

**TAMPERING WITH A WITNESS
FIRST DEGREE
(B Felony)
(Causing Serious Injury To Witness After Testimony)
PENAL LAW § 215.13(2)
(Committed on or after Sept. 1, 1982)**

The _____ count is Tampering with a Witness in the First Degree.

Under our law, a person is guilty of Tampering with a Witness in the First Degree when he or she intentionally causes serious physical injury to a person on account of such person or another person having testified in a criminal proceeding.

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: "criminal proceeding," "serious physical injury" and "intentionally."

CRIMINAL PROCEEDING means any proceeding which (a) constitutes a part of a criminal action or (b) occurs in a criminal court and is related to a prospective, pending or completed criminal action, either of this state or of any other jurisdiction, or involves a criminal investigation.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, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.²

Intent means conscious objective or purpose. Thus, a

¹See CPL 1.20(18). The term "criminal action," used in the definition of "criminal proceeding," is defined in CPL 1.20(16), and that definition in turn employs terms that also are defined in CPL 1.20. When in issue, these definitions should be provided.

²See Penal Law § 10.00(10).

person INTENTIONALLY causes serious physical injury to a person when that person's conscious objective or purpose is to do so.³

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 elements:

1. That on or about *(date)*, in the county of *(county)*, the defendant, *(defendant's name)*, intentionally caused serious physical injury to *(specify)*; and
2. That the defendant did so on account of such person or another person having testified in a criminal proceeding.

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 Tampering with a Witness 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 one or both of those elements, you must find the defendant not guilty of the crime of Tampering with a Witness in the First Degree as charged in the _____ count.

³See Penal Law § 15.05(1).