

## Affray

An affray is committed where a person uses or threatens unlawful violence towards another and his conduct is such as would cause a person of reasonable firmness present at the scene to fear for his or her personal safety.

There are three aspects to which I must refer.

### 1. using or threatening violence to another person

These are ordinary words with no special legal meaning.

\*\*\*Breaking and throwing bottles towards others may amount to using violence.

### 2. unlawful

You do not have to consider the word unlawful. It simply provides a defence where violence is used or threatened in self-defence. It does not apply in this case.

### 3. would cause a person of reasonable firmness present at the scene to fear for his or her personal safety

That means a hypothetical or imaginary person present.

A person of reasonable firmness means an ordinary, average person. Not someone who is a tough guy. Not someone who is particularly timid - simply a person of reasonable firmness.

So, the key questions for you to answer in relation to Count \*, having regard to all the evidence and the directions which I give you are

Did D\*\* use or threaten violence?

If he did, would that behaviour cause a person of reasonable firmness present to fear for his or her personal safety?"

If you are sure that the answer to both questions is "yes", D\*\* is guilty of Count \*.

If the answer to either question is "no", he is not guilty of Count \*.