

**CRIMINAL POSSESSION OF FORGERY DEVICES**  
**(D Felony)**  
**(Knowingly Making or Possessing Device**  
**Designed for Forgery or Counterfeiting)**  
**PENAL LAW 170.40(1)**  
**(Committed on or After September 1, 1967)**

The \_\_\_\_\_ count is Criminal Possession of Forgery Devices.

Under our law, a person is guilty of Criminal Possession of Forgery Devices when he or she makes or possesses with knowledge of its character any plate, die or other device, apparatus, equipment, or article specifically designed for use in counterfeiting or otherwise forging written instruments.

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: "possess," and "written instruments".

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

A WRITTEN INSTRUMENT means any instrument or article [including computer data or a computer program] containing written or printed matter or the equivalent thereof, used for the purpose of reciting, embodying, conveying or recording information, or constituting a symbol or evidence of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person.<sup>2</sup>

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,

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<sup>1</sup>See Penal Law §10.00(8). If necessary, an expanded definition of "possession" is available in the section on Instructions of General Applicability under Possession.

<sup>2</sup>See Penal Law §170.00(1).

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)* \_\_\_\_\_, made or possessed any plate, die or other device, apparatus, equipment, or article specifically designed for use in counterfeiting or otherwise forging written instruments; and
2. That the defendant did so with knowledge of its character.

Therefore, if you find that People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Criminal Possession of Forgery Devices as charged in the \_\_\_\_\_ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Criminal Possession of Forgery Devices as charged in the \_\_\_\_\_ count.