

255A STATE NEED NOT PROVE EXACT DATE OF COMMISSION: PERIOD OF TIME ALLEGED

If you find that the offense charged was committed by the defendant, it is not necessary for the State to prove that the offense was committed on a specific date. If the evidence shows beyond a reasonable doubt that the offense was committed during the time period alleged in the (information) (complaint), that is sufficient.

COMMENT

Wis JI-Criminal 255A was originally published in 1999 and republished without substantive change in 2000.

This instruction is intended to be used where the charging document alleges that the offense occurred during a period of time. For cases where the charge alleges that the offense occurred on a specific date, Wis JI-Criminal 255 should be used.

This instruction was drafted in response to the decision in State v. Dodson, 219 Wis.2d 65, 580 N.W.2d 181 (1998), where the Wisconsin Supreme Court held that a trial court committed error in giving a revised version of Wis JI-Criminal 255 in a case where the charging document referred to a period of time rather than a specific date. The court concluded that the revised instruction was "internally inconsistent, falsely stated the law and misled the jury." 219 Wis.2d 65, 85.

In a case like Dodson, where the charging document refers to a period of time, it is sufficient that the jury be satisfied that the offense occurred at any point within that period of time. This instruction is intended simply to reinforce that rule for the jury. Use of Wis JI-Criminal 255, in its published form or with modification, is not necessary in that type of case. The Committee concluded that no reference to the dates is required; the general reference in the instruction referring to a finding that the offense occurred "at the time and place alleged in the (complaint) (information)" will be sufficient.