

**CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE
FIRST DEGREE
(A-I Felony)
(Five Thousand Seven Hundred Sixty
[5,760] Milligrams of Methadone)
PENAL LAW 220.21(2)
(Committed on or after June 10, 1995)**

The _____ count is Criminal Possession of a Controlled Substance in the First Degree.

Under our law, a person is guilty of Criminal Possession of a Controlled Substance in the First Degree when that person knowingly and unlawfully possesses methadone and said methadone weighs five thousand seven hundred sixty [5,760] milligrams or more.

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," "knowingly," and "unlawfully."

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

A person KNOWINGLY possesses methadone when that person is aware that he or she is in possession of methadone.²

A person UNLAWFULLY possesses methadone when that person has no legal right to possess it.³ Under our law, with

¹See 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.

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

³See Penal Law § 220.00(2) and Public Health Law § 3396(1).

certain exceptions not applicable here, a person has no legal right to possess methadone.

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 methadone;
2. That the defendant did so knowingly and unlawfully;
and
3. That the methadone weighed five thousand seven hundred sixty [5,760] milligrams or more.

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of the crime of Criminal Possession of a Controlled Substance in the First 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 the crime of Criminal Possession of a Controlled Substance in the First Degree as charged in the ____ count.