**CRIMINAL IMPERSONATION SECOND DEGREE

(Internet or Electronic Impersonation of Another)

Penal Law § 190.25 (4)

(Committed on or after Nov. 1, 2008)**

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):*

impersonates another by communication by internet website or electronic means with intent to obtain a benefit or injure2 or defraud another, *or*

by communication by internet website or electronic means, pretends to be a public servant in order to induce another to submit to such authority or act in reliance on such pretense***.***

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

[BENEFIT means any gain or advantage to the beneficiary and includes any gain or advantage to a third person pursuant to the desire or consent of the beneficiary.3]

[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

1 The word “knowingly” does not appear in the statute and has been added in order to comport with Penal Law § 15.05 (2).

2 *See People v Golb*, 23 NY3d 455 (2014) (an intent to injure another includes, but is not limited to, an intent to injure another person’s reputation).

3 Penal Law § 10.00 (17).

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.)4]

A person KNOWINGLY

*Select appropriate alternative(s):*

impersonates another by communication by internet website or electronic means, *or*

by communication by internet website or electronic means pretends to be a public servant

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

[INTENT means conscious objective or purpose.5 Thus, a person acts with intent to obtain a benefit or to injure or defraud another 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 of 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):*

impersonated another by communication by internet website or electronic means, *or*

4 Penal Law § 10.00 (15).

5 *See* Penal Law § 15.05 (1).

by communication by internet website or electronic

means pretended to be a public servant;

and

2. That the defendant did such an act

*Select appropriate alternative(s):*

with intent to obtain a benefit or injure or defraud (*specify), or*

in order to induce (*specify*) to submit to such authority or act in reliance on such 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.