

The district attorney

Law



More generally, a court can look to the words of the statute to determine the scope of the word "knowingly" in the statute. In this statute, the "knowingly" is used only in the context of the possession of the cocaine, and the weight of the cocaine is contained in a separate independent clause. The statute does not require, for example, that the defendant "knowingly and unlawfully possesses 500mg or more of heroin". Thus, 220.06(5) does not require that Harry know the actual weight of the heroin in his bag, only that he knew he was in possession of heroin. There is no question that Harry knew he possessed heroin because it was his foot covering it up in the back seat of the car. Accordingly, there should be no presumptive charge against Tom and Dick but there may be one against Harry. As a quick aside, hopefully, defense counsel would have requested separate trials for the defendants (although the likelihood of getting it is rather small).

Guns are small and for the most part, easily hidden in cars. In most New York gun cases, if the gun is located by a police officer somewhere inside a car, all of the passengers in the car are likely to raise their hands in the air and say "Not mine!". In these circumstances, it has been difficult for the government to obtain a conviction that resulted in a change in the legislation. This is where the burdens of presumption come in. Basically, thanks to the presumptions, all the government has to prove is that an operable gun was in the car and that the defendants were in the car at the same time. Here, interestingly, the gun was not actually found in the car.