

MURDER FIRST DEGREE
(Capital)
("Contract Killing;" Procurer)
PENAL LAW 125.27(1)(a)(vi)
(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 [*or* of a third person]¹, and the defendant procured commission of the killing pursuant to an agreement with a person other than the intended victim to commit such killing for the receipt [*or* in the expectation of the receipt] of anything of pecuniary value from a party to the agreement [*or* from a person other than the intended victim, acting at the direction of a party to such agreement], 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," "procure," and "pecuniary."

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.²

To PROCURE means to cause a thing to be done; to bring about, obtain, or effect a result; or to induce, prevail upon, or cause

¹If transferred intent applies and is in issue, see the definition of transferred intent in the Additional Charges at the end of this article.

²See Penal Law § 15.05(1). For an expanded charge on intent, see General Charges, Culpable Mental States, Intent.

a person to do something.³

PECUNIARY means consisting of money or that which can be valued in money.⁴

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 by procuring the commission of the killing pursuant to an agreement with a person other than (intended victim) to commit such killing for [or in the expectation of] the receipt of something of pecuniary value from

[Select appropriate alternative:

a party to the agreement

or a person other than (intended victim), acting at the direction of a party to such agreement];

3. That the defendant did so with the intent to cause the death of (intended victim); and
4. 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

³See Black's Law Dictionary [6th Ed.]. *Cf.*, *People v. Keyes*, 75 NY2d 343 (1990).

⁴ See Black's Law Dictionary.

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.]