

**AGGRAVATED HARASSMENT OF AN EMPLOYEE
BY AN INMATE
Penal Law § 240.32
(Committed on or after Nov. 1, 2000)¹**

The (*specify*) count is Aggravated Harassment of an Employee by an Inmate.

Under our law, an inmate [or respondent] is guilty of Aggravated Harassment of an Employee by an Inmate when, with intent to harass, annoy, threaten or alarm a person in a facility whom he or she knows or reasonably should know to be

Select appropriate alternative:

an employee of

such facility or
the board of parole or
the office of mental health, or
a probation department, bureau or unit

a police officer,

he or she causes or attempts to cause such employee [or police officer] to come into contact with blood, seminal fluid, urine, feces, or the contents of a toilet bowl, by throwing, tossing or expelling such fluid or material.

¹ There have been two amendments since November 1, 2000. The first, effective March 31, 2011, simply made the statutory language gender-neutral and changed “division of parole” to “board of parole.” L 2011, ch 62. The second amendment, effective November 1, 2013 added the words “or the contents of a toilet bowl” to the definition of the crime. L 2013, ch 180. For crimes committed prior to November 1, 2013, omit that phrase.

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

INTENT means conscious objective or purpose. Thus, a person acts with intent to harass, annoy, threaten or alarm a person when his or her conscious objective or purpose is to do so.²

INMATE means an inmate or detainee in a correctional facility, local correctional facility or a hospital.³

[RESPONDENT means a juvenile in a secure facility operated and maintained by the office of children and family services who is placed with or committed to the office of children and family services.⁴]

FACILITY means a correctional facility or local correctional facility, hospital⁵ or a secure facility operated and maintained by the office of children and family services.⁶

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case, beyond a reasonable doubt, each of the following four elements:

1. That on or about (date), in the county of (County), the defendant, (defendant's name), was an inmate [or respondent];

² Penal Law § 15.05 (1).

³ At this point the statute continues: “as such term is defined in subdivision two of section four hundred of the correction law.” Penal Law § 240.32.

⁴ Penal Law § 240.32.

⁵ At this point the statute continues: “as such term is defined in subdivision two of section four hundred of the correction law.” Penal Law § 240.32.

⁶ Penal Law § 240.32.

2. That on that date, (specify) was

Select appropriate alternative:

an employee of

a facility or
the board of parole or
the office of mental health, or
a probation department, bureau or unit

a police officer; and

the defendant knew or reasonably should have known that
(specify) was such an employee [or police officer];

3. That on that date, the defendant caused or attempted to
cause (specify) to come into contact with blood, seminal
fluid, urine, feces, or the contents of a toilet bowl, by
throwing, tossing or expelling such fluid or material; and

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

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.