

**RIOT FIRST DEGREE  
(E Felony)  
PENAL LAW 240.06  
(Committed on or after Sept. 1, 1967)**

The \_\_\_\_\_ count is Riot in the First Degree.

Under our law, a person is guilty of Riot in the First Degree when, simultaneously with ten or more other persons, he or she engages in tumultuous and violent conduct and thereby intentionally or recklessly causes or creates a grave risk of causing public alarm, and in the course of and as a result of such conduct, a person other than one of the participants suffers physical injury, or substantial property damage occurs.

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: “intentionally,” [and] “recklessly” [and “physical injury”].

Intent means conscious objective or purpose. Thus, a person INTENTIONALLY causes or creates a grave risk of causing public alarm when his or her conscious objective or purpose is to do so.<sup>1</sup>

A person RECKLESSLY causes or creates a grave risk of causing public alarm when that person

engages in conduct which causes or creates a grave and unjustifiable risk of causing public alarm,

and when he or she is aware of and consciously disregards that risk,

and when that risk is of such nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe

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<sup>1</sup> See Penal Law 15.05(1)

in that situation.<sup>2</sup>

*[NOTE: Where there is evidence of voluntary intoxication on the part of the defendant, add:*

A person also acts recklessly when he or she creates such a risk but is unaware of that risk solely by reason of his or her voluntary intoxication.<sup>3</sup>]

[PHYSICAL INJURY means impairment of physical condition or substantial pain.]

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 three elements:

1. That on or about  (date) , in the county of  (county) , the defendant,  (defendant's name) , simultaneously with ten or more other persons, engaged in tumultuous and violent conduct;
2. That the defendant thereby intentionally or recklessly caused or created a grave risk of causing public alarm; and
3. That in the course of and as a result of such conduct, a person other than one of the participants suffered physical injury, or substantial property damage occurred.

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 Riot 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

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<sup>2</sup> See Penal Law 15.05(3); *People v. Boutin*, 75 NY2d 692, 696 (1990).

<sup>3</sup> See Penal Law 15.05(3).

elements, you must find the defendant not guilty of the crime of Riot in the First Degree as charged in the \_\_\_\_\_ count.