

**ROBBERY IN THE FIRST DEGREE
(Deadly Weapon)
Penal Law § 160.15(2)
(Committed on or after Sept. 1, 1967)
(Revised May 2018)¹**

[NOTE: Before instructing a jury on any specific robbery charge, read once the introductory Robbery charge found at the beginning of this chapter.]

The (specify) count is Robbery in the First Degree.

Under our law, a person is guilty of Robbery in the First Degree when that person forcibly steals property and when, in the course of the commission of the crime [*or of immediate flight therefrom*], that person or another participant in the crime is armed with a deadly weapon.

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

DEADLY WEAPON means:

Select appropriate alternative:

any loaded weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged.

a switchblade knife defined as any knife having a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife.

¹ The 2018 revision was for the purpose of including definitions of weapons set forth in decisional law (see footnote 2) and including two weapons added by the Legislature. November 1, 1995, was the effective date of an amendment to the definition of "deadly weapon" to add a "metal knuckle knife." L. 1995, ch. 219. November 1, 2008, was the effective date of an amendment to that definition to add "plastic knuckles." L. 2008, ch. 257. As to each of those weapons, this charge applies on or after those effective dates.

a pilum ballistic knife defined as any knife having a blade which can be projected from the handle by hand pressure applied to a button, lever, spring or other device in the handle of the knife.

a metal knuckle knife, defined as a weapon that, when closed, cannot function as a set of plastic knuckles or metal knuckles, nor as a knife and when open, can function as both a set of plastic knuckles or metal knuckles as well as a knife.

metal knuckles, defined as a metal object with multiple holes, through which individual places his or her fingers so that a metal bar rests atop the individual's knuckles.

a billy, defined as a cylindrical or rounded, rigid, club or baton with a handle grip which, from its appearance and inherent characteristics, is designed to be used as a striking weapon and not for other lawful purposes.

a dagger

a blackjack

plastic knuckles.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, both of the following two elements:

1. That on or about (date), in the county of (county), the

² Penal Law § 10.00(12) defines "deadly weapon." See Penal Law § 265.00 for the definitions of "switchblade knife," "gravity knife," "pilum ballistic knife" and "metal knuckle knife"; *People v. Aragon*, 28 N.Y.3d 125 (2016) (for the definition of "metal knuckles"); *People v. Ocasio*, 28 N.Y.3d 178 (2016) (for the definition of "billy").

There is no controlling statutory or decisional law definition of "plastic knuckles" albeit the legislative memorandum in support of adding that term equated it with "brass [metal] knuckles"; thus, for the definition of "plastic knuckles," a court may wish to consider using the definition of "metal knuckles," substituting "plastic object" for "metal object" and "plastic bar" for "metal bar."

defendant, (defendant's name), forcibly stole property;
and

2. That in the course of the commission of the crime [*or* of immediate flight therefrom], the defendant [*or* another participant in the crime] was armed with a deadly weapon.

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

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