

CRIMINAL CONTEMPT IN THE FIRST DEGREE
(Violation of Order of Protection; Physical Contact ¹)
Penal Law § 215.51 (b) (v)
(Committed on or after Sept. 1, 1996)
(Revised June, 2013)²

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 which the defendant has actual knowledge because he or she was present in court when such order was issued³, he or she, with intent to harass, annoy, threaten or alarm a person for whose protection such order was issued, strikes, shoves, kicks or otherwise subjects such other person to physical contact or attempts or threatens to do the same.

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

INTENT means conscious objective or purpose.⁴ Thus, a defendant acts with intent to harass, annoy, threaten or alarm a person for whose protection such order was issued when that

¹ See Penal Law § 240.26 (1).

² Elements three and four were revised to be elements three, four, and five, as set forth in the current instruction. Prior to the revision, elements three and four read as follows: 3. That on or about (*date*), in the County of (*County*), the defendant, (*defendant's name*), in violation of that order, harassed, annoyed, threatened or alarmed (*specify*), by striking, shoving, kicking, or otherwise subjecting him/her to physical contact or attempting or threatening to do the same; and 4. That the defendant did so intentionally.

³ At this point, the statute, by the Laws of 1998, chapter 597, contains the language “or an order of protection issued by a court of competent jurisdiction in this or another state, territorial or tribal jurisdiction.” If applicable, insert in definition and elements.

⁴ See Penal Law § 15.05 (1).

defendant's 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 of the evidence in the case, beyond a reasonable doubt, each of the following five 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), struck, shoved, kicked or otherwise subjected (specify) to physical contact [or attempted or threatened to do the same];
4. That the defendant did so with intent to harass, annoy, threaten or alarm (specify); and
5. That the defendant did so in violation of the order of protection.

If you find the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of this crime.