

**CRIMINAL CONTEMPT
FIRST DEGREE
(E Felony)
(Violation of an Order of Protection;
Menacing or Threat)
PENAL LAW 215.51(b)(i)
(Committed on or after Sept. 1, 1996)**

The _____ count is Criminal Contempt in the First Degree.

Under our law, a person is guilty of Criminal Contempt in the First Degree when, in violation of a duly served order of protection, or such order of which the defendant has actual knowledge because he or she was present in court when such order was issued, he or she intentionally places or attempts to place a person for whose protection such order was issued in reasonable fear of physical injury, serious physical injury, or death by displaying a deadly weapon [or dangerous instrument] [or what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm] or by means of a threat or threats.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: "physical injury," "serious physical injury," "intentionally" and "deadly weapon" ["dangerous instrument"] ["displaying what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm"].

PHYSICAL INJURY means impairment of physical condition or substantial pain.¹

SERIOUS PHYSICAL INJURY means impairment of a person's physical condition which creates a substantial risk of death, or which causes death, or serious and protracted disfigurement, or protracted impairment of health or protracted

¹See Penal Law § 10.00(9).

loss or impairment of the function of any bodily organ.²

A defendant INTENTIONALLY places or attempts to place a person for whose protection an order was issued in reasonable fear of physical injury, serious physical injury, or death when that defendant's conscious objective or purpose is to do so.³

DEADLY WEAPON means any loaded weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged.

[or a switchblade knife defined as any knife having a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife.]

[or a gravity knife defined as any knife having a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force which, when released, is locked in place by means of a button, spring, lever or other device.]

[or a pilum ballistic knife defined as any knife having a blade which can be projected from the handle by hand pressure applied to a button, lever, spring or other device in the handle of the knife.]

[or a dagger]

[or a billy]

[or a blackjack]

[or metal knuckles]

[or a metal knuckles knife].

[DANGEROUS INSTRUMENT means any instrument, article or substance (including a vehicle) which, under the

²See Penal Law § 10.00(10).

³See Penal Law § 15.05(1)

circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or other serious physical injury. Under that definition, death or other serious physical injury need not, in fact, be caused.^{4]}

[The element that the person DISPLAYS WHAT APPEARS TO BE A PISTOL, REVOLVER, RIFLE, SHOTGUN, MACHINE GUN OR OTHER FIREARM does not require the People to prove that the object displayed was actually a firearm. What the People are required to prove is that the person consciously displayed, or manifested the presence of, something that could reasonably be perceived as a pistol, revolver, rifle, shotgun, machine gun or other firearm and that the person to whom the item was displayed or manifested perceived it as a pistol, revolver, rifle, shotgun, machine gun or other firearm.^{5]}

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, each of the following four elements:

1. That on or about (date), the (specify) court issued an order of protection that was duly served, or such order of which the defendant had actual knowledge because he/she was present in court when such order was issued;
2. That the order was issued for the protection of (specify);
3. That on or about (date) in the County of (county), the defendant, (defendant's name), in violation of that order, placed or attempted to place (specify) in reasonable fear of physical injury, serious physical

⁴See Penal Law § 10.00(13).

⁵See *People v. Lopez*, 73 NY2d 214 (1989); *People v. Baskerville*, 60 NY2d 374 (1983).

injury, or death by displaying a deadly weapon [*or dangerous instrument*] [*or what appeared to be a pistol, revolver, rifle, shotgun, machine gun or other firearm*] or by means of a threat or threats; and

4. That the defendant did so intentionally.

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of the crime of Criminal Contempt in the First Degree as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of Criminal Contempt in the First Degree as charged in the _____ count.