

**RECEIVING REWARD FOR OFFICIAL MISCONDUCT
IN THE SECOND DEGREE
Penal Law § 200.25
(Committed on or after September 1, 1973)**

The (specify) count is Receiving Reward For Official Misconduct in the Second Degree.

Under our law, a public servant is guilty of receiving reward for official misconduct in the second degree when that public servant solicits, accepts or agrees to accept any benefit from another person for having violated his or her duty as a public servant.

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

BENEFIT means any gain or advantage to the beneficiary and includes any gain or advantage to a third person pursuant to the desire or consent of the beneficiary.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 or designated to become a public servant.]²

Under our law, it is no defense to this charge that the public servant did not have power or authority to perform the act or omission for which the alleged reward was given.³

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the

¹ Penal Law § 10.00(17).

² Penal Law § 10.00(15).

³ Penal Law § 200.15 (2).

case, beyond a reasonable doubt, the following two elements:

1. That on or about (date) , the defendant, (defendant's name), was a public servant; and

2 That on or about that date in the county of (specify), the defendant solicited, accepted, or agreed to accept a benefit from (specify) for having violated his/her duty as a public servant.

If you find the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of this crime.

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