**AGGRAVATED HARASSMENT IN THE FIRST DEGREE**

**Penal Law § 240.31(4)**

**(Committed on or after June 7, 2006)**

The (*specify*) count is Aggravated Harassment in the First Degree.

Under our law, a person is guilty of Aggravated Harassment in the First Degree when, with intent to harass, annoy, threaten or alarm another person, because of a belief or perception regarding such person’s race, color, national origin, ancestry, gender, religion, religious practice, [age of sixty years old or more1], disability or sexual orientation, regardless of whether the belief or perception is correct, he or she sets on fire a cross in public view.

The following term(s) used in that definition (has/have) a special meaning:

INTENT means conscious objective or purpose.2 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.

[DISABILITY means a physical or mental impairment that substantially limits a major life activity.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, each of the following two elements:

1. That on or about (*date*), in the County of (*County)*, the

1*See* Penal Law § 240.00(5) which defines age to be sixty (60) years old or more. Accordingly, include material in brackets only in a case involving age.

2*See* Penal Law §15.05(1).
  
3*See* Penal Law §240.00(6).

defendant (*defendant’s name)* set on fire a cross in public view; and

2. That the defendant did so with the intent to harass,

annoy, threaten or alarm (*specify person)* because of a belief or perception regarding the (*specify appropriate attribute(s)*), of *(repeat name of above specified person),* regardless of whether the belief or perception was correct.

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

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

2