

PROOF BEYOND A REASONABLE DOUBT

[This instruction must be given verbatim]

The burden is on the Commonwealth to prove beyond a reasonable doubt that the defendant is guilty of the charge(s) made against him (her).

What is proof beyond a reasonable doubt? The term is often used and probably pretty well understood, though it is not easily defined. Proof beyond a reasonable doubt does not mean proof beyond all possible doubt, for everything in the lives of human beings is open to some possible or imaginary doubt. A charge is proved beyond a reasonable doubt if, after you have compared and considered all of the evidence, you have in your minds an abiding conviction, to a moral certainty, that the charge is true. When we refer to moral certainty, we mean the highest degree of certainty possible in matters relating to human affairs -- based solely on the evidence that has been put before you in this case.

I have told you that every person is presumed to be innocent until he or she is proved guilty, and that the burden of proof is on the prosecutor. If you evaluate all the evidence and you still have a reasonable doubt remaining, the defendant is entitled to the benefit of that doubt and must be acquitted.

It is not enough for the Commonwealth to establish a probability, even a strong probability, that the defendant is more likely to be guilty than not guilty. That is not enough. Instead, the evidence must convince you of the defendant's guilt to a reasonable and moral certainty; a certainty that convinces your understanding and satisfies your reason and judgment as jurors who are sworn to act conscientiously on the evidence.

This is what we mean by proof beyond a reasonable doubt.