

**CRIMINAL SALE OF A CONTROLLED SUBSTANCE  
FIRST DEGREE  
(A-I Felony)  
(Two Thousand Eight Hundred and Eighty  
Milligrams of Methadone)  
PENAL LAW 220.43(2)  
(Committed on or after Sept. 1, 1973)**

The \_\_\_\_ count is Criminal Sale of a Controlled Substance in the First Degree.

Under our law, a person is guilty of Criminal Sale of a Controlled Substance in the First Degree when that person knowingly and unlawfully sells two thousand eight hundred and eighty milligrams or more of methadone.

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: “sell,” “knowingly,” and “unlawfully.”

SELL means to sell, exchange, give or dispose of to another [*or* to offer or agree to do the same].<sup>1</sup>

A person KNOWINGLY sells two thousand eight hundred and eighty milligrams or more of methadone when that person is aware that he or she is selling methadone in that quantity. Thus, the person must be aware both that the substance he or she is selling contains methadone and that the methadone contained in the substance weighs two thousand eight hundred and eighty milligrams or more.<sup>2</sup>

A person UNLAWFULLY sells methadone when that person has no legal right to sell it.<sup>3</sup> Under our law, with certain exceptions not applicable here, a person has no legal right to sell methadone.

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, 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)*, sold two thousand eight hundred and eighty milligrams or more of methadone; and
2. That the defendant did so knowingly and unlawfully.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Criminal Sale of a Controlled Substance in the First Degree as charged in the \_\_\_\_ count.

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*See*, Penal Law § 220.00(1).

*See*, Penal Law § 15.05(2) and *People v Ryan*, 82 NY2d 497 (1993).

*See*, Penal Law § 220.00(2) and Public Health Law § 3396(1).

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 Sale of a Controlled Substance in the First Degree as charged in the \_\_\_ count.