

**MENACING FIRST DEGREE**  
**PENAL LAW 120.13**  
**No charge prepared**

No charge was prepared for this offense, which elevates the crime of second degree menacing to a felony when the defendant has been convicted of second degree menacing or the crime of menacing a police or peace officer within the preceding ten years. Thus, the applicable charge for menacing in the second degree may be used.

With respect to a previous conviction referred to in the statute, the defendant must be arraigned upon a special information alleging the previous conviction, in accordance with the procedure set forth in CPL § 200.60(3). If, upon such arraignment, the defendant admits the previous conviction, the court must not make any reference to it in the definition of the crime or in listing its elements. But if the defendant denies the previous conviction or remains mute, the court must add this element to the definition of the crime and the list of elements. See *People v. Cooper*, 78 NY2d 476 (1991).