

**AGGRAVATED HARASSMENT
FIRST DEGREE
(E Felony)
PENAL LAW 240.31(4)
(Committed on or after June 7, 2006)**

The _____ 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 term(s), "intent" [and "disability"], used in this definition (has/have) (its/their) own special meaning in our law. I will now give you the meaning of (that/those) term(s):

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:

¹See 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.

²See Penal Law §15.05(1).

³See Penal Law §240.00(6).

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

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