

14-5160. Entrapment; unfair inducement; not predisposed.¹

An issue in the case is whether _____ (*name of defendant*) was the subject of unfair inducement. Unfair inducement occurs when government agents unfairly cause the commission of a crime. "Government agents" include law enforcement officers or persons acting under their direction, influence, or control.

Where a defendant was not ready and willing to commit the crime of _____² before first being contacted or approached by a government agent, but is induced or persuaded to commit the crime by a government agent, the defendant is a victim of unfair inducement. However, where a defendant is ready and willing to commit the crime at the time of the first contact with the government agent, the mere fact that the government agent provides what appears to be an opportunity to commit the crime is not unfair inducement.

The burden is on the state to prove to your satisfaction beyond a reasonable doubt that the defendant was not unfairly induced. If you have a reasonable doubt as to whether the defendant was unfairly induced, you must find the defendant not guilty.

USE NOTES

1. When entrapment is in issue this instruction or 14-5161 NMRA, or both instructions, may be appropriate. When evidence exists that the defendant was not predisposed to commit the crime before being contacted or approached by "government agents" and was unfairly induced to commit the crime by government agents, this instruction must be given at the defendant's request. When there is evidence that government agents exceeded the bounds of proper investigation, UJI 14-5161 also must be given at the defendant's request. UJI 14-5161 also must be given upon request when there is evidence that government agents both transferred an item to the defendant and subsequently reacquired the item from the defendant, or when there is evidence that the conduct of government agents created a substantial risk that an ordinary person would have been caused to commit the crime charged.

2. Insert the type of offense charged in the indictment, such as, "burglary," "trafficking," or "robbery."

[As amended, effective September 1, 1994; July 1, 1998; January 1, 2000; as amended by Supreme Court Order No. 18-8300-012, effective for all cases pending or filed on or after December 31, 2018.]