

STALKING FOURTH DEGREE
(B Misdemeanor)
(Employment, business or career)
PENAL LAW 120.45(3)
(Committed on or after Dec. 1, 1999)
(Revised Dec. 6, 2003)¹

The _____ count is Stalking in the Fourth Degree.

Under our law, a person is guilty of Stalking in the Fourth Degree when he or she intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: "intentionally," and "no legitimate purpose".²

Intent means conscious objective or purpose. Thus, a person INTENTIONALLY engages in a course of conduct directed at a specific person when his or her conscious objective or purpose is

¹ This charge was revised to reflect the decision in *People v. Stuart*, 100 NY2d 412 (2003).

² There is no statutory definition of the term "course of conduct." Some courts have proffered a definition. See *People v. Payton*, 161 Misc.2d 170 (Crim. Ct., Kings County, 1994); *People v. Murray*, 167 Misc.2d 857 (Crim. Ct., N.Y. County, 1995); *People v. Monroe*, 183 Misc.2d 374 (Crim. Ct., N.Y. County, 2000). See *People v. Stuart*, 100 NY2d 412 (2003) for an example of facts constituting "course of conduct." As to "reasonable fear," the Court in *Stuart* wrote: "The fear must be reasonable and not idiosyncratic; the harm (or likely harm) must be material."

to do so.³

NO LEGITIMATE PURPOSE means there is no reason or justification to engage in a course of conduct directed at a person, other than to hound, frighten, intimidate or threaten the person.⁴

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 five elements:

1. That on or about [and between] (*date [s]*), in the county of (*county*) the defendant (*defendant's name*) engaged in a course of conduct directed at (*specify individual*);
2. That the defendant did so intentionally and for no legitimate purpose;
3. That the conduct consisted of appearing, telephoning or initiating communication or contact at (*specify*)'s place of employment or business;
4. That the defendant knew or reasonably should have known that such conduct was likely to cause (*specify*) to reasonably fear that his/her employment, business or career was threatened; and
5. That the defendant was previously clearly informed to cease such conduct.

Therefore, if you find that the People have proven beyond a reasonable doubt each of these elements, you must find the defendant guilty of the crime of Stalking in the Fourth Degree as charged in the _____ count.

³ See Penal Law §15.05(1).

⁴ *People v Stuart, supra.*

On the other hand, if you find that the People have not proven beyond a reasonable doubt any one or more of these elements, you must find the defendant not guilty of the crime of Stalking in the Fourth Degree as charged in the _____ count.