**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).

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*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;

1. 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

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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.

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