**AGGRAVATED HARASSMENT OF AN EMPLOYEE

BY AN INMATE

Penal Law § 240.32

(Committed on or after Nov. 1, 2000)**1

The (*specify*) count is Aggravated Harassment of an Employee by an Inmate.

Under our law, an inmate [or respondent] is guilty of Aggravated Harassment of an Employee by an Inmate when, with intent to harass, annoy, threaten or alarm a person in a facility whom he or she knows or reasonably should know to be

*Select appropriate alternative:*an employee of

such facility or

the board of parole or

the office of mental health, or

a probation department, bureau or unit

a police officer,

he or she causes or attempts to cause such employee [or police officer] to come into contact with blood, seminal fluid, urine, feces, or the contents of a toilet bowl, by throwing, tossing or expelling such fluid or material.

1 There have been two amendments since November 1, 2000. The first, effective March 31, 2011, simply made the statutory language gender-neutral and changed “division of parole” to “board of parole.” L 2011, ch 62. The second amendment, effective November 1, 2013 added the words “or the contents of a toilet bowl” to the definition of the crime. L 2013, ch 180. For crimes committed prior to November 1, 2013, omit that phrase.

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

INTENT means conscious objective or purpose. Thus, a person acts with intent to harass, annoy, threaten or alarm a person when his or her conscious objective or purpose is to do so.2

INMATE means an inmate or detainee in a correctional facility, local correctional facility or a hospital.3

[RESPONDENT means a juvenile in a secure facility operated and maintained by the office of children and family services who is placed with or committed to the office of children and family services.4]

FACILITY means a correctional facility or local correctional facility, hospital5 or a secure facility operated and maintained by the office of children and family services.6

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 four elements:

1. That on or about (*date*) , in the county of (*County*) ,

the defendant, (*defendant's name*), was an inmate [or respondent];

2 Penal Law § 15.05 (1).

3 At this point the statute continues: “,as such term is defined in subdivision two of section four hundred of the correction law.” Penal Law § 240.32.

4 Penal Law § 240.32.

5 At this point the statute continues: “,as such term is defined in subdivision two of section four hundred of the correction law.” Penal Law § 240.32.

6 Penal Law § 240.32.

1. That on that date, (*specify*) was

*Select appropriate alternative:*

an employee of

a facility or

the board of parole or

the office of mental health, or

a probation department, bureau or unit

a police officer; and

the defendant knew or reasonably should have known that *(specify)* was such an employee [or police officer];

1. That on that date, the defendant caused or attempted to cause (*specify*) to come into contact with blood, seminal fluid, urine, feces, or the contents of a toilet bowl, by throwing, tossing or expelling such fluid or material; and
2. That the defendant did so with intent to harass, annoy, threaten or alarm (*specify*) in the facility.

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.