**15.07 GOOD FAITH DEFENSE – PEACE OFFICERS**

No instruction.

# Comment

The Alaska Supreme Court has noted that some jurisdictions provide police officers with a defense to a false arrest action if they acted with reasonable good faith even though they did not have probable cause. City of Nome v. Ailak, 570 P.2d 162, 171 n.24 (Alaska 1977). The court avoided deciding whether such a defense is applicable under Alaska law.

No instruction is provided due to the difficulty of projecting if Alaska law provides a good faith defense and, if so, the nature of the defense. The court suggested that such defense is in part subjective, i.e., what the officer actually thought, but that it must be based on objective evidence. City of Nome, 570 P.2d at 172.

The issue is also confused because false arrest cases also can be brought as a federal civil rights action under 42 U.S.C. § 1983 which has its own good faith defense. Pierseon v. Ray, 386 U.S. 547 (1967). But good faith is not a defense when a municipality itself is named as a defendant. Owen v. City of Independence, 444 U.S. 822 (1980).