

**ASSAULT ON PEACE OFFICER,  
POLICE OFFICER, FIREMAN OR  
EMERGENCY MEDICAL SERVICES PROFESSIONAL  
PENAL LAW 120.08  
(Committed on or after November 1, 1996)**

The (*specify*) count is Assault on Peace Officer, [Police Officer], [Fireman] [*or* Emergency Medical Services Professional].

Under our law, a person is guilty of Assault on a Peace Officer, [Police Officer], [Fireman] [*or* Emergency Medical Services Professional] when, with the intent to prevent a peace officer

[*or* police officer]

[*or* fireman (including a fireman acting as a paramedic or emergency medical technician administering first aid in the course of performance of duty as such fireman)]

[*or* emergency medical service paramedic]

[*or* emergency medical service technician]

from performing a lawful duty, he or she causes serious physical injury to such peace officer [*or* police officer] [*or* fireman] [*or* paramedic] [*or* technician].

The following terms used in that definition have a special meaning: <sup>1</sup>

INTENT means conscious objective or purpose. Thus, a

---

<sup>1</sup> Definitions of the terms “police officer” and “peace officer” are not provided. If that status is in issue, a definition of “police officer” is set forth in CPL § 1.20(34); a definition of “peace officer” is set forth in CPL § 2.10.

The term “lawful duty” is not defined in the Penal Law. If in issue, the term will need to be defined within the context of the facts presented. See *People v. McDonald*, 737 N.Y.S.2d 446 (4<sup>th</sup> Dept 2002); *People v. Milhouse*, 246 A.D.2d 119 (1<sup>st</sup> Dept 1998); *People v. Greene*, 221 A.D.2d 559 (2d Dept 1995).

person acts with intent to prevent a peace officer

[or police officer]

[or fireman (including a fireman acting as a paramedic or emergency medical technician administering first aid in the course of performance of duty as such fireman)]

[or emergency medical service paramedic]

[or emergency medical service technician]

from performing a lawful duty when that person's conscious objective or purpose is to prevent such peace officer [or police officer] [or fireman] [or paramedic] [or technician] from performing a lawful duty.<sup>2</sup>

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, or protracted impairment of health or protracted loss or impairment of the function of any bodily organ.<sup>3</sup>

Under this law, the required intent is an intent to prevent a (*specify title*) from performing a lawful duty. The law does not also require an intent to cause serious physical injury. Thus, if you find that the defendant had the intent to prevent (*specify title*) from performing a lawful duty and that he/she caused him/her serious physical injury, then it does not matter that the serious physical injury was caused unintentionally or accidentally, or that it resulted from the victim's fear or fright.

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 three elements:

---

<sup>2</sup> See, Penal Law § 15.05(1).

<sup>3</sup> See, Penal Law § 10.00(10).

1. That on or about (date), in the county of (county), the defendant, (defendant's name), acted with the intent to prevent a

[NOTE: Select appropriate alternative:

peace officer

or police officer

or fireman (including a fireman acting as a paramedic or emergency medical technician administering first aid in the course of performance of duty as such fireman)

or emergency medical service paramedic

or emergency medical service technician]

from performing a lawful duty;

2. That (specify) was a peace officer [or police officer] [or fireman] [or paramedic] [or technician]; and
3. That the defendant caused serious physical injury to (specify).

If you find the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of this crime.