**MURDER IN THE FIRST DEGREE
(Intentional Murder While Confined
Pursuant to Life Sentence)
Penal Law § 125.27(1)(a)(iv)
(Committed on or after Sept. 1, 1995)**

The (*specify*) 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 [*or* of a third person] and, at the time of the commission of the killing, the defendant was confined in a state correctional institution [*or* was otherwise in custody] upon a sentence

[*NOTE: Select appropriate alternative:*for the term of his or her natural life,

*or* commuted to one of natural life,

*or* for an indeterminate term the minimum of which was at least fifteen (15) years and the maximum of which was natural life,]

and the defendant was more than eighteen (18) years old at the time of the commission of the crime.

The following term used in that definition has a special meaning:

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

[*NOTE: In a case of "transferred intent," add the following*

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

*paragraph:*

Under our law, it is not required that the person who dies be

the same person whose death was intended.]

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)*  ;
2. That the defendant did so with the intent to cause the death of  *(specify)*  ;
3. That, at the time of the commission of the killing, the defendant was confined in a state correctional institution [*or* was otherwise in custody] upon a sentence

*[NOTE: Select appropriate provision:*

for the term of his/her natural life;

*or* commuted to one of natural life;

*or* for an indeterminate term the minimum of which was at least fifteen (15) years and the maximum of which was natural life;] and

1. That the defendant was more than eighteen (18) years old at the time of the commission of the crime.

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.

*[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.]*