

ASSAULT ON A JUDGE
PENAL LAW 120.09
(Committed on or after November 17, 2011)

The (*specify*) count is Assault on a Judge.

Under our law, a person is guilty of Assault on a Judge when, with intent to cause serious physical injury and prevent a judge from performing official judicial duties, he or she causes serious physical injury to such judge.

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

JUDGE means a judge of a court of record or a justice court.² The (*specify name of court*) is a court of record [is a justice court].

INTENT means conscious objective or purpose. Thus, a person acts with intent to cause serious physical injury and prevent a judge from performing official judicial duties when that person's conscious objective or purpose is to cause serious physical injury to such judge and prevent such judge from

¹ The term "official judicial duties" is not defined. If in issue, the term will need to be defined within the context of the facts presented. See *People v McDonald*, 291 AD2d 832 (4th Dept 2002); *People v Milhouse*, 246 AD2d 119 (1st Dept 1998); *People v Greene*, 221 AD2d 559 (2d Dept 1995).

² The statute specifies that the term "judge" shall mean a judge of a court of record or a justice court." "Courts of record" are defined by Judiciary Law § 2 to be: the court for the trial of impeachments; a court on the judiciary; the court of appeals; the appellate division of the supreme court in each department; the supreme court; the court of claims; a county court in each county; the family court; a surrogate's court in each county; each city court outside the city of New York; the district court in each county or portion thereof in which such court shall be established; the civil court of the city of New York and the criminal court of the city of New York. Although not a court of record, a justice court (a judge of which is here included) is a town or village court. UJCA §§ 102 and 103.

performing official judicial duties.³

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, or protracted impairment of health or protracted loss or impairment of the function of any bodily organ.⁴

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 three elements:

1. That on or about (date), (specify) was a judge;
2. That on or about that date in the County of (County), defendant, (defendant's name) caused serious physical injury to (specify); and
3. That he/she did so with intent to cause serious physical injury and to prevent (specify) from performing official judicial duties.

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

³ See Penal Law § 15.05 (1).

⁴ See Penal Law § 10.00 (10).