

**CRIMINAL POSSESSION
OF A WEAPON
FOURTH DEGREE
(A Misdemeanor)
(Possession of Explosive Bullet)
PENAL LAW 265.01(7)
(Committed on or after Sept. 1, 1981)**

The ____ count is Criminal Possession of a Weapon in the Fourth Degree.

Under our law, a person is guilty of Criminal Possession of a Weapon in the Fourth Degree when that person knowingly possesses a bullet containing an explosive substance designed to detonate upon impact.

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 "knowingly."

POSSESS means to have physical possession or otherwise to exercise dominion or control over tangible property.¹

A person KNOWINGLY possesses a bullet containing an explosive substance designed to detonate upon impact when that person is aware that he or she is in possession of such a bullet.²

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, both of the following two elements:

1. That on or about (date), in the county of (county), the

¹ See Penal Law § 10.00(8). Where constructive possession is alleged, or where the People rely on a statutory presumption of possession, insert the appropriate instruction from the "Additional Charges" section at the end of this chapter.

² See Penal Law § 15.05(2).

defendant, (defendant's name), possessed a bullet containing an explosive substance designed to detonate upon impact; and

2. That the defendant did so knowingly.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Criminal Possession of a Weapon in the Fourth Degree as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Criminal Possession of a Weapon in the Fourth Degree as charged in the _____ count.