

**CRIMINAL INJECTION OF A
NARCOTIC DRUG
(E Felony)
PENAL LAW 220.46
(Committed on or after Sept. 1, 1971)**

The _____ count is Criminal Injection of a Narcotic Drug.

Under our law, a person is guilty of Criminal Injection of a Narcotic Drug when that person knowingly and unlawfully possesses a narcotic drug and when he or she intentionally injects by means of a hypodermic syringe or hypodermic needle all or any portion of that drug into the body of another person with the latter's consent.

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: “narcotic drug,” “possess,” “knowingly,” “unlawfully,” and “intentionally.”

The term NARCOTIC DRUG includes (specify).¹

POSSESS means to have physical possession or otherwise to exercise dominion or control over tangible property.²

A person KNOWINGLY possesses (specify) when that person is aware that he or she is in possession of that substance.³

A person UNLAWFULLY possesses (specify) when that person has no legal right to possess it.⁴ Under our law, with certain exceptions not applicable here, a person has no legal right to possess (specify).

A person INTENTIONALLY injects a narcotic drug by means of a hypodermic syringe or hypodermic needle into the body of another person with the latter's consent when that person's conscious objective or purpose is to do so.⁵

See, Penal Law § 220.00(7).

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 as found in the “Additional Charges” section at the end of this chapter.

See, Penal Law § 15.05(2).

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

See, Penal Law § 15.05(1).

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 four 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;
3. That the defendant injected by means of a hypodermic syringe or hypodermic needle all or any portion of that (specify) into the body of another person with that person's consent; and
4. That the defendant did so intentionally.

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 Injection of a Narcotic Drug 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 Injection of a Narcotic Drug as charged in the ___ count.