**14.16 Firearms—Unlawful Possession—Convicted Felon**

**(18 U.S.C. § 922(g)(1))**

The defendant is charged in [Count \_\_\_\_\_\_\_ of] the indictment with the possession of [a firearm] [ammunition] in violation of Section 922(g)(1) of Title 18 of the United States Code. For the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

First, the defendant knowingly possessed [*specify firearm*] [*specify ammunition*];

Second, the [*specify firearm*] [*specify ammunition*] had been [[shipped] [transported]] [[from one state to another] [between a foreign nation and the United States]];

[Third, at the time the defendant possessed the [*specify firearm*] [*specify ammunition*], the defendant had been convicted of a crime punishable by imprisonment for a term exceeding one year. The defendant stipulates that on [*date*], the defendant was convicted of a crime punishable by imprisonment for a term exceeding one year; and]

*or*

[Third, at the time the defendant possessed the [*specify firearm*] [*specify ammunition*], the defendant had been convicted of a crime punishable by imprisonment for a term exceeding one year; and]

Fourth, at the time the defendant possessed the [*specify firearm*] [*specify ammunition*], the defendant knew [he] [she] had been convicted of a crime punishable by imprisonment for a term exceeding one year.

**Comment**

For a discussion of both knowledge elements for a prosecution under 18 U.S.C. § 922(g), *see* *Rehaif v. United States*, 139 S. Ct. 2191, 2200 (2019) (“the Government must prove both that the defendant knew he possessed a firearm andthat he knew he belonged to the relevant category of persons barred from possessing a firearm.”); Comment to Instruction 14.13 (Firearms—Unlawful Receipt); *see also* *United States v. Johnson*, 979 F.3d 632, 634-35 (9th Cir. 2020) (stating government must prove under § 922(g)(1) “that the defendant ‘knew he belonged to the relevant category of persons barred from possessing a firearm’ . . . those convicted of a crime punishable by more than one year of imprisonment.”) For a discussion of possession, *see* Comment to Instruction 14.15 (Firearms—Unlawful Possession). *See also* Instruction 6.15 (Possession—Defined).

Defendants frequently stipulate to the third element of the offense rather than have evidence of the prior convictions presented to the jury.  *See Old Chief v. United States*, 519 U.S. 172, 190-92 (1997) (holding that in case where “proof of convict status is at issue,” it is “an abuse of discretion to admit the record of conviction” when defendant offers to stipulate to prior conviction).

If multiple 18 U.S.C. § 922(g)(1) counts are charged, *see* the Comment to Instruction 14.15 (Firearms—Unlawful Possession).

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