

CRIMINAL IMPERSONATION SECOND DEGREE
(Of a Public Servant)
Penal Law § 190.25 (3)
(Committed on or after Sept. 1, 1980)

The (*specify*) count is Criminal Impersonation in the Second Degree.

Under our law, a person is guilty of Criminal Impersonation in the Second Degree when he or she knowingly¹

Select appropriate alternative(s):

pretends to be a public servant, or

wears or displays without authority any uniform, badge, insignia or facsimile thereof by which a public servant is lawfully distinguished, or

falsely expresses by his or her words or actions that he or she is a public servant or is acting with approval or authority of a public agency or department;

and so acts with intent to induce another to submit to such pretended official authority, to solicit funds, or to otherwise cause another to act in reliance upon that pretense.

The following terms used in that definition have a special meaning:

PUBLIC SERVANT means (a) any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state, or (b) any person exercising the functions of any such public officer or employee. [The term public servant includes a person who has been elected or designated to become a public servant.]

¹ This charge was revised August 3, 2004, to add the word “knowingly” in order to comport with Penal Law § 15.05(2).

A person KNOWINGLY

Select appropriate alternative(s):

pretends to be a public servant, or

wears or displays without authority any uniform, badge, insignia or facsimile thereof by which a public servant is lawfully distinguished, or

falsely expresses by his or her words or actions that he or she is a public servant or is acting with approval or authority of a public agency or department;

when he or she is aware that he or she is doing so.

INTENT means conscious objective or purpose.² Thus, a person acts with intent to induce another to submit to such pretended official authority, to solicit funds, or to otherwise cause another to act in reliance upon that pretense when that person's conscious objective or purpose is to do so.

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, each of the following two elements:

1. That on or about (date), in the county of (county), the defendant (defendant's name), knowingly

Select appropriate alternative(s):

pretended to be a public servant, or

wore or displayed without authority any uniform, badge, insignia or facsimile thereof by which a

² See Penal Law § 15.05 (1)

public servant is lawfully distinguished, or

falsely expressed by his/her words or actions that he/she is a public servant or is acting with approval or authority of a public agency or department;

and

2. That the defendant did so with intent to induce another to submit to such pretended official authority, to solicit funds, or to otherwise cause another to act in reliance upon that pretense.

If you find the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of this crime.