

1.01 FUNCTIONS OF COURT AND JURY

Members of the jury, I will now instruct you on the law that you must follow in deciding this case. [I will also give [each of] you a copy of these instructions to use in the jury room.] [Each of you has a copy of these instructions to use in the jury room.] You must follow all of my instructions about the law, even if you disagree with them. This includes the instructions I gave you before the trial, any instructions I gave you during the trial, and the instructions I am giving you now.

As jurors, you have two duties. Your first duty is to decide the facts from the evidence that you saw and heard here in court. This is your job, not my job or anyone else's job.

Your second duty is to take the law as I give it to you, apply it to the facts, and decide if the government has proved the defendant[s] guilty beyond a reasonable doubt [and whether the defendant has proved [insert defense] by a preponderance of the evidence; by clear and convincing evidence].

You must perform these duties fairly and impartially. Do not let sympathy, prejudice, fear, or public opinion influence you. [In addition, do not let any person's race, color, religion, national ancestry, or gender influence you.]

[You must give [name of corporate/entity defendant] the same fair consideration that you would give to an individual.]

You must not take anything I said or did during the trial as indicating that I have an opinion about the evidence or about what I think your verdict should be.

1.02 THE CHARGE

The charge[s] against the defendant [is; are] in a document called an indictment [information]. [You will have a copy of the indictment during your deliberations.]

The indictment [information] in this case charges that the defendant[s] committed the crime[s] of [fill in short description of charged offenses]. The defendant[s] [has; have] pled not guilty to the charge[s].

The indictment [information] is simply the formal way of telling the defendant what crime[s] [he is; they are] accused of committing. It is not evidence that the defendant[s] [is; are] guilty. It does not even raise a suspicion of guilt.

1.03 PRESUMPTION OF INNOCENCE/BURDEN OF PROOF

[The; each] defendant is presumed innocent of [each and every one of] the charge[s]. This presumption continues throughout the case, including during your deliberations. It is not overcome unless, from all the evidence in the case, you are convinced beyond a reasonable doubt that the [defendant; particular defendant you are considering] is guilty as charged.

The government has the burden of proving [the; each] defendant's guilt beyond a reasonable doubt. This burden of proof stays with the government throughout the case.

[The; a] defendant is never required to prove his innocence. He is not required to produce any evidence at all.

Alternative to paragraphs 2 and 3 to be used when an affirmative defense is raised on which the defendant has the burden of proof:

The government has the burden of proving every element of the crime[s] charged beyond a reasonable doubt. This burden of proof stays with the government throughout the case. [The; a] defendant is never required to prove his innocence. He is not required to produce any evidence at all. However, the defendant has the burden of proving the defense of [identify defense, *e.g.*, duress, insanity] by [a preponderance of the evidence; clear and convincing evidence].

1.04 DEFINITION OF “REASONABLE DOUBT”

No instruction.

1.05 DEFINITION OF “CRIME CHARGED”

No instruction.

1.06 DEFINITION OF “FELONY/MISDEMEANOR”

No instruction.

1.07 BILL OF PARTICULARS

No instruction.

2.01 THE EVIDENCE

You must make your decision based only on the evidence that you saw and heard here in court. Do not consider anything you may have seen or heard outside of court, including anything from the newspaper, television, radio, the Internet, or any other source.

The evidence includes only what the witnesses said when they were testifying under oath[,] [and] the exhibits that I allowed into evidence[,] [and] the stipulations that the lawyers agreed to. A stipulation is an agreement that [[certain facts are true] [or] [that a witness would have given certain testimony.] [In addition, you may recall that I took [judicial] notice of certain facts that may be considered as matters of common knowledge. You may accept those facts as proved, but you are not required to do so.]

Nothing else is evidence. The lawyers' statements and arguments are not evidence. If what a lawyer said is different from the evidence as you remember it, the evidence is what counts. The lawyers' questions and objections likewise are not evidence.

A lawyer has a duty to object if he thinks a question is improper. If I sustained objections to questions the lawyers asked, you must not speculate on what the answers might have been.

If, during the trial, I struck testimony or exhibits from the record, or told you to disregard something, you must not consider it.

2.02 CONSIDERING THE EVIDENCE

Give the evidence whatever weight you decide it deserves. Use your common sense in weighing the evidence, and consider the evidence in light of your own everyday experience.

People sometimes look at one fact and conclude from it that another fact exists. This is called an inference. You are allowed to make reasonable inferences, so long as they are based on the evidence.

2.03 DIRECT AND CIRCUMSTANTIAL EVIDENCE

You may have heard the terms “direct evidence” and “circumstantial evidence.” Direct evidence is evidence that directly proves a fact. Circumstantial evidence is evidence that indirectly proves a fact.

You are to consider both direct and circumstantial evidence. The law does not say that one is better than the other. It is up to you to decide how much weight to give to any evidence, whether direct or circumstantial.

2.04 NUMBER OF WITNESSES

Do not make any decisions simply by counting the number of witnesses who testified about a certain point.

[You may find the testimony of one witness or a few witnesses more persuasive than the testimony of a larger number. You need not accept the testimony of the larger number of witnesses.]

What is important is how truthful and accurate the witnesses were and how much weight you think their testimony deserves.

**2.05 DEFENDANT'S FAILURE TO TESTIFY OR
PRESENT EVIDENCE**

A defendant has an absolute right not to testify [or present evidence]. You may not consider in any way the fact that [the; a] defendant did not testify [or present evidence]. You should not even discuss it in your deliberations.

3.01 CREDIBILITY OF WITNESSES

Part of your job as jurors is to decide how believable each witness was, and how much weight to give each witness' testimony [, including that of the defendant]. You may accept all of what a witness says, or part of it, or none of it.

Some factors you may consider include:

- [the age of the witness;]
- the intelligence of the witness;
- the witness' ability and opportunity to see, hear, or know the things the witness testified about;
- the witness' memory;
- the witness' demeanor;
- whether the witness had any bias, prejudice, or other reason to lie or slant the testimony;
- the truthfulness and accuracy of the witness' testimony in light of the other evidence presented; and
- inconsistent [or consistent] statements or conduct by the witness.

3.02 ATTORNEY INTERVIEWING WITNESS

It is proper for an attorney to interview any witness in preparation for trial.

3.03 PRIOR INCONSISTENT STATEMENTS

You have heard evidence that before the trial, [a] witness[es] made [a] statement[s] that may be inconsistent with [his; their] testimony here in court. You may consider an inconsistent statement made before the trial [only] to help you decide how believable a witness' testimony was here in court. [If an earlier statement was made under oath, then you can also consider the earlier statement as evidence of the truth of whatever the witness said in the earlier statement.]

3.04 PRIOR INCONSISTENT STATEMENT BY DEFENDANT

You have heard evidence that before the trial, [the; a] defendant made [a] statement[s] that may be inconsistent with his testimony here in court. You may consider an inconsistent statement by [the; a] defendant made before the trial to help you decide how believable the defendant's testimony was here in court, and also as evidence of the truth of whatever the defendant said in the earlier statement.

3.05 WITNESSES REQUIRING SPECIAL CAUTION

You have heard testimony from [a witness; witnesses; name(s) of witness(es)] who:

- [was; were] [promised; received; expected] [a] benefit[s] in return for his [testimony; cooperation with the government];]
- has [admitted; been convicted of] lying under oath;]
- has [pled guilty to; stated] that he was involved in [[one; some] of the crime[s] the defendant is charged with committing.] [You may not consider his guilty plea as evidence against the defendant.]]

You may give [this witness'; these witnesses'] testimony whatever weight you believe is appropriate, keeping in mind that you must consider that testimony with caution and great care.

3.06 IMPEACHMENT BY PRIOR CONVICTION

You may consider evidence that the defendant was convicted of a crime only in deciding the believability of his testimony. [You may not consider it for any other purpose.] [The other conviction[s] [is; are] not evidence of whether the defendant is guilty of [the; any] crime he is charged with in this case.]

You may consider evidence that a witness was convicted of a crime only in deciding the believability of his testimony. You may not consider it for any other purpose.

3.07 CHARACTER EVIDENCE REGARDING WITNESS

You have heard testimony about [name]’s character for [truthfulness; untruthfulness]. You may consider this evidence only in deciding the believability of [name]’s testimony and how much weight to give to it.

3.08 CHARACTER EVIDENCE REGARDING DEFENDANT

You have heard testimony about the defendant's [good character; character for _____]. You should consider this testimony together with and in the same way you consider the other evidence.

3.09 STATEMENT BY DEFENDANT

You have [heard testimony; received evidence] that [the defendant; defendant [name]] made a statement to [name of person or agency]. You must decide whether [the defendant; defendant [name]] actually made the statement and, if so, how much weight to give to the statement. In making these decisions, you should consider all of the evidence, including the defendant's personal characteristics and circumstances under which the statement may have been made.

[You may not consider the statement of defendant [name] as evidence against [the; any] other defendant.]

3.10 DEFENDANT'S SILENCE IN THE FACE OF ACCUSATION

You have heard evidence that _____ accused the defendant of [the; a] crime charged in the indictment and that the defendant did not [deny; object to; contradict] the accusation. If you find that the defendant was present and heard and understood the accusation, and that the accusation was made under such circumstances that the defendant would [deny; object to; contradict] it if it were not true, then you may consider whether the defendant's silence was an admission of the truth of the accusation.

3.11 EVIDENCE OF OTHER ACTS BY DEFENDANT

You have heard [testimony; evidence] that the defendant committed [crimes; acts; wrongs] other than the ones charged in the indictment. Before using this evidence, you must decide whether it is more likely than not that the defendant did the [crimes; acts; wrongs] that are not charged in the indictment. If you decide that he did, then you may consider this evidence to help you decide [describe purpose for which other act evidence was admitted, *e.g.* the defendant's intent to distribute narcotics, absence of mistake in dealing with the alleged victim, etc.]. You may not consider it for any other purpose. Keep in mind that the defendant is on trial here for [describe charge(s) in indictment], not for the other [crimes; acts; wrongs].

3.12 IDENTIFICATION TESTIMONY

You have heard testimony of an identification of a person. Identification testimony is an expression of the witness' belief or impression. In evaluating this testimony, you should consider the opportunity the witness had to observe the person at the time [of the offense] and to make a reliable identification later. You should also consider the circumstances under which the witness later made the identification.

The government must prove beyond a reasonable doubt that the defendant is the person who committed the crime that is charged.

3.13 OPINION TESTIMONY

You have heard a witness, namely, [name of witness], who gave opinions and testimony about [certain subject(s); specify the subject(s), if possible]. You do not have to accept this witness' [opinions; testimony]. You should judge this witness' opinions and testimony the same way you judge the testimony of any other witness. In deciding how much weight to give to these opinions and testimony, you should consider the witness' qualifications, how he reached his [opinions; conclusions], and the factors I have described for determining the believability of testimony.

3.14 RECORDED CONVERSATIONS/TRANSCRIPTS

You have [heard [a] recorded conversation[s]; seen [a] video recording[s]]. This is proper evidence that you should consider together with and in the same way you consider the other evidence.

[You were also given transcripts of the conversation[s] [on the video recording[s]] to help you follow the recording[s] as you listened to [it; them]. The recording[s] are the evidence of what was said and who said it. The transcripts are not evidence. If you noticed any differences between what you heard in a conversation and what you read in the transcripts, your understanding of the recording is what matters. In other words, you must rely on what you heard, not what you read. And if you could not hear or understand certain parts of a recording, you must ignore the transcripts as far as those parts are concerned. [You may consider a person's actions, facial expressions, and lip movements that you are able to observe on a video recording to help you determine what was said and who said it.]]

[I am providing you with the recording[s] and a device with instructions on its use. It is up to you to decide whether to listen to [a; the] recording during your deliberations. You may, if you wish, rely on your recollections of what you heard during the trial.]

[If, during your deliberations, you wish to have another opportunity to view [a; any] transcript[s][as you listen to a recording], send a written message to the [marshal; court security officer], and I will provide you with the transcript[s].]

3.15 FOREIGN LANGUAGE RECORDINGS/ENGLISH TRANSCRIPTS

During the trial, [list name of language] language recordings were admitted in evidence. You were also given English transcripts of those recordings so you could consider the contents of the recordings. It is up to you to decide whether a transcript is accurate, in whole or in part. You may consider the translator's knowledge, training, and experience, the nature of the conversation, and the reasonableness of the translation in light of all the evidence in the case. You may not rely on any knowledge you may have of the [name] language. Rather, your consideration of the transcripts should be based on the evidence introduced in the trial.

[You may consider a person's actions, facial expressions, and lip movements that you are able to observe on a video recording to help you determine what was said and who said it.]

3.16 SUMMARIES RECEIVED IN EVIDENCE

Certain [summaries; charts; etc.] were admitted in evidence. [You may use those [summaries; charts] as evidence [even though the underlying [documents; evidence] are not here].]

[The accuracy of the [summaries; charts] has been challenged. [The underlying [documents; evidence] [has; have] also been admitted so that you may determine whether the summaries are accurate.]

[It is up to you to decide how much weight to give to the summaries.]

3.17 DEMONSTRATIVE SUMMARIES/CHARTS NOT RECEIVED IN EVIDENCE

Certain [summaries; charts; etc.] were shown to you to help explain other evidence that was admitted, [specifically, identify the demonstrative exhibit, if appropriate]. These [summaries; charts] are not themselves evidence or proof of any facts, [so you will not have these particular [summaries; charts] during your deliberations]. [If they do not correctly reflect the facts shown by the evidence, you should disregard the [summaries; charts] and determine the facts from the underlying evidence.]

3.18 JUROR NOTE-TAKING

If you have taken notes during the trial, you may use them during deliberations to help you remember what happened during the trial. You should use your notes only as aids to your memory. The notes are not evidence. All of you should rely on your independent recollection of the evidence, and you should not be unduly influenced by the notes of other jurors. Notes are not entitled to any more weight than the memory or impressions of each juror.

3.19 GOVERNMENT INVESTIGATIVE TECHNIQUES

You have heard evidence obtained from the government's use of [undercover agents] [informants] [deceptive investigative techniques]. The government is permitted to use these techniques. You should consider evidence obtained this way together with and in the same way you consider the other evidence.

4.01 ELEMENTS/BURDEN OF PROOF

[The indictment charges the defendant[s] with; Count[s] ____ of the indictment charge[s] the defendant[s] with] _____. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [fill in number of elements] following elements beyond a reasonable doubt:

1. Add element.
2. Add element.
3. Add element
4. [Addressing any issues raised by an affirmative defense on which the government bears the burden of proof, *e.g.*, entrapment.]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

4.02 ELEMENTS/BURDEN OF PROOF IN CASE INVOLVING INSANITY DEFENSE

[The indictment charges the defendant[s] with; Count[s] ____ of the indictment charge[s] the defendant[s] with] _____. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [fill in number of elements] following elements beyond a reasonable doubt:

1. Add element.
2. Add element.
3. Add element

If you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge], unless you decide that the defendant is not guilty by reason of insanity.

If the defendant has proved the defense of insanity by clear and convincing evidence [as to the charge you are considering], then you should find the defendant not guilty [of that charge] by reason of insanity. Clear and convincing evidence is not as high a burden as proof beyond a reasonable doubt.

[Insert definition of insanity from Pattern Instruction 6.02.]

4.03 ELEMENTS/BURDEN OF PROOF IN CASE INVOLVING COERCION DEFENSE

[The indictment charges the defendant[s] with; Count[s] ____ of the indictment charge[s] the defendant[s] with] _____. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [fill in number of elements] following elements beyond a reasonable doubt:
(b)

If you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge], unless the defendant has proven the defense of coercion. If the defendant has proven that it is more likely than not that he was coerced, then you should find the defendant not guilty [of that charge].

[Insert definition of coercion from Pattern Instruction 6.08]

4.04 UNANIMITY ON SPECIFIC ACTS

Count[s] ____ charge the defendant with [fill in description of multiple acts, *e.g.*, making more than one false statement]. The government is not required to prove that the defendant made every one of the [fill in shorthand description, *e.g.*, false statements] alleged in [Count ____; the particular Count you are considering]. However, the government is required to prove that the defendant made at least one of the [fill in shorthand description, *e.g.*, false statements] that is alleged in [Count ____; the particular Count]. To find that the government has proven this, you must agree unanimously on which particular [shorthand description, *e.g.* false statement] the defendant made, as well as all of the other elements of the crime charged.

[For example[, on Count ____], if some of you were to find that the government has proved beyond a reasonable doubt that the defendant [fill in description of one of the particular acts charged, *e.g.*, "made a false statement regarding his taxable income"], and the rest of you were to find that the government has proved beyond a reasonable doubt that the defendant [fill in description of a different particular act charged, *e.g.*, "made a false statement about the number of exemptions to which he was entitled"], then there would be no unanimous agreement on which [shorthand description, *e.g.*, false statement] the government has proved. On the other hand, if all of you were to find that the government has proved beyond a reasonable doubt that the defendant [fill in description of one of the particular acts charged, *e.g.*, "made a false statement regarding his taxable income"], then there would be a unanimous agreement on which [shorthand description, *e.g.*, false statement] the government proved.]

4.05 DATE OF CRIME CHARGED

The indictment charges that [the crime[s]; insert other description] happened “on or about” [fill in date]. The government must prove that the crime[s] happened reasonably close to the date[s]. The government is not required to prove that the crime[s] happened on the [those] exact date[s].

4.06 SEPARATE CONSIDERATION – ONE DEFENDANT CHARGED WITH MULTIPLE CRIMES

[The; certain] defendant[s] has been accused of more than one crime. The number of charges is not evidence of guilt and should not influence your decision.

You must consider each charge [and the evidence concerning each charge] separately. Your decision on one charge, whether it is guilty or not guilty, should not influence your decision on any other charge.

4.07 SEPARATE CONSIDERATION – MULTIPLE DEFENDANTS CHARGED WITH SAME OR MULTIPLE CRIME(S)

Even though the defendants are being tried together, you must consider each defendant [and the evidence concerning that defendant] separately. Your decision concerning one defendant, whether it is guilty or not guilty, should not influence your decision concerning any other defendant.

4.08 PUNISHMENT

In deciding your verdict, you should not consider the possible punishment for the defendant[s] [who [is; are] on trial]. If you decide that the government has proved [the; a] defendant guilty beyond a reasonable doubt, then it will be my job to decide on the appropriate punishment.

4.09 ATTEMPT

A person attempts to commit [identify offense, *e.g.*, bank robbery] if he (1) knowingly takes a substantial step toward committing [describe the offense], (2) with the intent to commit [describe the offense]. The substantial step must be an act that strongly corroborates that the defendant intended to carry out the [the crime; describe the offense].

4.10 DEFINITION OF “KNOWINGLY”

A person acts knowingly if he realizes what he is doing and is aware of the nature of his conduct, and does not act through ignorance, mistake, or accident. [In deciding whether the defendant acted knowingly, you may consider all of the evidence, including what the defendant did or said.]

[You may find that the defendant acted knowingly if you find beyond a reasonable doubt that he had a strong suspicion that [state fact as to which knowledge is in question, *e.g.*, “drugs were in the suitcase,” “the financial statement was false,”] and that he deliberately avoided the truth. You may not find that the defendant acted knowingly if he was merely mistaken or careless in not discovering the truth, or if he failed to make an effort to discover the truth.]

4.11 DEFINITION OF “WILLFULLY”

No instruction.

4.12 SPECIFIC INTENT/GENERAL INTENT

No instruction.

4.13 DEFINITION OF “POSSESSION”

A person possesses an object if he has the ability and intention to exercise direction or control over the object, either directly or through others. [A person may possess an object even if he is not in physical contact with it [and even if he does not own it].]

[More than one person may possess an object. If two or more persons share possession, that is called “joint” possession. If only one person possesses the object, that is called “sole” possession. The term “possess” in these instructions includes both joint and sole possession.]

4.14 POSSESSION OF RECENTLY STOLEN PROPERTY

If you find that the defendant was in possession of property that recently had been stolen, you may infer that he knew it was stolen. You are not required to make this inference.

The term “recently” has no fixed meaning. The more time that has passed since the property was stolen, the more doubtful an inference of the defendant’s knowledge becomes.

5.01 RESPONSIBILITY

A person who [orders; authorizes; [or] in some other way is responsible for] the criminal acts of another person may be found guilty whether or not the other person [is; has been] found guilty.

5.02 PERSONAL RESPONSIBILITY OF CORPORATE AGENT

A person who acts on behalf of a [corporation; partnership; other entity] also is personally responsible for what he does or causes someone else to do. However, a person is not responsible for the conduct of others performed on behalf of a corporation merely because that person is an officer, employee, or other agent of a corporation.

5.03 ENTITY RESPONSIBILITY – ENTITY DEFENDANT – AGENCY

[Name of entity] is a [corporation; other type of entity]. A [corporation; other type of entity] may be found guilty of an offense. A [corporation; other type of entity] acts only through its agents and employees, that is, people authorized or employed to act for the [corporation; other type of entity].

[The indictment charges [name of entity] with; Count __ of the indictment is a charge of] _____. In order for you to find [name of entity] guilty of this charge, the government must prove each of the following elements beyond a reasonable doubt:

First, the offense charged was committed by an agent or employee of [name of entity]; and

Second, in committing the offense, the agent[s] or employee[s] intended, at least in part, to benefit [name of entity]; and

Third, the agent[s] or employee[s] acted within [his/their] authority.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt, then you should find the defendant guilty.

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt, then you should find the defendant not guilty.

An act is within the authority of an agent or employee if it concerns a matter that [name of entity] generally entrusted to that agent or employee. [Name of entity] need not have actually authorized or directed the particular act.

If an agent or employee was acting within his authority, then [name of entity] is not relieved of its responsibility just because the act was illegal, or was contrary to [name of entity]'s instructions, or was against [name of entity]'s general policies. However, you may consider the fact that [name of entity] had policies and instructions and how carefully it tried to enforce them when you determine whether [name of entity]'s agent[s] or employee[s] was acting with the intent to benefit [name of entity] or was acting within his authority.

5.04 ENTITY RESPONSIBILITY – ENTITY DEFENDANT – AGENCY RATIFICATION

If you find that an agent's act was outside his authority, then you must consider whether the corporation later approved the act. An act is approved if, after it is performed, another agent of the corporation, with the authority to perform or authorize the act and with the intent to benefit the corporation, either expressly approves the act or engages in conduct that is consistent with approving the act. A corporation is legally responsible for any act or omission approved by its agents.

5.05 JOINT VENTURE

An offense may be committed by more than one person. A defendant's guilt may be established without proof that the defendant personally performed every act constituting the crime charged.

**5.06 AIDING AND ABETTING/ACTING THROUGH
ANOTHER**

(a)

Any person who knowingly [aids; counsels; commands; induces; or procures] the commission of an offense may be found guilty of that offense if he knowingly participated in the criminal activity and tried to make it succeed.

(b)

If a defendant knowingly causes the acts of another, then the defendant is responsible for those acts as though he personally committed them.

5.07 PRESENCE/ACTIVITY/ASSOCIATION

(a)

A defendant's presence at the scene of a crime and knowledge that a crime is being committed is not sufficient by itself to establish the defendant's guilt.

(b)

If a defendant performed acts that advanced the crime but had no knowledge that the crime was being committed or was about to be committed, those acts are not sufficient by themselves to establish the defendant's guilt.

(c)

A defendant's association with persons involved in a [crime; criminal scheme] is not sufficient by itself to prove his [participation in the crime] [or] [membership in the criminal scheme].

5.08(A) CONSPIRACY – OVERT ACT REQUIRED

[The indictment charges defendant[s] with; Count[s] __ of the indictment charge[s] the defendant with] conspiracy. In order for you to find the defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The conspiracy as charged in Count [___] existed;
2. The defendant knowingly became a member of the conspiracy with an intent to advance the conspiracy; and
3. One of the conspirators committed an overt act in an effort to advance [a; the] goal[s] of the conspiracy [on or before ____].

An overt act is any act done to carry out [a; the] goal[s] of the conspiracy. The government is not required to prove all of the overt acts charged in the indictment. [The overt act may itself be a lawful act.]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt, then you should find the defendant guilty.

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt, then you should find the defendant not guilty.

5.08(B) CONSPIRACY – NO OVERT ACT REQUIRED

[The indictment charges defendant[s] with; Count[s] __ of the indictment charge[s] the defendant with] conspiracy. In order for you to find the defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The conspiracy as charged in [Count ____] existed; and
2. The defendant knowingly became a member of the conspiracy with an intent to advance the conspiracy.
3. If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt, then you should find the defendant guilty.

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt, then you should find the defendant not guilty.

5.09 DEFINITION OF “CONSPIRACY”

A conspiracy is an express or implied agreement between two or more persons to commit a crime. A conspiracy may be proven even if its goal[s] [was; were] not accomplished.

In deciding whether the charged conspiracy existed, you may consider all of the circumstances, including the words and acts of each of the alleged participants.

5.10 CONSPIRACY – MEMBERSHIP IN CONSPIRACY

To be a member of a conspiracy, [the/a] defendant does not need to join it at the beginning, and he does not need to know all of the other members or all of the means by which the illegal goal[s] of the conspiracy [was; were] to be accomplished. The government must prove beyond a reasonable doubt that the defendant [you are considering] was aware of the illegal goal[s] of the conspiracy and knowingly joined the conspiracy.

[A defendant is not a member of a conspiracy just because he knew and/or associated with people who were involved in a conspiracy, knew there was a conspiracy, and/or was present during conspiratorial discussions.]

In deciding whether [a particular] [the] defendant joined the charged conspiracy, you must base your decision only on what [that] [the] defendant did or said. To determine what [that] [the] defendant did or said, you may consider [that] [the] defendant's own words or acts. You may also use the words or acts of other persons to help you decide what the defendant did or said.

5.10(A) BUYER/SELLER RELATIONSHIP

A conspiracy requires more than just a buyer-seller relationship between the defendant and another person. In addition, a buyer and seller of [name of drug] do not enter into a conspiracy to [distribute [name of drug]; possess [name of drug] with intent to distribute] simply because the buyer resells the [name of drug] to others, even if the seller knows that the buyer intends to resell the [name of drug].

To establish that a [buyer; seller] knowingly became a member of a conspiracy with a [seller; buyer] to [distribute [name of drug]; possess [name of drug] with intent to distribute], the government must prove that the buyer and seller had the joint criminal objective of distributing [name of drug] to others.

5.10(B) SINGLE CONSPIRACY VS. MULTIPLE CONSPIRACIES

Count ____ charges that there was a single conspiracy. The defendant contends that [there was more than one conspiracy; other defense contention].

If you find that there was more than one conspiracy and that the defendant was a member of one or more of those conspiracies, then you may find the defendant guilty on Count ____ only if the [conspiracy; conspiracies] of which he was a member was a part of the conspiracy charged in Count ____.

The government is not required to prove the exact conspiracy charged in the indictment, so long as it proves that the defendant was a member of a smaller conspiracy contained within the charged conspiracy.

**5.11 CONSPIRATOR'S LIABILITY FOR SUBSTANTIVE
CRIMES COMMITTED BY CO-CONSPIRATORS
WHERE CONSPIRACY CHARGED – ELEMENTS**

Count[s] ____ of the indictment charges defendant[s] [name(s)] with [a] crime[s] that the indictment alleges [was; were] committed by [another; other] member[s] of the conspiracy. In order for you to find the defendant guilty of [this; these] charge[s], the government must prove each of the following [four] elements beyond a reasonable doubt:

1. The defendant [is guilty of the charge of conspiracy as alleged in Count ____] or [was a member of the conspiracy [alleged in Count [list conspiracy count] when the crime was committed];
2. [Another member/Other members] of the same conspiracy committed the crime charged in Count ____] during the time that the defendant was also a member of the conspiracy;
3. The other conspirator[s] committed the crime charged in Count ____ to advance the goals of the conspiracy; and
4. It was reasonably foreseeable to the defendant that other conspirators would commit the crime charged in Count ____ in order to advance the goals of the conspiracy. The government is not required to prove that the defendant actually knew about the crime charged in Count ____ or that the defendant actually realized that this type of crime would be committed as part of the conspiracy.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [as to that charge].

**5.12 CONSPIRATOR'S LIABILITY FOR SUBSTANTIVE
CRIMES COMMITTED BY CO-CONSPIRATORS; CONSPIRACY
NOT CHARGED IN THE INDICTMENT – ELEMENTS**

Count[s] ____ of the indictment charges defendant[s] [name(s)] with [a] crime[s] that the indictment alleges [was; were] committed by [another; other] member[s] of the conspiracy. In order for you to find the defendant guilty of [this; these] charge[s], the government must prove each of the following [four]elements beyond a reasonable doubt:

1. The defendant knowingly joined a conspiracy. A conspiracy is an agreement between two or more persons to commit a crime;
2. [Another member/Other members] of the same conspiracy committed the crime charged in Count ____ during the time that the defendant was also a member of the conspiracy;
3. The other conspirator[s] committed the crime charged in Count ____ to advance the goals of the conspiracy; and
4. It was reasonably foreseeable to the defendant that the other conspirator[s] would commit the crime charged in Count ____ in order to advance the goals of the conspiracy. The government is not required to prove that the defendant actually knew about the crime charged in Count ____ or that the defendant actually realized that this type of crime would be committed as part of the conspiracy.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [as to that charge].

5.13 CONSPIRACY – WITHDRAWAL

If you find that the government has proved all of the elements in Count[s] ____ of the indictment as to [the; a] defendant[s] [name] even though the crime[s] charged in [that; those] Count[s] were committed by others, you should then consider whether [he; they] withdrew from the conspiracy prior to the time [that; those] crime[s] [was; were] committed.

[The; A] defendant is not responsible for the crime[s] charged in Count ____, if, before the commission of [that; those] crime[s], he took some affirmative act in an attempt to defeat or disavow the goal[s] of the conspiracy, such as:

- (a) [completely undermining his earlier acts in support of the commission of the crime so that these acts no longer could support or assist the commission of the crime], or
- (b) [alerting the proper law enforcement authorities in time to give them the opportunity to stop the crime or crimes], or
- (c) [performing an affirmative act that is inconsistent with the goal[s] of the conspiracy in a way that the co-conspirators are reasonably likely to know about it before they carry through with additional acts of the conspiracy], or
- (d) [making a genuine effort to prevent the commission of the crime], or
- (e) [communicating to each of his co-conspirators that he has abandoned the conspiracy and its goals].

Merely ceasing active participation in the conspiracy is not sufficient to evidence withdrawal.

[The; a] defendant has the burden of proving that it is more likely than not that he withdrew from the conspiracy.

**5.14(A) CONSPIRACY – WITHDRAWAL – STATUTE OF
LIMITATIONS –ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] ____ of the indictment charge[s] the defendant[s] with] conspiracy. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [fill in number of elements] following elements beyond a reasonable doubt:

1. Add element.
2. Add element.
3. Add element

If you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt, then you should find the defendant guilty [of that charge], unless you also find that the defendant has proved that it is more likely than not that he withdrew from the conspiracy more than five years before the return of the indictment in this case. A defendant who has so proved should be found not guilty.

5.14(B) DEFINITION OF “CONSPIRACY – WITHDRAWAL – STATUTE OF LIMITATIONS”

[The] defendant[s] [name[s]] cannot be found guilty of the conspiracy charge if [he; they] withdrew from the conspiracy more than five years before the indictment was returned. The indictment in this case was returned on [date of indictment]. Thus, the [defendant[s] [name[s]] must prove that it is more likely than not that [he; they] withdrew from the conspiracy prior to [date five years prior to date of indictment].

In order to withdraw, [the; a] defendant must have taken some affirmative act in an attempt to defeat or disavow the goal[s] of the conspiracy, such as:

- (a) [completely undermining his earlier acts in support of the commission of the crime so that these acts no longer could support or assist the commission of the crime], or
- (b) [alerting the proper law enforcement authorities in time to give them the opportunity to stop the crime or crimes], or
- (c) [performing an affirmative act that is inconsistent with the goal[s] of the conspiracy in a way that the co-conspirators are reasonably likely to know about it before they carry through with additional acts of the conspiracy], or
- (d) [making a genuine effort to prevent the commission of the crime], or
- (e) [communicating to each of his co-conspirators that he has abandoned the conspiracy and its goals].

Merely ceasing active participation in the conspiracy is not sufficient to evidence withdrawal.

6.01 SELF DEFENSE/DEFENSE OF OTHERS

A person may use force when he reasonably believes that force is necessary to defend [himself/another person] against the imminent use of unlawful force. [A person may use force that is intended or likely to cause death or great bodily harm only if he reasonably believes that force is necessary to prevent death or great bodily harm to [himself/someone else].

6.02 INSANITY

You must find the defendant not guilty by reason of insanity if you find that he has proven by clear and convincing evidence that at the time he committed the offense, he had a severe mental disease or defect that rendered him unable to appreciate the nature and quality of what he was doing, or that rendered him unable to appreciate that what he was doing was wrong [that is, contrary to public morality and contrary to law.]

[If you find the defendant not guilty by reason of insanity, then the court will commit the defendant to a suitable facility until the court finds that he is eligible to be released.]

6.03 DEFENDANT'S PRESENCE

You have heard evidence that the defendant was not present at the time and place where the government alleges he committed the offense charged in Count _____. The government must prove beyond a reasonable doubt that the defendant was present at the time and place of the offense.

6.04 ENTRAPMENT – ELEMENTS

The government has the burden of proving beyond a reasonable doubt that the defendant was not entrapped by [identify the actor[s]: *e.g.*, government agent, informant, law enforcement officers]. The government must prove either:

1. Law enforcement officers and their agents did not persuade or otherwise induce the defendant to commit the offense; or
2. The defendant was predisposed to commit the offense before he had contact with law enforcement officers or their agents. If the defendant was predisposed, then he was not entrapped, even though law enforcement officers or their agents provided a favorable opportunity to commit the offense, made committing the offense easier, or participated in acts essential to the offense.

6.05 ENTRAPMENT – FACTORS

In deciding whether the government has proved that it did not entrap the defendant, you may consider all of the circumstances, including:

1. The defendant's background[, including his prior criminal history];
2. Whether [government agents; government informants; law enforcement officers] first suggested the criminal activity;
3. Whether the defendant engaged in the criminal activity for profit;
4. Whether the defendant was reluctant to engage in criminal activity;
5. Whether law enforcement officers or their agents merely invited or solicited the defendant to commit the offense;
6. The nature and extent of any pressure or persuasion used by law enforcement officers or their agents; [and]
7. Whether law enforcement officers or their agents offered the defendant an ordinary opportunity to commit a crime or instead offered the defendant exceptional profits or persuasion. [; and]
- [8. The defendant's ability to commit the crime without the assistance of law enforcement officers or their agents.]

It is up to you to determine the weight to be given to any of these factors and any others that you consider.

6.06 RELIANCE ON PUBLIC AUTHORITY

[The] defendant[s] [name] contend[s] that [he; they] acted in reliance on public authority. A defendant who commits an offense in reliance on public authority does not act [knowingly; insert other level of intent required for conviction] and should be found not guilty.

To be found not guilty based on reliance on public authority, [the; a] defendant must prove that each of the following [three] things are more likely true than not true:

1. An [agent; representative; official; or insert name] of the [United States] government [requested; directed; authorized] the defendant to engage in the conduct charged against the defendant in Count[s] ____; and
2. This [agent; representative; official; or insert name] had the actual authority to grant authorization for the defendant to engage in this conduct; and
3. In engaging in this conduct, the defendant reasonably relied on the [agent's; representative's; official's; or insert name] authorization. In deciding this, you should consider all of the relevant circumstances, including the identity of the government official, what that official said to the defendant, and how closely the defendant followed any instructions the official gave.

6.07 ENTRAPMENT BY ESTOPPEL

[The] defendant[s] [name] contend[s] that [he; they] engaged in the conduct charged against [him; them] in Count[s] ___ in reasonable reliance on [name the government agent]’s assurance that this conduct was lawful. A defendant who commits an offense in reasonable reliance on such an official assurance does not act [knowingly; insert other level of intent required for conviction] and should be found not guilty.

In order to be found not guilty for this reason, [the; a] defendant must prove the following [three] things are more likely true than not true:

1. An official of the United States government, with actual or apparent authority over the matter, told the defendant that his conduct would be lawful; and
2. The defendant actually relied on what this official told him in taking this action; and
3. The defendant’s reliance on what the official told him was reasonable. In deciding this, you should consider all of the relevant circumstances, including the identity of the government official, what that official said to the defendant, and how closely the defendant followed any instructions the official gave.

6.08 COERCION/DURESS

[The] defendant[s] contend[s] that even if the government has proved that [he; they] committed the offense charged against [him; them] [in Count [list number)s]], [he; they] did so because [he; they] [was; were] coerced. A person who is coerced into committing an offense should be found not guilty of that offense.

To establish that he was coerced, [the; a] defendant must prove that both of the following things are more likely true than not true:

1. He reasonably feared that [identify person or group] would immediately kill or seriously injure [him; specified third person] if he did not commit the offense; and
2. He had no reasonable opportunity to refuse to commit the offense and avoid the threatened harm.

6.09 VOLUNTARY INTOXICATION

You have heard evidence that the defendant was voluntarily intoxicated by [name intoxicant(s)] at the time of the commission of the offense[s] charged in [Count[s] ___ of] the indictment. You may consider this evidence in determining whether the defendant was capable of [insert intent element of crime at issue, *e.g.*, acting with intent to commit murder, acting with intent to defraud, corruptly influencing the due administration of justice].

6.10 GOOD FAITH – FRAUD/FALSE STATEMENTS/ MISREPRESENTATIONS

If the defendant acted in good faith, then he lacked the [intent to defraud; willfulness; etc.] required to prove the offense[s] of [identify the offenses] charged in Count[s] _____. The defendant acted in good faith if, at the time, he honestly believed the [truthfulness; validity; insert other specific term] that the government has charged as being [false; fraudulent; insert term used in charge].

The defendant does not have to prove his good faith. Rather, the government must prove beyond a reasonable doubt that the defendant acted [with intent to defraud; willfully; etc.] as charged in Count[s] _____.

[A defendant's honest and genuine belief that he will be able to perform what he promised is not a defense to fraud if the defendant also knowingly made false and fraudulent representations.]

6.11 GOOD FAITH: TAX AND OTHER TECHNICAL STATUTE CASES

A person does not act willfully if he believes in good faith that he is acting within the law, or that his actions comply with the law. Therefore, if the defendant actually believed that what he was doing was in accord with the [tax; currency structuring] laws, then he did not willfully [evade taxes; fail to file tax returns; make a false statement on a tax return; etc.]. This is so even if the defendant's belief was not objectively reasonable, as long as he held the belief in good faith. However, you may consider the reasonableness of the defendant's belief, together with all the other evidence in the case, in determining whether the defendant held that belief in good faith.

6.12 RELIANCE ON ADVICE OF COUNSEL

If the defendant relied in good faith on the advice of an attorney that his conduct was lawful, then he lacked the [intent to defraud; willfulness; etc.] required to prove the offense[s] of [identify the offenses] charged in Count[s] ____.

The defendant relied in good faith on the advice of counsel if:

1. Before taking action, he in good faith sought the advice of an attorney whom he considered competent to advise him on the matter; and
2. He consulted this attorney for the purpose of securing advice on the lawfulness of his possible future conduct; and
3. He made a full and accurate report to his attorney of all material facts that he knew; and
4. He then acted strictly in accordance with the advice of this attorney.

[You may consider the reasonableness of the advice provided by the attorney when determining whether the defendant acted in good faith.]

The defendant does not have to prove his good faith. Rather, the government must prove beyond a reasonable doubt that the defendant acted [with intent to defraud; willfully; etc.] as charged in Count[s] ____.

7.01 JURY DELIBERATIONS

Once you are all in the jury room, the first thing you should do is choose a [foreperson; presiding juror]. The [foreperson; presiding juror] should see to it that your discussions are carried on in an organized way and that everyone has a fair chance to be heard. You may discuss the case only when all jurors are present.

Once you start deliberating, do not communicate about the case or your deliberations with anyone except other members of your jury. You may not communicate with others about the case or your deliberations by any means. This includes oral or written communication, as well as any electronic method of communication, such as [list current technology or services likely to be used, *e.g.*, telephone, cell phone, smart phone, iPhone, Blackberry, computer, text messaging, instant messaging, the Internet, chat rooms, blogs, websites, or services like Facebook, MySpace, LinkedIn, YouTube, Twitter], or any other method of communication.

If you need to communicate with me while you are deliberating, send a note through the [Marshal; court security officer]. The note should be signed by the [foreperson; presiding juror], or by one or more members of the jury. To have a complete record of this trial, it is important that you do not communicate with me except by a written note. I may have to talk to the lawyers about your message, so it may take me some time to get back to you. You may continue your deliberations while you wait for my answer. [Please be advised that transcripts of trial testimony are not available to you. You must rely on your collective memory of the testimony.]

If you send me a message, do not include the breakdown of any votes you may have conducted. In other words, do not tell me that you are split 6–6, or 8–4, or whatever your vote happens to be.

7.02 VERDICT FORM

[A verdict form has been; Verdict forms have been] prepared for you. You will take [this form; these forms] with you to the jury room.

[Read the verdict form[s].]

When you have reached unanimous agreement, your [foreperson; presiding juror] will fill in, date, and sign the [appropriate] verdict form[s]. [The foreperson; The presiding juror; Each of you] will sign it.

Advise the [Marshal; court security officer] once you have reached a verdict. When you come back to the courtroom, [I; the clerk] will read the verdict[s] aloud.

7.03 UNANIMITY/DISAGREEMENT AMONG JURORS

The verdict must represent the considered judgment of each juror. Your verdict, whether it is guilty or not guilty, must be unanimous.

You should make every reasonable effort to reach a verdict. In doing so, you should consult with each other, express your own views, and listen to your fellow jurors' opinions. Discuss your differences with an open mind. Do not hesitate to re-examine your own view and change your opinion if you come to believe it is wrong. But you should not surrender your honest beliefs about the weight or effect of evidence just because of the opinions of your fellow jurors or just so that there can be a unanimous verdict.

The twelve of you should give fair and equal consideration to all the evidence. You should deliberate with the goal of reaching an agreement that is consistent with the individual judgment of each juror.

You are impartial judges of the facts. Your sole interest is to determine whether the government has proved its case beyond a reasonable doubt [and whether the defendant has proved [insert defense] [by a preponderance of the evidence; by clear and convincing evidence]].

STATUTORY INSTRUCTIONS

[The indictment charges defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with]] unauthorized acquisition of [food stamps; LINK card benefits; insert terminology used in particular State]. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant acquired more than \$100 worth of [food stamps; LINK card benefits; insert other appropriate terminology] in a way that was contrary to law; and
2. The defendant knew that his acquisition of the [food stamps; LINK card benefits; other terminology] was contrary to law.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

7 U.S.C. §2024(B) DEFINITION OF “CONTRARY TO LAW”

The law allows [food stamps; LINK card benefits; insert other appropriate terminology] to be exchanged only for eligible food, and not for cash.

8 U.S.C. §1324a(A)(1)(A)**UNLAWFUL EMPLOYMENT – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] unlawful employment of aliens. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [hired][recruited][referred for a fee] [person named in the indictment] for employment in the United States;
2. [person named in the indictment] was an alien; and
3. The defendant knew [person named in the indictment] was not authorized to undertake the employment.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**8 U.S.C. §1324(A)(1)(A)(I) BRINGING ALIEN TO THE UNITED STATES
OTHER THAN AT DESIGNATED PLACE –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] bringing an alien into the United States other than the place designated for entry. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant [brought][or attempted to bring] [person named in the indictment] into the United States; and
2. [person named in the indictment] was an alien; and
3. The defendant knew [person named in the indictment] was an alien; and
4. The [entry][attempted entry] into the United States was [made][attempted] at a place other than a designated port of entry.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

8 U.S.C. §1324(A)(1)(A)(II) ALIEN TRANSPORTATION – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] illegal transportation of an alien. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [five] following elements beyond a reasonable doubt:

1. [person named in the indictment] was an alien; and
2. [person named in the indictment] [came to] [entered] [remained in] the United States in violation of the law; and
3. The defendant knew [person named in the indictment] was not lawfully in the United States; and
4. The defendant knowingly [transported][moved][attempted to transport][attempted to move] [person named in the indictment] within the United States; and
5. The defendant's [transportation] [movement] [attempted transportation] [attempted movement] of [person named in the indictment] was in furtherance of [person named in the indictment's] violation of the law.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**8 U.S.C. §1324(A)(1)(A)(III) CONCEALING OR HARBORING
ALIENS – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] concealment of an alien. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant [concealed] [harbored] [shielded from detection] [attempted to conceal] [attempted to harbor][attempted to shield from detection] [person named in the indictment]; and
2. [person named in the indictment] was an alien; and
3. [person named in the indictment] [came to] [entered] [remained in] the United States in violation of the law; and
4. The defendant [knew] [person named in the indictment] was not lawfully in the United States.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**8 U.S.C. §1324(A)(1)(A)(IV) ENCOURAGING ILLEGAL ENTRY –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] encouraging illegal entry by an alien. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [encouraged][induced] [person named in the indictment] to [come to][enter][reside in] the United States; and
2. [person named in the indictment] was an alien; and
3. The defendant [knew] [person named in the indictment's]] [coming to][entry into][residence in] the United States would be in violation of the law.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**8 U.S.C. §1324(A)(2)(B)(II) BRINGING ALIEN INTO UNITED STATES
FOR COMMERCIAL ADVANTAGE OR
PRIVATE FINANCIAL GAIN – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] bringing an alien into the United States for the purpose of [commercial advantage][private financial gain]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant [brought][attempted to bring] [person named in the indictment] into the United States; and
2. [person named in the indictment] was an alien; and
3. The defendant [knew] [person named in the indictment] was an alien who had not received prior official authorization [to come][to enter][to reside in] the United States; and,
4. The defendant brought [person named in the indictment] into the United States for the purpose of [commercial advantage][private financial gain].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**8 U.S.C. §1324(A)(2)(B)(III) BRINGING ALIEN INTO UNITED STATES
WITHOUT IMMEDIATE PRESENTATION
AT DESIGNATED PORT OF ENTRY –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] bringing an alien into the United States without immediate presentation of the alien to an appropriate immigration official at a designated port of entry. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant [brought][or attempted to bring] [person named in the indictment] into the United States; and
2. The defendant [person named in the indictment] was an alien; and
3. The defendant [knew] [person named in the indictment] had not received prior official authorization [to come][to enter][to reside in] the United States; and
4. The defendant did not immediately bring and present [person named in the indictment] to an appropriate immigration official at a designated port of entry.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

8 U.S.C. §1325(A)(1) ILLEGAL ENTRY – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] entering the United States at a time and place other than as designated. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant was an alien; and
2. The defendant knowingly [entered][attempted to enter] the United States; and
3. The defendant [entered][attempted to enter] at a place other than a designated port of entry.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**8 U.S.C. §1325(A)(2) ELUDING EXAMINATION OR
INSPECTION – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] eluding [examination] [inspection] by immigration officers. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant was an alien; and
2. The defendant knowingly eluded [examination][inspection] by immigration officers.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**8 U.S.C. §1325(A)(3) ENTRY BY FALSE OR MISLEADING
REPRESENTATION – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] entry by [willfully false or misleading representation][willful concealment of a material fact. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant was an alien; and
2. The defendant [entered][attempted to enter] the United States; and
3. The defendant [made a [false] [misleading] representation] [concealed a material fact] for the purpose of gaining entry; and
4. The defendant [acted willfully, that is, he] deliberately and voluntarily [made a the representation][concealed a material fact].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

8 U.S.C. §1325(C) MARRIAGE FRAUD – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] marriage fraud. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly entered into a marriage with [the person named in the indictment]; and
2. The defendant entered the marriage for the purpose of evading an immigration law; and
3. The defendant knew or had reason to know his/her conduct was unlawful.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

8 U.S.C. §1326(A)

**DEPORTED ALIEN FOUND IN
UNITED STATES – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] being an alien found in the United States after having been deported. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant was an alien; and
2. The defendant had previously been [denied admission] [excluded] [deported] [removed] [had departed the United States while an order of [[exclusion][deportation][removal]] from the United States is outstanding]; and
3. The defendant [knowingly reentered][attempted to reenter][was found to be voluntarily in] the United States; and
4. The defendant had not received the express consent to apply for readmission to the United States.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

8 U.S.C. §1546(A)**USE, POSSESSION OF IMMIGRATION DOCUMENT
PROCURED BY FRAUD – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] fraudulent [use][possession] of an immigration document. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly [used] [attempted to use] [possessed] [obtained] [accepted] [received] [document described in the indictment]; and
2. [Document described in the indictment] is an [[immigrant][non-immigrant]][[visa][permit][border crossing card][alien registration receipt card][other document] prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States]]; and
3. The defendant knew the document was [forged] [counterfeited] [altered] [falsely made] [procured by means of any false claim or statement] [to have been procured by fraud] [unlawfully obtained].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §3 ACCESSORY AFTER THE FACT

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] being an accessory after the fact to [identify the underlying federal offense]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. [Name of offender] had committed the crime of [identify underlying federal crime] as defined in the next instruction; and
2. The defendant knew that [name of offender] had committed the crime of [identify underlying crime]; and
3. The defendant assisted [name of offender] in some way; and
4. The defendant did so with the intent to [obstruct [or] prevent] [name of offender] from being [arrested; prosecuted; [or] punished].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §152(1)**CONCEALMENT OF PROPERTY – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] concealment of property belonging to the estate of a debtor in a bankruptcy proceeding. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. There was a bankruptcy proceeding; and
2. [Identify property or assets] belonged to the bankrupt estate; and
3. The defendant knowingly concealed [identify property or assets] from [creditors; custodian; trustee; marshal; United States Trustee; other person charged with control or custody of such property]; and
4. The defendant acted [fraudulently, that is,] with the intent to deceive [any creditor; the trustee; the bankruptcy judge].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §152(1) DEFINITION OF “CONCEALMENT”

A person “conceals” [property; an asset] if he hides, secretes, fraudulently transfers, or destroys the [property; asset], or if he takes action to prevent discovery of the [property; asset] , or if he withholds information or knowledge required by law to be made known. Since the offense of concealment is a continuing one, the acts of concealing may have begun before as well as after the bankruptcy proceeding began.

The government is not required to prove that the concealment was successful.

[The government is also not required to prove that a demand was made to the defendant for the [property; assets; insert other].]

18 U.S.C. §152(2) & (3)**FALSE OATH, FALSE DECLARATION UNDER
PENALTY OF PERJURY – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] making [a false oath; a false account; a false declaration under penalty of perjury] in a bankruptcy proceeding. In order for you to find [a; the] the government must prove each of the [five] following elements beyond a reasonable doubt:

1. There was a bankruptcy proceeding; and
2. The defendant made [an oath; account; declaration; certification; verification; statement under penalty of perjury] in relation to the bankruptcy proceeding; and
3. The [oath; account; declaration; certification; verification; statement under penalty of perjury] related to some material matter; and
4. The [oath; account; declaration; certification; verification; statement under penalty of perjury] was false; and
5. The defendant made the [oath; account; declaration; certification; verification; statement under penalty of perjury] knowingly and with the intent to deceive [any creditor; the trustee; the bankruptcy judge].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §152(2) & (3)

**FALSE DECLARATION UNDER PENALTY OF
PERJURY – DEFINITION OF “MATERIAL”**

A material matter is one that is capable of influencing the court, the trustee, or any creditor.

[The government is not required to prove that the statement actually influenced the court, the trustee, or a creditor.]

[The government is also not required to prove that creditors were harmed by the false statement.]

18 U.S.C. §152(4)**PRESENTING OR USING A FALSE
CLAIM – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [presenting; using] a false claim in a bankruptcy proceeding. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [five] following elements beyond a reasonable doubt:

1. There was a bankruptcy proceeding; and
2. The defendant [personally; by agent; by proxy; by attorney as agent, proxy or attorney] [presented; used] a claim for proof against the estate of a debtor; and
3. The claim was false; and
4. The defendant knew the claim was false; and
5. The defendant presented the claim [fraudulently, that is] with the intent to deceive [any creditor; the trustee; the bankruptcy judge].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §152(6) BRIBERY – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [bribery; attempted bribery] in a bankruptcy proceeding. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. There was a bankruptcy proceeding; and
2. The defendant knowingly [gave; offered; received; attempted to obtain] [money; property; remuneration; compensation; reward; advantage, or promise thereof] for [acting; failing to act] in such bankruptcy proceeding; and
3. Third, the defendant acted [fraudulently, that is] with the intent to deceive [any creditor; the trustee; the bankruptcy judge].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §152(7)

**CONCEALMENT OR TRANSFER OF ASSETS
IN CONTEMPLATION OF BANKRUPTCY OR
WITH INTENT TO DEFEAT THE PROVISIONS
OF THE BANKRUPTCY LAW – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] ___ of the indictment charge[s] the defendant[s] with] [concealment; transfer] of property belonging to the estate of a debtor [in contemplation of bankruptcy; with intent to defeat the provisions of the bankruptcy law]. In order for you to find [a; the] defendant guilty of this charge, the government must prove the [four] following elements beyond a reasonable doubt:

1. [There was a bankruptcy proceeding]; [[Defendant; name of business; name of corporation] contemplated a bankruptcy proceeding]; and
2. [In contemplation of the bankruptcy proceeding; with intent to defeat the provisions of the bankruptcy law], the defendant transferred or concealed [identify the property], which belonged or would belong to the bankrupt estate; and
3. The defendant knowingly [concealed; transferred] the property; and
4. The defendant acted [fraudulently, that is,] with the intent to deceive [any creditor; the trustee; the bankruptcy judge].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §152(7)

**DEFINITION OF "IN CONTEMPLATION OF
BANKRUPTCY PROCEEDING"**

A person acts "in contemplation of bankruptcy proceeding" if he acts in expectation of, or planning for, the future probability of a bankruptcy proceeding.

18 U.S.C. §152(7) DEFINITION OF "TRANSFER"

“Transfer” of property includes every manner of disposing of or parting with property or an interest in property, whether directly or indirect, and whether absolutely or conditionally.

18 U.S.C. §152(8)**DESTRUCTION OF RECORDS; FALSE
ENTRIES – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [concealment of records; destruction of records; making a false entry in a document] relating to the property or the affairs of a debtor [in contemplation of bankruptcy; after filing a case in bankruptcy]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. A bankruptcy proceeding [was contemplated; existed]; and
2. The defendant knowingly [concealed; destroyed; mutilated; falsified; made a false entry in] document(s); and
3. The document(s) affected or related to the property or affairs of the debtor; and
4. The defendant acted [fraudulently, that is] with the intent to deceive [any creditor; the trustee; the bankruptcy judge].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §152(9) WITHHOLDING RECORDS – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] withholding records after filing a case in bankruptcy. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. There was a bankruptcy proceeding; and
2. The defendant knowingly withheld [recorded information; books; documents; records; [papers] from [the custodian; the trustee; the marshal; an officer of the court; a United States Trustee] entitled to its possession; and
3. The [recorded information; books; documents; records; papers] related to the property or financial affairs of the debtor; and
4. The defendant acted [fraudulently, that is] with the intent to deceive [any creditor; the trustee; the bankruptcy judge].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §201 GIVING A BRIBE – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] giving a bribe. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. That the defendant directly or indirectly [promised, gave, offered] something of value to a public official; and
2. That the defendant acted with intent to influence an official act; and
3. That the defendant acted corruptly.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §201 INTENT TO INFLUENCE

The government does not need to prove that the [public official; defendant] had the power to or did perform the act for which he [was promised; was given; received; agreed to receive] something of value. It is sufficient if the matter was one that was before him in his official capacity.

[The government also does not need to prove that the defendant in fact intended to be influenced. It is sufficient if the defendant knew that the thing of value was offered with the intent to influence official action.]

18 U.S.C. §241 ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] conspiracy against civil rights. In order for you to find [a ; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The conspiracy to [injure,] [oppress,] [threaten,] [or] [intimidate] one or more persons as charged in Count __ existed; and
2. The defendant knowingly became a member of the conspiracy with an intent to further the conspiracy; and
3. The defendant intended to deprive [name(s) of alleged victim(s)] of the free exercise or enjoyment of [his; their] right to [describe the right], which is secured by the [[Constitution] [and] [laws]] of the United States. The government is not required to prove that the defendant knew this right was secured by the [[Constitution] [and] [laws]] of the United States; and
4. One or more of the intended victims was present in a [State; Territory; District] of the United States.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §241 DEFINITION OF “CONSTITUTIONAL RIGHTS”

The right[s] to [description of constitutional or statutory right at issue, *e.g.*, the right to be free from the use of unreasonable force by a law enforcement officer] [is; are] right[s] secured by the [Constitution; laws] of the United States.

18 U.S.C. §241 DEATH

If you find the defendant guilty as charged in [Count[s] ____ of] the indictment, you must then determine whether the government has proven that [name of victim] died as a result of the conspiracy charged [in Count[s] ____].

The government must prove that [name of victim] died as a result of the defendants' conspiracy. The government satisfies this requirement by proving that the conduct of one or more of the [defendants; conspirators] contributed to or hastened [name of victim]'s death, even if that conduct by itself would not have caused his death. The government is not required to prove that the defendant[s] intended for (name) to die.

You will see on the verdict form a question concerning this issue. You should consider that question only if you have found that the government has proven the defendant guilty as charged in [Count[s] ____ of] the indictment. If you find that the government has proven beyond a reasonable doubt that [name of victim] died as a result of the conspiracy charged in [Count[s] ____ of] the indictment, then you should answer that question "Yes."

If you find that the government has not proven beyond a reasonable doubt that [name of victim] died as a result of the conspiracy charged in [Count[s] ____ of] the indictment, then you should answer that question "No."

**18 U.S.C. §242 DEPRIVATION OF RIGHTS UNDER COLOR
OF LAW – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] deprivation of rights under color of law. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant was acting under color of law; and
2. The defendant deprived [name of person] of [his/her] right to (name of right), which is secured or protected by the [[Constitution] [and] [laws]] of the United States; and
3. The defendant intended to deprive the victim of this right. The government is not required to prove that the defendant knew this right was secured by the [[Constitution] [and] [laws]] of the United States; and
4. [Name of person]] was present in [name of State, Territory, or District of the United States].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §242 RIGHTS

The right[s] to [description of constitutional or statutory right at issue, *e.g.*, the right to be free from the use of unreasonable force by a law enforcement officer] [is; are] [a] right[s] secured by the [constitution; laws] of the United States.

18 U.S.C. §242 DEFINITION OF “COLOR OF LAW”

A person acts under “color of law” when he acts in his official capacity or purports or claims to act in his official capacity. Action under color of law includes the abuse or misuse of the power possessed by the defendant by virtue of his [office; official position].

[A defendant who is not [an officer; a government employee/ official] acts under color of law when he knowingly participates in joint activity with a [state; local] [officer; official].

18 U.S.C. §242 DEATH

No instruction.

18 U.S.C. §242 BODILY INJURY

If you find the defendant guilty as charged in [Count[s] ____ of] the indictment, you must then determine whether the government has proven that [name of victim] suffered a bodily injury as a result of the defendant's acts charged [in Count[s] ____].

The term "bodily injury" includes any of the following: a cut, abrasion, bruise, burn, or disfigurement; physical pain; illness; impairment of [a ; the] function of a bodily member, organ, or mental faculty; or any other injury to the body, no matter how temporary.

You will see on the verdict form a question concerning this issue. You should consider that question only if you have found that the government has proven the defendant guilty as charged in [Count[s] ____ of] the indictment.

If you find that the government has proven beyond a reasonable doubt that [name of victim] suffered bodily injury as a result of the defendant's acts as charged in [Count[s] ____ of] the indictment, then you should answer that question "Yes."

If you find that the government has not proven beyond a reasonable doubt that [name of victim] suffered bodily injury as a result of the defendant's acts as charged in [Count x of] the indictment, then you should answer that question "No."

**18 U.S.C. §286 CONSPIRACY TO DEFRAUD THE GOVERNMENT
WITH RESPECT TO CLAIMS – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] conspiracy to defraud the government with respect to claims. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. There was a conspiracy to obtain [payment; allowance; aid in obtaining payment; aid in obtaining allowance] of a [false; fictitious; fraudulent] claim against [the United States; a department or agency of the United States] as charged in Count[s] __; and
2. The defendant knowingly became a member of the conspiracy with an intent to advance the conspiracy; and
3. The defendant knew that the claim was [false; fictitious; fraudulent]; and
4. The defendant acted with the intent to defraud.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §287 FALSE, FICTITIOUS, OR FRAUDULENT
CLAIMS – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] making a false claim. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three; four] following elements beyond a reasonable doubt:

1. The defendant [made, presented] a claim against [the United States, a department or agency of the United States]; and
2. The claim was [false, fictitious, fraudulent]; and
3. The defendant knew the claim was [false, fictitious, fraudulent [.] [; and]
4. [The defendant acted with the intent to defraud.]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §401 CRIMINAL CONTEMPT

No instruction.

18 U.S.C. §402 CRIMINAL CONTEMPT

No instruction.

**18 U.S.C. §471 FALSELY MAKING, FORGING, COUNTERFEITING,
OR ALTERING A SECURITY OR OBLIGATION –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [falsely making; forging; counterfeiting; altering] a (specific security or obligation involved). In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant [falsely made; forged; counterfeited; altered] a (insert specific security or obligation of the United States involved); and
2. The defendant did so with the intent to defraud.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §472 UTTERING COUNTERFEIT OBLIGATIONS OR
SECURITIES – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [passing; uttering; publishing; selling; bringing into the United States; possessing; concealing] a [falsely made; forged; counterfeited; altered] (insert specific security or obligation of the United States involved). In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [passed; uttered; published; sold; brought into the United States; possessed; concealed] a [falsely made; forged; counterfeited; altered] (insert specific security or obligation of the United States involved); and
2. The defendant knew at the time that the (specific security or obligation involved) was [falsely made; forged; counterfeited; altered]; and
3. The defendant did so with the intent to defraud.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §473 DEALING IN COUNTERFEIT OBLIGATIONS OR
SECURITIES – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [buying; selling; exchanging; transferring; receiving; delivering] a [false; forged; counterfeited; altered] (insert specific security or obligation). In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [bought; sold; exchanged; transferred; received; delivered] a [false; forged; counterfeited; altered] (insert specific security or obligation of the United States involved); and
2. The defendant knew at the time that the (specific security or obligation) was [false; forged; counterfeit; altered]; and
3. The defendant did so with the intent that the (specific security or obligation) be [passed; published; used] as true and genuine.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §495 FALSELY MAKING, FORGING, COUNTERFEITING,
OR ALTERING A DOCUMENT – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [making; forging; counterfeiting; altering] a document. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [falsely made; forged; counterfeited; altered] the (document described in the indictment); and
2. The defendant did so for the purpose of [obtaining money; enabling (name) to obtain money] from the United States; and
3. The defendant knew the claim was [false; fraudulent].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §495 UTTERING OR PUBLISHING A FALSE
DOCUMENT – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [uttering; publishing] a false document. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [five] following elements beyond a reasonable doubt:

1. The defendant offered a document; and
2. When the defendant did so, he falsely represented in some way or manner that the document was genuine; and
3. When the defendant did so, the document was [false; forged; counterfeited; altered] in that (specific allegation); and
4. When the defendant did so, he knew that the document was [false; forged; counterfeited; altered]; and
5. The defendant did so with the intent to defraud the United States.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §495 PRESENTING A FALSE DOCUMENT – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] presenting a false document. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [five] following elements beyond a reasonable doubt:

1. The defendant [transmitted; presented] the (document) to (name), who was an officer of the United States, or at any office of the United States; and
2. The document was [transmitted; presented] in support of or in relation to any account or claim; and
3. When the defendant [transmitted; presented] the (document), it was [false; forged; counterfeited; altered] in that (specific allegation); and
4. When the defendant [transmitted; presented] the (document), the defendant knew it was [false; forged; counterfeited; altered]; and
5. When the defendant [transmitted; presented] the (document), he did so with the intent to defraud the United States.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §500 FALSELY MAKING, FORGING, COUNTERFEITING,
ENGRAVING, OR PRINTING A MONEY ORDER –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [falsely making; forging; counterfeiting; engraving; printing] a money order. In order for you to find the defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [falsely made; forged; counterfeited; engraved; printed] a document; and
2. The document was an imitation of or purported to be a [blank money order; money order issued by or under the direction of the United States Postal Service]; and
3. The defendant made the document with the intent to defraud.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §500 FORGING OR COUNTERFEITING A SIGNATURE
OR INITIALS OF ANY PERSON AUTHORIZED TO
ISSUE A MONEY ORDER, POSTAL NOTE, OR
BLANK – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [forging; counterfeiting] the signature or initials of any person authorized to issue money orders upon or to any [money order; postal note; blank] provided or issued by or under the direction of the [United States Postal Service; post office department or corporation of any foreign country], which was payable in the United States. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three; four] following elements beyond a reasonable doubt:

1. The defendant [forged; counterfeited] the [signature; initials] of (name); and
2. (Name) was authorized to issue money orders; and
3. The defendant [forged; counterfeited] the [signature; initials] on a [money order; postal note; blank] provided or issued by or under the direction of the [United States Postal Service; post office department or corporation of any foreign country] which was payable in the United States[.] [; and]
4. The defendant acted with the intent to defraud.]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §500 FORGING OR COUNTERFEITING A SIGNATURE
OR ENDORSEMENT ON A MONEY ORDER,
POSTAL NOTE, OR BLANK – ELEMENTS**

[The indictment charges defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [forging; counterfeiting] any material [signature; endorsement] on a [money order; postal note; blank] provided or issued by or under the direction of the [United States Postal Service; post office department or corporation of any foreign country], which was payable in the United States. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [two; three] following elements:

1. The defendant [forged; counterfeited] any material [signature; endorsement]; and
2. The defendant did so on a [money order; postal note; blank] provided or issued by or under the direction of the [United States Postal Service; post office department or corporation of any foreign country] which was payable in the United States[.] [; and]
- [3. The defendant acted with the intent to defraud.]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §500 FORGING OR COUNTERFEITING A SIGNATURE
ON A RECEIPT OR CERTIFICATE OF
IDENTIFICATION ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [forging; counterfeiting] a signature to any receipt or certificate of identification of a [money order; postal note]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [two; three] following elements beyond a reasonable doubt:

1. The defendant [forged; counterfeited] a material signature; and
2. The signature was on a receipt or certificate of identification of a [money order; postal note; blank] provided or issued by or under the direction of the [United States Postal Service; post office department or corporation of any foreign country] which was payable in the United States[.] [; and]
- [3. The defendant acted with the intent to defraud.]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §500 FALSELY ALTERING A MONEY ORDER OR
POSTAL NOTE – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] falsely altering a [money order; postal note]. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant falsely altered a [money order; postal note; blank] provided or issued by or under the direction of the [United States Postal Service; post office department or corporation of any foreign country] which was payable in the United States; and
2. The alteration was material.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §500 PASSING, UTTERING, OR PUBLISHING FORGED
OR ALTERED MONEY ORDERS OR POSTAL
NOTES – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [passing; uttering; publishing] [attempting to pass; utter; publish] a forged or altered [money order; postal note]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [five] following elements beyond a reasonable doubt:

1. The defendant [passed; uttered; published] [attempted to pass; utter; publish] a [money order; postal note]; and
2. He falsely represented in some way or manner that the [money order; postal note] was genuine; and
3. The [money order; postal note] was forged or materially altered; and
4. He knew that any material [initials; signature; stamp impression; endorsement] thereon was [false; forged; counterfeited]; or a material alteration on the [money order; postal note] was falsely made]; and
5. The defendant did so with the intent to defraud the United States.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §500 FRAUDULENTLY ISSUING A MONEY ORDER
OR POSTAL NOTE – ELEMENTS**

[The indictment charges the defendant[s] with; Counts[s] __ of the indictment charge[s] the defendant[s] with] fraudulently issuing a [money order; postal note]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant issued a [money order; postal note] without having previously received or paid the full amount of money payable on the [order; note]; and
2. He did so for the purpose of [obtaining or receiving money; enabling another person to obtain or receive money] from the United States or its agents or employees; and
3. That he did so with the intent to defraud the United States.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §500 THEFT OF A MONEY ORDER – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] theft of a money order. IN order for you to find [a; the] defendant guilty of this charge, the government must prove both of the] following elements beyond a reasonable doubt:

1. The defendant [embezzled; stole; converted to his own use or the use of another; converted or disposed of without authority] a blank money order form provided under the authority of the United States Postal Service; and
2. He did so with the intent to deprive the owner of the use or benefit of the document.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §500 RECEIPT OR POSSESSION OF A STOLEN MONEY
ORDER – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [receipt; possession] of a stolen money order. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [received; possessed] a blank money order form provided under the authority of the United States Postal Service; and
2. The defendant did so with the intent to convert it to [his own use or gain; the use or gain of another]; and
3. The defendant knew the document had been [embezzled; stolen; converted].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §500 FALSE PRESENTMENT OF A MONEY ORDER
OR POSTAL NOTE – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] false presentment of a [money order; postal note]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [transmitted; presented; caused to be transmitted or presented] a [money order; postal note]; and
2. The defendant knew that the [money order; postal note] contained any forged or counterfeited [signature; initials; stamped impression]; or, [contained any material alteration which was unlawfully made; was unlawfully issued without previous payment of the amount required to have been paid upon issue; was stamped without lawful authority]; and
3. The defendant [transmitted; presented] the document with the intent to defraud the United States, the Postal Service, or any person.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge]

**18 U.S.C. §500 THEFT OR RECEIPT OF A MONEY ORDER
MACHINE OR INSTRUMENT – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] theft or receipt of a money order [machine; instrument]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [two; three] following elements:

1. The defendant [stole; received; possessed; disposed of; attempted to dispose of] (here name item); and
2. The (here name item) was a postal money order [machine; stamp; tool; instrument] specifically designed to be used in preparing or filling out the blanks on postal money order forms[.]; and]
3. The defendant [received; possessed; disposed of; attempted to dispose of] (here name item) with the intent to defraud or without being lawfully authorized by the United States Postal Service.]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §500 DEFINITION OF “MATERIAL”

A signature, endorsement, initials, or stamp impression is “material” if it has a natural tendency to influence, or is capable of influencing, the decision of the [person; decision-making body] to whom it was addressed. The government is not required to prove that the statement actually influenced [person; decision-making body].

18 U.S.C. §500 DEFINITION OF “MATERIAL ALTERATION”

An alteration of a [money order; postal note; initials; signature; stamp impression; endorsement] is material if it had the effect of influencing the action of the recipient or was capable of or had a natural tendency to influence.

**18 U.S.C. §511 ALTERING OR REMOVING VEHICLE
IDENTIFICATION NUMBERS**

No instruction.

**18 U.S.C. §542 ENTRY OF GOODS BY MEANS OF FALSE
STATEMENTS – WHETHER OR NOT UNITED
STATES SHALL OR MAY BE DEPRIVED OF
ANY LAWFUL DUTIES – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] entering goods into commerce by means of a false statement. In order for you to find the defendant guilty of this charge, the government must prove each of the [three; four] following elements beyond a reasonable doubt:

1. [here specify merchandise named in indictment] was imported; and
2. The defendant [entered; introduced; attempted to enter; attempted to introduce] [here specify merchandise named in indictment] into the commerce of the United States; and
3. The defendant did so by means of a [fraudulent, false] [invoice; declaration; affidavit; letter; paper; practice] [written or verbal false statement], which he knew was [false; fraudulent] [.] [; and]

OR

3. The defendant made a false statement in a declaration without reasonable cause to believe that the statement was true [.] [; and]

OR

3. The defendant caused the making of a false statement in a declaration without reasonable cause to believe the truth of the statement [.] [; and]
- [4. The [invoice; declaration; affidavit; letter; paper; statement; practice] was material to the entry of the merchandise.]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §542 ENTRY OF GOODS BY MEANS OF FALSE
STATEMENTS –DEFINITION OF FRAUDULENT**

A [statement; document; practice] is fraudulent if it is [made; conducted; caused to be made; caused to be conducted] with the intent to deceive.

18 U.S.C. §542 DEFINITION OF MATERIAL

A statement is material to the entry of merchandise if it is capable of influencing the actions of [identify agency] in a way that affects or facilitates the entry of the merchandise into the United States. The government is not required to prove that the statement actually influenced [identify agency].

**18 U.S.C. §542 ENTRY OF GOODS BY MEANS OF FALSE
STATEMENTS – DEFINITION OF ENTRY**

The process of entering or introducing merchandise into the commerce of the United States does not begin until after the merchandise has arrived in the United States and the importer or owner of the merchandise has begun the acts necessary for him to gain lawful possession of the merchandise. The process is not completed until the payment of all customs duties.

**18 U.S.C. §542 ENTRY OF GOODS BY MEANS OF FALSE
STATEMENTS – DEFINITION OF IMPORTED
MERCHANDISE**

No instruction.

**18 U.S.C. §542 ENTRY OF GOODS BY MEANS OF FALSE
STATEMENTS – UNITED STATES HAS BEEN OR
MAY HAVE BEEN DEPRIVED OF ANY LAWFUL
DUTIES – ELEMENTS**

No instruction.

18 U.S.C. §641**THEFT OF GOVERNMENT PROPERTY –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [theft; embezzlement; knowing conversion] of property of the United States. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The [record; money; thing of value] described in the indictment belonged to the United States; and
2. The [record; money; thing of value] had a value that exceeded \$1,000; and
3. The defendant [stole; embezzled; knowingly converted] that [record; money; thing of value] to [the defendant's own use; the use of another]; and

OR

- [3. The defendant [sold; conveyed; disposed of] that [record; money; thing of value] without authority; and]
4. The defendant did so knowingly with the intent to deprive the owner of the use or benefit of that [record; money; thing of value].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §641 DEFINITION OF “VALUE”

“Value” means face value, market value [wholesale or retail], or a price actually paid for the item in question, whichever is greater. [Market value is the price someone would be willing to pay for the item to someone else willing to sell it.] [To have value a thing need not be a physical object [, and may be something like (information, labor, etc.), as long as it has economic worth.]]

**18 U.S.C. §659 EMBEZZLEMENT OR THEFT OF GOODS FROM
INTERSTATE SHIPMENT – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [embezzling; stealing; unlawfully taking; carrying away; concealing]; or, [by fraud or deception obtaining] goods or chattels [moving as interstate commerce; which are a part of or which constitute an interstate shipment of freight]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant [embezzled; stole; unlawfully took; carried away; or concealed; obtained by fraud or deception] the goods or chattels described in the indictment; and
2. The defendant did so with the intent to convert the goods or chattels to his own use; and
3. The goods or chattels were moving as, or were a part of, [an interstate; a foreign] shipment of property; and
4. The goods or chattels had a value of \$1,000 or more.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §659 POSSESSION OF GOODS STOLEN FROM
INTERSTATE SHIPMENT – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] possession of goods or chattels stolen from an interstate shipment. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The goods or chattels described in the indictment were [embezzled; stolen; unlawfully taken, carried away, or concealed] [obtained by fraud or deception]; and
2. The defendant possessed the goods or chattels with knowledge that they were [embezzled; stolen; unlawfully taken; carried away; concealed; obtained by fraud or deception]; and
3. The goods or chattels were moving as, or were a part of, [an interstate; a foreign] shipment of property; and
4. The goods or chattels had a value of \$1,000 or more.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §666(A)(1)(A)**THEFT CONCERNING FEDERALLY
FUNDED PROGRAM – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [embezzlement] [theft] [fraud] [conversion] [misapplication]. In order for you to find [a; the] defendant[s] guilty of this charge, the government must prove each of the [five] following elements beyond a reasonable doubt:

1. That the defendant was an agent of [an organization; a [state; local; Indian tribal] government, or any agency of that government] [, such as [name charged entity here if status is not in dispute]]; and
2. That the defendant [embezzled; stole; obtained by fraud; knowingly and without authority converted to the use of someone other than the rightful owner; intentionally misapplied] some [money; property]; and
3. That the [money; property] was owned by, or was under the care, custody or control of the [organization; government; government agency]; and
4. That the [money; property] had a value of \$5,000 or more; and
5. That the [organization; government; government agency], in a one year period, received benefits of more than \$10,000 under any Federal program involving a grant, contract subsidy, loan, guarantee, insurance or other assistance. [The one year period must begin no more than 12 months before the defendant committed these acts and must end no more than 12 months afterward.]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §666(A)(1)(A)**THEFT CONCERNING FEDERALLY
FUNDED PROGRAM – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [embezzlement; theft; fraud; conversion; misapplication]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [five] following elements beyond a reasonable doubt:

1. That the defendant was an agent of [an organization; a [state; local; Indian tribal] government, or any agency of that government] [, such as [name charged entity here if status is not in dispute]]; and
2. The defendant [embezzled; stole; obtained by fraud; knowingly and without authority converted to the use of someone other than the rightful owner; intentionally misapplied] some [money; property]; and
3. The [money; property] was owned by, or was under the care, custody or control of the [organization; government; government agency]; and
4. The [money; property] had a value of \$5,000 or more; and
5. The [organization; government; government agency], in a one year period, received benefits of more than \$10,000 under any Federal program involving a [grant; contract; subsidy; loan; guarantee; insurance] or other assistance. (The one year period must begin no more than 12 months before the defendant committed these acts and must end no more than 12 months afterward.)

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §666(A)(1)(B)

**BRIBERY CONCERNING FEDERALLY
FUNDED PROGRAM – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] bribery. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [five] following elements beyond a reasonable doubt:

1. That the defendant was an agent of [an organization; a [state; local; Indian tribal] government, or any agency of that government] [, such as [name charged entity here if status is not in dispute]]; and
2. The defendant [solicited; demanded; accepted; agreed to accept] anything of value from another person; and
3. The defendant did so corruptly with the intent to be influenced or rewarded in connection with some [business; transaction; series of transactions] of the [organization; government; government agency]; and
4. This business [transaction; series of transactions] involved anything of a value of \$5,000 or more; and
5. The [organization; government; government agency], in a one year period, received benefits of more than \$10,000 under any Federal program involving a [grant; contract; subsidy; loan; guarantee; insurance] or other assistance. (The one year period must begin no more than 12 months before the defendant committed these acts and must end no more than 12 months afterward.)

[A person acts corruptly when that person acts with the understanding that something of value is to be offered or given to reward or influence him in connection with his [organizational; official] duties.]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §666(A)(1)(B)**ACCEPTING A BRIBE**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] bribery. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [five] following elements beyond a reasonable doubt:

1. That the defendant was an agent of [an organization; a [state; local; Indian tribal] government, or any agency of that government] [, such as [name charged entity here if status is not in dispute]]; and
2. That the defendant solicited, demanded, accepted or agreed to accept anything of value from another person; and
3. That the defendant acted corruptly with the intent to be influenced or rewarded in connection with some business, transaction or series of transactions of the [organization; government; government agency]; and
4. That this business, transaction or series of transactions involved anything of a value of \$5,000 or more; and
5. That the [organization; government; government agency], in a one year period, received benefits of more than \$10,000 under any Federal program involving a grant, contract subsidy, loan, guarantee, insurance or other assistance. [The one year period must begin no more than 12 months before the defendant committed these acts and must end no more than 12 months afterward.]

[A person acts corruptly when that person acts with the understanding that something of value is to be offered or given to reward or influence him/her in connection with his [organizational; official] duties.]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §666(A)(2) PAYING A BRIBE

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [paying or offering to pay] a bribe. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. That the defendant gave, offered, or agreed to give anything of value to another person; and
2. That the defendant did so corruptly with the intent to influence or reward an agent of [an organization; a [State; local; Indian tribal] government, or any agency thereof] in connection with some business, transaction, or series of transactions of the [organization; government; government agency]; and
3. That this business, transaction, or series of transactions involved anything with a value of \$5,000 or more; and
4. That the [organization; government; government or agency], in a one year period, received benefits of more than \$10,000 under any Federal program involving a grant, contract subsidy, loan, guarantee, insurance or other assistance. [The one year period must begin no more than 12 months before the defendant committed these acts and must end no more than 12 months afterward.]

[A person acts corruptly when that person acts with the intent that something of value is given or offered to reward or influence an agent of an [organization; government; government agency] in connection with the agent's [organizational; official] duties.]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §666(C) BONA FIDE COMPENSATION

Bona fide [salary, wages, fees, or other compensation paid] [expenses paid or reimbursed], in the usual course of business, does not qualify as a thing of value [solicited or demanded] [given, offered, or agreed to be given] by the defendant.

18 U.S.C. §666 DEFINITION OF “AGENT”

An agent is a person who is authorized to act on behalf of an [organization] [government or agency], including an employee, officer, or representative.

18 U.S.C. §669(A)**HEALTH CARE THEFT/EMBEZZLEMENT –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [theft][embezzlement] from a health care benefit program. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. That the defendant [embezzled] [stole] [otherwise without authority converted to the use of any person other than the rightful owner] [intentionally misapplied] any [moneys] [funds] [securities] [premiums] [credits] [property] [assets] of a health care benefit program; and
2. That the defendant did so knowingly and willfully; and
3. That the [moneys] [funds] [securities] [premiums] [credits] [property] [assets] had a value of more than \$100.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §669(A)**HEALTH CARE BENEFIT PROGRAM/
INTERSTATE COMMERCE – DEFINITION**

A health care benefit program is a [public or private] [plan or contract], affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract. A health care program affects commerce if the health care program had any impact on the movement of any money, goods, services, or persons from one state to another [or between another country and the United States].

The government need only prove that the health care program itself either engaged in interstate commerce or that its activity affected interstate commerce to any degree. The government need not prove that [the] [a] defendant engaged in interstate commerce or that the acts of [the] [a] defendant affected interstate commerce.

18 U.S.C. §751 ESCAPE – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [attempted] escape. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant was in the custody of [name or describe custodial official, institution or agency] pursuant to [describe authority for custody, e.g. judgment of conviction, arrest, court order]; and
2. The defendant knowingly [left] [attempted to leave] [intentionally failed to return to] that custody without authorization to do so.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §842(A)(1) IMPORTING, MANUFACTURING, OR
DEALING IN EXPLOSIVE MATERIALS
WITHOUT A LICENSE – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] engaging in the business of [importing; manufacturing; dealing in] explosive materials without a license. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant was an [importer; manufacturer; dealer] of explosive materials; and
2. The defendant did not have a license, issued by the Attorney General, permitting him to act as an [importer; manufacturer; dealer] of explosive materials.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §842(A)(2) WITHHOLDING INFORMATION, MAKING
A FALSE STATEMENT, OR FURNISHING
FALSE IDENTIFICATION TO OBTAIN
EXPLOSIVE MATERIALS – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [withholding information; making a false written or oral statement; furnishing or exhibiting any false or misrepresented identification], intended or likely to deceive, for the purpose of obtaining [explosive materials; a[n] license; permit; exemption; relief from disability]. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant knowingly [withheld information; made a false written or oral statement; furnished or exhibited any false or misrepresented identification] [from; to] the Attorney General or [his delegate; a licensed importer; manufacturer; dealer in explosive materials]; and
2. In doing so, the defendant intended to or was likely to deceive for the purpose of obtaining [explosive materials; a[n] license; permit; exemption; relief from disability].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §892 EXTORTIONATE EXTENSION OF CREDIT –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] making an extortionate extension of credit. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant knowingly made an extension of credit to a person, including the making [or extending] of a loan or other thing of value for which repayment is expected[, or the deferring of repayment of a debt][, whether valid or invalid][, whether disputed or acknowledged]; and
2. The defendant and the debtor understood, at the time the extension of credit was made, that delay in making repayment or failure to make repayment could result in the use of violence [or other criminal means] to cause harm to the [person] [reputation] [property] of anyone.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §892 DEFINITION OF “DEBTOR”

A debtor [is a person to whom an extension of credit was made][, or a person who guarantees repayment or otherwise agrees or attempts to cover any loss to the defendant because of a failure to repay the extension of credit].

18 U.S.C. §892 DEFINITION OF UNDERSTANDING

The government is not required to prove that, when the extension of credit was made, the defendant and debtor mutually agreed that delay in making repayment or failure to make repayment could result in the use of violence [or other criminal means] to cause harm to the [person] [reputation] [property] of anyone. The government is required to prove that both the defendant and debtor understood that a threat of violence existed.

**18 U.S.C. §894 EXTORTIONATE COLLECTION OF DEBT –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] collection of an extension of credit by extortionate means. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

- [1. There was a[n] [attempt to collect] [collection of] an extension of credit, including [inducing] [attempting to induce] in any way the repayment by anyone of a loan or other thing of value for which repayment was expected[, or the deferring of repayment of a debt][, whether valid or invalid][, whether disputed or acknowledged]; and
[or]
- [1. A person was punished for the non-repayment of an extension of credit, including a loan or other thing of value for which repayment was expected[, or the deferring of repayment of a debt][, whether valid or invalid][, whether disputed or acknowledged]; and]
2. The [attempt to collect] [collection] [punishment] involved the use of extortionate means, that is, the[, or [express or implied] threat of the use] of violence [or other criminal means] to cause harm to the [person] [reputation] [property] of anyone; and
3. The defendant knowingly participated in some way in the use of such extortionate means in that [attempted] [collection] [punishment].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §894 DEFINITION OF THREAT

A defendant knowingly participates in use of extortionate means when he intends by his conduct to instill fear of harm in the debtor. Acts or statements are a threat if they would reasonably induce fear of harm in an ordinary person. A simple demand for money is not a threat. The government is not required to prove that the recipient of a threat actually feared its consequences.

**18 U.S.C. §911 REPRESENTATION OF CITIZENSHIP OF
UNITED STATES – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] misrepresentation of United States citizenship. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant claimed to be a citizen of the United States; and
2. The defendant was not a citizen of the United States; and
3. The defendant made the false representation; and
4. The defendant [acted willfully, that is, he] deliberately and voluntarily made the representation.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §922(A)(6) MAKING A FALSE STATEMENT OR FURNISHING
FALSE IDENTIFICATION TO A LICENSED
FIREARMS IMPORTER, MANUFACTURER,
DEALER, OR COLLECTOR IN CONNECTION
WITH THE ACQUISITION OF A FIREARM OR
AMMUNITION – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [making a false statement; furnishing or exhibiting false or misrepresented identification] to a licensed firearms [dealer; importer; manufacturer; collector] in connection with the acquisition or attempted acquisition of a [firearm; ammunition]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [made a false statement; furnished or exhibited false or misrepresented identification] in connection with the [acquisition; attempted acquisition] of [a firearm; ammunition] from a licensed firearms [dealer; importer; manufacturer; collector]; and
2. The defendant did so knowingly; and
3. The [statement; identification] was intended to or likely to deceive the [dealer; importer; manufacturer; collector] with respect to any fact material to the lawfulness of the sale or other disposition of the [firearm; ammunition].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §922(d)

**SALE OR TRANSFER OF A FIREARM OR
AMMUNITION TO A PROHIBITED PERSON –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] selling or otherwise transferring [a firearm; ammunition] to a [Prohibited Person]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [sold; otherwise transferred] [a firearm; ammunition]; and
2. The individual to whom the [firearm; ammunition] was [sold; transferred] was a [Prohibited Person]; and
3. The defendant knew or had reasonable cause to believe that the individual was a [Prohibited Person].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §922(d)

**DEFINITION OF “REASONABLE CAUSE TO
BELIEVE”**

A person has “reasonable cause to believe” that [name] was a [Prohibited Person] if he knows facts that would cause a reasonable person, knowing the same things, to conclude that [name] was a [Prohibited Person].

**UNLAWFUL SHIPMENT OR TRANSPORTATION
OF A FIREARM OR AMMUNITION BY A
PROHIBITED PERSON – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] unlawful [shipment; transportation] of [a firearm; ammunition] by a [Prohibited Person]. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant knowingly [shipped; transported] [a firearm; ammunition] in interstate or foreign commerce; and
2. At the time of the charged act, the defendant was a [Prohibited Person].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §922(g)

**UNLAWFUL POSSESSION OR RECEIPT OF A
FIREARM OR AMMUNITION BY A PROHIBITED
PERSON – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] unlawful [possession; receipt] of [a firearm; ammunition] by a [Prohibited Person]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly [possessed; received] [a firearm; ammunition]; and
2. At the time of the charged act, the defendant was a [Prohibited Person]; and
3. [Such possession was in or affecting commerce] or [the [firearm; ammunition] had been shipped or transported in interstate or foreign commerce].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**DEFINITIONS OF “IN OR AFFECTING
COMMERCE” AND “INTERSTATE OR
FOREIGN COMMERCE”**

“In or affecting commerce” and “interstate or foreign commerce” include commerce between any place in a State and any place outside of that State. The terms do not include commerce between places within the same State but through any place outside of that State.

This requirement is satisfied if the firearm traveled in interstate or foreign commerce prior to the defendant’s possession of it. A firearm has traveled in interstate or foreign commerce if it has traveled between one state and any other state or country, or across a state or national boundary line. [The government need not prove how the firearm traveled in interstate commerce; that the firearm’s travel was related to the defendant’s possession of it; or, that the defendant knew the firearm had traveled in interstate commerce.]

18 U.S.C. §922(g) DEFINITION OF “POSSESSION”

No instruction.

18 U.S.C. §922 DEFINITION OF “AMMUNITION”

“Ammunition” means ammunition or cartridge cases, primers, or propellant powder designed for use in any firearm.

**18 U.S.C. §924(c)(1)(A) USING OR CARRYING A FIREARM DURING
AND IN RELATION TO A CRIME OF VIOLENCE
OR DRUG TRAFFICKING CRIME – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [using; carrying] a firearm during and in relation to a [crime of violence; drug trafficking crime]. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant committed the crime of [name the specific crime of violence or drug trafficking crime alleged in the indictment] as charged in Count __ of the indictment; and
2. He knowingly [used; carried] a firearm during and in relation to such crime.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**USING OR CARRYING A FIREARM DURING
AND IN RELATION TO A CRIME OF
VIOLENCE OR DRUG TRAFFICKING CRIME –
ACCOUNTABILITY THEORY ELEMENTS**

A defendant [aids; counsels; commands; induces; procures] the commission of the offense only if he knowingly and intentionally assists another's [use; carrying] of a firearm during and in relation to a [crime of violence; drug trafficking crime]. This requires the government to prove the following beyond a reasonable doubt:

1. The defendant knew, either before or during the crime, of another person's [use; carrying] of a firearm; and,
2. The defendant intentionally facilitated the [use; carrying] of the firearm once so informed.

A person who merely aids the underlying offense knowing that a firearm would be [used; carried] does not [aid, counsel; command; induce; procure] the commission of the offense charged in Count [___].

If you find from your consideration of all the evidence that the government proved both of these elements beyond a reasonable doubt, then you should find the defendant guilty.

If, on the other hand, you find from your consideration of all the evidence that the government failed to prove either of these elements beyond a reasonable doubt, then you should find the defendant not guilty.

**POSSESSION OF A FIREARM IN
FURTHERANCE OF A CRIME OF
VIOLENCE OR DRUG TRAFFICKING
CRIME – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] possession of a firearm in furtherance of a [crime of violence; drug trafficking crime]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant committed the crime of [name specific crime of violence or drug trafficking crime alleged in the indictment] as charged in Count [__] of the indictment; and
2. He knowingly possessed a firearm; and
3. His possession of the firearm was in furtherance of the [name specific crime of violence or drug trafficking crime alleged in the indictment].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**POSSESSION OF A FIREARM IN
FURTHERANCE OF A CRIME OF VIOLENCE
OR DRUG TRAFFICKING CRIME –
ACCOUNTABILITY THEORY ELEMENTS**

A defendant [aids; counsels; commands; induces; procures] the commission of the offense only if he knowingly and intentionally assists another's possession of a firearm in furtherance of a [crime of violence; drug trafficking crime]. This requires the government to prove the following beyond a reasonable doubt:

1. The defendant knew, either before or during the crime, of another person's possession of a firearm in furtherance of the crime; and,
2. The defendant intentionally facilitated that possession once so informed.

A person who merely aids the underlying offense knowing that a firearm would be possessed by another in furtherance of the crime does not [aid, counsel; command; induce; procure] the commission of the offense[s] charged in Count[s] [___].

If you find from your consideration of all the evidence that the government proved both of these elements beyond a reasonable doubt, then you should find the defendant guilty.

If, on the other hand, you find from your consideration of all the evidence that the government failed to prove either of these elements beyond a reasonable doubt, then you should find the defendant not guilty.

18 U.S.C. §924(C) DEFINITION OF “USE”

“Use” means the “active employment” of a firearm. The term is not limited to use as a weapon, and includes brandishing, displaying, bartering, striking with, firing, and attempting to fire a firearm. A defendant’s reference to a firearm calculated to bring about a change in the circumstances of the offense constitutes “use” during and in relation to a crime. However, mere possession or storage of a firearm, at or near the site of the crime, drug proceeds or paraphernalia is not enough to constitute use of that firearm.

18 U.S.C. §924(c) DEFINITION OF “CARRY”

A person “carries” a firearm when he knowingly transports it on his person [or in a vehicle or container].

[A person may “carry” a firearm even when it is not immediately accessible because it is in a case or compartment [such as a glove compartment or trunk of a car], even if locked.]

18 U.S.C. §924(c) DEFINITION OF “DURING”

“During” means at any point within the offense conduct charged in Count [] of the indictment.

18 U.S.C. §924(c)**DEFINITION OF “IN RELATION TO”**

A person [uses; carries] a firearm “in relation to” a crime if there is a connection between the use or carrying of the firearm and the crime of violence or drug trafficking crime. The firearm must have some purpose or effect with respect to the crime; its presence or involvement cannot be the result of accident or coincidence. The firearm must at least facilitate, or have the potential of facilitating, the crime.

18 U.S.C. §924(c)**DEFINITION OF “IN FURTHERANCE OF”**

A person possess a firearm “in furtherance of” of a crime if the firearm furthers, advances, moves forward, promotes or facilitates the crime. The mere presence of a firearm at the scene of a crime is insufficient to establish that the firearm was possessed “in furtherance of” the crime. There must be some connection between the firearm and the crime.

18 U.S.C. §922 & §924**DEFINITION OF “FIREARM”**

“Firearm” means [any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device]. [The term does not include an antique firearm.]

18 U.S.C. §922 & §924 DEFINITION OF “ANTIQUE FIREARM”

“Antique firearm” means:

- (A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; or
- (B) any replica of any firearm described in subparagraph (A) if such replica
 - (i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or
 - (ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or
- (C) any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition. For purposes of this subparagraph, the term “antique firearm” shall not include any weapon which incorporates a firearm frame or receiver, any firearm which is converted into a muzzle loading weapon, or any muzzle loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

18 U.S.C. §982(A)(1) FORFEITURE INSTRUCTION

The government seeks to forfeit the following property:

[LIST PROPERTY]

In order for you to find that the property is subject to forfeiture, the government must prove both of the following elements by a preponderance of the evidence:

1. That the [real] or [personal] property was involved in the offense[s] as charged in Count[s] ____ or is property traceable to real or personal property involved in [that] [those] offense[s]; and
2. That there is a nexus between the property alleged to be forfeitable and the offense giving rise to the forfeiture allegation.

If you find from your consideration of all the evidence that the government has proved each of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “Yes” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “No” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

18 U.S.C. §982(A)(2) FORFEITURE INSTRUCTION

The Forfeiture Allegation[s] in the Indictment allege[s] that the following property is subject to forfeiture under Title 18, United States Code, Section 982(a)(2):

[LIST PROPERTY]

In order for you to find that this property is subject to forfeiture, the government must prove each of the [three] following elements by a preponderance of the evidence:

1. That the property constitutes or was derived from proceeds the defendant[s] obtained directly or indirectly as a result of the offense[s] charged in Count[s] ____ ; and
2. That the offense charged in Count[s] ____ affected a financial institution; and
3. That there is a nexus between the property alleged to be forfeitable and the offense giving rise to the forfeiture allegation.

If you find from your consideration of all the evidence that the government has proved each of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “Yes” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “No” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

18 U.S.C. §982(A)(3) FORFEITURE INSTRUCTION

The Forfeiture Allegation[s] in the Indictment allege[s] that the following property is subject to forfeiture under Title 18, United States Code, Section 982(a)(3):

[LIST PROPERTY]

In order for you to find that this property is subject to forfeiture, the government must prove each of the [three] following elements by a preponderance of the evidence:

1. That the [real] or [personal] property represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of the offense[s] charged in Count[s] ____ ; and
2. That the offense[s] in Counts ____ involved the sale of assets acquired or held by (((the Resolution Trust Corporation) (the Federal Deposit Insurance Corporation) as a conservator or receiver for a financial institution) (any other conservator for a financial institution appointed by (the Office of the Comptroller of the Currency or the Office of Thrift Supervision) (the National Credit Union Administration) as conservator or liquidating agent for a financial institution))); and
3. That there is a nexus between the property alleged to be forfeitable and the offense giving rise to the forfeiture allegation.

If you find from your consideration of all the evidence that the government has proved each of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “Yes” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “No” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

18 U.S.C. §982(A)(4) FORFEITURE INSTRUCTION

The Forfeiture Allegation[s] in the Indictment allege[s] that the following property is subject to forfeiture under Title 18, United States Code, Section 982(a)(4):

[LIST PROPERTY]

In order for you to find that this property is subject to forfeiture, the government must prove each of the [three] following elements by a preponderance of the evidence:

1. That the [real] or [personal] [tangible or intangible] property represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of the offense[s] charged in Count ____; and
2. That the offense[s] in Count ____ [was] [were] committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations, or promises; and
3. That there is a nexus between the property alleged to be forfeitable and the offense giving rise to the forfeiture allegation.

If you find from your consideration of all the evidence that the government has proved each of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “Yes” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “No” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

18 U.S.C. §982(A)(5) FORFEITURE INSTRUCTION

The Forfeiture Allegation[s] in the Indictment allege[s] that the following property is subject to forfeiture under Title 18, United States Code, Section 982(a)(5):

[LIST PROPERTY]

In order for you to find that this property is subject to forfeiture, the government must prove both of the following elements by a preponderance of the evidence:

1. That the [real] or [personal] property represents or is traceable to the gross proceeds obtained, directly or indirectly, as a result of the offense of which the defendant [you are considering] was convicted in Count[s] ____; and
2. That there is a nexus between the property alleged to be forfeitable and the offense giving rise to the forfeiture allegation.

If you find from your consideration of all the evidence that the government has proved each of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “Yes” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements by a preponderance of the evidence [as to property you are considering and as to the defendant you are considering], then you should check the “No” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

18 U.S.C. §982(A)(6) FORFEITURE INSTRUCTION

The Forfeiture Allegation[s] in the Indictment allege[s] that the following property is subject to forfeiture under Title 18, United States Code, Section 982(a)(6):

[LIST PROPERTY]

In order for you to find that this property is subject to forfeiture, the government must prove the following elements by a preponderance of the evidence:

1. That the conveyance was used in commission of the offense of which the defendant [you are considering] was convicted in Count[s] ____; or
2. That the [real] or [personal] property constitutes or is derived from or is traceable to the proceeds obtained directly or indirectly from the commission of the offense of which the defendant [you are considering] was convicted in Count[s] ____; or
3. That the [real] or [personal] property was used to facilitate or was intended to be used to facilitate the commission of the offense of which the defendant [you are considering] was convicted in Count[s] ____; and
4. That there is a nexus between the property alleged to be forfeitable and the offense giving rise to the forfeiture allegation.

If you find from your consideration of all the evidence that the government has proved these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “Yes” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “No” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

18 U.S.C. §982(A)(7) FORFEITURE INSTRUCTION

The Forfeiture Allegation[s] in the Indictment allege[s] that the following property is subject to forfeiture under Title 18, United States Code, Section 982(a)(7):

[LIST PROPERTY]

In order for you to find that this property is subject to forfeiture, the government must prove both of the following element by a preponderance of the evidence:

1. That the [real] or [personal] property that constitutes or was derived, directly or indirectly, from the gross proceeds traceable to the commission of the federal health care offense of which the defendant [you are considering] was convicted in Count[s] __; and
2. That there is a nexus between the property alleged to be forfeitable and the offense giving rise to the forfeiture allegation.

If you find from your consideration of all the evidence that the government has proved each of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “Yes” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “No” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

18 U.S.C. §982(A)(8) FORFEITURE INSTRUCTION

The Forfeiture Allegation[s] in the Indictment allege[s] that the following property is subject to forfeiture under Title 18, United States Code, Section 982(a)(8):

[LIST PROPERTY]

In order for you to find that this property is subject to forfeiture, the government must prove the following elements :

1. That the [real] or [personal] property was used or intended to be used to commit, to facilitate or to promote the offense of which the defendant [you are considering] was convicted in Count[s] ____, and that the offense involved telemarketing; or
2. That the [real] or [personal] property constituted, was derived from or traceable to the gross proceeds that the defendant [you are considering] obtained directly or indirectly as a result of the offense of which the defendant [you are considering] was convicted in Count[s] ____, and that the offense involved telemarketing; and
3. That there is a nexus between the property alleged to be forfeitable and the offense giving rise to the forfeiture allegation.

If you find from your consideration of all the evidence that the government has proved these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “Yes” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “No” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

NEXUS INSTRUCTION

In order to establish a “nexus” between the property alleged to be forfeitable and the offense giving rise to the forfeiture allegation, the government must establish a connection between the property and the offense. The connection must be more than incidental, but the connection need not be substantial.

DEFINITION OF FEDERAL HEALTH CARE OFFENSE

A defendant is convicted of a health care fraud offense if he is convicted of violating or conspiring to violate: 1) theft or embezzlement in connection with health care (18 U.S.C. § 669); 2) false statements relating to health care matters (18 U.S.C. § 1035); 3) health care fraud (18 U.S.C. § 1347); or 4) obstruction of a criminal investigation of a health care offense (18 U.S.C. § 1518). A defendant is also convicted of a health care fraud offense if he is convicted of violating or conspiring to violate: 1) submitting false, fictitious or fraudulent claims (18 U.S.C. § 287); 2) conspiracy to commit an offense or to defraud the United States (18 U.S.C. § 371); 3) theft or embezzlement from employee benefit plan (18 U.S.C. § 664); 4) theft or bribery concerning programs receiving Federal funds (18 U.S.C. § 666); 5) false statements (18 U.S.C. § 1001); 6) false statements and concealment of facts in relation to documents required by the Employee Retirement Income Security Act of 1974 (18 U.S.C. § 1027); 7) mail fraud (18 U.S.C. § 1341); 8) wire fraud (18 U.S.C. § 1343); or 9) offer, acceptance, or solicitation to influence operations of an employee benefit plan (18 U.S.C. § 1954), if the offense relates to a health care benefit program.

A health care benefit program is any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract. Commerce was affected if the health care program[s] had any impact on the movement of any money, goods, services, or persons from one state to another [or between another country and the United States].

DEFINITION OF “CONVEYANCE”

A conveyance includes a vessel, vehicle or aircraft used in the commission of the offense.

PROPERTY SUBJECT TO FORFEITURE

The government is not required to prove that the money obtained by the Defendant is still in the Defendant's possession. Rather, the government is only required to prove the elements that I have described to you. You are further instructed that what happens to any property that is declared subject to forfeiture is exclusively a matter for the court to decide. You should not consider what might happen to the property in determining whether the property is subject to forfeiture. [In this connection, you should disregard any claims that other persons may have to the property because those interests will be taken into account by the court at a later time.]

18 U.S.C. §981(A)(1)(A) FORFEITURE INSTRUCTION

The government seeks to forfeit the following property:

[LIST PROPERTY]

In order for you to find that this property is subject to forfeiture, the government must prove both of the following elements by a preponderance of the evidence:

1. That the property was involved in a transaction or attempted transaction as charged in Count[s] ____ [or is property traceable to such property]; and
2. That there is a nexus between the property and the offense[s] charged in Count[s] ____.

If you find from your consideration of all the evidence that the government has proved each of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “Yes” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “No” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

18 U.S.C. §981(A)(1)(C) FORFEITURE

The government seeks to forfeit the following property:

[LIST PROPERTY]

In order to find that this property is subject to forfeiture, the government must prove both of the following elements by a preponderance of the evidence:

1. That the property constituted or was derived from proceeds traceable to the offense charged in Count ____, [or a conspiracy to commit that offense]; and
2. That there is a nexus between the property alleged to be forfeitable and the offense charged in Count[s] _____.

If you find from your consideration of all the evidence that the government has proved each of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “Yes” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “No” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

18 U.S.C. §981(A)(1)(G)(I –III) FORFEITURE INSTRUCTION

The government seeks to forfeit the following assets:

[LIST ASSET]

In order for you to find that the assets are subject to forfeiture, the government must prove at least one of the [four] following elements by a preponderance of the evidence:

1. That the asset belonged to any individual, entity, or organization engaged in planning or perpetrating the offense charged in Count[s] ____; or
2. That the asset afforded any persona source of influence over any entity or organization engaged in planning or perpetrating the offense charged in Count[s] ____; or
3. That the asset was acquired or maintained by any person with the intent and for the purpose of supporting, planning, conducting, or concealing the offense charged in Count[s] ____; or
4. That the asset was derived from, involved in, or used or intended to be used to commit the offense charged in Count[s] ____.

If you find from your consideration of all the evidence that the government has proved at least one of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “Yes” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “No” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

18 U.S.C. §981(A)(1)(G)(IV) FORFEITURE INSTRUCTION

The government seeks to forfeit the following assets:

[LIST ASSET]

To establish that the assets are subject to forfeiture, the government must prove that the asset belonged to any individual, entity or organization engaged in planning or perpetrating the offense charged in Count[s] ____;
[If the property the government seeks to forfeit is located outside the United States, you must find that an act is furtherance of the planning or perpetration occurred within the United States jurisdiction.]

18 U.S.C. §981(A)(1)(H) FORFEITURE INSTRUCTION

The government seeks to forfeit the following property:

[LIST PROPERTY]

In order for you to find that this property is subject to forfeiture, the government must prove both of the following elements by a preponderance of the evidence:

1. That the [real] or [personal] property was involved in a violation or attempted violation, or constituted or was derived from proceeds traceable to a violation of the offense[s] as charged in Count[s] ____; and
2. That there is a nexus between the property alleged to be forfeitable and the offense[s] charged in Count[s] ____.

If you find from your consideration of all the evidence that the government has proved each of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “Yes” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “No” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

18 U.S.C. §981(A)(2) DEFINITION OF “PROCEEDS”

[“Proceeds” means property of any kind obtained directly or indirectly, as a result of the commission of the offense giving rise to forfeiture, and any property traceable thereto, and is not limited to the net gain or profit realized from the offense.]

[“Proceeds” means the amount of money acquired through the illegal transactions resulting in the forfeiture, less the direct costs incurred in providing the goods or services. The defendant has the burden of proof with respect to the issue of direct costs. Direct costs does not include any part of the overhead expenses of the entity providing the goods or services, or any part of the income taxes paid by the entity.]

“Proceeds” subject to forfeiture does not include any loan repayments or debt payments that did not result in any financial loss to the victim.]

DEFINITION OF “TRACEABLE TO”

The term “traceable to” means that the acquisition of the property is attributable to the offense[s] charged in Count[s] ___, as opposed to [a] source[s] other than [this] [these] offenses. If the offense[s] enabled the acquisition of property, you may find the property is “traceable to” the offense.

18 U.S.C. §1001 CONCEALING A MATERIAL FACT – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] concealing a material fact. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant [concealed; covered up] a fact by trick, scheme or device; and
2. The fact was material; and
3. The defendant acted knowingly and willfully; and
4. The defendant [concealed; covered up] the material fact in a matter within the jurisdiction of the [executive] [legislative] [judicial] branch of the government of the United States.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1001**MAKING A FALSE STATEMENT OR
REPRESENTATION – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] making a [false; fictitious; fraudulent] [statement; representation]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [five] following elements beyond a reasonable doubt:

1. The defendant made a [statement; representation]; and
2. The statement was [false; fictitious; fraudulent]; and
3. The [statement; representation] was material; and
4. The defendant acted knowingly and willfully; and
5. The defendant made the [statement; representation] in a matter within the jurisdiction of the [executive] [legislative] [judicial] branch of the government of the United States.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1001**MAKING OR USING A FALSE WRITING OR
DOCUMENT – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [making; using] a false [writing; document] knowing it to contain any [false; fictitious; fraudulent] [statement; entry]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each the [five] following elements beyond a reasonable doubt:

1. The defendant [made; used] a false [writing; document]; and
2. The defendant knew the [writing; document] contained a [false; fictitious; fraudulent] [statement; entry]; and
3. The [false; fictitious; fraudulent] [statement; entry] was material; and
4. The defendant [made; used] the [document; writing] knowingly and willfully; and
5. The defendant [made; used] the [writing; document] in a matter within the jurisdiction of the [executive] [legislative] [judicial] branch of the government of the United States.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1001 DEFINITION OF “SCHEME” AND “DEVICE”

A scheme or device includes any plan or course of action intended to deceive others.

18 U.S.C. §1001 DEFINITION OF “FALSE,” “FICTITIOUS”

A statement is [false; fictitious] if it was untrue when made.

18 U.S.C. §1001 DEFINITION OF “FRAUDULENT”

A statement or representation is fraudulent if it is made [or caused to be made] with intent to deceive.

18 U.S.C. §1001 DEFINITION OF “MATERIALITY”

A statement is material if it is capable of influencing the actions of the [body or agency]. [The government is not required to prove that the statement actually influenced the actions of the [body or agency].]

18 U.S.C. §1001 DEFINITION OF “WILLFULLY”

A person acts willfully if he acts voluntarily and intentionally, and with the intent to do something the law forbids.

18 U.S.C. §1001 DEPARTMENT OR AGENCY

The [name of department, agency, or office] is a part of the [executive; legislative; judicial] branch of the government of the United States.

[Statements; Representations; Facts] concerning [specify] are within the jurisdiction of that branch.

**18 U.S.C. §1005, para. 4 FRAUDULENTLY BENEFITTING FROM
A LOAN BY A FEDERALLY INSURED
INSTITUTION**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] fraudulently benefitting from a loan made by a financial institution. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant received or otherwise benefitted, directly or indirectly, from a loan made by a financial institution; and
2. The defendant acted with the intent to defraud the financial institution; and
3. The deposits of the [name the financial institution] were then insured by the Federal Deposit Insurance Corporation.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] defrauding a federally insured financial institution. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant was an [officer, agent or employee of or connected in some capacity with] [name of qualifying institution as listed in the statute]; and
2. The defendant [choose whichever applies]; and
 - (A) made a false entry in a book, report or statement of [name of institution].
 - (B) without authorization, drew an [order; bill of exchange], [made an acceptance], [issued, put forth or assigned a note, debenture, bond, draft, bill of exchange, mortgage, judgment, or decree].
 - (C) [participated in; shared in; received], directly or indirectly, [money; profit; property; benefits] through a [transaction; loan; commission; contract; or insert other act of the institution].
3. The defendant acted with the intent to defraud the [name of defrauded institution, corporation, association, or individual]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1007 FALSE STATEMENTS TO INFLUENCE THE FDIC

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] making [or inviting reliance on] a false statement [document or other thing] to influence the Federal Deposit Insurance Corporation. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant knowingly [made; invited reliance on] a [false; forged; counterfeit] [statement; document; thing] as alleged in Count __ of the indictment; and
2. The defendant acted for the purpose of influencing in some way an action of the Federal Deposit Insurance Corporation.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] making a false statement to a [bank] [financial institution]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant made a false statement to a [bank] [financial institution], [orally; in writing]; and
2. At the time the defendant made the statement, he knew it was false; and
3. The defendant made the statement with the intent to influence the action of the [bank] [financial institution] concerning a[n] [describe type of action: application, loan, etc.]; and
4. The accounts of the [bank] [financial institution] were insured by the Federal Deposit Insurance Corporation.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1015(A) MAKING A FALSE STATEMENT IN AN
IMMIGRATION DOCUMENT – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] making a false statement in an immigration document. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant knowingly made a false statement under oath; and
2. The statement was made in a [case][proceeding][matter]] [[related to][under][by virtue of] any law of the United States related to [naturalization][citizenship][registry] of aliens.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1015(B) FALSE DENIAL OF NATURALIZATION OR
CITIZENSHIP – ELEMENTS**

The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] false denial of naturalization or citizenship. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant was a citizen of the United States;
2. The defendant knowingly and intentionally denied being a citizen of the United States; and
3. The defendant's denial was made for the purpose of avoiding any [[duty][liability]][[imposed][required] as charged in the indictment.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1015(C) USE OF FRAUDULENT IMMIGRATION
DOCUMENT – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] fraudulent use of immigration document. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant [used][attempted to use] [the document named in the indictment]; and
2. The defendant knew [the document named in the indictment] was procured [by fraud] [false evidence] [without required [appearance] [hearing]] of the applicant in court][otherwise unlawfully obtained].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1015(D) MAKING FALSE CERTIFICATE OF
APPEARANCE – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] making false certificate of appearance. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant knowingly:
 - (a) made any false [certificate] [acknowledgment] [statement] concerning the appearance of [person named in the indictment] before the defendant with respect to any [application][declaration] [petition][affidavit][deposition][certificate of naturalization] [certificate of citizenship][other paper][writing]; or
 - (b) took an [oath] [affirmation] [signature] [attestation] [execution] by [person named in the indictment] related to any [application] [declaration] [petition] [affidavit] [deposition] [certificate of naturalization][certificate of citizenship][other paper][writing]; and
2. The defendant knew the [certificate] [acknowledgment] [statement][oath][affirmation] [signature] [attestation] was [required] [authorized] as charged in the indictment.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1015(E) FALSE CLAIM OF CITIZENSHIP – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] making a false claim of citizenship. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant was an alien; and
2. The defendant knowingly made a [false statement][claim] that the defendant [is][has been] a [citizen][national] of the United States; and
3. The defendant made the [false statement][claim] for the purpose of obtaining [Federal benefits] [State benefits][Federal services][State services][to unlawfully gain employment] in the United States.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1015(F) FALSE CLAIM OF CITIZENSHIP IN
ORDER TO VOTE – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] making a false claim of citizenship in order to vote. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant was an alien; and
2. The defendant knowingly made a false [statement][claim] to be a citizen of the United States in order to [register to vote][vote] in a [Federal][State][local] election.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1028(a) OFFENSES AND §1028(b) PENALTIES

No instruction.

**18 U.S.C. §1028(a)(1) FRAUDULENT PRODUCTION OF AN
IDENTIFICATION DOCUMENT,
AUTHENTICATION FEATURE, OR FALSE
IDENTIFICATION DOCUMENT – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] fraud in connection with the production of [a; an] [identification document; authentication feature; false identification document]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt.

1. The defendant knowingly produced [a; an] [identification document; authentication feature; false identification document]; and
2. He did so without lawful authority; and
3. The [document; feature] is or appears to be issued by or under the authority of [the United States; a sponsoring entity of an event designated as a special event of national significance];

OR

- [3. [The production of the [document; feature] occurred in or affected interstate or foreign commerce] or [the document was transported in the mail in the course of the production]].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1028(A)(2) FRAUDULENT TRANSFER OF AN
IDENTIFICATION DOCUMENT,
AUTHENTICATION FEATURE, OR FALSE
IDENTIFICATION DOCUMENT – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] fraud in connection with the transfer of a[n] [identification document; authentication feature; false identification document]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly transferred a[n] [identification document; authentication feature; false identification document]; and
2. The defendant knew that such [identification document; authentication feature; false identification document] was stolen or produced without lawful authority; and
- [3. The [document; feature] is or appears to be issued by or under the authority of [the United States; a sponsoring entity of an event designated as a special event of national significance];

OR

- [3. [The transfer of the [document; feature] occurred in or affected interstate or foreign commerce [including the transfer of a document by electronic means]] or [the document was transported in the mail in the course of the transfer]].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1028(A)(3) FRAUDULENT POSSESSION OF FIVE OR MORE IDENTIFICATION DOCUMENTS, AUTHENTICATION FEATURES, OR FALSE IDENTIFICATION DOCUMENTS – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] fraud in connection with the possession of five or more [identification documents; authentication features; false identification documents]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly possessed five or more [identification documents; authentication features; false identification documents]; and
2. The defendant intended to use or transfer those [identification documents; authentication features; false identification documents] [in a manner that would violate one or more federal, state, or local laws]; and
- [3. The [documents; features] are or appear to be issued by or under the authority of [the United States; a sponsoring entity of an event designated as a special event of national significance].]

OR

- [3. [The possession of the [documents; features] occurred in or affected interstate or foreign commerce] [the documents were transported in the mail in the course of the possession].]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1028(A)(4) POSSESSION OF AN IDENTIFICATION
DOCUMENT, AUTHENTICATION FEATURE,
OR FALSE IDENTIFICATION DOCUMENT
WITH INTENT TO DEFRAUD THE
UNITED STATES – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] fraud in connection with the possession of a[n] [identification document; authentication feature; false identification document]. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements:

1. The defendant knowingly possessed a[n] [identification document; authentication feature; false identification document]; and
2. He did so with the intent that it be used to defraud the United States.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1028(A)(5) FRAUDULENT PRODUCTION, TRANSFER,
OR POSSESSION OF A DOCUMENT –
MAKING IMPLEMENT OR AUTHENTICATION
FEATURE – ELEMENTS)**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] fraud in connection with the [production; transfer; possession] of a [document-making implement; authentication feature]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements:

1. The defendant knowingly [produced; transferred; possessed] a [document-making implement; authentication feature]; and
2. The defendant intended that the [document-making implement; authentication feature] be used to produce [a false identification document; another document-making implement or authentication feature which will be used to create a false identification document]; and
- [3. The document-making implement is designed or suited for making a[n] [identification document; authentication feature; false identification document] that is or appears to be issued by or under the authority of [the United States; a sponsoring entity of an event designated as a special event of national significance].]

OR

- [3. The authentication feature is or appears to be issued by or under the authority of [the United States; a sponsoring entity of an event designated as a special event of national significance].]

OR

- [3. [The [production; transfer; possession] of the [document-making implement; authentication feature] is in or affects interstate or foreign commerce] or [the document-making implement is transported in the mail in the course of the [production; transfer; possession].]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1028(A)(6) POSSESSION OF A STOLEN IDENTIFICATION
DOCUMENT OR AUTHENTICATION
FEATURE – ELEMENTS**

[The indictment charge the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] possession of a stolen [identification document; authentication feature]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly possessed a[n] [document; authentication feature] that is or appears to be an [identification document; authentication feature] of the [United States; a sponsoring entity of an event designated as a special event of national significance]; and
2. The [document; authentication feature] was [stolen; produced without lawful authority]; and
3. The defendant knew that the [document; authentication feature] was [stolen; produced without lawful authority].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1028(A)(7) FRAUDULENT TRANSFER, POSSESSION, OR
USE OF A MEANS OF IDENTIFICATION –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] fraud in connection with the [transfer; possession; use] of a means of identification. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [five] elements beyond a reasonable doubt:

1. The defendant knowingly [transferred; possessed; used] a means of identification of another person; and
2. The defendant knew that the means of identification belonged to another person; and
3. The defendant acted [with the intent to [commit; aid or abet]; in connection with] any activity that [violates federal law] or [is a felony under any applicable State or local law]]; and
4. The defendant acted without lawful authority; and
5. The [transfer; possession; use] of the means of identification occurred in or affected interstate or foreign commerce] or the means of identification was transported in the mail in the course of the [transfer; possession] [use].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1028(A)(8) TRAFFICKING IN FALSE OR ACTUAL
AUTHENTICATION FEATURES – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] trafficking in authentication features. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly trafficked in [false] authentication features; and
2. The authentication features were for use in [false identification documents; document-making implements; means of identification]; and
- [3. The authentication features were or appeared to be issued by or under the authority of [the United States; a sponsoring entity of an event designated as a special event of national significance]]

OR

- [3. The trafficking in the [false] authentication features occurred in or affected [interstate; or foreign] commerce [including the transfer of a document by electronic means]].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

Similarly, if the third element of the §1028(a)(8) offense involves authentication features that were or appeared “to be issued by or under the authority of the United States,” then upon a finding of guilt, the statutory maximum provided in §1028(b)(1)(A)(i) of fifteen years applies, and no penalty-enhancing instruction or corresponding verdict form should be given, unless the facts alleged and proved at trial trigger a greater maximum penalty under another penalty-enhancing provision (such as facilitation of a drug trafficking crime, §1028(b)(3)(A) (20 years), connection with a crime of violence, §1028(b)(3)(B) (20 years), or facilitation of an act of domestic terrorism or international terrorism, §1028(b)(4) (30 years)).

However, if the elements involved in the offense charged do not necessarily involve a finding that the authentication features at issue were or appeared “to be issued by or under the authority of the United States,” then the penalty-enhancing provisions of §1028(b) should be addressed if the facts alleged in the indictment and proved at trial support those enhancements.

“Drug trafficking crime” is defined at 18 U.S.C. §929(a)(2), “crime of violence” at §924(c)(3), “act of domestic terrorism” at §2331(5), and “act of international terrorism” at §2331(1).

The term “knowingly” is defined in the Pattern Instruction 4.10.

**18 U.S.C. §1028 PENALTY-ENHANCING INSTRUCTIONS
AND SPECIAL VERDICT FORMS**

18 U.S.C. §1028

**PENALTY-ENHANCING PROVISIONS
UNDER §1028(B)**

If you find that the government proved beyond a reasonable doubt [specify the offense charged in the indictment] as charged in Count [____] of the indictment, then you must also determine whether the government proved beyond a reasonable doubt that the offense in Count [____]

(insert appropriate alternative(s))

[involved the production or transfer of an identification document, authentication feature, or false identification document that is or appears to be an identification document or authentication feature issued by or under the authority of the United States.] [(b)(1)(A)(i)]

OR

[involved the production or transfer of an identification document, authentication feature, or false identification document that is or appears to be a birth certificate, or a driver's license or personal identification card.] [(b)(1)(A)(ii)]

OR

[involved the production or transfer of more than five identification documents, authentication features, or false identification documents.] [(b)(1)(B)]

OR

[involved the transfer, possession, or use of 1 or more means of identification and, as a result of the offense, [the defendant] obtained anything of value aggregating \$1,000 or more during any 1 year period.] [(b)(1)(D) for 1028(a)(7) offenses only]

OR

[involved any production, transfer, or use of a means of identification, an identification document, authentication feature, or a false identification document.] [(b)(2)(A)]

OR

[was committed to facilitate a drug trafficking crime.] [(b)(3)(A)]

OR

[was committed in connection with a crime of violence.] [(b)(3)(B)]

OR

[was committed to facilitate an [act of domestic terrorism; act of international terrorism].] [(b)(4)]

18 U.S.C. §1028**SPECIAL VERDICT FORM**

If you find the defendant(s) guilty of [specify the offense charged in the indictment] in Count [___], then you must also answer the following question(s).

We, the jury, find beyond a reasonable doubt that the offense described in Count [___]:

[involved the production or transfer of an identification document, authentication feature, or false identification document that is or appears to be an identification document or authentication feature issued by or under the authority of the United States.] [(b)(1)(A)(i)]

OR

[involved the production or transfer of an identification document, authentication feature, or false identification document that is or appears to be a birth certificate, or a driver's license or personal identification card.] [(b)(1)(A)(ii)]

OR

[involved the production or transfer of more than five identification documents, authentication features, or false identification documents.] [(b)(1)(B)]

OR

[involved the transfer, possession, or use of 1 or more means of identification and, as a result of the offense, [the defendant] obtained anything of value aggregating \$1,000 or more during any 1 year period.] [(b)(1)(D) for §1028(a)(7) offenses only]

OR

[involved any production, transfer, or use of a means of identification, an identification document, authentication feature, or a false identification document.] [(b)(2)(A)]

OR

[was committed to facilitate a drug trafficking crime.]
[(b)(3)(A)]

OR

[was committed in connection with a crime of
violence.] [(b)(3)(B)]

OR

[was committed to facilitate an [act of domestic
terrorism; act of international terrorism].] [(b)(4)]

Yes _____

No _____

**18 U.S.C. §1028(D)(1) DEFINITION OF “AUTHENTICATION
FEATURE”**

“Authentication feature” means any hologram, watermark, certification, symbol, code, image, sequence of numbers or letters that is used by the issuing authority on an identification document, document making implement, or means of identification to determine if the document is counterfeit, altered, or otherwise falsified. The issuing authority may use the authentication feature either by itself or in combination with another feature to make this determination.

18 U.S.C. §1028(D)(2)

**DEFINITION OF “DOCUMENT-MAKING
IMPLEMENT”**

“Document making implement” means any implement, impression, template, computer file, computer disc, electronic device, or computer hardware or software, that is specifically configured or primarily used for making an identification document, a false identification document, or another document making implement.

18 U.S.C. §1028(D)(3) DEFINITION OF “IDENTIFICATION DOCUMENT”

“Identification document” means a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a sponsoring entity of an event designated as a special event of national significance, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

18 U.S.C. §1028(D)(4) DEFINITION OF “FALSE IDENTIFICATION DOCUMENT”

“False identification document” means a document that

- (1) is of a type that is intended or commonly accepted to identify individuals,
- (2) is not issued by or under the authority of a governmental entity; was issued under the authority of a governmental entity but was subsequently altered for purposes of deceit; and appears to be issued by or under the authority of [the United States Government] [a State] [a political subdivision of a State] [a sponsoring entity of an event designated by the President as a special event of national significance] [a foreign government] [a political subdivision of a foreign government] [or an international governmental or quasi-governmental organization].

**18 U.S.C. §1028(D)(5) DEFINITION OF “FALSE AUTHENTICATION
FEATURE”**

“False authentication feature” means an authentication feature that
[is genuine in origin, but, without the authorization of the issuing
authority, has been tampered with or altered for purposes of deceit.]

OR

[is genuine, but, without the authorization of the issuing authority, has
been distributed or is intended for distribution for use other than by the
issuing authority in a lawfully made [identification document] [document
making implement] [means of identification].]

OR

[appears to be genuine, but is not.]

18 U.S.C. §1028(D)(6) DEFINITION OF “ISSUING AUTHORITY”

“Issuing authority” means any governmental entity or agency that is authorized to issue identification documents, means of identification, or authentication features. An issuing authority includes the United States Government, a State, a political subdivision of a State, a sponsoring entity of an event designated by the President as a special event of national significance, a foreign government, a political subdivision of a foreign government, or an international government or quasi-governmental organization.

18 U.S.C. § 1028(D)(7) DEFINITION OF “MEANS OF IDENTIFICATION”

“Means of identification” means any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual. A means of identification includes any

[name; social security number; date of birth; official State or government issued driver’s license or identification number; alien registration number; government passport number; employer or taxpayer identification number.]

[unique biometric data, such as fingerprint, voice print, retina or iris image; or other unique physical representation.]

[unique electronic [identification number; address; routing code].]

[electronic serial number or any other number or signal that identifies a specific telecommunications instrument or account; a specific communication transmitted from a telecommunications instrument.]

[[card; plate; code; account number; electronic serial number; mobile identification number; personal identification number; or other telecommunications service, equipment, or instrument identifier; or other means of account access] that can be [used, alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value; used to initiate a transfer of funds (other than a transfer originated solely by paper instrument).]

18 U.S.C. §1028(D)(8)

**DEFINITION OF “PERSONAL
IDENTIFICATION CARD”**

“Personal identification card” means an identification document issued by a State or local government solely for the purpose of identification.

18 U.S.C. §1028(D)(9) DEFINITION OF “PRODUCE”

“Produce” includes alter, authenticate, and assemble.

18 U.S.C. §1028(D)(10) DEFINITION OF “TRANSFER”

“Transfer” includes selecting an identification document, false identification document, or document making implement and placing or directing the placement of such identification document, false identification document, or document making implement on an online location where it is available to others.

18 U.S.C. §1028(D)(11) DEFINITION OF “STATE”

“State” includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession, or territory of the United States.

18 U.S.C. §1028(D)(12) DEFINITION OF “TRAFFIC”

“Traffic” means to transport, transfer, or otherwise dispose of, to another, for anything of value, or to make or obtain control of with intent to so transport, transfer, or otherwise dispose of.

18 U.S.C. §1028 DEFINITION OF “LAWFUL AUTHORITY”

“Lawful authority” means authorization recognized by statute or regulation. Thus, “without lawful authority” means without authorization recognized by statute or regulation.

To prove the “without lawful authority” element, the government need not prove that the identification document(s), authentication feature(s), false identification documents(s), or means of identification were stolen. However, proof that such documents, features or means of identification were stolen would satisfy the “without lawful authority” element. “Without lawful authority” includes situations in which a defendant comes into lawful possession of identifying information and had the lawful authority to use that information for a lawful purpose, but used the information for an unlawful purpose.

18 U.S.C. §1028**DEFINITION OF “INTERSTATE OR
FOREIGN COMMERCE”**

“Interstate or foreign commerce” involves business, trade, travel, transportation or communication between any place in a state and any place outside that state, [or any two places within a state but through any place outside that state]. A defendant’s conduct affects commerce if the natural consequences of the defendant’s actions had some effect on commerce, however minimal.

18 U.S.C. §1028A AGGRAVATED IDENTITY THEFT – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] aggravated identity theft. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three; five] following elements beyond a reasonable doubt:

- [1. The defendant committed the felony offense of [title of offense] as charged in Count [__];

OR

- [1. The defendant committed [the terrorism offense of [title of offense] as charged in Count [__];
2. During and in relation to that offense, the defendant knowingly [transferred; possessed; used] a [means of identification; false identification document]; [and]
3. The defendant did so without lawful authority[.] [; and]
- [4. The means of identification belonged to another person; and
5. The defendant knew that the means of identification belonged to another person.]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1028A DEFINITION OF “IN RELATION TO”

A person [transfers; possesses; uses] a [means of identification; false identification document] “in relation to” a crime if it had a purpose, role or effect with respect to the [felony; terrorism] offense. It also means that the [transfer; possession; use] of the [means of identification]; [false identification document] had a connection to or relationship with the [felony; terrorism] offense.

**18 U.S.C. §1029(A)(1) PRODUCTION, USE OR TRAFFICKING IN
COUNTERFEIT ACCESS DEVICES – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] the [production; use; trafficking] of [a] counterfeit access device[s]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the following [three] elements beyond a reasonable doubt:

1. The defendant knowingly [produced; used; trafficked in] one [or more] counterfeit access device[s]; and
2. The defendant did so with the intent to defraud; and
3. The defendant's conduct affected [interstate; [foreign]] commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1029(A)(2) TRAFFICKING OR USE OF UNAUTHORIZED
ACCESS DEVICES – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] the [use of; attempt to use] [an] access device[s]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly [used; trafficked in] one or more specified unauthorized access devices; and
2. By such conduct the defendant obtained any [money; good(s); service(s)]; [any other thing of value] with a total value of at least \$1,000 during any one year period; and
3. The defendant did so with the intent to defraud; and
4. The defendant's conduct affected [interstate; foreign] commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1029(A)(3) POSSESSION OF MULTIPLE UNAUTHORIZED OR
COUNTERFEIT ACCESS DEVICES – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] possession of multiple access devices with intent to defraud. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly possessed fifteen or more access devices;
and
2. Those devices were [counterfeit; unauthorized]; and
3. The defendant possessed those devices with the intent to defraud;
and
4. The defendant's conduct affected [interstate; foreign] commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**PRODUCTION, TRAFFICKING AND
POSSESSION OF DEVICE-MAKING
EQUIPMENT – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] fraud involving access device making equipment. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly [produced; trafficked in; had control or custody of; possessed] device making equipment; and
2. The defendant did so with the intent to defraud; and
3. The defendant's conduct affected [interstate; foreign] commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] fraud in connection with access devices issued to others. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly [engaged in; caused; conducted] [a] transaction[s] with [one; or more] access device[s] that had been issued to another person[s]; and
2. The defendant did so to obtain [money; good(s); service(s); or any other thing of value] with a total value of at least \$1,000 during any one-year period; and
3. The defendant did so with the intent to defraud; and
4. The defendant's conduct affected [interstate; foreign] commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**SOLICITATION TO SELL ACCESS DEVICE
OR INFORMATION REGARDING AN ACCESS
DEVICE – ELEMENTS**

[The indictment charge the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] fraud in connection with the unauthorized solicitation of information relating to access devices. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly solicited a person for the purpose of [offering an access device; selling information regarding an access device; selling information regarding an application to obtain an access device]; and
2. The defendant did so without authorization of the issuer of the access device; and
3. The defendant did so with the intent to defraud; and
4. The defendant's conduct affected [interstate; foreign] commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1029(A)(7)

**USE, PRODUCTION, TRAFFICKING OR
POSSESSION OF MODIFIED
TELECOMMUNICATION INSTRUMENT –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] fraud in connection with [insert type of telecommunications instrument]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly [used; produced; trafficked in; had control or custody of; possessed] a [insert type of telecommunications instrument] that has been modified or altered to obtain unauthorized use of telecommunications services; and
2. The defendant did so with the intent to defraud; and
3. The defendant's conduct affected [interstate; foreign] commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**USE, PRODUCTION, TRAFFICKING OR
POSSESSION OF A SCANNING
RECEIVER – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] fraud involving scanning receivers. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly [used; produced; trafficked in; had control or custody of; possessed] [a]; [one or more] scanning receiver[s]; and
2. The defendant acted with the intent to defraud; and
3. The defendant's conduct affected [interstate; foreign] commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1029(A)(9) USE, PRODUCTION, TRAFFICKING OR
POSSESSION OF HARDWARE OR SOFTWARE
CONFIGURED TO OBTAIN TELECOMMUNICATION
SERVICES – ELEMENTS**

[The indictment charges the defendant[s] with Count[s] __ of the indictment charge[s] the defendant[s] with] fraud involving hardware or software used to obtain unauthorized telecommunications services. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly [used; produced; trafficked in; had control or custody of; possessed] [hardware; software] that has been configured to [insert; modify] telecommunication identifying information [associated with; contained in] a telecommunications instrument so that the instrument may be used to obtain telecommunications services without authorization; and
2. The defendant knew the software or hardware had been so configured; and
3. The defendant's conduct affected [interstate; foreign] commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**FRAUDULENT PRESENTATION OF
EVIDENCE OF PAYMENT BY ACCESS
DEVICE – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] fraud involving credit card payments. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly [arranged for; caused] another person to present, for payment to a credit card system [member; agent], one or more [records; evidences] of transactions made by an access device [as described in the indictment]; and
2. The defendant was not authorized by the credit card system [member; agent] to [arrange; cause] such a claim for payment; and
3. The defendant acted with the intent to defraud; and
4. The defendant's conduct affected [interstate; foreign] commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1029 ACCESS DEVICE FRAUD – DEFINITIONS

18 U.S.C. §1029(E)(1) DEFINITION OF “ACCESS DEVICE”

“Access device” includes a credit card, debit card or a personal identification number such as that used to obtain cash at an ATM. It also means [a[n] [card; plate; code; account number; electronic serial number; mobile identification number; personal identification number] or other [telecommunications service; equipment; instrument identifier]; [or other means of account access] that can be used, alone or in conjunction with another access device, to obtain [money; goods; services; or any other thing of value], [or that can be used to initiate a transfer of funds].

18 U.S.C. §1029(E)(2)

**DEFINITION OF “COUNTERFEIT ACCESS
DEVICE”**

“Counterfeit access device” means any access device that is [counterfeit; fictitious; altered; forged]. [The term also includes an identifiable component of an access device or a counterfeit access device.]

18 U.S.C. §1029(E)(3)

**DEFINITION OF “UNAUTHORIZED
ACCESS DEVICE”**

“Unauthorized access device” means any access device that is [lost; stolen; expired; revoked; canceled; or obtained with intent to defraud].

18 U.S.C. §1029(E)(4) DEFINITION OF “PRODUCE”

“Produce” includes [design; alter; authenticate; duplicate; or assemble].

18 U.S.C. §1029(E)(5) DEFINITION OF “TRAFFIC” OR “TRAFFICKING”

“Traffic” or “trafficking” means to transfer something to another, or otherwise dispose of something. It also means to obtain control of something with intent to transfer or dispose of it.

18 U.S.C. §1029(E)(6)

**DEFINITION OF “DEVICE-MAKING
EQUIPMENT”**

“Device making equipment” means any equipment, mechanism, or impression designed or primarily used for making an access device or a counterfeit access device.

18 U.S.C. §1029(E)(7)**DEFINITION OF “CREDIT CARD
SYSTEM MEMBER”**

“Credit card system member” means an entity, including a financial institution, that is a member of a credit card system, such as a bank, credit union, or credit card company. The term includes an entity that is the sole member of a credit card system, whether affiliated with or identical to the credit card issuer.

18 U.S.C. §1029(E)(8) DEFINITION OF “SCANNING RECEIVER”

“Scanning receiver” means a device or apparatus that can be used to intercept an electronic serial number, mobile identification number, or other identifier of any telecommunications service, equipment, or instrument.

“Telecommunications service” means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. Telephone service, cellular telephone service, instant messaging and email messaging services are all examples of “telecommunications services.”

18 U.S.C. §1029(E)(11)

**DEFINITION OF “TELECOMMUNICATION
IDENTIFYING INFORMATION”**

“Telecommunication identifying information” means electronic serial number or any other number or signal that identifies a specific telecommunications instrument or account, or a specific communication transmitted from a telecommunications instrument.

18 U.S.C. §1029**DEFINITION OF “TELECOMMUNICATIONS
INSTRUMENT”**

“Telecommunications instrument” means a device, tool or implement, especially one held in the hand, which is used to transmit information over a distance by electronic means such as by cable, telegraph, telephone, or broadcasting. [A mobile phone, often referred to as a cellular phone, is an example of a telecommunications instrument.]

18 U.S.C. §1029 DEFINITION OF “HARDWARE”

“Hardware” consists of the machines, wiring, and other physical components of a computer or other electronic system or media storage device. Hardware includes the [cables; connectors; power supply units; monitors; keyboards; mice; audio speakers; printers; scanners; microprocessors; disks; disk drives; optical drives; USB drives; and digital media but not data stored on the devices].

18 U.S.C. §1029 DEFINITION OF “SOFTWARE”

“Software” includes programs, applications, operating instructions, code, and other digital information or data used or processed by a microprocessor.

18 U.S.C. §1029

**DEFINITION OF “INTERSTATE OR
FOREIGN COMMERCE”**

No Instruction.

**18 U.S.C. §§1029(B)(1) AND (B)(2) ATTEMPT AND CONSPIRACY-
ELEMENTS**

No instruction.

**OBTAINING INFORMATION FROM
COMPUTER INJURIOUS TO THE
UNITED STATES – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s]__ of the indictment charge[s] the defendant[s] with] obtaining government protected information from a computer. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly [accessed a computer without authorization; exceeded his authorized access to a computer]; and
2. In doing so, the defendant obtained [information that had been determined by the United States Government to require protection against disclosure for reasons of national defense or foreign relations; data regarding the design, manufacture or use of atomic weapons]; and
3. The defendant obtained the [information; data] with reason to believe that the information could be used to injure the United States or to the advantage of any foreign nation; and
4. The defendant willfully [[communicated; delivered; transmitted] the [information; data] to any person not entitled to receive it] [retained the [information; data] and failed to deliver it to the officer or employee of the United States entitled to receive it].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1030(A)(2)(A), (B), AND (C) OBTAINING FINANCIAL
INFORMATION BY
UNAUTHORIZED ACCESS OF
A COMPUTER – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] obtaining financial information by unauthorized access of a computer. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

To sustain the charge of, the government must prove the following:

1. The defendant intentionally [accessed a computer without authorization; exceeded his or her authorized access to a computer]; and
2. By accessing the computer the defendant obtained [information contained in a financial record [of _____, a financial institution; of _____, a card issuer; contained in a file of _____, a consumer reporting agency maintained on a consumer],] or [information from any department or agency of the United States,] or [information from any protected computer].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1030(a)(3) ACCESSING A NON-PUBLIC GOVERNMENT
COMPUTER – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] accessing a non-public government computer. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant intentionally accessed a non-public computer of a (identify department or agency of the United States); and
2. [The computer was exclusively for the use of the government; the computer was used by or for the government and defendant's conduct affected the use by or for the government]; and
3. The defendant lacked authorization to access the computer of (identify the department or agency of the United States).

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1030(A)(4) COMPUTER FRAUD USE BY OR FOR FINANCIAL
INSTITUTION OR GOVERNMENT – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] fraud by using a protected computer. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly [accessed a protected computer without authorization; exceeded authorized access to a protected computer]; and
2. The defendant did so with the intent to defraud; and
3. By [accessing; exceeding authorized access to] the protected computer, the defendant furthered the fraud; and
4. The defendant thereby obtained anything of value.

OR

- [4. The object of the fraud and the thing obtained was the use of the computer and the value of that use exceeded \$5000 in any one-year period.]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**TRANSMISSION OF PROGRAM TO
INTENTIONALLY CAUSE DAMAGE TO A
COMPUTER – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] transmitting a program that damages a computer. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant knowingly caused the transmission of a [program; information; code; command]; and
2. By doing so, the defendant intentionally caused damage to a protected computer without authorization.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1030(A)(5)(B)

**RECKLESSLY CAUSING DAMAGE BY
ACCESSING A PROTECTED COMPUTER –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] recklessly causing damage by accessing a protected computer. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant intentionally accessed a protected computer without authorization; and
2. As a result of that conduct, the defendant recklessly caused damage.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**CAUSING DAMAGE AND LOSS BY
ACCESSING A PROTECTED COMPUTER –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] causing damage and loss by accessing a protected computer. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant, without authorization, intentionally accessed a protected computer; and
2. As a result of that conduct, the defendant caused damage and loss.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1030(A)(6) TRAFFICKING IN PASSWORDS – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] trafficking in passwords. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly and without authorization trafficked in a password, or similar information through which a computer may be accessed; and
2. The defendant acted with intent to defraud; and
3. The defendant's acts [affected interstate or foreign commerce; involved access to a computer used by or for the government of the United States].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] extortion by threatening to damage a protected computer. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

To sustain the charge of extortion by threatening to damage a protected computer, the government must prove the following:

1. The defendant transmitted, in interstate or foreign commerce, a threat to cause damage to a protected computer; and
2. The defendant intended to extort money or anything of value from any person.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**EXTORTION BY THREATENING TO OBTAIN
INFORMATION FROM A PROTECTED
COMPUTER – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] extortion by threatening to obtain information from a protected computer. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant transmitted, in interstate or foreign commerce, a threat [to obtain information from a protected computer without authorization; to obtain information from a protected computer in excess of authorization; to impair the confidentiality of information obtained from a protected computer without authorization; to impair the confidentiality of information obtained from a protected computer by exceeding authorized access]; and
2. By doing so, the defendant intended to extort money or anything of value from any person.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1030(a)(7)(C) EXTORTION BY DEMANDING MONEY IN
RELATION TO A PROTECTED COMPUTER –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] extortion by demanding money in relation to a protected computer. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant transmitted in interstate or foreign commerce any communication containing a demand or request for money or other thing of value in relation to damage to a protected computer;
2. The defendant did so with intent to extort money or anything of value from any person; and
3. Damage to a protected computer was caused to facilitate the extortion.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1030(a)(7)(C) DEFINITION OF “IN RELATION TO”

“In relation to” means that the communication had a purpose, role or effect with respect to the damage to the protected computer. It also means that the communication had a connection to or relationship with the damage to the protected computer.

18 U.S.C. §1030(B) ATTEMPT AND CONSPIRACY – ELEMENTS

18 U.S.C. §1030

**DEFINITION OF “COMPUTER FRAUD AND
RELATED ACTIVITY”**

18 U.S.C. §1030(E)(1)**DEFINITION OF “COMPUTER”**

“Computer” means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions. The term includes any data storage facility or communications facility directly related to or operating in conjunction with such device. But the term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device.

18 U.S.C. §1030(E)(2) DEFINITION OF “PROTECTED COMPUTER”

“Protected computer” means a computer that is exclusively for the use of a financial institution or the United States government. The term also includes computers not exclusively for such use, used by or for a financial institution or the United States government when the defendant’s conduct affects the use of the computer by or for the financial institution or the government. Finally, the term “protected computer” also includes computers which are used in or affecting interstate or foreign commerce or communication, even if the computer is located outside of the United States.

18 U.S.C. §1030(E)(3)**DEFINITION OF “STATE”**

“State” includes the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession or territory of the United States.

18 U.S.C. §1030(E)(4) DEFINITION OF “FINANCIAL INSTITUTION”

“Financial institution” means an institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration; the Federal Reserve or a member of the Federal Reserve including any Federal Reserve Bank; a member of the Federal home loan bank system and any home loan bank; any institution of the Farm Credit System; a broker dealer registered with the Securities and Exchange Commission; the Securities Investor Protection Corporation; a branch or agency of a foreign bank; and an organization operating under section 25 or section 25(a) of the Federal Reserve Act.

18 U.S.C. §1030(E)(5) DEFINITION OF “FINANCIAL RECORD”

“Financial record” means information derived from any record held by a financial institution pertaining to a customer’s relationship with the financial institution.

18 U.S.C. §1030(E)(6)

**DEFINITION OF “EXCEEDS AUTHORIZED
ACCESS”**

“Exceeds authorized access” means to access a computer with authorization but to use such access to obtain or alter information in the computer that the person is not entitled to obtain or alter.

**18 U.S.C. §1030(e)(7) DEFINITION OF “DEPARTMENT OF
THE UNITED STATES”**

“Department of the United States” means the legislative or judicial branch of the Government or one of the executive departments of the United States.

18 U.S.C. §1030(E)(8) DEFINITION OF “DAMAGE”

“Damage” means any impairment to the integrity or availability of data, a program, a system, or information.

18 U.S.C. §1030 DEFINITION OF “GOVERNMENT ENTITY”

“Government entity” includes the Government of the United States, any State or political subdivision of the United States, any foreign country, and any state, province, municipality, or other political subdivision of a foreign country.

18 U.S.C. §1030(E)(10) DEFINITION OF “CONVICTION”

“Conviction” includes a conviction under the law of any State for a crime punishable by imprisonment for more than 1 year, an element of which is unauthorized access, or exceeding authorized access, to a computer.

18 U.S.C. §1030(E)(11) DEFINITION OF “LOSS”

“Loss” means any reasonable cost to any victim, including the cost of responding to an offense, conducting a damage assessment, and restoring the data, program, system, or information to its condition prior to the offense. The term also includes any revenue lost, cost incurred, or other consequential damages incurred because of interruption of service.

18 U.S.C. §1030(E)(12) DEFINITION OF “PERSON”

“Person” means any individual, firm, corporation, educational institution, financial institution, governmental entity, or legal or other entity.

18 U.S.C. §1030 DEFINITION OF “PASSWORD”

A “password” is a sequence of letters, numbers, symbols or other characters used to gain access to a computer, computer system, network, file, program, or function. A password helps ensure that only authorized users access the computer, computer system, network, file, program or function.

**18 U.S.C. §§1341 & 1343 MAIL/WIRE/CARRIER FRAUD –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [mail] [wire] [carrier] fraud. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. That the defendant knowingly [devised] [or] [participated in] a scheme [to defraud], as described in Count[s] ____; and
2. That the defendant did so with the intent to defraud; and
3. The scheme to defraud involved a materially false or fraudulent pretense, representation, or promise; and
4. That for the purpose of carrying out the scheme or attempting to do so, the defendant [used [or caused the use of]] [the United States Mails] [a private or commercial interstate carrier] [caused interstate wire communications to take place] in the manner charged in the particular count.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §§1341, 1343 & 1346 TYPES OF MAIL/WIRE/
CARRIER FRAUD**

The indictment charges the defendant[s] with; Count[s]__ of the indictment charge[s] the defendant[s] with] committing [mail] [wire] [carrier] fraud in two different ways: First, the defendant[s] [is] [are] charged with [mail] [wire] [carrier] fraud by participating in a scheme to obtain money or property. Second, the defendant[s] [is] [are] charged with [mail] [wire] [carrier] fraud by participating in a scheme to defraud [list victim of the intangible right to honest services].

18 U.S.C. §§1341 & 1343 DEFINITION OF SCHEME TO DEFRAUD

A scheme is a plan or course of action formed with the intent to accomplish some purpose.

[A scheme to defraud is a scheme that is intended to deceive or cheat another and [to obtain money or property or cause the [potential] loss of money or property to another by means of materially false or fraudulent pretenses, representations or promises] [or] [to deprive another of the intangible right to honest services through [bribery] or [kickbacks].]

[A materially false or fraudulent pretense, representation, or promise may be accomplished by [an] omission[s] or the concealment of material information.]

18 U.S.C. §§1341 & 1343 PROOF OF SCHEME

In considering whether the government has proven a scheme to defraud, the government must prove that one or more of the [false or fraudulent pretenses, representations or promise] [bribes or kickbacks] charged in the portion of the indictment describing the scheme be proved beyond a reasonable doubt. The government, however, is not required to prove all of them.

18 U.S.C. §§1341 & 1343 DEFINITION OF MATERIAL

A false or fraudulent pretense, representation, [or] promise[,] [omission, or concealment] is “material” if it is capable of influencing the decision of the [person[s]] [or] [list victim] to whom it was addressed.

[It is not necessary that the false or fraudulent pretense, representation, promise, omission, or concealment actually have that influence or be relied on by the alleged victim, as long as it is capable of doing so.]

18 U.S.C. §§1341 & 1343 DEFINITION OF INTENT TO DEFRAUD

A person acts with intent to defraud if he acts knowingly with the intent to deceive or cheat [the victim] in order to cause [a gain of money or property to the defendant or another] [or] [the [potential] loss of money or property to another] [or] [to deprive another of the intangible right to honest services through bribery or kickbacks].

18 U.S.C. §§1341, 1343 & 1346 DEFINITION OF HONEST SERVICES

A scheme to defraud another of the intangible right to honest services consists of a scheme to violate a fiduciary duty by bribery or kickbacks. A fiduciary duty is a duty to act only for the benefit of the [public] [employer] [shareholder] [union].

[A public official owes a fiduciary duty to the public.]

[An employee owes a fiduciary duty to [his] [her] employer.]

[An officer of a corporation owes a fiduciary duty to the corporation's shareholders].

[A union official owes a fiduciary duty to the union.]

[The defendant need not owe the fiduciary duty personally, so long as [he] [she] devises or participates in a bribery or kickback scheme intended to deprive the [public] [employer] [union] of its right to a fiduciary's honest services.]

18 U.S.C. §§1341, 1343 & 1346 RECEIVING A BRIBE OR KICKBACK

[A public official] [An employee] [A corporate officer] [A union official] [A defendant] commits bribery when he [demands, solicits, seeks, or asks for, or agrees to accept or receive, or accepts or receives], directly or indirectly, something of value from another person in exchange for a promise for, or performance of, an [official act].

[A kickback occurs when [a public official] [an employee] [a corporate officer] [a union official] [a defendant] [demands, solicits, seeks, or asks for, or agrees to accept or receive, or accepts or receives], directly or indirectly, something of value from another person in exchange for a promise for, or performance of, an [official act], and the act itself provides the source of the funds to be “kicked back.”]

“Something of value” includes money or property [and prospective employment].

18 U.S.C. §§1341, 1343 & 1346 OFFERING A BRIBE OR KICKBACK

[A defendant offers a bribe when he, directly or indirectly, [promises, gives, offers] [a public official] [an employee] [a corporate officer] [a union official] anything of value in exchange for a promise for, or performance of, an [official act.] [Describe act at issue.]

[A defendant offers a kickback when he, directly or indirectly, [promises, gives, offers] [a public official] [an employee] [a corporate officer] [a union official] something of value in exchange for a promise for, or performance of, an [official act.], and the act itself provides the source of the funds to be “kicked back.”] [Describe act at issue.]

“Something of value” includes money or property [and prospective employment].

18 U.S.C. §§1341, 1343 & 1346 INTENT TO INFLUENCE

It is not necessary that the [public official] [defendant] had the power to or did perform the act for which he was promised or which he agreed to receive something of value; it is sufficient if the matter was before him in his official capacity. [Nor is it necessary that the [public official] [defendant] in fact intended to perform the specific official act. It is sufficient if the [public official] [defendant] knew that the thing of value was offered with the intent to exchange the thing of value for the performance of the official act.]

18 U.S.C. §§1341 & 1343 SUCCESS NOT REQUIRED

The [mail] [interstate carrier] [wire] fraud statute can be violated whether or not there is any loss or damage to the victim of the crime] [or] [gain to the defendant].

[The government need not prove that the scheme to defraud actually succeeded.]

18 U.S.C. §1343 WIRE COMMUNICATION

[Telephone calls,] [mobile or cellular telephone calls,] [facsimiles,] [e-mails,] [instant messages,] [wire transfer of funds,] [text messages] [and] [electronic filing of documents] constitute[s] transmission by means of wire communication.

18 U.S.C. §§1341 AND 1343

**USE OF MAILS/INTERSTATE
CARRIER/INTERSTATE
COMMUNICATION FACILITY**

The government must prove that [the United States mails] [[a] private or commercial interstate carrier[s]] [interstate communication facilities] [was] [were] used to carry out the scheme, or [was] [were] incidental to an essential part of the scheme.

In order to [use [or cause the use of]] [the United States mails] [a private or commercial interstate carrier]] [cause interstate wire communications to take place], the [a] defendant need not actually intend that use to take place. You must find that the defendant knew this use would actually occur, or that the defendant knew that it would occur in the ordinary course of business, or that the defendant knew facts from which that use could reasonably have been foreseen. [However, the government does not have to prove that [the/a] defendant knew that [the wire communication was of an interstate nature][the carrier was an interstate carrier].]

[The defendant need not actually or personally use [the mail] [an interstate carrier] [interstate communication facilities].]

[Although an item [mailed] [sent by interstate carrier] [communicated interstate] need not itself contain a fraudulent representation or promise or a request for money, it must carry out or attempt to carry out the scheme.]

[In connection with whether a [mailing] [or] [wire transmission] was made, you may consider evidence of the habit or the routine practice of [a person] [or] [an organization].]

[Each separate use of [the mail] [an interstate carrier] [interstate communication facilities] in furtherance of the scheme to defraud constitutes a separate offense.]

18 U.S.C. §1344 FINANCIAL INSTITUTION FRAUD – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [bank] [financial institution] fraud. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four; five] following elements beyond a reasonable doubt:

1. There was a scheme [to defraud a [bank] [financial institution]] [or] [to obtain moneys, funds, credits, assets, securities, or other property owned by, or in the custody or control of, a [bank] [financial institution] by means of false or fraudulent pretenses, representations or promises] as charged in the indictment; and
2. The defendant knowingly [attempted to] execute the scheme; and
3. The defendant acted with the intent to defraud; and
- [4. The scheme involved a materially false or fraudulent pretense, representation, or promise; and]

[[4.; 5.] At the time of the charged offense the deposits of the [bank] [financial institution] were insured by the Federal Deposit Insurance Corporation.]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1344 SCHEME – DEFINITION

A scheme is a plan or course of action formed with the intent to accomplish some purpose.

[In considering whether the government has proven a scheme to obtain moneys, funds, credits, assets, securities, or other property from a [bank] [financial institution] by means of false pretenses, representations or promises, the government must prove at least one of the [false pretenses, representations, promises, or] acts charged in the portion of the indictment describing the scheme. However, the government is not required to prove all of them.]

[A scheme to defraud a [bank] [financial institution] means a plan or course of action intended to deceive or cheat that [bank] [financial institution] or [to obtain money or property or to cause the [potential] loss of money or property by the [bank] [financial institution]. [A scheme to defraud need not involve any false statement or misrepresentation of fact.]]

18 U.S.C. § 1344 MULTIPLE FALSE STATEMENTS CHARGED

[In considering whether the government has proven a scheme to obtain moneys, funds, credits, assets, securities, or other property from a [bank] [financial institution] by means of false pretenses, representations or promises, the government must prove at least one of the [false pretenses, representations, promises, or] acts charged in the portion of the indictment describing the scheme. However, the government is not required to prove all of them.]

18 U.S.C. §1347 HEALTH CARE FRAUD – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] health care fraud. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. That there was a scheme [to defraud any health care benefit program] [or] [to obtain the money or property owned by, or under the custody and control of, any health care benefit program by means of material false statements, pretenses, representations, promises] in connection with the delivery of or payment for health care benefit items, or services, as charged in Count[s] ____ of the indictment, and

2. That the defendant knowingly and willfully [attempted to] execute[d] the scheme.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

A health care benefit program is any [public or private][plan or contract], affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract. A health care program affects commerce if the health care program had any impact on the movement of any money, goods, services, or persons from one state to another [or between another country and the United States].

The government need only prove that the health care program itself either engaged in interstate commerce or that its activity affected interstate commerce to any degree. The government need not prove that [the] [a] defendant engaged in interstate commerce or that the acts of [the] [a] defendant affected interstate commerce.

18 U.S.C. §1461 MAILING OBSCENE MATERIAL – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] mailing obscene material. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly [used the mails] [caused the mails to be used] for the delivery of certain materials, as charged; and
2. The defendant knew the content, character, and nature of the materials; and
3. The materials were obscene.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] bringing obscene material into the United States. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly brought [the material charged in the indictment] into the United States; and
2. The defendant knew the character or nature of [the material charged in the indictment] at the time it was brought into the United States; and
3. [The material charged in the indictment] was obscene.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1462**TAKING OR RECEIVING OBSCENE
MATERIAL – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] taking or receiving obscene material. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly took or received [the material charged in the indictment] from [any express company][other common carrier][interactive computer service]; and
2. The defendant knew the character or nature of [the material charged in the indictment] at the time it was [taken][received]; and
3. [The material charged in the indictment] was obscene.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] importing or transporting obscene material. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly used [any express company][other common carrier][interactive computer service] to transport [the material charged in the indictment] in interstate or foreign commerce; and
2. The defendant knew the character or nature of [the material charged in the indictment] at the time of such use; and
3. [The material charged in the indictment] was obscene.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**PRODUCTION WITH INTENT TO TRANSPORT/
DISTRIBUTE/TRANSMIT OBSCENE MATERIAL
FOR SALE OR DISTRIBUTION – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] production of obscene material with the intent to [transport][distribute][transmit] obscene material for the purpose of [sale][distribution]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly used [any express company][other common carrier] [interactive computer service] to [transport] [distribute] [transmit] [the material charged in the indictment] in interstate or foreign commerce; and
2. The defendant knowingly produced the materials with the intent to [transport][distribute] [transmit] them; and
3. The defendant knew of the content, character and nature of [the material charged in the indictment] at the time of production; and
4. [The material charged in the indictment] was obscene.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] transportation of obscene material for the purpose of [sale][distribution]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly [transported in][traveled in][used any facility or means of] interstate or foreign commerce; and
2. The defendant did so for the purpose of [sale][distribution] of [the material charged in the indictment]; and
3. The defendant knew of the content, character and nature of [the material charged in the indictment] at the time of [transportation][travel]; and
4. [the material charged in the indictment] was obscene.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

DEFINITION OF “INTERSTATE COMMERCE”/ “FOREIGN COMMERCE”/ “COMMERCE”

“Interstate commerce” means commerce between different states, territories, and possessions of the United States, including the District of Columbia.

“Foreign commerce” as used above, means commerce between any state, territory or possession of the United States and a foreign country.

“Commerce” includes, among other things, travel, trade, transportation and communication.

Images transmitted or received over the Internet have moved in interstate or foreign commerce. It is for you to determine, however, if [the material containing] the visual depiction [had been transmitted or received over the Internet][was produced using materials that had been transmitted or received over the Internet].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] engaging in the business of [[producing] obscene material with intent to [distribute][sell]] [[selling][transferring] obscene material]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant is engaged in the business of [producing] [selling] [transferring] [the material charged in the indictment]; and
2. The defendant knowingly [[sold][transferred][the material charged in the indictment]] or [produced [the material charged in the indictment] with intent to [distribute][sell]; and
3. [The material charged in the indictment] is obscene; and
4. [The material charged in the indictment] has been [shipped] [transported] in [interstate][foreign] commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] engaging in the business of [selling][transferring] obscene material. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant is engaged in the business of [selling][transferring] [the material charged in the indictment]; and
2. The defendant knowingly [sold][transferred][the material charged in the indictment]; and
3. [The material charged in the indictment] is obscene; and
4. The [the material charged in the indictment] has been [shipped][transported] in interstate or foreign commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] engaging in the business of [receiving][possessing] obscene material with intent to distribute. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant is engaged in the business of [receiving][possessing] [the material charged in the indictment]; and
2. The defendant knowingly [received][possessed][the material charged in the indictment] with intent to distribute; and
3. [the material charged in the indictment] is obscene; and
4. [the material charged in the indictment] has been [shipped][transported] in interstate or foreign commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §466A(a)(1)

**PRODUCING/DISTRIBUTING/RECEIVING/
POSSESSING WITH INTENT TO DISTRIBUTE
OBSCENE VISUAL REPRESENTATIONS OF
SEXUAL ABUSE OF CHILDREN – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charges the defendant[s] with][producing] [distributing] [receiving] [possessing with intent to distribute], a visual depiction In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly [produced][distributed][received] [possessed with intent to distribute], a visual depiction; and
2. The visual depiction is of a minor engaging in sexually explicit conduct; and
3. the visual depiction is obscene; and
4. [a communication involved in or made in furtherance of this offense was communicated or transported by [mail][in interstate or foreign commerce, including by computer]]

[a communication involved in or made in furtherance of the offense contemplated the transmission or transportation of a visual depiction by the [mail][in interstate or foreign commerce, including by computer]]

[any person traveled or was transported in interstate or foreign commerce in the course of or in furtherance of the commission of this offense]

[any visual depiction involved in the offense was produced using materials that were [mailed][shipped or transported in interstate or foreign commerce, including by computer]]

[the offense was committed in the special maritime or territorial jurisdiction of the United States].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a

reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**PRODUCING/DISTRIBUTING/RECEIVING/
POSSESSING WITH INTENT TO DISTRIBUTE
OBSCENE VISUAL REPRESENTATIONS OF
SEXUAL ABUSE OF CHILDREN – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [producing] [distributing] [receiving] [possessing with intent to distribute], a visual depiction. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly [produced][distributed][received] [possessed with intent to distribute], a visual depiction; and
2. The visual depiction is of an image [that is][appears to be] a minor engaging in [graphic bestiality][sadistic abuse][masochistic abuse][sexual intercourse]; and
3. The visual depiction lacks serious literary, artistic, political or scientific value; and
4. [a communication involved in or made in furtherance of this offense was communicated or transported by [mail][in interstate or foreign commerce, including by computer]]

[a communication involved in or made in furtherance of the offense contemplated the transmission or transportation of a visual depiction by the [mail][in interstate or foreign commerce, including by computer]]

[any person traveled or was transported in interstate or foreign commerce in the course of or in furtherance of the commission of this offense]

[any visual depiction involved in the offense was produced using materials that were [mailed][shipped or transported in interstate or foreign commerce, including by computer]

[the offense was committed in the special maritime or territorial jurisdiction of the United States].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**POSSESSION OF OBSCENE VISUAL
REPRESENTATIONS OF SEXUAL ABUSE
OF CHILDREN — ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] possession of an obscene visual depiction. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly possessed a visual depiction; and
2. The visual depiction is of a minor engaging in sexually explicit conduct; and
3. The visual depiction is obscene; and
4. [A communication involved in or made in furtherance of this offense was communicated or transported by [mail][in interstate or foreign commerce, including by computer]]

[a communication involved in or made in furtherance of the offense contemplated the transmission or transportation of a visual depiction by the [mail][in interstate or foreign commerce, including by computer]]

[any person traveled or was transported in interstate or foreign commerce in the course of or in furtherance of the commission of this offense]

[any visual depiction involved in the offense was produced using materials that were [mailed][shipped or transported in interstate or foreign commerce, including by computer]

[the offense was committed in the special maritime or territorial jurisdiction of the United States].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1466A(B)(2)

**POSSESSION OF OBSCENE VISUAL
REPRESENTATIONS OF SEXUAL ABUSE
OF CHILDREN – ELEMENTS)**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] possession of an obscene visual depiction. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly possessed a visual depiction; and
2. The visual depiction is of an image [that is][appears to be] a minor engaging in [graphic bestiality][sadistic abuse][masochistic abuse][sexual intercourse]; and
3. The visual depiction lacks serious literary, artistic, political or scientific value; and
4. [A communication involved in or made in furtherance of this offense was communicated or transported by [mail][in interstate or foreign commerce, including by computer]]

[a communication involved in or made in furtherance of the offense contemplated the transmission or transportation of a visual depiction by the [mail][in interstate or foreign commerce, including by computer]]

[any person traveled or was transported in interstate or foreign commerce in the course of or in furtherance of the commission of this offense]

[any visual depiction involved in the offense was produced using materials that were [mailed][shipped or transported in interstate or foreign commerce, including by computer]

[the offense was committed in the special maritime or territorial jurisdiction of the United States].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a

reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1466A(F)(1)**VISUAL DEPICTION – DEFINED**

“Visual depiction” includes undeveloped film and videotape, and data stored on a computer disk or by electronic means which is capable of conversion into a visual image, and also includes any photograph, film, video, picture, digital image or picture, computer image or picture, or computer generated image or picture, whether made or produced by electronic, mechanical, or other means.

18 U.S.C. §1466A(F)(3)**GRAPHIC – DEFINED**

A depiction of sexually explicit conduct is “graphic” if a viewer can observe any part of the genitals or pubic area of any depicted person [or animal] during any part of the time that the sexually explicit conduct is being depicted.

18 U.S.C. §1466(B) ENGAGED IN THE BUSINESS – DEFINED

A person who produces, sells or transfers or offers to sell or transfer obscene matter is “engaged in the business” of doing so, if he devotes time, attention or labor to such activities, as a regular course of trade or business, with the objective of earning a profit. It is not necessary that the person make a profit or that the production, selling or transferring or offering to sell or transfer such material be the person’s sole or principal business or source of income.

18 U.S.C. §1470**TRANSFER OF OBSCENE MATERIAL
TO A MINOR – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] transfer of obscene material to an individual who has not attained the age of sixteen years. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [six] following elements beyond a reasonable doubt:

1. The defendant knowingly transferred [the material charged in the indictment]; and
2. The defendant transferred [the material charged in the indictment] to an individual less than sixteen years old; and
3. The defendant knew the other individual was less than sixteen years-old; and
4. The defendant knew at the time of the transfer the content, character and nature of the material; and
5. [The material charged in the indictment] is obscene; and
6. The defendant knowingly used the [mail][any means or facility of interstate commerce] to transfer [the material charged in the indictment].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1470**DEFINITION OF “OBSCENITY”**

No evidence of what constitutes obscene material has been or needs to be presented. It is up to you to determine whether the material is obscene using the standard in this instruction.

Material is obscene when it meets all three of the following requirements:

1. The average person, applying contemporary adult community standards, would find that the material, taken as a whole, appeals to the prurient interest. Material appeals to “prurient interest” when it is directed to an unhealthy or abnormally lustful or erotic interest, or to a lascivious or degrading interest, or to a shameful or morbid interest, in [sex] [or] [nudity] [or] [excretion].
2. The average person, applying contemporary adult community standards, would find that the material depicts or describes sexual conduct in a patently offensive way.
3. A reasonable person would find that the material, taken as a whole, lacks serious literary, artistic, political, or scientific value.

Before you can find material to be obscene, you must find that it meets all three of these requirements.

You are to apply these requirements from the standpoint of an average adult in the community, namely, the counties in the _____ District of _____ in which you reside.

You are not to apply these standards from the standpoint of the sender, the recipient, or the intended recipient of the material.

You must also avoid applying subjective personal and privately held views regarding what is obscene. Rather, the standard is that of an average adult applying the collective view of the community as a whole.

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] obstruction of justice. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [use[d] intimidation; threaten[ed] another person] or corruptly persuade[d] another person]] or [engaged in misleading conduct toward another person]or [attempted to do so]; and
2. The defendant acted knowingly; and
3. The defendant acted with the intent to influence, delay or prevent the testimony of any person in an official proceeding.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] obstruction of justice. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [[attempted to] [use[d] intimidation, threaten[ed] or corruptly persuade[d] another person]] or [engaged in misleading conduct toward another person]; and
2. The defendant acted knowingly; and
3. The defendant acted with the intent to cause or induce any person to withhold [testimony, a record, a document or another object] from an official proceeding.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] obstruction of justice. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [[attempted to] [use[d] intimidation, threaten[ed] or corruptly persuade[d] another person]] or [engaged in misleading conduct toward another person]; and
2. The defendant acted knowingly; and
3. The defendant acted with the intent to cause or induce any person to [[alter], [destroy][mutilate], or [conceal]] an object with the intent to impair the object's integrity or availability for use in an official proceeding.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] obstruction of justice. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [[attempted to] [use[d] intimidation, threaten[ed] or corruptly persuade[d] another person]] or [engaged in misleading conduct toward another person]; and
2. The defendant acted knowingly; and
3. The defendant acted with the intent to cause or induce any person to evade legal process summoning that person [to appear as a witness] or [to produce a [record], [document] or other object]], in an official proceeding.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with]obstruction of justice. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [[attempted to] [use[d] intimidation, threaten[ed] or corruptly persuade[d] another person]] or [engaged in misleading conduct toward another person]; and
2. The defendant acted knowingly; and
3. The defendant acted with the intent to cause or induce any person to be absent from an official proceeding to which such person has been summoned by legal process.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1512(b)(3) WITNESS TAMPERING – HINDER, DELAY
OR PREVENT COMMUNICATION RELATING
TO COMMISSION OF OFFENSE – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] obstruction of justice. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant [[attempted to] [use[d] intimidation, threaten[ed] or corruptly persuade[d] another person]] or [engaged in misleading conduct toward another person]; and
2. The defendant acted knowingly; and
3. The defendant acted with the intent to hinder, delay or prevent the communication of information to [a law enforcement officer of the United States or judge of the United States]; and
4. Such information related to the commission or possible commission of a [[federal offense] or [violation of conditions of probation], [supervised release], or [release pending judicial proceedings]].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1512(C)(1) DESTROY, ALTER OR CONCEAL DOCUMENT
OR OBJECT – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with]obstruction of justice. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant [attempted to][alter[ed], destroy[ed], mutilate[d] or conceal[ed]] a [record, document or other object]; and
2. The defendant acted knowingly; and\
3. The defendant acted corruptly; and
4. The defendant acted with the intent to impair the object's integrity or availability for use in an official proceeding.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1512(C)(2) OTHERWISE OBSTRUCT OFFICIAL
PROCEEDING – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] obstruction of justice. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant [attempted to][obstruct[ed], influence[d], or impede[d]] any official proceeding; and
2. The defendant acted corruptly.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §§1512 AND 1515(A)(1) DEFINITION OF “OFFICIAL PROCEEDING

The term “official proceeding” as used in Count[s]_____ means (name official proceeding).

An official proceeding need not be pending or about to be instituted at the time of the offense. However, the government must prove beyond a reasonable doubt that the defendant[s] foresaw the particular official proceeding.

[There are (number) official proceedings identified in Count[s] _____. The government need not prove beyond a reasonable doubt that the defendant intended to obstruct all of these proceedings. Instead, the government must prove beyond a reasonable doubt that the defendant intended to obstruct at least one of these official proceedings. You must unanimously agree as to which official proceeding the defendant intended to obstruct.]

18 U.S.C. §§1512 DEFINITION OF “CORRUPTLY”

A person acts “corruptly” if he or she acts with the purpose of wrongfully impeding the due administration of justice.

The term “misleading conduct” means [knowingly making a false statement]; [intentionally omitting [material] information from a statement and thereby causing a portion of such a statement to be misleading, or intentionally concealing a material fact, and thereby creating a false impression by such statement]; [with intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered or otherwise lacking in authenticity]; [with intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark, or other object that is misleading in a material respect]; or [knowingly using a trick, scheme, or device with intent to mislead] .

18 U.S.C. §1512(E) AFFIRMATIVE DEFENSE

If the defendant proves that it is more likely than not that the defendant's conduct consisted solely of lawful conduct and the defendant's sole intention was to encourage, induce or cause the other person to testify truthfully, then you must find the defendant not guilty as charged in Count[s] _____.

18 U.S.C. §§1512 AND 1515(A)(4)**DEFINITION OF “LAW
ENFORCEMENT OFFICER”**

The term “law enforcement officer” means [[an officer or employee of the Federal Government], or [a person authorized to act for or on behalf of the Federal Government] or [a person serving the Federal Government as an adviser or consultant]] who is [[authorized under law to engage in or supervise the prevention, detection, investigation, or prosecution of an offense] or [serving as a probation or pretrial services officer under federal law]].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] forgery of a passport. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant [falsely made][forged][counterfeited][mutilated] [altered] a [passport][instrument purporting to be a passport]; and
2. The defendant intended that the [passport][instrument purporting to be a passport] be used.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1543**FALSE USE OF PASSPORT – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] false use of a passport. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly [used][attempted to use][furnished to another for use] a passport; and
2. The defendant [acted willfully, that is, he] deliberately and voluntarily [used][attempted to use][furnished to another for use] a passport;
3. The passport:
 - (a) was [false][forged][counterfeited][mutilated][altered]; or
 - (b) was void.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1544 MISUSE OF A PASSPORT – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] misuse of any passport. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly [used][attempted to use] any passport; and
2. The defendant [acted willfully, that is, he] deliberately and voluntarily [used][attempted to use] any passport; and
3. The passport was:
 - (a) [[issued][designed] for the use of another person]; or
 - (b) [[used][attempted to be used]][in violation of [conditions][restrictions] placed on the passport]; or
 - (c) [[used][attempted to be used]][in violation of [the rules pursuant to the laws regulating the issuance of passports].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] furnishing a false passport to another. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly [furnished a passport][disposed of a passport] [delivered a passport]; and
2. The defendant [acted willfully, that is, he] deliberately and voluntarily [furnished a passport][disposed of a passport] [delivered a passport]; and
3. The defendant intended another person to use the passport as his own; and
4. The passport was originally issued and designed for a person different from [person named in the indictment].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1546(A) FRAUDULENT IMMIGRATION DOCUMENT –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] making a fraudulent immigration document. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant knowingly [forged] [counterfeited] [altered] [falsely made] *the document described in the indictment*; and
2. *The document described in the indictment* is an [[immigrant][non-immigrant]][[visa][permit][border crossing card][alien registration receipt card][other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States]].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1546(A) MAKING A FALSE STATEMENT ON
IMMIGRATION DOCUMENT – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] making a false statement on an immigration document. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly made a false statement on an [application][affidavit][other document] required by immigration laws or regulations; and
2. The statement was material; and
3. The statement was made under oath.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1546(A) PRESENTATION OF FALSE STATEMENT ON
IMMIGRATION DOCUMENT – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] presenting a false statement on an immigration document. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly presented an [application] [affidavit] [other document] required by immigration laws or regulations containing a false statement; and
2. The statement was material; and
3. The statement was made under oath.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1546(a) DEFINITION OF “MATERIAL”

A statement or fact is “material” if it has a natural tendency to influence agency action.

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] sex trafficking of a minor. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly [recruited] [enticed] [harbored] [transported] [provided][obtained][maintained] [the person identified in the indictment]; and
2. the defendant [knew][recklessly disregarded the fact]:
 - (a) [force][threats of force][fraud][coercion] would be used to cause [the person identified in the indictment] to engage in a commercial sex act; or
 - (b) [the person identified in the indictment] was under eighteen years of age and would be caused to engage in a commercial sex act; and
3. the offense was in or affecting interstate commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] benefiting from the sex trafficking of a minor. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly benefitted, financially or by receiving a thing of value, from participation in a venture which has engaged in an act of [recruiting] [enticing] [harboring] [transporting] [providing] [obtaining] [maintaining] [the person identified in the indictment];
2. The defendant [knew][recklessly disregarded the fact]:
 - (a) force, fraud, or coercion would be used to cause [the person identified in the indictment] to engage in a commercial sex act; or
 - (b) [the person identified in the indictment] was under eighteen years of age and would be caused to engage in a commercial sex act; and
3. The offense was in or affecting interstate commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1591(E)(1)

**DEFINITION OF “ABUSE OR THREATENED
ABUSE OF LAW OR LEGAL PROCESS”**

“Abuse or threatened abuse of law or legal process” means the use or threatened use of a law or legal process, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to take or refrain from taking some action.

18 U.S.C. §1591(E)(2) DEFINITION OF “COERCION”

“Coercion” means:

- (1) threats of serious harm to or physical restraint against any person;
- (2) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
- (3) the abuse or threatened abuse of law or the legal process.

18 U.S.C. §1591(E)(3)

DEFINITION OF “COMMERCIAL SEX ACT”

“Commercial sex act” means any sex act for which anything of value is given to or received by any person.

18 U.S.C. §1591(E)(4) DEFINITION OF “SERIOUS HARM”

“Serious harm” means any harm, whether physical or non-physical, including psychological, financial, or reputational harm, that is sufficiently serious, under the circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing commercial sexual activity in order to avoid incurring that harm.

18 U.S.C. §1591(E)(5)

Definition of “Venture”

“Venture” means any group of two or more individuals associated in fact, whether or not a legal entity.

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] making a false declaration before a grand jury or in a court. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant, while under oath, testified falsely before a [United States grand jury, Court of the United States] as charged in the indictment; and
2. The defendant's testimony concerned a material matter; and
3. The defendant knew the testimony was false. [[Mistake][,] [confusion] [,] [or] [faulty memory]] does not constitute knowledge that the testimony was false.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1623**DEFINITION OF “MATERIALITY”**

Testimony concerns a material matter if it is capable of impeding, interfering with or influencing the [court] [jury] [grand jury]. [The government is not required to prove that the testimony actually impeded, interfered with, or influenced the [court] [jury] [grand jury]].

18 U.S.C. §1623 RECORDS OR DOCUMENTS

Making or using a record or document knowing it to be false or to contain a false declaration constitutes making or using a false declaration.

18 U.S.C. §1623**SEQUENCE OF QUESTIONS**

In determining whether an answer to a question is false, you should consider the sequence of questions in which the question and answer occurred as an aid to understanding the defendant's intent when giving the answer.

18 U.S.C. §1623**INCONSISTENT STATEMENTS**

If you find that the defendant under oath has knowingly made two or more declarations which are so inconsistent that one of them is necessarily false, you need not find which of the two declarations is false. If you find that the defendant believed each declaration to be true when made, then you must find the defendant not guilty.

18 U.S.C. §1623**RECANTATION**

A person recants false testimony; a false declaration] when, in the same continuous proceeding, he admits to the [grand jury; court] that his earlier declarations were false. The defendant must admit the falsity: (1) before the proceeding has been substantially affected by the false [testimony; declaration], and (2) before it has become apparent to the defendant that the false [testimony; declaration] has been or will be exposed to the [grand jury; court].

18 U.S.C. §1701

OBSTRUCTION OF MAILS

No instruction.

18 U.S.C. §1708**THEFT OF MAIL FROM AUTHORIZED
DEPOSITORY – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] ____ of the indictment charge[s] the defendant[s] with] theft of mail. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the following three elements beyond a reasonable doubt:

1. The defendant [stole; attempted to steal] a[n] [identify mail item charged in the indictment];
2. The [identify mail item charged in the indictment] was [in; on] a [mailbox; post office; letter box; mail receptacle; authorized depository for mail; mail route; mail carrier]; and
3. At the time the defendant [stole; attempted to steal] the [identify mail item charged in the indictment], the defendant intended to deprive the owner of the rights and benefits of ownership.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] ____ of the indictment charge[s] the defendant[s] with] theft of mail that had been left on or next to an authorized mail depository. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the following three elements beyond a reasonable doubt:

1. The defendant stole [identify specific mail item charged in the indictment];
2. At the time defendant stole [identify specific mail item charged in the indictment], it had been left for collection on or next to an authorized depository for mail; and
3. At the time the defendant stole the [identify mail item charged in the indictment], the defendant intended to deprive the owner of the rights and benefits of ownership.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1708

**BUYING, RECEIVING, CONCEALING, OR
UNLAWFULLY POSSESSING STOLEN
MAIL – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] ____ of the indictment charge[s] the defendant[s] with] [buying] [receiving] [concealing] [and;or] [unlawfully possessing] stolen mail. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the following three elements beyond a reasonable doubt:

1. The defendant knowingly [bought, received, concealed, possessed] [identify specific mail item as charged in the indictment];
2. The [identify specific mail item as charged in the indictment] previously had been [stolen, taken, embezzled] from [the mail, a post office, a letter box, a mail receptacle, a mail route, an authorized depository for mail, a mail carrier]; and
3. The defendant knew that [identify specific mail item as charged in the indictment] previously had been [stolen, taken, embezzled].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1708

**REMOVING CONTENTS OF/SECRETING/
EMBEZZLING/DESTROYING MAIL**

No instruction.

[The indictment charges the defendant[s] with; Count[s] ____ of the indictment charge[s] the defendant[s] with] [embezzlement; theft] of mail. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the following three elements beyond a reasonable doubt:

1. The defendant was a Postal Service [employee, officer];
2. The [identify specific mail item involved], an article or thing contained within [identify specific mail item involved], [was entrusted to the defendant; came into the defendant's possession] for the purpose of being [conveyed by mail; carried or delivered by a person employed in any department of the Postal Service; forwarded through or delivered from a post office or postal station established by authority of the Postmaster General or of the Postal Service]; and
- [3. The defendant embezzled the [identify specific mail item involved], an article or thing contained within the [identify specific mail item involved]. A person embezzles an item if he wrongfully takes it after it lawfully comes into his possession.]
- [3. The defendant [stole; removed] with intent to convert to his own use] an article or thing contained within the [identify specific mail item involved].]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

There is no Seventh Circuit authority on this issue. The current pattern instruction adheres to the Committee's 1999 formulation, but the Committee takes no position regarding the merits of these competing authorities.

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] extortion. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [five] following elements beyond a reasonable doubt:

1. That the defendant knowingly obtained money or property from [name of victim]; and
2. That the defendant did so by means of extortion [by] [threatened] [force] [violence] [fear] [under color of official right], as that term is defined in these instructions; and
3. That [name of victim] consented to part with the money or property because of the extortion; and
4. That the defendant believed that [name of victim] parted with the money or property because of the extortion; and
5. That the conduct of the defendant affected interstate commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] attempted extortion. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. That the defendant knowingly [obtained or] attempted to obtain money or property from _____; and
2. That the defendant did so by means of extortion [by] [threatened] [force] [violence] [fear] [under color of official right], as that term is defined in these instructions; and
3. That the defendant believed that _____ [would have] parted with the money or property because of the extortion; and
4. That the conduct of the defendant affected, would have affected or had the potential to affect interstate commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] extortion by robbery. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. That the defendant knowingly obtained money or property from or in the presence of [name of victim]; and
2. That the defendant did so by means of robbery, as that term is defined in these instructions; and
3. That the defendant believed that [name of victim] parted with the money or property because of the robbery; and
4. That the robbery affected interstate commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1951**DEFINITION OF “ROBBERY”**

“Robbery” means the unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence [or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining].

[Attempted] Extortion under color of official right occurs when a public official receives [or attempts to obtain] money or property to which [he][she] is not entitled, knowing [believing] that the money or property is being [would be] given to [him][her] in return for taking, withholding or influencing official action. [Although the official must receive [or attempt to obtain] the money or property, the government does not have to prove that the public official first suggested giving money or property, or that the official asked for or solicited it.] [While the official must receive [or attempt to obtain] the money or property in return for the official action, the government does not have to prove [that the official actually took or intended to take that action] [or] [that the official could have actually taken the action in return for which payment was made] [or] [that the official would not have taken the same action even without payment].]

[Acceptance by an elected official of a campaign contribution, by itself, does not constitute extortion under color of official right, even if the person making the contribution has business pending before the official. However, if a public official receives [or attempts to obtain] money or property, knowing [believing] that it is [would be] given in exchange for a specific requested exercise of [his][her] official power, [he][she] has committed extortion under color of official right, even if the money or property is [to be] given to the official in the form of a campaign contribution.]

18 U.S.C. §1951**DEFINITION OF “EXTORTION”**

[Attempted] extortion by [threatened] [force] [or] [violence] [or] [fear] means the wrongful use of [threatened] [force] [or] [violence] [or] [fear] to obtain [or attempt to obtain] money or property. “Wrongful” means that the defendant had no lawful right to obtain [money] [property] in that way. [“Fear” includes fear of economic loss. This includes fear of a direct loss of money, fear of harm to future business operations or a fear of some loss of ability to compete in the marketplace in the future if the victim did not pay the defendant.] The government must prove that the victim’s fear was [would have been] reasonable under the circumstances. [However, the government need not prove that the defendant actually intended to cause the harm threatened.]

18 U.S.C. §1951**DEFINITION OF “PROPERTY”**

“Property” includes [name that which was extorted as charged in the indictment].

18 U.S.C. §1951**DEFINITION OF “INTERSTATE COMMERCE”**

With respect to Count[s] _____, the government must prove that the defendant’s actions affected [had the potential to affect] interstate commerce in any way or degree. This occurs if the natural consequences of the defendant’s actions were [would have been] some effect on interstate commerce, however minimal. [This would include reducing the assets of a [person who] [or] [business that] customarily purchased goods from outside the state of _____ or actually engaged in business outside the state of _____, and if those assets would have been available to the [person] [or] [business] for the purchase of such goods or the conducting of such business if not for defendant’s conduct.] It is not necessary for you to find that the defendant knew or intended that his actions would affect interstate commerce [or that there have been an actual effect on interstate commerce].

[Even though money was provided by a law enforcement agency as part of an investigation, a potential effect on interstate commerce can be established by proof that the money, if it had come from _____, would have affected interstate commerce as I have described above.]

**INTERSTATE AND FOREIGN TRAVEL OR
TRANSPORTATION IN AID OF RACKETEERING
ENTERPRISES – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] interstate or foreign [travel; transportation] in aid of racketeering enterprises. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant traveled or caused another to travel in interstate or foreign commerce, or used or caused to be used a facility in interstate or foreign commerce, including the mail; and

2. The defendant did so with the intent to [distribute the proceeds of an unlawful activity; commit a crime of violence to further unlawful activity; promote, manage, establish, carry on an unlawful activity; facilitate the promotion, management, establishment or carrying on of an unlawful activity]; and

3. Thereafter the defendant did [distribute or attempt to distribute the proceeds of an unlawful activity; commit or attempt to commit a crime of violence to further unlawful activity; promote, manage, establish, carry on an unlawful activity; attempt to promote, manage, establish, carry on an unlawful activity; facilitate the promotion, management, establishment, or carrying on of an unlawful activity; attempt to facilitate the promotion, management, or carrying on of an unlawful activity].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1952**DEFINITION OF “INTERSTATE COMMERCE”**

The term “interstate commerce” means travel between one state and another state or use of an interstate facility, including the mail.

The [interstate travel; use of an interstate facility] must relate significantly to the illegal activity charged in the indictment; that is, the relationship must be more than minimal or incidental. The [interstate travel; use of an interstate facility], however, need not be essential to the success of such illegal activity.

The defendant need not have contemplated or knowingly caused the [interstate travel; use of an interstate facility].

18 U.S.C. §1952

**DEFINITION OF “UNLAWFUL ACTIVITY –
BUSINESS ENTERPRISE”**

“Unlawful activity” means any business enterprise involving [gambling; liquor on which the federal excise tax has not been paid; narcotics or controlled substance; prostitution], in violation of the laws of the state in which they are committed or of the United States.

OR

“Unlawful activity” means [extortion; bribery; arson], in violation of the laws of the state in which it is committed or of the United States.

18 U.S.C. §1952

**DEFINITION OF “UNLAWFUL BUSINESS
ACTIVITY – CONTROLLED SUBSTANCES”**

I instruct you that (specify) is a controlled substance.

**18 U.S.C. §1956(A)(1)(A)(I) MONEY LAUNDERING – PROMOTING
UNLAWFUL ACTIVITY**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] money laundering. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly conducted or attempted to conduct a financial transaction; and
2. Some or all of the property involved in the financial transaction was proceeds of [name of specified unlawful activity]; and
3. The defendant knew that the property involved in the financial transaction represented proceeds of some form of unlawful activity; and
4. The defendant engaged in the financial transaction with the intent to [further the unlawful activity] [or] [promote the continued success of] the [name of specified unlawful activity].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] money laundering. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly conducted or attempted to conduct a financial transaction; and
2. Some or all of the property involved in the financial transaction was proceeds of [name of specified unlawful activity]; and
3. The defendant knew that the property involved in the financial transaction represented proceeds of some form of unlawful activity; and
4. The defendant engaged in the financial transaction with the intent to engage in [tax evasion; willfully making or subscribing false statements on a tax, return, document or statement made under penalty of perjury].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1956(A)(1)(B)(I) MONEY LAUNDERING – CONCEALING
OR DISGUIISING – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] money laundering. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly conducted or attempted to conduct a financial transaction; and
2. Some or all of the property involved in the financial transaction was proceeds of [name of specified unlawful activity]; and
3. The defendant knew that the property involved in the financial transaction represented proceeds of some form of unlawful activity; and
4. The defendant knew that the transaction was designed in whole or in part to [conceal] [or] [disguise] [the nature, the location, the source, the ownership, or the control] of the proceeds of [name of specified unlawful activity].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1956(A)(1)(B)(II) MONEY LAUNDERING – AVOIDING
REPORTING – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] money laundering. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly conducted or attempted to conduct a financial transaction; and
2. Some or all of the property involved in the financial transaction was proceeds of [name of specified unlawful activity]; and
3. The defendant knew that the property involved in the financial transaction represented proceeds of some form of unlawful activity; and
4. The defendant knew that the transaction was designed in whole or in part to avoid [a transaction reporting requirement under state or federal law] [the filing of a Currency Transaction Report].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] money laundering. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly [transported, transmitted, or transferred] or [attempted to transport, transmit, or transfer] a monetary instrument or funds; and
2. The [transportation, transmittal, or transfer] or [attempted transportation, transmittal, or transfer] was [from a place in the United States to or through a place outside the United States] [to a place in the United States from or through a place outside the United States]; and
3. The defendant did so with the intent to [further the] [or] [promote the continued success of] [name of specified unlawful activity].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1956(A)(2)(B)(I) MONEY LAUNDERING – INTERNATIONAL
CONCEALING OR DISGUIISING – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] money laundering. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly transported, transmitted, or transferred or attempted to transport, transmit or transfer a [monetary instrument] or [funds]; and
2. The transportation, transmittal, or transfer [or attempted transportation, transmittal, or transfer] was [from a place in the United States to or through a place outside the United States] [to a place in the United States from or through a place outside the United States]; and
3. The defendant did so knowing that the monetary instrument or funds involved in the transportation, transmission, or transfer represented the proceeds of some form of unlawful activity; and
4. The defendant knew that the transportation, transmission, or transfer was designed, in whole or in part, to [conceal] or [disguise] the nature, the location, the source, the ownership, or the control of the proceeds of [name of specified unlawful activity].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

(For offenses alleged to have occurred before May 20, 2009)

The term “proceeds” is defined as the net proceeds, or profits, remaining after deducting all of the direct ordinary and necessary expenses, if any, incurred in acquiring the proceeds.

(For offenses alleged to have occurred on or after May 20, 2009)

The term “proceeds” is defined as any property derived from or obtained or retained, directly or indirectly, through some form of unlawful activity, including the gross receipts of such activity.

18 U.S.C. §1956**KNOWLEDGE**

The government must prove that the defendant knew that the property involved in the financial transaction represented the proceeds of some form, though not necessarily which form, of activity that constitutes a felony under State, Federal, or foreign law. The government is not required to prove that the defendant knew that the property involved in the transaction represented the proceeds of [fill in specified unlawful activity].

18 U.S.C. §1956**DEFINITION OF “TRANSACTION”**

The term “transaction” includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through or to a financial institution, by whatever means effected.

The term “financial transaction” means [a purchase, sale, transfer, delivery, or other disposition involving one or more monetary instruments, which in any way or degree affects interstate [or foreign] commerce]] or [a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or use of a safe deposit box involving the use of a financial institution which is engaged in or the activities of which affect interstate [or foreign] commerce.]

The term “monetary instruments” includes coin or currency of the United States, personal checks, bank checks, and money orders.

The term “financial institution” includes, for example, commercial banks, trust companies, businesses engaged in vehicle sales including automobile sales, and businesses and persons engaged in real estate closings and settlements.

“Interstate commerce” means trade, transactions, transportation or communication between any point in a state and any place outside that state, or between two points within a state through a place outside the state. “Foreign commerce” means trade, transactions, transportation, or communication between a point in one country and a place outside that country, or between two points within a country through a place outside that country.

When [a financial institution][a business][an individual] in [name the state] is engaged in commerce outside of that state, or when [a financial institution][a business][an individual] in [name of state] purchases goods or services which come from outside that state, then the activities of that [financial institution] [business][individual] affect interstate commerce.

The government must prove that it was foreseeable that defendant’s acts would affect interstate or foreign commerce. The government need not prove that the defendant knew or intended that his actions would affect interstate or foreign commerce.

18 U.S.C. §1956 DEFINITION OF “CONCEAL OR DISGUISE”

The term “conceal or disguise” means to hide the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity.

**UNLAWFUL MONETARY TRANSACTIONS
IN CRIMINALLY DERIVED PROPERTY –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] money laundering. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [five] following elements beyond a reasonable doubt:

1. The defendant engaged or attempted to engage in a monetary transaction; and
2. That defendant knew the transaction involved criminally derived property; and
3. The property had a value greater than \$10,000; and
4. The property was derived from [name of specified unlawful activity]; and
5. The transaction occurred in the [United States].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §1957**DEFINITIONS**

The term “monetary transaction” means the deposit, withdrawal, transfer or exchange, in or affecting interstate commerce, of funds or a monetary instrument, by, through or to a financial institution.

[The alleged monetary transaction need not involve “all” criminally derived property, only over \$10,000 in criminally derived property.]

“Interstate commerce” means trade, transactions, transportation or communication between any point in a state and any place outside that state or between two points within a state through a place outside the state.

The term “financial institution” includes [commercial banks, trust companies, businesses engaged in vehicle sales including automobile sales, and businesses and persons engaged in real estate closings or settlements.]

The term “criminally derived property” means any property constituting, or derived from, proceeds obtained from a criminal offense.

18 U.S.C. §1961(4) ENTERPRISE – LEGAL ENTITY

The term “enterprise” includes a[n] [type of entity].

18 U.S.C. §1961(4) ENTERPRISE – ASSOCIATION IN FACT

The term “enterprise” can include a group of people [or legal entities] associated together for a common purpose of engaging in a course of conduct. This group may be associated together for purposes that are both legal and illegal.

In considering whether a group is an “enterprise,” you may consider whether it has an ongoing organization or structure, either formal or informal, and whether the various members of the group functioned as a continuing unit. [A group may continue to be an “enterprise” even if it changes membership by gaining or losing members over time.]

The government must prove that the group described in the indictment was the “enterprise” charged, but need not prove each and every allegation in the indictment about the enterprise or the manner in which the enterprise operated. The government need not prove the association had any form or structure beyond the minimum necessary to conduct the charged pattern of racketeering.

18 U.S.C. §1962(C) SUBSTANTIVE RACKETEERING – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] racketeering. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four; five]] following elements beyond a reasonable doubt:

1. That [insert name] was an enterprise; and
2. That the defendant was associated with [or employed by] the enterprise; and
3. That the defendant knowingly conducted or participated in the conduct of the affairs of [insert name] through a pattern of racketeering activity as described in Count __; and
4. That the activities of [insert name] affected interstate commerce [.][]and]
- [5. That the commission of at least one of the racketeering acts described in Count __ occurred on or after {five years prior to the return of the indictment}.]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

Interstate commerce includes the movement of money, goods, services or persons from one state to another [or between another country and the United States]. This would include the purchase or sale of goods or supplies from outside [the state[s] in which the enterprise was located], the use of interstate mail or wire facilities, or the causing of any of those things. If you find that beyond a reasonable doubt either (a) that [the enterprise] made, purchased, sold or moved goods or services that had their origin or destination outside [the state[s] in which the enterprise was located], or (b) that the actions of [the enterprise] affected in any degree the movement of money, goods or services across state lines, then interstate commerce was engaged in or affected.

The government need only prove that [the enterprise] as a whole engaged in interstate commerce or that its activity affected interstate commerce to any degree, although proof that racketeering acts did affect interstate commerce meets that requirement. The government need not prove that the [a] defendant engaged in interstate commerce, or that the acts of the [a] defendant affected interstate commerce.

**18 U.S.C. §1962(C) PATTERN REQUIREMENT – SUBSTANTIVE
RACKETEERING**

In order to find a “pattern of racketeering activity” for purposes of Count ___, you must find beyond a reasonable doubt that the defendant committed [or caused another person to commit] at least two racketeering acts described in Count ___, and that those acts were in some way related to each other and that there was continuity between them[, and that they were separate acts].

Although a pattern of racketeering activity must consist of two or more acts, deciding that two such acts were committed, by itself, may not be enough for you to find that a pattern exists.

Acts are related to each other if they are not isolated events, that is, if they have similar purposes, or results, or participants, or victims, or are committed a similar way, [or have other similar distinguishing characteristics] [or are part of the affairs of the same enterprise].

There is continuity between acts if, for example, they are ongoing over a substantial period, or if they are part of the regular way some entity does business or conducts its affairs.

The government need not prove that all the acts described in Count ___ were committed, but you must unanimously agree as to which two or more racketeering acts the defendant committed [or caused to be committed] in order to find the defendant guilty of that count.

18 U.S.C. §1962(C) SUBPARTS OF RACKETEERING ACTS

Each of the racketeering acts described in [the substantive RICO count] is numbered and [some] consist[s] of multiple offenses set out in separate, lettered sub-paragraphs [(a), (b), (c), (d), etc]. To prove that a defendant committed a particular "racketeering act" that is made up of multiple offenses, it is sufficient if the government proves beyond a reasonable doubt that the defendant committed at least one of the offenses identified in the sub-paragraphs of that racketeering act. However, you must unanimously agree upon which of the different offenses alleged within a racketeering act the defendant committed.

18 U.S.C. §1962(D) RACKETEERING CONSPIRACY – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] conspiracy to commit racketeering. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. That the defendant knowingly conspired to conduct or participate in the conduct of the affairs of [insert name], an enterprise, through a pattern of racketeering activity as described in Count __; and
2. That [insert name] [was][would be] an enterprise; and
3. That the activities of [insert name] would affect interstate commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §1962(D) PATTERN REQUIREMENT – RACKETEERING
CONSPIRACY**

In order to find a “pattern of racketeering activity” for purposes of Count ___, you must find beyond a reasonable doubt that the defendant agreed that some member[s] of the conspiracy would commit at least two acts of racketeering as described in Count ___, [and that they were separate acts]. You must also find that those acts were in some way related to each other and that there was continuity between them.

Acts are related to each other if they are not isolated events, that is, if they have similar purposes, or results, or participants, or victims, or are committed a similar way, [or have other similar distinguishing characteristics] [or are part of the affairs of the same enterprise].

There is continuity between acts if, for example, they are ongoing over a substantial period of time, or had the potential to continue over a substantial period, or if they are part of the regular way some entity does business or conducts its affairs.

For purposes of Count ___, the government does not have to prove that any racketeering acts were actually committed at all, or that the defendant agreed to personally commit any such acts, or that the defendant agreed that two or more specific acts would be committed.

18 U.S.C. §1962(C) & (D) DEFINITION OF “CONDUCT”

A person conducts or participates in the conduct of the affairs of an enterprise if that person uses his position in, or association with, the enterprise to perform acts which are involved in some way in the operation or management of the enterprise, directly or indirectly, or if the person causes another to do so. In order to have conducted or participated in the conduct of the affairs of an enterprise, a person need not have participated in all of the activity alleged in [the RICO count(s)].

[A person conspires to conduct or participate in the conduct of the affairs of an enterprise if that person agrees to knowingly facilitate the activities of the operators or managers who conduct or participate in the conduct of its affairs.]

18 U.S.C. §1962(C) & (D) DEFINITION OF “ASSOCIATE”

To be associated with an enterprise, a person must be involved with the enterprise in a way that is related to its affairs [or common purpose] [, although the person [need not have a stake in the goals of the enterprise [and] [may even act in a way that subverts those goals]]. A person may be associated with an enterprise without being so throughout its existence.

18 U.S.C. §1963(A)(1)**FORFEITURE ELEMENTS**

As a result of the [defendant's] [defendants'] conviction for [racketeering] [racketeering conspiracy], the government seeks forfeiture of the following interest[s]:

[LIST INTEREST[S]]

In order for you to find that an interest is subject to forfeiture, the government must prove both of the following elements by a preponderance of the evidence:

1. That the defendant acquired or maintained an interest in violation of the law as charged in Count[s] ____; and
2. That there is a nexus between that interest and the offense charged in Count[s] ____.

If you find from your consideration of all the evidence that the government has proved each of these elements by a preponderance of the evidence [as to the interest[s] you are considering and as to the defendant you are considering], then you should check the “Yes” line on the Special Forfeiture Verdict Form [as to the interest[s] and [the] [that] defendant].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements by a preponderance of the evidence [as to the interest[s] you are considering and as to the defendant you are considering], then you should check the “No” line on the Special Forfeiture Verdict Form [as to the interest[s] and [the] [that] defendant].

18 U.S.C. § 1963(A)(1)**DEFINITIONS**

The word “interest” includes every property interest [including [profits,] [proceeds,] [income,] [or] [an employment position]].

A defendant acquires or maintains an “interest” only to the extent racketeering activities were the cause of the defendant’s acquisition or maintenance of the interest. If the defendant would not have acquired or maintained his interest but for the racketeering activity, the interest is subject to forfeiture. If, on the other hand, the defendant acquired or maintained the interest regardless of any racketeering activities, then the interest under consideration is not subject to forfeiture.

As a result of the [defendant's] [defendants'] conviction for [racketeering] [racketeering conspiracy], the government seeks forfeiture of the following [interest,] [security,] [claim,] [or] [property or contractual right]:

[LIST PROPERTY]

In order for you to find that an [interest,] [security,] [claim,] [or] [property or contractual right] is subject to forfeiture, the government must prove both of the following propositions:

1. That the defendant has [an interest in,] [a security of,] [a claim against,] [or] [a property or contractual right of any kind affording a source of influence over] the enterprise that defendant established, operated, controlled, conducted or participated in the conduct of, in violation of the law as charged in Count[s] ____; and
2. That there is a nexus between the [interest,] [security,] [claim,] [or] [property or contractual right] and the offense charged in Count[s] ____.

If you find from your consideration of all the evidence that the government has proved each of these elements by a preponderance of the evidence [as to the [interest,] [security,] [claim,] [or] [property or contractual right] you are considering and as to the defendant you are considering], then you should check the “Yes” line on the Special Forfeiture Verdict Form [as to that [interest,] [security,] [claim,] [or] [property or contractual right] and [the] [that] defendant].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements by a preponderance of the evidence [as to the [interest] [security] [claim] [or] [property or contractual right] you are considering and as to the defendant you are considering], then you should check the “No” line on the Special Forfeiture Verdict Form [as to that [interest,] [security,] [claim,] [or] [property or contractual right] and [the] [that] defendant].

18 U.S.C. §1963(A)(3)**FORFEITURE ELEMENTS**

As a result of the defendant's conviction for [racketeering] [racketeering conspiracy], the government seeks forfeiture of the following proceeds:

[LIST PROCEEDS/PROPERTY]

In order for you to find that proceeds are subject to forfeiture, the government must prove both of the following elements by a preponderance of the evidence:

1. That the defendant, directly or indirectly, obtained property that constitutes, or was derived from, proceeds of [racketeering activity] [or] [unlawful debt collection] in violation of the law as charged in Count[s] ____; and
2. That there is a nexus between the proceeds and the offense charged in Count[s] ____.

If you find from your consideration of all the evidence that the government has proved each of these elements by a preponderance of the evidence [as to the proceeds you are considering and as to the defendant you are considering], then you should check the "Yes" line on the Special Forfeiture Verdict Form [as to those proceeds and [the] [that] defendant].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements by a preponderance of the evidence [as to the proceeds you are considering and as to the defendant you are considering], then you should check the "No" line on the Special Forfeiture Verdict Form [as to those proceeds and [the] [that] defendant].

18 U.S.C. §1963(A)(3) DEFINITION OF “PROCEEDS”

The term “proceeds” means the net proceeds, or profits, remaining after deducting all of the direct ordinary and necessary expenses, if any, incurred in acquiring the proceeds.

“Proceeds” from a racketeering offense includes any property later purchased with proceeds.

[Value added independently by the defendant is not subject to forfeiture. Therefore, if you find that proceeds obtained by the defendant were obtained through lawful income, then the value of those proceeds is not subject to forfeiture.]

18 U.S.C. §1963(B)**DEFINITION OF “PROPERTY”**

The word “property” includes [real property,] [including things growing on, affixed to, and found in land] [and tangible and intangible personal property], [including [rights,] [privileges,] [interests,] [claims,] [and securities].

FORFEITURE VERDICT FORM

[A] Special Forfeiture Verdict Form[s] [has] [have] been prepared for you. [Judge reads verdict form.] Once you have unanimously agreed on the matters in the Special Forfeiture Verdict Form[s], please sign [it] [them] and return [it] [them] to me through the Court Security Officer.

18 U.S.C. §2113(A) BANK ROBBERY – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] bank robbery. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [took; attempted to take] from the person or presence of another [money; property; specific thing of value] belonging to or in the care, custody, control, management or possession of (here name bank, savings and loan, or credit union named in the indictment); and

2. At the time the defendant [took; attempted to take] the [money; property; specific thing of value], the deposits of the [bank; savings and loan; credit union] were insured by the [Federal Deposit Insurance Corporation; Federal Savings and Loan Insurance Corporation; National Credit Union Administration]; and

3. The defendant acted to take such [money; property; specific thing of value] by force and violence, or by intimidation.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §2113(A) DEFINITION OF “INTIMIDATION”

“Intimidation” means to say or do something that would make a reasonable person feel threatened under the circumstances. [The government is not required to prove that the target of the intimidation actually felt threatened.]

**18 U.S.C. §2113(A) ENTERING TO COMMIT BANK ROBBERY
OR ANOTHER FELONY – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] entering to commit bank robbery or another felony. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [entered; attempted to enter] (here name bank, savings and loan, credit union, or building used in whole or in part as a bank, savings and loan, or credit union named in the indictment); and

2. The defendant [entered; attempted to enter] the [bank; savings and loan; credit union; building] with the intent to commit a felony or larceny affecting such [bank; savings and loan; credit union; building]; and

3. At the time the defendant [entered; attempted to enter] the [bank; savings and loan; credit union; building], the deposits of the [bank; savings and loan; credit union; building] were insured by the [Federal Deposit Insurance Corporation; Federal Savings and Loan Insurance Corporation; National Credit Union Administration].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §2113(B) BANK THEFT – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] bank theft. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant took and carried away [property; money; something of value] belonging to or in the [care; custody; control; management] of (here name bank, credit union, or savings and loan named in the indictment); and

2. At the time the defendant took and carried away such [property; money; something of value], the deposits of the [bank; credit union; savings and loan] were insured by the [Federal Deposit Insurance Corporation; Federal Savings and Loan Insurance Corporation; National Credit Union Administration]; and

3. The defendant took and carried away such [property; money; thing of value] with the intent to steal; and

4. Such [money; property; thing of value] exceeded \$1,000 in value.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §2113(B) DEFINITION OF “STEAL”

“Steal” means to take with the intent to deprive the owner of the rights and benefits of ownership.

**18 U.S.C. §2113(C) POSSESSION OF STOLEN BANK MONEY
OR PROPERTY – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] possession of stolen bank money or property. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant [received; possessed; concealed; stored; bartered; sold; disposed of] any [property; money; thing of value] having a value in excess of \$1,000; and
2. The [property; money; thing of value] was taken from (here name bank, savings and loan, or credit union described in the indictment); and
3. At the time the property was taken, the deposits of the [bank; savings and loan; credit union] were insured by the [Federal Deposit Insurance Corporation; Federal Savings and Loan Insurance Corporation; National Credit Union Administration]; and
4. The defendant knew that the [money; property; thing of value] was stolen when he [possessed; received; concealed; stored; bartered; sold; disposed of] it.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

There is a conflict between the circuits as to whether punishment under Section 2113(c) is measured by the value of the property received by the defendant or by the value of the property taken by the thief. In one circuit, the degree of punishment is determined by the value of the stolen property received or possessed by the defendant. *United States v. Evans*, 446 F.2d 998, 1001 (8th Cir. 1971). The predominant view allocates punishment according to the amount stolen from the bank. See *United States v. Ross*, 286 F.3d 1307 (11th Cir. 2002); *United States v. Bolin*, 423 F.2d 834, 835 (9th Cir. 1970); *United States v. Wright*, 540 F.2d 1247, 1248 (4th Cir. 1976); *United States v.*

McKenzie, 441 F. Supp. 244, 247 (E.D. Pa. 1977), *aff'd* without opinion, 557 F.2d 729 (3d Cir. 1978) (1978). Under this majority view, the defendant possessing under \$100 of the stolen money need not have knowledge that over \$100 was stolen in order to be punished as a felon under Section 2113(b). The Seventh Circuit apparently agrees with the majority view. It cited *Bolin*, *supra*, with approval, stating: "The purpose behind statutes penalizing the knowing receipt of stolen goods is not only to discourage the actual receipt, but also to discourage the initial taking that the receipt encourages." *United States v. Gardner*, 516 F.2d 334, 349 (7th Cir. 1975).

18 U.S.C. §2113(D) ARMED BANK ROBBERY – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] armed bank robbery. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant took or attempted to take, from the person or presence of another [money; property; a thing of value] belonging to or in the [care; custody; control; management; possession] of (here name bank, savings and loan, or credit union named in the indictment); and
2. At the time the defendant [took; attempted to take] the [money; property; thing of value], the deposits of the [bank; savings and loan; credit union] were insured by the [Federal Deposit Insurance Corporation; Federal Savings and Loan Insurance Corporation; National Credit Union Administration]; and
3. The defendant took or attempted to take such [money; property; thing of value] by means of force and violence, or by means of intimidation; and
4. The defendant assaulted or put in jeopardy the life of (here name person(s) named in the indictment) by the use of a dangerous weapon or device, while committing or attempting to commit the robbery.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §2113(D) DEFINITION OF “ASSAULT”

“Assault” means to intentionally attempt or threaten to inflict bodily injury upon another person with the apparent and present ability to cause such injury that creates in the victim a reasonable fear or apprehension of bodily harm. An assault may be committed without actually touching, striking, or injuring the other person.

**18 U.S.C. §2113(D) DEFINITION OF “PUT IN JEOPARDY THE
LIFE OF ANOTHER PERSON”**

“Put in jeopardy the life of any person” means to knowingly do an act which exposes another person to risk of death. In considering this element, you must focus on the actual risk of death created by the use of the dangerous weapon or device. This risk might include direct risk to bank employees and indirect risk through a violent response by a customer or the police.

**18 U.S.C. §2113(D) DEFINITION OF “DANGEROUS WEAPON
OR DEVICE”**

A “dangerous weapon or device” means any object that can be used to inflict severe bodily harm or injury. The object need not actually be capable of inflicting harm or injury. Rather, an object is a dangerous weapon or device if it, or the manner in which it is used, would cause fear in the average person.

**18 U.S.C. §2113(E) KIDNAPPING OR MURDER DURING A
BANK ROBBERY – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [kidnapping; murder] during a bank robbery. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [killed (specify person(s) named in the indictment); forced (specify person(s) named in the indictment) to accompany the defendant without the consent of (specify person(s) named in the indictment)]; and
2. The defendant performed such act or acts during the course of [committing any offense defined in 18 U.S.C. § 2113; avoiding or attempting to avoid apprehension for the commission of such offense; freeing himself or attempting to free himself from arrest or confinement for such offense]; and
3. At the time the defendant acted, the deposits of (here name bank, credit union, or savings and loan, named in the indictment) were insured by the [Federal Deposit Insurance Corporation; Federal Savings and Loan Insurance Corporation; National Credit Union Administration].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2114(A) ASSAULT WITH INTENT TO ROB MAIL
MATTER, MONEY, OR OTHER PROPERTY OF
THE UNITED STATES – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] assault with intent to rob [mail matter; money of the United States; property of the United States]. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant assaulted the person of another having lawful [charge; control; custody] of [mail matter; money of the United States; property of the United States]; and
2. While committing the assault the defendant intended to rob or steal such property.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2114(A) ROBBERY OR ATTEMPTED ROBBERY OF
MAIL MATTER, MONEY, OR OTHER PROPERTY
OF THE UNITED STATES – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [robbery; attempted robbery] of [mail matter; money of the United States; property of the United States]. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant took [mail matter; money of the United States; property of the United States] from the person or presence of another having lawful [charge; control; custody] of such property; and
2. The defendant took such property by means of force and violence, or by means of intimidation.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2114(A) WOUNDING OR PUTTING A LIFE IN JEOPARDY
DURING A ROBBERY OR ATTEMPTED ROBBERY
OF MAIL MATTER, MONEY, OR OTHER PROPERTY
OF THE UNITED STATES – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [wounding; putting a life in jeopardy] during a robbery; attempted robbery] of [mail matter; money of the United States; property of the United States]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant took [mail matter; money of the United States; property of the United States] from the person or presence of (name of person having lawful [charge; control; custody] of such property); and
2. The defendant took such property by means of force and violence, or by means of intimidation; and
3. The defendant [wounded (name person having [charge; control; custody] of such [mail matter; money of the United States; property of the United States]); put the life of (name of person who had [charge; control; custody] of such [mail matter; money of the United States; property of the United States])in jeopardy by use of a dangerous weapon].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2114(B) RECEIPT, POSSESSION, CONCEALMENT, OR
DISPOSAL OF STOLEN MAIL MATTER, MONEY,
OR OTHER PROPERTY OF THE UNITED STATES –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] ___ of the indictment charge[s] the defendant[s] with] [receipt; possession; concealment; disposal] of stolen [mail matter; money of the United States; property of the United States]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [received; possessed; concealed; disposed of] any [mail matter; money of the United States; property of the United States]; and
2. Such property was obtained by [assault; robbery]; and
3. The defendant had knowledge that the [mail matter; money of the United States; property of the United States] had been obtained unlawfully.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §2241(A) AGGRAVATED SEXUAL ABUSE – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] aggravated sexual abuse. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant knowingly caused [the person named in the indictment] to engage in a sexual act:
 - (a) by using force against [the person named in the indictment];
or
 - (b) by [threatening][placing [the person named in the indictment] in fear that some person would be subject to death, serious bodily injury or kidnapping]; and
2. The offense was committed at [location stated in indictment, e.g., federal prison].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] aggravated sexual abuse. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly rendered [the person identified in the indictment] unconscious; and
2. The defendant then engaged in a sexual act with [the person identified in the indictment]; and
3. The offense was committed at [location stated in indictment, e.g., federal prison].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**AGGRAVATED SEXUAL ABUSE –
ADMINISTRATION OF DRUG, INTOXICANT
OR OTHER SUBSTANCE – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] aggravated sexual abuse. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly administered a drug, intoxicant or other similar substance to [the person named in the indictment] by [force][threat of force][without the knowledge or permission of [the person named in the indictment]]; and
2. As a result, [the person named in the indictment]’s ability to evaluate or control [his][her] own conduct was substantially impaired; and
3. The defendant then engaged in a sexual act with [the person named in the indictment]; and
4. The offense was committed at [location stated in indictment, e.g., federal prison].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2241(C) AGGRAVATED SEXUAL ABUSE OF CHILD –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] aggravated sexual abuse of a child. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant traveled across a state line with intent to engage in a sexual act with [the person named in the indictment]; and
2. At the time, [the person identified in the indictment] was less than twelve years old. The government need not prove that the defendant knew that the person was less than twelve years old.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2241(C) AGGRAVATED SEXUAL ABUSE OF CHILD ON
FEDERAL PROPERTY – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] aggravated sexual abuse of a child on federal property. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly engaged in a sexual act with [the person identified in the indictment]; and
2. The sexual act was committed at [location stated in indictment, e.g., special maritime and territorial jurisdiction]; and
3. At the time of the sexual act, [the person identified in the indictment] had not yet reached the age of twelve years. The government need not prove that the defendant knew that the person was less than twelve years old.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2241(C) AGGRAVATED SEXUAL ABUSE OF A MINOR
TWELVE TO SIXTEEN – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] aggravated sexual abuse. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly caused [the person named in the indictment] to engage in a sexual act:
 - (a) by using force against [the person named in the indictment];
or
 - (b) by [threatening][placing [the person named in the indictment] in fear that some person would be subject to death, serious bodily injury or kidnapping]; and
2. The offense was committed [location stated in indictment, *e.g.*, in the special maritime or territorial jurisdiction of the United States];
and
3. [The person identified in the indictment] was at least twelve years old but less than sixteen years old; and
4. The defendant was at least four years older than [the person identified in the indictment].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2241(C) AGGRAVATED SEXUAL ABUSE – RENDERING
VICTIM UNCONSCIOUS, MINOR TWELVE TO
SIXTEEN – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] aggravated sexual abuse. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [five] following elements beyond a reasonable doubt:

1. The defendant knowingly rendered [the person identified in the indictment] unconscious; and
2. The defendant then engaged in a sexual act with [the person identified in the indictment]; and
3. The offense was committed at [location stated in indictment, e.g., in the special maritime or territorial jurisdiction of the United States]; and
4. [The person identified in the indictment] was at least twelve years old but less than sixteen years old; and
5. The defendant was at least four years older than [the person identified in the indictment].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2241(C) AGGRAVATED SEXUAL ABUSE –
ADMINISTRATION OF DRUG, INTOXICANT
OR OTHER SUBSTANCE, MINOR TWELVE TO
SIXTEEN – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] aggravated sexual abuse. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [six] following elements beyond a reasonable doubt:

1. The defendant knowingly administered a drug, intoxicant or other similar substance to [the person named in the indictment] by [force][threat of force][without the knowledge or permission of [the person named in the indictment]]; and
2. As a result, [the person named in the indictment]’s ability to evaluate or control conduct was substantially impaired; and
3. The defendant then engaged in a sexual act with [the person named in the indictment]; and
4. The offense was committed at [location stated in indictment, e.g., in the special maritime or territorial jurisdiction of the United States]; and
5. [The person identified in the indictment] was at least twelve years old but less than sixteen years old; and
6. The defendant was at least four years older than [the person identified in the indictment].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §2243(A) SEXUAL ABUSE OF MINOR – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] sexual abuse of a minor. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. That the defendant knowingly engaged in a sexual act with [name of victim]; and
2. [Name of victim] had reached the age of twelve years but had not yet reached the age of sixteen years; and
3. [Name of victim] was at least four years younger than the defendant; and
4. That the defendant's actions took place [within the special maritime jurisdiction of the United States] [within the territorial jurisdiction of the United States] [in a Federal prison].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2243(A), 2423(B)
AND 2241(C)**

**CROSSING STATE LINE WITH INTENT
TO ENGAGE IN SEXUAL ACT WITH MINOR –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] interstate travel to sexually abuse a minor. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. That the defendant crossed a state line with intent to engage in a sexual act with [name of victim]; and
2. [Name of victim] had reached the age of twelve years but had not yet reached the age of sixteen years; and
3. [Name of victim] was at least four years younger than the defendant.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2243(B) SEXUAL ABUSE OF PERSON IN OFFICIAL
DETENTION – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] sexual abuse of a ward. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly engaged in a sexual act with [name of victim]; and
2. At the time, [name of victim] was in official detention at the [name of institution];
3. At the time, [name of victim] was under the custodial, supervisory or disciplinary authority of the defendant.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §2243(B) DEFINITION OF “OFFICIAL DETENTION”

As used in these instructions, the term “official detention” means detention [custody] by [under the direction of] a Federal officer or employee, following [arrest] [surrender in lieu of arrest] [a charge or conviction of an offense].

18 U.S.C. §2243(C)(1)

**DEFENSE OF REASONABLE BELIEF
OF MINOR'S AGE**

It is a defense to the charge of sexual abuse of a minor that the defendant reasonably believed that [name of victim] had attained the age of 16 years. The defendant has the burden of proving that it is more probably true than not true that he reasonably believed that [name of victim] had attained the age of 16 years.

If you find that the defendant reasonably believed that [name of victim] had attained the age of 16 years, you must find the defendant not guilty.

18 U.S.C. §2244(A), 2242 ABUSIVE SEXUAL CONTACT – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] abusive sexual contact. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. That the defendant knowingly [engaged in] [caused] sexual contact with [name of victim]; and
2. That the defendant did so by [force] [threatening [name of victim]] [placing [name of victim] in fear]; and
3. That the defendant's actions took place [within the special maritime jurisdiction of the United States] [within the territorial jurisdiction of the United States] [in a Federal prison].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §2244(A)(2)

**ABUSIVE SEXUAL CONTACT –
INCAPACITATED VICTIM – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] abusive sexual contact. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. That the defendant knowingly [engaged in] [caused] sexual contact with [name of victim]; and
2. [Name of victim] was [incapable of recognizing the nature of the conduct] [physically incapable of declining participation in that sexual contact] [physically incapable of communicating unwillingness to engage in that sexual act]; and
3. That the defendant's actions took place [within the special maritime jurisdiction of the United States] [within the territorial jurisdiction of the United States] [in a Federal prison].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2244(B) ABUSIVE SEXUAL CONTACT WITHOUT
PERMISSION – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] abusive sexual contact. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant knowingly had sexual contact with [name of victim] at [name of institution], and
2. The sexual contact was without [name of victim]'s permission.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §2246(2) DEFINITION OF “SEXUAL ACT”

As used in these instructions, the term “sexual act” means

- [penetration, however slight, of the {vulva} {anus} by the penis]
- [contact between the mouth and the {penis} {vulva} {anus}]
- [penetration, however slight, of the {anal} {genital} opening of another by {a hand} {a finger} {any object} with an intent to abuse, humiliate, harass, or degrade, arouse or gratify the sexual desire of any person]
- [the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, or degrade, or arouse or gratify the sexual desire of any person].

18 U.S.C. §2246(3) DEFINITION OF “SEXUAL CONTACT”

As used in these instructions, the term “sexual contact” means the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, or degrade, or to arouse or gratify the sexual desire of any person.

**18 U.S.C. §2250(A) FAILURE TO REGISTER/UPDATE AS SEX
OFFENDER – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] failing to register or update registration as a sex offender. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant was required to register under the Sex Offender Registration and Notification Act; and
2. The defendant knowingly failed to [register][update his registration] as required by the Sex Offender Registration and Notification Act; and
3. The defendant traveled in interstate or foreign commerce after failing to [register][update his registration].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §2251(A) SEXUAL EXPLOITATION OF CHILD – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] sexual exploitation of a child. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. At the time, [the person identified in the indictment] was under the age of eighteen years; and
2. The defendant, for the purpose of producing a visual depiction of such conduct:
 - (a) [employed [used] persuaded] coerced] the person identified in the indictment] to take part in sexually explicit conduct; or
 - (b) had [the person identified in the indictment] assist any other person to engage in sexually explicit conduct; or
 - (c) transported [the person identified in the indictment][across state lines][in foreign commerce][in any Territory or Possession of the United States] with the intent that [the person identified in the indictment] engage in sexually explicit conduct; and
3. The defendant knew or had reason to know that:
 - (a) Such visual depiction would be mailed or transported across state lines or in foreign commerce; or
 - (b) The visual depiction was [produced][transmitted] using materials that had been mailed, shipped, transported across state lines or in foreign commerce; or
 - (c) The visual depiction was mailed or actually transported across state lines or in foreign commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §2251(A) SELLING OF CHILDREN – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] selling [a child][children]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant is the [parent][legal guardian][a person having custody or control of [the person identified in the indictment]] and
 - (a) sold [the person identified in the indictment]; or
 - (b) transferred custody or control of [the person identified in the indictment]; or
 - (c) offered to sell [the person identified in the indictment]; or
 - (d) offered to transfer custody of [the person identified in the indictment]; and
2. The defendant:
 - (a) knew that [the person identified in the indictment] would be portrayed in a visual depiction [engaging in][assisting another person to engage in] sexually explicit conduct; or
 - (b) [sold][transferred][offered to sell][offered to transfer custody]
 - (i) intending to promote having [the person identified in the indictment] engage in sexually explicit conduct; and
 - (ii) the defendant did so for the purpose of producing a visual depiction of that conduct;
3. In the course of such conduct [[the person identified in the indictment] or the defendant traveled in interstate commerce][the offer to sell or transfer custody or control of the minor was communicated or transported in interstate commerce or by mail]; and
4. [The person identified in the indictment] at the time of the [sale][transfer][offer to sell][offer to transfer custody] was under the age of eighteen years.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §2251A(B) PURCHASING OR OBTAINING CHILDREN

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] purchasing or obtaining [a child][children]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant:
 - (a) purchased [the person identified in the indictment]; or
 - (b) obtained custody or control of [the person identified in the indictment]; or
 - (c) offered to purchase [the person identified in the indictment]; or
 - (d) offered to obtain custody or control of [the person identified in the indictment];
2. The defendant
 - (a) the defendant knew that [the person identified in the indictment] would be portrayed in a visual depiction [engaging in][assisting another person to engage in] sexually explicit conduct; or
 - (b) the defendant [purchased][obtained custody or control][offered to purchase][offered to obtain custody or control][the person identified in the indictment]
 - (i) intending to promote having [the person identified in the indictment] engage in sexually explicit conduct; and
 - (ii) the defendant did so for the purpose of producing a visual depiction of that conduct; and
3. In the course of such conduct [[the person identified in the indictment][the defendant] traveled in interstate commerce][the offer to sell or transfer custody or control of the minor was communicated or transported in interstate commerce or by mail]; and

4. [The person identified in the indictment] at the time of the [purchase][obtaining of custody or control][offer to purchase][offer to obtain custody or control] was under the age of eighteen years.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2251(B) SEXUAL EXPLOITATION OF CHILD –
PERMITTING OR ASSISTING BY PARENT OR
GUARDIAN – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] sexual exploitation of a child. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. At the time, [the person identified in the indictment] was under the age of eighteen years; and
2. The defendant was a [parent][legal guardian][person having custody or control] of [the person identified in the indictment]; and
3. For the purpose of producing a visual depiction of such conduct, the defendant knowingly permitted [the person identified in the indictment] to:
 - (a) engage in sexually explicit conduct; or
 - (b) assist any other person to engage in sexually explicit conduct; and
4. The defendant knew or had reason to know that
 - (a) the visual depiction would be mailed or transported across state lines or in foreign commerce; or
 - (b) the visual depiction was [produced][transmitted] using materials that had been mailed, shipped, transported across state lines or in foreign commerce; or
 - (c) The visual depiction was actually mailed or transported across state lines or in foreign commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2251(C) SEXUAL EXPLOITATION OF CHILD –
CONDUCT OUTSIDE OF THE UNITED STATES –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] sexual exploitation of a child. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. At the time, [the person identified in the indictment] was under the age of eighteen years; and
2. The defendant knowingly [[employed] [used] [persuaded] [induced] [enticed] [coerced] [the person identified in the indictment] to engage in][had [the person identified in the indictment] assist any other person to engage in] sexually explicit conduct outside of the United States; and
3. The defendant did so for the purpose of producing a visual depiction of such conduct; and
4. The defendant
 - (a) intended the visual depiction to be transported to the United States; or
 - (b) transported the visual depiction to the United States.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2251(D) PUBLISHING OF CHILD PORNOGRAPHY –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] publishing of child pornography. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [five] following elements beyond a reasonable doubt:

1. The defendant knowingly [made][printed][published][caused to be made] [printed][published]] a notice or advertisement; and
2. The notice or advertisement [sought][offered] to [receive] [exchange] [buy][produce][display][distribute][reproduce] a visual depiction; and
3.
 - (a) the production of the visual depiction involved the use of [the person identified in the indictment] engaging in sexually explicit conduct, and the visual depiction is of the sexually explicit conduct; or
 - (b) the defendant participated in any act of sexually explicit conduct by or with [the person identified in the indictment] for the purpose of producing a visual depiction of the conduct; and
4. The defendant knew that [the person identified in the indictment] was under the age of eighteen years; and
5. The defendant knew or had reason to know that
 - (a) the notice or advertisement would be transported using any means or facility of interstate or foreign commerce, including by computer or by mail; or
 - (b) the notice or advertisement was transported using any means or facility of interstate or foreign commerce, including by computer or by mail.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**MAILING, TRANSPORTING OR SHIPPING
MATERIAL CONTAINING CHILD
PORNOGRAPHY – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [mailing] [transporting] [shipping] of material containing child pornography. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly [mailed] [transported in interstate commerce][shipped in interstate commerce] [the material identified in the indictment]; and
2. [The material identified in the indictment] is child pornography; and
3. The defendant knew that one or more persons depicted in [the material identified in the indictment] was under the age of eighteen years.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2252A(A)(2)(A) RECEIPT OR DISTRIBUTION OF CHILD
PORNOGRAPHY – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [receipt][distribution] of child pornography. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly [received] [distributed] [the material identified in the indictment]; and
2. [The material identified in the indictment] is child pornography; and
3. The defendant knew that one or more persons depicted in [the material identified in the indictment] was under the age of eighteen years; and
4. [The material identified in the indictment] was [mailed] [shipped in interstate or foreign commerce] [transported in interstate or foreign commerce] [shipped or transported in a manner affecting interstate or foreign commerce].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2252A(A)(2)(B) RECEIPT OR DISTRIBUTION OF
MATERIAL CONTAINING CHILD
PORNOGRAPHY – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [receipt][distribution] of material containing child pornography. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly [received] [distributed] [the material identified in the indictment];
2. [The material identified in the indictment] contained child pornography;
3. The defendant knew that one or more persons depicted in [the material identified in the indictment] was under the age of eighteen years; and
4. [The material identified in the indictment] was [mailed] [shipped in interstate or foreign commerce] [transported in interstate or foreign commerce] [shipped or transported in a manner affecting interstate or foreign commerce].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2252A(A)(3)(A) REPRODUCTION OF CHILD
PORNOGRAPHY FOR DISTRIBUTION –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] reproduction of child pornography for distribution. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly reproduced [the material identified in the indictment];
2. [The material identified in the indictment] is child pornography;
3. The defendant knew that one or more persons depicted in [the material identified in the indictment] was under the age of eighteen years; and
4. The defendant intended to distribute [the material identified in the indictment] by [mailing it] [shipping it in or affecting interstate or foreign commerce] [transporting it in or affecting interstate or foreign commerce].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2252A(A)(4)(A) SALE OR POSSESSION WITH INTENT TO
SELL OF CHILD PORNOGRAPHY IN U.S.
TERRITORY – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [sale of][possession with intent to sell] child pornography. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly [sold][possessed with intent to sell] [the material identified in the indictment];
2. [the material identified in the indictment] is child pornography;
3. The defendant knew that one or more persons depicted in [the material identified in the indictment] was under the age of eighteen years; and
4. The [sale][possession with intent to sell] occurred [in the special maritime and territorial jurisdiction of the United States] [on land or in a building owned by, leased to or under the control of the United States government][in Indian country].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §2252A(A)(4)(B)

**SALE OR POSSESSION WITH INTENT
TO SELL OF CHILD PORNOGRAPHY
IN INTERSTATE OR FOREIGN
COMMERCE – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [sale of][possession with intent to sell] child pornography. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly [sold][possessed with intent to sell] [the material identified in the indictment]; and
2. [the material identified in the indictment] is child pornography; and
3. The defendant knew that one or more persons depicted in [the material identified in the indictment] was under the age of eighteen years; and
4. The material identified in the indictment] has been [mailed][shipped in interstate or foreign commerce] [transported in interstate or foreign commerce][produced using materials that have been mailed, shipped or transported in a manner affecting interstate or foreign commerce].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2252A(A)(5)(A) POSSESSION OF OR ACCESS WITH
INTENT TO VIEW CHILD PORNOGRAPHY
IN U.S. TERRITORY – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [possession of][accessing with intent to view] child pornography. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly [possessed][accessed with intent to view] [the material identified in the indictment]; and
2. [The material identified in the indictment] is child pornography; and
3. The defendant knew that one or more persons depicted in [the material identified in the indictment] was under the age of eighteen years; and
4. The [sale][possession with intent to sell] occurred [in the special maritime and territorial jurisdiction of the United States] [on land or in a building owned by, leased to or under the control of the United States government][in Indian country].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2252A(A)(5)(B) POSSESSION OF OR ACCESS WITH
INTENT TO VIEW CHILD PORNOGRAPHY
IN INTERSTATE COMMERCE – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [possession of][accessing with intent to view] child pornography. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly [possessed][accessed with intent to view] [the material identified in the indictment]; and
2. [The material identified in the indictment] is child pornography; and
3. The defendant knew that one or more persons depicted in [the material identified in the indictment] was under the age of eighteen years; and
4. The material identified in the indictment] has been [mailed][shipped in interstate or foreign commerce] [transported in interstate or foreign commerce][produced using materials that have been mailed, shipped or transported in a manner affecting interstate or foreign commerce]].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §§2252A(A)(6)(A),
(B) AND (C)**

**PROVIDING CHILD
PORNOGRAPHY TO A MINOR –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [distributing] [offering] [sending] [providing] child pornography to a minor. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [five] following elements beyond a reasonable doubt:

1. The defendant knowingly [distributed][offered][sent][provided] [the material identified in the indictment] to [the person identified in the indictment]; and
2. [The material identified in the indictment] is child pornography; and
3. The defendant knew that one or more persons depicted in [the material identified in the indictment] was under the age of eighteen years; and
4. [The person identified in the indictment] had not attained the age of eighteen years; and
5. [The material identified in the indictment] has been:
 - (a) [mailed][shipped in interstate or foreign commerce] [transported in interstate or foreign commerce] [shipped or transported in a manner affecting interstate or foreign commerce]; or
 - (b) produced using materials that have been [mailed] [shipped in interstate or foreign commerce][transported in interstate or foreign commerce] [shipped or transported in a manner affecting interstate or foreign commerce]; or
 - (c) which [distribution][offer][sending][provision] was accomplished [using the mails][by any means or facility of interstate or foreign commerce].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §2252A(A)(7)

**PRODUCTION WITH INTENT TO
DISTRIBUTE AND DISTRIBUTION OF
ADAPTED CHILD PORNOGRAPHY –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] ___ of the indictment charge[s] the defendant[s] with] [production with the intent to distribute] [distribution] of adapted child pornography. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant knowingly [produced with the intent to distribute][distributed] [the material identified in the indictment]; and
2. [The material identified in the indictment] is child pornography [consisting of][including] an adapted or modified depiction of an identifiable minor; and
3. The defendant knew that one or more persons depicted in [the material identified in the indictment] was under the age of eighteen years; and
4. [The material identified in the indictment] has been [produced][distributed] by any means [in] [affecting] interstate or foreign commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2256(9) –
18 U.S.C. §2252A(C)**

**AFFIRMATIVE DEFENSE TO CHARGES
UNDER 18 U.S.C. §§ 2252A(A)(1), (A)(2),
(A)(3)(A), (A)(4) OR (A)(5)**

If the defendant proves that it is more likely than not that the alleged child pornography was produced using actual adults at the time the material was produced, then you should find him not guilty of possessing child pornography.

**18 U.S.C. §2252A(D) AFFIRMATIVE DEFENSE TO CHARGE
UNDER 18 U.S.C. §2252A(A)(5)**

If the defendant proves that it is more likely than not that

1. he possessed fewer than three images of child pornography;
2. he promptly and in good faith [took reasonable steps to destroy each image][reported the matter to a law enforcement agency and afforded the agency access to the image(s)];
3. he did not retain any image; and
4. he did not allow any person other than law enforcement to access or copy any image, then you should find him not guilty of possessing child pornography.

18 U.S.C. §2256(1) DEFINITION OF “MINOR”

“Minor” means any person under the age of eighteen (18) years.

18 U.S.C. §2256(2)(A)

**DEFINITION OF “SEXUALLY EXPLICIT
CONDUCT”**

“Sexually explicit conduct” includes actual or simulated –

- (1) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;
- (2) bestiality;
- (3) masturbation;
- (4) sadistic or masochistic abuse; or
- (5) lascivious exhibition of the genitals or pubic area of any person.

18 U.S.C. §2256(3) DEFINITION OF “PRODUCING”

The term “producing” includes producing, directing, manufacturing, issuing, publishing, or advertising.

18 U.S.C. §2256(6) DEFINITION OF “COMPUTER”

“Computer” as used in this instruction means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device.

18 U.S.C. §2256(7) DEFINITION OF “CUSTODY OR CONTROL”

“Custody or control” includes temporary supervision over or responsibility for a minor whether legally or illegally obtained.

18 U.S.C. §2256(8) DEFINITION OF “CHILD PORNOGRAPHY”

“Child pornography” means a visual depiction of sexually explicit conduct, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, if:

1. The production of the visual depiction involves the use of a minor engaged in sexually explicit conduct; and
2. The visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct; or
3. Such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.

18 U.S.C. § 2256(9) IDENTIFIABLE MINOR – DEFINED

“Identifiable minor” means a person who is recognizable as an actual person by the person’s face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature, and

1. who was a minor at the time the visual depiction was created, adapted, or modified; or
2. whose image as a minor was used in creating, adapting, or modifying the visual depiction.

The Government is not required to prove the actual identity of the identifiable minor

18 U.S.C. §2256(11) DEFINITION OF “INDISTINGUISHABLE”

“Indistinguishable” used with respect to a depiction, means virtually indistinguishable such that an ordinary person viewing the depiction would conclude that the depiction is of an actual minor engaged in sexually explicit conduct. This definition does not apply to depictions that are drawings, cartoons, sculptures, or paintings depicting minors or adults.

**18 U.S.C. §2260(A) PRODUCTION OF SEXUALLY EXPLICIT
DEPICTIONS OF A MINOR – IMPORTATION**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] producing sexually explicit depictions of a minor for importation into the United States. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. At the time, [the person identified in the indictment] was under the age of eighteen years;
2. The defendant, outside the United States, for the purpose of [producing a visual depiction of such conduct][transmitting a live visual depiction of such conduct]:
 - (a) [employed][used][persuaded][induced][enticed][coerced] [the person identified in the indictment] to take part in sexually explicit conduct; or
 - (b) caused [the person identified in the indictment] to assist another person to engage in sexually explicit conduct; or
 - (c) transported [the person identified in the indictment] with the intent that [the person identified in the indictment] engage in sexually explicit conduct; and
3. The defendant intended that such visual depiction be [imported] [transmitted] into the [United States][waters within a distance of twelve miles of the coast of the United States].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §2260(B) USE OF A VISUAL DEPICTION – IMPORTATION

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [receiving] [transporting] [shipping] [distributing] [selling] [possession with intent to [transport] [ship] [sell] [distribute]] visual depictions of a minor engaged in sexually explicit conduct for importation into the United States. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. At the time, [the person identified in the indictment] was under the age of eighteen years; and
2. The defendant, while outside the United States, knowingly [received] [transported] [shipped] [distributed] [sold] [possessed with intent to [transport] [ship]] [sell] [distribute]] a visual depiction of [the person identified in the indictment]; and
3. The production of the visual depiction involved [the person identified in the indictment] engaging in sexually explicit conduct; and
4. The defendant intended that the visual depiction be [imported] into the [United States][waters within a distance of twelve miles of the coast of the United States].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**TRANSPORTATION OF STOLEN VEHICLE –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] transporting a stolen [car; truck; motorcycle; airplane; helicopter] in [interstate; foreign] commerce. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The (here describe vehicle charged in the indictment) was stolen; and
2. The defendant transported the (here describe vehicle charged in the indictment) in [interstate; foreign] commerce; and
3. The defendant knew at the time he transported the (here describe vehicle charged in the indictment) that it was stolen.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §2312**DEFINITION OF “STOLEN”**

An object is “stolen” if it was taken with the intent to deprive the owner of his rights and benefits of ownership. [The taking may be accomplished through the seizure of the (here describe vehicle) or through the use of false pretenses, trickery, or misrepresentation in obtaining possession.] [It is not necessary, however, that the taking be initially unlawful. Even if possession is first acquired lawfully, the taking falls within the meaning of “stolen” if the defendant thereafter forms the intent to deprive the owner of his ownership interests.]

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [selling; possessing; receiving; concealing; disposing of] a stolen [car; truck; motorcycle; airplane; helicopter] in [interstate; foreign] commerce. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The (here describe vehicle charged in the indictment) was stolen; and
2. After the (here describe vehicle charged in the indictment) was stolen, it was moved across a [state line; United States border]; and
3. The defendant [sold; possessed; received; concealed; disposed of] the (here describe vehicle charged in the indictment); and
4. At the time the defendant [sold; possessed; received; concealed; disposed of] the (here describe vehicle charged in the indictment), the defendant knew that it had been stolen.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**TRANSPORTATION OF STOLEN OR
CONVERTED GOODS OR GOODS TAKEN BY
FRAUD – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] transportation of goods [stolen; converted; taken by fraud]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant [caused to be; transported; transmitted; transferred] (identify goods, wares, merchandise, securities, or money charged in the indictment) in [interstate; foreign] commerce; and
2. The (identify goods, wares, etc. charged in the indictment) had a value of at least \$5,000; and
3. The (identify goods, wares, etc. charged in the indictment) had been [stolen; converted; taken by fraud]; and
4. At the time the defendant [caused to be; transported; transmitted; transferred] (identify goods, wares, etc. charged in the indictment), he; knew they had been [stolen; converted; taken by fraud].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [transporting a person; causing a person to be transported; inducing a person to travel or be transported] in interstate commerce in the execution or concealment of a scheme or artifice to defraud. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant devised or intended to devise a scheme to [defraud; obtain money by false or fraudulent pretenses, representations, or promises] as charged in the indictment; and
2. The defendant [transported a person; caused a person to be transported; induced a person to travel or be transported] in [interstate; foreign] commerce; and
3. The defendant acted in the execution or concealment of the scheme or artifice to defraud that person of money or property; and
4. The money or property had a value of \$5,000 or more.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**INTERSTATE TRANSPORTATION OF
FALSELYMADE, FORGED, ALTERED OR
COUNTERFEITED SECURITIES OR TAX
STAMPS – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] ___ of the indictment charge[s] the defendant[s] with] interstate transportation of [falsely made; forged; altered; counterfeited] securities or tax stamps. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant [transported; caused to be transported], in [interstate; foreign] commerce, the [securities; tax stamps] described in the indictment; and
2. The [securities; tax stamps] were [falsely made; forged; altered; counterfeited]; and
3. At the time the defendant [transported; caused to be transported] the [securities; tax stamps], he; knew they were [falsely made; forged; altered; counterfeited]; and
4. The defendant acted with unlawful or fraudulent intent.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**INTERSTATE TRANSPORTATION OF A
TRAVELER'S CHECK BEARING A FORGED
COUNTERSIGNATURE – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] interstate transportation of a traveler's check bearing a forged countersignature. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant [transported; caused to be transported], in [interstate; foreign] commerce, the traveler's check described in the indictment; and
2. The traveler's check bore a forged countersignature; and
3. At the time the defendant [transported; caused to be transported], the traveler's check, [he; she] knew it bore a forged countersignature; and
4. The defendant acted with unlawful or fraudulent intent.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**INTERSTATE TRANSPORTATION OF TOOLS
USED IN MAKING, FORGING, ALTERING, OR
COUNTERFEITING ANY SECURITY OR TAX
STAMPS – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] transportation of any [tool; implement; thing used; fitted for use] in [falsely making; forging; altering; counterfeiting] any security. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant [transported; caused to be transported] the [tool; implement; item described in the indictment] in [interstate; foreign] commerce; and
2. At the time the defendant transported the [tool; implement; item described in the indictment], it could be [used; fitted for use] in [falsely making; forging; altering; counterfeiting] any security or tax stamps, or any part thereof; and
3. At the time the defendant transported the [tool; implement; item described in the indictment], the defendant knew that it could be [used; fitted for use] in [falsely making; forging; altering; counterfeiting] any security or tax stamps or any part thereof; and
4. The defendant acted with unlawful or fraudulent intent.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [receiving; possessing; concealing; storing; bartering; selling; disposing of] stolen property. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant [received; possessed; concealed; stored; bartered; sold; disposed of] the property described in the indictment; and
2. The property had been [stolen; unlawfully converted; unlawfully taken] and the defendant knew the property had been [stolen; unlawfully converted; unlawfully taken]; and
3. After the property was [stolen; unlawfully converted; unlawfully taken] it was moved across the boundary line of [a state; the United States]; and
4. The property had a value of \$5,000 or more.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**RECEIPT OF COUNTERFEIT SECURITIES
OR TAX STAMPS – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with][receiving; possessing; concealing; storing; bartering; selling; disposing of; pledging as security for a loan; accepting as security for a loan], in [interstate; foreign] commerce, any [falsely made; forged; altered; counterfeited; securities; tax stamps]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant [received; possessed; concealed; stored; bartered; sold; disposed of; pledged as security for a loan; accepted as security for a loan; securities; tax stamps]; and
2. The [securities; tax stamps] had been [falsely made; forged; altered; counterfeited]; and
3. At the time the [securities; tax stamps] were [received; possessed; concealed; stored; bartered; sold; disposed of; pledged as security for a loan; accepted as security for a loan], he knew the [securities; tax stamps] had been [falsely made; forged; altered; counterfeited]; and
4. At the time the [securities; tax stamps] were [received; concealed; stored; bartered; sold; disposed of; pledged as security for a loan; accepted as security for a loan], they were moving in, were a part of, or constituted [interstate; foreign] commerce.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §2315**DEFINITION OF “INTERSTATE AND
FOREIGN COMMERCE”**

The term [interstate; foreign] commerce means the movement across [state; territorial] lines, including any movement before or after the crossing of [state; territorial] lines which constitutes a part of the [interstate; foreign] travel. [Property that was [received; concealed; stored; bartered; sold; disposed of] a period of time after it crossed state lines still may constitute interstate commerce if the [receipt; concealment; storage; barter; sale; disposition] is a continuation of the movement that began out of state.]

18 U.S.C. §2325**DEFINITION OF “TELEMARKETING”
APPLICABLE TO ENHANCED PENALTIES
UNDER 18 U.S.C. §2326**

In order to find that the offense involved telemarketing, you must find that the offense involved a plan, program, promotion, or campaign that was conducted to induce 1) purchases of goods or services, 2) participation in a contest or sweepstakes, or 3) a charitable contribution, donation, or gift of value or any other thing of value. Either the person conducting the plan, program, promotion or campaign or a prospective purchaser, participant, or contributor must have initial at least one interstate telephone call during the offense.

Telemarketing does not include the solicitation of sales through the mailing of a catalog that contains a written description or illustration of the goods or services offered for sales, includes the business address of the seller, includes multiple pages of written material or illustrations, and has been issued not less frequently than once a year, as long as the person making the solicitation does not solicit customers by telephone. The person making the solicitation can only receive calls initiated by customers in response to the catalog and during those calls take orders without further solicitation.

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] transportation for [prostitution][sexual activity]. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant knowingly [transported][attempted to transport][the person identified in the indictment] in interstate commerce; and
2. At the time of [transportation][the attempted transportation], the defendant intended that [the person identified in the indictment] would engage in [prostitution][sexual activity for which [the defendant][any other person identified in the indictment] could have been charged with a criminal offense [as charged in the indictment]].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §2422(A) ENTICEMENT – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] enticement. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant knowingly [persuaded] [induced] [enticed] [coerced] [the person identified in the indictment] to travel in interstate commerce to engage in [prostitution][sexual activity]; and
2. [the defendant][any other person identified in the indictment] could have been charged with a criminal offense [as charged in the indictment] for the sexual activity.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. § 2422(B) ENTICEMENT OF A MINOR – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] enticement of a minor. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant used a facility or means of interstate commerce to knowingly [persuade][induce][entice][coerce] [the person identified in the indictment] to engage in [prostitution][sexual activity]; and
2. [The person identified in the indictment] was less than 18 years of age; and
3. The defendant believed [the person identified in the indictment] was less than 18 years of age; and
4. If the sexual activity had occurred, [the defendant] [any other person identified in the indictment] would have committed the criminal offense of ____.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2423(A) TRANSPORTATION OF MINORS WITH INTENT
TO ENGAGE IN CRIMINAL SEXUAL ACTIVITY –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] transportation of [a] minor[s] with the intent to engage in criminal sexual activity. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly transported [the person identified in the indictment] in [interstate][foreign] commerce; and
2. [The person identified in the indictment] was less than eighteen years of age at the time; and
3. The defendant intended that [the person identified in the indictment] engage in [prostitution][sexual activity] which if it had occurred [the defendant][any other person identified in the indictment] would have committed the criminal offense of _____.

The government does not have to prove that the defendant believed or knew [the person identified in the indictment] was less than 18 years of age.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2423(B) INTERSTATE TRAVEL WITH INTENT TO
ENGAGE IN A SEXUAL ACT WITH A
MINOR – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] traveling in interstate commerce to engage in illicit sexual conduct with a minor. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant traveled in [interstate commerce][foreign commerce];
and
2. The defendant's purpose in traveling in [interstate
commerce][foreign commerce] was to engage in [a commercial sex
act][a sexual act] with a minor.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**18 U.S.C. §2423(C) FOREIGN TRAVEL WITH INTENT TO
ENGAGE IN A SEXUAL ACT WITH A
MINOR – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] traveling in foreign commerce to engage in illicit sexual conduct with a minor. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant is a [United States citizen][alien admitted for permanent residence]; and
2. The defendant traveled in foreign commerce; and
3. The defendant engaged in illicit sexual conduct with a minor.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

18 U.S.C. §2423(G) AFFIRMATIVE DEFENSE

If the defendant establishes that it is more likely than not that he reasonably believed that [the person identified in the indictment] with whom the defendant engaged in a commercial sex act was at least eighteen years of age then you should find the defendant not guilty.

18 U.S.C. §2423(F) DEFINITION OF “ILLICIT SEXUAL CONDUCT”

“Illicit sexual conduct” means:

1. a sexual act with a person under eighteen years of age; or
2. any commercial sex act with a person under eighteen years of age.

18 U.S.C. §2425**USE OF INTERSTATE FACILITIES TO
TRANSMIT INFORMATION ABOUT A
MINOR – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] use of interstate facilities to transmit information about a minor. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly initiated the transmission of the [name][address] [telephone number][social security number][electronic mail address] of [the person identified in the indictment] [by [mail]][a facility or means of interstate or foreign commerce]][within the special maritime or territorial jurisdiction of the United States]; and
2. The defendant knew that [the person identified in the indictment] was less than sixteen years of age at the time; and
3. The defendant intended to [entice][encourage][offer][solicit] [the person identified in the indictment] to engage in any sexual activity for which [the defendant][any other person identified in the indictment] could have been charged with a criminal offense [as charged in the indictment]].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**21 U.S.C. §841(A)(1) DISTRIBUTION OF A CONTROLLED
SUBSTANCE – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] distribution of [identify controlled substance alleged in charge]. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant knowingly distributed [identify controlled substance alleged in charge]; and
2. The defendant knew the substance [was; contained] some kind of a controlled substance. The government is not required to prove that the defendant knew the substance was [identify the controlled substance alleged in charge.]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

21 U.S.C. §841(A)(1) DEFINITION OF “DISTRIBUTION”

A person “distributes” a controlled substance if he [delivers or transfers possession of the controlled substance to someone else] [or] [causes a person to deliver or transfer possession of the controlled substance to another person].

**21 U.S.C. §841(A)(1) POSSESSION WITH INTENT TO
DISTRIBUTE – ELEMENTS**

[The indictment charges defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] possession of [identify controlled substance alleged in charge] with intent to distribute. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly possessed [identify controlled substance alleged in charge]; and
2. The defendant intended to distribute the substance to another person; and
3. The defendant knew the substance [was; contained] some kind of a controlled substance. The government is not required to prove that the defendant knew the substance was [identify the controlled substance alleged in charge.]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**21 U.S.C. §841(C)(1) POSSESSION OF LISTED CHEMICAL WITH
INTENT TO MANUFACTURE – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] possession of [identify chemical alleged in charge] with intent to manufacture a controlled substance. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly possessed [identify chemical alleged in charge]; and
2. The defendant intended to use [identify chemical] to manufacture a controlled substance; and
3. [Identify chemical] is a listed chemical. The government is not required to prove that the defendant knew [the chemical] was a listed chemical.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**POSSESSION/DISTRIBUTION OF LISTED
CHEMICAL FOR USE IN MANUFACTURE –
ELEMENTS**

[The indictment charges defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] possess of [identify chemical alleged in charge] for use in the manufacture of a prohibited drug. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly [possessed; distributed] [identify chemical alleged in charge]; and
2. The defendant knew or had reasonable cause to believe the [identify the chemical] would be used to manufacture a prohibited drug; and
3. [Identify the chemical] is a listed chemical. The government is not required to prove that the defendant knew [identify the chemical] was a listed chemical.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

21 U.S.C. §841(A)(1) AND (C)

DEFINITION OF “POSSESSION”

No instruction.

**21 U.S.C. §846 ATTEMPTED DISTRIBUTION OF CONTROLLED
SUBSTANCE – ELEMENTS**

[The indictment charges defendant[s] with; Count __ of the indictment charges the defendant[s] with] attempted distribution of [identify controlled substance]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant intended to distribute a controlled substance to another person; and
2. The defendant believed that the substance was some kind of a controlled substance. [The government is not required to prove that the substance was actually a controlled substance.]; and
3. The defendant knowingly took a substantial step toward distributing [a substance that he believed to be] a controlled substance, intending to distribute it. The substantial step must be an act that strongly corroborates that the defendant intended to distribute a controlled substance.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**21 U.S.C. §846 ATTEMPTED POSSESSION WITH INTENT TO
DISTRIBUTE – ELEMENTS**

[The indictment charges defendant[s] with; Count __ of the indictment charges the defendant[s] with] attempted possession of [identify controlled substance] with intent to distribute. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant intended to possess a controlled substance and intended to distribute it to another person; and
2. The defendant believed that the substance was some kind of a controlled substance. [The government is not required to prove that the defendant knew the substance was actually a controlled substance.]; and
3. The defendant knowingly took a substantial step toward possessing [a substance he believed to be] a controlled substance, intending to possess it. The substantial step must be an act that strongly corroborates that the defendant intended to distribute a controlled substance.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

21 U.S.C. §841(A)(1) DEFINITION OF “CONTROLLED SUBSTANCE”

[Identify the controlled substance] is a controlled substance.

DRUG QUANTITY/SPECIAL VERDICT INSTRUCTIONS

If you find the defendant guilty of the offense charged in [Count __ of] the indictment, you must then determine the amount of [controlled substance] the government has proven was involved in the offense.

You will see on the verdict form a question concerning the amount of narcotics involved in the offense charged in [Count __ of] the indictment. You should consider this question only if you have found that the government has proven the defendant guilty of the offense charged in [Count __ of] the indictment.

If you find that the government has proven beyond a reasonable doubt that the offense involved [insert quantity; e.g., 5 kilograms or more of cocaine], then you should answer the [first] question “Yes.” [If you answer “Yes,” then you need not answer the remaining question[s] regarding drug quantity for that count.]

If you find that the government has not proven beyond a reasonable doubt that the offense involved [insert quantity; e.g., 5 kilograms or more of cocaine], then you should answer the [first] question “No.”

[If you answer the first question “No,” then you must answer the next question. That question asks you to determine whether the government has proven beyond a reasonable doubt that the offense involved [insert lesser quantity; e.g., 500 grams or more of cocaine]. If you find that the government has proven beyond a reasonable doubt that the offense involved [insert lesser quantity; e.g., 500 grams or more of cocaine], then you should answer the second question “Yes.”]

If you find that the government has not proven beyond a reasonable doubt that the offense involved [insert lesser quantity; e.g., 500 grams or more of cocaine], then you should answer the second question “No.”

21 U.S.C. §843(B)**USE OF COMMUNICATION FACILITY IN
AID OF NARCOTICS OFFENSE – ELEMENTS**

[The indictment charges defendant[s] with; Count __ of the indictment charges the defendant[s] with] [using; causing the use of] a [telephone; other communication facility] to facilitate a narcotics crime. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the [two] following elements beyond a reasonable doubt:

1. The defendant used a [telephone; other type of communication facility] to facilitate or cause the commission of, [insert predicate offense, e.g., possession with intent to distribute]; and
2. The defendant did so knowingly.

If you find from your consideration of all the evidence that the government has proved both of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

21 U.S.C. §843(B)

**DEFINITION OF “USE OF COMMUNICATION
FACILITY IN AID OF NARCOTICS OFFENSE”**

A [call; transmission] facilitates an offense if it makes the offense easier, or if it assists in committing the offense.

21 U.S.C. §844 SIMPLE POSSESSION – ELEMENTS

[The indictment charges defendant[s] with; Count __ of the indictment charges the defendant[s] with] possession of a controlled substance. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant knowingly possessed [identify controlled substance];
and
2. The defendant knew the substance was some kind of a controlled substance. The government is not required to prove that the defendant knew the substance was [identify controlled substance in charge].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

21 U.S.C. §848 CONTINUING CRIMINAL ENTERPRISE – ELEMENTS

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] engaging in a continuing criminal enterprise. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. That the defendant committed a continuing series of at least three or more of the narcotics offenses alleged in Count __; and
2. The defendant committed the offenses acting in concert with five or more other persons; and
3. The defendant acted as an organizer, supervisor or manager of those five or more other persons; and
4. The defendant obtained substantial income or resources from the offenses.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**21 U.S.C. §848 CONTINUING CRIMINAL ENTERPRISE – CONTINUING
SERIES OF OFFENSES**

The narcotics offenses you may consider in determining whether the defendant committed a continuing series of at least three offenses include:

[List possible predicate offenses (including those charged in the indictment), e.g. distribution of a controlled substance, possession of a controlled substance with the intent to distribute, or use of telephones to facilitate the commission of a narcotics offense.]

In determining whether the defendant engaged in a continuing series of at least three narcotics offenses, you may consider the offenses alleged in the indictment [as well as other alleged offenses of these types.] You must find that the government has proved that the defendant committed any offense beyond a reasonable doubt in order to consider it to be part of a continuing series.

**21 U.S.C. §848 CONTINUING CRIMINAL ENTERPRISE – FIVE
OR MORE PERSONS**

If you find that the defendant committed a continuing series of narcotics offenses, you must also decide whether the defendant committed this series of offenses in concert with five or more persons whom he/she organized, supervised or managed. [Those persons do not have to be named in the indictment.]

In order to find that the defendant acted in concert with five or more persons, you must unanimously agree that the defendant organized, supervised or managed five or more persons in committing the series of offenses. However, you do not have to agree on the identity of five or more persons with whom the defendant acted. [You do not have to find that the five or more persons acted together at the same time, or that the defendant personally dealt with them, or that all five persons were present at the same time.] [It is not required that the defendant acted in concert with five or more persons in the commission of any single offense that is one of the series of offenses constituting the continuing criminal enterprise.] [You do not have to find that the defendant had the same relationship with each of the five or more persons.]

**21 U.S.C. §848 CONTINUING CRIMINAL ENTERPRISE – ORGANIZING,
MANAGING, SUPERVISING**

The terms “organizer,” “supervisory position,” and “any other position of management” are used in their ordinary meaning. As to each of the five or more people, the government must prove that the defendant organized or supervised or managed them in accomplishing the activities that contribute to the continuing enterprise.

The defendant need not have had personal contact with each of the five or more persons whom he organized, supervised or managed. [The defendant may still be considered an organizer, supervisor or manager even if he delegated the authority to personally hire those whom he is alleged to have organized, supervised or managed.]

**21 U.S.C. §848 CONTINUING CRIMINAL ENTERPRISE –
SUBSTANTIAL INCOME OR RESOURCES**

The term “substantial” means of real worth and importance, or of considerable value. The term “resources” includes money, drugs or other items of material value.

The element of “substantial income or resources” can be proved circumstantially. For example, evidence of substantial gross receipts, substantial gross income or expenditures, receipt or possession of a large amount of narcotics, a large cash flow, a substantial amount of money changing hands, or anticipated profits from future sales may be considered by you in determining whether defendant obtained “substantial income and resources” from the continuing criminal enterprise. [Substantial income or resources is not limited to substantial “net” income or profit.]

**21 U.S.C. §856(A)(1) MAINTAINING DRUG-INVOLVED
PREMISES – ELEMENTS**

[The indictment charges defendant[s] with; Count __ of the indictment charges the defendant[s] with] maintaining a drug-involved premises. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant knowingly [opened; leased; rented; used; maintained] a place; and
2. The defendant did so for the purpose of [manufacturing; distributing; using] a controlled substance. The government is not required to prove that was the defendant's sole purpose.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**21 U.S.C. §856(A)(1) MAINTAINING DRUG-INVOLVED PREMISES –
LIMITING INSTRUCTION**

The mere fact that the defendant lived in a [house; premises] used for [manufacturing; distributing; using] a controlled substance is insufficient to prove that he maintained the house for the purpose of [manufacturing; distributing; using] a controlled substance.

A defendant's mere personal use of a controlled substance in a [house; premises] is insufficient to prove that he maintained the house for the purpose of [manufacturing; distributing; using] a controlled substance.

**21 U.S.C. §856(A)(2) MAINTAINING DRUG-INVOLVED
PREMISES – ELEMENTS**

[The indictment charges defendant[s] with; Count __ of the indictment charges the defendant[s] with] maintaining a drug-involved premises. In order for you to find [a; the] defendant guilty of this charge, the government must prove the following [four] elements beyond a reasonable doubt:

1. The defendant [managed; controlled] a place; and
2. The defendant was an [owner; lessee; agent; employee; occupant; mortgagee] of that place; and
3. The defendant knowingly [rented; leased the place; profited from the place; made the place available for use, with or without compensation]; and
4. The defendant did so for the purpose of unlawfully [manufacturing; storing; distributing; using] a controlled substance. The government is not required to prove that was the defendant's sole purpose.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**21 U.S.C. §859 DISTRIBUTION OF CONTROLLED SUBSTANCE
TO PERSON UNDER 21 – ELEMENTS**

[The indictment charges defendant[s] with; Count __ of the indictment charges the defendant[s] with] distributing [identify controlled substance in charge] to a person under 21 years of age. In order for you to find [a; the] defendant guilty of this charge, the government must prove the following [five] elements beyond a reasonable doubt:

1. The defendant distributed [identify controlled substance]; and
2. The defendant did so knowingly; and
3. The defendant knew that the substance was a controlled substance. The government is not required to prove that the defendant knew the substance was [identify controlled substance in charge]; and
4. The defendant was at least 18 years of age; and
5. The person to whom the defendant distributed the controlled substance was under 21 years of age. The government is not required to prove that the defendant knew that the person to whom he distributed the substance was under 21 years of age.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering] then you should find the defendant not guilty [of that charge].

21 U.S.C. §853 DRUG FORFEITURE – ELEMENTS

The Forfeiture Allegation[s] in the Indictment allege that the following property is subject to forfeiture under Title 21, United States Code, Section 853:

[LIST PROPERTY]

In order for you to find that this property is subject to forfeiture, the government must prove both of the following elements by a preponderance of the evidence:

1. [That the property constituted or was derived from the proceeds obtained, directly or indirectly, as a result of the defendant's[s'] participation in the drug offense[s] charged in Count[s] ____;] [That the property was used or intended to be used, in any manner or part, to commit, or to facilitate the commission of, [that] [those] drug offense[s];]and
2. That there is a nexus between the property alleged to be forfeitable and the offense giving rise to the forfeiture allegation.

If you find from your consideration of all the evidence that the government has proved each of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “Yes” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements by a preponderance of the evidence [as to the property you are considering and as to the defendant you are considering], then you should check the “No” line on the Special Forfeiture Verdict Form [as to that property and that defendant].

21 U.S.C. §853(b) DEFINITION OF PROPERTY

Property that is subject to forfeiture includes [real property, including things growing on, affixed to, and found in land]; and [tangible and intangible personal property, including rights, privileges, interests, claims and securities.]

21 U.S.C. § 853(d) REBUTTABLE PRESUMPTION

If you find that the government has proven by a preponderance of the evidence:

1. That the property at issue was acquired by a person convicted of _____ during the time period of this offense or within a reasonable time after such period; and
2. That there was no likely source for the property at issue other than the violation of _____, then there is a rebuttable presumption that any property of a person convicted of ____ is subject to forfeiture.

INTRODUCTORY FORFEITURE INSTRUCTION

Members of the Jury, you have one more task to perform before you are discharged.

In this case, a portion of the Indictment not previously discussed seeks to forfeit [certain] money or property. The law provides that when a defendant is convicted of _____, he may be required to forfeit to the United States certain property. I will explain the specific property that may be subject to forfeiture in a moment. But first, I will give you some general instructions that apply to your consideration of the forfeiture allegations. [Each of you will be given a copy of these instructions for your deliberations.]

“Forfeiture” means to give up ownership or interest in property, as a penalty for committing [a] violation[s] of certain federal laws.

The instructions previously given to you concerning your consideration of the evidence, the credibility of the witnesses, [separate consideration of each defendant], your duty to deliberate together, and the necessity of a unanimous verdict apply during your forfeiture deliberations. The burden of proof, however, is different, as I will describe more fully below.

In your forfeiture deliberations, you may consider any evidence admitted before [or after your previous] deliberations, including witness testimony, exhibits, and stipulations [and anything I took judicial notice of]. I remind you that the lawyers’ statements to you are not evidence.

You should not reconsider whether [a] defendant[s] [is] [are] guilty or not guilty. Your previous verdict[s] [is] [are] final and conclusive.

FORFEITURE ALLEGATIONS INSTRUCTION

The Indictment contains [____] Forfeiture Allegations. The Forfeiture Allegation[s] [is] [are] not evidence and [do] [does] not create any inference that the property is subject to forfeiture. The Defendant has denied that the property is subject to forfeiture.

FORFEITURE BURDEN OF PROOF INSTRUCTION

In this phase of the trial, the government has the burden of proving that the property it seeks to forfeit is subject to forfeiture. The government must establish its forfeiture allegation[s] by a preponderance of the evidence, that is, it must be more probably true than not true.

The burden of proof stays with the government throughout this phase of the trial. The defendant[s] [does] [do] not have the burden of proof, and [is; are] not required to produce any evidence.

SEPARATE CONSIDERATION – FORFEITURE ALLEGATIONS

You must give separate consideration to each [property, interest, forfeiture allegation], and return a separate finding as to each. Your finding as to one [piece of property, interest, forfeiture allegation] should not control your decision as to any other.

SEPARATE CONSIDERATION – MULTIPLE DEFENDANTS

The Forfeiture Allegation[s] allege[s] that the same property is subject to forfeiture as to more than one defendant. You should give each defendant separate consideration as to [the] [each] Forfeiture Allegation.

**21 U.S.C. §952(A) & (B);
21 U.S.C. §960(A)**

**IMPORTATION OF CONTROLLED
SUBSTANCES – ELEMENTS**

[The indictment charges defendant[s] with; Count __ of the indictment charges the defendant[s] with] importation of [identify controlled substance alleged in charge]. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three; four] following elements beyond a reasonable doubt:

1. The defendant brought [identify the controlled substance alleged in the charge] from a point outside the United States into [the United States; customs territory of the United States]; and
2. The defendant did so knowingly; and
3. The defendant knew the substance [was; contained] some kind of a controlled substance. The government is not required to prove that the defendant knew the substance was [identify controlled substance.]; and]
- [4. The [identify the substance] was not imported or exported pursuant to regulations prescribed by the Attorney General.]

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

21 U.S.C. §951(A)(2)

**DEFINITION OF “CUSTOMS TERRITORY
OF THE UNITED STATES”**

The customs territory of the United States includes only the United States, the District of Columbia, and Puerto Rico.

21 U.S.C. §952(A) DEFINITION OF “CONTROLLED SUBSTANCE”

[Identify the substance] is a [controlled substance; narcotic drug; non-narcotic drug].

The indictment charges defendant[s] with; Count ____ of the indictment charges the defendant[s] with] attempting to evade or defeat his [individual income] tax. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. On the date for filing a federal [income] tax return, federal [income] tax was due and owing by the defendant. [If the defendant owed tax for a particular year, then the tax was due and owing as of [April 15; other date pursuant to extension] of the following year.]; and
2. The defendant knew he had a legal duty to pay the tax; and
3. The defendant did some affirmative act to evade [payment of; assessment of; computation of] the tax. Any conduct that is likely to have a misleading or concealing effect can constitute an affirmative act. A lawful act can serve as an affirmative act if it is done with the intent to evade income tax. [The mere failure to file a tax return is not an affirmative act.]; and
4. In doing so, the defendant acted [willfully, that is,] with the intent to violate his legal duty to pay the tax.

The government is not required to prove the precise amount of additional tax alleged in the indictment or the precise amount of [additional] tax owed.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

26 U.S.C. §7201

UNANIMITY AS TO ACTS OF EVASION

No instruction.

26 U.S.C. §7201**NO NEED FOR TAX ASSESSMENT**

If the defendant has incurred a tax liability, then it exists from the date the return is due. The government need not prove that there was an administrative assessment of tax or that the defendant received a tax assessment.

[The indictment charges defendant[s] with; Count of the indictment charges the defendant[s] with] willful failure to file an [individual; partnership; corporate; trust] income [other type] tax return. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant was required by law to file an [individual, partnership, corporate, trust, or other] income [or other] tax return for [insert calendar or fiscal year in question]. [I will explain in a moment when [a person; insert other form of entity] is required by law to file a tax return.]; and
2. The defendant failed to file the return as required by law; and
3. The defendant [acted willfully, that is, he] knew that he was required by law to file an income tax return and intentionally failed to do so.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[Use only the paragraph(s) that apply.]

A [single individual, married individual filing separately, etc.] [under] [over] 65 years old was required to make and file an individual income tax return if that individual had a gross income of \$_____ or more. “Gross income” means all income from any source, including [wages and compensation for services, tips, compensation in the form of personal expenses paid for by defendant’s corporation, income from fraud, embezzlement, etc.]

A married individual was required to file a federal income tax return if he/she had a separate gross income in excess of \$_____ and a total gross income, when combined with that of his/her spouse, in excess of \$_____ where [either] [both] [is] [are] [over] [under] 65 years old.

Any person who received more than \$_____ net income from business (Schedule C), was required to make and file an individual income tax return.

If the defendant had the required gross income in [insert year], then he was required to file a tax return on or before [insert date return was due].

For the years _____ a corporation [partnership, trust] was required to make and file a corporate [partnership, trust] income tax return, whether or not that corporation had income.

26 U.S.C. §7203**TAX RETURN MUST CONTAIN SUFFICIENT
INFORMATION**

Submitting a tax form that does not contain sufficient financial information to enable the Internal Revenue Service to determine the individual's tax liability does not qualify as the filing of a tax return under the law. It is up to you to determine whether the tax form the defendant filed contained enough information to enable the Internal Revenue Service to determine the defendant's tax liability.

26 U.S.C. §7206(1) FRAUD AND FALSE STATEMENTS – ELEMENTS

[The indictment charges defendant[s] with; Count[s] of the indictment charge[s] the defendant[s] with] filing a false tax return. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [five] following elements beyond a reasonable doubt:

1. The defendant [prepared an [income] tax return; caused someone to prepare an [income] tax return]; and
2. The income tax return was false [or incomplete] as to a material matter, as charged in the Count; and
3. The defendant signed the income tax return, which contained a written declaration that it was made under penalties of perjury; and
4. The defendant [acted willfully, that is, he] knew that he had a legal duty to file a truthful [and complete] tax return, but when he signed the return, he did not believe that it was truthful [or complete] as to a material matter; and
5. The defendant [filed; caused someone to file] the [income] tax return with the Internal Revenue Service.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**26 U.S.C. § 7206(2) AIDING AND ABETTING IN SUBMITTING
FALSE AND FRAUDULENT RETURN –
ELEMENTS**

[The indictment charges defendant[s] with; Count[s] _____ of the indictment charge[s] the defendant[s] with] aiding and abetting in the [preparation; presentation] of a false tax return. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [aided; assisted in; procured; counseled; advised] the [preparation; presentation] of an [income] tax return that was false as to a material matter. There must be some affirmative participation which at least encourages the perpetrator. The return must be filed with the Internal Revenue Service. [The government is not required to prove that the defendant [prepared [or] signed] the tax return.]; and
2. The defendant knew that the income tax return was false, that is, that the income tax return was untrue when it was made.; and
3. The defendant acted willfully, that is, with the intent to violate the law.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

26 U.S.C. §7206(2) KNOWLEDGE OF TAXPAYER IRRELEVANT

The government is not required to prove that the taxpayer [who filed the false tax return; for whom the false tax return was filed] knew the return was false.

26 U.S.C. §7206**MATERIALITY**

A false matter is material if the matter was capable of influencing the Internal Revenue Service.

26 U.S.C. §§7201, 7203, 7206**KNOWLEDGE OF CONTENTS
OF RETURN**

You may infer that a tax return was, in fact, signed by the person whose name appears to be signed to it. You are not required, however, to infer this.

If you find that the government has proved beyond a reasonable doubt that the defendant signed [a; the] tax return, then you may infer that the defendant knew of the contents of the return. You are not required, however, to infer this.

26 U.S.C. §§7201, 7203, 7206

**FUNDS OR PROPERTY FROM
UNLAWFUL SOURCES**

In determining the defendant's taxable income, income received from unlawful activities is treated in the same manner as income from lawful activities.

**CORRUPTLY ENDEAVORING TO OBSTRUCT
OR IMPEDE DUE ADMINISTRATION OF
INTERNAL REVENUE LAWS – ELEMENTS**

[The indictment charges defendant[s] with; Count ____ of the indictment charges the defendant[s] with] corruptly endeavoring to obstruct or impede the due administration of the internal revenue laws. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant [made an effort; acted] with the purpose to obstruct or impede the due administration of the internal revenue laws, which includes the Internal Revenue Service's lawful functions to [ascertain income; compute, assess and collect income taxes; audit tax returns and records; and investigate possible criminal violations of the internal revenue laws].; and
2. The defendant's [effort; act] had a reasonable tendency to obstruct or impede the due administration of the internal revenue laws. The effort need not be successful.; and
3. The defendant acted knowingly.; and
4. The defendant acted [corruptly, that is,] with the purpose to obtain an unlawful benefit for himself or someone else.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

26 U.S.C. §7212**GOOD FAITH**

If the defendant believes in good faith that he is acting within the law or that his actions comply with the law, he cannot be said to have acted [corruptly, or] with the purpose to obtain an unlawful benefit for himself or someone else. This is so even if the defendant's belief was not objectively reasonable. However, you may consider the reasonableness of the defendant's belief together with all the other evidence to determine whether the defendant held the belief in good faith.

26 U.S.C. §5845

DEFINITIONS OF “FIREARM-RELATED TERMS”

No instruction.

**26 U.S.C. §5861(a) FAILURE TO PAY TAX OR REGISTER –
ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] engaging as a [manufacturer of; importer of; dealer in] firearms [without having paid the special tax; without having registered] as required by law. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant was engaged in business as a [manufacturer of; importer of; dealer in] firearms; and
2. The defendant did so [without having first paid the special tax; without having registered] as required by law.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**26 U.S.C. §5861(D) RECEIVING OR POSSESSING AN
UNREGISTERED FIREARM – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [receiving; possessing] a firearm which is not registered in the National Firearms Registration and Transfer Record. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly [possessed; received] a firearm [as described in the indictment] that had (a) characteristic(s) which required it to be registered in the National Firearms Registration and Transfer Record, specifically, that it (list characteristic(s)); and
2. The defendant knew that the firearm had that/those characteristic(s); and
3. The firearm was not registered in the National Firearms Registration and Transfer Record.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**26 U.S.C. §5861(H) RECEIPT OR POSSESSION OF A FIREARM
WITH AN OBLITERATED, REMOVED, CHANGED,
OR ALTERED SERIAL NUMBER – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] unlawful [receipt; possession] of a firearm with a[n] [obliterated; removed; changed; altered] serial number. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly [received; possessed] a firearm [as described in the indictment]; and
2. The firearm had a[n] [obliterated; removed; changed; altered] serial number; and
3. The defendant knew that the serial number had been [obliterated; removed; changed; altered].

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**26 U.S.C. §5861(J) TRANSPORTING, DELIVERING OR RECEIVING
AN UNREGISTERED FIREARM – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [transporting; delivering; receiving] an unregistered firearm. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant knowingly [transported; delivered; received] a firearm [as described in the indictment] in interstate commerce that had (a) characteristic(s) which required it to be registered in the National Firearms Registration and Transfer Record, specifically, that it (list characteristic(s)); and
2. The firearm was unregistered; and
3. The defendant knew that the firearm had that/those characteristic(s) that caused it to be required to be registered.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

**31 U.S.C. §5324(A)(3) STRUCTURING FINANCIAL TRANSACTIONS –
ELEMENTS**

[The indictment charges defendant[s] with; Count[s] ____ of the indictment charge[s] the defendant[s] with] structuring a currency transaction. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the following [three] elements beyond a reasonable doubt:

1. [Defendant's name] had knowledge that [financial institutions; insert name(s) of financial institution(s) involved] are required to report currency transactions in amounts greater than \$10,000; and
2. [Defendant's name] [structured; attempted to structure] a currency transaction for the purpose of evading this reporting requirement; and
3. The transaction involved one or more domestic financial institutions.

I will define some of these terms in a moment.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

A financial institution must file a currency transaction report with the Internal Revenue Service every time a customer engages in a currency transaction of more than \$10,000.00.

[Commercial banks; banks that are insured by the Federal Deposit Insurance Corporation; credit union; insert other] are financial institutions.

A currency transaction is the physical transfer of currency from one [person [or] entity] to another [person [or] entity].

A person structures a currency transaction when he[, by himself or on behalf of others,] conducts one or more currency transactions at one [or more] financial institution[s] [or different branches of the same financial institution], on one [or more] day[s], with the purpose of evading currency transaction reporting requirements. Structuring may include breaking down a single sum of currency over \$10,000 into smaller sums, or conducting a series of cash transactions all at or below \$10,000, with the purpose of evading currency transaction reporting requirements.

You may find [defendant's name] guilty of unlawfully structuring a transaction regardless of whether the financial institution filed a true and accurate currency transaction report.

**42 U.S.C. §408(a)(3) MAKING OR CAUSING TO BE MADE A FALSE
STATEMENT OR REPRESENTATION OF
MATERIAL FACT FOR USE IN DETERMINING
A FEDERAL BENEFIT – ELEMENTS**

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] [making; causing to be made] a false statement or representation for use in determining federal benefits. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant [made; caused to be made] the false statement or representation [as charged in the indictment]; and
2. The statement or representation was for use in determining the right to a federal benefit; and
3. The statement or representation was of a material fact.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] using a falsely obtained social security number. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [four] following elements beyond a reasonable doubt:

1. The defendant willfully used for any purpose a social security account number assigned by the Commissioner of Social Security; and
2. The social security account number was obtained based on false information provided to the Commissioner of Social Security by any person; and
3. The defendant knew the social security account number he was using had been obtained based on false information; and
4. The defendant used the social security account number with the intent to deceive.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

42 U.S.C. §408(A)(7)(A) AND (B) DEFINITION OF “INTENT TO DECEIVE”

“Intent to deceive” means to act for the purpose of misleading someone. It is not necessary for the government to prove, however, that anyone was in fact misled or deceived.

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] use of a false social security number. In order for you to find [a; the] defendant guilty of this charge, the government must prove each of the [three] following elements beyond a reasonable doubt:

1. The defendant represented for any purpose a particular social security account number to be his [or another person's];
2. The representation was false; and
3. The defendant acted with intent to deceive.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

[The indictment charges the defendant[s] with; Count[s] __ of the indictment charge[s] the defendant[s] with] a violation of this statute regarding social security cards. In order for you to find [a; the] defendant guilty of this charge, the government must prove both of the following elements beyond a reasonable doubt:

1. The defendant altered a social security card; and
2. The defendant did so knowingly.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant guilty [of that charge].

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any one of these elements beyond a reasonable doubt [as to the charge you are considering], then you should find the defendant not guilty [of that charge].

42 U.S.C. §408(A)(7)(C)**DEFINITION OF “COUNTERFEIT”**

“Counterfeit[ed]” means that the social security card bears [or was made to bear] such a likeness or resemblance to something genuine that it is calculated to deceive an honest, sensible, and unsuspecting person of ordinary observation and using care when dealing with an individual who is presumed to be honest and upright.

PRELIMINARY INSTRUCTIONS

10.01 FUNCTIONS OF COURT AND JURY

Ladies and gentlemen: You are now the jury in this case. I would like to take a few minutes to describe your duties as jurors and to give you instructions concerning the case.

As the judge in this case, one of my duties is to decide all questions of law and procedure. In these preliminary instructions, during the trial, and at the end of the trial, I will instruct you on the rules of law that you must follow in making your decision. The instructions that I give you at the end of the trial will be more detailed than the instructions I am giving you now. [Each of you will have a copy of the instructions that I give you at the end of the case.]

You have two duties as jurors. Your first duty is to decide the facts from the evidence that you see and hear in court. Your second duty is to take the law as I give it to you, apply it to the facts, and decide if the government has proved the defendant[s] guilty beyond a reasonable doubt [and whether the defendant has proved [insert defense] by a preponderance of the evidence; by clear and convincing evidence].

You must perform these duties fairly and impartially. Do not let sympathy, prejudice, fear, or public opinion influence you. [In addition, do not let any person's race, color, religion, national ancestry, or gender influence you.]

[You must give [name of corporate/entity defendant] the same fair consideration that you would give to an individual.]

You should not take anything I say or do during the trial as indicating what I think of the evidence or what I think your verdict should be.

10.02 THE CHARGE

The charge[s] against the defendant [is; are] in a document called an indictment [information]. [You will have a copy of the indictment during your deliberations.]

The indictment [information] in this case charges that the defendant[s] committed the crime[s] of [fill in short description of charged offenses]. The defendant[s] [has; have] pleaded not guilty to the charge[s].

The indictment [information] is simply the formal way of telling the defendant what crime[s] [he is; they are] accused of committing. It is not evidence that the defendant[s] [is; are] guilty. It does not even raise a suspicion of guilt.

10.03 PRESUMPTION OF INNOCENCE/BURDEN OF PROOF

[The; each] defendant is presumed innocent of [each and every one of] the charge[s]. This presumption continues throughout the case. It is not overcome unless, from all the evidence in the case, you are convinced beyond a reasonable doubt that the [defendant; particular defendant you are considering] is guilty as charged.

The government has the burden of proving [the; each] defendant's guilt beyond a reasonable doubt. This burden of proof stays with the government throughout the case.

[The; a] defendant is never required to prove his innocence. He is not required to produce any evidence at all.

Alternative to paragraphs 2–3, to be used when affirmative defense is raised on which defendant has burden of proof:

The government has the burden of proving every element of the crime[s] charged beyond a reasonable doubt. This burden of proof stays with the government throughout the case. [The; A] defendant is never required to prove his innocence. He is not required to produce any evidence at all.

However, the defendant has the burden of proving the defense of [identify defense, e.g. duress, insanity] by [a preponderance of the evidence; clear and convincing evidence].

10.04 THE EVIDENCE

You may consider only the evidence that you see and hear in court. You may not consider anything you may see or hear outside of court, including anything from the newspaper, television, radio, the Internet, or any other source.

The evidence includes only what the witnesses say when they are testifying under oath[,] [and] the exhibits that I allow into evidence[,] [and] any facts to which the parties [agree; stipulate]. [A stipulation is an agreement that [[certain facts are true] [or] [that a witness would have given certain testimony].]

Nothing else is evidence. Any statements and arguments that the lawyers make are not evidence. If what a lawyer says is different from the evidence as you hear or see it, the evidence is what counts. The lawyers' questions and objections likewise are not evidence.

A lawyer has a duty to object if he thinks a question or evidence is improper. When an objection is made, I will be required to rule on the objection. If I sustain an objection to a question a lawyer asks, you must not speculate on what the answer might have been. If I strike testimony or an exhibit from the record, or tell you to disregard something, you must not consider it.

Pay close attention to the evidence as it is being presented. During your deliberations, you will have any exhibits that I allow into evidence, but you will not have a transcript of the testimony. You will have to make your decision based on what you recall of the evidence.

10.05 TESTIMONY PRESENTED THROUGH INTERPRETER

[Language(s) other than English] may be used during the trial. When that happens, you should consider only the evidence provided through the official interpreter. Although some of you may know [language(s) used], it is important for all jurors to consider the same evidence. For this reason, you must base your decision on the evidence presented in the English translation.

10.06 DIRECT AND CIRCUMSTANTIAL EVIDENCE

You may have heard the terms “direct evidence” and “circumstantial evidence.” Direct evidence is evidence that directly proves a fact. Circumstantial evidence is evidence that indirectly proves a fact.

[For example, direct evidence that it was raining outside is testimony by a witness that it was raining. Indirect evidence that it was raining outside is the observation of someone entering a room carrying a wet umbrella.]

You are to consider both direct and circumstantial evidence. The law does not say that one is better than the other. It is up to you to decide how much weight to give to any evidence, whether direct or circumstantial.

10.07 CONSIDERING THE EVIDENCE

Give the evidence whatever weight you believe it deserves. Use your common sense in weighing the evidence, and consider the evidence in light of your own everyday experience.

People sometimes look at one fact and conclude from it that another fact exists. This is called an inference. You are allowed to make reasonable inferences, so long as they are based on the evidence.

10.08 CREDIBILITY OF WITNESSES

Part of your job as jurors will be is to decide how believable each witness was, and how much weight to give each witness's testimony. I will give you additional instructions about this at the end of the trial.

10.09 NUMBER OF WITNESSES

Do not make any decisions by simply counting the number of witnesses who testified about a certain point.

What is important is how believable the witnesses were and how much weight you think their testimony deserves.

10.10 JUROR NOTE-TAKING

You will be permitted to take notes during the trial. If you take notes, you may use them during deliberations to help you remember what happened during the trial. You should use your notes only as aids to your memory. The notes are not evidence. All of you should rely on your independent recollection of the evidence, and you should not be unduly influenced by the notes of other jurors. Notes are not entitled to any more weight than the memory or impressions of each juror.

10.11 JUROR CONDUCT

Before we begin the trial, I want to discuss several rules of conduct that you must follow as jurors.

First, you should keep an open mind throughout the trial. Do not make up your mind about what your verdict should be until after the trial is over, you have received my final instructions on the law, and you and your fellow jurors have discussed the evidence.

Your verdict in this case must be based exclusively on the law as I give it to you and the evidence that is presented during the trial. For this reason, and to ensure fairness to both sides in this case, you must obey the following rules. These rules apply both when you are here in court and when you are not in court. They apply until after you have returned your verdict in the case.

1. You must not discuss the case, including anyone who is involved in the case, among yourselves until you go to the jury room to deliberate after the trial is completed.
2. You must not communicate with anyone else about this case, including anyone who is involved in the case, until after you have returned your verdict.
3. When you are not in the courtroom, you must not allow anyone to communicate with you about the case or give you any information about the case, or about anyone who is involved in the case. If someone tries to communicate with you about the case or someone who is involved in the case, or if you overhear or learn any information about the case or someone involved in the case when you are not in the courtroom, you must report this to me promptly.
4. You may tell your family and your employer that you are serving on a jury, so that you can explain that you have to be in court. However, you must not communicate with them about the case or anyone who is involved in the case until after you have returned your verdict.
5. All of the information that you will need to decide the case will be presented here in court. You may not look up, obtain, or consider information from any outside source.

There are two reasons for these rules. First, it would not be fair to the parties in the case for you to consider outside information or communicate information about the case to others. Second, outside information may be incorrect or misleading.

When I say that you may not obtain or consider any information from outside sources, and may not communicate with anyone about the case, I am referring to any and all means by which people communicate or obtain information. This includes, for example, face to face conversations; looking things up; doing research; reading, watching, or listening to reports in the news media; and any communication using any electronic device or media, such as a telephone, cell phone, smart phone, iPhone, Android, Blackberry or similar device, PDA, computer, the Internet, text messaging, chat rooms, blogs, social networking websites like Facebook, YouTube, Twitter, Google Plus[, or] LinkedIn [or] [list additional sites or technologies as appropriate], or any other form of communication at all. If you hear, see, or receive any information about the case by these or any other means, you must report that to me immediately.

10.12 CONDUCT OF THE TRIAL

We are now ready to begin the trial. The trial will proceed in the following manner:

First, each side's attorney[s] may make an opening statement. An opening statement is not evidence. Rather, it is a summary of what each side's attorney[s] expect the evidence will show.

After the opening statements, you will hear the evidence.

After the evidence has been presented, the attorneys will make closing arguments, and I will instruct you on the law that applies to the case.

After that, you will go to the jury room to deliberate on your verdict.