

**PROMOTING PRISON CONTRABAND
IN THE SECOND DEGREE
(Inmate Possesses Contraband)
Penal Law § 205.20 (2)
(Committed on or after Sept. 1, 1967)**

The (specify) count is Promoting Prison Contraband in the Second Degree.

Under our law, a person is guilty of Promoting Prison Contraband in the Second Degree when being a person confined in a detention facility, he or she knowingly and unlawfully makes, obtains or possesses any contraband.

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

DETENTION FACILITY means any place used for confinement, pursuant to an order of a court, of a person

Select appropriate alternative(s):

- (a) charged with or convicted of offense, or
- (b) charged with being or adjudicated a youthful offender, person in need of supervision or juvenile delinquent, or
- (c) held for extradition or as a material witness, or
- (d) otherwise confined pursuant to an order of a court.¹

CONTRABAND means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, rule, regulation or order.²

POSSESS means to have physical possession or otherwise

¹Penal Law §205.00(1).

²Penal Law §205.00(3).

to exercise dominion or control over tangible property.³

A person KNOWINGLY makes, obtains, or possesses contraband when that person is aware that he or she is doing so.⁴

A person UNLAWFULLY makes, obtains, or possesses contraband when that person has no legal right to do so.

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of 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) made, obtained or possessed contraband;
2. That the defendant did so knowingly and unlawfully; and
3. That the defendant was a person confined in a detention facility.

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.

³Penal Law §10.00(8). If necessary, an expanded definition of "possession" is available in the section of General Instructions under Possession.

⁴See Penal Law §15.05(2).