**24.9 False Impersonation of Federal Officer or Employee**

**(18 U.S.C. § 912)**

 The defendant is charged in [Count \_\_\_\_\_\_\_ of] the indictment with fraud while impersonating a federal officer or employee in violation of Section 912 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 falsely pretended to be an [officer] [employee] acting under the authority of [the United States] [*specify federal department, agency, or officer*]; and

 Second, the defendant [acted as such] [in such pretended character demanded or obtained [*specify thing of value*]].

**Comment**

 Two options are afforded for the second element because 18 U.S.C. § 912 states two offenses. It has been held to be duplicitous to charge both falsely acting as a federal officer and demanding or obtaining money while falsely acting as a federal officer in a single count. *United States v. Aguilar*, 756 F.2d 1418, 1422 (9th Cir. 1985).

 To review the intent element of 18 U.S.C. § 912, *see United States v. Tomsha-Miguel*, 766 F.3d 1041, 1046-47 (9th Cir. 2014).

 To review the First Amendment limits on criminal laws that penalize false speech, *see United States v. Swisher*, 811 F.3d 299, 315-16 (9th Cir. 2016).

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