

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CEDAR RAPIDS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CORY GALL,

Defendant.

No. 24-CR-32-CJW-MAR

**JURY INSTRUCTIONS**

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Members of the Jury:

In the next few moments, I am going to give you instructions about this case and about your duties as jurors. I will also give you additional instructions at a later time. Unless I specifically tell you otherwise, all instructions—both those I give you now and those I give you later—are equally binding on you and must be followed.

The instructions I am about to give you now are in writing and will be available to you in the jury room. In considering these instructions, attach no importance or significance whatsoever to the order in which they are given.

## **INSTRUCTION NO. 1**

This is a criminal case the United States government has brought against the defendant. The charge is set forth in what is called an Indictment.

The Indictment charges that, between on or about December 6, 2023, and December 7, 2023, in the Northern District of Iowa, the defendant, using a facility and means of interstate and foreign commerce, knowingly attempted to persuade, induce, and entice a person whom the defendant believed to be under 18 years of age to engage in sexual activity for which a person could be charged with a criminal offense, that is, sexual abuse under Iowa law.

The defendant has pled not guilty to this charge.

You are instructed that an indictment is simply an accusation. It is not evidence of anything. The defendant has pled not guilty and is presumed innocent unless and until proven guilty beyond a reasonable doubt. Thus, the defendant begins the trial with a clean slate, with no evidence against him. The presumption of innocence alone is sufficient to find the defendant not guilty and can be overcome only if the government proves during the trial, beyond a reasonable doubt, each element of the crime charged.

There is no burden upon the defendant to prove that he is innocent. Instead, the burden of proof remains on the government throughout the trial. Accordingly, if the defendant does not testify, you must not consider that fact in any way, or even discuss it, in arriving at your verdict.

This instruction describes the charges in the Indictment. The government may charge a defendant using conjunctive (“and”) language, but need only prove its case in the disjunctive. When the following instructions use disjunctive (“or”) language, the government may prove its case in the disjunctive. For example, the Indictment uses the words “interstate and foreign commerce,” while the following instructions use the words “interstate or foreign commerce.”

## **INSTRUCTION NO. 2**

It will be your duty as jurors to decide from the evidence whether the defendant is guilty or not guilty of the crime charged. From the evidence, you will decide what the facts are. You are entitled to consider that evidence in the light of your own observations and experiences in the affairs of life. You may use reason and common sense to draw deductions or conclusions from facts which the evidence has established. You will then apply those facts to the law which I give you in my instructions. You are the sole judges of the facts, but you must follow the law as stated in my instructions, whether you agree with it or not.

Do not allow sympathy or prejudice to influence you. The law demands of you a just verdict, unaffected by anything except the evidence, your common sense, and the law as I give it to you.

You should not take anything I may say or do during the trial as indicating what I think of the evidence or what I think your verdict should be.

Finally, please remember that only this defendant, not anyone else, is on trial here, and that the defendant is on trial only for the crime charged, not for anything else.

### **INSTRUCTION NO. 3**

I have mentioned the word “evidence.” The “evidence” in this case consists of the following: the testimony of the witnesses, the documents and other things received as exhibits, and the facts that have been stipulated to—that is, facts the parties have formally agreed to.

Certain things are not evidence. I will list those things for you now:

1. The lawyers’ statements, arguments, questions and comments are not evidence.
2. Anything that jurors, the attorneys, or the judge might have said during the jury selection process is not evidence.
3. Objections are not evidence. The parties have a right to object when they believe something is improper. Do not let objections influence you. If I sustained an objection to a question, you must ignore the question and must not try to guess what the answer might have been.
4. Testimony that I strike from the record, or tell you to disregard, is not evidence and must not be considered.
5. Anything you see or hear about this case outside the courtroom is not evidence.

During the trial, documents and objects may be referred to but not admitted into evidence. In such a case, these items will not be available to you in the jury room during deliberations.

Furthermore, a particular item of evidence is sometimes received for a limited purpose only. That is, you can only use that evidence for one particular purpose, and not for any other purpose. I will tell you if this occurs and instruct you on the purposes for which the item can and cannot be used.

#### **INSTRUCTION NO. 4**

There are two types of evidence from which you may properly find the truth as to the facts of this case: direct evidence and circumstantial evidence. Direct evidence is the evidence of the witnesses to a fact or facts of which they have knowledge by means of their senses. The other is circumstantial evidence—the proof of a chain of circumstances pointing to the existence or nonexistence of certain facts. The law makes no distinction between direct and circumstantial evidence. You should give all evidence the weight and value you believe it is entitled to receive.

## **INSTRUCTION NO. 5**

The jurors are the sole judges of the weight and credibility of the testimony, and the value to be given to the testimony, of each witness who testifies in this case. In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness says, or only part of it, or none of it.

In deciding what testimony of any witness to believe, consider the witness' intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness' memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the general reasonableness of the testimony, and the extent to which the testimony is consistent with other evidence that you believe.

You may hear testimony about the character and reputation of one or more of the witnesses for truthfulness. You may consider this evidence only in deciding whether to believe the testimony of that witness and how much weight to give to it.

In deciding whether to believe a witness, keep in mind that people sometimes hear or see things differently and sometimes forget things. You need to consider, therefore, whether a contradiction is an innocent misrecollection or lapse of memory or an intentional falsehood, and that may depend on whether it has to do with an important fact or only a small detail.

If the defendant chooses to testify, you should judge that testimony in the same manner as you judge the testimony of any other witness.

### **INSTRUCTION NO. 6**

In the previous instruction, I instructed you generally on the credibility of witnesses. I now give you this further instruction on how the credibility of a witness can be “impeached.”

A witness may be discredited or impeached by contradictory evidence; by showing that the witness testified falsely concerning a material matter; by showing the witness has a motive to be untruthful; or by evidence that at some other time the witness has said or done something, or has failed to say or do something, that is inconsistent with the witness’ present testimony.

### **INSTRUCTION NO. 7**

Exhibits will be admitted into evidence and are to be considered along with all the other evidence to assist you in reaching your verdict. During your deliberations, you are not to tamper with the exhibits or their contents, and you should leave the exhibits in the jury room in the same condition as you received them.

### **INSTRUCTION NO. 8**

Reasonable doubt is doubt based upon reason and common sense, and not doubt based on speculation. A reasonable doubt may arise from careful and impartial consideration of all the evidence, or from a lack of evidence. Proof beyond a reasonable doubt is proof of such a convincing character that a reasonable person, after careful consideration, would not hesitate to rely and act upon that proof in life's most important decisions. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. Proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

## INSTRUCTION NO. 9

The crime of attempted enticement of a minor, as charged in the Indictment, has two elements, which are:

*One*, between on or about December 6, 2023, and December 7, 2023, the defendant intended to commit the offense of enticement of a minor; and

*Two*, the defendant voluntarily and intentionally carried out some act that was a substantial step toward the offense of enticement of a minor.

A “substantial step” must be something more than mere preparation, yet may be less than the last act necessary before the actual commission of the crime of enticement of a minor. For behavior to be punishable as an attempt, it need not be incompatible with innocence, yet it must be necessary to the enticement of a minor and be of such a nature that a reasonable observer viewing it in context could conclude beyond a reasonable doubt that it was undertaken in accordance with a design to commit the crime of enticement of a minor.

The crime of enticement of a minor has three elements, which are:

*One*, the defendant knowingly used a means or facility of interstate or foreign commerce;

*Two*, the defendant knowingly used the means or facility of interstate or foreign commerce with the intent to persuade, induce, or entice an individual under eighteen (18) years of age to engage in sexual abuse; and

*Three*, the defendant knew that such individual was under eighteen (18) years of age.

It is not necessary for the government to prove that an individual was, in fact, less than eighteen (18) years of age; but it is necessary for the government to prove the defendant believed an individual to be under that age.

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### **INSTRUCTION NO. 9 (Cont'd)**

It is not necessary for the government to prove that an individual was actually persuaded, induced, or enticed to engage in sexual abuse, but it is necessary for the government to prove the defendant intended to commit the offense of enticement of a minor and voluntarily and intentionally carried out some act that was a substantial step toward the offense of enticement of a minor.

Sexual abuse is a crime under the laws of Iowa. As relevant to this case, the elements of this offense are:

1. The defendant performed a sex act with the victim; and
2. The defendant performed the sex act while the victim was thirteen (13), fourteen (14), or fifteen (15) years old.

If the victim was fourteen (14) or fifteen (15) years old, under the laws of Iowa, the government also must prove the following:

3. The defendant was four (4) or more years older than the victim; and
4. The defendant and the victim were not then living together as husband and wife.

Under Iowa law, the term “sex act” means any sexual contact between two or more persons by any of the following:

1. Penetration of the penis into the vagina or anus;
2. Contact between the mouth and genitalia or by contact between the genitalia of one person and the genitalia or anus of another person;
3. Contact between the finger, hand, or other body part of one person and the genitalia or anus of another person, except in the course of examination or treatment by a person licensed pursuant to state law;
4. Ejaculation onto the person of another;

**(CONTINUED)**

**INSTRUCTION NO. 9 (Cont'd)**

5. By use of artificial sexual organs or substitutes therefor in contact with the genitalia or anus; or
6. By the touching of a person's own genitals or anus with a finger, hand, or artificial sexual organ or other similar device at the direction of another person.

For you to find the defendant guilty of this crime, the government must prove both these elements beyond a reasonable doubt. Otherwise, you must find the defendant not guilty of the crime charged in the Indictment.

### **INSTRUCTION NO. 10**

You are further instructed that the following definitions apply:

“Interstate commerce” means commerce between any combination of states, territories, and possessions of the United States, including the District of Columbia.

“Foreign commerce” means commerce between any state, territory, or possession of the United States and a foreign country.

“Commerce” includes, among other things, travel, trade, transportation, and communication.

A “means or facility of interstate or foreign commerce” includes: (1) the Internet; (2) an instant messaging service; and (3) a cell phone, if it is used to communicate, transmit, or receive information.

### **INSTRUCTION NO. 11**

The government is not required to prove the defendant knew his acts or omissions were unlawful. An act is done knowingly if the defendant is aware of the act and does not act through ignorance, mistake, or accident.

Knowledge may be proved like anything else. You may consider any acts the defendant did or statements he made in connection with the offense, and all the facts and circumstances in evidence which may aid in a determination of the defendant's knowledge.

### **INSTRUCTION NO. 12**

You will note the Indictment charges that the offense was committed “on or about” certain dates. The government need not prove with certainty the exact date or the exact time period of the offenses charged. It is sufficient if the evidence establishes that the offenses occurred within a reasonable time of the date or period of time alleged in the Indictment.

### **INSTRUCTION NO. 13**

At the end of the trial, you must make your decision based on what you recall of the evidence. You will not have a written transcript to consult. Therefore, you must pay close attention to the testimony as it is given.

If you wish, you may take notes during the presentation of evidence to help you remember what witnesses said. If you do take notes, please keep them to yourself until you and your fellow jurors go to the jury room to decide the case. Do not let note-taking distract you so that you do not hear the witness' other answers.

During deliberations, in any conflict between your notes, a fellow juror's notes, and your memory, your memory must prevail. Notes sometimes contain the mental impressions of the note taker and can be used only to help you recollect what the testimony was.

We have given each juror an envelope with a pad and pen in it. The envelopes are numbered according to your seat in the jury box. When you leave for breaks or at night, please put your pad and pen in the envelope and leave the envelope on your chair. Your notes will be secured, and no one will read them. At the end of trial and your deliberations, your notes should be left in the jury room for destruction.

#### **INSTRUCTION NO. 14**

During the trial, it may be necessary for me to talk with the lawyers out of the hearing of the jury, either by having a bench conference while the jury is present in the courtroom or by calling a recess. If a bench conference is held in the courtroom, we will switch on what we refer to as “white noise” so that the jurors cannot hear what the lawyers and I are saying. While bench conferences are being conducted, you should feel free to stand and stretch and visit among yourselves about anything except the case.

### **INSTRUCTION NO. 15**

The trial will proceed in the following manner:

First, the attorney for the government will make an opening statement. Next, the attorney for the defendant may, but does not have to, make an opening statement. An opening statement is not evidence but is simply a summary of what the attorneys expect the evidence to be.

The government will then present its evidence, and the attorney for the defendant may cross-examine the government's witnesses. Following the government's case, the defendant may, but does not have to, present evidence, testify, or call other witnesses. If the defendant calls witnesses, the attorney for the government may cross-examine them.

After the presentation of evidence is completed, the attorneys will make their closing arguments to summarize and interpret the evidence for you. As with opening statements, closing arguments are not evidence. After that, the Court will instruct you further regarding your deliberations, and you will retire to deliberate on your verdict.

## INSTRUCTION NO. 16

During the course of the trial, to ensure fairness, you as jurors must obey the following rules.

*First*, do not talk among yourselves about this case, or about anyone involved with it, until the end of the case when you go to the jury room to decide on your verdict.

*Second*, do not talk with anyone else about this case, or about anyone involved with it, until the trial has ended and you have been discharged as jurors.

*Third*, do not use any electronic device or media, such as the telephone, a cell or smart phone, Blackberry, PDA, computer, the Internet, any Internet service, any text or instant messaging service, any Internet chat room, blog, or website such as Facebook, YouTube, or X (formerly Twitter), to communicate to anyone any information about this case, or your opinions concerning it, until the trial has ended and you have been discharged as jurors.

*Fourth*, when you are outside the courtroom, do not let anyone tell you anything about the case, or about anyone involved with it, until the trial has ended and I have accepted your verdict. If someone should try to talk with you about the case during the trial, please report it to me through the Court Security Officer.

*Fifth*, during the trial, you should not talk with or speak to any of the parties, lawyers, or witnesses involved in this case—you should not even pass the time of day with any of them. It is important not only that you do justice in this case, but that you also give the appearance of doing justice. If a person from one side of the case sees you talking to a person from the other side—even if it is simply to pass the time of day—an unwarranted and unnecessary suspicion about your fairness might be aroused. If any lawyer, party, or witness does not speak to you when you pass in the hall or the like, it is because they are not supposed to talk or visit with you.

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### INSTRUCTION NO. 16 (Cont'd)

*Sixth*, do not read any news stories or articles about the case, or about anyone involved with it, or listen to any radio or television reports about the case, or about anyone involved with it. In fact, until the trial is over, I suggest that you avoid reading any newspapers or news journals at all, and avoid listening to any TV or radio newscasts at all. I do not know whether there might be any news reports of this case, but, if there are, you might inadvertently find yourself reading or listening to something before you could do anything about it. If you want, you can have your spouse or a friend clip out any stories and set them aside to give you after the trial is over. I can assure you, however, that by the time you have heard the evidence in this case, you will know more about the matter than anyone will learn through the news media.

*Seventh*, do not do any research or make any investigation about the case on your own. Do not consult any reference materials such as the Internet, books, magazines, dictionaries, or encyclopedias. Do not contact anyone to ask them questions about issues that may arise in this case. You are not permitted to talk to anyone (except your fellow jurors) about this case or anyone involved with it until the trial has ended and I have discharged you as jurors.

*Eighth*, do not make up your mind during the trial about what the verdict should be. Keep an open mind until after you have gone to the jury room to decide the case and you and your fellow jurors have discussed the evidence.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

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C.J. WILLIAMS, Chief Judge  
United States District Court  
Northern District of Iowa

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CEDAR RAPIDS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CORY GALL,

Defendant.

No. 24-CR-32-CJW-MAR

**FINAL JURY INSTRUCTIONS**

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Members of the Jury:

The instructions I gave you at the beginning of the trial and during the trial remain in effect. I will now give you some additional instructions before you begin your deliberations.

You must, of course, continue to follow the instructions I gave you earlier, as well as those I give you now. You must not single out some instructions and ignore others, because all are important. This is true even though the instructions I gave you at the beginning of and during trial are not repeated here.

### **INSTRUCTION NO. 17**

One of the issues in this case is whether the defendant was entrapped. The government has the burden of proving beyond a reasonable doubt that the defendant was not entrapped by showing either: (1) the defendant was willing to entice a minor before Homeland Security Agent Hillary Nielsen or someone acting for the government approached or contacted the defendant; or (2) the government, or someone acting for the government, did not persuade or talk the defendant into attempting to entice a minor. If you find the government proved at least one of these two things beyond a reasonable doubt, then you must reject the defendant's claim of entrapment. If you find the government failed to prove at least one of these two things beyond a reasonable doubt, then you must find the defendant not guilty.

The law allows the government to use undercover agents, deception, and other methods to present a person already willing to commit a crime with the opportunity to commit a crime, but the law does not allow the government to persuade an unwilling person to commit a crime. Simply giving someone a favorable opportunity to commit a crime is not the same as persuading him.

### **INSTRUCTION NO. 18**

You may consider evidence the defendant acted while under the influence of alcohol to determine whether he believed such an individual was less than eighteen (18) years of age.

## INSTRUCTION NO. 19

In conducting your deliberations and returning your verdict, there are certain rules you must follow. I will list those rules for you now.

*First*, when you go to the jury room, you must select one of your members as your foreperson. That person will preside over your discussions and speak for you in court.

*Second*, it is your duty, as jurors, to discuss this case with one another in the jury room. You should try to reach an agreement if you can do so without violence to individual judgment, because your verdict—whether guilty or not guilty—must be unanimous.

Each of you must make your own conscientious decisions, but only after you have considered all the evidence, discussed it fully with your fellow jurors and listened to the views of your fellow jurors.

Do not be afraid to change your opinions if your discussion persuades you that you should. But do not come to a decision simply because other jurors think it is right or simply to reach your verdict.

*Third*, if you find the defendant guilty, the sentence to be imposed is my responsibility. You may not consider punishment in any way when deciding whether the government has proved its case beyond a reasonable doubt.

*Fourth*, if you need to communicate with me during your deliberations, you may send a note to me through the Court Security Officer, signed by one or more jurors. I will respond as soon as possible either in writing or orally in open court. You should not tell anyone—including me—how your votes stand numerically.

*Fifth*, your verdict must be based solely on the evidence and on the law that I have given to you in my instructions. The verdict, whether guilty or not guilty, must be unanimous. Nothing I have said or done is intended to suggest what your verdict should be—that will be entirely for you to decide.

## **INSTRUCTION NO. 20**

Attached to these instructions you will find the Verdict Form. This form is simply the written notice of the decision you reach in this case. The answer to the form must be the unanimous decision of the Jury.

You will take the form to the jury room, and when you have completed your deliberations and each of you has agreed to the answer to the form, your foreperson will fill out the form, sign and date it, and advise the Court Security Officer that you are ready to return to the courtroom. Your foreperson should place the signed form in the blue folder, which the Court will provide you, and then your foreperson will bring the blue folder when returning to the courtroom.

Finally, members of the Jury, take this case and give it your most careful consideration, and then without fear or favor, prejudice or bias of any kind, return the form in accord with the evidence and these instructions.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2024.

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C.J. WILLIAMS, Chief Judge  
United States District Court  
Northern District of Iowa

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CEDAR RAPIDS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CORY GALL,

Defendant.

No. 24-CR-32-CJW-MAR

**VERDICT FORM**

\_\_\_\_\_

We, the Jury, unanimously find the defendant, Cory Gall, \_\_\_\_\_  
[Not Guilty/Guilty] of the crime of attempted enticement, as charged in the Indictment.

NOTE: If you unanimously find the defendant not guilty of the above crime, have your foreperson write “not guilty” in the above blank space and sign and date this Verdict Form. If you unanimously and beyond a reasonable doubt find the defendant guilty of the above crime, have your foreperson write “guilty” in the above blank space and sign and date this Verdict Form.

\_\_\_\_\_  
FOREPERSON

\_\_\_\_\_  
DATE