

**FIRST DEGREE
(B felony)
(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 ___ 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 term 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* of immediate flight therefrom], the defendant [*or*

¹See Penal Law § 10.00(10).

another participant in the crime] caused serious physical injury to (specify) and (specify) was not a participant in the robbery.

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 Robbery in the First 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 Robbery in the First Degree as charged in the ___ count.