Chapter 17.00

Hobbs Act Offenses

Introduction

(current through May 29, 2026)

The pattern instructions cover the Hobbs Act offenses with three elements instructions:

Instruction 17.01 Hobbs Act - Extortion by Force, Violence, or Fear (18 U.S.C. § 1951(a))
Instruction 17.02 Hobbs Act - Extortion Under Color of Official Right (18 U.S.C. § 1951(a))
Instruction 17.03 Hobbs Act - Robbery (18 U.S.C. § 1951(a))

The first two instructions cover extortion as defined in § 1951(b)(2): extortion by force, violence, or fear; and extortion under color of official right. Extortion requires the consent of the victim. Ocasio v. United States, 136 S. Ct. 1423, 1435 (2016); United States v. Gooch, 850 F.3d 285, 291 (6th Cir. 2017). As a general matter, Instruction 17.01 Extortion by Force, Violence, or Fear applies when the defendant obtains property from another with consent but the defendant induced the consent through force, violence, or fear. Instruction 17.02 Extortion Under Color of Official Right applies to cases involving bribery of and kickbacks to a public official.

The third instruction, Instruction 17.03 Robbery, covers the offense of robbery defined in § 1951(b)(1). This instruction generally applies when the defendant takes property from or in the presence of the victim and against the victim's will through force, violence, or fear. See United States v. Gooch, 850 F.3d 285, 291 (6th Cir. 2017).

The Hobbs Act also criminalizes committing or threatening physical violence to any person or property in furtherance of a plan to do anything in violation of the Hobbs Act. Section 1951(a). This statutory language is not frequently used, and the Committee did not draft an instruction to cover it, but the pattern instructions can be modified.

17.01 Hobbs Act - Extortion by Force, Violence, or Fear (18 U.S.C. § 1951)

(1) Count ___ of the indictment charges the defendant with extortion by force, violence, or fear. For you to find the defendant guilty of this offense, you must find that the government has proved each and every one of the following elements beyond a reasonable doubt:

(A) First, that the defendant obtained property, that he was not lawfully entitled to, from another person with that person's consent.

(B) Second, that the defendant used [actual or threatened] force, violence, or fear [of economic harm] to obtain the property with that person's consent.

(C) Third, that the defendant knowingly obtained the property in this way.

(D) Fourth, that as a result, interstate commerce was affected in any way or degree.

(2) Now I will give you more detailed instructions on some of these terms.

(A) "Property" means money or other tangible or intangible things of value that can be transferred.

(B) An act is done "knowingly" if it is done voluntarily, and not because of mistake or some other innocent reason.

(C) Conduct affects interstate commerce if it in any way interferes with or changes the movement of goods, merchandise, money, or other property in commerce between different states. Any effect at all on commerce is enough.

[(1) This includes obtaining money that belonged to a business [entity] which customarily purchased goods from outside the State of _____ , [or] [that engaged in business outside the State of _____] if defendant's conduct made that money unavailable to the business [entity] for the purchase of such goods [or] [the conducting of such business.]]

[(2) The defendant attempted to affect interstate commerce if 1) he obtained money that was provided by a law enforcement agency as part of an investigation, and 2) the money appeared to belong to [*identify business or entity*], and 3) the business or entity appeared to customarily purchase goods from outside the State of ____ , [or] [engaged in business outside the State of __].]

[(3) It is not necessary for you to find that there was an actual effect on interstate commerce.]

(3) If you are convinced that the government has proved all of these elements, say so by returning a guilty verdict on count _____. If you have a reasonable doubt about any one of these elements, then you must find the defendant not guilty of this charge.

Use Note

The Hobbs Act also criminalizes attempts and conspiracies to commit extortion. If the charge is based on attempt, an instruction may be compiled by combining this instruction with the instructions in Chapter 5 Attempts. If the charge is based on conspiracy, an instruction may be compiled using the instructions in Chapter 3 Conspiracy with one caveat on the overt act element described in the commentary below.

For paragraph (1)(D), the full statutory language on commerce is "obstructs, delays, or affects," but the instruction deletes the two words "obstructs, delays" as unnecessary subcategories of "affecting" commerce.

If the case involves the defendant acting to obtain property for a third person, the instruction should be modified.

Brackets indicate options for the court; bracketed italics are notes to the court.

Committee Commentary

(current as of May 29, 2026)

Title 18 U.S.C. § 1951 provides:

§ 1951. Interference with commerce by threats or violence

> (a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do . . . shall be fined under this title or imprisoned not more than twenty years, or both.
>
> (b) As used in this section--
>
> . . . .
>
> (2) The term "extortion" means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear . . . .

In paragraph (1), the elements are based on the statute, 18 U.S.C. § 1951(a) and (b)(2). Case law defining the elements is limited. *See* Stirone v. United States, 361 U.S. 212, 218 (1960) ("Here, . . . there are two essential elements of a Hobbs Act crime: interference with commerce and extortion."); United States v. Turner, 272 F.3d 380, 384 (6th Cir. 2001) ("In order to prevail under a Hobbs Act violation, the Government must prove two elements: 1) interference with interstate commerce, which is a jurisdictional issue; and, 2) the substantive

criminal act, which in the instant case is [a conspiracy to commit] robbery.") (citations omitted); and United States v. Ostrander, 411 F.3d 684, 691 (6th Cir. 2005) (unpublished appendix) ("Thus, to prevail under the [Hobbs] Act, the Government must prove two elements: (1) interference with interstate commerce (2) in the course of a substantive criminal act.").

In paragraph (1)(A), the requirement that defendant "obtained" property is based on the statute and Scheidler v. National Organization for Women, Inc., 537 U.S. 393, 404 (2003). The offense requires not only that the victim be deprived of property but also that the defendant acquire property. *Id*. The phrase that the defendant was "not lawfully entitled to" the property is based on the word "wrongful" in § 1951(b)(2). "Wrongful" means that the defendant had no lawful claim to the property. United States v. Enmons, 93 S.Ct. 1007, 1009-10 (1973).

In paragraph (1)(B), the bracketed phrase "of economic harm" modifies the term "fear" for use in appropriate cases. The term "fear" includes fear of economic loss or damage as well as fear of physical harm. United States v. Kelley, 461 F.3d 817, 826 (6th Cir. 2006) (*quoting* United States v. Williams, 952 F.2d 1504, 1514 (6th Cir. 1991)); United States v. Collins, 78 F.3d 1021, 1030 (6th Cir. 1996). Under the fear-of-economic-harm theory, a private citizen can commit extortion by leading the victim to believe that the perpetrator can exercise his or her power to the victim's economic detriment. United States v. Kelley, 461 F.3d 817, 826 (6th Cir. 2006) (*citing* United States v. Williams, 952 F.2d 1504, 1514 (6th Cir. 1991) ("[T]he fear of economic harm may arise independently of any action by the defendant . . . [i]t is enough if the fear exists and the defendant intentionally exploits it")). Fear of purely emotional harm is not enough to satisfy the Hobbs Act. Heinrich v. Waiting Angels Adoption Servs., Inc., 668 F.3d 393, 408 (6th Cir. 2012). The phrase "of economic harm" is in brackets to indicate that it should only be used if relevant.

In paragraphs (1)(A) and (1)(B), clarity may be enhanced by using the names of the defendant and victim in the case.

For the mens rea of extortion by force, violence, or fear, paragraph (1)(C) requires the defendant to act "knowingly." The statute does not include a mens rea, and no case law on the mens rea for this type of extortion exists in the Supreme Court. *Cf*. United States v. Evans, 112 S. Ct. 1881, 1889 (1992) (adopting mens rea of knowingly for extortion under color of official right). In the Sixth Circuit, some authority supports the term "specific intent." *See* United States v. Dabish, 708 F.2d 240, 242 (6th Cir. 1983) (referring to extortion by force, violence, or fear as a "specific intent" crime while resolving a question on Rule 404(b) evidence). Later case law supports the mens rea of knowledge. *See* United States v. Carmichael, 232 F.3d 510, 522 (6th Cir. 2000) (rejecting the term "specific intent," stating that defendant need not intend to violate the law, and affirming jury instruction requiring defendant to have mens rea of knowledge for extortion under the Hobbs Act). The Committee chose the mens rea term "knowingly" based on *Evans* and *Carmichael*. *See also* Seventh Circuit Pattern Criminal Instruction 18 U.S.C. § 1951 EXTORTION – NON-ROBBERY – ELEMENTS and Eleventh Circuit Pattern Criminal Instruction 70.1 Interference with Commerce by Extortion Hobbs Act: Racketeering (Force or Threats of Force) (both adopting the term "knowingly" for extortion by force, violence, or fear).

The defendant need not have created the fear in the victim's mind as long as the

defendant intended to exploit the fear. United States v. Williams, 952 F.2d 1504, 1514-15 (6th Cir. 1991); *see also* United States v. Kelley, 461 F.3d 817, 826 (6th Cir. 2006) (quoting *Williams*).

Paragraph (1)(D) states the jurisdictional requirement that interstate commerce was affected in any way or degree. The language is drawn from the statute.

In paragraph (2)(A), property is defined as "money or other tangible or intangible things of value that can be transferred." *See* Scheidler v. National Organization for Women, Inc., 537 U.S. 393, 404 (2003) and Sekhar v. United States, 133 S. Ct. 2720, 2725 (2013). Extortion requires not only that the victim be deprived of property but also that the defendant obtain or acquire property. *Scheidler, supra*. Thus, "The property extorted must be *transferable*–that is, capable of passing from one person to another." *Sekhar, supra*.

The definition of "knowingly" in paragraph (2)(B) ("An act is done knowingly if it is done voluntarily, and not because of mistake or some other innocent reason.") is based on United States v. Carmichael, 232 F.3d 510, 522 (6th Cir. 2000) and United States v. Honeycutt, 816 F.3d 362, 375 (6th Cir. 2016), reversed on other grounds, 137 S. Ct. 1626 (2017). In *Carmichael,* the Sixth Circuit held that the government need not prove that the defendant intended to violate the law. The court then endorsed an instruction using the mens rea of knowingly. Generally, the term "knowingly" requires knowledge of the acts that constituted the offense but not knowledge that those acts were illegal. *See, e.g.,* United States v. Honeycutt, 816 F.3d 362, 375 (6th Cir. 2016), reversed on other grounds, 137 S. Ct. 1626 (2017), stating:

> As the Supreme Court has stated, "unless the text of the statute dictates a different result, the term 'knowingly' merely requires proof of knowledge of the acts that constitute the offense." Dixon v. United States, 548 U.S. 1, 5 (2006). "Knowingly" does not require knowledge that the facts underlying the criminal violation were unlawful. See id. (contrasting "knowingly" with "willfully," the latter of which "requires a defendant to have 'acted with knowledge that his conduct was unlawful'" (quoting Bryan v. United States, 524 U.S. 184, 193 (1998))).

Another definition of knowingly may be found in Arthur Andersen v. United States, 125 S. Ct. 2129, 2135-36 (2005) ("'[K]nowledge' and 'knowingly' are normally associated with awareness, understanding, or consciousness.") (citations omitted) (construing term "knowingly" in 18 U.S.C. § 1512).

Paragraph (2)(C) includes definitions on the jurisdictional element of affecting commerce. The statute provides:

> Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery . . . or attempts or conspires so to do . . . shall be fined under this title or imprisoned . . . .

18 U.S.C. § 1951(a). The statute then defines "commerce" as:

> commerce within the District of Columbia, or any Territory or Possession of the United States; all commerce between any point in a State, Territory, Possession, or the District of Columbia and any point outside thereof; all commerce between points within the same State through any place outside such State; and all other commerce over which the United States has jurisdiction.

18 U.S.C. § 1951(b)(3).

Paragraph (2)(C) provides a basic definition of affecting commerce applicable in most cases. This basic definition presumes that the interstate commerce element is based on the defendant targeting a business that is engaged in or affects interstate commerce. *See* United States v. Wang, 222 F.3d 234, 240 (6th Cir. 2000) (anticipating that the overwhelming majority of Hobbs Act cases will continue to involve victims which are businesses directly engaged in interstate commerce). When the victim of the robbery is a business entity engaged in or affecting interstate commerce, the defendant's activities need only have a *de minimis* impact, and this remains true even in the wake of United States v. Lopez, 514 U.S. 549 (1995). United States v. Smith, 182 F.3d 452, 456 (6th Cir. 1999). The Supreme Court has characterized the Hobbs Act language defining the required effect on commerce as "unmistakably broad." Taylor v. United States, 136 S. Ct. 2074, 2079 (2016) (*citing* United States v. Culbert, 435 U.S. 371, 373 (1978) and Stirone v. United States, 361 U.S. 212, 215 (1960)). A substantive Hobbs Act violation requires an actual effect on interstate commerce. United States v. DiCarlantonio, 870 F.2d 1058, 1061 (6th Cir. 1989). The effect on commerce may be adverse or beneficial. United States v. Mills, 204 F.3d 669, 673 (6th Cir. 2000).

Paragraphs (2)(C)(1) through (2)(C)(3) offer jurisdictional provisions in brackets that may apply in particular cases.

Paragraph (2)(C)(1) provides detail on the "depletion of assets" theory of jurisdiction. It is based on United States v. Turner, 272 F.3d 380 (6th Cir. 2001); United States v. Carmichael, 232 F.3d 510 (6th Cir. 2000); United States v. Wang, 222 F.3d 234 (6th Cir. 2000); and United States v. DiCarlantonio, 870 F.2d 1058 (6th Cir. 1989). This paragraph assumes the defendant targeted a business entity. If the defendant's criminal act is directed not at a business entity but at an individual in a private home, the connection required between the individual and a business engaged in interstate commerce is "of a different order"; the connection must be substantial, not fortuitous or speculative. United States v. Wang, 222 F.3d 234, 238-40 (6th Cir. 2000) (finding no realistic probability that the aggregate of a robbery of citizens in a private residence where $1,200 of the approximately $4,200 taken belonged to a restaurant would substantially affect interstate commerce). *See also* United States v. Turner, 272 F.3d 380, 387-89 (6th Cir. 2001) (holding that government's proof of interstate commerce element was insufficient under any applicable theory because government did not show that the victim was a business engaged in or affecting interstate commerce, did not show a connection between individual victim and a business engaged in interstate commerce, and did not offer evidence explaining how robbing an individual of large sum would have affected interstate commerce). If the targeted victim is an individual person, the instruction should be modified to reflect the opinions in *Wang* and *Turner*, *supra*. *Cf.* Taylor v. United States, 136 S. Ct. 2074, 2081 (2016) (holding that jurisdiction is

established for Hobbs Act robbery if the targeted victim is an individual drug dealer whom the defendant targeted for the purpose of stealing drugs or drug proceeds).

Paragraph (2)(C)(2) applies if the charge is attempt based on an undercover investigation. *See* United States v. DiCarlantonio, 870 F.2d 1058, 1060-1062 (6th Cir. 1989) (reversing substantive Hobbs Act conviction for insufficient effect on commerce where bribe money was provided by the government but noting that no barrier exists for attempt charges); United States v. Peete, 919 F.2d 1168, 1175 (6th Cir. 1990) (citing *DiCarlantonio* and reiterating possibility of attempt liability based on undercover investigation using government funds).

Paragraph (2)(C)(3), providing that an actual effect on commerce is not required, applies in attempt and conspiracy cases. *See* United States v. Turner, 272 F.3d 380, 384 (6th Cir. 2001) ("When a conspiracy is charged under the Hobbs Act, the government need only prove that the scheme would have affected interstate commerce had it been carried out.") (*citing* United States v. DiCarlantonio, 870 F.2d 1058, 1061 (6th Cir. 1989)); United States v. Peete, 919 F.2d 1168, 1174 (6th Cir. 1990) ("There is no requirement [for an attempt charge] that there be an actual effect on interstate commerce – only a *realistic probability* that an extortion will have an effect on interstate commerce.").

Extortion by force, violence, or fear must be induced, unlike extortion under color of official right. *See* Evans v. United States, 112 S. Ct. 1881, 1888 (1992); *see also* United States v. Jenkins, 902 F.2d 459, 466-67 (6th Cir. 1990).

The Hobbs Act also criminalizes attempts and conspiracies to commit extortion. See § 1951(a). If the charge is based on attempt, an instruction may be compiled by combining this instruction with the instructions in Chapter 5 Attempts. If the charge is based on conspiracy, an instruction may be compiled using the instructions in Chapter 3 Conspiracy with one caveat. Conspiracies to commit Hobbs Act offenses do not require an overt act. United States v. Hills, 27 F.4th 1155, 1190 (6th Cir. 2022), *quoting* United States v. Rogers, 769 F.3d 372, 382 (6th Cir. 2014). Thus if the charge is based on a Hobbs Act conspiracy, Instruction 3.01A Conspiracy to Commit an Offense–Basic Elements should be modified to omit paragraph (2)(C). All other references to overt acts should be deleted as well.

See also Ocasio v. United States, 136 S. Ct. 1423 (2016) (conspiracy to extort under color of official right does not require agreement to obtain property from someone outside the conspiracy; rather, the defendant may be held liable based on an agreement to obtain money from one of the conspirators).

17.02 Hobbs Act - Extortion Under Color of Official Right (18 U.S.C. § 1951)

(1) Count ____ of the indictment charges the defendant with extortion under color of official right. For you to find the defendant guilty of this crime, you must find that the government has proved each and every one of the following elements beyond a reasonable doubt:

(A) First, that the defendant was a public official.

(B) Second, that the defendant obtained [accepted] [took] [received] property, that he was not lawfully entitled to, from another person with that person's consent.

(C) Third, that the defendant knew the property was being obtained [accepted] [taken] [received] in exchange for an official act.

(D) Fourth, that as a result, interstate commerce was affected in any way or degree.

(2) Now I will give you more detailed instructions on some of these terms.

(A) The term "public official" means a person with a formal employment relationship with government.

(B) The term "property" means money or other tangible or intangible things of value that can be transferred.

(C) The phrase "the defendant knew the property was being obtained [accepted] [taken] [received] in exchange for an official act" may include the conduct of taking a [bribe] [kickback] [or both].

[(1) Efforts to buy favor or generalized good will do not necessarily amount to bribery; bribery does not include gifts given in the hope that at some unknown, unspecified time, a public official might act favorably in the giver's interests.]

[(2) Gifts exchanged solely to cultivate friendship are not bribes; things of value given in friendship and without expectation of anything in return are not bribes.]

[(3) It is not a defense to bribery that the public official would have done the official act anyway, even without the receipt of the property.]

(D) The term "official act" means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such official's official capacity, or in such official's place of trust or profit.

(1) This definition of official act has two parts.

(a) First, the evidence must show a question, matter, cause, suit,

proceeding or controversy that may at any time be pending or may by law be brought before a public official.

A "question, matter, cause, suit, proceeding or controversy" must involve a formal exercise of governmental power, and it must be something specific and focused.

(b) Second, the government must prove that the public official made a decision or took an action on that question or matter, or agreed to do so. The decision or action may include using an official position to exert pressure on another official to perform an official act. Actual authority over the end result is not controlling.

(2) Under this definition, some acts do not count as "official acts." Setting up a meeting, calling another public official, or hosting an event does not, standing alone, qualify as an "official act."

(3) The defendant need not have a direct role in the official act; an indirect role is sufficient.

(E) Conduct affects interstate commerce if it in any way interferes with or changes the movement of goods, merchandise, money, or other property in commerce between different states. Any effect at all on commerce is enough.

[(1) This includes obtaining money that belonged to a business [entity] which customarily purchased goods from outside the State of _____ , [or] [that engaged in business outside the State of _____] if defendant's conduct made that money unavailable to the business [entity] for the purchase of such goods [or] [the conducting of such business.]]

[(2) The defendant attempted to affect interstate commerce if 1) he obtained money that was provided by a law enforcement agency as part of an investigation, and 2) the money appeared to belong to [identify business or entity], and 3) the business or entity appeared to customarily purchase goods from outside the State of ____ , [or] [engaged in business outside the State of __].]

[(3) It is not necessary for you to find that there was an actual effect on interstate commerce.]

[(3) The government need not prove [*insert options from below as appropriate*]].

[(A) that the bribery agreement was explicit or stated in express terms, for otherwise the law's effect could be frustrated by knowing winks and nods. A bribery agreement is satisfied by something short of a formalized and thoroughly articulated contractual arrangement.]

[(B) that the public official ultimately performed the official act.]

[(C) which payments controlled particular official acts or that each payment was tied to a specific official act; rather, it is sufficient if the public official understood that he was expected to exercise some influence on the payor's behalf as opportunities arose.]

[(D) that the property was exchanged only for an official act. Because people rarely act for a single purpose, if you find that the property was exchanged at least in part for an official act, then it makes no difference that the defendant may have also had another separate lawful purpose for exchanging the property.]

[(E) that the defendant had the actual power to effectuate the end for which he accepted or induced payment; it is sufficient that the defendant exploited a reasonable belief that he had the power to do so.]

(4) If you are convinced that the government has proved all of these elements, say so by returning a guilty verdict on count _____. If you have a reasonable doubt about any one of these elements, then you must find the defendant not guilty of this charge.

Use Note

The instruction assumes that the defendant is a public official. A private person cannot be convicted of substantive extortion under color of official right. United States v. Collins, 78 F.3d 1021, 1031 (6th Cir. 1996). However, private persons can be convicted of color-of-official-right extortion if they conspire with or aid and abet a public official. United States v. Saadey, 393 F.3d 669, 675 (6th Cir. 2005). If the defendant is a private person, the instruction can be modified to include theories of conspiracy or aiding and abetting.

The instruction assumes that the prosecution involves a substantive Hobbs Act violation, i.e., that the defendant public official actually obtained property in exchange for an official act. Hobbs Act extortion under color of official right also covers situations where the property was not exchanged for an official act but the defendant agreed to the exchange or solicited the exchange. See 18 U.S.C. § 1951 (covering attempt and conspiracy). If the prosecution is based on attempt or conspiracy, the instruction should be modified.

The instruction assumes that the property being obtained or sought by the public official was not a campaign contribution. This issue is discussed further in the commentary below.

For paragraph (1)(D), the full statutory language on commerce is "obstructs, delays, or affects," but the instruction deletes the two words "obstructs, delays" as unnecessary subcategories of "affecting" commerce.

Brackets indicate options for the court; bracketed italics are notes to the court.

Committee Commentary
(current as of May 29, 2026)

Title 18 U.S.C. § 1951 provides:

§ 1951. Interference with commerce by threats or violence

> (a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do . . . shall be fined under this title or imprisoned not more than twenty years, or both.
>
> (b) As used in this section--
> . . . .
>
> (2) The term "extortion" means the obtaining of property, from another, with his consent, . . . under color of official right.

The offense of extortion under color of official right applies to cases involving bribery of a public official. McDonnell v. United States, 136 S. Ct. 2355, 2365 (2016) (*citing* United States v. Evans, 504 U.S. 255, 260 (1992)). The offense is complete when "a public official has obtained a payment to which he is not entitled, knowing that the payment was made in return for official acts." *Evans*, 504 U.S. at 268.

In paragraph (1), the elements are based on the statute and *Evans*. Paragraphs (A) and (C) (that defendant was a public official and knew the property was being obtained in exchange for an official act) are based on *Evans, id*. The Sixth Circuit approved paragraph (1)(C) in United States v. Householder, 137 F.4th 454, 472 (6th Cir. 2025) (per curiam), cert. denied, 2026 WL 1127214 and 2026 WL 1127200. Paragraphs (B) and (D) (that the defendant obtained property that he was not lawfully entitled to from another person with that person's consent and that commerce was affected) are based on the statute. Paragraph (1)(B) uses the term "obtain" as the default position based on the statute and then offers three plainer English options in brackets based on other circuits' pattern instructions.

In paragraph (2)(A), the definition of public official was approved in United States v. Hills, 27 F.4th 1155, 1175 note 8 (6th Cir. 2022). The definition of public official is not limited to elected public officials, nor is it limited to federal public officials. *Hills*, 27 F.4th at 1175. *See also* United States v. Gray, 790 F.2d 1290, 1295 (6th Cir. 1986) (*citing* United States v. Margiotta, 688 F.2d 108 (2d Cir. 1982)).

In paragraph (2)(B), the definition of property is based on Scheidler v. National Organization of Women, Inc., 123 S. Ct. 1057, 1065 (2003) and Sekhar v. United States, 133 S. Ct. 2720, 2725-26 (2013). To qualify as extortion, the defendant must obtain property from a victim; the offense requires not only that the victim be deprived of property but also that the

defendant acquire property. *Scheidler*, 123 S. Ct. at 1065. Thus, "The property extorted must be *transferable*–that is, capable of passing from one person to another." *Sekhar*, 133 S. Ct. at 2725.

The instruction assumes that the property being obtained or sought by the public official was not a campaign contribution. If the property was a campaign contribution, the government must prove that "the payments [were] made in return for an explicit promise or understanding by the official to perform or not to perform an official act." McCormick v. United States, 500 U.S. 257, 273 (1991). In that situation, the instruction must be amended to require an explicit quid pro quo. *See generally* Evans v. United States, 504 U.S. 255, 266-67, 112 S. Ct. 1881 (1992); United States v. Householder, 137 F.4th 454, 470-475 (6th Cir. 2025) (per curiam), cert. denied, 2026 WL 1127214 and 2026 WL 1127200.

In paragraph (2)(C), the instruction states that the phrase "the defendant knew the property was being given in exchange for an official act" may include the conduct of taking a bribe or kickback or both. The reference to taking a bribe is based on McDonnell v. United States, 136 S. Ct. at 2365 (2016) (*citing* United States v. Evans, 504 U.S. 255, 260, 269 (1992)). The Sixth Circuit has long recognized that extortion under color of official right includes bribery of public officials. *See, e.g.*, United States v. Harding, 563 F.2d 299, 305, 307 (6th Cir. 1977); United States v. Butler, 618 F.2d 411, 419 (6th Cir. 1980). The reference to kickbacks is based on Ocasio v. United States, 136 S. Ct. 1423, 1427 (2016) (affirming conviction for extortion under color of official right where defendant participated in a "kickback scheme") and United States v. Kelley, 461 F.3d 817, 820 (6th Cir. 2006) (describing defendant's conduct as receiving "kickbacks" and affirming conviction for Hobbs Act extortion). *See also* Skilling v. United States, 130 S. Ct. 2896, 2931 (holding that bribes and kickbacks constitute honest services fraud under 18 U.S.C. § 1346).

Paragraphs (2)(C)(1), (2), and (3) include bracketed options on the definition of bribery that may be used if relevant. Subparagraphs (1) and (2), excluding gifts for generalized good will and gifts given solely for friendship, are based on United States v. Dimora, 750 F.3d 619, 625 (6th Cir. 2014). Subparagraph (3), stating that it is not a defense to bribery that the defendant would have done the official act anyway without the receipt of property, is based on United States v. Brewster, 408 U.S. 501, 527 (1972) ("Inquiry into the [defendant's] legislative performance itself is not necessary; evidence of the [defendant's] knowledge of the alleged briber's illicit reasons for paying the money is sufficient to carry the case to the jury."). *See also* United States v. Evans, 504 U.S. at 268 (stating that fulfillment of the quid pro quo is not an element of bribery under Hobbs Act); United States v. Abbey, 560 F.3d 513, 518 (6th Cir. 2009), *abrogated on other grounds,* Snyder v. U.S., 144 S. Ct. 1947, 1951 (2024) ("The public official need not even have any intention of actually exerting his influence on the payor's behalf because fulfillment of the quid pro quo is not an element of the offense.") (internal quotation omitted).

In paragraph (2)(D), the definition of official act was approved by the court in United States v. Hills, 27 F.4th 1155, 1190 (6th Cir. 2022) ("The 'official act' instruction stated the law with substantial accuracy consistent with *McDonnell* and *Dimora*, and was not confusing, misleading, and prejudicial."). The definition is based primarily on McDonnell v. United States, 136 S. Ct. 2355, 2367 (2016) and Dimora v. United States, 973 F.3d 496, 503 (6th Cir. 2020).

As the *Hills* court explained, in *Dimora*, the court described "three clarifying instructions" required in the wake of *McDonnell* to prevent a jury from convicting the defendant for lawful conduct. *See Hills*, *supra* at 1189. The definition of official act in subparagraphs (2)(D)(1)(a) and (2)(D)(2) includes these three clarifying instructions.

In addition, two sentences in paragraph (2)(D) defining official act are based on the earlier Dimora case, United States v. Dimora, 750 F.3d 619, 627 (6th Cir. 2014). These two sentences are the last sentence in subparagraph (2)(D)(1)(b) ("Actual authority over the end result is not controlling.") and the sentence in subparagraph (2)(D)(3) ("The defendant need not have a direct role in the official act; an indirect role is sufficient."). These two sentences were approved by the court in 2014 in the first *Dimora* case, and as the court did not discuss them in the second *Dimora* case in 2020, they remain instructions approved by the court. *See also* United States v. Lee, 919 F.3d 340, 352 & 354 (6th Cir. 2019) (holding the indictment sufficient and declining to limit the definition of official acts based on "exerting pressure" on a second official to situations where the defendant had "leverage or power" over the second official); United States v. Henderson, 2 F.4th 593 (6th Cir. 2021) (holding that an "official act" was met when a jail guard took a bribe to smuggle in contraband and not report it to the disciplinary board).

In *Hills, supra*, the defendant also challenged the court's decision to give bracketed subparagraph (3)(C), stating that the government need not prove "which payments controlled particular official acts or that each payment was tied to a specific official act; rather, it is sufficient if the public official understood that he was expected to exercise some influence on the payor's behalf as opportunities arose." The court held this instruction was proper because the jury was also instructed, as part of the definition of official act, that "the government must prove the public official made a decision or took an action *on that question or matter or agreed to do so*." *Hills, supra* at 1190 (emphasis in original, *quoting* Inst. 17.02(2)(D)(1)(b)). The court explained that based on this language in the official act definition, the stream-of-benefits or as-opportunities-arise provision in subparagraph (3)(C) was proper and did not permit the jury to convict based "only on an open-ended promise to perform unspecified future acts for the benefit of the payor." *Hills, supra* at 1190. This subparagraph is discussed further below in the commentary.

Paragraph (2)(E) includes definitions on the jurisdictional element of affecting commerce. The statute provides:

> Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery . . . or attempts or conspires so to do . . . shall be fined under this title or imprisoned . . . .

18 U.S.C. § 1951(a). The statute then defines "commerce" as:

> commerce within the District of Columbia, or any Territory or Possession of the United States; all commerce between any point in a State, Territory, Possession, or the District of Columbia and any point outside thereof; all commerce between points within the same State through any place outside such State; and all other

commerce over which the United States has jurisdiction.

18 U.S.C. § 1951(b)(3).

Paragraph (2)(E) provides a basic definition of affecting commerce applicable in most cases. The Supreme Court has characterized the Hobbs Act language defining the required effect on commerce as "unmistakably broad." Taylor v. United States, 136 S. Ct. 2074, 2079 (2016) (*citing* United States v. Culbert, 435 U.S. 371, 373 (1978) and Stirone v. United States, 361 U.S. 212, 215 (1960)). *See also* United States v. Carmichael, 232 F.3d 510, 516 (6th Cir. 2000) (stating that Hobbs Act jurisdiction based on affecting commerce is "extremely broad," and "even a very minimal connection" to interstate commerce is sufficient).

The basic definition in paragraph (2)(E) presumes that the interstate commerce element is based on the defendant targeting a business that is engaged in or affects interstate commerce. *See* United States v. Wang, 222 F.3d 234, 240 (6th Cir. 2000) (anticipating that the overwhelming majority of Hobbs Act cases will continue to involve victims which are businesses directly engaged in interstate commerce). When the victim of the robbery is a business entity engaged in or affecting interstate commerce, the defendant's activities need only have a *de minimis* impact, and this remains true even in the wake of United States v. Lopez, 514 U.S. 549 (1995). United States v. Smith, 182 F.3d 452, 456 (6th Cir. 1999). A substantive Hobbs Act violation requires an actual effect on interstate commerce. United States v. DiCarlantonio, 870 F.2d 1058, 1061 (6th Cir. 1989). The effect on commerce may be adverse or beneficial. United States v. Mills, 204 F.3d 669, 673 (6th Cir. 2000).

Paragraphs (2)(E)(1) through (2)(E)(3) offer jurisdictional provisions in brackets that may apply in particular cases.

Paragraph (2)(E)(1) provides detail on the "depletion of assets" theory of jurisdiction. It is based on United States v. Turner, 272 F.3d 380 (6th Cir. 2001); United States v. Carmichael, 232 F.3d 510 (6th Cir. 2000); United States v. Wang, 222 F.3d 234 (6th Cir. 2000); and United States v. DiCarlantonio, 870 F.2d 1058 (6th Cir. 1989). This paragraph assumes the defendant targeted a business entity. If the defendant's criminal act is directed not at a business entity but at an individual in a private home, the connection required between the individual and a business engaged in interstate commerce is "of a different order"; the connection must be substantial, not fortuitous or speculative. United States v. Wang, 222 F.3d 234, 238-40 (6th Cir. 2000) (finding no realistic probability that the aggregate of a robbery of citizens in a private residence where $1,200 of the approximately $4,200 taken belonged to a restaurant would substantially affect interstate commerce). *See also* United States v. Turner, 272 F.3d 380, 387-89 (6th Cir. 2001) (holding that government's proof of interstate commerce element was insufficient under any applicable theory because government did not show that the victim was a business engaged in or affecting interstate commerce, did not show a connection between individual victim and a business engaged in interstate commerce, and did not offer evidence explaining how robbing an individual of large sum would have affected interstate commerce). If the targeted victim is an individual person, the instruction should be modified to reflect the opinions in *Wang* and *Turner*, *supra*.

Paragraph (2)(E)(2) applies if the charge is attempt based on an undercover investigation. *See* United States v. DiCarlantonio, 870 F.2d 1058, 1060-1062 (6th Cir. 1989) (reversing substantive Hobbs Act conviction for insufficient effect on commerce where bribe money was provided by the government but noting that no barrier exists for attempt charges); United States v. Peete, 919 F.2d 1168, 1175 (6th Cir. 1990) (citing *DiCarlantonio* and reiterating possibility of attempt liability based on undercover investigation using government funds).

Paragraph (2)(E)(3), providing that an actual effect on commerce is not required, applies in attempt and conspiracy cases. *See* United States v. Turner, 272 F.3d 380, 384 (6th Cir. 2001) ("When a conspiracy is charged under the Hobbs Act, the government need only prove that the scheme would have affected interstate commerce had it been carried out.") (*citing* United States v. DiCarlantonio, 870 F.2d 1058, 1061 (6th Cir. 1989)); United States v. Peete, 919 F.2d 1168, 1174 (6th Cir. 1990) ("There is no requirement [for an attempt charge] that there be an actual effect on interstate commerce – only a *realistic probability* that an extortion will have an effect on interstate commerce.").

Paragraph (3) lists some but not all items the government is not required to prove. These provisions are bracketed as options and should be used only if relevant.

Paragraph (3)(A) states that the government need not prove that the bribery agreement was "explicit or stated in express terms." The authority for "express" is *Householder* at 471 (the agreement "can be formal or informal, written or unwritten, and express or implied," *citing* United States v. Terry, 707 F.3d 607, 613 (6th Cir. 2013) and *Evans*, 504 U.S. at 274, 112 S. Ct. 1881 (Kennedy, J., concurring in part and concurring in the judgment)). Authority that the agreement need not be "explicit" includes McDonnell v. United States, 136 S. Ct. 2355, 2371 (2016) ("The agreement need not be explicit. . . .") As noted above, if the prosecution involves campaign contributions, the government must prove that the payments were made in return for an "explicit quid pro quo." If campaign contributions are involved, the court should review the applicability of paragraph (3)(A).

Paragraph (3)(B), stating that the government need not prove that the public official ultimately performed the official act, is based on McDonnell v. United States, 136 S. Ct. 2355, 2370-71 (2016) ("[A] public official is not required to actually make a decision or take an action . . .; it is enough that the official agree to do so.") and Evans v. United States, 504 U.S. 255, 268 (stating that fulfillment of the quid pro quo is not an element of bribery under Hobbs Act).

Paragraph (3)(C), stating that the government need not prove which payments controlled particular official acts, was approved in United States v. Hills, 27 F.4th 1155, 1190 (6th Cir. 2022) based on the presence of limiting language in subparagraph (2)(D)(1)(b) defining "official act." This part of *Hills* is discussed above in the commentary in connection with the definition of official act. *See also* United States v. Terry, 707 F.3d 607, 612, 614 (6th Cir. 2013) (*in part quoting* United States v. Abbey, 560 F.3d 513, 518 (6th Cir. 2009)).

Paragraph (3)(D), stating that the government need not prove the defendant had a single purpose, is based on United States v. Brewster, 408 U.S. 501, 527 ("Inquiry into the

[defendant's] legislative performance itself is not necessary; evidence of the [defendant's] knowledge of the alleged briber's illicit reasons for paying the money is sufficient to carry the case to the jury.").

Paragraph (3)(E), stating that the government need not prove that the defendant had actual power, is based on United States v. Bibby, 752 F.2d 1116, 1127 (6th Cir. 1985) and United States v. Harding, 563 F.2d 299, 306-307 (6th Cir. 1977).

The instruction assumes that the prosecution involves a substantive Hobbs Act violation, i.e., that the defendant public official actually obtained property in exchange for an official act. The Hobbs Act also criminalizes attempts and conspiracies to commit extortion. *See* § 1951(a); McDonnell v. United States, 136 S. Ct. 2355, 2365, 2370-71 (2016) (stating that bribery requires defendant to commit *or agree to commit* an official act in exchange for property) (emphasis added); United States v. Kelley, 461 F.3d 817, 826 (6th Cir. 2006) (affirming conviction based on agreement to commit extortion); United States v. Hamilton, 263 F.3d 645, 653-654 (6th Cir. 2001) (affirming conviction for attempted extortion); United States v. Carmichael, 232 F.3d 510, 519 (6th Cir. 2000) (stating that evidence of attempt to obtain money under color of official right was sufficient); United States v. Peete, 919 F.2d 1168, 1175 (6th Cir. 1990) (stating that attempted violation of Hobbs Act was complete when defendant solicited payment from victim). *See also* United States v. Brewster, 408 U.S. 501, 527 (1972) (construing 18 U.S.C. § 201):

> Although the indictment alleges that the bribe was given for an act that was actually performed, it is, once again, unnecessary to inquire into the act or its motivation. To sustain a conviction it is necessary to show that appellee solicited, received, or agreed to receive, money with knowledge that the donor was paying him compensation for an official act.

If the charge is based on attempt, an instruction may be compiled by combining this instruction with the instructions in Chapter 5 Attempts. *See, e.g.*, United States v. Inman, 39 F.4th 357, 361 (6th Cir. 2022) (stating that for attempted extortion under color of official right, the jury would have to find that defendant intended to commit the underlying crime of extortion and that he did some overt act that was a substantial step towards committing the crime).

If the charge is based on conspiracy, an instruction may be compiled using the instructions in Chapter 3 Conspiracy with one caveat. Conspiracies to commit Hobbs Act offenses do not require an overt act. United States v. Hills, 27 F.4th 1155, 1190 (6th Cir. 2022), *quoting* United States v. Rogers, 769 F.3d 372, 382 (6th Cir. 2014). Thus if the charge is based on a Hobbs Act conspiracy, Instruction 3.01A Conspiracy to Commit an Offense–Basic Elements should be modified to omit paragraph (2)(C). All other references to overt acts should be deleted as well.

If the charge is based on conspiracy to extort under color of official right, the conspiratorial agreement need not be to obtain property from someone outside the conspiracy; rather, the defendant may be held liable based on an agreement to obtain money from one of the conspirators. Ocasio v. United States, 136 S. Ct. 1423, 1436 (2016).

17.03 Hobbs Act - Robbery (18 U.S.C. § 1951)

(1) Count ____ charges the defendant with robbery. For you to find the defendant guilty of this offense, you must find that the government has proved each and every one of the following elements beyond a reasonable doubt:

(A) First, that the defendant unlawfully took [personal property] [money] from someone [in the presence of another], against that person's will.

(B) Second, that the defendant did so by actual or threatened force, or violence, or fear of injury [immediately or in the future] to the [*insert one or more options from below as appropriate*]

(1) [person].
(2) [person's property].
(3) [property in the person's custody or possession].
(4) [person or property of a relative or member of the person's family].
(5) [person or property of anyone in his company at the time of the taking].

(C) Third, that the defendant did so knowingly.

(D) Fourth, that as a result, interstate commerce was affected in any way or degree.

(2) Now I will give you more detailed instructions on some of these terms.

(A) An act is done "knowingly" if it is done voluntarily, and not because of mistake or some other innocent reason.

(B) Conduct affects interstate commerce if it in any way interferes with or changes the movement of goods, merchandise, money, or other property in commerce between different states. Any effect at all on commerce is enough.

[(1) This includes obtaining money that belonged to a business [entity] which customarily purchased goods from outside the State of _____ , [or] [that engaged in business outside the State of _____] if defendant's conduct made that money unavailable to the business [entity] for the purchase of such goods [or] [the conducting of such business.]]

[(2) The defendant attempted to affect interstate commerce if 1) he obtained money that was provided by a law enforcement agency as part of an investigation, and 2) the money appeared to belong to [*identify business or entity*], and 3) the business or entity appeared to customarily purchase goods from outside the State of ____ , [or] [engaged in business outside the State of __].]

[(3) It is not necessary for you to find that there was an actual effect on interstate commerce.]

(3) If you are convinced that the government has proved all of these elements, say so by returning a guilty verdict on count ____. If you have a reasonable doubt about any one of these elements, then you must find the defendant not guilty of this charge.

Use Note

The Hobbs Act also criminalizes attempts and conspiracies to commit robbery. If the charge is based on attempt, an instruction may be compiled by combining this instruction with the instructions in Chapter 5 Attempts. If the charge is based on conspiracy, an instruction may be compiled using the instructions in Chapter 3 Conspiracy with one caveat on the overt act element described in the commentary below.

For paragraph (1)(D), the full statutory language on commerce is "obstructs, delays, or affects," but the instruction deletes the two words "obstructs, delays" as unnecessary subcategories of "affecting" commerce.

Brackets indicate options for the court; bracketed italics are notes to the court.

Committee Commentary

(current as of May 29, 2026)

Title 18 U.S.C. § 1951 provides:

> § 1951. Interference with commerce by threats or violence
>
> (a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do . . . shall be fined under this title or imprisoned not more than twenty years, or both.
>
> (b) As used in this section–
>
> > (1) The term "robbery" means the unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining.

In paragraph (1), the elements are based on the statute, 18 U.S.C. § 1951(a) and (b)(1). Case law defining the elements is limited. *See* Stirone v. United States, 361 U.S. 212, 218 (1960) ("Here, . . . there are two essential elements of a Hobbs Act crime: interference with commerce and extortion."); United States v. Turner, 272 F.3d 380, 384 (6th Cir. 2001) ("In order

to prevail under a Hobbs Act violation, the Government must prove two elements: 1) interference with interstate commerce, which is a jurisdictional issue; and, 2) the substantive criminal act, which in the instant case is [a conspiracy to commit] robbery.") (citations omitted); and United States v. Ostrander, 411 F.3d 684, 691 (6th Cir. 2005) (unpublished appendix) ("Thus, to prevail under the [Hobbs] Act, the Government must prove two elements: (1) interference with interstate commerce (2) in the course of a substantive criminal act.").

In paragraph (1)(A), the instruction states that the defendant "took" property from the victim. The statute provides that the defendant "took or obtained" the property. The Committee omitted the term "obtain" in the instruction as unnecessary, but it may be included if it is an issue.

In paragraph (1)(B), the instruction provides five options to identify the target of the force, violence, or fear of injury as follows:

(1) [person].
(2) [person's property].
(3) [property in the person's custody or possession].
(4) [person or property of a relative or member of the person's family].
(5) [person or property of anyone in his company at the time of the taking].

These options are a restatement of the statute.

In paragraphs (1)(A) and (1)(B), clarity may be enhanced by using the names of the defendant and victim in the case.

For the mens rea of robbery, the instruction uses the term "knowingly" in paragraph (1)(C). The statute does not include a mens rea, and no case law on the mens rea for robbery exists in the Supreme Court. In the Sixth Circuit, an unpublished opinion uses the term "specific intent." *See* United States v. Cobb, 397 Fed. Appx. 128, 137 (6th Cir. 2010) (unpublished) (referring to Hobbs Act violations as "specific intent" crimes in concluding the indictment was sufficient in a robbery prosecution). *But compare* United States v. Carmichael, 232 F.3d 510, 522 (6th Cir. 2000) (in extortion prosecution, rejecting the term "specific intent," holding that defendant need not intend to violate the law, and affirming a jury instruction requiring defendant to have mens rea of knowledge). The Committee adopted the mens rea of knowingly. *See also* Eighth Circuit Pattern Inst. 6.18.1951A Interference with Commerce by Means of Robbery and Eleventh Circuit Pattern Inst. 70.3 Interference with Commerce by Robbery (both adopting a mens rea of "knowingly").

Paragraph (1)(D) states the jurisdictional requirement that interstate commerce was affected in any way or degree. The language is drawn from the statute.

In paragraph (2)(A), the definition of knowingly ("An act is done knowingly if it is done voluntarily, and not because of mistake or some other innocent reason.") is based on United States v. Carmichael, 232 F.3d 510, 522 (6th Cir. 2000) and United States v. Honeycutt, 816 F.3d 362, 375 (6th Cir. 2016), reversed on other grounds, 137 S. Ct. 1626 (2017). In *Carmichael,* the Sixth Circuit held that for Hobbs Act extortion, the government need not prove

that the defendant intended to violate the law, and then endorsed an instruction using the mens rea of knowingly. Generally, the term "knowingly" requires knowledge of the acts that constituted the offense but not knowledge that those acts were illegal. *See, e.g.,* United States v. Honeycutt, 816 F.3d 362, 375 (6th Cir. 2016), reversed on other grounds, 137 S. Ct. 1626 (2017), stating:

> As the Supreme Court has stated, "unless the text of the statute dictates a different result, the term 'knowingly' merely requires proof of knowledge of the acts that constitute the offense." Dixon v. United States, 548 U.S. 1, 5 (2006). "Knowingly" does not require knowledge that the facts underlying the criminal violation were unlawful. See id. (contrasting "knowingly" with "willfully," the latter of which "requires a defendant to have 'acted with knowledge that his conduct was unlawful'" (quoting Bryan v. United States, 524 U.S. 184, 193 (1998))).

Another definition of knowingly may be found in Arthur Andersen v. United States, 125 S. Ct. 2129, 2135-36 (2005) ("'[K]nowledge' and 'knowingly' are normally associated with awareness, understanding, or consciousness.") (citations omitted) (construing term "knowingly" in 18 U.S.C. § 1512).

Paragraph (2)(B) includes definitions on the jurisdiction element. The statute provides:

> Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery . . . or attempts or conspires so to do . . . shall be fined under this title or imprisoned . . . .

18 U.S.C. § 1951(a). The statute then defines "commerce" as:

> commerce within the District of Columbia, or any Territory or Possession of the United States; all commerce between any point in a State, Territory, Possession, or the District of Columbia and any point outside thereof; all commerce between points within the same State through any place outside such State; and all other commerce over which the United States has jurisdiction.

18 U.S.C. § 1951(b)(3).

Paragraph (2)(B) provides a basic definition of affecting commerce applicable in most cases. This basic definition presumes that the interstate commerce element is based on the defendant targeting a business that is engaged in or affects interstate commerce. *See* United States v. Wang, 222 F.3d 234, 240 (6th Cir. 2000) (anticipating that the overwhelming majority of Hobbs Act cases will continue to involve victims which are businesses directly engaged in interstate commerce). When the victim of the robbery is a business entity engaged in or affecting interstate commerce, the defendant's activities need only have a *de minimis* impact, and this remains true even in the wake of United States v. Lopez, 514 U.S. 549 (1995). United States v. Smith, 182 F.3d 452, 456 (6th Cir. 1999). The Supreme Court has characterized the Hobbs Act language defining the required effect on commerce as "unmistakably broad." Taylor v.

United States, 136 S. Ct. 2074, 2079 (2016) (*citing* United States v. Culbert, 435 U.S. 371, 373 (1978) and Stirone v. United States, 361 U.S. 212, 215 (1960)). A substantive Hobbs Act violation requires an actual effect on interstate commerce. United States v. DiCarlantonio, 870 F.2d 1058, 1061 (6th Cir. 1989). The effect on commerce may be adverse or beneficial. United States v. Mills, 204 F.3d 669, 673 (6th Cir. 2000).

Paragraphs (2)(B)(1) through (2)(B)(3) offer jurisdictional provisions in brackets that may apply in particular cases.

Paragraph (2)(B)(1) provides detail on the "depletion of assets" theory of jurisdiction. It is based on United States v. Turner, 272 F.3d 380 (6th Cir. 2001); United States v. Carmichael, 232 F.3d 510 (6th Cir. 2000); United States v. Wang, 222 F.3d 234 (6th Cir. 2000); and United States v. DiCarlantonio, 870 F.2d 1058 (6th Cir. 1989). This paragraph assumes the defendant targeted a business entity. If the defendant's criminal act is directed not at a business entity but at an individual in a private home, the connection required between the individual and a business engaged in interstate commerce is "of a different order"; the connection must be substantial, not fortuitous or speculative. United States v. Wang, 222 F.3d 234, 238-40 (6th Cir. 2000) (finding no realistic probability that the aggregate of a robbery of citizens in a private residence where $1,200 of the approximately $4,200 taken belonged to a restaurant would substantially affect interstate commerce). *See also* United States v. Turner, 272 F.3d 380, 387-89 (6th Cir. 2001) (holding that government's proof of interstate commerce element was insufficient under any applicable theory because government did not show that the victim was a business engaged in or affecting interstate commerce, did not show a connection between individual victim and a business engaged in interstate commerce, and did not offer evidence explaining how robbing an individual of large sum would have affected interstate commerce). If the targeted victim is an individual person, the instruction should be modified to reflect the opinions in *Wang* and *Turner*, *supra*. If the targeted victim is an individual drug dealer whom the defendant targeted for the purpose of robbing or attempting to rob drugs or drug proceeds, the commerce element is met, even for drugs produced within the state, because the market for illegal drugs is "commerce over which the United States has jurisdiction" as a matter of law. Taylor v. United States, 136 S. Ct. 2074, 2077-78 (2016) (commerce element is satisfied if defendant robbed or attempted to rob drug dealer of drugs or drug proceeds).

Paragraph (2)(B)(2) applies if the charge is attempt based on an undercover investigation. *See* United States v. DiCarlantonio, 870 F.2d 1058, 1060-1062 (6th Cir. 1989) (reversing substantive Hobbs Act conviction for insufficient effect on commerce where bribe money was provided by the government but noting that no barrier exists for attempt charges); United States v. Peete, 919 F.2d 1168, 1175 (6th Cir. 1990) (citing *DiCarlantonio* and reiterating possibility of attempt liability based on undercover investigation using government funds).

Paragraph (2)(B)(3), providing that an actual effect on commerce is not required, applies in attempt and conspiracy cases. *See* United States v. Turner, 272 F.3d 380, 384 (6th Cir. 2001) ("When a conspiracy is charged under the Hobbs Act, the government need only prove that the scheme would have affected interstate commerce had it been carried out.") (*citing* United States v. DiCarlantonio, 870 F.2d 1058, 1061 (6th Cir. 1989)); United States v. Peete, 919 F.2d 1168, 1174 (6th Cir. 1990) ("There is no requirement [for an attempt charge] that there be an actual

effect on interstate commerce – only a *realistic probability* that an extortion will have an effect on interstate commerce.").

Generally, case law on Hobbs Act robbery is minimal. The definition of "robbery" in the statute is quoted above. No case law in the Supreme Court or Sixth Circuit discusses this definition. In the definition of robbery, the statute requires "personal property." The term "personal property" is not defined in the statute, and no case law in the Supreme Court or Sixth Circuit elaborates on the definition of personal property for robbery under § 1951(b)(1). *Cf.* Scheidler v. National Organization of Women, 123 S. Ct. 1057 (2003) and Sekhar v. United States, 133 S. Ct. 2720 (2013) (both discussing the definition of "property" under § 1951(b)(2) for the offense of extortion).

The Hobbs Act also criminalizes attempts and conspiracies to commit robbery. *See* § 1951(a). If the charge is based on attempt, an instruction may be compiled by combining this instruction with the instructions in Chapter 5 Attempts. If the charge is based on conspiracy, an instruction may be compiled using the instructions in Chapter 3 Conspiracy with one caveat. Conspiracies to commit Hobbs Act offenses do not require an overt act. United States v. Hills, 27 F.4th 1155, 1190 (6th Cir. 2022), *quoting* United States v. Rogers, 769 F.3d 372, 382 (6th Cir. 2014). Thus if the charge is based on a Hobbs Act conspiracy, Instruction 3.01A Conspiracy to Commit an Offense–Basic Elements should be modified to omit paragraph (2)(C). All other references to overt acts should be deleted as well.