

1. The defendant has been charged with riot as charged in count [count]. To find the defendant guilty of this offense, you must find that each of the following two elements has been proven beyond a reasonable doubt:

*First*, that the defendant participated with two or more other persons in a course of disorderly conduct. To "participate with" means that the defendant [himself] [herself] either engaged in the conduct with the others, or that [he] [she] encouraged them to do so. In this case, the act[s] the Commonwealth alleges constituted disorderly conduct [is] [are]:

- [a. engaging in fighting or threatening, or in violent or tumultuous behavior. Such conduct includes actions and words that are directed at producing or inciting imminent lawless action or an immediate violent response given the circumstances in which the words or actions occur; [and] [or]
- b. making unreasonable noise. You must consider the circumstances in which the defendant and others are alleged to have made the noise in question to determine if it was outside conventional standards of organized society in that context; [and] [or]
- c. using obscene language or made an obscene gesture. Language or a gesture is obscene if:
  - [(1) the average person applying contemporary community standards would find that the subject matter taken as a whole appeals to the prurient interest; [or]
  - (2) the average person applying contemporary community standards would find that the subject matter depicts or describes, in a patently offensive way, sexual conduct; and
  - (3) the subject matter, taken as a whole, lacks serious literary, artistic, political, educational, or scientific value.]

In defining the word "obscene," I have used two terms that must themselves be defined—"contemporary community standards" and "sexual conduct." "Contemporary community standards" refers to the standards of the people of the whole state of Pennsylvania at the time of the alleged offense. "Sexual conduct" means patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, oral and anal sodomy and sexual bestiality, masturbation, excretory functions, and lewd exhibition of the genitals; [and] [or]

- d. creating a hazardous or physically offensive condition by [action], an act that served no legitimate purpose of the defendant and others.]

You must find that, along with these actions, the defendant and the others had a common intent to cause public inconvenience, annoyance, or alarm, or that, as a group, they recklessly created a risk of public inconvenience, annoyance, or alarm. A person cannot violate this statute by merely being negligent in his or her conduct.

The word "public" here means affecting or likely to affect persons in a place to which the public or a substantial group has access. Among those places are highways, transport facilities, schools, prisons, apartment houses, places of business, places of amusement, any neighborhood, or any premises that are open to the public. Here, the Commonwealth has charged and must prove beyond a reasonable doubt that [location] is a public area.

Second, that the defendant did so:

- a. with intent to commit or facilitate the commission of a felony or misdemeanor. [offense charged] is a [felony] [misdemeanor]. It is the defendant who must have had the intent to commit that [felony] [misdemeanor]; it is not necessary that the others who participated with [him] [her] in the course of disorderly conduct also have intended to commit that offense; [or]
- b. with intent to [prevent] [coerce] official action [that is, [specify action]]. This means that the defendant acted with the intent to disrupt the lawful workings of the government, that

is, some task that requires an official status to perform; [or]

- c. when the defendant was using or planning to use a [firearm] [deadly weapon], that is, [specify]; [or]
- d. when the defendant knew that any other participant was using or planning to use a [firearm] [deadly weapon], that is, [specify].]