

**TAMPERING WITH PUBLIC RECORDS
IN THE FIRST DEGREE
(Tamperers With Intent to Defraud)
Penal Law § 175.25
(Committed on or after Sept. 1, 1967)**

The (*specify*) count is Tampering with Public Records in the First Degree.

Under our law, a person is guilty of Tampering with Public Records in the First Degree when, knowing that he or she does not have the authority of anyone entitled to grant it, and with intent to defraud, he or she knowingly removes, mutilates, destroys, conceals, makes a false entry in or falsely alters any record or other written instrument filed with, deposited in, or otherwise constituting a record of a public office or public servant.

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

INTENT means conscious objective or purpose. Thus a person acts with intent defraud, when that person's conscious objective or purpose is to do so.¹

A person KNOWINGLY removes, mutilates, destroys, conceals, makes a false entry in or falsely alters any record or other written instrument when that person is aware that he or she is doing so.²

[WRITTEN INSTRUMENT means any instrument or article, including computer data or a computer program, containing written or printed matter or the equivalent thereof, used for the purpose of reciting, embodying, conveying or recording information, or constituting a symbol or evidence of value, right,

¹ See Penal Law § 15.05(1). An “expanded” definition of “intent” is available in the General Charges section under Culpable Mental States.

² See Penal Law § 15.05(2). An “expanded” definition of “knowingly” is available in the General Charges section under Culpable Mental States.

privilege or identification, which is capable of being used to the advantage or disadvantage of some person.^{3]}

[PUBLIC SERVANT means any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state, (or any person exercising the functions of any such public officer or employee. The term public servant includes a person who has been elected or designated to become a public servant.))⁴

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), removed, mutilates, destroyed, concealed, made a false entry in or falsely altered any record or other written instrument filed with, deposited in, or otherwise constituting a record of a public office or public servant;
2. That the defendant did so knowingly and knowing that he/she did not have the authority of anyone entitled to grant it; and
3. That the defendant did so with intent to defraud.

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

³ Penal Law § 175.00(3).

⁴ Penal Law § 10.00(15).

defendant not guilty of this crime.