**CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE**

**IN THE SECOND DEGREE**

**(Pure Weight Counts)**

**Penal Law § 220.18(3)**

**(Ten [10] Grams or More of a Stimulant)**

**(Committed on or after June 10, 1995)**

**Penal Law § 220.18(4)

(Twenty-Five [25] Milligrams or More

of Lysergic Acid Diethylamide)

(Committed on or after June 10, 1995)**

**Penal Law § 220.18(5)

(Six Hundred Twenty-Five [625]

Milligrams or More of a Hallucinogen)

(Committed on or after June 10, 1995)**

**Penal Law § 220.18(6)

(Twenty-Five [25] Grams or More

of a Hallucinogenic Substance)

(Committed on or after June 10, 1995)**

**Penal Law § 220.18(7)

(Two Thousand Eight Hundred Eighty

[2,880] Milligrams or More

of Methadone)

(Committed on or after June 10, 1995)**

The (*specify*) count is Criminal Possession of a Controlled Substance in the Second Degree.

Under our law, a person is guilty of Criminal Possession of a Controlled Substance in the Second Degree when that person knowingly and unlawfully possesses

*Select the appropriate alternative:*

a stimulant and said stimulant weighs ten [10] grams or more.

lysergic acid diethylamide and said lysergic acid diethylamide weighs twenty-five [25] milligrams or more.

a hallucinogen and said hallucinogen weighs six hundred twenty-five [625] milligrams or more.

a hallucinogenic substance and said hallucinogenic substance weighs twenty-five [25] grams or more.

methadone and said methadone weighs two thousand eight hundred eighty [2,880] milligrams or more.

The following terms used in that definition have a special meaning:

[The term STIMULANT (*or* HALLUCINOGEN) (*or* HALLUCINOGENIC SUBSTANCE) includes  *(specify)*  .1]

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

1*See* Penal Law §§ 220.00(11) (stimulant); 220.00(9) (hallucinogen); 220.00(10) (hallucinogenic substance).

2*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 article.

3*See* Penal Law § 15.05(2). An expanded definition of “knowingly” is available in the General Charges section under Culpable Mental States.

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A person UNLAWFULLY possesses  *(specify)*  when that person has no legal right to possess it.4 Under our law, with certain exceptions not applicable here, a person has no legal right to possess  *(specify)*  .

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, each of the following three elements:

1. That on or about  *(date)*  , in the county of  *(county)*  , the defendant,  *(defendant's name)*  , possessed  *(specify)*;
2. That the defendant did so knowingly and unlawfully; and
3. That the  *(specify)*  weighed  *(specify)*  or more.

If you find the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of this crime.

4See Penal Law § 220.00(2) and Public Health Law § 3396(1).

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