

**POSSESSION OF GRAFFITI INSTRUMENTS**  
**(B Misdemeanor)**  
**PENAL LAW 145.65**  
**(Committed on or after Nov. 1, 1992)**

The \_\_\_ count is Possession of Graffiti Instruments.

Under our law, a person is guilty of Possession of Graffiti Instruments when that person possesses any tool [or instrument] [or article] [or substance] [or solution] [or compound] designed or commonly used to etch, paint, cover, draw upon or otherwise place a mark upon a piece of property which that person has no permission or authority to etch, paint, cover, draw upon or otherwise mark, under circumstances evincing an intent to use the same in order to damage such property.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: "possess," and "intent."

POSSESS means to have physical possession or otherwise to exercise dominion and control over tangible property.<sup>1</sup>

INTENT means a conscious objective or purpose.<sup>2</sup> Thus, a person intends to use a tool [or instrument] [or article] [or substance] [or solution] [or compound] to damage property when that person's conscious objective or purpose is to use that tool [or instrument] [or article] [or substance] [or solution] [or compound] to damage property.

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case beyond a reasonable doubt, both of the following two elements:

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<sup>1</sup>See Penal Law § 10.00(8).

<sup>2</sup>See Penal Law § 15.05(1).

1. That on or about (date), in the county of (county), the defendant, (defendant's name), possessed a tool [or instrument] [or article] [or substance] [or solution] [or compound] designed or commonly used to etch, paint, cover, draw upon, or otherwise place a mark upon a piece of property; and
2. That defendant possessed such tool [or instrument] [or article] [or substance] [or solution] [or compound] under circumstances evincing an intent to use the same in order to damage property without permission or authority to do so.

Therefore, if you find that the People have proven both of those elements beyond a reasonable doubt, you must find the defendant guilty of the crime of Possession of Graffiti Instruments as charged in the \_\_\_ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of the crime of Possession of Graffiti Instruments as charged in the \_\_\_ count.