

DEFRAUDING THE GOVERNMENT
Penal Law § 195.20
(Committed on or after Nov. 1, 1986)

The (specify) count is Defrauding the Government.

Under our law, a person is guilty of Defrauding the Government when, being a public servant [or party officer], that person engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud the state [or a political subdivision of the state or a governmental instrumentality within the state] or to obtain property from the state [or a political subdivision of the state or a governmental instrumentality within the state] by false or fraudulent pretenses, representations or promises and so obtains property with a value in excess of one thousand dollars from such state [political subdivision or governmental instrumentality].

The following terms used in that definition have a special meaning: ¹

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

¹ Article 195 contains no definition of "party officer." The only definition of "party officer" in the Penal Law appears in Penal Law § 200.40, and that section specifies that the definition is applicable to Penal Law section 200.45 and 200.50. That definition is: "party officer" means a person who holds any position or office in a political party, whether by election, appointment or otherwise. A similar definition of "party officer," applicable to the Election Law appears in Election Law § 1-104 and reads as follows: "party officer" means one who holds any party position or any party office whether by election, appointment or otherwise. On the other hand, Public Officers Law § 73 in prohibiting a "party officer" from holding certain public offices defines the term "party officer" for that purpose as "a member of a national committee, an officer or member of a state committee or a county chairman of any political party."

or designated to become a public servant.]²

INTENT means conscious objective or purpose. Thus, a person acts with intent to defraud the state [or a political subdivision of the state or a governmental instrumentality within the state] or to obtain property from the state [or a political subdivision of the state or a governmental instrumentality within the state] by false or fraudulent pretenses, representations or promises when that person's conscious objective or purpose is to do so.³

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), was a public servant [party officer] and engaged in a scheme constituting a systematic ongoing course of conduct;
2. That the defendant did so with intent to defraud the state [or a political subdivision of the state or a governmental instrumentality within the state] or to obtain property from the state [or a political subdivision of the state or a governmental instrumentality within the state] by false or fraudulent pretenses, representations or promises; and
3. That the defendant so obtained property with a value in excess of one thousand dollars from such state [political subdivision or governmental instrumentality].

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

²Penal Law § 10.00(15).

³See Penal Law § 15.05(1).

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.