**DEFRAUDING THE GOVERNMENT

Penal Law § 195.20**

**(Committed on or after Nov. 1, 1986)**

The (specify) count is Defrauding the Government.

Under our law, a person is guilty of Defrauding the Government when, being a public servant [or party officer], that person engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud the state [*or* a political subdivision of the state *or* a governmental instrumentality within the state] or to obtain property from the state [*or* a political subdivision of the state *or* a governmental instrumentality within the state] by false or fraudulent pretenses, representations or promises and so obtains property with a value in excess of one thousand dollars from such state [political subdivision *or* governmental instrumentality].

The following terms used in that definition have a special meaning: 1

PUBLIC SERVANT means any public officer or employee of the state [or of any political subdivision thereof or of any governmental instrumentality within the state], or any person exercising the functions of any such public officer or employee. [The term public servant includes a person who has been elected

1 Article 195 contains no definition of “party officer.” The only definition

of "party officer" in the Penal Law appears in Penal Law § 200.40, and that section specifies that the definition is applicable to Penal Law section 200.45 and 200.50. That definition is: "party officer" means a person who holds any position or office in a political party, whether by election, appointment or otherwise. A similar definition of "party officer," applicable to the Election Law appears in Election Law § 1-104 and reads as follows: "party officer" means one who holds any party position or any party office whether by election, appointment or otherwise. On the other hand, Public Officers Law § 73 in prohibiting a "party officer" from holding certain public offices defines the term "party officer" for that purpose as "a member of a national committee, an officer or member of a state committee or a county chairman of any political party."

or designated to become a public servant.]2

INTENT means conscious objective or purpose. Thus, a person acts with intent to defraud the state [or a political subdivision of the state or a governmental instrumentality within the state] or to obtain property from the state [or a political subdivision of the state or a governmental instrumentality within the state] by false or fraudulent pretenses, representations or promises when that person's conscious objective or purpose is to do so.3

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case, beyond a reasonable doubt, each of the following three elements:

1. That on or about (*date*), in the county of (*county*) , the defendant,  *(defendant's name*), was a public servant [party officer] and engaged in a scheme constituting a systematic ongoing course of conduct;
2. That the defendant did so with intent to defraud the state [or a political subdivision of the state or a governmental instrumentality within the state] or to obtain property from the state [or a political subdivision of the state or a governmental instrumentality within the state] by false or fraudulent pretenses, representations or promises; and
3. That the defendant so obtained property with a value in excess of one thousand dollars from such state [political subdivision or governmental instrumentality].

If you find the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty

2Penal Law § 10.00(15).

3*See* Penal Law § 15.05(1).

of this crime.

If you find the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of this crime.