**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.