

**16.01**  
**Definition Of Criminal Damage To Property**

A person commits the offense of criminal damage to property when he

[1] knowingly damages any property of another [without his consent](.) (; and)]

[or]

[2] recklessly by means of [(fire)(explosive)] damages property of another[(.) (; and)]

[or]

[3] knowingly starts a fire on the land of another [without his consent](.) (; and)]

[or]

[4] knowingly injures a domestic animal of another without his consent(.) (; and)]

[or]

[5] knowingly deposits [(on the land) (in the building)] of another[, without his consent,] any [(stink bomb) (offensive smelling compound)] with the intent to interfere with the use by another of the [(land) (building)](; and)]

[or]

[6] knowingly damages any property with intent to defraud an insurer[(.) (; and)]

[7] the damage to the property [(exceeds \$500) (exceeding 500 and not exceeding \$10,000) (exceeding \$10,000 and not exceeding \$100,000) (exceeds \$100,000)][(.) (and) the damage] [occurs to (property of a school) (property of a place of worship) (farm equipment) (immovable items of agricultural production) (property which memorializes or honors 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)])].

**Committee Note**

*Instruction and Committee Note Approved December 1, 2017*

720 ILCS 5/21-1 (West 2017), amended by P.A. 86-496, effective January 1, 1990; P.A. 86-1254, effective January 1, 1991; P.A. 88-406, effective August 20, 1993; P.A. 88-558, effective January 1, 1995; P.A. 89-8, effective March 21, 1995; P.A. 91-360, effective July 29, 1999; P.A. 92-454, effective January 1, 2002; P.A. 94-509, effective August 9, 2005; P.A. 95-

553, effective June 1, 2008; P.A. 96-529, effective August 14, 2009; P.A. 97-1108, effective January 1, 2013; and, P.A. 98-315, effective January 1, 2014.

#### Give Instruction 16.02.

With respect to paragraph [6], the statutory language “other than as described in subsection (b) of Section 20-1” is disregarded because that material would not be of importance to the jury. However, both court and counsel should be aware of this limitation.

When the charge of criminal damage to property exceeding a specified value is brought, the statute specifically states 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 the specified value. Accordingly, give paragraph [7] when the value of the property exceeds the specified value.

Although not specifically stated in the statute, the same logic would apply to a determination regarding the enhanced classification for damage to certain specified property. When the charge alleges an enhanced class of felony based on damage to a specific type of property, as listed in sections (d)(1)(C),(G), (I), or (J), it is the opinion of the Committee that the trier of fact should determine, as an issue in the Instruction, if the damaged property is of the type alleged in the charge. Accordingly, use the applicable bracketed material if paragraph [7] when the class of the offense is enhanced based on an allegation of damage to a specific statutorily stated type of property.

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 \$300, then this instruction would begin “A person commits the offense of criminal damage to property in excess of \$300 when he . . . .”.

For an offense brought under Section 21-1(a)(7), use Instruction 16.03. As stated in the Committee Note to 16.03, this section defines a separate and distinct offense from the other criminal damage to property sections and does not require a determination of the value of damage. This section does not have an enhancement for damage over a specified value.

For an offense brought under Section 21-1(a)(8) and (9), use Instruction 16.05. As stated in the Committee Note to 16.03, these offenses define separate and distinct offenses from other the other criminal damage to property sections and do not require a determination of the value of damage. These sections do not have an enhancement for damage over of a specified value.

When the defendant asserts an affirmative defense to paragraphs (1), (3), or (5) of subsection (a), use the bracketed phrase “without his consent” in bracketed paragraphs [1], [3], or [5] above. See 720 ILCS 5/21-1(c).

720 ILCS 5/21-1(a)(4) still requires proof that the injury occurred “without his or her consent”.

When there is an issue of whether the property was property of another, give Instruction 4.40 defining the term “property of another”.

If there is an issue regarding the defendant's interest in the property, give Instruction 16.01A.

Use applicable paragraphs and 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.