**10.4 Bribery of Witness (18 U.S.C. § 201(b)(3))**

The defendant is charged in [Count \_\_\_\_\_\_\_ of] the indictment with bribery of a witness in violation of Section 201(b)(3) of Title 18 of the United States Code. 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 witness*] was to be a witness under oath at a [*specify proceeding*];

Second, the defendant [gave] [offered] [promised] something of value, [*specify the thing of value*], to [*name of witness*]; and

Third, the defendant acted corruptly, that is, with the intent to influence [[the testimony of [*name of witness*]] [[*name of witness*] to be absent from the proceeding].

**Comment**

It is recommended that the instruction specifically describe the thing of value just as it is described in the indictment to avoid a variance. *See* Comment to Instruction 10.2 (Bribery of Federal Public Official).

Depending on the facts in evidence, it may be appropriate to amend this instruction with language requiring specific jury unanimity (*e.g.*, “with all of you agreeing as to what the defendant intended the witness to do in return for the bribe”).  *See* Instruction 6.27 (Specific Issue Unanimity).

*Revised Apr. 2019*