

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 damage to the property was [(more than \$300) (more than \$10,000) (more than \$100,000).]

[or]

Second Proposition: That the damage to the property [(exceeds \$500) (exceeding 500 and not exceeding \$10,000) (exceeding \$10,000 and not exceeding \$100,000) (exceeds \$100,000)](.) and the damage occurred to [(property of a school) (property of a place of worship) (farm equipment) (immovable items of agricultural production) (property which memorializes or honors a [(group of)] [(police officer(s)) (fire fighter(s))]) (property which memorializes or honors [(a member) (members)] of the [(United States Armed Forces) (National Guard)]) (property which memorializes or honors [(a veteran) (veterans)])].

[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]

Second Proposition: That the damage to the property [(exceeds \$500) (exceeding 500 and not exceeding \$10,000) (exceeding \$10,000 and not exceeding \$100,000) (exceeds \$100,000)](.) and the damage occurred to [(property of a school) (property of a place of worship) (farm equipment) (immovable items of agricultural production) (property which memorializes or honors a [(group of)] [(police officer(s)) (fire fighter(s))]) (property which memorializes or honors [(a member) (members)] of the [(United States Armed Forces) (National Guard)]) (property which memorializes or honors [(a veteran) (veterans)])].

[or]

[3] *First Proposition:* That the defendant knowingly started a fire on the land of ____ and

Second Proposition: That the damage to the property [(exceeds \$500) (exceeding 500 and not exceeding \$10,000) (exceeding \$10,000 and not exceeding \$100,000) (exceeds \$100,000)](.)

[or]

Second Proposition: That the damage to the property [(exceeds \$500) (exceeding 500 and not exceeding \$10,000) (exceeding \$10,000 and not exceeding \$100,000) (exceeds \$100,000)](. and the damage occurred to [(property of a school) (property of a place of worship) (farm equipment) (immovable items of agricultural production) (property which memorializes or honors a [(group of)] [(police officer(s)) (fire fighter(s))]) (property which memorializes or honors [(a member) (members)] of the [(United States Armed Forces) (National Guard))] (property which memorializes or honors [(a veteran) (veterans)]]).

[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 \$10,000) (more than \$100,000).]

[or]

Third Proposition: That the damage to the property [(exceeds \$500) (exceeding 500 and not exceeding \$10,000) (exceeding \$10,000 and not exceeding \$100,000) (exceeds \$100,000)](. and the damage occurs to [(property of a school) (property of a place of worship)].)

[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 with the intent to interfere with ____'s use of the [(land) (building)] and

Third Proposition: That the damage to the property [(exceeds \$500) (exceeding 500 and not exceeding \$10,000) (exceeding \$10,000 and not exceeding \$100,000) (exceeds \$100,000).

[or]

Third Proposition: That the damage to the property [(exceeds \$500) (exceeding 500 and not exceeding \$10,000) (exceeding \$10,000 and not exceeding \$100,000) (exceeds

\$100,000)][(.) and the damage occurred to [(property of a school) (property of a place of worship) (farm equipment) (immovable items of agricultural production) (property which memorializes or honors a [(group of)] [(police officer(s)) (fire fighter(s))]) (property which memorializes or honors [(a member) (members)] of the [(United States Armed Forces) (National Guard)]) (property which memorializes or honors [(a veteran) (veterans)])].

[or]

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

Second Proposition: That the damage to the property was [(exceeds \$500) (exceeding 500 and not exceeding \$10,000) (exceeding \$10,000 and not exceeding \$100,000) (exceeds \$100,000)].

[or]

Second Proposition: That the damage to the property [(exceeds \$500) (exceeding 500 and not exceeding \$10,000) (exceeding \$10,000 and not exceeding \$100,000) (exceeds \$100,000)][(.) and the damage occurred to [(property of a school) (property of a place of worship) (farm equipment) (immovable items of agricultural production) (property which memorializes or honors a [(group of)] [(police officer(s)) (fire fighter(s))]) (property which memorializes or honors [(a member) (members)] of the [(United States Armed Forces) (National Guard)]) (property which memorializes or honors [(a veteran) (veterans)])].

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

Instruction and Committee Note Approved December 1, 2017

720 ILCS 5/21-1 (West 2017).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; P.A. 88-558, effective January 1, 1995; P.A. 89-8, effective March 21, 1995;P.A. 91-360, effective July 29, 1999; P.A. 92-454, effective January1, 2002; P.A. 94-509, effective August 9, 2005; P.A. 95-553, effective June 1, 2008; P.A. 96-529, effective August 14, 2009; P.A. 97-1108, effective January 1, 2013; and, P.A. 98-315, effective January 1, 2014.

Give Instruction 16.01.

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.

Although not specifically stated in the statute, the same logic would apply to a determination regarding the enhanced classification for damage to certain specified property. When the charge alleges an enhanced class of felony based on damage to a specific type of property, as listed in sections (d)(1)(C),(G), (I), or (J), it is the opinion of the Committee that the trier of fact should determine, as an issue in the Instruction, if the damaged property is of the type alleged in the charge. Accordingly, use the applicable bracketed material if paragraph [7] when the class of felony is enhanced based on an allegation of damage to a specific statutorily stated type of property. 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 (7) use Instruction 16.04. As stated in the Committee Note to 16.03, this section defines a separate and distinct offense from the other criminal damage to property sections and do not require a determination of the value of damage. These sections do not have an enhancement for damage over of a specified value.

For and offense brought under Section 21-1(a)(8) and (9), use Instruction 16.06. As stated in the Committee Note to 16.03, these offenses define separate and distinct offenses from other the other criminal damage to property sections and do not require a determination of the value of damage. These sections do not have an enhancement for damage over of a specified value.

Whenever the jury is to be instructed on an affirmative defense, it is necessary to use the phrase “without his consent” in Instruction 16.01. (see Committee Note to Instruction 16.01), and this instruction must be combined with the appropriate instructions from Chapter 24-25.00. Since the additional proposition or propositions that will thereby be included will require the jury to find that the defendant acted without consent, the Committee has concluded that the phrase “without his consent” need not be used in this issues instruction.

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.