

**ROBBERY
FIRST DEGREE
(B felony)
(Dangerous Instrument)
PENAL LAW 160.15(3)
(Committed on or after Sept. 1, 1967)
(Revised January 5, 2009)¹**

[NOTE: Before instructing a jury on any specific robbery charge, read once the introductory Robbery charge found at the beginning of this chapter.]

The ___ count is Robbery in the First Degree.

Under our law, a person is guilty of Robbery in the First Degree when that person forcibly steals property and when, in the course of the commission of the crime [*or of immediate flight therefrom*], that person [*or another participant in the crime*] uses or threatens the immediate use of a dangerous instrument.

DANGEROUS INSTRUMENT means any instrument, article or substance (including a vehicle) which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or other serious physical injury,² that is, serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.³ Under that definition, death or other serious physical injury need not in fact be caused.

In order for you to find the defendant guilty of this crime, the

¹The purpose of the revision was to include in the elements of the crime, as required by *People v. Ford*, 2008 NY Slip Op 09856 (December 17, 2008), that the defendant “possessed” the dangerous instrument.

²See Penal Law §10.00(13).

³See Penal Law §10.00(10).

People are required to prove, from all the evidence in the case beyond a reasonable doubt, both of the following two elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), forcibly stole property from (specify); and
2. That in the course of the commission of the crime [*or* of immediate flight therefrom], the defendant [*or* another participant in the crime] possessed a dangerous instrument and used or threatened the immediate use of that dangerous instrument.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Robbery in the First Degree as charged in the ___ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Robbery in the First Degree as charged in the ___ count.