

CRIMINAL CONTEMPT IN THE FIRST DEGREE
(Violation of Order of Protection;
Instilling Fear by Electronic Means¹)
Penal Law § 215.51(b)(iii)
(Committed on or after Sept. 1, 1996)

The (specify) count is Criminal Contempt in the First Degree.

Under our law, a person is guilty of Criminal Contempt in the First Degree when, in violation of a duly served order of protection, or such order of protection of which the defendant has actual knowledge because he or she was present in court when such order was issued, he or she intentionally places or attempts to place a person for whose protection such order was issued in reasonable fear of physical injury, serious physical injury or death by communicating or causing a communication to be initiated with such person by mechanical or electronic means or otherwise, anonymously or otherwise, by telephone [or by telegraph] [or by mail] [or by any form of written communication].

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

PHYSICAL INJURY means impairment of physical condition or substantial pain.²

SERIOUS PHYSICAL INJURY means impairment of a person's physical condition which creates a substantial risk of death, or which causes death, or serious and protracted disfigurement, or protracted impairment of health or protracted loss or impairment of the function of any bodily organ.³

¹See Penal Law § 240.30(1)

²Penal Law § 10.00(9); See *People v. Chiddick*, 8 NY3d 445 (2007).

³Penal Law § 10.00(10).

A defendant INTENTIONALLY places or attempts to place a person for whose protection an order was issued in reasonable fear of physical injury, serious physical injury or death when that defendant's conscious objective or purpose is to do so.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 four elements:

1. That on or about (date), the (specify) court issued an order of protection that was duly served, or such order of which the defendant had actual knowledge because he/she was present in court when such order was issued;
2. That the order was issued for the protection of (specify);
3. That on or about (date), in the County of (county), the defendant, (defendant's name), in violation of that order, placed or attempted to place (specify) in reasonable fear of physical injury, serious physical injury, or death by communicating or causing a communication to be initiated with (specify) by mechanical or electronic means or otherwise, anonymously or otherwise, by telephone [or by telegraph] [or by mail] [or by any form of written communication]; and
4. That the defendant did so intentionally.

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

⁴See Penal Law § 15.05(1).

doubt any one or more of those elements, you must find the defendant not guilty of this crime.