

1815 OBSTRUCTING JUSTICE — § 946.65**Statutory Definition of the Crime**

Obstructing justice, as defined in § 946.65 of the Criminal Code of Wisconsin, is committed by one who, for a consideration, knowingly gives false information to any officer of any court with intent to influence the officer in the performance of official functions.

State's Burden of Proof

Before you may find the defendant guilty of this offense, the State must prove by evidence which satisfies you beyond a reasonable doubt that the following five elements were present.

Elements of the Crime That the State Must Prove

1. The defendant gave false information to (name of officer).
2. (Name of officer) was an officer of a court.¹
3. The defendant knowingly gave false information to an officer of the court.

This requires that the defendant knew the information was false and knew that (name of officer) was an officer of a court.²

4. The defendant gave false information with intent to influence (name of officer) in the performance of official functions.

"With intent to influence" means that the defendant had the mental purpose to influence the officer.³

"Official functions" are duties that an officer of a court is employed to perform.⁴

5. The defendant gave false information for a consideration.

"For a consideration" means that another person provided or agreed to provide some benefit to the defendant for giving false information.⁵

Deciding About Intent and Knowledge

You cannot look into a person's mind to find intent and knowledge. Intent and knowledge must be found, if found at all, from the defendant's acts, words, and statements, if any, and from all the facts and circumstances in this case bearing upon intent and knowledge.

Jury's Decision

If you are satisfied beyond a reasonable doubt that all five elements of this offense have been proved, you should find the defendant guilty.

If you are not so satisfied, you must find the defendant not guilty.

COMMENT

Wis JI-Criminal 1815 was originally published in 1988 and revised in 1995. This revision was approved by the Committee in December 2008 and involved adoption of a new format and nonsubstantive changes to the text.

1. Section 946.65(2) provides: "Officer of any court includes the judge, reporter, bailiff, and district attorney." This provides authority for advising the jury that, for example, a judge is an officer of a court.

2. Section 939.23(2) provides that "'know' requires only that the actor believes that the specified facts exist."

3. Section 939.23(4) provides that "with intent to" means that the actor has the purpose to cause the result specified or is aware that his or her conduct is practically certain to cause that result. See Wis JI-Criminal 923A and 923B.

4. The definition of "official functions" is adapted from the one provided for "acting in official capacity" in Wis JI-Criminal 915.

5. The definition of consideration is adapted from the decision in State v. Howell, 141 Wis.2d 58, 414 N.W.2d 54 (Ct. App. 1987), where the court concluded that "only conduct which involves a third party contracting with another to give false information to a court officer . . . is proscribed by the statute." 141 Wis.2d 58, 62. Howell's conduct was not covered, therefore, since he had provided false information to the court during a hearing on his bail reduction request. The court found there was no consideration because, "in a contractual sense, the false information did not induce the court to carry out its statutory function to litigate a bail reduction request. Regardless of the quality of the information given, the trial court would have made a bail determination." 141 Wis.2d 58, 62. Further, the court held that some concerted activity between two or more persons is required; a person providing false information to advance his own interests is not covered by the statute.