**9.4 ALIEN—ENCOURAGING ILLEGAL ENTRY**

**(8 U.S.C. § 1324(a)(1)(A)(iv))**

The defendant is charged in [Count \_\_\_\_\_\_\_ of] the indictment with encouraging illegal entry by an alien in violation of Section 1324(a)(1)(A)(iv) of Title 8 of the United States Code. In order for the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

First, [*name of alien*] was an alien;

Second, the defendant encouraged or induced [*name of alien*] to [come to] [enter] [reside in] the United States in violation of law; and

Third, the defendant [knew] [acted in reckless disregard of the fact] that [*name of alien*]’s [coming to] [entry into] [residence in] the United States would be in violation of the law.

An alien is a person who is not a natural-born or naturalized citizen of the United States. An alien enters the United States in violation of law if not duly admitted by an Immigration Officer.

**Comment**

*See* Comment to Instructions 9.1 (Alien—Bringing to United States (Other than Designated Place)) and 9.2 (Alien—Illegal Transportation).

Statutory maximum sentences under § 1324 are increased for offenses done for commercial advantage or private financial gain, or which caused serious bodily injury, placed the life of any person in jeopardy, or resulted in the death of a person. In such cases, a special jury finding is required.

Concerning the elements of the crime, s*ee United States v. Sineneng-Smith*, 982 F.3d 766, 776 (9th Cir. 2020).

“Encourage” within the meaning of Section 1324(a)(1)(A)(iv) is defined “as ‘to inspire with courage, spirit, or hope . . . to spur on . . . to give help or patronage to.’” *Sineneng-Smith*, 982 F.3d at 773 (quoting *United States v. Thum*, 749 F.3d 1143, 1148 (9th Cir. 2014)). A defendant’s encouragement or inducing must be knowing. *Id.*

The scope of 8 U.S.C. § 1324(a)(1)(A)(iv) is not limited to conduct involving unlawful means (e.g., fraud, false documents, or fraud against the government) or conduct that provides no legitimate benefit to the alien. *Sineneng-Smith*, 982 F.3d at 774.

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