

## CHAPTER 9-1

### PUBLIC PEACE AND ORDER: STALKING

- 9-1:01 STALKING (CREDIBLE THREAT)
- 9-1:02 STALKING (CAUSE SERIOUS EMOTIONAL DISTRESS)
- 9-1:03 INTERROGATORY (HARASSMENT - STALKING)

The instructions in this chapter are designed to cover the offenses in § 18-9-111, C.R.S.

#### 9-1:01 STALKING (CREDIBLE THREAT)

The elements of stalking are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly made a credible threat to (insert name of person), and
4. directly, or indirectly through another person,
5. and, in connection with such threat
6. repeatedly followed, approached, contacted, placed under surveillance, or made any form of communication with
7. [(insert name of person)[a member of (insert name of person)'s immediate family][someone with whom (insert name of person) has or has had a continuing relationship]
8. [Without the affirmative defense in instruction number\_\_\_\_\_]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of stalking.

After considering all the evidence, if you decide the prosecution has not proven each of the elements beyond a reasonable doubt, you should find the defendant not guilty of stalking.

#### NOTES ON USE

The following definitions should be provided with this instruction: "in connection with" "credible threat," "immediate family," "knowingly" and "repeated/repeatedly".

#### SOURCE & AUTHORITY

§18-9-111, C.R.S.

*People v. Suazo*, 87 P.3d 124 (Colo. App. 2003)(knowingly applies to every element of harassment by stalking - to the credible threat and the conduct in connection with the threat).

#### CLASSIFICATION OF OFFENSE

F5

#### 9-1:02 STALKING (CAUSE SERIOUS EMOTIONAL DISTRESS)

The elements of stalking are:

1. That the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. knowingly,
4. directly, or indirectly through another person,

5. repeatedly, followed, approached, contacted, placed under surveillance or made any form of communication with

6. [(insert name of person)] [a member of insert name of person)'s immediate family][someone with whom (insert name of person) has or has had a continuing relationship]

7. in a manner that would cause a reasonable person to suffer serious emotional distress, and

8. did cause [(insert name of person)][a member of (insert name of person)'s immediate family][someone with whom (insert name of person) has or has had a continuing relationship]

9. to suffer serious emotional distress

10. [without the affirmative defense in instruction number\_\_\_\_\_]

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of stalking.

After considering all the evidence, if you decide the prosecution has not proven each of the elements beyond a reasonable doubt, you should find the defendant not guilty of stalking.

#### **NOTES ON USE**

See §18-9-111(4)(b)(III): "For purposes of this subparagraph (III), a victim need not show that he or she received professional treatment or counseling to show that he or she suffered serious emotional distress."

*People v. Cross*, 127 P.3d 71 (Colo. 2006) (defendant need not be aware that his conduct was practically certain to cause emotional distress)

The following definitions should be provided with this instruction "knowingly", "immediate family" and "repeated/repeatedly".

**SOURCE & AUTHORITY**

§18-9-111, C.R.S.

**CLASSIFICATION OF OFFENSE**

F5,

F4, if second or subsequent offense in 7 years or court order prohibiting contact.

**9-1:03 INTERROGATORY (HARASSMENT - STALKING)**

If you find the defendant not guilty of Harassment - Stalking, then you should disregard this instruction and fill out the verdict form reflecting your not guilty verdict. If, however, you find the defendant guilty of Harassment - Stalking, you should fill out the verdict form reflecting your guilty verdict, and then answer following question:

When the defendant committed Harassment - Stalking,

a. was there in effect a temporary or permanent restraining order, injunction, condition of bond, parole, or probation, or any other court order prohibiting

\_\_\_\_\_, (Yes or No)  
(Insert behavior prohibited by the court order listed in 18-9-111(4)(b))

- and -

b. did the defendant know the order described above was in effect? (Yes or No)

After considering all the evidence, if you decide the prosecution has proven both of these elements beyond a reasonable doubt, you should indicate "Yes" on the verdict form that has been provided. This finding must be unanimous.

After considering all the evidence, if you do not unanimously find the prosecution has proven [this element] [any one or more of these elements] beyond a reasonable doubt, you should indicate "No" on the verdict form that has been provided.

**NOTES ON USE**

This instruction should be given if the defendant is charged with the crime of Harassment - Stalking and it also alleged that a court order prohibited the behavior listed in §18-9-111(4)(b), C.R.S.

**SOURCE & AUTHORITY**

§18-9-111(5)(b) C.R.S.