

**PRESUMPTION OF POSSESSION
FROM PRESENCE OF MACHINE-GUN IN ROOM,
DWELLING, STRUCTURE OR VEHICLE
Penal Law § 265.15(1)**

Under our law, the presence in any room, dwelling, or structure [or vehicle] of any machine-gun is presumptive evidence of its unlawful possession by all persons occupying the place where such machine-gun is found. What this means is that if the People have proven beyond a reasonable doubt that the machine-gun was present in a room, dwelling, or structure [or vehicle] and that the defendant was occupying such room, dwelling, or structure [or vehicle], then you may, but you are not required to, infer from those facts that the defendant unlawfully possessed such machine-gun. Whether or not to draw that inference is for you to decide and will depend entirely on your evaluation of the evidence.¹

1. In 2019, the last sentence was added to conform to the instruction for presumptions in other sections.