

**BRIBE GIVING FOR PUBLIC OFFICE**  
**(D Felony)**  
**PENAL LAW § 200.45**  
**(Committed on or after Sept. 1, 1967)**

The \_\_\_\_\_ count is Bribe Giving for Public Office.

Under our law, a person is guilty of bribe giving for public office when that person confers, or offers or agrees to confer, any money or other property upon a public servant [or a party officer] upon an agreement or understanding that some person will or may be appointed to a public office or designated or nominated as a candidate for public office.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: "public servant," ["party officer,"] "agreement," and "understanding."

**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.<sup>1</sup>

[**PARTY OFFICER** means a person who holds any position or office in a political party, whether by election, appointment or otherwise.<sup>2</sup>]

**AGREEMENT** means a mutual agreement between a person and a public servant [or party officer] whereby that person confers, or offers or agrees to confer, any money or other property upon such public servant [or party officer] upon the understanding that some person will or may be appointed to a public office or

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<sup>1</sup> Penal Law § 10.00(15).

<sup>2</sup> Penal Law § 200.40.

designated or nominated as a candidate for public office.<sup>3</sup>

UNDERSTANDING means something beyond a mere hope. It means a perception or belief of the person who confers, or offers or agrees to confer, any money or other property upon a public servant [or party officer] that, as a result of that conduct, some person will or may be appointed to a public office [or designated or nominated as a candidate for public office].<sup>4</sup>

Under our law, it is no defense to this charge that the public servant did not have the power or authority to perform the act or omission for which the money or property was conferred or offered or agreed to be conferred.<sup>5</sup>

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

1. That on or about  (date) , in the county of  (specify) , the defendant,  (defendant's name) , conferred, or offered, or agreed to confer, any money or other property upon  (specify)  upon an agreement or understanding that a person would or might be appointed to a public office or designated or nominated as a candidate for public office, and

2. That (specify) was a public servant [or party officer].

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Bribe Giving For Public Office as charged in the \_\_\_\_\_ count.

On the other hand, if you find that the People have not

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<sup>3</sup> See *People v. Tran*, 80 N.Y.2d 170 (1992).

<sup>4</sup> See *People v. Tran*, 80 N.Y.2d 170 (1992).

<sup>5</sup> Penal Law § 200.15(2).

proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Bribe Giving For Public Office as charged in the \_\_\_\_\_ count.