**20.25A Sex Trafficking by Force, Fraud,**

**or Coercion (18 U.S.C. § 1591(a)(1))**

The defendant is charged in [Count \_\_\_\_\_\_ of] the indictment with engaging in sex trafficking by force, fraud, or coercion in violation of Section 1591 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, the defendant knowingly [recruited] [enticed] [harbored] [transported] [provided] [obtained] [advertised] [maintained] [patronized] [or] [solicited] a person;

Second, the defendant [knew] [was in reckless disregard of the fact] that force, threats of force, fraud, coercion, or any combination would be used to cause the person to engage in a commercial sex act; and

Third, the defendant’s acts were [in or affecting interstate or foreign commerce] [within the special maritime and territorial jurisdiction of the United States].

**Comment**

“Coercion” and “commercial sex act” are defined in 18 U.S.C. § 1591(e).

The victim need not be a minor when the charge is sex trafficking by “force, fraud, or coercion.”

The “reckless disregard” standard does not apply if the act is advertising. If the government charges “advertising,” the mens rea element is knowing. 18 U.S.C. § 1591(a).

“[T]he listed alternatives— ‘means of force, threats of force, fraud, coercion . . . or any

combination of such means’—are not elements but rather possible means to commit the crime of

human trafficking.” *United States v. Mickey*, 897 F.3d 1173, 1181 (9th Cir. 2018) (alteration in original) (emphases omitted). Therefore, the jury is not required to unanimously agree on the means used to traffic the victim. *Id*. (citing *Schad v. Arizona*, 501 U.S. 624, 631-32 (1991)). A special verdict form that asks the jury to identify which of the possible means the defendant used to traffic the victim is ill-advised because it has potential to create jury confusion, require further instruction, and cause the jury to “lose sight of what facts it is meant to find.” *Id*. at 1182.

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