

**BRIBE RECEIVING FOR PUBLIC OFFICE**  
**(D Felony)**  
**PENAL LAW § 200.50**  
**(Committed on or after Sept. 1, 1967)**

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

Under our law, a public servant [or a party officer] is guilty of bribe receiving for public office when he or she solicits, accepts or agrees to accept any money or other property from another person 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 public servant [or a party officer] and another person such that the public servant [or a party officer] solicits, accepts, or agrees to accept any money or other property from another, upon the understanding that a person will or may be appointed to a public office or designated

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<sup>1</sup> Penal Law § 10.00(15).

<sup>2</sup> Penal Law § 200.40.

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

UNDERSTANDING means something beyond a mere hope. It means a perception or belief by a public servant [or a party officer] who solicits, accepts or agrees to accept any money or other property from another person that 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 solicited, accepted or agreed to be accepted.<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*), the defendant, (*defendant's name*), was a public servant [or party officer].

2. That on or about that date in the county of (*specify*), the defendant, (*defendant's name*), solicited, accepted, or agreed to accept money or other property from another person upon an agreement or understanding that a person would or might be appointed to a public office or designated or nominated as a

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<sup>3</sup> The definition provided has been drawn from *People v. Tran*, 80 N.Y.2d 170 (1992), which defined the term "understanding" in the context of a bribe giving rather than a bribe receiving case. The Court of Appeals has not specifically adopted a definition of the term "understanding" in the context of a bribe receiving case.

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<sup>5</sup> Penal Law § 200.15

candidate for public office.

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 Receiving For Public Office as charged in the \_\_\_\_\_ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Bribe Receiving For Public Office as charged in the \_\_\_\_\_ count.