

**UNLAWFUL SURVEILLANCE IN THE FIRST DEGREE**  
**PENAL LAW 250.50**  
**(Committed on or after Aug. 11, 2003)**

This offense elevates the crime of second degree unlawful surveillance under Penal Law § 250.45 (1), (2), (3), or (4) to a felony when the defendant "has previously been convicted within the past ten years of unlawful surveillance in the first or second degree."

The aggravating element must be charged in a special information, and after the commencement of trial the defendant must be arraigned on the special information.

If, upon such arraignment, the defendant admits the element, the court must not make any reference to it in the definition of the offense or in listing the elements of the offense.

If the defendant denies the element or remains mute, the court must add the element to the definition of the offense and the list of elements. CPL § 200.60. *See People v. Cooper*, 78 NY2d 476 (1991).

For the basic charge, see the charge for Unlawful Surveillance in the Second Degree under Penal Law § 250.45(1), (2), (3), or (4).