material.

6.01A Definition Of Solicitation Of Murder

A person commits the offense of solicitation of murder when, with the intent that the offense of first degree murder be committed, he [(commands) (encourages) (requests)] another to commit that offense.

Committee Note

720 ILCS 5/8-1.1 (West 1992) (formerly Ill.Rev.Stat. ch. 38, §8-1.1 (1991)), added by P.A. 85-1030, effective July 1, 1988.

Give Instruction 6.02A.

Give Instruction 6.01C, defining the offense of first degree murder (for use when solicitation of murder or solicitation of murder for hire is charged). In *People v. Eaglin*, 224 Ill.App.3d 668, 672, 586 N.E.2d 1280, 1283-84, 167 Ill.Dec. 8, 11-12 (3d Dist.1992), a case involving a prosecution of solicitation of murder for hire, the court held that an instruction defining first degree murder was erroneous because it included a reference to a defendant's mental state other than his intent to kill an individual. Even though *Eaglin* dealt with solicitation of murder for hire (720 ILCS 5/8-1.2) and not with solicitation of murder (720 ILCS 5/8-1.1), the Committee believes that the *Eaglin* analysis applies to solicitation of murder because of that statute's similarity to solicitation of murder for hire.

Both Section 8-1.1 and Section 8-1.2 speak of a person committing their respective solicitation offenses when that person performs certain acts “with the intent that the offense of first degree murder be committed.” In *Eaglin*, the court wrote that solicitation requires proof of an intent to kill. *Eaglin*, 224 Ill.App.3d at 671-72, 586 N.E.2d at 1283, 167 Ill.Dec. at 11. The Committee believes that holding applies to solicitation of murder as well as to solicitation of murder for hire.

The words “commands,” “encourages,” and “requests” are disjunctive methods by which the offense of solicitation can be committed. *See People v. Cole*, 91 Ill.2d 172, 435 N.E.2d 490, 61 Ill.Dec. 793 (1982). The Committee believes this concept would also apply to the alternatives in the new crime of solicitation of murder. If the charging document alleges separate methods of solicitation of murder in separate counts, the jury should receive one definitional Instruction 6.01A naming from the bracketed material each method alleged; but the jury should receive a separate Instruction 6.02A for the issues in each solicitation of murder count.

Solicitation of murder is a new, distinct statutory offense; it is not a general inchoate offense, such as those found in Article 8 of the Criminal Code of 1961 (720 ILCS 5/8-1 *et seq.*).

For the relationships among inchoate offenses, *see People v. Stroner*, 96 Ill.2d 204, 449 N.E.2d 1326, 70 Ill.Dec. 722 (1983) (solicitation to commit murder is not a lesser included offense of conspiracy to commit murder and conspiracy to commit murder is not a lesser included offense of attempted murder on theory of accountability).

Use applicable bracketed material.

6.01B
Definition Of Solicitation Of Murder For Hire

A person commits the offense of solicitation of murder for hire when, with the intent that the offense of first degree murder be committed, he procures another to commit that offense pursuant to any [(contract) (agreement) (understanding) (command) (request)] for money or anything of value.

Committee Note

720 ILCS 5/8-1.2 (West 1992) (formerly Ill.Rev.Stat. ch. 38, §8-1.2 (1991)), added by P.A. 85-1030, effective July 1, 1988.

Give Instruction 6.02B.

Give Instruction 6.01C, defining the offense of first degree murder (for use when solicitation of murder or solicitation of murder for hire is charged).

The words “commands,” “encourages,” and “requests” are disjunctive methods by which the offense of solicitation can be committed. *See People v. Cole*, 91 Ill.2d 172, 435 N.E.2d 490, 61 Ill.Dec. 793 (1982). The Committee believes this concept would also apply to the alternatives in the new crime of solicitation of murder for hire. If the charging document alleges separate methods of solicitation of murder for hire in separate counts, the jury should receive one definitional Instruction 6.01B naming from the bracketed material each method alleged; but the jury should receive a separate Instruction 6.02B for the issues in each solicitation of murder for hire count.

Solicitation of murder for hire is a new, distinct statutory offense; it is not a general inchoate offense, such as those found in Article 8 of the Criminal Code of 1961 (720 ILCS 5/8-1 *et seq.*).

For the relationships among inchoate offenses, *see People v. Stroner*, 96 Ill.2d 204, 449 N.E.2d 1326, 70 Ill.Dec. 722 (1983) (solicitation to commit murder is not a lesser included offense of conspiracy to commit murder and conspiracy to commit murder is not a lesser included offense of attempted murder on theory of accountability).

Use applicable bracketed material.

6.01C

Definition Of First Degree Murder For Use When Solicitation Of Murder Or Solicitation Of Murder For Hire Is Charged

A person commits the offense of first degree murder when he kills an individual if, in performing the acts which cause the death, he intends to kill that individual.

Committee Note

720 ILCS 5/9-1(a)(1) (West 1992) (formerly Ill.Rev.Stat. ch. 38, §9-1(a)(1) (1991)), defining first degree murder, and 720 ILCS 5/8-1.1(a) (West 1992) (formerly Ill.Rev.Stat. ch. 38, §8-1.1(a) (1991)), defining solicitation of murder.

In *People v. Eaglin*, 224 Ill.App.3d 668, 672, 586 N.E.2d 1280, 1283-84, 167 Ill.Dec. 8, 11-12 (3d Dist.1992), a case involving a prosecution of solicitation of murder, the court held that an instruction defining first degree murder was erroneous because it included a reference to a defendant's mental state other than his intent to kill an individual.

6.02

Issues In Solicitation--Other Than Solicitation Of Murder Or Solicitation Of Murder For Hire

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

First Proposition: That the defendant [(commanded) (encouraged) (requested)] ____ to commit ____; and

Second Proposition: That the defendant did so with intent that the offense of ____ be committed.

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 5/8-1 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §8-1, amended by P.A. 85-1030, effective July 1, 1988.

Give Instruction 6.01.

Do not use this instruction if the defendant is charged with solicitation of murder or solicitation of murder for hire; instead, use the appropriate instructions from Instructions 6.01A, 6.01B, 6.02A, and 6.02B.

The words “commands,” “encourages,” and “requests” are disjunctive methods by which the offense of solicitation can be committed. *See* People v. Cole, 91 Ill.2d 172, 435 N.E.2d 490, 61 Ill.Dec. 793 (1982). If the charging document alleges separate methods of solicitation in separate counts, the jury should receive one definitional Instruction 6.01 naming from the bracketed material each method alleged; but the jury should receive a separate Instruction 6.02 for the issues in each solicitation count.

Insert in the appropriate blanks the name of the person solicited and the crime solicited.

Use applicable bracketed material.

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.

6.02A
Issues In Solicitation Of Murder

To sustain the charge of solicitation of murder, the State must prove the following propositions:

First Proposition: That the defendant [(commanded) (encouraged) (requested)] ____ to commit the offense of first degree murder; and

Second Proposition: That the defendant did so with the intent that the offense of first degree murder be committed.

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 5/8-1.1 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §8-1.1, added by P.A. 85-1030, effective July 1, 1988.

Give Instruction 6.01A.

The words “commands,” “encourages,” and “requests” are disjunctive methods by which the offense of solicitation can be committed. *See* People v. Cole, 91 Ill.2d 172, 435 N.E.2d 490, 61 Ill.Dec. 793 (1982). The Committee believes this concept would also apply to the alternatives in the new crime of solicitation of murder. If the charging document alleges separate methods of solicitation of murder in separate counts, the jury should receive one definitional Instruction 6.01A naming from the bracketed material each method alleged; but the jury should receive a separate Instruction 6.01A for the issues in each solicitation of murder count.

Solicitation of murder is a new, distinct statutory offense; it is not a general inchoate offense, such as those found in Article 8 of the Criminal Code of 1961 (720 ILCS 5/8-1 *et seq.*).

Insert in the blank the name of the person solicited.

Use applicable bracketed material.

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.

6.02B
Issues In Solicitation Of Murder For Hire

To sustain the charge of solicitation of murder for hire, the State must prove the following propositions:

First Proposition: That the defendant procured _____ to commit the offense of first degree murder pursuant to any [(contract) (agreement) (understanding) (command) (request)] for money or anything of value; and

Second Proposition: That the defendant did so with the intent that the offense of first degree murder be committed.

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 5/8-1.2 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §8-1.2, added by P.A. 85-1030, effective July 1, 1988.

Give Instruction 6.01B.

The words “commands,” “encourages,” and “requests” are disjunctive methods by which the offense of solicitation can be committed. *See* People v. Cole, 91 Ill.2d 172, 435 N.E.2d 490, 61 Ill.Dec. 793 (1982). The Committee believes this concept would also apply to the alternatives in the new crime of solicitation of murder for hire. If the charging document alleges separate methods of solicitation of murder for hire in separate counts, the jury should receive one definitional Instruction 6.01B naming from the bracketed material each method alleged; but the jury should receive a separate Instruction 6.02B for the issues in each solicitation of murder for hire count.

Solicitation of murder for hire is a new, distinct statutory offense; it is not a general inchoate offense, such as those found in Article 8 of the Criminal Code of 1961 (Chapter 720, §5/8-1 *et seq.*).

Insert in the blank the name of the person solicited.

Use applicable bracketed material.

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.

6.03

Definition Of Conspiracy--Other Than Certain Drug Conspiracies

A person commits the offense of conspiracy when he, with intent that the offense of _____ be committed, agrees with [(another) (others)] to the commission of the offense of _____, and an act in furtherance of the agreement is performed by any party to the agreement.

An agreement may be implied from the conduct of the parties although they acted separately or by different means and did not come together or enter into an express agreement.

To constitute the offense of conspiracy it is not necessary that the conspirators succeed in committing the offense of _____.

Committee Note

720 ILCS 5/8-2 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §8-2, amended by P.A. 86-809, effective January 1, 1990).

Give Instruction 6.04.

The court must also give an instruction that defines the offense that is the alleged subject of the conspiracy. For example, if a defendant is charged with conspiracy to commit first degree murder, Instruction 7.01A defining first degree murder would be given following this instruction, but Instruction 7.02A listing the issues in a first degree murder prosecution would not be given unless the defendant was also charged with the substantive offense of first degree murder.

Under the provisions of P.A. 86-809, after January 1, 1990, when a conspiracy to violate Section 1401, 1402, or 1407 of 720 ILCS 570 (Controlled Substances Act) is charged, this instruction and Instruction 6.04 should not be used; instead, use Instructions 17.31 and 17.32.

See People v. Heard, 48 Ill.2d 356, 270 N.E.2d 18 (1971); *People v. Collins*, 70 Ill.App.3d 413, 387 N.E.2d 995, 26 Ill.Dec. 165 (1st Dist.1979).

720 ILCS 5/8-3 (defense of incapacity to commit the offense) raises a legal issue which need not be covered by instructions.

720 ILCS 5/8-2(a) encompasses the bilateral theory of conspiracy requiring actual agreement between at least two persons to commit the offense to support a conspiracy conviction. *People v. Foster*, 99 Ill.2d 48, 457 N.E.2d 405, 75 Ill.Dec. 411 (1983). The unilateral theory is largely embraced by the solicitation statute (Chapter 38, Section 8-1). *See Foster*, 99 Ill.2d at 53, 457 N.E.2d at 408, 75 Ill.Dec. at 414.

For the relationships among inchoate offenses, *see People v. Stroner*, 96 Ill.2d 204, 449 N.E.2d 1326, 70 Ill.Dec. 722 (1983) (solicitation to commit murder is not a lesser included offense of conspiracy to commit murder and conspiracy to commit murder is not a lesser included offense of attempted murder on theory of accountability).

Insert in the blanks the name of the offense that is the alleged subject of the conspiracy.

Use applicable bracketed material.

6.04

Issues In Conspiracy--Other Than Certain Drug Conspiracies

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

First Proposition: That the defendant agreed with ____ to the commission of the offense of ____; and

Second Proposition: That the defendant did so with intent that the offense of ____ be committed; and

Third Proposition: That an act in furtherance of the agreement was performed by any party to the agreement.

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 5/8-2 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §8-2, amended by P.A. 86-809, effective January 1, 1990).

Give Instruction 6.03.

Under the provisions of P.A. 86-809, after January 1, 1990, when a conspiracy to violate Sections 1401, 1402, or 1407 of 720 ILCS 570 (Controlled Substances Act) is charged, this instruction and Instruction 6.03 should not be used; instead, use Instructions 17.31 and 17.32.

Insert in the appropriate blanks the name of the offense which is the subject of the conspiracy and the name of the person or persons with whom the defendant is charged with conspiring.

6.05

Definition Of Attempt--Other Than Attempt First Degree Murder

A person commits the offense of attempt when he, [without lawful justification and] with the intent to commit the offense of _____, does any act which constitutes a substantial step toward the commission of the offense of _____.

The offense attempted need not have been committed.

Committee Note

720 ILCS 5/8-4(a) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §8-4(a) (1991)).

Give Instruction 6.07.

Do *not* use this instruction if the defendant is charged with attempt first degree murder; instead, use Instruction 6.05X.

The court must also give an instruction that defines the offense which is the alleged subject of the attempt. However, the issues instruction for that offense should not be given in conjunction with the attempt instruction. For example, if a defendant is charged with attempt to commit robbery, Instruction 14.01 defining robbery would be given following this instruction, but Instruction 14.02 listing the issues in a robbery prosecution would not be given unless the defendant was also charged with the substantive offense of robbery.

Use the phrase “without lawful justification” whenever an instruction is to be given on an affirmative defense contained in Article 7 of Chapter 720.

Insert in the blanks the name of the offense that is the alleged subject of the attempt.

6.05X

Definition Of Attempt First Degree Murder

A person commits the offense of attempt first degree murder when he, [without lawful justification and] with the intent to kill an individual, does any act which constitutes a substantial step toward the killing of an individual.

The killing attempted need not have been accomplished.

Committee Note

720 ILCS 5/8-4(a) and 5/9-1(a)(1) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §8-4(a) and 9-1(a)(1) (1991)).

Give Instruction 6.07X.

Give this instruction whenever the defendant is charged with attempt first degree murder. Do not use Instruction 6.05, the general definitional instruction for the charge of attempt, when the defendant is charged with attempt first degree murder.

The Illinois Supreme Court has unequivocally held that the specific intent to kill is an essential element of the offense of attempt first degree murder. *People v. Harris*, 72 Ill.2d 16, 377 N.E.2d 28, 17 Ill.Dec. 838 (1978). Nonetheless, attempt first degree murder cases continue to be tried in which the jury is not properly instructed. *See People v. Velasco*, 184 Ill.App.3d 618, 540 N.E.2d 521, 132 Ill.Dec. 781 (1st Dist.1989). Accordingly, the Committee believes this special instruction is necessary to overcome this problem.

Use the phrase “without lawful justification” whenever an instruction is to be given on an affirmative defense contained in Article 7 of Chapter 720.

For an example of the use of this instruction, see Sample Set 27.02.

6.05XX

Definition Of Attempt First Degree Murder--Enhancing Factors Based On Victim

A person commits the offense of attempt first degree murder of [(a peace officer) (a fireman) ([(an employee of) (an inmate at) (an individual present in)] a correctional institution or facility) (an emergency medical technician) (an ambulance driver) (a medical assistant) (a first aid attendant)] when he, [without lawful justification and] with the intent to kill an individual, does any act which constitutes a substantial step toward the killing of an individual who was

[1] a [(peace officer) (fireman)] [(who at the time was in the course of) (with the intent to prevent him from) (in retaliation for his)] performing his official duties, and the defendant knew or should have known that the individual was a [(peace officer) (fireman)].

[or]

[2] an employee of an institution or facility of the Department of Corrections [or any similar local correctional agency] [(who at the time was in the course of) (with the intent to prevent him from) (in retaliation for his)] performing his official duties.

[or]

[3] [(an inmate at) (an individual present in)] an institution or facility of the Department of Corrections [or any similar local correctional agency].

[or]

[4] [(an emergency medical technician) (an ambulance driver) (a medical assistant) (a first aid attendant)] employed by a municipality [or other governmental unit] [(who at the time was in the course of) (with the intent to prevent him from) (in retaliation for his)] performing his official duties, and the defendant knew or should have known that the individual was [(an emergency medical technician) (an ambulance driver) (a medical assistant) (a first aid attendant)].

The killing attempted need not have been accomplished.

Committee Note

720 ILCS 5/8-4(a), (c)(1), and 5/9-1(b)(1), (2), and (12) (West 1992) (formerly Ill.Rev.Stat. ch. 38, §§8-4(a), 8-4(c)(1), and 9-1(b)(1), (2), and (12) (1991)), amended by P.A. 87-921, effective January 1, 1993; and P.A. 88-433, effective January 1, 1994.

Give Instruction 6.07XX.

Give this instruction when the defendant is charged with attempt first degree murder and the intended victim was a peace officer, fireman, correctional institution or facility employee, emergency medical technician (EMT), ambulance driver, or other medical assistance or first aid

personnel.

Public Act 87-921 amended Section 8-4(c)(1) by enhancing the penalty for attempt first degree murder when (1) the intended victim is a peace officer, a fireman, an employee of, inmate at, or visitor to a correctional institution or facility, an EMT, an ambulance driver, or other medical assistance or first aid personnel, and (2) the defendant intends to kill the intended victim (a) at a time when he is in the course of performing his official duties, (b) to prevent him from performing his official duties, or (c) in retaliation for performing his official duties.

P.A. 88-433, effective January 1, 1994, amended this section by changing the term “paramedic” to “emergency medical technician” (EMT). If the definition of EMT or the type of EMT becomes an issue, see Sections 4.12, 4.13, or 4.15 of the Emergency Medical Services System Act (210 ILCS 50/4.12, 4.13, or 4.15 (West 1994)) which define EMT-ambulance, EMT-paramedic, and EMT-intermediate. See 720 ILCS 5/2-6.5 (West 1994).

Give Instruction 6.05X for all other charges of attempt first degree murder. Do not use Instruction 6.05, the general definitional instruction for the charge of attempt, when the defendant is charged with attempt first degree murder.

The Illinois Supreme Court has unequivocally held that the specific intent to kill is an essential element of the offense of attempt first degree murder. *People v. Harris*, 72 Ill.2d 16, 377 N.E.2d 28, 17 Ill.Dec. 838 (1978). Nonetheless, attempt first degree murder cases continue to be tried in which the jury is not properly instructed. *See People v. Velasco*, 184 Ill.App.3d 618, 540 N.E.2d 521, 132 Ill.Dec. 781 (1st Dist.1989). Accordingly, the Committee believes that this instruction and Instruction 6.05X are necessary to overcome this problem.

Use the phrase “without lawful justification” whenever an instruction is to be given on an affirmative defense contained in Article 7 of the Criminal Code of 1961 (720 ILCS 5/7-1 to 5/7-14).

6.06

Impossibility Of Committing Offense Attempted--No Defense

It is not a defense to the charge of attempt that, because of a misapprehension of the circumstances, it would have been impossible to commit the offense attempted.

Committee Note

720 ILCS 5/8-4(b) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §8-4(b) (1991)).

Give this instruction only when there is evidence of impossibility.

6.07

Issues In Attempt--Other Than Attempt First Degree Murder

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

First Proposition: That the defendant performed an act which constituted a substantial step toward the commission of the offense of ____; and

Second Proposition: That the defendant did so with the intent to commit the offense of ____.

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 5/8-4(a) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §8-4(a) (1991)).

Give Instruction 6.05.

Do *not* use this instruction if the defendant is charged with attempt first degree murder; instead, use Instruction 6.07X.

Insert in the blanks the name of the offense that is the alleged subject of the attempt.

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.

6.07X
Issues In Attempt First Degree Murder

To sustain the charge of attempt first degree murder, the State must prove the following propositions:

First Proposition: That the defendant performed an act which constituted a substantial step toward the killing of an individual; and

Second Proposition: That the defendant did so with the intent to kill an individual.

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 5/8-4 and 5/9-1 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §8-4 and 9-1 (1991)).

Give this instruction *only* when Instruction 6.05X is also given. See Committee Note to Instruction 6.05X.

When an affirmative defense instruction is to be given, combine this instruction with the appropriate instruction from Chapter 24-25.00.

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.

For an example of the use of this instruction, see Sample Set 27.02.

6.07XX

Issues In Attempt First Degree Murder--Enhancing Factors Based On Victim

To sustain the charge of attempt first degree murder of [(a peace officer) (a fireman) ([(an employee of) (an inmate at) (an individual present in)] a correctional institution or facility) (a paramedic) (an ambulance driver) (a medical assistant) (a first aid attendant)], the State must prove the following propositions:

First Proposition: That the defendant performed an act which constituted a substantial step toward the killing of an individual; and

Second Proposition: That the defendant did so with the intent to kill that individual;

and

Third Proposition: That the individual the defendant intended to kill was

[1] a [(peace officer) (fireman)];

[or]

[2] an employee of an institution or facility of the Department of Corrections [or any similar local correctional agency];

[or]

[3] an [(inmate at) (individual present in)] an institution or facility of the Department of Corrections [or any similar local correctional agency] [with the knowledge and approval of the chief administrative officer thereof];

[or]

[4] [(a paramedic) (an ambulance driver) (a medical assistant) (a first aid attendant)] employed by a municipality [or other governmental unit];

and

Fourth Proposition: That the defendant did so

A] at a time when that [(peace officer) (fireman) (employee of an institution or facility of the Department of Corrections [or any similar local correctional agency]) ([(paramedic) (ambulance driver) (medical assistant) (first aid attendant)] employed by a municipality [or other governmental unit])] was in the course of performing his official duties[(.) (; and)]

[or]

[B] with the intent to prevent that [(peace officer) (fireman) (employee of an institution

or facility of the Department of Corrections [or any similar local correctional agency]) ([(paramedic) (ambulance driver) (medical assistant) (first aid attendant)] employed by a municipality [or other governmental unit])] from performing his official duties[(.) (; and)]

[or]

[C] in retaliation for that [(peace officer) (fireman) (employee of an institution or facility of the Department of Corrections [or any similar local correctional agency]) ([(paramedic) (ambulance driver) (medical assistant) (first aid attendant)] employed by a municipality [or other governmental unit])] performing his official duties[(.) (; and)]

[or]

[D] at a time when that [(inmate) (individual)] was present on the grounds of an institution or facility of the Department of Corrections [with the knowledge and approval of the chief administrative officer thereof].

[*Fifth Proposition*: That the defendant knew or should have known that the individual was [(a peace officer) (a fireman) (a paramedic) (an ambulance driver) (a medical assistant) (a first aid attendant)].]

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 5/8-4(a), (c)(1), and 5/9-1(b)(1), (2), and (12) (West 1992) (formerly Ill.Rev.Stat. ch. 38, §§8-4(a), 8-4(c)(1), and 9-1(b)(1), (2), and (12) (1991)), amended by P.A. 87-921, effective January 1, 1993.

Give this instruction *only* when Instruction 6.05XX is also given. See Committee Note to Instruction 6.05XX.

When an affirmative defense instruction is to be given, combine this instruction with the appropriate instruction from Chapter 24-25.00.

Use the bracketed Fifth Proposition *only* when the enhancing factor is based on the victim's status as a peace officer, fireman, paramedic, ambulance driver, medical assistant, or first aid attendant. See Sections 9-1(b)(1) and 9-1(b)(12).

Do *not* use the Fifth Proposition when the enhancing factor is based on the victim's status as an employee, an inmate at, or an individual present in the Department of Corrections or a similar local correctional agency. See Section 9-1(b)(2).

Use applicable 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. The bracketed number paragraphs in the Third Proposition correlate to the bracketed number paragraphs in Instruction 6.05XX. The bracketed letter paragraphs in the Fourth Proposition do not correlate to Instruction 6.05XX.

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.