

INTRODUCTORY CHARGE TO ROBBERY
PENAL LAW 160.00
(Revised April 2003 and June 2015)¹

[NOTE: The Introductory Charge to Robbery must be given once and prior to giving an instruction on one or more of the degrees of robbery.]

The (specify) count(s) [charges / charge] a degree of Robbery.

Under our law, Robbery is defined as forcible stealing. Thus, each degree of robbery, which I will define for you, will include "forcible stealing" as the first element of the crime.

The term "forcible stealing" has its own special meaning. I will give you the meaning of that term by first defining the term "stealing," which the law also calls "larceny," and then the term "forcible stealing."²

A person **STEALS** property and commits **LARCENY** when, with the intent to deprive another of property or to appropriate the property to himself or herself [or to a third person], such person wrongfully takes, obtains, or withholds property from the owner of

¹ The purpose of the 2003 revision was to conform the definition of larceny with the revision of that definition made at the same time in the charges defining larceny. See, e.g., CJI2d [NY] Penal Law § 155.25.

The purpose of the 2015 revision was to simplify the first two paragraphs of the charge and to incorporate the holding of *People v Smith*, 79 NY2d 309 (1992), explained in footnote four, in the definition of "forcibly steals."

² The following summary definition of larceny should be used unless the circumstances of the case suggest the need for, or a party requests, a complete explanation of one or more of the terms used in the definition of larceny. In that event, you must use the standard charge on larceny or the appropriate portion thereof set forth in the charge of Petit Larceny (see *People v Blacknall*, 63 NY2d 912 [1984] [failure of the trial judge to include in the jury charge, as requested, the statutory definitions of 'deprive' and 'appropriate'...was reversible error in this attempted larceny case"]).

the property.³

A person **FORCIBLY STEALS** property and commits robbery when, in the course of committing a larceny, such person uses or threatens the immediate use of physical force upon another person for the purpose of, meaning with the intent of⁴:

Select appropriate alternative(s) and if multiple alternatives apply, renumber them accordingly:

[one:] compelling the owner of such property [or another person] to deliver up the property; [or]

[two:] preventing or overcoming resistance to the taking of the property; [or]

[three:] preventing or overcoming resistance to the retention of the property, immediately after the taking; [or]

[four:] compelling the owner of such property to engage in other conduct which aids in the commission of the larceny.

INTENT means conscious objective or purpose. Thus, a person acts with the intent to engage in such conduct when that person's conscious objective or purpose is to do so.⁵

I will now define for you the degree(s) of Robbery charged in this case, specifically (list the crime[s] of robbery that are being submitted to the jury):

³ See Penal Law § 155.05 (1).

⁴ See *People v Smith*, 79 NY2d 309, 312-314 (1992) ("Logically, a defendant cannot act with a specified purpose unless an intent is formed to carry out that purpose. Thus, courts in this state have uniformly read the 'for the purpose' language as an intent element of the statute....thus, the plain language of the statute...establishes that 'for the purpose of' was intended by the legislature to be a mens rea element").

⁵ See Penal Law § 15.05 (1).