

**Ala. Code 1975, § 13A-5-40(a)(11)**

**Murder of a Public Official**

The defendant is charged with capital murder. The law states that the intentional murder of a public official that stems from or is caused by or is related to that person's official position, act, or capacity is capital murder.

A person commits an intentional murder of a public official if he causes the death of [select as appropriate]:

- (1) a state public official,
- (2) a federal public official,
- (3) a former state public official, or
- (4) a former federal public official;

and in performing the act or acts that cause the death of that person, he intends to kill that person (or another person), and the murder stems from or is caused by or is related to that person's official position, act, or capacity.

To convict, the State must prove beyond a reasonable doubt each of the following elements of an intentional murder of a public official:

- (1) That (name of deceased) is dead;
- (2) That the defendant (name of the defendant) caused the death of (name of deceased) by (state the alleged act, e.g., shooting) him;
- (3) That in committing the act(s) that caused the death of (name of deceased) the defendant intended to kill the deceased or another person.
- (4) That (name of deceased) was [use as appropriate]:
  - (a) a state public official,
  - (b) a federal public official,
  - (c) a former state public official, or
  - (d) a former federal public official

(specify position held);

- (5) That the murder stems from or is caused by or is related to (name of deceased)'s official position, act, or capacity; and

(6) That the defendant knew that the victim was a public official.

A person acts intentionally when it is his purpose to cause the death of another person. The intent to kill must be real and specific.

A person acts knowingly with respect to conduct or to a circumstance when he is aware that his conduct is of that nature or that the circumstance exists.

If you find from the evidence that the State has proved beyond a reasonable doubt each of the above elements of the offense of intentional murder of a public official, as charged, then you shall find the defendant guilty of capital murder.

If you find that the State has failed to prove beyond a reasonable doubt any one or more of the elements of the offense of intentional murder of a public official, then you cannot find the defendant guilty of capital murder.

[If lesser-included offenses are included, the court should instruct on those offenses at this point.]

#### **Use Notes**

If evidence exists that the accused was intoxicated at the time of the charged intentional crime, the defendant is entitled to an instruction on lesser-included offense(s). See *Fletcher v. State*, 621 So. 2d 1010 (Ala. Crim. App. 1993).

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