

**AGGRAVATED HARASSMENT
SECOND DEGREE
(A Misdemeanor)
(Electronic or Mail Communication)
PENAL LAW 240.30(1)
(Committed on or after Dec. 3, 2008)¹**

The _____ count is Aggravated Harassment in the Second Degree.

Under our law, a person is guilty of Aggravated Harassment in the Second Degree when, with intent to harass, annoy, threaten or alarm another person, he or she

Select appropriate alternative:

communicates with a person, anonymously or otherwise, by telephone, [by telegraph, or by mail, or by transmitting or delivering any other form of written communication²,] in a manner likely to cause annoyance or alarm; *or*

causes a communication to be initiated by mechanical or electronic means or otherwise with a person, anonymously or otherwise, by telephone, [by telegraph, or by mail or by transmitting or delivering any other form of written communication,] in a manner likely to cause annoyance or alarm.

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

¹ The statute was amended in 2008 to include the language "or by transmitting or delivering" (L. 2008, ch. 510, §1).

² If a "recording" is in issue, the jury should be further instructed that a "form of written communication" shall include, but not be limited to, a recording..." Penal Law § 240.30(5). The applicable definition of the term "recording" is set forth in Penal Law § 275.00 (6).

INTENT means conscious objective or purpose.³ Thus, a person acts with intent to harass, annoy, threaten or alarm another person when his or her conscious objective or purpose is to do so.

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),

Select appropriate alternative:

communicated with (specify), anonymously or otherwise, by telephone, [by telegraph, or by mail or by transmitting or delivering any other form of written communication,] in a manner likely to cause annoyance or alarm;

caused a communication to be initiated by mechanical or electronic means or otherwise with (specify), anonymously or otherwise, by telephone, [by telegraph, or by mail or by transmitting or delivering any other form of written communication,] in a manner likely to cause annoyance or alarm; and

2. That the defendant did so with intent to harass, annoy, threaten or alarm (specify).

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 Aggravated Harassment in the Second 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

³ Penal Law § 15.05 (1).

elements, you must find the defendant not guilty of Aggravated Harassment in the Second Degree as charged in the _____ count.