

RECEIVING UNLAWFUL GRATUITIES
(A Misdemeanor)
PENAL LAW 200.35
(Committed on or after September 1, 1967)

The _____ count is Receiving Unlawful Gratuities.

Under our law, a public servant is guilty of receiving unlawful gratuities when that public servant solicits, accepts or agrees to accept any benefit for having engaged in official conduct which he or she was required or authorized to perform, and for which he or she was not entitled to any special or additional compensation.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: "benefit," and "public servant."

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

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 two elements:

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

¹ Penal Law § 10.00(17).

² Penal Law § 10.00(15).

2. That on or about that date in the county of (*specify*), the defendant solicited, accepted, or agreed to accept any benefit for having engaged in official conduct which the defendant was required or authorized to perform, and for which he/she was not entitled to any special or additional compensation.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Receiving Unlawful Gratuities, as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Receiving Unlawful Gratuities, as charged in the _____ count.