

MAKING GRAFFITI
Penal Law § 145.60
(Committed on or after Nov. 1, 1992)

The (*specify*) count is Making Graffiti.

Under our law, a person is guilty of Making Graffiti when that person makes graffiti of any type on any building, public or private, or any other property, real or personal, owned by any person, firm or corporation or any public agency or instrumentality, without the express permission of the owner or operator of that property.

The following term used in that definition has a special meaning:

GRAFFITI means the etching, painting, covering, drawing upon or otherwise placing of a mark upon public or private property with the intent to damage such property.¹ Intent means a conscious objective or purpose.² Thus, a person intends to damage property when that person's conscious objective or purpose is to damage that property.

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 three elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), made graffiti, that is, etched, painted, covered, drew upon or otherwise placed a mark upon a building [or property] owned by another person [or firm] [or corporation] [or any public agency or instrumentality];

¹See Penal Law § 145.60(1).

²See Penal Law § 15.05(1).

2. That the defendant did so with the intent to damage that building [*or property*]; and
3. That the defendant did not have the express permission of the owner [*or operator*] of the building [*or property*] to do so.

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.