

2.04
Failure Of Defendant To Testify

The fact that [(a) (the)] defendant[s] did not testify must not be considered by you in any way in arriving at your verdict.

Committee Note

This instruction should be given *only* at the defendant's request and, then, it *must* be given. *See* People v. Greben, 352 Ill. 582, 186 N.E. 162 (1933); People v. Borneman, 66 Ill.App.2d 251, 213 N.E.2d 52 (2d Dist.1966).

The Committee substituted the word “must” for the word “should” that appeared in the Second Edition's version of Instruction 2.04. It sought to give greater emphasis to the jury's obligation not to consider the defendant's failure to testify.

For an example of the use of this instruction, see Sample Set 27.04A.