

CORRUPTING THE GOVERNMENT

IN THE FOURTH DEGREE (Penal Law § 496.02)

IN THE THIRD DEGREE (Penal Law § 496.03)

IN THE SECOND DEGREE (Penal Law § 496.04)

IN THE FIRST DEGREE (Penal Law § 496.05)

(Committed on or after April 30, 2014)

Revised Dec. 2019

The (*specify*) count is Corrupting the Government in the (*specify*) Degree.

Under our law, a person is guilty of Corrupting the Government in the (*specify*) Degree when,

Select appropriate alternative:

being a public servant
acting in concert with a public servant,

he or she engages in a scheme constituting a systematic ongoing course of conduct

with intent to

Select appropriate alternative(s):

defraud the state [or one or more political subdivisions of the state or one or more governmental instrumentalities within the state] to obtain property, actual services or other resources [or]

[obtain property, actual services or other resources from the state, (or any political subdivision or governmental instrumentality of the state)] by false or fraudulent pretenses, representations or promises,] and

thereby wrongfully obtains such property, actual services or other resources [with a value in excess of (specify¹)]

The following terms used in that definition have a special meaning:

PUBLIC SERVANT means any public officer or employee of the state [or of any political subdivision thereof or of any governmental instrumentality within the state], or any person exercising the functions of any such public officer or employee. [The term public servant includes a person who has been elected or designated to become a public servant.]²

SCHEME means any plan, pattern, device, contrivance or course of action.³

INTENT means conscious objective or purpose. Thus, a person acts with intent:

Select appropriate alternative(s):

to defraud the state [or a political subdivision of the state or a governmental instrumentality within the state] to obtain property, actual services or other resources, [or]

to obtain property, actual services or other resources [from the state (or any political subdivision or governmental instrumentality of the state)] by false or fraudulent pretenses, representations or promises],

when that person's conscious objective or purpose is to do so.⁴

¹ Omit the bracketed words for the fourth-degree crime; for the third degree crime, insert \$1000; for the second-degree crime, insert \$20,000; for the first-degree crime, insert \$100,000.

³ Penal Law § 10.00 (15).

⁴ Penal Law § 496.01.

⁵ See Penal Law § 15.05 (1).

NOTE: If the defendant is charged with “acting in concert with a public servant,” and the CJI2d Accomplice Liability instruction has not already been given, as recommended, prior to the instructions on the charged crimes, insert that charge here.

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case, beyond a reasonable doubt, each of the following three elements:

1. That on or about (*date*), in the County of (*County*), the defendant, (*defendant's name*),

Select appropriate alternative:

being a public servant

acting in concert with (*specify*), a public servant,

engaged in a scheme constituting a systematic ongoing course of conduct;

2. That the defendant did so with intent to:

Select appropriate alternative(s):

defraud the state or one or more political subdivisions of the state or one or more governmental instrumentalities within the state to obtain property, actual services or other resources [or]

[obtain property, actual services or other resources from the state, (or any political subdivision or governmental instrumentality of the state)] by false or fraudulent pretenses, representations or promises,] and

3. That the defendant thereby wrongfully obtained property or actual services or other resources [with a value in excess of (specify⁵)].

If you find the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of this crime.

⁵ Omit the bracketed words for the fourth-degree crime; for the third degree crime, insert \$1000; for the second-degree crime, insert \$20,000; for the first-degree crime, insert \$100,000.