

**AGGRAVATED MANSLAUGHTER
FIRST DEGREE
(B Felony)
(Intent to Cause Serious Physical Injury)
PENAL LAW 125.22(1)
(Committed on or after Dec. 21, 2005)**

The _____ count is Aggravated Manslaughter in the First Degree.

Under our law, a person is guilty of Aggravated Manslaughter in the First Degree when, with intent to cause serious physical injury to a police officer [*or* peace officer], where such officer was in the course of performing his or her official duties, and the defendant knew or reasonably should have known that such victim was a police officer [*or* peace officer], he or she causes the death of such officer [*or* another police officer] [*or* another peace officer].

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms:¹ “serious physical injury,” “intent,” “reasonably should have known,” and “official duties.”

SERIOUS PHYSICAL INJURY means impairment of a person's physical condition which creates a substantial risk of death or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.²

INTENT means conscious objective or purpose.³ Thus, a person acts with intent to cause serious physical injury to another

¹ If causation, “death,” or “person” is in issue, see Additional Charges at the end of this article. Additionally, if the status of the deceased as a police or peace officer is at issue, refer to the definitions of “police officer” set forth in CPL § 1.20(34) and of “peace officer” set forth in CPL § 2.10.

² See, Penal Law § 10.00(10).

³ See, Penal Law § 15.05(1).

when that person's conscious objective or purpose is to cause serious physical injury to another.

[NOTE: In a case of “transferred intent,” add the following paragraph:

Under our law, it is not required that the police officer [or peace officer] who dies be the same police officer [or peace officer] who was intended to be injured.]

A person REASONABLY SHOULD HAVE KNOWN that the intended victim was a police officer [or peace officer] if, in the same circumstances, a reasonable person in the same position and possessing the same knowledge, would have known that such intended victim was a police officer [or peace officer].⁴

A police officer [or peace officer] is in the course of performing his or her OFFICIAL DUTIES when he or she is acting pursuant to his or her occupation as a police officer [or peace officer], rather than as a private citizen.

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, each of the following four elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), caused the death of (specify), who was a police officer [or peace officer];
2. That the defendant did so with the intent to cause serious physical injury to (intended victim);
3. That, at the time of the killing, (intended victim) was a police officer [or peace officer] in the course of performing his/her official duties; and

⁴ Cf., *People v. Goetz*, 68 NY2d 96 (1986).

4. That, at the time of the killing, the defendant knew or reasonably should have known that (specify intended victim) was a police officer [or peace officer].

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of the crime of Aggravated Manslaughter 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 any one or more of those elements, you must find the defendant not guilty of the crime of Aggravated Manslaughter in the First Degree as charged in the _____ count.