

**UNLAWFUL POSSESSION OF PERSONAL IDENTIFICATION
INFORMATION THIRD DEGREE
(A misdemeanor)
PENAL LAW 190.81
(Committed on or after Nov. 1, 2002)**

The _____ count is Unlawful Possession of Personal Identification Information in the Third Degree.

Under our law, a person is guilty of Unlawful Possession of Personal Identification Information in the Third Degree when he or she knowingly possesses

[Select appropriate alternative(s)]:

a person's

- financial services account number or code,
- savings account number or code
- checking account number or code
- brokerage account number or code
- credit card account number or code
- debit card number or code
- automated teller machine number or code
- personal identification number
- mother's maiden name
- computer system password
- electronic signature;

unique biometric data that is a fingerprint, voice print, retinal image or iris image of another person,

knowing such information is intended to be used in furtherance of the commission of (specify name of Penal Law crime¹).

Some of the terms used in this definition have their own

¹ The definition specifies that the crime must be "a crime defined in this chapter," meaning the Penal Law.

special meaning in our law. I will now give you the meaning of the following terms: “possess,” “knowingly,” [and] “(specify name of Penal Law crime)” [and] [“electronic signature”] [and] [“personal identification number”].

POSSESS means to have physical possession or otherwise to exercise dominion or control over tangible property.²

A person KNOWINGLY possesses (specify) when that person is aware that he or she is in possession of (specify).³

(Specify and define the Penal Law crime.)

[ELECTRONIC SIGNATURE means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the record⁴].

[PERSONAL IDENTIFICATION NUMBER means any number or code which may be used alone or in conjunction with any other information to assume the identity of another person or access financial information or credit of another person⁵].

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 defendant (defendant's)

²See, Penal Law §10.00(8). If necessary, an expanded definition of "possession" is available in the section of General Instructions under Possession.

³See Penal Law §15.05(2).

⁴See Penal Law §190.77(2)(a); State Technology Law §102(3).

⁵Penal Law §190.77(2)(b).

name), knowingly possessed (specify);
and

2. That the defendant knew that such information was intended to be used in furtherance of the commission of (specify crime).

[NOTE: If an affirmative defense does not apply, then conclude with the following two paragraphs. If the affirmative defense does apply, then omit the following two paragraphs, and insert here the affirmative defense charge in the Additional Charges section to this article.

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 Unlawful Possession of Personal Identification Information in the Third Degree as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either or both of those elements, you must find the defendant not guilty of the crime of Unlawful Possession of Personal Identification in the Third Degree as charged in the _____ count.]