

**TAMPERING WITH A WITNESS
FOURTH DEGREE
(A Misdemeanor)
(Influencing Testimony)
PENAL LAW § 215.10(b)
(Committed on or after Sept. 1, 1967)**

The _____ count is Tampering with a Witness in the Fourth Degree .

Under our law, a person is guilty of Tampering with a Witness in the Fourth Degree when, knowing that a person is or is about to be called as a witness in an action or proceeding, he or she knowingly makes any false statement or practices any fraud or deceit with intent to affect the testimony of such person.

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: “knowingly” and “intent.”

A person KNOWINGLY makes a false statement or practices a fraud or deceit when that person is aware that he or she is doing so.

INTENT means conscious objective or purpose. Thus, a person acts with intent to affect the testimony of another person when his or her conscious objective or purpose is to do so.

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 three elements:

1. That on or about (date), (specify) was, or was about to be called as, a witness in an action or proceeding;
2. That on or about that date, in the county of (county), the defendant, (defendant's name), knowingly made a false statement or practiced a fraud or deceit with

intent to affect the testimony of (specify); and

3. That the defendant did so knowing that (specify) was or was about to be called as a witness in an action or proceeding.

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 Tampering with a Witness in the Fourth Degree 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 Tampering with a Witness in the Fourth Degree as charged in the _____ count.