

RESISTING ARREST
Penal Law § 205.30
(Committed on or after Sept. 1, 1980)¹

The (specify) count is Resisting Arrest.

Under our law, a person is guilty of Resisting Arrest when he or she intentionally prevents or attempts to prevent a police officer [or peace officer] from effecting an authorized arrest of himself or herself [or another person].

The following terms used in that definition have a special meaning: ²

Intent means conscious objective or purpose. Thus, a person INTENTIONALLY prevents or attempts to prevent a police officer [or peace officer] from effecting an authorized arrest of himself/herself [or another person] when his or her conscious objective or purpose is to do so.

An arrest is authorized when the police officer [or peace officer] making the arrest has reasonable cause to believe that the person being arrested has committed a crime. ³ Reasonable cause does not require proof that the crime was in fact committed.

Reasonable cause exists when information which appears reliable discloses facts or circumstances sufficient to convince a person of reasonable caution that it is more likely than not that an offense was or is being committed and that the person arrested

¹ In December 2023, the definition of “reasonable cause,” while correct, was revised to be identical with the same definition in Penal Law § 120.05(3) [assault of an officer performing a lawful duty] since both crimes may be charged to the jury in a given case.

² If necessary, a definition of police officer or peace officer is set forth in CPL 1.20(33) and (34).

³ This portion of the charge assumes an arrest for a crime only as authorized by the provisions of CPL 140.10(1)(b). If the arrest was authorized pursuant to some other subdivision of CPL 140.10 or other law, substitute the applicable provision of law.

committed it.⁴

Add if appropriate:

It is not necessary that a person the police are attempting to arrest be told that he or she is being arrested [or: is under arrest]. It is sufficient if the surrounding facts and circumstances make it known to that person that the police are attempting to arrest [or: have arrested] him or her.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, both of the following two elements:

1. That on or about (date), in the County of (County), the defendant, (defendant's name), prevented or attempted to prevent a police officer [or peace officer] from effecting an authorized arrest of himself/herself [or another person]; and
2. That the defendant did so intentionally.

⁴ See CPL 70.10(2) ["Reasonable cause to believe that a person has committed an offense" exists when evidence or information which appears reliable discloses facts or circumstances which are collectively of such weight and persuasiveness as to convince a person of ordinary intelligence, judgment and experience that it is reasonably likely that such offense was committed and that such person committed it]; *Brinegar v. United States*, 338 US 160 (1949); *People v Carrasquillo*, 54 NY2d 248, 254 [1981] ("In passing on whether there was probable cause for an arrest, we consistently have made it plain that the basis for such a belief must not only be reasonable, but it must appear to be at least more probable than not that a crime has taken place and that the one arrested is its perpetrator")

⁵ *People v Hymes*, 196 AD3d 1162, 1163 [4th Dept 2021] [to "support a conviction for resisting arrest, it is not necessary that the person be informed verbally that he [or she] is being arrested; it is sufficient that such knowledge be inferable from the facts and circumstances"]; *In re Davaun M.*, 44 AD3d 420, 420 [1st Dept 2007]; *People v Urena*, 199 AD2d 443, 444 [2d Dept 1993]; *People v Gray*, 189 AD2d 922, 923 [3d Dept 1993].

If you find the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of this crime.