

PROMPT OUTCRY

The following charge should be included among the factors to consider on the credibility of a witness's testimony:

You may consider whether (specify name of complainant) complained of the crime promptly or within a reasonable period of time after its alleged commission.¹

If you find that the complaint was made promptly or within a reasonable time, you may consider whether and to what extent, if any, that fact tends to support the believability of the witness's testimony.²

If you find that the complaint was unreasonably delayed, you may consider whether and to what extent, if any, that fact tends not to support the believability of the witness's testimony.³

[Add the following if there is a factual issue on the promptness of the complaint:

In determining whether a complaint was made within a reasonable period of time, you may consider such circumstances as:

the complainant's age, past experiences, and mental state;

whether or not the complainant feared for his/her own safety or the safety of others;

whether or not the complainant had an opportunity to make a complaint; and

any other circumstance that operated to prevent or delay disclosure within a reasonable period of time.⁴]

1. *People v McDaniel*, 81 NY2d 10 (1993); *People v Rice*, 75 NY2d 929 (1990); *Baccio v People*, 41 NY 265, 271 (1869).

2. *People v Williams*, 75 NY2d 858 (1990).

3. *People v Geddes*, 186 A.D.2d 993 (4th Dept 1992).

4. See *Baccio v People*, 41 NY at 271, *supra* (“But in a case, in which the fact of complaint is admissible, it is perhaps competent to explain the want of such early complaint, by facts which show that it was impracticable, or that it was prevented by circumstances consistent with the natural impulse to complain thereof....”).