**AGGRAVATED CRIMINAL CONTEMPT**

**(Previous Conviction of**

**Criminal Contempt First Degree)**

**Penal Law § 215.52(3)**

**(Committed on or after Nov. 1, 2006)**

 ***Note*:** Aggravated Criminal Contempt is defined as follows:

“A person is guilty of aggravated criminal contempt when:

he or she commits the crime of criminal contempt in the first degree, as defined in paragraph (i), (ii), (iii), (v) or (vi) of subdivision (b) or subdivision (c) of section 215.51 of this article,

and has been previously convicted of the crime of criminal contempt in the first degree, as defined in such subdivision (b), (c) or (d) of section 215.51 of this article, within the preceding five years.

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 With respect to the element, “previously convicted of the crime of criminal contempt in the first degree,” the defendant must be arraigned upon a special information alleging same in accordance with the procedure set forth in CPL 200.60(3). *See People v. Cooper,* 78 NY2d 476 (1991).

 If, upon such arraignment, the defendant admits the allegations of the special information, the court should: [1] give the instruction for the crime of “criminal contempt in the first degree,” [2] wherever the name of the crime appears, change the name to “aggravated criminal contempt,” and [3] not make any reference to the previous conviction in the definition of “aggravated criminal contempt” or in listing its elements.

 If the defendant denies the allegations of the special information or remains mute, the court should [1] give the instruction for the crime of “criminal contempt in the first degree,” [2] wherever the name of the crime appears, change the name to “aggravated criminal contempt,” and [3] add to the definition of the crime:

and has been previously convicted of the crime of criminal contempt in the first degree within the preceding five years.

and add as well to the list of elements to be proved:

and (*specify element #)*. That the defendant has been previously convicted of the crime of criminal contempt in the first degree, within the preceding five years.