

**Computer Tampering  
Third Degree  
(E felony)  
(Commission of a Felony)  
Penal Law 156.25(2)  
(Committed on or after Nov. 1, 1993)  
No charge prepared**

No charge has been prepared for this offense, which designates the crimes of Computer Tampering, Unauthorized Use of a Computer, Computer Trespass, Unlawful Duplication of Computer Related Material, Criminal Possession of Computer Related Material, and Theft of Services under Penal Law 165.15 (11) an E felony when the defendant "has previously been convicted of any crime under this article or subdivision eleven of section 165.15 of this chapter."

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. But 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 appropriate charges under the specified sections.