

**CRIMINAL CONTEMPT
FIRST DEGREE
(E Felony)
(Intentional Disobedience of
Order of Protection¹;
Previous Conviction)
PENAL LAW 215.51(c)
(Committed on or after Jan. 1, 1995)**

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 disobeys or resists such order² by violating that part of the order which requires the respondent or defendant to stay away from the person or persons on whose behalf the order was issued.³

¹This crime is applicable to an order of protection issued only pursuant to Domestic Relations Law §§ 240 and 252, Family Court Act articles 4, 5, 6, and 8, and CPL § 530.12 ("Protection for victims of family violence"). CPL § 530.12 is to be distinguished from CPL § 530.13, entitled "Protection of victims of crimes, other than family offenses."

²The statute provides that the defendant is guilty of this crime only if he or she committed Criminal Contempt in the Second Degree. The definition of that crime has been incorporated into the definition of this crime.

³An additional element of the crime is that the defendant:

"has been previously convicted of the crime of criminal contempt in the second degree by violating an order of protection as described herein within the preceding five years."

That element must be charged in a special information, and after commencement of trial the defendant must be arraigned on that special
(continued...)

The term "intentionally" used in this definition has its own special meaning in our law. I will now give you the meaning of that term.

A person INTENTIONALLY disobeys or resists an order of protection which requires the respondent or defendant to stay away from the person or persons on whose behalf the order was issued when that person's conscious objective or purpose is to do so.⁴

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), disobeyed or resisted that order by violating that part of the order which required him/her to stay away from (specify); and

³(...continued)

information. If, upon such arraignment, the defendant admits the element, the court must not make any reference to it in the definition of the offense or in listing the elements of the offense. But if the defendant denies the element or remains mute, the court must add the element to the definition of the offense and the list of elements. CPL § 200.60. See *People v. Cooper*, 78 NY2d 476 (1991).

⁴See Penal Law § 15.05(1).

4. That the defendant did so intentionally.⁵

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.

⁵If the defendant has admitted the previous conviction, the crime will consist of *only* the four elements listed above. If the defendant has denied the previous conviction or has remained mute, add as the fifth element:

“and 5. That the defendant has been convicted of the crime of criminal contempt in the second degree by violating an order of protection within the preceding five years.”