**24.20 Failure to Appear or Surrender—Affirmative**

**Defense (18 U.S.C. § 3146(c))**

It is a defense to a charge of failure to [appear] [surrender] if uncontrollable circumstances prevented the person from [appearing] [surrendering]. To establish this defense, the defendant must prove that the following elements are more probably true than not true:

First, uncontrollable circumstances prevented the defendant from [appearing] [surrendering];

Second, the defendant did not contribute to the creation of the circumstances in reckless disregard of the requirement to [appear] [surrender]; and

Third, the defendant [appeared] [surrendered] as soon as the uncontrollable circumstances ceased to exist.

If you find that each of these elements is more probably true than not true, you must find the defendant not guilty of the charge of failure to [appear] [surrender].

**Comment**

*See United States v. Springer*, 51 F.3d 861, 866-68 (9th Cir. 1995) (discussing “uncontrollable circumstances” prong).