

**CRIMINALLY NEGLIGENT HOMICIDE**  
**(E Felony)**  
**PENAL LAW 125.10**  
**(Committed on or after Sept. 1, 1967)**  
**(Revised May 5, 2009)<sup>1</sup>**

The \_\_\_\_\_ count is Criminally Negligent Homicide.

Under our law, a person is guilty of Criminally Negligent Homicide when, with criminal negligence, that person causes the death of another person.

The term "criminal negligence" used in this definition has its own special meaning in our law. I will now give you the meaning of that term:<sup>2</sup>

A person acts with CRIMINAL NEGLIGENCE with respect to a death when

that person engages in blameworthy conduct so serious that it creates or contributes to a substantial and unjustifiable risk that another person's death will occur,

and when he or she fails to perceive that risk,

and when the risk is of such nature and degree that failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.<sup>3</sup>

You may notice from that definition that CRIMINAL

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<sup>1</sup> This charge was revised to incorporate language defining criminal negligence from *People v. Cabrera*, 10 N.Y.3d 370 (2008).

<sup>2</sup> If "causation," "death," or "person" is in issue, see Additional Charges at the end of this article.

<sup>3</sup> See Penal Law § 15.05(4); *People v. Boutin*, 75 N.Y.2d 692 (1990).

NEGLIGENCE is not the same type of negligence you may be familiar with from a civil lawsuit seeking a money judgment. The carelessness required for criminal negligence is significantly more serious; it must be such that its seriousness would be apparent to anyone who shares the community's general sense of right and wrong.<sup>4</sup>

In order for you to find the defendant guilty of this crime, the 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), caused the death of (specify); and
2. That the defendant did so with criminal negligence.

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 Criminally Negligent Homicide 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 Criminally Negligent Homicide as charged in the \_\_\_\_\_ count.

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<sup>4</sup> See *People v. Cabrera*, 10 N.Y.3d 370 (2008).