

34. "Police officer." The following persons are police officers:

- (a) A sworn member of the division of state police;
- (b) Sheriffs, under-sheriffs and deputy sheriffs of counties outside of New York City;
- (c) A sworn officer of an authorized county or county parkway police department;
- (d) A sworn officer of an authorized police department or force of a city, town, village or police district;
- (e) A sworn officer of an authorized police department of an authority or a sworn officer of the state regional park police in the office of parks and recreation;
- (f) A sworn officer of the capital police force of the office of general services;
- (g) An investigator employed in the office of a district attorney;
- (h) An investigator employed by a commission created by an interstate compact who is, to a substantial extent, engaged in the enforcement of the criminal laws of this state;
- (i) The chief and deputy fire marshals, the supervising fire marshals and the fire marshals of the bureau of fire investigation of the New York City fire department;
- (j) A sworn officer of the division of law enforcement in the department of environmental conservation;
- (k) A sworn officer of a police force of a public authority created by an interstate compact;
- (l) Long Island railroad police.
- (m) A special investigator employed in the statewide organized crime task force, while performing his assigned duties pursuant to section seventy-a of the executive law.
- (n) A sworn officer of the Westchester county department of public safety services who, on or prior to June thirtieth, nineteen hundred seventy-nine was appointed as a sworn officer of the division of Westchester county parkway police or who was appointed on or after July first, nineteen hundred seventy-nine to the title of police officer, sergeant, lieutenant, captain or inspector or who, on or prior to January thirty-first, nineteen hundred eighty-three, was appointed as a Westchester county deputy sheriff.
- (o) A sworn officer of the water-supply police employed by the city of New York, appointed to protect the sources, works, and transmission of water supplied to the city of New York, and to protect persons on or in the vicinity of such water sources, works, and transmission.
- (p) Persons appointed as railroad policemen pursuant to section eighty-eight of the railroad law.
- (q) An employee of the department of taxation and finance (i) assigned to enforcement of the taxes imposed under or pursuant to the authority

of article twelve-A of the tax law and administered by the commissioner of taxation and finance, taxes imposed under or pursuant to the authority of article eighteen of the tax law and administered by the commissioner, taxes imposed under article twenty of the tax law, or sales or compensating use taxes relating to automotive fuel or cigarettes imposed under article twenty-eight or pursuant to the authority of article twenty-nine of the tax law and administered by the commissioner or (ii) designated as a revenue crimes specialist and assigned to the enforcement of the taxes described in paragraph (c) of subdivision four of section 2.10 of this title, for the purpose of applying for and executing search warrants under article six hundred ninety of this chapter, for the purpose of acting as a claiming agent under article thirteen-A of the civil practice law and rules in connection with the enforcement of the taxes referred to above and for the purpose of executing warrants of arrest relating to the respective crimes specified in subdivision four of section 2.10 of this title.

(r) Any employee of the Suffolk county department of parks who is appointed as a Suffolk county park police officer.

(s) A university police officer appointed by the state university pursuant to paragraph 1 of subdivision two of section three hundred fifty-five of the education law.

(t) A sworn officer of the department of public safety of the Buffalo municipal housing authority who has achieved or been granted the status of sworn police officer and has been certified by the division of criminal justice services as successfully completing an approved basic course for police officers.

(u) Persons appointed as Indian police officers pursuant to section one hundred fourteen of the Indian law.

(v) Supervisor of forest ranger services; assistant supervisor of forest ranger services; forest ranger 3; forest ranger 2; forest ranger 1 employed by the state department of environmental conservation or sworn officer of the division of forest protection and fire management in the department of environmental conservation responsible for wild land search and rescue, wild land fire management in the state as prescribed in subdivision eighteen of section 9-0105 and title eleven of article nine of the environmental conservation law, exercising care, custody and control of state lands administered by the department of environmental conservation.

34-a. "Geographical area of employment." The "geographical area of employment" of certain police officers is as follows:

* (a) Except as provided in paragraph (d) of this subdivision, New York state constitutes the "geographical area of employment" of any police officer employed as such by an agency of the state or by an authority which functions throughout the state, or a police officer

designated by the superintendent of state police pursuant to section two hundred twenty-three of the executive law;

* NB Effective until September 1, 2011

* (a) Except as provided in paragraph (d), New York state constitutes the "geographical area of employment" of any police officer employed as such by an agency of the state or by an authority which functions throughout the state;

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(b) A county, city, town or village, as the case may be, constitutes the "geographical area of employment" of any police officer employed as such by an agency of such political subdivision or by an authority which functions only in such political subdivision; and

(c) Where an authority functions in more than one county, the "geographical area of employment" of a police officer employed thereby extends through all of such counties.

(d) The geographical area of employment of a police officer appointed by the state university is the campuses and other property of the state university, including any portion of a public highway which crosses or abuts such property.

35. "Commitment to the custody of the sheriff," when referring to an order of a court located in a county or city which has established a department of correction, means commitment to the commissioner of correction of such county or city.

36. "County" ordinarily means (a) any county outside of New York City or (b) New York City in its entirety. Unless the context requires a different construction, New York City, despite its five counties, is deemed a single county within the meaning of the provisions of this chapter in which that term appears.

37. "Lesser included offense." When it is impossible to commit a particular crime without concomitantly committing, by the same conduct, another offense of lesser grade or degree, the latter is, with respect to the former, a "lesser included offense." In any case in which it is legally possible to attempt to commit a crime, an attempt to commit such crime constitutes a lesser included offense with respect thereto.

38. "Oath" includes an affirmation and every other mode authorized by law of attesting to the truth of that which is stated.

39. "Petty offense" means a violation or a traffic infraction.

40. "Evidence in chief" means evidence, received at a trial or other criminal proceeding in which a defendant's guilt or innocence of an offense is in issue, which may be considered as a part of the quantum of substantive proof establishing or tending to establish the commission of such offense or an element thereof or the defendant's connection therewith.

41. "Armed felony" means any violent felony offense defined in section

70.02 of the penal law that includes as an element either:

(a) possession, being armed with or causing serious physical injury by means of a deadly weapon, if the weapon is a loaded weapon from which a shot, readily capable of producing death or other serious physical injury may be discharged; or

(b) display of what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm.

42. "Juvenile offender" means (1) a person, thirteen years old who is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 of the penal law, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; and (2) a person fourteen or fifteen years old who is criminally responsible for acts constituting the crimes defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of section 130.50 (criminal sexual act in the first degree); 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law; or defined in the penal law as an attempt to commit murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law.

43. "Judicial hearing officer" means a person so designated pursuant to provisions of article twenty-two of the judiciary law.