

SELF-DEFENSE

Select from the options below to assemble a complete self-defense instruction tailored to the evidence. The introduction to self-defense (Instruction 9.260) should be read in every case. Then, read one of the following instructions, depending on whether the level of force used by the defendant: (a) was non-deadly as a matter of law (Instruction 9.261); (b) was deadly as a matter of law (Instruction 9.262); or (c) could be found by the jury to be non-deadly or deadly, viewing the evidence in the light most favorable to the defendant (Instruction 9.263). Notes relevant to all three instructions appear with the index at Instruction 9.260A.

Each instruction addresses the five propositions of self-defense, one of which the Commonwealth must prove beyond a reasonable doubt to establish that the defendant did not act in proper self-defense. See Commonwealth v. Glacken, 451 Mass. 163, 167 (2008); Supreme Judicial Court Model Jury Instructions on Homicide 17-18 (2023). The relevant supplemental instructions are included below the explanation of each proposition.

Where the evidence requires an instruction on Defense of Another (Instruction 9.264), it may be given before or after the Self-Defense instruction.

INTRODUCTION TO SELF DEFENSE

[Use this introductory instruction in all self-defense cases.]

In this case, there is a question as to whether the defendant lawfully used force to defend against an attack. Therefore, I will provide you with instructions concerning the law of self-defense. A person is not guilty of _[crime(s) alleged]_ if they acted in lawful self-defense.

In addition to proving the elements of the offense beyond a reasonable doubt, it is also the Commonwealth's burden to prove beyond a reasonable doubt that the defendant did not act in lawful self-defense. There is no burden on the defendant to prove that they

were justified in defending themselves. You must find the defendant not guilty if the Commonwealth fails to prove beyond a reasonable doubt that the defendant was not justified to act in self-defense.

The law does not permit retaliation or revenge. The lawful exercise of self-defense arises from necessity and ends when the necessity ends. An individual may only use force sufficient to prevent occurrence or reoccurrence of the attack.

