**20.20 Sexual Exploitation of Child—Transportation of Visual**

**Depiction into United States (18 U.S.C. § 2251(c))**

The defendant is charged in [Count \_\_\_\_\_\_ of] the indictment with sexual exploitation of a child in violation of Section 2251(c) 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, at the time, [*name of victim*] was under the age of eighteen years;

Second, the defendant [[employed] [used] [persuaded] [induced] [enticed] [coerced]] [*insert name of victim*] to engage in sexually explicit conduct or assist any other person to engage in sexually explicit conduct outside of the United States, its territories, or possessions, for the purpose of producing a visual depiction of such conduct; and

Third, the defendant

[intended that the visual depiction be mailed or transported into the United States, its territories, or possessions by any means, including by using any means or facility of interstate commerce or mail.]

*or*

[actually mailed or transported the visual depiction into the United States, its territories, or possessions by any means, including by using any means or facility of interstate commerce or mail.]

In this case, “sexually explicit conduct” means [*specify applicable statutory definition*].

In this case, “producing” means [*specify applicable statutory definition*].

In this case, “visual depiction” means [*specify applicable statutory definition*].

**Comment**

“Sexually explicit conduct” is defined in 18 U.S.C. § 2256(2).

“Producing” is defined in 18 U.S.C. § 2256(3).

“Visual depiction” is defined in 18 U.S.C. § 2256(5).

The phrase “for the purpose of” requires only proof of motive. *United States v. Rosenow*, 50 F.4th 715, 740 (9th Cir. 2022). It does not require but-for causation. *Id.*

Transportation into the United States, its territories, or possessions can be accomplished by any means. 18 U.S.C. § 2251(c).

The age of the victim is a strict liability element; thus, a defendant may be properly

convicted of a completed violation of § 2251(c) without a finding by the jury that the defendant

knew or should have known that the victim was a minor. *United States v. Jayavarman*, 871 F.3d

1050, 1058 (9th Cir. 2017).

A defendant may be properly convicted of an attempt to violate § 2251(c) if the defendant believes the victim is a minor, even if the victim is actually an adult. *Jayavarman*, 871 F.3d at 1059.

*Revised Dec. 2022*