

MURDER SECOND DEGREE
(A-I Felony)
(Intentional Homicide)
PENAL LAW 125.25(1)
(Committed on or after Sept. 1, 1967)

The _____ count is Murder in the Second Degree.

Under our law, a person is guilty of Murder in the Second Degree when, with intent to cause the death of another person, he or she causes the death of such person [*or* of a third person].

The term "intent" used in this definition has its own special meaning in our law. I will now give you the meaning of that term.¹

INTENT means conscious objective or purpose.² Thus, a person acts with intent to cause the death of another when that person's conscious objective or purpose is to cause the death of another.

[NOTE: In a case of "transferred intent," add the following paragraph:

Under our law, it is not required that the person who dies be the same person whose death was intended to be caused.]

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 defendant, (defendant's name), caused the death

¹ If causation, "death," or "person" is in issue, see Additional Charges at the end of this article.

² See Penal Law § 15.05(1). If necessary, an expanded definition of "intent" is available in the section on Instructions of General Applicability under Culpable Mental States.

of (specify); and

2. That the defendant did so with the intent to cause the death of (specify).

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Murder in the Second Degree 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 Murder in the Second Degree as charged in the _____ count.

[NOTE: If either of the affirmative defenses -- Extreme Emotional Disturbance (§ 125.25(1)(a)) or Aiding a Suicide (§ 125.25(1)(b)) -- applies, omit the final two paragraphs of the above charge, and substitute one of the charges at the end of this article.]