

21.16
Issues In Official Misconduct

To sustain the charge of official misconduct, the State must prove the following propositions:

First Proposition: That the defendant was a [(public officer) (public employee) (special government agent)]; and

Second Proposition: That when in his official capacity, the defendant [(intentionally) (recklessly)] failed to perform a mandatory duty required by law.

[or]

Second Proposition: That when in his official capacity, the defendant knowingly performed an act which he knew he was forbidden by law to perform.

[or]

Second Proposition: That when in his official capacity, the defendant performed an act in excess of his lawful authority with intent to obtain a personal advantage for [(himself) (another)].

[or]

Second Proposition: That when in his official capacity, the defendant [(solicited) (knowingly accepted)] for the performance of any act, a fee or reward which he knew was not authorized by law.

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 5/33-3(a) (West 2019), as amended by P.A. 94-0338, effective January 1, 2006.

Give Instruction 21.15.

Choose from among the four options for the Second Proposition the option which reflects the charge against the defendant.

Use applicable bracketed material.

The brackets 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.