

INTENT TO USE UNLAWFULLY AND JUSTIFICATION¹

(Note: If applicable, the following charge should be inserted in the instruction for the crime charged immediately after the definition of the culpable mental state.)

The defense of justification does not apply to this crime because that defense applies only to the use of force. You may, however, in determining whether or not the defendant had the intent required for this crime consider the following:

The use of a firearm [or *specify*] to engage in conduct that is justifiable under the law is not unlawful. Thus, an intent to use a firearm [or *specify*] against another justifiably is not an intent to use it unlawfully.

Therefore, to find the defendant guilty of this crime, you must find beyond a reasonable doubt that he/she possessed the firearm [or *specify*] with the intent to use it against another unlawfully and not solely with the intent to use it justifiably.

1. See *People v. Pons*, 68 NY2d 264 (1986).