

**PROMOTING PRISON CONTRABAND
SECOND DEGREE
(A Misdemeanor)
(Inmate Possesses Contraband)
Penal Law 205.20 (2)
(Committed on or after Sept. 1, 1967)**

The _____ count is Promoting Prison Contraband in the Second Degree.

Under our law, a person is guilty of Promoting Prison Contraband in the Second Degree when being a person confined in a detention facility, he or she knowingly and unlawfully makes, obtains or possesses any contraband.

Some of the terms used in the definition have their own special meaning in our law. I will now give you the meaning of the following terms: “detention facility,” “contraband,” “possess,” “knowingly,” and “unlawfully.”

DETENTION FACILITY means any place used for confinement, pursuant to an order of a court, of a person

Select appropriate alternative(s):

- (a) charged with or convicted of offense, or
- (b) charged with being or adjudicated a youthful offender, person in need of supervision or juvenile delinquent, or
- (c) held for extradition or as a material witness, or
- (d) otherwise confined pursuant to an order of a court.¹

CONTRABAND means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, rule, regulation or order.²

¹Penal Law §205.00(1).

²Penal Law §205.00(3).

POSSESS means to have physical possession or otherwise to exercise dominion or control over tangible property.³

A person **KNOWINGLY** makes, obtains, or possesses contraband when that person is aware that he or she is doing so.⁴

A person **UNLAWFULLY** makes, obtains, or possesses contraband when that person has no legal right to do so.

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, each of the following three elements:

1. That on or about *(date)*, in the county of *(county)*, the defendant *(defendant's name)* made, obtained or possessed contraband;
2. That the defendant did so knowingly and unlawfully; and
3. That the defendant was a person confined in a detention facility.

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must

³Penal Law §10.00(8). Where constructive possession is alleged insert the appropriate instruction from the “Additional Charges” section at the end of the charges for Penal Law article 220.

⁴See, Penal Law §15.05(2).

find the defendant guilty of the crime of Promoting Prison Contraband in the Second Degree 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 Promoting Prison Contraband in the Second Degree as charged in the _____ count.