**AGGRAVATED MANSLAUGHTER IN THE FIRST DEGREE**

**(Intent to Cause Serious Physical Injury)**

**Penal Law § 125.22(1)**

**(Committed on or after Dec. 21, 2005)**

The (*specify*) count is Aggravated Manslaughter in the First Degree.

Under our law, a person is guilty of Aggravated Manslaughter in the First Degree when, with intent to cause serious physical injury to a police officer [*or* peace officer], where such officer was in the course of performing his or her official duties, and the defendant knew or reasonably should have known that such victim was a police officer [*or* peace officer], he or she causes the death of such officer [*or* another police officer] [*or* another peace officer].

The following terms used in that definition have a special meaning: 1

SERIOUS PHYSICAL INJURY means impairment of a person's physical condition which creates a substantial risk of death or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.2

INTENT means conscious objective or purpose.3 Thus, a person acts with intent to cause serious physical injury to another when that person's conscious objective or purpose is to cause serious physical injury to another.

1 If causation, “death,” or “person” is in issue, see Additional Charges at the end of this article. Additionally, if the status of the deceased as a police or peace officer is at issue, refer to the definitions of “police officer” set forth in CPL § 1.20(34) and of “peace officer” set forth in CPL § 2.10.

2*See*, Penal Law § 10.00(10).

3*See*, Penal Law § 15.05(1).

[*NOTE: In a case of “transferred intent,” add the following paragraph:*

Under our law, it is not required that the police officer [or peace officer] who dies be the same police officer [or peace officer] who was intended to be injured.]

A person REASONABLY SHOULD HAVE KNOWN that the intended victim was a police officer [*or* peace officer] if, in the same circumstances, a reasonable person in the same position and possessing the same knowledge, would have known that such intended victim was a police officer [*or* peace officer].4

A police officer [*or* peace officer] is in the course of performing his or her OFFICIAL DUTIES when he or she is acting pursuant to his or her occupation as a police officer [*or* peace officer], rather than as a private citizen.

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)*  , who was a police officer [or peace officer];
2. That the defendant did so with the intent to cause serious physical injury to  *(Intended victim)*  ;
3. That, at the time of the killing,  *(intended victim)*  was a police officer [*or* peace officer] in the course of performing his/her official duties; and
4. That, at the time of the killing, the defendant knew or reasonably should have known that (*specify intended victim*) was a police officer [*or* peace officer].

If you find the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty

4 *Cf., People v. Goetz,* 68 NY2d 96 (1986).

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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.

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