**ADVERSE INFERENCE:
MISSING ROSARIO MATERIAL**

Under our law, the People are required to have made available to a defendant any written [or recorded] statement made by a person whom the prosecutor intends to call as a witness at trial, which relates to the subject matter of the witness’s testimony, and which was in the possession of the prosecutor or police.1

In this case, (*specify writing or recording*) contained a statement of *(specify name of witness*) and that writing [recording] was in the possession of the [prosecutor][police] and was not provided to the defense, as required by law [because (*specify if in evidence*)].

In the absence of (*specify writing or recording*) you may, but are not required to, infer that it contained one or more statements of (*specify name of witness*) which are not consistent with his/her trial testimony.2

1. CPL 240.45(1)(a). *See People v Rosario*, 9 NY2d 286 (1961); *People v Perez*, 65 NY2d 154 (1985); *People v Ranghelle*, 69 NY2d 56 (1986).
2. *See People v Martinez*, 71 NY2d 937 (1988); *People v Wallace*, 76 NY2d 953 (1990). *People v. Joseph*, 86 NY2d 565 (1995).