

**16.00**  
**CRIMINAL DAMAGE AND TRESPASS**

**16.01**  
**Definition Of Criminal Damage To Property**

A person commits the offense of criminal damage to property when he  
[1] knowingly damages any property of another without his consent[ (.) (; and) ]

[or]

[2] recklessly by means of [ (fire) (explosive) ] damages property of another[ (.) (; and) ]

[or]

[3] knowingly starts a fire on the land of another without his consent[ (.) (; and) ]

[or]

[4] knowingly injures a domestic animal of another without his consent[ (.) (; and) ]

[or]

[5] knowingly deposits [ (on the land) (in the building) ] of another, without his consent,  
any [ (stink bomb) (offensive smelling compound) ] with the intent to interfere with the use by  
another of the [ (land) (building) ] [ (.) (; and) ]

[or]

[6] damages any property with intent to defraud an insurer[ (.) (; and) ]

[7] the damage to the property [ (exceeds \$300) (exceeds \$10,000) (exceeds \$100,000) ].

**Committee Note**

720 ILCS 5/21-1 (West Supp.1993) (formerly Ill.Rev.Stat. ch. 38, §21-1 (1991)),  
amended by P.A. 86-496, effective January 1, 1990; P.A. 86-1254, effective January 1, 1991;  
and P.A. 88-406, effective August 20, 1993.

Give Instruction 16.02.

P.A. 88-406, effective August 20, 1993, removed the former seventh bracketed alternative paragraph of this instruction (defacing property) from the criminal damage to property statute and created the new offense of criminal defacement of property. For offenses

involving that conduct committed on or after August 20, 1993, use Instruction 16.01X.

With respect to paragraph [6], the statutory language “other than as described in subsection (b) of Section 20-1” is disregarded because that material would not be of importance to the jury. However, both court and counsel should be aware of this limitation.

When the charge of criminal damage to property exceeding a specified value is brought, the statute specifically states that the extent of the damage is an element of the offense to be resolved by the trier of fact as either exceeding or not exceeding the specified value. Accordingly, give paragraph [7] when the value of the property exceeds the specified value.

If the value of the property is an issue, then separate definitional instructions, issues instructions, and verdict forms should be given to permit the jury to resolve that dispute with its verdict. Under these circumstances, the jury should receive instructions and verdict forms for both the greater and lesser offenses. In addition, the name of the offense should be expanded in each definitional instruction, issues instruction, and verdict form so as to distinguish the greater offense from the lesser offense. For example, if the value of the property exceeds \$300, then this instruction would begin “A person commits the offense of criminal damage to property in excess of \$300 when he . . . .”

For an offense brought under Section 21-1(1)(g), see Instruction 16.03.

If there is an issue of whether the property was property of another, see the definition of the term “property of another” in Section 20-1.

If there is an issue regarding the defendant's interest in the property, give Instruction 16.01A.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

**16.01A**  
**Interest In The Property Not A Defense**

When a defendant is charged with [ (criminal damage to property) (criminal defacement of property) ] of another, it is not a defense to the charge that the defendant also has an interest in the property.

**Committee Note**

This instruction should be given when a defendant is charged with criminal damage to property or criminal defacement of property and there is evidence that the defendant, as well as the alleged victim, has an interest in the property. See *People v. Jones*, 145 Ill.App.3d 835, 495 N.E.2d 1371, 99 Ill.Dec. 636 (3d Dist.1986); *People v. Schneider*, 139 Ill.App.3d 222, 487 N.E.2d 379, 93 Ill.Dec. 712 (5th Dist.1985).

Use applicable bracketed material.

**16.01X**  
**Definition Of Criminal Defacement Of Property**

A person commits the offense of criminal defacement of property when he knowingly damages the property of another without that person's consent by defacing, deforming, or otherwise damaging such property by the use of paint or any similar substance or by the use of a writing instrument, etching tool, or any other similar device [and the damage to the property exceeds \$300].

**Committee Note**

720 ILCS 5/21-1.3 (West Supp.1993), added by P.A. 88-406, *effective August 20, 1993*.

Give Instruction 16.02X. Use *only* for offenses allegedly committed on or after August 20, 1993.

When the charge of criminal defacement of property exceeding \$300 is brought, the Committee believes that the extent of the damage is an element of the offense to be resolved by the trier of fact as either exceeding or not exceeding that value. Accordingly, give the bracketed material when the value of the property exceeds \$300.

If the value of the property is an issue, then separate definitional instructions, issues instructions, and verdict forms should be given to permit the jury to resolve that dispute with its verdict. Under these circumstances, the jury should receive instructions and verdict forms for both the greater and lesser offenses. In addition, the name of the offense should be expanded in each definitional instruction, issues instruction, and verdict form so as to distinguish the greater offense from the lesser offense. For example, if the value of the property exceeds \$300, then this instruction would begin "A person commits the offense of criminal defacement of property in excess of \$300 when he . . . ."

If there is an issue of whether the property was property of another, see the definition of the term "property of another" in Section 20-1.

If there is an issue regarding the defendant's interest in the property, give Instruction 16.01A.

Use applicable bracketed material.

**16.02**  
**Issues In Criminal Damage To Property**

To sustain the charge of criminal damage to property, the State must prove the following propositions:

[1] *First Proposition:* That the defendant knowingly damaged the property of \_\_\_\_; and  
*Second Proposition:* That the defendant did so without the consent of \_\_\_\_; and  
*Third Proposition:* That the damage to the property was [ (more than \$300) (more than \$10,000) (more than \$100,000) ].

[or]

[2] *First Proposition:* That the defendant recklessly, by means of [ (fire) (explosive) ], damaged the property of \_\_\_\_; and  
*Second Proposition:* That the damage to the property was [ (more than \$300) (more than \$10,000) (more than \$100,000) ].

[or]

[3] *First Proposition:* That the defendant knowingly started a fire on the land of \_\_\_\_;  
and  
*Second Proposition:* That the defendant did so without the consent of \_\_\_\_; and  
*Third Proposition:* That the damage to the property was [ (more than \$300) (more than \$10,000) (more than \$100,000)].

[or]

[4] *First Proposition:* That the defendant knowingly injured a domestic animal of \_\_\_\_;  
and  
*Second Proposition:* That the defendant did so without the consent of \_\_\_\_; and  
*Third Proposition:* That the damage to the property was [ (more than \$300) (more than \$10,000) (more than \$100,000) ].

[or]

[5] *First Proposition:* That the defendant knowingly deposited [ (a stink bomb) (an offensive smelling compound) ] [ (on the land) (in the building) ] of \_\_\_\_; and  
*Second Proposition:* That the defendant did so without the consent of \_\_\_\_; and  
*Third Proposition:* That the defendant did so with the intent to interfere with \_\_\_\_'s use of the [ (land) (building) ]; and  
*Fourth Proposition:* That the damage to the property was [ (more than \$300) (more than \$10,000) (more than \$100,000) ].

[or]

[6] *First Proposition*: That the defendant damaged any property with intent to defraud an insurer[; and

*Second Proposition*: That the damage to the property was [ (more than \$300) (more than \$10,000) (more than \$100,000) ]].

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

### Committee Note

720 ILCS 5/21-1 (West Supp.1993) (formerly Ill.Rev.Stat. ch. 38, §21-1 (1991)), amended by P.A. 86-496, effective January 1, 1990; P.A. 86-1254, effective January 1, 1991; and P.A. 88-406, effective August 20, 1993.

Give Instruction 16.01.

<us>P.A. 88-406, effective August 20, 1993, removed the former seventh bracketed alternative set of propositions of this instruction (defacing property) from the criminal damage to property statute and created the new offense of criminal defacement of property. For offenses involving that conduct committed on or after August 20, 1993, use Instruction 16.02X.</us>

When the charge of criminal damage to property exceeding a specified value is brought, the statute specifically states that the extent of the damage is an element of the offense to be resolved by the trier of fact as either exceeding or not exceeding the specified value. Accordingly, give the final proposition in each set of propositions when the value of the property exceeds the specified value.

If the value of the property is an issue, then separate definitional instructions, issues instructions, and verdict forms should be given to permit the jury to resolve that dispute with its verdict. Under these circumstances, the jury should receive instructions and verdict forms for both the greater and lesser offenses. In addition, the name of the offense should be expanded in each definitional instruction, issues instruction, and verdict form so as to distinguish the greater offense from the lesser offense. For example, if the value of the property exceeds \$300, then this instruction would begin “To sustain the charge of criminal damage to property in excess of \$300, the State must prove . . . .”

For an offense brought under Section 21-1(1)(g), see Instruction 16.04.

Insert in the blanks the name of the alleged victim.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

**16.02X**  
**Issues In Criminal Defacement Of Property**

To sustain the charge of criminal defacement of property, the State must prove the following propositions:

*First Proposition:* That the defendant knowingly damaged the property of \_\_\_\_ by defacing, deforming, or otherwise damaging such property by the use of paint or any similar substance or by the use of a writing instrument, etching tool, or any other similar device; and

*Second Proposition:* That the defendant did so without the consent of \_\_\_\_ [ (; and) (.) ]

[*Third Proposition:* That the damage to the property was more than \$300.]

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

**Committee Note**

720 ILCS 5/21-1.3 (West Supp.1993), added by P.A. 88-406, *effective August 20, 1993.*

Give Instruction 16.01X. Use *only* for offenses allegedly committed on or after August 20, 1993.

When the charge of criminal defacement of property exceeding \$300 is brought, the Committee believes that the extent of the damage is an element of the offense to be resolved by the trier of fact as either exceeding or not exceeding that value. Accordingly, give the bracketed Third Proposition when the value of the property exceeds \$300.

If the value of the property is an issue, then separate definitional instructions, issues instructions, and verdict forms should be given to permit the jury to resolve that dispute with its verdict. Under these circumstances, the jury should receive instructions and verdict forms for both the greater and lesser offenses. In addition, the name of the offense should be expanded in each definitional instruction, issues instruction, and verdict form so as to distinguish the greater offense from the lesser offense. For example, if the value of the property exceeds \$300, then this instruction would begin “To sustain the charge of criminal defacement of property in excess of \$300, the State must prove . . . .”

Insert in the blanks the name of the alleged victim.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

### **16.03**

#### **Definition Of Shooting A Firearm At A Train--Criminal Damage**

A person commits the offense of shooting a firearm at a train when he knowingly shoots a firearm at any portion of a railroad train.

#### **Committee Note**

720 ILCS 5/21-1(1)(g) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §21-1(1)(g) (1991)), as amended by P.A. 86-496, effective January 1, 1990, and P.A. 86-1254, effective January 1, 1991.

Give Instruction 16.04.

Although contained in the criminal damage statute, Chapter 720, Section 21-1(1)(g) defines a separate and distinct offense. That offense is a felony without regard to the amount of damage caused and even without regard to whether any damage is caused. Compare Committee Note to Instruction 16.01. The Committee concluded that the jury would be less likely to be confused by a separate instruction defining this offense without any reference to the term “criminal damage.”

See Instruction 16.01A.

## **16.04**

### **Issues In Shooting A Firearm At A Train--Criminal Damage**

To sustain the charge of shooting a firearm at a train, the State must prove the following proposition:

That the defendant knowingly shot a firearm at any portion of a railroad train.

If you find from your consideration of all the evidence that this proposition has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that this proposition has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

#### **Committee Note**

720 ILCS 5/21-1 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §21-1 (1991)), as amended by P.A. 86-496, effective January 1, 1990, and P.A. 86-1254, effective January 1, 1991.

Give Instruction 16.03.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

## 16.05

### Definition Of Criminal Damage Of Fire Fighting Apparatus, Hydrants, Or Equipment

A person commits the offense of criminal damage of fire fighting apparatus, hydrants, or equipment when he

[1] wilfully and maliciously [ (cuts) (injures) (damages) (tampers with) (destroys) (defaces) ] [ (any fire hydrant) (any fire hose) (any fire engine) (any public or private fire fighting equipment) (any apparatus appertaining to any fire fighting equipment) ].

[or]

[2] intentionally opens any fire hydrant without proper authorization.

### Committee Note

720 ILCS 5/21-1.1 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §21-1.1 (1991)).

Give Instruction 16.06.

See *People v. Marquis*, 54 Ill.App.3d 209, 369 N.E.2d 372, 11 Ill.Dec. 918 (4th Dist.1977), concerning the required mental state of wilfulness; see also Chapter 720, Section 4-5.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

## 16.06

### Issues In Criminal Damage Of Fire Fighting Apparatus, Hydrants, Or Equipment

To sustain the charge of criminal damage of fire fighting apparatus, hydrants, or equipment, the State must prove the following proposition[s]:

That the defendant wilfully and maliciously [ (cut) (injured) (damaged) (tampered with) (destroyed) (defaced) ] [ (any fire hydrant) (any fire hose) (any fire engine) (any public or private fire fighting equipment) (any apparatus appertaining to any fire fighting equipment) ].

[or]

*First Proposition:* That the defendant intentionally opened a fire hydrant; and

*Second Proposition:* That the defendant did so without proper authority.

If you find from your consideration of all the evidence that [ (this proposition) (each one of these propositions) ] has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that [ (this proposition) (any one of these propositions) ] has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

#### Committee Note

720 ILCS 5/21-1.1 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §21-1.1 (1991)).

Give Instruction 16.05.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

**16.07**

**Definition Of Institutional Vandalism**

A person commits the offense of institutional vandalism when, by reason of the actual or perceived [ (race) (color) (creed) (religion) (national origin) ] of another individual or group of individuals, he knowingly and without consent inflicts damage [exceeding \$300] to

[1] a [ (church) (synagogue) (building, structure, or place used for religious worship or other religious purpose) ].

[or]

[2] a [ (cemetery) (mortuary) (facility used for the purpose of burial or memorializing the dead) ].

[or]

[3] a [ (school) (educational facility) (community center) ].

[or]

[4] the grounds adjacent to, and owned or rented by, a

[a] [ (church) (synagogue) (structure or place used for a religious purpose) ].

[or]

[b] [ (cemetery) (mortuary) (facility used for the purpose of burial or memorializing the dead) ].

[or]

[c] [ (school) (educational facility) (community center) ].

[or]

[5] any personal property contained in a

[a] [ (church) (synagogue) (building, structure, or place used for religious worship or other religious purpose) ];

[or]

[b] [ (cemetery) (mortuary) (facility used for the purpose of burial or memorializing the dead) ];

[or]

[c] [ (school) (educational facility) (community center) ].

### **Committee Note**

720 ILCS 5/21-1.2 (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §21-1.2 (1991))<us>, amended by P.A. 88-659, effective September 16, 1994</us>.

Give Instruction 16.08.

Section (b) enhances the penalty from a Class 3 felony to a Class 2 felony when the damage exceeds \$300. Thus, give the bracketed phrase in the opening paragraph (“[exceeding \$300]”) when the amount of the damage is an issue. When the amount of the damage is an issue, it should be resolved by the jury.

Use applicable paragraphs, subparagraphs, and bracketed material.

P.A. 88-659, effective September 16, 1994, amended the statute to include the “actual or perceived” language regarding the victim's status. The Committee has accordingly modified the opening paragraph to reflect this amendment.

The bracketed numbers and letters are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

**16.08**  
**Issues In Institutional Vandalism**

To sustain the charge of institutional vandalism, the State must prove the following propositions:

*First Proposition:* That the defendant knowingly and without consent damaged  
[1] a [ (church) (synagogue) (building, structure, or place used for religious worship or other religious purpose) ].

[or]

[2] a [ (cemetery) (mortuary) (facility used for the purpose of burial or memorializing the dead) ].

[or]

[3] a [ (school) (educational facility) (community center) ].

[or]

[4] the grounds adjacent to, and owned or rented by, a  
[a] [ (church) (synagogue) (structure or place used for a religious purpose) ].

[or]

[b] [ (cemetery) (mortuary) (facility used for the purpose of burial or memorializing the dead) ].

[or]

[c] [ (school) (educational facility) (community center) ].

[or]

[5] any personal property contained in a  
[a] [ (church) (synagogue) (building, structure, or place used for religious worship or other religious purpose) ];

[or]

[b] [ (cemetery) (mortuary) (facility used for the purpose of burial or memorializing the dead) ];

[or]

[c] [ (school) (educational facility) (community center) ];

and

*Second Proposition:* That the defendant inflicted the damage by reason of the actual or perceived [ (race) (color) (creed) (religion) (national origin) ] of another individual or group of individuals[ (; and) (.) ]

[*Third Proposition:* That the damage exceeded \$300.]

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

#### **Committee Note**

720 ILCS 5/21-1.2 (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §21-1.2 (1991))<us>, amended by P.A. 88-659, effective September 16, 1994</us>.

Give Instruction 16.07.

Use applicable paragraphs, subparagraphs, and bracketed material.

Give the bracketed Third Proposition only when the issue arises whether the amount of the damage exceeds \$300. See the Committee Note to Instruction 16.07.

The bracketed numbers and letters are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

## **16.09**

### **Definition Of Criminal Trespass To Vehicle**

A person commits the offense of criminal trespass to a vehicle when he, knowingly and without authority, [ (enters any part of) (operates) ] any [ (vehicle) (aircraft) (watercraft) (snowmobile) ].

#### **Committee Note**

720 ILCS 5/21-2 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §21-2 (1991)).

Give Instruction 16.10.

The word “vehicle” is defined in Instruction 23.20. That definition is taken from the Illinois Vehicle Code, 625 ILCS 5/4-100. There are other definitions of the word “vehicle” in the Illinois statutes, such as 625 ILCS 5/1-217. The Committee takes no position on which of these definitions should be given.

Use applicable bracketed material.

**16.10**  
**Issues In Criminal Trespass To Vehicle**

To sustain the charge of criminal trespass to a vehicle, the State must prove the following propositions:

*First Proposition:* That the defendant knowingly [ (entered any part of) (operated) ] any [ (vehicle) (aircraft) (watercraft) (snowmobile) ]; and

*Second Proposition:* That the defendant did so without authority.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

**Committee Note**

720 ILCS 5/21-2 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §21-2 (1991)).

Give Instruction 16.09.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

**16.11**  
**Definition Of Criminal Trespass To Real Property**

A person commits the offense of criminal trespass to real property when he [ (knowingly) (intentionally) (recklessly) ]

[1] enters [ (upon the land) (a building other than a residence) ] of another [or any part thereof] after receiving, prior to such entry, notice from the [ (owner) (occupant) ] that such entry is forbidden.

[or]

[2] remains [ (upon the land) (in a building other than a residence) ] of another after receiving notice from the [ (owner) (occupant) ] to depart.

[or]

[3] enters, in or on a motor vehicle, [ (a field that is [capable of being] used for growing crops) (an enclosed area containing livestock) (an orchard) (a barn or other agricultural building containing livestock) ] after receiving, prior to such entry, notice from the [ (owner) (occupant) ] that such entry is forbidden. [A motor vehicle includes an off-road vehicle, motorcycle, moped, or any other powered two-wheel vehicle.]

[or]

[4] remains in [ (a field that is [capable of being] used for growing crops) (an enclosed area containing livestock) (an orchard) (a barn or other agricultural building containing livestock) ] that he entered in or on a motor vehicle, after receiving notice from the [ (owner) (occupant) ] to depart. [A motor vehicle includes an off-road vehicle, motorcycle, moped, or any other powered two-wheel vehicle.]

**Committee Note**

720 ILCS 5/21-3 (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §21-3 (1991))<us>; amended by P.A. 89-346, effective January 1, 1996</us>.

Give either Instruction 16.12 or 16.12A.

Give Instruction 16.11A.

Although Section 21-3 does not include a mental state, the Committee provided three alternative mental states pursuant to *People v. Grant*, 101 Ill.App.3d 43, 47-48, 427 N.E.2d 810, 814, 56 Ill.Dec. 478, 482 (1st Dist.1981), which held that Section 4-3 incorporates a mental state requirement into this offense. See 720 ILCS 5/4-3(b) (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §4-3(b) (1991)). Select the mental state consistent with the charge. If the charging instrument alleges the existence of more than one mental state, the same alternative mental states may be included in the instruction. See the Committee Note to Instruction 5.01A regarding the

applicable mental state.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

## 16.11A

### Definition Of Notice--Criminal Trespass To Real Property

[For purposes of the offense of criminal trespass to real property.] [ (A) (a) ] person has received notice from the owner or occupant if [ (he has been notified personally, either orally or in writing) (a printed or written notice forbidding such entry to him or a group of which he is a part has been conspicuously posted or exhibited at the main entrance of such land or the forbidden part thereof) ].

#### Committee Note

720 ILCS 5/21-3(b) (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §21-3(b) (1991)).

This definition of notice applies only to the offense of criminal trespass to real property. Note that the statute includes a valid court order within the meaning of the word “writing.”

The bracketed phrase “For purposes of the offense of criminal trespass to real property” should be given only if the defendant is charged with at least one other offense and the phrase is necessary to clarify the instructions.

**16.12**  
**Issues In Criminal Trespass To Real Property--Prior Warning**

To sustain the charge of criminal trespass to real property, the State must prove the following propositions:

*First Proposition:* That the defendant [ (knowingly) (intentionally) (recklessly) ] entered [ (upon the land) (a building other than a residence) ] of another [or any part thereof]; and

*Second Proposition:* That prior to the entry, the defendant received notice from the [ (owner) (occupant) ] of the [ (land) (building other than a residence) ] that such entry is forbidden.

[or]

*First Proposition:* That the defendant [ (knowingly) (intentionally) (recklessly) ] entered, in or on a motor vehicle, [ (a field that is [capable of being] used for growing crops) (an enclosed area containing livestock) (an orchard) (a barn or other agricultural building containing livestock) ]; and

*Second Proposition:* That prior to the entry, the defendant received notice from the [ (owner) (occupant) ] of the [ (field that is [capable of being] used for growing crops) (enclosed area containing livestock) (orchard) (barn or other agricultural building containing livestock) ] that such entry is forbidden.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

**Committee Note**

720 ILCS 5/21-3 (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §21-3 (1991))<us>; amended by P.A. 89-346, effective January 1, 1996</us>.

Give Instruction 16.11.

Although Section 21-3 does not include a mental state, the Committee provided three alternative mental states pursuant to *People v. Grant*, 101 Ill.App.3d 43, 47-48, 427 N.E.2d 810, 814, 56 Ill.Dec. 478, 482 (1st Dist.1981), which held that Section 4-3 incorporates a mental state requirement into this offense. See 720 ILCS 5/4-3(b) (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §4-3(b) (1991)). Select the mental state consistent with the charge. If the charging instrument alleges the existence of more than one mental state, the same alternative mental states may be included in the instruction. See the Committee Note to Instruction 5.01A regarding the applicable mental state.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

## 16.12A

### Issues In Criminal Trespass To Real Property--Notice To Depart

To sustain the charge of criminal trespass to real property, the State must prove the following proposition:

That the defendant [ (knowingly) (intentionally) (recklessly) ] remained [ (on the land) (in a building other than a residence) ] of another after receiving notice from the [ (owner) (occupant) ] to depart.

[or]

That the defendant, after entering, in or on a motor vehicle, the [ (field that is [capable of being] used for growing crops) (enclosed area containing livestock) (orchard) (barn or other agricultural building containing livestock) ], [ (knowingly) (intentionally) (recklessly) ] remained there after receiving notice from the [ (owner) (occupant) ] to depart.

If you find from your consideration of all the evidence that this proposition has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that this proposition has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

#### Committee Note

720 ILCS 5/21-3 (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §21-3 (1991))<us>; amended by P.A. 89-346, effective January 1, 1996</us>.

Give Instruction 16.11.

Although Section 21-3 does not include a mental state, the Committee provided three alternative mental states pursuant to *People v. Grant*, 101 Ill.App.3d 43, 47-48, 427 N.E.2d 810, 814, 56 Ill.Dec. 478, 482 (1st Dist.1981), which held that Section 4-3 incorporates a mental state requirement into this offense. See 720 ILCS 5/4-3(b) (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §4-3(b) (1991)). Select the mental state consistent with the charge. If the charging instrument alleges the existence of more than one mental state, the same alternative mental states may be included in the instruction. See the Committee Note to Instruction 5.01A regarding the applicable mental state.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

## 16.13

### Definition Of Criminal Damage To State Or Government Supported Property

A person commits the offense of criminal damage to [ (State) (government) ] supported property when he

[1] knowingly damages any property supported in whole or in part with [ (State funds) (Federal funds administered or granted through State agencies) (funds of a local government or school district) ] without the consent of the State[ (.) (; and) ]

[or]

[2] knowingly, by means of [ (fire) (explosive) ], damages property supported in whole or in part with [ (State funds) (Federal funds administered or granted through State agencies) (funds of a local government or school district) ] [ (.) (; and) ]

[or]

[3] knowingly starts a fire on property supported in whole or in part by [ (State funds) (Federal funds administered or granted through State agencies) (funds of a local government or school district) ] without the consent of the State[ (.) (; and) ]

[or]

[4] knowingly deposits [ (on the land) (in the building) ] supported in whole or in part by [ (State funds) (Federal funds administered or granted through State agencies) (funds of a local government or school district) ] without the consent of the State, [ (a stink bomb) (any offensive smelling compound) ] with the intent to interfere with the use by another of the [ (land) (building) ] [ (.) (; and) ]

[5] the damage to the property [ (exceeds \$500) (exceeds \$10,000) (exceeds \$100,000) ].

### Committee Note

720 ILCS 5/21-4 (West, 1994) (formerly Ill.Rev.Stat. ch. 38, §21-4), amended by P.A. 86-1254, effective January 1, 1991<us>; and P.A. 89-31, effective January 1, 1996</us>.

P.A. 89-31 amended Section 21-4 by (1) changing the title of the offense from “Criminal Damage to State Supported Property” to “Criminal Damage to Government Supported Property,” and (2) adding that the offense can be committed when property supported by “funds of a local government or school district” is damaged. However, these changes become effective January 1, 1996, and apply prospectively only.

Do not use either bracketed alternative “government” or “funds of a local government or school district” for offenses allegedly occurring before January 1, 1996.

Give Instruction 16.14.

The Committee has included the value of the damage of the property as an issue to be resolved by the jury because Section 21-4(1) sets forth different penalties depending on the damage to the property in question. See *People v. Mays*, 80 Ill.App.3d 340, 399 N.E.2d 718, 35 Ill.Dec. 652 (3d Dist.1980). Accordingly, the Committee has included paragraph [5] which should be given when the value of the property exceeds \$500.

If the amount of damage to the property is an issue, then separate definitional instructions, issues instructions, and verdict forms should be given to permit the jury to resolve that dispute with its verdict. Under these circumstances, the jury should receive instructions and verdict forms for both the greater and lesser offenses. In addition, the name of the offense should be expanded in each definitional instruction, issue instruction, and verdict form so as to distinguish the greater offense from the lesser offense. For example, if the value of the property exceeds \$500, then this instruction would begin “A person commits the offense of criminal damage to State supported property in excess of \$500 when he ....”

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

## 16.14

### Issues In Criminal Damage To State Or Government Supported Property

To sustain the charge of criminal damage to [ (State) (government) ] supported property, the State must prove the following propositions:

[1] *First Proposition:* That the defendant knowingly damaged any property supported in whole or in part with [ (State funds) (Federal funds administered or granted through State agencies) (funds of a local government or school district) ]; and

*Second Proposition:* That the defendant did so without the consent of the State[; and

*Third Proposition:* That the damage to the property [ (exceeded \$500) (exceeded \$10,000) (exceeded \$100,000) ]].

[or]

[2] *First Proposition:* That the defendant knowingly, by means of [ (fire) (explosive) ], damaged property supported in whole or in part with [ (State funds) (Federal funds administered or granted through State agencies) (funds of a local government or school district) ] [; and

*Second Proposition:* That the damage to the property [ (exceeded \$500) (exceeded \$10,000) (exceeded \$100,000) ]].

[or]

[3] *First Proposition:* That the defendant knowingly started a fire on property supported in whole or in part by [ (State funds) (Federal funds administered or granted through State agencies) (funds of a local government or school district) ]; and

*Second Proposition:* That the defendant did so without the consent of the State[; and

*Third Proposition:* That the damage to the property [ (exceeded \$500) (exceeded \$10,000) (exceeded \$100,000) ]].

[or]

[4] *First Proposition:* That the defendant knowingly deposited [ (on the land) (in the building) ] supported in whole or in part by [ (State funds) (Federal funds administered or granted through State agencies) (funds of a local government or school) ] [ (a stink bomb) (an offensive smelling compound) ]; and

*Second Proposition:* That the defendant did so with the intent to interfere with the use by another of the [ (land) (building) ]; and

*Third Proposition:* That the defendant did so without the consent of the State[; and

*Fourth Proposition:* That the damage to the property [ (exceeded \$500) (exceeded \$10,000) (exceeded \$100,000) ]].

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

### Committee Note

720 ILCS 5/21-4 (West, 1994) (formerly Ill.Rev.Stat. ch. 38, §21-4), amended by P.A. 86-1254, effective January 1, 1991<us>; and P.A. 89-31, effective January 1, 1996</us>.

P.A. 89-31 amended Section 21-4 by (1) changing the title of the offense from “Criminal Damage to State Supported Property” to “Criminal Damage to Government Supported Property,” and (2) adding that the offense can be committed when property supported by “funds of a local government or school district” is damaged. However, these changes become effective January 1, 1996, and apply prospectively only.

Do *not* use either bracketed alternative “government” or “funds of a local government or school district” for offenses allegedly occurring before January 1, 1996.

Give Instruction 16.13.

The Committee has included the amount of the damage of the property as an issue to be resolved by the jury because Section 21-4(1) sets forth different penalties depending on the damage to the property in question. See *People v. Mays*, 80 Ill.App.3d 340, 399 N.E.2d 718, 35 Ill.Dec. 652 (3d Dist.1980). Accordingly, the Committee has included the final proposition in each set of propositions which should be given when the value of the property exceeds \$500.

If the amount of damage to the property is an issue, then separate definitional instructions, issue instructions, and verdict forms should be given to permit the jury to resolve that dispute with its verdict. Under these circumstances, the jury should receive instructions and verdict forms for both the greater and lesser offenses. In addition, the name of the offense should be expanded in each definitional instruction, issue instruction, and verdict form so as to distinguish the greater offense from the lesser offense. For example, if the value of the property exceeds \$500, then this instruction would begin “To sustain the charge of criminal damage to State supported property in excess of \$500, the State must prove ....”

Use applicable bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

## 16.15

### Definition Of Criminal Trespass To State Supported Land

A person commits the offense of criminal trespass to State supported land when he [ (knowingly) (intentionally) (recklessly) ]

[1] enters [ (upon land) (a building on land) ] supported in whole or in part with [ (State funds) (Federal funds administered through State agencies) ] after receiving, prior to such entry, notice from the State or its representative that such entry is forbidden and who thereby interferes with another person's lawful use or enjoyment of such [ (land) (building) ].

[or]

[2] remains [ (upon land) (in a building on land) ] supported in whole or in part with [ (State funds) (Federal funds administered or granted through State agencies) ] after receiving notice from the State or its representatives to depart and who thereby interferes with another person's lawful use or enjoyment of such [ (land) (building) ].

#### Committee Note

720 ILCS 5/21-5 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §21-5 (1991)).

Give either Instruction 16.16 or 16.16A.

Give Instruction 16.15A, defining the word “notice.”

See Chapter 720, Sections 4-3 and 4-9 and Committee Note to Instruction 5.01A, regarding the applicable mental state.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instructions submitted to the jury.

## **16.15A**

### **Definition Of Notice--Criminal Trespass To State Supported Land**

[For purposes of the offense of criminal trespass to State supported land,] [ (A) (a) ] person has received notice from the State if [ (he has been notified personally, either orally or in writing) (a printed or written notice forbidding such entry to him or a group of which he is a part has been conspicuously posted or exhibited at the main entrance of such land or the forbidden part thereof) ].

#### **Committee Note**

720 ILCS 5/21-5 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §21-5 (1991)).

This definition of notice applies only to the offense of criminal trespass to State supported land.

The bracketed phrase “For purposes of the offense of criminal trespass to State supported land” should be given only if the defendant is charged with at least one other offense and the phrase is necessary to clarify the instructions.

## 16.16

### Issues In Criminal Trespass To State Supported Land--Prior Warning

To sustain the charge of criminal trespass to State supported land, the State must prove the following propositions:

*First Proposition:* That the defendant [ (knowingly) (intentionally) (recklessly) ] entered [ (upon land) (in a building on land) ] supported in whole or in part with [ (State funds) (Federal funds administered or granted through State agencies) ]; and

*Second Proposition:* That the defendant received, prior to such entry, notice from the State or its representative that such entry was forbidden; and

*Third Proposition:* That the defendant thereby interfered with another person's lawful use or enjoyment of such [ (land) (building) ].

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

#### Committee Note

720 ILCS 5/21-5 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §21-5 (1991)).

Give Instruction 16.15.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

## 16.16A

### Issues In Criminal Trespass To State Supported Land--Notice To Depart

To sustain the charge of criminal trespass to State supported land, the State must prove the following propositions:

*First Proposition:* That the defendant [ (knowingly) (intentionally) (recklessly) ] remained [ (upon land) (in a building on land) ] supported in whole or in part with [ (State funds) (Federal funds administered or granted through State agencies) ] after receiving notice from the State or its representatives to depart; and

*Second Proposition:* That the defendant thereby interfered with another person's lawful use or enjoyment of such [ (land) (building) ].

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

#### Committee Note

720 ILCS 5/21-5 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §21-5 (1991)).

Give Instruction 16.15.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

## 16.17

### Definition Of Unauthorized Possession Or Storage Of Weapons

A person commits the offense of unauthorized possession or storage of weapons when he knowingly [ (possesses) (stores) ] any [ (pistol) (revolver) (rifle) (shotgun) (spring gun) (other firearm) (sawed-off shotgun) (stun gun or taser) (knife with a blade of at least three inches in length) (bludgeon) (black jack) (slungshot) (sand-bag) (sand-club) (metal knuckles) (dagger) (billy) (switch blade knife) (stiletto) [or other dangerous weapon or instrument of like character] ] [ (on land) (in a building on land) ] supported in whole or in part with [ (State funds) (Federal funds administered through State agencies) ] without prior written permission from the chief security officer for the [ (land) (building) ].

### Committee Note

720 ILCS 5/21-6 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §21-6 (1991)). This statutory provision does not name specific weapons, but refers to those weapons named in Chapter 720, Section 33A-1. That section should also be reviewed.

Give Instruction 16.18.

The bracketed phrase “or other dangerous weapon or instrument of like character” should be used only when the weapon charged is not one of the weapons specifically enumerated. When the phrase is used, it must be used in conjunction with one or more of the enumerated weapons.

Chapter 720, Section 21-6(b) provides that the chief security officer must grant any reasonable request for permission under subparagraph (a). This instruction may have to be modified when such a request is at issue. The Committee takes no position as to whether lack of permission is an affirmative defense.

The phrase “stun gun or taser” is defined in Chapter 720, Section 24-1(a)(10), and in Instruction 18.35E.

Use applicable bracketed material.

**16.18**  
**Issues In Unauthorized Possession Or Storage Of Weapons**

To sustain the charge of unauthorized possession or storage of weapons, the State must prove the following propositions:

*First Proposition:* That the defendant knowingly [ (possessed) (stored) ] any [ (pistol) (revolver) (rifle) (shotgun) (spring gun) (other firearm) (sawed-off shotgun) (bludgeon) (stun gun or taser) (knife with a blade of at least three inches in length) (blackjack) (slungshot) (sand-club) (sand-bag) (metal knuckles) (dagger) (dirk) (billy) (switch-blade knife) (stiletto) [or other dangerous weapon or instrument of like character] ]; and

*Second Proposition:* That the defendant did so [ (on land) (in a building on land) ] supported in whole or in part with [ (State funds) (Federal funds administered through State agencies) ] without prior written permission from the chief security officer for such [ (land) (building) ].

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

**Committee Note**

720 ILCS 5/21-6 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §21-6 (1991)).

Give Instruction 16.17.

Section 21-6 does not name specific weapons, but refers to those weapons named in Chapter 720, Section 33A-1. That section should also be reviewed.

The bracketed phrase “or other dangerous weapon or instrument of like character” should be used only when the weapon charged is not one of the weapons specifically enumerated. When the phrase is used, it must be used in conjunction with one or more of the enumerated weapons.

The phrase “stun gun or taser” is defined in Chapter 720, Section 24-1(a)(10), and in Instruction 18.35E.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

## 16.19

### Definition Of Interference With Public Institution Of Higher Education

A person commits the offense of interference with a public institution of higher education when [ (on the campus of a public institution of higher education) (at or in a building or other facility owned, operated, or controlled by a public institution of higher education) ] and without authority from the institution, through force or violence, actual or threatened, he

[1] wilfully denies to a[n] [ (trustee) (employee) (student) (invitee) ] of the institution [ (freedom of movement at such place) (use of the property or facilities of the institution) (the right to ingress or egress to the property or facilities of the institution) ].

[or]

[2] wilfully [ (impedes) (obstructs) (interferes with) (disrupts) ] [ (the performance of institutional duties by a[n] [ (trustee) (employee) ] of the institution) (the pursuit of educational activities as determined or prescribed by the institution by a[n] [ (trustee) (employee) (student) (invitee) ] of the institution) ].

[or]

[3] knowingly occupies or remains in or at a [ (building) (property) (facility) ] owned, operated, or controlled by the institution after due notice to depart.

### Committee Note

720 ILCS 5/21.2-2 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §21.2-2 (1991)).

Give Instruction 16.20.

Use applicable paragraphs and bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

## 16.20

### Issues In Interference With Public Institution Of Higher Education

To sustain the charge of interference with a public institution of higher education, the State must prove the following propositions:

*First Proposition:* That while the defendant was [ (on the campus of a public institution of higher education) (at or in a building or other facility owned, operated, or controlled by a public institution of higher education) ], he wilfully denied to a[n] [ (trustee) (employee) (student) (invitee) ] of the institution [ (freedom of movement at such place) (use of the property or facilities of the institution) (the right of ingress or egress to the property or facilities of the institution) ];

[or]

*First Proposition:* That while the defendant was [ (on the campus of a public institution of higher education) (at or in a building or other facility owned, operated, or controlled by a public institution of higher education) ] he wilfully [ (impeded) (obstructed) (interfered with) (disrupted) ] [ (the performance of institutional duties by a[n] [ (trustee) (employee) ] of the institution) (the pursuit of educational activities, as determined or prescribed by the institution, by a[n] [ (trustee) (employee) (student) (invitee) ] of the institution) ];

[or]

*First Proposition:* That while the defendant was [ (on the campus of a public institution of higher education) (at or in a building or other facility owned, operated, or controlled by a public institution of higher education) ], he knowingly [ (occupied) (remained in or at) ] a [ (building) (property) (facility) ] owned, operated, or controlled by the institution after due notice to depart;

and

*Second Proposition:* That the defendant did so without authority from the institution and through force or violence, actual or threatened.

If you find from your consideration of all the evidence that each one of these propositions has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that any one of these propositions has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

#### Committee Note

720 ILCS 5/21.2-2 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §21.2-2 (1991)).

Give Instruction 16.19.

See Chapter 720, Section 21.2-5 for definitions of the phrase “public institution of higher education,” the term “due notice,” and the phrase “force or violence.”

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

**16.21**  
**Definition Of Criminal Trespass To Restricted Areas At Airports**

A person commits the offense of criminal trespass to restricted areas at airports when he [ (enters upon) (remains in) ] [ (any restricted area) (any restricted landing area) ] used in connection with an airport facility [or part thereof] after such person has received notice from the airport authority that such entry is forbidden.

**Committee Note**

720 ILCS 5/21-7 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §21-7 (1991)).

Give Instruction 16.22.

When applicable, give Instruction 16.21A, defining the term “restricted area” and the phrase “restricted landing area.”

When applicable, give Instruction 16.21B, defining the word “notice” within the meaning of Section 21-7.

Use applicable bracketed material.

## **16.21A**

### **Definition Of Restricted Area Or Restricted Landing Areas At Airports**

The term “restricted area” or the phrase “restricted landing area” means any area of land, water, or both which is used or is made available for the landing and takeoff of aircraft, and includes any area that has been restricted by the airport authority.

#### **Committee Note**

720 ILCS 5/21-7 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §21-7 (1991)).

## 16.21B

### Definition Of Notice--Criminal Trespass To Restricted Areas At Airports

[For purposes of the offense of criminal trespass to restricted areas at airports,] [ (The (the) ] word “notice” means that a person has been informed that entry is forbidden [ (by personal notification either orally or in writing) (by a printed or written notice forbidding such entry to that person, or a group or an organization of which that person is a member, which has been conspicuously posted or exhibited at every useable entrance to the forbidden area or part thereof) ].

### Committee Note

720 ILCS 5/21-7 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §21-7 (1991)).

The bracketed phrase “For purposes of the offense of criminal trespass to restricted areas at airports” should be given only when the defendant is charged with at least one other offense and the phrase is necessary to limit the applicability of this instruction.

This definition of the word “notice” applies only to the offense of criminal trespass to restricted areas at airports.

Use applicable bracketed material.

## 16.22

### Issues In Criminal Trespass To Restricted Areas At Airports

To sustain the charge of criminal trespass to restricted areas at airports, the State must prove the following proposition:

That the defendant [ (knowingly) (intentionally) (recklessly) ] [ (entered upon) (remained in) ] [ (any restricted area) (any restricted landing area) ] used in connection with an airport facility [or part thereof] after the defendant had received notice from the airport authority that such entry is forbidden.

If you find from your consideration of all the evidence that this proposition has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that this proposition has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

#### Committee Note

720 ILCS 5/21-7 (West, 1999) (formerly Ill.Rev.Stat. ch. 38, §21-7 (1991)).

Give Instruction 16.21.

See Chapter 720, Sections 4-3 and 4-9 and Committee Note to Instruction 5.01A, regarding the applicable mental state.

Use applicable bracketed material.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.

## 16.23

### Definition Of Criminal Trespass To A Cemetery

A person commits the offense of criminal trespass to a cemetery when he  
[1] [ (intentionally) (knowingly) (recklessly) ] violates any of the rules made and  
established by the board of directors of a cemetery for the protection or government thereof.

[or]

[2] knowingly [ (enters) (remains upon) ] the premises of a public or private cemetery  
without authorization during hours that the cemetery is posted as closed to the public.

### Committee Note

765 ILCS 835/1(e) and (f) (West, 1992) (formerly Ill.Rev.Stat. ch. 21, §15(e) and (f)  
(1991)), amended by P.A. 87-527, effective September 16, 1991.

Give Instruction 16.24.

Use paragraph [1] for charges brought under Section 1(e) and paragraph [2] for charges  
brought under Section 1(f).

Because Sections 1(e) does not include a mental state, the Committee decided to provide  
three alternative mental states pursuant to 720 ILCS 5/4-3(b) (West, 1992) (formerly Ill.Rev.Stat.  
ch. 38, §4-3(b) (1991)) in paragraph [1]. The Committee believes this action to be in accordance  
with *People v. Anderson*, 148 Ill.2d 15, 591 N.E.2d 461, 169 Ill.Dec. 288 (1992), which held that  
even though the criminal hazing statute listed no mental state, Section 4-3(b) still placed on the  
State the burden of proving either intent, knowledge, or recklessness. (*But see People v. Gean*,  
143 Ill.2d 281, 573 N.E.2d 818, 158 Ill.Dec. 5 (1991), *People v. Tolliver*, 147 Ill.2d 397, 589  
N.E.2d 527, 168 Ill.Dec. 127 (1992), and *People v. Whitlow*, 89 Ill.2d 322, 433 N.E.2d 629, 60  
Ill.Dec. 587 (1982) for cases in which the Illinois Supreme Court used Section 4-3(b) to choose  
one or two, but not all three, of these mental states for particular offenses having no statutorily  
specified mental state.) Select the mental state consistent with the charge. If the charging  
instrument alleges the existence of more than one mental state, the same alternative mental states  
may be included in the instruction.

Use applicable bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and  
should not be included in the instruction submitted to the jury.

**16.24**  
**Issues In Criminal Trespass To A Cemetery**

To sustain the offense of criminal trespass to a cemetery, the State must prove the following proposition[s]:

[1] That the defendant [ (intentionally) (knowingly) (recklessly) ] violated any of the rules made and established by the board of directors of a cemetery for the protection or government thereof.

[or]

[2] *First Proposition:* That the defendant knowingly [ (entered) (remained upon) ] the premises of a public or private cemetery without authorization; and

[3] *Second Proposition:* That the defendant did so during hours that the cemetery was posted as closed to the public.

If you find from your consideration of all the evidence that [ (this proposition) (each of these propositions) ] has been proved beyond a reasonable doubt, you should find the defendant guilty.

If you find from your consideration of all the evidence that [ (this proposition) (any one of these propositions) ] has not been proved beyond a reasonable doubt, you should find the defendant not guilty.

**Committee Note**

765 ILCS 835/1(e) and (f) (West, 1992) (formerly Ill.Rev.Stat. ch. 21, §15(e) and (f) (1991)), amended by P.A. 87-527, effective September 16, 1991.

Give Instruction 16.23.

Because Sections 1(e) does not include a mental state, the Committee decided to provide three alternative mental states pursuant to 720 ILCS 5/4-3(b) (West, 1992) (formerly Ill.Rev.Stat. ch. 38, §4-3(b) (1991)) in paragraph [1]. The Committee believes this action to be in accordance with *People v. Anderson*, 148 Ill.2d 15, 591 N.E.2d 461, 169 Ill.Dec. 288 (1992), which held that even though the criminal hazing statute listed no mental state, Section 4-3(b) still placed on the State the burden of proving either intent, knowledge, or recklessness. (*But see* *People v. Gean*, 143 Ill.2d 281, 573 N.E.2d 818, 158 Ill.Dec. 5 (1991), *People v. Tolliver*, 147 Ill.2d 397, 589 N.E.2d 527, 168 Ill.Dec. 127 (1992), and *People v. Whitlow*, 89 Ill.2d 322, 433 N.E.2d 629, 60 Ill.Dec. 587 (1982) for cases in which the Illinois Supreme Court used Section 4-3(b) to choose one or two, but not all three, of these mental states for particular offenses having no statutorily specified mental state.) Select the mental state consistent with the charge. If the charging instrument alleges the existence of more than one mental state, the same alternative mental states may be included in the instruction.

Use applicable bracketed material.

The bracketed numbers are present solely for the guidance of court and counsel and should not be included in the instruction submitted to the jury.

When accountability is an issue, ordinarily insert the phrase “or one for whose conduct he is legally responsible” after the word “defendant” in each proposition. See Instruction 5.03.