

FORCIBLE TOUCHING
(A Misdemeanor)
PENAL LAW 130.52
(Committed on or after Nov. 1, 2003)
(Revised December 2013 and June 2014)¹

The _____ count is Forcible Touching.

Under our law, a person is guilty of Forcible Touching when he or she intentionally, and for no legitimate purpose, forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person or for the purpose of gratifying the actor's sexual desire.

Under our law, it is also an element of this offense that the sexual act was committed without consent.² Forcible touching takes place without a person's consent when it results from any circumstances in which a person does not expressly or impliedly acquiesce to the actor's conduct.³

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: "forcibly touching," and "intentionally."

Forcibly touching another includes squeezing, grabbing, pinching, rubbing, or other bodily contact involving the application of some level of pressure to the victim's sexual or intimate parts.⁴

¹ The 2013 revision was for the purpose of adding an explanation of "lack of consent." In addition, element number three was added.

The 2014 revision was for the purpose of including the definition of "forcibly touching" set forth in *People v Guaman*, 22 N.Y.3d 678 (2014).

² Penal Law § 130.05 (1).

³ Penal Law § 130.05 (2) (c). Lack of consent can also result from forcible compulsion or incapacity to consent (see Penal Law § 130.05 [2]). For definition of forcible compulsion, see Penal Law § 130.00 (8). For definition of incapacity to consent, see Penal Law § 130.05 (3).

⁴ Penal Law § 130.52 and *People v Guaman*, 22 N.Y.3d 678 (2014).

Intent means conscious objective or purpose. Thus, a person INTENTIONALLY forcibly touches the sexual or other intimate parts of another person when that person's conscious objective or purpose is to do so.⁵

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, each of the following three elements:

1. That on or about (*date*), in the county of (*County*), the defendant (*defendant's name*), forcibly touched the sexual or other intimate parts of (*complainant's name*) for the purpose of degrading or abusing him/her, or for the purpose of gratifying the defendant's sexual desire;
2. That the defendant did so intentionally and for no legitimate purpose; and
3. That the defendant did so without the consent of (*complainant's name*) in that he/she did not expressly or impliedly acquiesce to the defendant's conduct.

Therefore, if you find that the People have proven beyond a reasonable doubt, each of those elements, you must find the defendant guilty of the crime of Forcible Touching as charged in the _____ count.

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

⁵ Penal Law § 15.05 (1).