

**CRIMINAL POSSESSION OF A WEAPON
IN THE FOURTH DEGREE
(Possession of Per Se Knives)
Penal Law § 265.01 (1)
(Committed on or after:**

**September 1, 1967 [L 1965, ch 1030] for:
“Switchblade knife.”**

**November 1, 1986 [L 1986, ch 328] for:
“Pilum ballistic knife.”**

**November 1, 1995 [L 1995, ch 219] for:
“Metal knuckle knife”; except that the words "plastic knuckles or" in
the definition of this knife was added by the Laws of 2008, chapter 257,
§ 6, effective November 1, 2008.)**

The (*specify*) count is Criminal Possession of a Weapon in
the Fourth Degree.

Under our law, a person is guilty of Criminal Possession of
a Weapon in the Fourth Degree when that person knowingly¹
possesses any

Select appropriate alternative:

switchblade knife.
pilum ballistic knife.
metal knuckle knife.

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

Select appropriate knife to define:

² The word "knowingly" has been added to this definition to comport
with statutory law (see Penal Law § 15.05 [2]) and with case law. See
People v Parrilla, 27 NY3d 400, 404 (2016); *People v Ford*, 66 NY2d 428,
440 (1985); *People v Marino*, 212 AD2d 735, 736 (2d Dept 1995); *People v
Cohen*, 57 AD2d 790 (1st Dept 1977).

A SWITCHBLADE KNIFE means any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife.²

A PILUM BALLISTIC KNIFE means any knife which has a blade which can be projected from the handle by hand pressure applied to a button, lever, spring or other device in the handle of the knife.³

A METAL KNUCKLE KNIFE means a weapon that, when closed, cannot function as a set of plastic knuckles or metal knuckles, nor as a knife and when open, can function as both a set of metal knuckles as well as a knife.⁴ [Metal knuckles means a metal object with multiple holes, through which an individual places his or her fingers so that a metal bar rests atop the individual's knuckles.⁵]

POSSESS means to have physical possession or otherwise to exercise dominion or control over tangible property.⁶

A person KNOWINGLY possesses a (specify name of applicable knife) when that person is aware that he or she is in possession of a knife. That person need not know, (that is, need not be aware), that the knife he or she possesses is a (specify

⁴ Penal Law § 265.00 (4).

⁵ Penal Law § 265.00 (5-a).

⁶ Penal Law § 265.00 (5-b). The words "plastic knuckles or" was added by the Laws of 2008, chapter 257, § 6, effective November 1, 2008.

⁷ See *People v Aragon*, 28 NY3d 125, 128 (2016).

⁸ 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.

name of applicable knife).⁷

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, the following three elements:

1. That on or about (date), in the County of (County), the defendant, (defendant's name), possessed a knife;
2. That the defendant knowingly possessed a knife; and
3. That the knife was a (specify name of applicable knife).

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.

⁹ See Penal Law § 15.05 (2); *People v Parrilla*, 27 NY3d 400 (2016).