

**HARASSMENT
FIRST DEGREE
(B Misdemeanor)
(Harassment; Stalking;
Course of Conduct; Repeated Acts)
PENAL LAW 240.25
(Committed on or after May 24, 1994)**

The _____ count is Harassment in the First Degree.

Under our law, a person is guilty of Harassment in the First Degree when he or she intentionally and repeatedly harasses another person by following such person in or about a public place or places, or by engaging in a course of conduct, or by repeatedly committing acts which places such person in reasonable fear of physical injury.¹

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of "public place," "physical injury," and "intentionally".

PUBLIC PLACE means a place to which the public or a substantial group of persons has access, and includes, but is not limited to, highways, transportation facilities, schools, places of amusement, parks, playgrounds, and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence.²

[NOTE: Add where appropriate:

TRANSPORTATION FACILITY means any conveyance, premises or place used for or in connection with public passenger

¹Penal Law § 240.25 adds that this section does "not apply to activities regulated by the national labor relations act [29 USCA § 151 et seq.], as amended, the railway labor act [45 USCA § 151 et seq.], as amended, or the federal employment labor management act [probably refers to the Federal Service Labor-Management Relations Act, 5 USCA § 7101 et seq.], as amended".

²See Penal Law § 240.00(1).

transportation, whether by air, railroad, motor vehicle or any other method. It includes aircraft, watercraft, railroad cars, buses, and air, boat, railroad and bus terminals and stations and all appurtenances thereto.^{3]}

PHYSICAL INJURY means impairment of physical condition or substantial pain.⁴

A person INTENTIONALLY harasses another person when his or her conscious objective or purpose is to do so.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 two elements:

1. That on or about (date), in the County of (county), the defendant, (defendant's name), repeatedly harassed (specify) by following him/her in or about a public place or places, or by engaging in a course of conduct, or by repeatedly committing acts which placed him/her in reasonable fear of physical injury; and
2. That the defendant did so intentionally.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Harassment 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 either or both of those elements, you must find the defendant not guilty of Harassment in

³See, Penal Law § 240.00(2).

⁴See Penal Law § 10.00(9).

⁵See Penal Law § 15.05(1).

the First Degree as charged in the _____ count.