

**1234 BATTERY TO A PUBLIC OFFICER — § 940.62(1)(a)****Statutory Definition of the Crime**

Battery to a public officer, as defined in § 940.62(1)(a) of the Criminal Code of Wisconsin, is committed by one who intentionally causes bodily harm to a public officer, without the consent of that person, in order to influence the action of the officer or as a result of any action taken within the officer's official capacity.

**State's Burden of Proof**

Before you may find the defendant guilty of this offense, the State must prove by evidence which satisfies you beyond a reasonable doubt that the following six elements were present.

**Elements of the Crime That the State Must Prove**

1. (Name of victim) was a public officer at the time of the alleged offense.

“Public officer” means any person appointed or elected according to law to discharge a public duty for the state or one of its subordinate governmental units.<sup>1</sup>

(A \_\_\_\_\_ is a public officer.)<sup>2</sup>

2. The defendant caused bodily harm to (name of victim).

“Cause” means that the defendant's conduct was a substantial factor in producing the bodily harm.<sup>3</sup>

“Bodily harm” means physical pain or injury, illness, or any impairment of physical condition.<sup>4</sup>

3. The defendant intended to cause such bodily harm.

The phrase “intent to cause bodily harm” means that the defendant had the mental purpose to cause bodily harm to another human being or was aware that his conduct was practically certain to cause bodily harm to another.<sup>5</sup>

4. (Name of victim) did not consent to such bodily harm.
5. The defendant knew (name of victim) did not consent.<sup>6</sup>
6. The defendant caused bodily harm to (name of victim) (in order to influence the action of (name of victim)) (as a result of action taken within (name of victim)’s official capacity).<sup>7</sup>

### **Deciding About Intent and Knowledge**

You cannot look into a person’s mind to find intent or knowledge. Intent and knowledge must be found, if found at all, from the defendant’s acts, words, and statements, if any, and from all the facts and circumstances in this case bearing upon intent and knowledge.

### **Jury’s Decision**

If you are satisfied beyond a reasonable doubt that all six elements of this offense have been proved, you should find the defendant guilty.

If you are not so satisfied, you must find the defendant not guilty.

### **COMMENT**

The offense covered by this instruction was formerly covered by Wis JI-Criminal 1226 which was originally published in 1978 and revised in 1992. It was republished as Wis JI-Criminal 1234 in 1994 and

revised in 2004 and 2008. This revision was approved by the Committee in October 2025. It amended the instruction to incorporate the recodification and reorganization of the battery statutes enacted by 2025 Wisconsin Act 24 (effective date: August 10, 2025.)

The offense of battery to a public officer, as defined in § 940.20(4) [now § 940.62(1)(a)], was created by Chapter 173, Laws of 1977.

1. This definition of “public officer” is found in § 939.22(30).
2. Where a statute provides that a person holding a particular position is a public officer, the Committee believes the jury may be told of that fact. It is still for the jury to be satisfied that the victim did hold such a position.
3. The Committee concluded that the simple “substantial factor” definition of cause should be sufficient for most cases. Where there is evidence of more than one possible cause, something like the following might be added:

There may be more than one cause of bodily harm. The act of one person alone might produce it, or the acts of two or more persons might jointly produce it.
4. This is the definition of “bodily harm” provided in § 939.22(4).
5. See § 939.23(4) and Wis JI-Criminal 923A and 923B.
6. The knowledge element is based on the definition of “intentionally” in § 939.23(3): “. . . the actor must have knowledge of those facts which are necessary to make his or her conduct criminal and which are set forth after the word ‘intentionally’.”
7. For definition of “official capacity,” see Wis JI-Criminal 915.