

## 24-25.04 Definition Of Entrapment

It is a defense to the charge made against the defendant that he was entrapped, that is, that for the purpose of obtaining evidence against the defendant, he was incited or induced by [(a public officer) (a public employee) (an agent of a public officer) (an agent of a public employee)] to commit an offense.

However, the defendant was not entrapped if he was predisposed to commit the offense and [(a public officer) (a public employee) (an agent of a public officer) (an agent of a public employee)] merely afforded to the defendant the opportunity or facility for committing an offense.

### Committee Note

720 ILCS 5/7-12 (West 2023).

Give Instruction 24-25.04A.

Give this instruction when the issue is properly one for the jury. See Introduction to this Chapter.

The defense of entrapment is not available to a defendant who denies having committed or participated in the unlawful transaction. *People v. Landwer*, 166 Ill.2d 475, 655 N.E.2d 848 (1995); *People v. Fleming*, 50 Ill.2d 141, 277 N.E.2d 872 (1971); *People v. Calcaterra*, 33 Ill.2d 541, 213 N.E.2d 270 (1965).

In *People v. Lewis*, 2022 IL 126705, the trial court properly instructed the jury with Instruction 24-25.04, but, during deliberations, the jury sought clarification on the meaning of “predisposed”. On appeal, the supreme court held that upon the jury requesting further definition of “predisposition”, the trial court must provide a definition of the term. *Lewis*, 2022 IL 126705, ¶¶ 70-71. See *Lewis*, 2022 IL 126705, ¶¶ 64-65, for the court’s discussion regarding defining “predisposition” in an entrapment context.

Use applicable bracketed material.