**ROBBERY IN THE FIRST DEGREE

(Serious Physical Injury)

Penal Law § 160.15(1)

(Committed on or after Sept. 1, 1967)**

*[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] causes serious physical injury to any person who is not a participant in the crime.

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

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.1

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)*  , forcibly stole property from  *(specify)*  ; and
2. That in the course of the commission of the crime [*or*

1*See* Penal Law § 10.00(10).

of immediate flight therefrom], the defendant [*or* another participant in the crime] caused serious physical injury to  *(specify)*  and  *(specify)*  was not a participant in the robbery.

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.

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