

## 11.116 Issues In Aggravated Battery--Based On Use Of A Firearm

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

*First Proposition:* That the defendant knowingly discharged a [(firearm) (machine gun) (firearm equipped with a silencer)]; and

*Second Proposition:* That, in discharging the [(firearm) (machine gun) (firearm equipped with a silencer)], the defendant caused any injury to \_\_\_\_\_ [(.) (; and)]

[[1] *Third Proposition:* That the defendant knew that \_\_\_\_\_ was [(a peace officer) (community policing volunteer) (a person summoned by a peace officer) (a fireman) (a private security officer) (a correctional institution employee) (an emergency management worker)]; and

*Fourth Proposition:* That the defendant [(knew that \_\_\_\_\_ was performing) (battered \_\_\_\_\_ to prevent performance of) (battered \_\_\_\_\_ in retaliation for performing)] his official duties.]

[or]

[[2] *Third Proposition:* That the defendant knew that \_\_\_\_\_ was an emergency medical technician; and

*Fourth Proposition:* That \_\_\_\_\_ was employed by a [(municipality) (governmental unit)], and

*Fifth Proposition:* That the defendant [(knew that \_\_\_\_\_ was performing) (battered \_\_\_\_\_ to prevent performance of) (battered \_\_\_\_\_ in retaliation for performing)] his official duties.]

[or]

[[3] *Third Proposition:* That the defendant knew that \_\_\_\_\_ was a [(teacher) (student in school) (school employee)]; and

*Fourth Proposition:* That \_\_\_\_\_ was [(on the grounds of a school) (on grounds adjacent to a school) (in any part of a building used for school purposes)].]

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(e) (West 2016) amended by P.A. 96-1551, effective July 1, 2011.

Give Instruction 11.115.

When the defendant is charged with injuring a person not in one of the specifically stated statutory designations, use only the First and Second Propositions. When the defendant is charged with injuring a peace officer, community policing volunteer, a person summoned by a peace officer, a fireman, a private security officer, a correctional institution employee, an emergency management worker, or an emergency medical technician, and the other statutory requirements are met (while performing his official duties, etc.), use the first set of the Third and Fourth Propositions, bracketed [1]. If the defendant is charged with injuring a teacher, student or school employee, use the second set of the Third and Fourth Propositions bracketed [2].

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 11.115 (see the Committee Note to Instruction 11.115).

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.