

**DISSEMINATION OF AN UNLAWFUL SURVEILLANCE IMAGE
IN THE SECOND DEGREE
Penal Law § 250.55
(Committed on or after Nov. 1, 2014)**

The (*specify*) count is Dissemination of an Unlawful Surveillance Image in the Second Degree.

A person is guilty of Dissemination of an Unlawful Surveillance Image in the Second Degree when

he or she, with knowledge of the unlawful conduct by which an image or images of the sexual or other intimate parts of another person or persons were obtained and

such unlawful conduct would satisfy the essential elements of the crime of Unlawful Surveillance in the [First ¹] Second Degree

intentionally disseminates such image or images.

It is unlawful to obtain an image or images of the sexual or other intimate parts of another person or persons when it is done in violation of the crime(s) of Unlawful Surveillance in the [First] Second Degree.

NOTE: If Unlawful Surveillance in the [First] Second Degree has been separately charged, that charge should be given to the jury first and at this point the jury may then be instructed that the “unlawful surveillance” charge applies here. Otherwise, the jury

¹ At this point the statute continues: “as defined, respectively, in section 250.50 or 250.45 of this article.” Those definitions are referenced below. It should be noted that Unlawful Surveillance in the First Degree is defined as: “A person is guilty of unlawful surveillance in the first degree when he or she commits the crime of unlawful surveillance in the second degree and has been previously convicted within the past ten years of unlawful surveillance in the first or second degree.” Normally therefore the jury will need to be instructed only on the second degree crime.

should be instructed here on the definition of the appropriate “unlawful surveillance” crime(s).

The following terms used in the definition of Dissemination of an Unlawful Surveillance Image in the Second Degree have a special meaning:

SEXUAL OR OTHER INTIMATE PARTS means the human male or female genitals, pubic area or buttocks, or the female breast below the top of the nipple, and shall include such part or parts which are covered only by an undergarment.²

DISSEMINATE means to give, provide, lend, deliver, mail, send, forward, transfer or transmit, electronically or otherwise to another person.³

INTENT means conscious objective or purpose. Thus, a person **INTENTIONALLY** disseminates an image [or images] when that person's conscious objective or purpose is to do so.⁴

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, each of the following three elements:

1. That on or about (date), in the County of (County), the defendant disseminated an image [or images] of the sexual or other intimate parts of another person [or persons];
2. That the image [or images] [was/were] obtained by unlawful conduct which would satisfy the essential elements of the crime of Unlawful Surveillance in the [First] Second Degree; and

² Penal Law § 250.40(3).

³ Penal Law § 250.40(5).

⁴ See Penal Law § 15.05(1).

3. That the defendant disseminated the image [or images] intentionally and with knowledge of the unlawful conduct by which the image [or images] [was/were] obtained.

If you find the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of this crime.