

11.50
Issues In Threatening Public Officials

To sustain the charge of threatening public officials, the State must prove the following propositions:

First Proposition: That the defendant knowingly and wilfully delivered or conveyed, directly or indirectly, to ____ a threat to [(take the life of) (inflict great bodily harm on)] [(____) (a member of ____'s immediate family)]; and

Second Proposition: That ____ was a public official at the time of the threat; and

Third Proposition: That the threat was contained in a [(telephone communication) (letter) (paper) (writing) (print) (missive) (document)]; and

[1] *Fourth Proposition:* That the threat was conveyed because of the performance or nonperformance of some public duty;

[or]

[2] *Fourth Proposition:* That the threat was conveyed because of the hostility of the person making the threat toward the status or position of the public official;

[or]

[3] *Fourth Proposition:* That the threat was conveyed because of some factor relating to the official's public existence;

and

Fifth Proposition: That when the defendant conveyed the threat, he knew ____ was then a public official.

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 5/12-9 (West 1992) (formerly Ill.Rev.Stat. ch. 38, §12-9 (1991)).

Give Instructions 11.49 and 11.49A.

Insert in the blanks the name of the public official.

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.

11.49

Definition Of Threatening Public Officials

A person commits the offense of threatening public officials when he knowingly and wilfully delivers or conveys, directly or indirectly, to a public official any [(telephone communication) (letter) (paper) (writing) (print) (missive) (document)] containing a threat to [(take the life of) (inflict great bodily harm on)] [(the public official) (a member of the public official's immediate family)], and

[1] the threat was conveyed because of the performance or nonperformance of some public duty.

[or]

[2] the threat was conveyed because of the hostility of the person making the threat toward the status or position of the public official.

[or]

[3] the threat was conveyed because of some factor relating to the official's public existence.

Committee Note

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11.49A
Definition Of Public Official And Immediate Family

A person [(holding the position of ____) (who has filed the required documents for nomination or election to the position of ____)] is a public official.

[When I use the term “required documents” I mean _____.]

[The term “immediate family” means a public official's [(spouse) (child) (children)].]

Committee Note

720 ILCS 5/12-9 (West 1992) (formerly Ill.Rev.Stat. ch. 38, §12-9 (1991)), amended by P.A. 87-238, effective January 1, 1992.

P.A. 87-238 amended Section 12-9 by replacing specific titles of public officials with the following definition:

“[P]ublic official means a person who is elected to office in accordance with a statute or who is appointed to an office which is established, and the qualifications and duties of which are prescribed, by statute, to discharge a public duty for the State or any of its political subdivisions or in the case of an elective office any person who has filed the required documents for nomination or election to such office.”

The Committee concluded that the nature of the office is a question of law to be decided by the court; whether the person allegedly threatened was such a public official is a question of fact for the jury. Insert in the blank the particular office held or filed for.

When applicable, insert in the blank in the first bracketed sentence the required documents that must be filed for nomination or election. The court should instruct the jury what the required documents are, and the jury need only decide if the documents were filed. The legal sufficiency of the documents is *not* an issue for the jury.

Use applicable bracketed material.

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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.