**8.4 Assault with Intent to Commit Murder or Other**

**Felony (18 U.S.C. § 113(a)(1), (2))**

The defendant is charged in [Count \_\_\_\_\_\_\_ of] the indictment with assault with intent to commit [*specify felony*] in violation of Section 113(a)[(1)][(2)] 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 assaulted [*name of victim*] by intentionally [[striking] [wounding]] [[him] [her]] [using a display of force that reasonably caused [him] [her] to fear immediate bodily harm];

Second, the defendant did so with the intent to commit [*specify felony*]; and

Third, the assault took place on [*specify place of federal jurisdiction*].

**Comment**

Assaults proscribed by 18 U.S.C. § 113 are those committed “within the special maritime and territorial jurisdiction of the United States.” *See* 18 U.S.C. § 7 for the definition of “special maritime and territorial jurisdiction of the United States.”

When the assault consists of a display of force, it must actually cause reasonable apprehension of immediate bodily harm; fear is a necessary element.  *United States v. Skeet*, 665 F.2d 983, 986 n.1 (9th Cir. 1982).

Assault with intent to commit murder is a specific intent crime. *United States v. Jones*, 681 F.2d 610, 611 (9th Cir. 1982).

*Revised Sept. 2016*