

115 ONE DEFENDANT: TWO COUNTS

The first count of the (information) (complaint) in this case charges that:

[READ THE CHARGE IN THE FIRST COUNT OF THE INFORMATION OR COMPLAINT.]

To this charge, the defendant has entered a plea of not guilty which means the State must prove every element of the offense charged beyond a reasonable doubt.

[READ INSTRUCTION ON THE OFFENSE CHARGED IN THE FIRST COUNT.]

The second count of the (information) (complaint) charges that:

[READ THE CHARGE IN THE SECOND COUNT.]

To this charge, the defendant has also entered a plea of not guilty which means the State must prove every element of the offense charged beyond a reasonable doubt.

[READ INSTRUCTION ON THE OFFENSE CHARGED IN THE SECOND COUNT.]

COMMENT

Wis JI-Criminal 115 was originally published in 1962 and revised in 1979, 1990, and 1991. It was republished without substantive change in 2000.

The 1990 change substituted "which means the state must prove every element of the offense charged beyond a reasonable doubt" for "which means a denial of every material allegation in the (information) (complaint)." No change in substance is intended. The Committee concluded that the previous version could be misleading in cases where the defense is directed at a specific element rather than being a general denial of every material allegation.

Where more than two counts are charged, or where an offense charged includes a lesser offense, this instruction will need to be altered accordingly. If there are two or more counts charging like offenses, the instruction should be altered so that those counts are read in succession and only one instruction given on the elements of that particular offense. See Wis JI-Criminal 115 EXAMPLE.

Where the defendant has entered a special plea of not guilty by reason of mental disease or defect, the court should so instruct by using the appropriate instructions from the series beginning at Wis JI-Criminal 600.

See Wis JI-Criminal 484 for corresponding instruction on verdicts submitted.