

**14-5171. Justifiable homicide; self defense.<sup>1</sup>**

An issue you must consider in this case is whether the defendant killed \_\_\_\_\_ (*name of victim*) in self defense.

The killing is in self defense if:

1. There was an appearance of immediate danger of death or great bodily harm<sup>2</sup> to the defendant as a result of \_\_\_\_\_<sup>3,4</sup> and
2. The defendant was in fact put in fear by the apparent danger of immediate death or great bodily harm and killed \_\_\_\_\_ (*name of victim*) because of that fear; and
3. A reasonable person in the same circumstances as the defendant would have acted as the defendant did.

The burden is on the state to prove beyond a reasonable doubt that the defendant did not act in self defense. If you have a reasonable doubt as to whether the defendant acted in self defense you must find the defendant not guilty.

**USE NOTES**

1. For use when the self defense theory is based on necessary defense of self against any unlawful action; reasonable grounds to believe a design exists to commit a felony; or reasonable grounds to believe a design exists to do some great bodily harm. If this instruction is given, add to the essential elements instruction for the offense charged, "The defendant did not act in self defense."

2. The definition of great bodily harm, UJI 14-131 NMRA, must be given if not already given.

3. Describe unlawful act, felony, or act which would result in death or some great bodily harm as established by the evidence. Give at least enough detail to put the act in the context of the evidence.

4. UJI 14-5190 NMRA (assailed person need not retreat), must be given if at issue. If at issue, UJI 14-5191 NMRA (self defense; limitations; aggressor) and UJI 14-5191A NMRA (first aggressor; exceptions to the limitation on self defense) should also be given.

[As amended, effective October 1, 1985; January 1, 1997; as amended by Supreme Court Order No. 19-8300-016, effective for all cases pending or filed on or after December 31, 2019.]