

## ASSAULT AND OTHER RELATED OFFENSES

Submitted and Reviewed 6/20/97  
Approved 10/97

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### **RSA 631:4, I (a) Criminal Threatening (Placing or attempting to place another in fear....)**

The defendant is charged with criminal threatening. The definition of the crime of criminal threatening has {two, three} parts or elements. The State must prove each element beyond a reasonable doubt. In this case the State must prove that:

1. By physical conduct, the defendant placed or attempted to place another person in fear of {imminent bodily injury, physical contact};
2. The defendant acted purposely;  
[For felony charge, add the following:]
3. The defendant used a deadly weapon.

These are the elements of the crime of criminal threatening.

Certain words in the definition need to be defined.

Bodily injury means [to be supplied later by the committee; see RSA 625:11, VI]

Purposely means [to be supplied later by the committee; see RSA 626:2, II (a)].

Deadly weapon means [insert statutory definition, RSA 625:11, V.

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RSA 631:4, I(b) Criminal Threatening (Placing an object or graffiti on the property of another)

The defendant is charged with criminal threatening. The definition of the crime of criminal threatening has {two, three} parts or elements. The State must prove each element beyond a reasonable doubt. In this case the State must prove that:

1. The defendant placed on object or graffiti on the property of another;<sup>1</sup>

2. The defendant acted with a purpose to coerce or terrorize another;

[For felony charge, add the following:]

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3. The defendant used a deadly weapon.

These are the elements of the crime of criminal threatening. Certain words in the definition need to be defined.

To act with a purpose means [to be supplied by the committee; see RSA 626:2, I(a)].

Deadly weapon means [insert statutory definition, RSA 625:11, V.

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<sup>1</sup> For definitions, see RSA 637, I and IV.

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RSA 631:4, I (c) Criminal Threatening (crime against property)

The defendant is charged with criminal threatening. The definition of the crime of criminal threatening has { two, three } parts of elements. The state must prove each element beyond a reasonable doubt. In this case the State must prove that:

1. The defendant threatened to commit a crime against the property of another;<sup>1</sup>
2. The defendant acted with a purpose to coerce or terrorize another;  
[For felony charge, add the following:]
3. The defendant used a deadly weapon.

These are the elements of the crime of criminal threatening. Certain words in the definition need to be defined.

To act with a purpose means [to be supplied later by the committee; see RSA 626:2, II (a)].

Deadly weapon means [insert statutory definition, RSA 625:11, V.

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RSA 631:4, I (d) Criminal Threatening (Crime against another)

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<sup>1</sup> Specify the conduct alleged in the charging document as appropriate.

The defendant is charged with criminal threatening. The definition of the crime of criminal threatening has {two, three} parts or elements. The State must prove each element beyond a reasonable doubt. In this case the State must prove that:

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1. The defendant threatened to commit a crime against the person of another;<sup>1</sup>
  2. The defendant acted with a purpose to coerce or terrorize another;  
[For felony charge, add the following:]
  3. The defendant used a deadly weapon.

These are the elements of the crime of criminal threatening. Certain words in the definition need to be defined.

To act with a purpose means [to be supplied later by the committee; see RSA 626:2, II (a)].

Deadly weapon means [insert statutory definition, RSA 625:11, V.

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#### RSA 631:4,I (e) Criminal Threatening (Crime of violence)

The defendant is charged with criminal threatening. The definition of the crime of criminal threatening has [two, three] parts or elements. The State must prove each element beyond a reasonable doubt. In this case the State must prove that:

1. The defendant threatened to commit a crime of violence;<sup>1</sup>
2. The defendant acted:
  - o with a purpose to cause the evacuation of a building,

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<sup>1</sup> Specify the conduct alleged in the charging document as appropriate.

<sup>1</sup> Specify the conduct alleged in the charging document as appropriate.

place of assembly, facility or public transportation, or otherwise to cause serious public inconvenience;

[or]

- o in reckless disregard of causing the evacuation of a building, place of assembly, facility or public transportation, or otherwise to cause serious public inconvenience.

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[For felony charge, add the following:]

3. The defendant used a deadly weapon.

These are the elements of the crime of criminal threatening. Certain words in the definition need to be defined.

To act with a purpose means [to be supplied later by the committee; see RSA 626:2, II (a)].

Deadly weapon means [insert statutory definition, RSA 625:11, V.

Submitted by Gary Apfel

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**R.S.A. 631:4, II (a) (2)**

**CRIMINAL THREATENING**

**(Use of Deadly Weapon)**

Underlying Offense – 631:4, I(a)<sup>1</sup>

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<sup>1</sup> The Comments to 1969 Report distinguish the type of criminal threatening described in R.S.A. 631:4,I(a) as follows:

The defendant<sup>2</sup> is charged with criminal threatening. The definition of the crime of criminal threatening has four parts or elements. The State must prove each element beyond a reasonable doubt. In this case the State must prove that

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1. The defendant engaged in physical conduct and
2. By means of this conduct, the defendant either placed or attempted to place another person<sup>3</sup> in fear of imminent bodily injury or physical contact and
3. The defendant used a deadly weapon and
4. The defendant acted purposely.

These are the elements of the crime of criminal threatening. Certain words in the definition need to be defined.

“Deadly weapon” means any firearm, knife, or other substance or thing which, in the manner it is used, intended to be used, or threatened to be used,

is known to be capable of producing death or serious bodily injury.<sup>4</sup>

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[T]his section [i.e., R.S.A. 631:4, I(a)] describes the fear producing conduct which would be considered an assault at common law. It is included here because it is more closely related to the other forms of criminal threatening than it is to an assault in that all of the conduct in this section is characterized by an absence of intent to cause any immediate actual harm.

<sup>2</sup>Specify name of person referred to throughout this instruction as appropriate.

<sup>3</sup>Specify name(s) of person(s) referred to throughout this instruction as appropriate.

<sup>4</sup>R.S.A. 625:11, V. See also State v. Hatt, 144 N.H. 246 (1999) (unloaded weapon constitutes “deadly weapon” when objectively understood to be capable of causing death or serious bodily injury).

To act “purposely” means....[refer to “purposely” jury instruction].<sup>5</sup>

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Underlying Offense – 631:4, I(b)

The defendant<sup>6</sup> is charged with criminal threatening. The definition of the crime of criminal threatening has three parts or elements. The State must prove each element beyond a reasonable doubt. In this case the State must prove that:

1. The defendant placed an object or graffiti on the property of another.
2. The defendant used a deadly weapon.
3. The defendant acted with a purpose to coerce or terrorize any person.<sup>7</sup>

These are the elements of the crime of criminal threatening. Certain words in the definition need to be defined.

“Property” means anything of value.<sup>8</sup>

“Property of another” includes property in which any person other than the actor has an interest upon which the actor is not privileged to infringe, even if the actor also has an interest in the property or the other person might be precluded from regaining possession of the property in a civil lawsuit because the property was used in an unlawful transaction or was subject to forfeiture as contraband. If the actor has actual possession and the other person possesses only a security

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<sup>5</sup>R.S.A. 626:2,II(a).

<sup>6</sup>Specify name of person referred to throughout this instruction as appropriate.

<sup>7</sup>Specify name(s) of person(s) referred to throughout this instruction as appropriate.

<sup>8</sup>R.S.A. 637:4,III; R.S.A. 637:2, I. R.S.A. 637:2, I gives specific examples of things of value for purposes of this definition.

interest in the property, it is not “property of another,” even if the other person is a creditor who possesses legal title pursuant to a conditional sales contract or other security agreement.<sup>9</sup>

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“Deadly weapon” means any firearm, knife, or other substance or thing which, in the manner it is used, intended to be used, or threatened to be used, is known to be capable of producing death or serious bodily injury.<sup>10</sup>

To act “purposely” means . . . [refer to “purposely” jury instruction].<sup>11</sup>

**Underlying Offense – 631:4, I (c)**

The defendant<sup>12</sup> is charged with criminal threatening. The definition of the crime of criminal threatening has three parts or elements. The State must prove each element beyond a reasonable doubt. In this case the State must prove that:

1. The defendant threatened to commit any crime<sup>13</sup> against the property of another.
2. The defendant used a deadly weapon.
3. The defendant acted with a purpose to coerce or terrorize any person.<sup>14</sup>

These are the elements of the crime of criminal threatening. Certain words in the definition need to be defined.

“Property” means anything of value.<sup>15</sup>

“Property of another” includes property in which any person other than the actor has an interest upon which the actor is not privileged to infringe, even if the actor also has an interest in the property or the other person might be precluded from regaining possession of the property in a civil lawsuit because the property was used in an unlawful transaction or was subject to forfeiture as contraband. If the actor has actual possession and the other person possess only a security interest in the property, it is not “property of another,” even if the other person is a creditor who possesses legal title pursuant to a conditional sales contract or other security agreement.<sup>16</sup>

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<sup>9</sup>R.S.A. 631:4, III; 637:2, IV.

<sup>10</sup>R.S.A. 625:11, V. See also State v Hatt, 144 N.H.246 (1999) (unloaded weapon constitutes “deadly weapon” when objectively understood to be capable of causing death or serious bodily injury).

<sup>11</sup>R.S.A. 626:2, II (a).

<sup>12</sup>Specify name of person referred to throughout this instruction as appropriate.

<sup>13</sup>Specify crime or crimes alleged in charging document.

<sup>14</sup>Specify name(s) of person(s) referred to throughout this instruction as appropriate.

<sup>15</sup>R.S.A. 637:4, III; R.S.A. 637:2, I. R.S.A. 637:2, I gives specific examples of things of value for purposes of this definition.

<sup>16</sup>R.S.A. 631:4, III; 637:2, IV.

“Deadly weapon” means any firearm, knife, or other substance or thing which, in the manner it is used, intended to be used, or threatened to be used, is known to be capable of producing death or serious bodily injury.<sup>17</sup>

To act “purposely” means . . . [refer to “purposely” jury instruction].<sup>18</sup>

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**Underlying Offense – 631:4 I (d)**

The defendant<sup>19</sup> is charged with criminal threatening. The definition of the crime of criminal threatening has three parts or elements. The State must prove each element beyond a reasonable doubt. In this case the State must prove that:

1. The defendant threatened to commit any crime<sup>20</sup> against the person of another.<sup>21</sup>
2. The defendant used a deadly weapon.
3. The defendant acted with a purpose to coerce or terrorize any person.<sup>22</sup>

These are the elements of the crime of criminal threatening. Certain words in the definition need to be defined.

“Deadly weapon” means any firearm, knife, or other substance or thing which, in the manner it is used, intended to be used, or threatened to be used, is known to be capable of producing death or serious bodily injury.<sup>23</sup>

To act “purposely” means . . . [refer to “purposely” jury instruction].<sup>24</sup>

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<sup>17</sup>R.S.A. 625:11, V. See also State v Hatt, 144 N.H. 246 (1999) (unloaded weapon constitutes “deadly weapon” when objectively understood to be capable of causing death or serious bodily injury).

<sup>18</sup>R.S.A. 626:2, II (a).

<sup>19</sup>Specify name of person referred to throughout this instruction as appropriate.

<sup>20</sup>Specify crime or crimes alleged in charging document.

<sup>21</sup>Specify name(s) of person(s) referred to throughout this instruction as appropriate.

<sup>22</sup>Specify name(s) of person(s) referred to throughout this instruction as appropriate.

<sup>23</sup>R.S.A. 625:1, V. See also State v. Hatt, 144 N.H. 246 (1999) (unloaded weapon constitutes “deadly weapon” when objectively understood to be capable of causing death or serious bodily injury).

<sup>24</sup>R.S.A. 626, II (a).