

## AFFRAY

The defendant is charged with violating the law by engaging in an affray with others. Section 39 of chapter 277 of our General Laws defines an “affray” as:

the “fighting together of two or more persons  
in a public place  
to the terror of the persons lawfully there.”

In order to prove the defendant guilty of this offense, the Commonwealth must prove three things beyond a reasonable doubt:

***First:*** That the defendant fought with one or more other persons;

***Second:*** That the fighting took place in a public place; and

***Third:*** That at least one person in the public place was put in fear as a result of the fighting that occurred.

NOTE:

Affray is a common law offense. See *District Attorney for Norfolk Dist. v. Quincy Div. of Dist. Court Dep't*, 444 Mass. 176, 827 N.E.2d 172 (2005). Since the General Laws do not specify a penalty for common law affray, a convicted defendant should be punished under G.L. c. 279, § 5, which provides for “such sentence, according to the nature of the crime, as conforms to the common usage and practice in the Commonwealth.”