

**CRIMINAL POSSESSION OF METHAMPHETAMINE
MANUFACTURING MATERIAL
IN THE SECOND DEGREE
(Intent to Use)
Penal Law § 220.70
(Committed on or after Oct. 1, 2005)**

The (*specify*) count is Criminal Possession of Methamphetamine Manufacturing Material in the Second Degree.

Under our law, a person is guilty of Criminal Possession of Methamphetamine Manufacturing Material in the Second Degree when that person possesses a precursor, a chemical reagent or a solvent with the intent to use, or knowing another intends to use, such precursor, chemical reagent, or solvent to unlawfully produce, prepare or manufacture methamphetamine.

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

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

PRECURSOR means ephedrine, pseudoephedrine, or any salt, isomer or salt of an isomer of such substances.²

CHEMICAL REAGENT means a chemical reagent that can be used in the manufacture, production or preparation of methamphetamine.³

SOLVENT means a solvent that can be used in the

¹ 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.

² Penal Law § 220.00(16)(a).

³ Penal Law § 220.00(16)(b).

manufacture, production or preparation of methamphetamine.⁴

INTENT means conscious objective or purpose. Thus, a person possesses a precursor, chemical reagent or solvent with the intent to use it to unlawfully produce, prepare or manufacture methamphetamine when his or her conscious objective or purpose is to do so.⁵

A person UNLAWFULLY produces, prepares or manufactures methamphetamine when that person has no legal right to produce or manufacture it.⁶ Under our law, with certain exceptions not applicable here, a person has no legal right to produce or manufacture methamphetamine.

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, both of the following two elements:

1. That on or about (date), in the county of (county), the defendant, (defendant's name), possessed (specify); and
2. That the defendant did so with the intent to use it, or knowing another intended to use it, to unlawfully produce, prepare or manufacture methamphetamine.

If you find the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of this crime.

⁴ Penal Law § 220.00(16)(c).

⁵ See Penal Law § 15.05(1).

⁶ See Penal Law § 220.00(2) and Public Health Law § 3396(1).

