

CRIMINAL IMPERSONATION FIRST DEGREE
(E Felony)
(Of a Police Officer)
PENAL LAW 190.26 (1)¹
(Committed on or after Nov. 1, 2008)
(Revised December 2014)²

The _____ count is Criminal Impersonation in the First Degree.

Under our law, a person is guilty of Criminal Impersonation in the First Degree when he or she knowingly³

Select appropriate alternative(s):

pretends to be a police officer or a federal law enforcement officer,⁴

wears or displays without authority, any uniform, badge or other insignia or facsimile thereof, by which such police officer or federal law enforcement officer is lawfully distinguished,

expresses by words or actions that he or she is acting with the approval or authority of any police department or of any agency that employs federal law enforcement officers,

and so acts with intent to induce another to submit to such pretended official authority, or otherwise to act in reliance upon said pretense and in the course of such pretense commits [or attempts to commit] a felony.

¹ Subdivision one and two of this section are in reality one subdivision because both subdivisions are connected by the word “and.”

² The revision was for the purpose of incorporating the holding in *People v Williams*, 107 AD3d 1391 (4th Dept 2013). See footnote 6.

³ The word “knowingly” has been added to comport with Penal Law § 15.05 (2).

⁴ See CPL 2.15.

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the terms: “knowingly” and “intent.”

A person KNOWINGLY

Select appropriate alternative(s):

pretends to be a police officer or a federal law enforcement officer,

wears or displays without authority, any uniform, badge or other insignia or facsimile thereof, by which such police officer or federal law enforcement officer is lawfully distinguished,

expresses by words or actions that he or she is acting with the approval or authority of any police department or of any agency that employs federal law enforcement officers,

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 induce another to submit to such pretended official authority, or otherwise to act in reliance upon said pretense when that person’s conscious objective or purpose is to do so.

Under our law, (*specify*) (is/are) (a felony/felonies). *If appropriate, define same.*

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 three elements:

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

⁵ See Penal Law § 15.05 (1).

Select appropriate alternative(s):

pretended to be a police officer or a federal law enforcement officer, or

wore or displayed without authority any uniform, badge, insignia or facsimile thereof by which a police officer or federal law enforcement officer is lawfully distinguished, or

expressed by words or actions that he/she was acting with the approval or authority of any police department or of any agency that employs federal law enforcement officers;

2. That the defendant did so with intent to induce another to submit to such pretended official authority, or otherwise to act in reliance upon said pretense; and

3. In the course of such pretense, the defendant committed or attempted to commit the felony of (*specify*) [or: one or more of the felonies of (*specify*)].⁶

Therefore, if you find that the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of the crime of Criminal Impersonation in the First Degree as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of the crime of Criminal Impersonation in the First Degree as charged in the _____

⁶ In *People v Williams*, 107 AD3d 1391, 1392-1393 (4th Dept 2013), the indictment charged the defendant with "criminal impersonation in the first degree" and specified the felony the defendant allegedly committed during the impersonation. The trial court failed to charge that specific felony and contrary to the specification in the indictment, charged the jury that the commission of any felony during the impersonation would suffice. The Appellate Division held that was error when the indictment or bill of particulars specifies the applicable felony.

_____ count.