

**CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE
FOURTH DEGREE
(C Felony)
(Pure Weight Counts)**

**PENAL LAW 220.09(4)
(One [1] Gram or More of a Stimulant)
(Committed on or after June 10, 1995)**

**PENAL LAW 220.09(5)
(One [1] Milligram or More of
Lysergic Acid Diethylamide)
(Committed on or after June 10, 1995)**

**PENAL LAW 220.09(6)
(Twenty-Five [25] Milligrams or More
of a Hallucinogen)
(Committed on or after June 10, 1995)**

**PENAL LAW 220.09(7)
(One [1] Gram or More
of a Hallucinogenic Substance)
(Committed on or after June 10, 1995)**

**PENAL LAW 220.09(8)
(Ten [10] Ounces or More
of a Dangerous Depressant)
(Committed on or after June 10, 1995)**

**PENAL LAW 220.09(9)
(Two [2] Pounds or More of a Depressant)
(Committed on or after June 10, 1995)**

**PENAL LAW 220.09(11)
(Two Hundred Fifty [250] Milligrams or More of
Phencyclidine)
(Committed on or after June 10, 1995)**

PENAL LAW 220.09(12)
(Three Hundred Sixty [360] Milligrams or More of
Methadone)
(Committed on or after June 10, 1995)

PENAL LAW 220.09(14)
(Four thousand [4000] Milligrams or More of Ketamine)
(Committed on or after January 22, 1998)

(Revised April 4, 2003)¹

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

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

Select the appropriate alternative:

a stimulant and said stimulant weighs one [1] gram or more.

lysergic acid diethylamide and said lysergic acid diethylamide weighs one [1] milligram or more.

a hallucinogen and said hallucinogen weighs twenty-five [25] milligrams or more.

a hallucinogenic substance and said hallucinogenic substance weighs one [1] gram or more.

a dangerous depressant and such dangerous depressant

¹ The revision was for the purpose of adding the drug ketamine. Penal Law § 220.09(14).

weighs ten [10] ounces or more.

a depressant and such depressant weighs two [2] pounds or more.

phencyclidine and said phencyclidine weighs two hundred fifty [250] milligrams or more.

methadone and said methadone weighs three hundred sixty [360] milligrams or more.

ketamine and said ketamine weighs four thousand [4000] 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: ["stimulant,"] ["hallucinogen,"] ["hallucinogenic substance,"] ["dangerous depressant,"] ["depressant,"] "possess," "knowingly," and "unlawfully."

[The term STIMULANT (or HALLUCINOGEN) (or HALLUCINOGENIC SUBSTANCE (or DANGEROUS DEPRESSANT) (or DEPRESSANT) includes (specify).²]

POSSESS means to have physical possession or otherwise to exercise dominion or control over tangible property.³

A person KNOWINGLY possesses (specify) when that

² See Penal Law §§ 220.00(11) (stimulant); 220.00(9) (hallucinogen); 220.00(10) (hallucinogenic substance); 220.00(12) (dangerous depressant); 220.00(13) (depressant).

³ 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.

person is aware that he or she is in possession of (specify).⁴

A person UNLAWFULLY possesses (specify) when that person has no legal right to possess it.⁵ 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.

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 Fourth 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 Fourth Degree as charged in the ___ count.

⁴ See Penal Law § 15.05(2). An expanded definition of “knowingly” is available in the General Charges section under Culpable Mental States.

⁵ See Penal Law § 220.00(2) and Public Health Law § 3396(1).