

16.02X
Issues In Criminal Defacement Of Property

To sustain the charge of criminal defacement of property (in excess of \$500), 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 damage to the property was more than \$500.]

[or]

Second Proposition: That the damage occurs to [(property of a school) (property of a place of worship) (property which memorializes or honors [(an individual) (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]

Second Proposition: That the damage to the property exceeds \$500 and the damage occurs to [(property of a school) (property of a place of worship) (property which memorializes or honors [(an individual) (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 5/21-1.3 (West 2017).), added by P.A. 88-406, effective August 20, 1993. Amended by P.A.90-685, effective January 1, 1999; P.A.91-360, effective July 29, 1999; P.A.91-931, effective June 1, 2001; P.A.95-553, effective June 1, 2008; P.A.96-499, effective August 14, 2009; P.A.97-1108, effective January 1, 2013; P.A.98-315, effective January 1, 2014; P.A.98-466, effective August 16, 2013; P.A.98-756, effective July 16, 2014.

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

20, 1993.

Whenever the jury is to be instructed on an affirmative defense, it is necessary to use the phrase “without that person’s consent” in Instruction 16.01X. (see Committee Note to Instruction 16.01X), 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 that person’s consent” need not be used in this issues instruction.

When the charge of criminal defacement of property exceeding \$500 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 appropriate bracketed Second Proposition when the value of the property exceeds \$500.

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 \$500, then this instruction would begin “To sustain the charge of criminal defacement of property in excess of \$500, 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.