

SEXUALLY MOTIVATED FELONY
(Felony)¹
PENAL LAW 130.91(1)
(Committed on or after April 14, 2007)

The _____ count is Sexually Motivated Felony.

Under our law, a person is guilty of Sexually Motivated Felony when he or she commits (name specified offense²) for the purpose³, in whole or substantial part, of his or her own direct sexual gratification.

Under our law, a person commits the offense of (name specified offense) when:

[Here, cross-reference to the applicable definition in a previously explained count, or now read statutory definition of applicable offense and any defined terms and applicable charges as set forth in CJI2d for that offense.]

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in this case, beyond a reasonable doubt, both of the following two elements:

1. That on or about (date), in the county of (county), the defendant, (name of defendant), committed the crime of (specified offense); and
2. That the defendant did so for the purpose, in whole or

¹The class of the felony depends on the underlying “specified offense” and the class of this felony is the same as the class of the “specified offense” Penal Law 190.92(2).

²Insert the applicable crime set forth in Penal Law § 130.91(2).

³ Although there is no statutory definition of “for the purpose of,” the Court of Appeals has held that, with respect to Robbery as defined in Penal Law §160.00, “for the purpose of” is the equivalent of a mens rea element of intent. See, *People v. Smith*, 79 N.Y.2d 309 (1992).

substantial part, of his/her own direct sexual gratification.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of Sexually Motivated Felony as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Sexually Motivated Felony as charged in the _____ count.