

MURDER FIRST DEGREE
(Capital)
(Intentional Murder of Judge)
PENAL LAW 125.27(1)(a)(xii)
(Committed on or after Sept. 1, 1995)

The _____ count is Murder in the First Degree.

Under our law, a defendant is guilty of Murder in the First Degree when, with intent to cause the death of another person, the defendant causes the death of such person, and when the intended victim was a judge and the defendant killed such victim because such victim was, at the time of the killing, a judge, and the defendant was more than eighteen (18) years old at the time of the commission of the crime.

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: "intent" and "judge."

INTENT means conscious objective or purpose. Thus, a person intends to cause the death of another person when his or her conscious objective or purpose is to cause the death of that person.¹

The term JUDGE means any judicial officer who is a member of or constitutes a court [whether referred to in another provision of law as a justice or by any other title].²

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 five elements:

¹ See Penal Law § 15.05(1). For an expanded charge on intent, see General Charges, Culpable Mental States, Intent.

² CPL § 1.20(23).

1. That on or about (date), in the county of (county), the defendant, (defendant's name), caused the death of (specify);
2. That the defendant did so with the intent to cause the death of (specify);
3. That, at the time of the killing, (specify) was a judge;
4. That the defendant killed (specify) because he/she was, at the time of the killing, a judge; and
5. That the defendant was more than eighteen (18) years old at the time of the commission of the crime.

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 Murder 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 Murder in the First Degree as charged in the _____ count.

[NOTE: If either of the affirmative defenses -- Extreme Emotional Disturbance (§ 125.27(2)(a)) or Aiding a Suicide (§ 125.27(2)(b)) -- applies, omit the final two paragraphs of the above charge, and substitute one of the charges at the end of this article.]