

18 USCS § 912

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United States Code Service > **TITLE 18. CRIMES AND CRIMINAL PROCEDURE (§§ 1 — 6005)** > **Part I. Crimes (Chs. 1 — 123)** > **CHAPTER 43. False personation (§§ 911 — 917)**

§ 912. Officer or employee of the United States

Whoever falsely assumes or pretends to be an officer or employee acting under the authority of the United States or any department, agency or officer thereof, and acts as such, or in such pretended character demands or obtains any money, paper, document, or thing of value, shall be fined under this title or imprisoned not more than three years, or both.

History

HISTORY:

June 25, 1948, ch 645, § 1, [62 Stat. 742](#); Sept. 13, 1994, *P. L. 103-322*, Title XXXIII, § 330016(1)(H), *108 Stat. 2147*.

Annotations

Notes

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Prior law and revision:

Amendment Notes

1994.

Prior law and revision:

Based on title 18, U.S.C., 1940 ed., Sec. 76 and 123 (Mar. 4, 1909, ch. 321, § 32 and 66, [35 Stat. 1095](#), [1100](#); Feb. 28, 1938, ch. 37, [52 Stat. 82](#)).

Section consolidates sections 76 and 123 of title 18, U.S.C., 1940 ed. The effect of this consolidation was to increase the punishment for revenue officers from \$500 to \$1,000 and from 2 years to 3 years, and to rephrase in the alternative the mandatory punishment provision.

This section now applies the same punishment to all officers and agents of the United States found guilty of false personation.

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Words “agency or” were inserted to eliminate any possible ambiguity as to scope of section. (See definitive section 6 of this title.) Other words referring to “authority of any corporation owned or controlled by the United States” were omitted for the same reason. (See [Pierce v. U.S., 1941, 62 S. Ct. 237, 314 U.S. 306, 86 L. Ed. 226](#)).

The words “with the intent to defraud the United States or any person”, contained in said section 76 of title 18, U.S.C., 1940 ed., were omitted as meaningless in view of [United States v. Lapowich, 318 U.S. 702, 63 S. Ct. 914, 87 L. Ed. 1091](#).

Changes were made in phraseology.

Amendment Notes**1994.**

Act Sept. 13, 1994, substituted “under this title” for “not more than \$1,000”.

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I. IN GENERAL

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1. Generally

Predecessor to [18 USCS § 912](#) did not encroach upon functions of several states to protect their own citizens and residents from fraud. [United States v. Barnow, 239 U.S. 74, 36 S. Ct. 19, 60 L. Ed. 155, 1915 U.S. LEXIS 1513 \(1915\)](#).

If gist of offense under predecessor to [18 USCS § 912](#) had been demanding or obtaining of money or other thing of value of another, there might have been doubt whether act, although done with criminal intent, could have been made offense against United States, for reason that it had no relation to execution of any of powers of Congress or to any matter within jurisdiction of United States, but gist of offense was false impersonation of officer of United States, which was made punishable at common law, and Congress undoubtedly had power to punish false impersonation of officer of United States. [Littell v. United States, 169 F. 620, 1909 U.S. App. LEXIS 4622 \(9th Cir. 1909\)](#).

2. Relationship to other laws

Where TVA Act made certain federal penal statutes applicable to Tennessee Valley Authority, but pointedly omitted reference to predecessor to [18 USCS § 912](#), omission was indicative of intention that this section was not to apply to TVA. [Pierce v. United States, 314 U.S. 306, 62 S. Ct. 237, 86 L. Ed. 226, 1941 U.S. LEXIS 1142 \(1941\)](#).

Possession of Department of Defense patch in violation of [18 USCS § 701](#) is not lesser included offense of false impersonation of Department of Defense officer in violation of [18 USCS § 912](#). [United States v. Kimberlin, 781 F.2d 1247, 1985 U.S. App. LEXIS 25968 \(7th Cir. 1985\)](#), cert. denied, 479 U.S. 938, 107 S. Ct. 419, 93 L. Ed. 2d 370, 1986 U.S. LEXIS 4601 (1986).

Citizen did not have private rights of action under [42 USCS § 1983](#) based on officers' impersonation of U.S. census workers in violation of [18 USCS § 912](#). [Frison v. Zebro, 339 F.3d 994, 2003 U.S. App. LEXIS 17225 \(8th Cir. 2003\)](#).

In military, offense of false personation can be committed by falsely assuming role of, or pretending to be, commissioned officer, whereas in order to violate [18 USCS § 912](#), which prohibits impersonation of officer of United States, one must not only falsely assume role of, or pretend to be, such officer, but one must also act in pretended capacity; offense of personation is proscribed by § 912, and in military law, such offense, when alleged without element of intent to defraud, consists of falsely and knowingly holding one self out to be officer, and constitutes disorder under Article 134 of Uniform Code of Military Justice; under § 912, identifying oneself as officer over telephone may be sufficient to show pretense of being officer, but more is needed to show that one acted in capacity of such officer; in military law, however, specific offense is complete when it is shown that person falsely pretended to be officer with requisite knowledge of such falsity, and accordingly, under Article 134, offense of impersonating officer may be committed by falsely pretending to be such over telephone. [United States v. Demetris, 9 C.M.A. 412, 26 C.M.R. 192, 1958 CMA LEXIS 520 \(C.M.A. June 27, 1958\)](#) ; UNITED STATES v. LANE, 28 C.M.R. 749, 1959 CMR LEXIS 216 (A.F.C.M.R. June 18, 1959)).

3. Construction and interpretation

Statute is to be interpreted according to its plain language as prohibiting any false assumption or pretense of office or employment under authority of United States or any department or officer of government, if done with intent to defraud, and accompanied with any of specified acts done in pretended character; it would strain meaning of section to hold that offender must act as veritable officer of government would act. [United States v. Barnow, 239 U.S. 74, 36 S. Ct. 19, 60 L. Ed. 155, 1915 U.S. LEXIS 1513 \(1915\)](#).

While this act should be interpreted so as to give full effect to its plain terms, court should not depart from its words and context. [Pierce v. United States, 314 U.S. 306, 62 S. Ct. 237, 86 L. Ed. 226, 1941 U.S. LEXIS 1142 \(1941\)](#).

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Predecessor to [18 USCS § 912](#) was to be construed in harmony with its aim, which was not merely to protect innocent persons from actual loss through reliance upon false assumptions of federal authority, but to maintain general good repute and dignity of federal service itself. [Russell v. United States, 271 F. 684, 1921 U.S. App. LEXIS 1866 \(9th Cir. 1921\)](#).

4. Purpose

It is aim of predecessor to [18 USCS § 912](#) not merely to protect innocent persons from actual loss through reliance upon false assumptions of federal authority, but to maintain general good repute and dignity of service itself. [United States v. Barnow, 239 U.S. 74, 36 S. Ct. 19, 60 L. Ed. 155, 1915 U.S. LEXIS 1513 \(1915\)](#); [United States v. Wight, 176 F.2d 376, 1949 U.S. App. LEXIS 3059 \(2d Cir. 1949\)](#), cert. denied, 338 U.S. 950, 70 S. Ct. 478, 94 L. Ed. 586, 1950 U.S. LEXIS 2366 (1950).

Purpose of predecessor to [18 USCS § 912](#) was to maintain general good repute and dignity of government service itself. [United States v. Lepowitch, 318 U.S. 702, 63 S. Ct. 914, 87 L. Ed. 1091, 1943 U.S. LEXIS 761](#), reh'g denied, 319 U.S. 783, 63 S. Ct. 1171, 87 L. Ed. 1727, 1943 U.S. LEXIS 651 (1943).

One vital interest which [18 USCS § 912](#) seeks to protect is dignity, prestige and importance of federal office; revisers' intent in 1948 revision of Title 18 was to make statutory wording conform to authoritative judicial construction, and to carry forward, by simplified and streamlined wording of statute, statement of what facts would make out violation of offense. [Honea v. United States, 344 F.2d 798, 1965 U.S. App. LEXIS 5769 \(5th Cir. 1965\)](#), overruled, [United States v. Gayle, 967 F.2d 483, 6 Fla. L. Weekly Fed. C 845, 1992 U.S. App. LEXIS 16676 \(11th Cir. 1992\)](#).

Violation of this section does not give rise to civil cause of action, since its purpose is to maintain general good repute and dignity of government service itself. [Fullerton v. Monongahela C. R. Co., 242 F. Supp. 622, 1965 U.S. Dist. LEXIS 7650 \(W.D. Pa. 1965\)](#).

Although many crimes were more serious, charges against defendant, three counts of impersonating federal officer under [18 USCS § 912](#), were sufficiently serious for Speedy Trial Act purposes, and while court would not predict outcome of competency determination (noting magistrate's recommendation of incompetency), if defendant was found incompetent, further time could be required attempting to restore him to competency (which time would be excludable under Speedy Trial Act clock) and when combined with [18 USCS § 3162\(a\)\(1\)](#)'s other factors, those two factors weighed in favor of dismissal without prejudice. [United States v. Clifton, 756 F. Supp. 2d 773, 2010 U.S. Dist. LEXIS 137156 \(S.D. Miss. 2010\)](#).

5. Separate and distinct offenses

Predecessor to [18 USCS § 912](#) creates two offenses, for one who falsely pretends to be officer or employee, and takes it upon himself to act as such, and another for demanding or obtaining something of value in such pretended character. [Baas v. United States, 25 F.2d 294, 1928 U.S. App. LEXIS 2946 \(5th Cir. 1928\)](#); [Elliott v. Hudspeth, 110 F.2d 389, 1940 U.S. App. LEXIS 4964 \(10th Cir. 1940\)](#); [Kane v. United States, 120 F.2d 990, 1941 U.S. App. LEXIS 3598 \(8th Cir. 1941\)](#); [Graham v. Squier, 145 F.2d 348, 1944 U.S. App. LEXIS 2512 \(9th Cir. 1944\)](#), cert. denied, 324 U.S. 845, 65 S. Ct. 676, 89 L. Ed. 1406, 1945 U.S. LEXIS 2455 (1945); [United States v. Rush, 196 F. 579, 1912 U.S. Dist. LEXIS 1581 \(D. Wash. 1912\)](#).

Separate and distinct demands for money, although based on same fraudulent representation of official character, were distinct offenses. [Scala v. United States, 54 F.2d 608, 1931 U.S. App. LEXIS 3988 \(7th Cir. 1931\)](#), cert. denied, 285 U.S. 554, 52 S. Ct. 411, 76 L. Ed. 943, 1932 U.S. LEXIS 569 (1932).

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While two offenses may arise out of same transaction, in order to establish crime of larceny it is not necessary to prove impersonation; since two charges required different evidence for conviction, offenses were separate. [Laing v. United States, 145 F.2d 111, 1944 U.S. App. LEXIS 2414 \(6th Cir. 1944\)](#).

Demanding and obtaining were separate and distinct offenses. [Ekberg v. United States, 167 F.2d 380, 1948 U.S. App. LEXIS 2446 \(1st Cir. 1948\)](#).

Where separate counts of indictment charged detention of persons and obtaining thing of value while pretending to be officer of United States, although offenses arose out of same transaction, they were separate offenses, and punishment for each did not constitute double punishment prohibited by [Fifth Amendment to United States Constitution. Newman v. United States, 212 F.2d 450, 1954 U.S. App. LEXIS 4049 \(6th Cir. 1954\)](#).

With particular reference to [18 USCS § 912](#), merger of former 18 USCS §§ 76 and 123 eliminated separate offense and different punishment for false impersonation of revenue officer. [Honea v. United States, 344 F.2d 798, 1965 U.S. App. LEXIS 5769 \(5th Cir. 1965\)](#), overruled, [United States v. Gayle, 967 F.2d 483, 6 Fla. L. Weekly Fed. C 845, 1992 U.S. App. LEXIS 16676 \(11th Cir. 1992\)](#).

[18 USCS § 912](#) states two separate and distinct offenses: One is that of assuming and pretending to be an officer or employee of the United States and acting as such, and the other is demanding or obtaining any money, paper, document, or other valuable thing in such pretended character. [United States v. Milton, 421 F.2d 586, 1970 U.S. App. LEXIS 10773 \(10th Cir. 1970\)](#).

Each occasion on which person impersonates United States official while demanding item of value constitutes separate offense even though occasions are close in time. [United States v. Kimberlin, 781 F.2d 1247, 1985 U.S. App. LEXIS 25968 \(7th Cir. 1985\)](#), cert. denied, 479 U.S. 938, 107 S. Ct. 419, 93 L. Ed. 2d 370, 1986 U.S. LEXIS 4601 (1986).

If there is involved element in one offense not found in other, even though they arise out of same transaction or act, there would still be two offenses. [Graham v. Squier, 53 F. Supp. 881, 1944 U.S. Dist. LEXIS 2688 \(D. Wash.\), aff'd, 145 F.2d 348, 1944 U.S. App. LEXIS 2512 \(9th Cir. 1944\)](#).

6. Who is officer or employee of United States

Member of House of Representatives of Congress of United States is officer acting under authority of United States, within meaning of predecessor to [18 USCS § 912](#), making criminal false personation of such officer with intent to defraud. [Lamar v. United States, 241 U.S. 103, 36 S. Ct. 535, 60 L. Ed. 912, 1916 U.S. LEXIS 1785 \(1916\)](#); [People ex rel. Kelly v. Common Council of Brooklyn, 77 N.Y. 503, 1879 N.Y. LEXIS 811 \(N.Y. 1879\)](#).

False personation of officers or employees of government-owned corporation, such as Tennessee Valley Authority, is not within predecessor to [18 USCS § 912](#), making it offense to falsely assume or pretend, with intent to defraud, to be officer or employee acting under authority of United States, or any Department, or any officer of government thereof. [Pierce v. United States, 314 U.S. 306, 62 S. Ct. 237, 86 L. Ed. 226, 1941 U.S. LEXIS 1142 \(1941\)](#).

It is not necessary to violation of this section that defendant take upon himself to act as specific United States officer or employee. [Braftord v. United States, 259 F. 511, 1919 U.S. App. LEXIS 1662 \(6th Cir. 1919\)](#).

Whether or not there was any government officer or employee with precise title that defendant assumed is immaterial to conviction under [18 USCS § 912](#). [Caruso v. United States, 414 F.2d 225, 1969 U.S. App. LEXIS 12032 \(5th Cir. 1969\)](#).

One who falsely assumed or pretended to be officer in United States Air Force Reserves and acted as such violated provisions of this section. [United States v. Harris, 220 F. Supp. 289, 1963 U.S. Dist. LEXIS 7378 \(D. Md. 1963\)](#).

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7. Who may commit offense

Government officials are impersonated within meaning of predecessor to [18 USCS § 912](#) by any persons who assume to act in pretended character. [United States v. Lepowitch, 318 U.S. 702, 63 S. Ct. 914, 87 L. Ed. 1091, 1943 U.S. LEXIS 761](#), reh'g denied, 319 U.S. 783, 63 S. Ct. 1171, 87 L. Ed. 1727, 1943 U.S. LEXIS 651 (1943).

Federal officer, although incapable of committing crime by pretense of his own authority, could be convicted of aiding and abetting others to commit crime. [Haggerty v. United States, 5 F.2d 224, 1925 U.S. App. LEXIS 2632 \(7th Cir. 1925\)](#).

8. Civil actions

Citizen did not have private rights of action under [42 USCS § 1983](#) based on officers' impersonation of U.S. census workers in violation of [18 USCS § 912](#). [Frison v. Zebro, 339 F.3d 994, 2003 U.S. App. LEXIS 17225 \(8th Cir. 2003\)](#).

Violation of this section does not give rise to civil cause of action, since its purpose is to maintain general good repute and dignity of government service itself. [Fullerton v. Monongahela C. R. Co., 242 F. Supp. 622, 1965 U.S. Dist. LEXIS 7650 \(W.D. Pa. 1965\)](#).

9. Miscellaneous

Department of Justice administrative practice as set forth in memorandum from Assistant Attorney General in charge of Criminal Division to all United States Attorneys, in response to two reported District Court cases, was policy limited to facts of those two cases and did not partake of administrative or prosecutorial interpretation as to application of [18 USCS § 912](#). [United States v. Etheridge, 512 F.2d 1249, 1975 U.S. App. LEXIS 15566 \(2d Cir.\)](#), cert. denied, 423 U.S. 843, 96 S. Ct. 77, 46 L. Ed. 2d 63, 1975 U.S. LEXIS 2500 (1975).

In determining that statute prohibiting impersonating officer or employee of United States was not unconstitutional restriction on speech, court applied intermediate, rather than strict, scrutiny because statute criminalized conduct with expressive element as distinct from pure speech; because statute promoted goals of governmental integrity and maintaining good repute of governmental service, it survived intermediate scrutiny; nor was statute facially overbroad, as it reached only those acts that were intentionally deceptive. [United States v. Tomsha-Miguel, 766 F.3d 1041, 2014 U.S. App. LEXIS 17238 \(9th Cir. 2014\)](#).

Congress, in statutory revision, did not intend to increase scope of [18 USCS § 912](#) through deletion of phrase "with intent to defraud." [United States v. Rosser, 528 F.2d 652, 174 U.S. App. D.C. 79, 1976 U.S. App. LEXIS 13522 \(D.C. Cir. 1976\)](#).

Where defendant was found not guilty by reason of insanity of false personation of federal officer and was civilly committed, it was not clear error to find that defendant posed substantial risk of danger to other persons or property and to deny defendant conditional release, because court pointed to one act of overt violence and several threats of violence; defendant had long-term and frequent insistence that defendant did not suffer from mental illness and had repeated history of refusing psychiatric medications. [United States v. Mikawa, 849 F.3d 445, 2017 U.S. App. LEXIS 3113 \(8th Cir. 2017\)](#).

Government was entitled to revocation under [18 USCS § 3145\(a\)\(1\)](#), part of magistrate judge's order releasing defendant, who was charged with violating [18 USCS §§ 872](#) and [912](#), on his own recognizance; statutorily required factors of [18 USCS § 3142\(g\)](#) clearly and convincingly weighed against release, and there were no conditions would reasonably assure safety of community. [United States v. Petersen, 557 F. Supp. 2d 1124, 2008 U.S. Dist. LEXIS 39882 \(E.D. Cal. 2008\)](#), corrected, [2008 U.S. Dist. LEXIS 58488 \(E.D. Cal. May 19, 2008\)](#), corrected, [2008 U.S. Dist. LEXIS 50233 \(E.D. Cal. May 22, 2008\)](#).

II. ELEMENTS OF OFFENSES

10. Generally

Operation of predecessor to [18 USCS § 912](#) was meant to prohibit and punish falsely assuming or pretending, with intent to defraud United States or any person, to be officer or employee of United States as defined in section, and doing in falsely assumed character any overt act, whether it would have been legally authorized had assumed capacity existed or not, to carry out fraudulent intent. [Lamar v. United States, 241 U.S. 103, 36 S. Ct. 535, 60 L. Ed. 912, 1916 U.S. LEXIS 1785 \(1916\)](#) ; [Brafford v. United States, 259 F. 511, 1919 U.S. App. LEXIS 1662 \(6th Cir. 1919\)](#).

In order to convict defendant for falsely assuming to be officer or employee of United States and obtaining money or other valuable thing by acting as such, it must be affirmatively determined that (1) defendant assumed or pretended to be officer, acting under authority of office; (2) such assumption or pretense was false; (3) defendant made this false pretense or assumption with intent to defraud; (4) defendant carried out this intent and in such assumed or pretended character, or because of his false assumption or pretense, defrauded or attempted to defraud. [United States v. Curtain, 43 F. 433, 1890 U.S. Dist. LEXIS 213 \(D.S.C. 1890\)](#).

Offense of impersonating officer of United States consists of two elements: (1) false representation of being officer with intent to defraud, and (2) overt act in carrying out intention to defraud. [Dickson v. United States, 182 F.2d 131, 1950 U.S. App. LEXIS 2762 \(10th Cir. 1950\)](#) ; [United States v. Rosser, 528 F.2d 652, 174 U.S. App. D.C. 79, 1976 U.S. App. LEXIS 13522 \(D.C. Cir. 1976\)](#).

“Acting” is conjunctive element of offense described in [18 USCS § 912](#), and must be joined with false assumption of identity of federal officer or employee in order to allege statutory violation; if mere pretense sufficed to allege violation of § 912, then language of statute, which plainly requires not only that accused falsely personate an officer but also that he “act as such”, would be mere surplusage. [United States v. Harmon, 496 F.2d 20, 1974 U.S. App. LEXIS 9006 \(2d Cir. 1974\)](#).

11. False representation or pretense

False representation as to some office or employment which has no legal or actual existence, as well as false personation of particular Federal officer or employee, or false pretense of holding office or employment that actually exists in Federal government was comprehended by predecessor to [18 USCS § 912](#). [United States v. Barnow, 239 U.S. 74, 36 S. Ct. 19, 60 L. Ed. 155, 1915 U.S. LEXIS 1513 \(1915\)](#).

Predecessor to [18 USCS § 912](#) extended to any false assumption or pretense of office or employment under any department or officer of government. [Roberts v. United States, 248 F. 873, 1918 U.S. App. LEXIS 1479 \(9th Cir.\), cert. denied, 247 U.S. 522, 38 S. Ct. 583, 62 L. Ed. 1247, 1918 U.S. LEXIS 1898 \(1918\)](#).

False pretense of official character is essential to crime. [United States v. McNaugh, 42 F.2d 835, 1930 U.S. App. LEXIS 4359 \(2d Cir. 1930\)](#).

Verbal declarations may constitute false pretending or impersonation equally with exhibition of counterfeit badge or false certificate of authority. [Pierce v. United States, 86 F.2d 949, 1936 U.S. App. LEXIS 3900 \(6th Cir. 1936\)](#).

Assuming and pretending to be officer or employee of nonexistent agency of government was within statute. [Elliott v. Hudspeth, 110 F.2d 389, 1940 U.S. App. LEXIS 4964 \(10th Cir. 1940\)](#).

12. —Particular cases

Where defendant falsely assumed and pretended to victim that he was employee of and authorized by United States to sell certain set of books named “Messages and Papers of the President’s”, and obtained \$10 from victim as part of purchase price of such books, representations made by defendant were made in sale of books and for purpose of effecting sale, and purchaser got out of transaction just what he bargained for, and conduct of vendor in misrepresenting character and capacity in which he acted in making sale did not fall within purview of statute. [United States v. Rush, 196 F. 579, 1912 U.S. Dist. LEXIS 1581 \(D. Wash. 1912\).](#)

Private detectives, engaged in arresting stragglers and deserters and delivering them to naval authorities for customary reward, violated section by representing themselves to arrested men as being government detectives and naval officers. [Reed v. United States, 252 F. 21, 1918 U.S. App. LEXIS 2029 \(2d Cir. 1918\).](#)

Where indictment was framed under predecessor to [18 USCS § 912](#), there was no violation if person from whom property was obtained knew at time it was obtained that defendant was impersonating different officer from that which he claimed to be. [Ferguson v. United States, 293 F. 361, 1923 U.S. App. LEXIS 1610 \(8th Cir. 1923\).](#)

One who falsely assumes or pretends to be United States Senator and assumes authority as such violates [18 USCS § 912](#) despite fact that authority assumed was not within power of Senator to exercise. [Thomas v. United States, 213 F.2d 30, 1954 U.S. App. LEXIS 3481 \(9th Cir. 1954\).](#)

Defendant acted as federal officer, where he not only falsely asserted that he was officer of United States Customs Service, but also caused local police officers to undertake investigation they would not have otherwise have pursued in attempting to avoid ticket by falsely implying that he was on his way to work-related emergency. [United States v. Gilbert, 143 F.3d 397, 1998 U.S. App. LEXIS 8180 \(8th Cir. 1998\).](#)

Defendant, who in making purchase of dress on credit in retail store pretended that she was employed by Federal Bureau of Investigation, did not violate this section. [United States v. York, 202 F. Supp. 275, 1962 U.S. Dist. LEXIS 3908 \(E.D. Va. 1962\).](#)

Defendant who represented herself to be employee of audit division of United States Army and cashed checks at hotel to satisfy her personal obligations to hotel and to provide her with personal funds did not falsely assume or pretend to be employee “acting under authority of United States” or “acted as such” within meaning of [18 USCS § 912](#). [United States v. Grewe, 242 F. Supp. 826, 1965 U.S. Dist. LEXIS 6297 \(W.D. Mo. 1965\).](#)

13. Demanding or obtaining money, things of value, etc.

It is not necessary that person defrauded be financially injured by false personation; it is inconsistent with object and letter of predecessor to [18 USCS § 912](#) to question whether one who has parted with his property upon strength of fraudulent representation of federal employment has received adequate quid pro quo in value determinative. [United States v. Barnow, 239 U.S. 74, 36 S. Ct. 19, 60 L. Ed. 155, 1915 U.S. LEXIS 1513 \(1915\).](#)

Term “or other valuable thing” meant and implied thing of value or worth to party who obtained it and not necessarily something tangible. [United States v. Ballard, 118 F. 757, 1902 U.S. Dist. LEXIS 60 \(D. Mo. 1902\).](#)

Word “demand” in [18 USCS § 912](#) does not require threatening conduct. [United States v. Bushrod, 763 F.2d 1051, 1985 U.S. App. LEXIS 19864 \(9th Cir. 1985\).](#)

Statute was broad enough to encompass impersonator obtaining thing of value for another person; limiting [18 USCS § 912](#) to persons who obtained something of value for themselves would have invited mischief. [United States v. Ramos-Arenas, 596 F.3d 783, 2010 U.S. App. LEXIS 3685 \(10th Cir. 2010\).](#)

14. —Information as thing of value

Predecessor to [18 USCS § 912](#) covers acquisition of information by impersonation although information may be wholly valueless to its giver. [United States v. Lepowitch, 318 U.S. 702, 63 S. Ct. 914, 87 L. Ed. 1091, 1943 U.S. LEXIS 761](#), reh'g denied, 319 U.S. 783, 63 S. Ct. 1171, 87 L. Ed. 1727, 1943 U.S. LEXIS 651 (1943).

“Thing of value” within meaning of [18 USCS § 912](#) includes information since in normal English usage, commercial worth is not exclusive measure of value; location of witness in upcoming criminal trial was “thing of value.” [United States v. Sheker, 618 F.2d 607, 1980 U.S. App. LEXIS 17649 \(9th Cir. 1980\)](#).

15. —Other particular cases

Term “or other valuable thing” includes obtaining use in rent of lodging room. [United States v. Ballard, 118 F. 757, 1902 U.S. Dist. LEXIS 60 \(D. Mo. 1902\)](#).

One who obtained money upon promissory note after falsely representing himself to be Secret Service officer was guilty although it was contended lender relied upon other security. [Littell v. United States, 169 F. 620, 1909 U.S. App. LEXIS 4622 \(9th Cir. 1909\)](#).

Defendant who not only falsely represented himself to be current member of United States Army, but also while acting in this capacity and solely by virtue of pretense obtained loan from Army Emergency Relief, violated [18 USCS § 912](#), despite defendant’s contention that he was not purporting to act on behalf of government, but was acting only on behalf of himself. [United States v. Etheridge, 512 F.2d 1249, 1975 U.S. App. LEXIS 15566 \(2d Cir.\), cert. denied, 423 U.S. 843, 96 S. Ct. 77, 46 L. Ed. 2d 63, 1975 U.S. LEXIS 2500 \(1975\)](#).

Defendant who impersonated United States Marshal in talking his way out of traffic ticket obtained “something of value” within meaning of [18 USCS § 912](#), since he gained forbearance and value of time for not having to defend himself in court; it was irrelevant that benefit that he received was conferred on him as individual and not as representative of United States Marshal Service, where indictment alleged that he was not only employee of United States but also that he was acting under authority of his “position” at time he was stopped. [United States v. Rippee, 961 F.2d 677, 1992 U.S. App. LEXIS 6863 \(7th Cir. 1992\)](#).

16. Overt act

Merely falsely pretending to be officer or employee of United States with intent to defraud is not enough; overt act is necessary to complete either offense under predecessor of [18 USCS § 912](#). [United States v. Barnow, 239 U.S. 74, 36 S. Ct. 19, 60 L. Ed. 155, 1915 U.S. LEXIS 1513 \(1915\)](#); [Baas v. United States, 25 F.2d 294, 1928 U.S. App. LEXIS 2946 \(5th Cir. 1928\)](#).

It is insufficient to merely charge that accused falsely pretended to be officer of United States with intent to defraud named person; overt act is necessary to complete offense under [18 USCS § 912](#). [Baas v. United States, 25 F.2d 294, 1928 U.S. App. LEXIS 2946 \(5th Cir. 1928\)](#).

Overt act need not be such as is within actual authority of pretended officer. [Thomas v. United States, 213 F.2d 30, 1954 U.S. App. LEXIS 3481 \(9th Cir. 1954\)](#).

Act that completes violation of [18 USCS § 912](#) must be more than merely act in keeping with falsely assumed character; requirement that defendant “acts as such” means performance of overt act that asserts, implicitly or explicitly, authority that impersonator claims to have by virtue of office he pretends to hold. [United States v. Rosser, 528 F.2d 652, 174 U.S. App. D.C. 79, 1976 U.S. App. LEXIS 13522 \(D.C. Cir. 1976\)](#).

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17. —Particular cases

Accused was guilty under predecessor of [18 USCS § 912](#), though he did act which officer whom he personated would not have been authorized to do under authority of United States; any overt act to carry out fraudulent intent, whether or not it would have been legally authorized had assumed capacity existed, falls within condemnation of predecessor to § 912. [Lamar v. United States, 241 U.S. 103, 36 S. Ct. 535, 60 L. Ed. 912, 1916 U.S. LEXIS 1785 \(1916\)](#).

Wearing of gun in holster in common areas of rooming house while pretending to be agent of Federal Bureau of Investigation constitutes overt act within meaning of [18 USCS § 912](#). [United States v. Hamilton, 276 F.2d 96, 1960 U.S. App. LEXIS 5052 \(7th Cir. 1960\)](#).

Defendants who called telephone company offices and United States Post Office branches, representing themselves as telephone or postal employees and requesting confidential internal information concerning telephone customers or post office box orders, commit overt acts within meaning of [18 USCS § 912](#). [United States v. Louderman, 576 F.2d 1383, 1978 U.S. App. LEXIS 10660 \(9th Cir.\)](#), cert. denied, 439 U.S. 896, 99 S. Ct. 257, 58 L. Ed. 2d 243, 1978 U.S. LEXIS 3358 (1978).

Defendant who signs himself in at federal penitentiary as associate attorney general of United States and represents himself as such to inmate of facility commits overt act within meaning of [18 USCS § 912](#). [United States v. Cohen, 631 F.2d 1223, 7 Fed. R. Evid. Serv. \(CBC\) 257, 1980 U.S. App. LEXIS 11723 \(5th Cir. 1980\)](#), reh'g denied, 636 F.2d 315 (5th Cir. 1981).

Defendant, who first displayed weapon in airport and then explained weapon by falsely professing to be DEA agent, violated [18 USCS § 912](#), since, in cases of impersonation of federal officer under § 912, it does not matter whether overt acts occur prior to or following false claim of authority, so long as act is part of same incident or related acts during which false claim is made. [United States v. Wells, 893 F.2d 535, 1990 U.S. App. LEXIS 871 \(2d Cir. 1990\)](#).

Young woman does not “act as such” federal employee within meaning of [18 USCS § 912](#) when she misrepresents herself, in course of filling out credit application at retail store, as secretary employed by Federal Bureau of Investigation, although she has in fact only recently applied for that position, since regardless of her representation of employment it is clear that obtaining credit to buy new dress for her own use involves no pretense of acting under authority of government. [United States v. York, 202 F. Supp. 275, 1962 U.S. Dist. LEXIS 3908 \(E.D. Va. 1962\)](#).

Allegation that “act” consisted of falsely stating to named person that defendant was special agent of Federal Bureau of Investigation engaged in investigation of criminal violation does not state offense under [18 USCS § 912](#) since all that is alleged is mere repetition of false representation itself. [United States v. Larson, 125 F. Supp. 360, 1954 U.S. Dist. LEXIS 2673 \(D. Alaska 1954\)](#).

18. Intent

Words “intent to defraud” as used in predecessor to [18 USCS § 912](#) does not require more than that person charged has, by artifice and deceit, sought to cause deceived person to follow some course he would not have pursued but for deceitful conduct. [United States v. Lepowitch, 318 U.S. 702, 63 S. Ct. 914, 87 L. Ed. 1091, 1943 U.S. LEXIS 761](#), reh'g denied, 319 U.S. 783, 63 S. Ct. 1171, 87 L. Ed. 1727, 1943 U.S. LEXIS 651 (1943).

Allegation of fraudulent intent is an essential element of the offense defined under [18 USCS § 912](#) [United States v. Pollard \(1974, CA5 Ala\) 491 F2d 1387](#); it must be shown by evidence that he falsely pretended to be such employee to some agent of government, in order, under this false personation, to consummate his intent; and that if his intent was to defraud third person, that he must have falsely represented such third person that he was employee of United States. [United States v. Bradford, 53 F. 542, 1893 U.S. Dist. LEXIS 4 \(D.S.C. 1893\)](#).

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“Fraudulent intent”, the intent by artifice and deceit to cause another to follow some course he would not have pursued but for the deceitful conduct, is an essential element in the offense defined in part one of this section, and conviction under an indictment which omits all mention of fraudulent intent must be reversed and the indictment dismissed. [United States v. Randolph, 460 F.2d 367, 1972 U.S. App. LEXIS 9393 \(5th Cir. 1972\)](#), overruled, [United States v. Gayle, 967 F.2d 483, 6 Fla. L. Weekly Fed. C 845, 1992 U.S. App. LEXIS 16676 \(11th Cir. 1992\)](#).

“Intent to deceive” is not essential element in prosecution for violation of [18 USCS § 912](#). [United States v. Robbins, 613 F.2d 688, 5 Fed. R. Evid. Serv. \(CBC\) 329, 1979 U.S. App. LEXIS 10110 \(8th Cir. 1979\)](#).

Even if “intent to defraud” was implied element of [18 USCS § 912](#), reasonable jury could have inferred that defendant intended for his unsolicited lie to state police officer to result in reducing his girlfriend’s speeding ticket to warning; defendant’s bragging about tricking state police officer supported that conclusion. [United States v. Ramos-Arenas, 596 F.3d 783, 2010 U.S. App. LEXIS 3685 \(10th Cir. 2010\)](#).

Intent to defraud was not separate element of offense of impersonating officer or employee of United States and thus, district court did not err in denying motion to dismiss indictment or in preventing defendant from raising her lack of intent to defraud as affirmative defense. [United States v. Tomsha-Miguel, 766 F.3d 1041, 2014 U.S. App. LEXIS 17238 \(9th Cir. 2014\)](#).

On defendant’s charge of violating [18 U.S.C.S. § 912](#) by masquerading as DEA agent to persuade girl to go out with him, district court did not err by not explicitly instructing jury on defendant’s intent because intent to defraud was not separate element of § 912. [United States v. Wade, 962 F.3d 1004, 2020 U.S. App. LEXIS 19904 \(7th Cir. 2020\)](#).

Defendant’s conviction for falsely impersonating an Internal Revenue Service employee and acting as such was proper because, assuming that “intent to deceive” required finding of subjective intent to deceive another into changing his course of action on the basis of impersonated acts, failure to instruct on such requirement was harmless. The evidence was sufficient to establish intent to deceive the individual called into changing his course of action, at least by investigating or calling number specified, and defendant presented no evidence refuting that intent. [United States v. York, 675 Fed. Appx. 696, 119 A.F.T.R.2d \(RIA\) 2017-380, 2017 U.S. App. LEXIS 522 \(9th Cir. 2017\)](#).

Intent to defraud is not essential element of offense covered by [18 USCS § 912](#). [United States v. Meeker, 110 F. Supp. 743, 1953 U.S. Dist. LEXIS 3156 \(D. Alaska 1953\)](#).

19. Miscellaneous

Consummation of fraud, with consequent injury to party defrauded is not essential to complete offense denounced by predecessor to this section; if, with intent to defraud, and by falsely assuming or pretending to be officer or employee acting under authority of United States, accused shall, in pretended character have demanded or obtained any money, paper, document, or other valuable thing, offense was complete, notwithstanding some valuable consideration was offered or given by pretended employee for that which he demanded or obtained. [United States v. Barnow, 239 U.S. 74, 36 S. Ct. 19, 60 L. Ed. 155, 1915 U.S. LEXIS 1513 \(1915\)](#).

[18 USCS § 912](#) does not make wearing of uniform of impersonated officer essential element of offenses charged, as gist of offenses condemned is falsely assuming or pretending to be officer or employee of United States, and taking of thing of value in such pretended character. [Shepherd v. United States, 177 F.2d 938, 1949 U.S. App. LEXIS 3312 \(10th Cir. 1949\)](#).

Defendant violated [18 USCS § 912](#) by carrying gun and handcuffs and cashing check and carrying on his business while pretending to be FBI agent. [United States v. Robbins, 613 F.2d 688, 5 Fed. R. Evid. Serv. \(CBC\) 329, 1979 U.S. App. LEXIS 10110 \(8th Cir. 1979\)](#).

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Unpublished decision: Extortion by one impersonating federal official applies not just to those who pretend to be federal immigration officer to get money from undocumented aliens, but also to anyone who extorts money by pretending to be federal official; even though defendant's scheme targeted those with unique vulnerability, it could not be said that offense of conviction necessarily presupposed that particular vulnerability. [United States v. Solorza, 470 Fed. Appx. 669, 2012 U.S. App. LEXIS 4499 \(9th Cir. 2012\)](#).

III. PROSECUTION AND PUNISHMENT

A. In General

20. Jurisdiction and venue

Jurisdiction of Federal District Court over a prosecution under predecessor to [18 USCS § 912](#) for falsely pretending, with intent to defraud, to be federal officer, was not defeated because indictment might not have charged crime against United States, since such objection went only to merits. [Lamar v. United States, 240 U.S. 60, 36 S. Ct. 255, 60 L. Ed. 526, 1916 U.S. LEXIS 1425 \(1916\)](#).

Where false personation was by telephone to person in Southern District of New York, offense may be tried in such District since personation took effect there. [Lamar v. United States, 240 U.S. 60, 36 S. Ct. 255, 60 L. Ed. 526, 1916 U.S. LEXIS 1425 \(1916\)](#).

Unpublished decision: As defendant was charged with violating federal law by impersonating federal agent and there was no dispute that crime occurred in Middle District of Pennsylvania, his offense was amenable to jurisdiction and venue of United States District Court for Middle District of Pennsylvania. [United States v. Schnetzka, 629 Fed. Appx. 422, 2015 U.S. App. LEXIS 19979 \(3d Cir. 2015\)](#).

In prosecution of defendant in state court for obtaining money on false pretense that he was pension agent, plea in abatement on ground that such offense was cognizable only in federal court was overruled. [Pearce v. State, 115 Ala. 115, 22 So. 502, 1896 Ala. LEXIS 266 \(Ala. 1896\)](#).

21. Defenses

It was not defense to indictment that officer personated did not actually exist, because one who falsely assumes or pretends to hold an office that has a de jure existence is admittedly within meaning of predecessor of [18 USCS § 912](#). [United States v. Barnow, 239 U.S. 74, 36 S. Ct. 19, 60 L. Ed. 155, 1915 U.S. LEXIS 1513 \(1915\)](#).

It was no defense that person falsely pretending to be officer in one department of government was in fact employee in another department. [Russell v. United States, 271 F. 684, 1921 U.S. App. LEXIS 1866 \(9th Cir. 1921\)](#).

Absurdity and irrationality of alleged false pretenses was no defense to prosecution under predecessor of [18 USCS § 912](#), since there is nothing in statute which confines its prohibitions to those representations or pretenses which are sufficiently convincing to deceive only those least gullible. [Pierce v. United States, 86 F.2d 949, 1936 U.S. App. LEXIS 3900 \(6th Cir. 1936\)](#).

It is no defense to prosecution under [18 USCS § 912](#) that authority claimed by impersonator is not actually possessed by any officer or employee of United States. [United States v. Hamilton, 276 F.2d 96, 1960 U.S. App. LEXIS 5052 \(7th Cir. 1960\)](#).

Person who demands money while masquerading as federal officer violates [18 USCS § 912](#) notwithstanding person's belief that he is collecting valid debt and notwithstanding fact that person from whom money is demanded

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does not believe and is not affected by impersonation. [United States v. Bushrod, 763 F.2d 1051, 1985 U.S. App. LEXIS 19864 \(9th Cir. 1985\)](#).

Where defendant was charged with impersonating federal officer and raised misidentification defense, based upon credit card receipts that allegedly showed defendant's location in New York at time swindler was in China, district court abused its discretion by excluding receipts as unauthenticated under [Fed. R. Evid. 901](#) and exclusion was not harmless error. [United States v. Tin Yat Chin, 371 F.3d 31, 93 A.F.T.R.2d \(RIA\) 2004-2519, 64 Fed. R. Evid. Serv. \(CBC\) 517, 2004 U.S. App. LEXIS 10707 \(2d Cir. 2004\)](#), app. after remand, [476 F.3d 144, 2007 U.S. App. LEXIS 1976 \(2d Cir. 2007\)](#).

Defendant argued unsuccessfully on appeal that evidence was insufficient to prove that he "pretended" to be federal officer when he was, in fact, federal officer; defendant incorrectly read [18 USCS § 912](#) to mean that individual could not, as matter of law, be convicted of impersonating particular kind of federal officer or employee if individual was any kind of federal officer or employee; it was no defense to impersonating federal officer that defendant was employed as security police officer for federal agency with arrest authority in certain area; prohibition in § 912 was on impersonating officer or employee that person was not, regardless of what person's actual position was. [United States v. Roe, 606 F.3d 180, 82 Fed. R. Evid. Serv. \(CBC\) 889, 2010 U.S. App. LEXIS 10865 \(4th Cir.\)](#), cert. denied, [562 U.S. 1051, 131 S. Ct. 617, 178 L. Ed. 2d 448, 2010 U.S. LEXIS 8976 \(2010\)](#).

Nonexistence of office which personator pretends to hold is not defense to charge of falsely personating federal officer or employee; similarly, it is not defense that authority claimed by personator is not actually possessed by any officer or employee of United States. [United States v. Rosser, 528 F.2d 652, 174 U.S. App. D.C. 79, 1976 U.S. App. LEXIS 13522 \(D.C. Cir. 1976\)](#).

22. —Double jeopardy

Where defendant is charged in one indictment with impersonating federal officer and with uttering forged writing he is not thereby unlawfully subjected to double jeopardy. [United States v. Goldsmith, 68 F.2d 5, 1933 U.S. App. LEXIS 4868 \(2d Cir. 1933\)](#), cert. denied, [291 U.S. 681, 54 S. Ct. 559, 78 L. Ed. 1068 \(1934\)](#).

Prior conviction in municipal court of San Juan, Puerto Rico, for passing bad check did not support plea of double jeopardy to indictment in federal district court of Puerto Rico for falsely pretending to be federal officer. [Cottrell v. Sanford, 123 F.2d 75, 1941 U.S. App. LEXIS 2633 \(5th Cir. 1941\)](#), cert. denied, [316 U.S. 684, 62 S. Ct. 1275, 86 L. Ed. 1756, 1942 U.S. LEXIS 565 \(1942\)](#).

Indictment which charged false impersonation of employee of Central Intelligence Agency and demanding or obtaining property without alleging that defendant did acts in question with intent to defraud was sufficient to protect defendant from double jeopardy. [Honea v. United States, 344 F.2d 798, 1965 U.S. App. LEXIS 5769 \(5th Cir. 1965\)](#), overruled, [United States v. Gayle, 967 F.2d 483, 6 Fla. L. Weekly Fed. C 845, 1992 U.S. App. LEXIS 16676 \(11th Cir. 1992\)](#).

23. Instructions to jury

Error in refusing, in prosecution under predecessor to [18 USCS § 912](#) making it offense to personate officer or employee of federal government, based upon defendant's pretense of connection with Tennessee Valley Authority, requested instruction that statute under which prosecution was brought did not include within its scope false personation of officers or employees of government corporation, was prejudicial where Tennessee Valley Authority and government were so closely entwined in instructions and evidence that any jury might well have thought pretense to be officer or employee of Tennessee Valley Authority violated statute. [Pierce v. United States, 314 U.S. 306, 62 S. Ct. 237, 86 L. Ed. 226, 1941 U.S. LEXIS 1142 \(1941\)](#).

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In prosecution for falsely pretending to be federal prohibition agents of United States, instruction on defendant's silence after arrest was not prejudicial error. [Scala v. United States, 54 F.2d 608, 1931 U.S. App. LEXIS 3988 \(7th Cir. 1931\)](#), cert. denied, 285 U.S. 554, 52 S. Ct. 411, 76 L. Ed. 943, 1932 U.S. LEXIS 569 (1932).

In prosecution of defendant for falsely representing himself to be a federal officer and arresting two persons in violation of [18 USCS § 913](#), and for taking money from the same two persons under the same circumstances in violation of [18 USCS § 912](#), trial court did not err in failing to charge jury, in accordance with defendant's proposed instructions, that the government must prove beyond a reasonable doubt that the victims believed that defendant was an officer or employee of the United States, as opposed to an officer or employee of some other level of government, since trial court charged jury that in order to convict it must find beyond a reasonable doubt that defendant falsely pretended to be an officer and employee of the FBI. [United States v. Hessbrook, 504 F.2d 1375, 1974 U.S. App. LEXIS 5624 \(5th Cir. 1974\)](#), cert. denied, 420 U.S. 1006, 95 S. Ct. 1450, 43 L. Ed. 2d 764, 1975 U.S. LEXIS 1174 (1975).

In prosecution for falsely representing, with intent to defraud, that defendant was agent for Office of Naval Intelligence and for acting as such agent, evidence did not warrant instruction that jury should acquit if accused made representations in good faith. [Axelbank v. United States, 189 F.2d 18, 88 U.S. App. D.C. 147, 1951 U.S. App. LEXIS 3144 \(D.C. Cir. 1951\)](#).

Whereas it would have been preferable for trial judge to have informed jury that "overt act" had to involve assertion of claimed authority derived from office defendant pretended to hold, trial judge was not asked to give such instruction, and instruction he did give clearly identified two separate elements of offense. [United States v. Rosser, 528 F.2d 652, 174 U.S. App. D.C. 79, 1976 U.S. App. LEXIS 13522 \(D.C. Cir. 1976\)](#).

Unpublished decision: Where defendant was convicted of impersonating United States Marshal, it was not abuse of discretion to not define phrase, "acts as such," because (1) jury instructions laid out law requiring misrepresentation, knowledge that it was false, and act in assumed role, and (2) allowing counsel to argue meaning of "acts as such" was proper. [United States v. Neidlinger, 354 Fed. Appx. 357, 2009 U.S. App. LEXIS 26193 \(10th Cir. 2009\)](#), cert. denied, 559 U.S. 1055, 130 S. Ct. 2359, 176 L. Ed. 2d 572, 2010 U.S. LEXIS 2977 (2010).

24. Questions of law and fact

Evidence in prosecution for falsely pretending to be investigator of Veterans Administration was issue for jury. [United States v. Napoleone, 349 F.2d 350, 1965 U.S. App. LEXIS 4748 \(3d Cir. 1965\)](#).

In prosecution for falsely representing, with intent to defraud, that defendant was agent for Office of Naval Intelligence, and for acting as such agent, whether it was essential that those to whom representations were made believed them, and whether defendant acted as officer in addition to representing himself as such were questions for jury. [Axelbank v. United States, 189 F.2d 18, 88 U.S. App. D.C. 147, 1951 U.S. App. LEXIS 3144 \(D.C. Cir. 1951\)](#).

25. Verdict and judgment

In prosecution for impersonating officer of United States, and for conspiracy to commit such offense with contractor who obtained money from building owner by representing that owner had violated law in obtaining loan from Federal Housing Administration, defendant was not entitled to directed verdict on ground that only testimony against him was that of contractor and owner who were accomplices and coconspirators, where owner was neither accomplice nor coconspirator, but was victim. [Westenrider v. United States, 134 F.2d 772, 1943 U.S. App. LEXIS 3678 \(9th Cir. 1943\)](#).

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Court did not err in overruling motions for judgment of acquittal and in arrest of judgment where evidence disclosed issue of fact as to whether defendants were guilty of state offense or federal offense. [Dickson v. United States, 182 F.2d 131, 1950 U.S. App. LEXIS 2762 \(10th Cir. 1950\)](#).

In prosecution for impersonating federal officers, where verdict of not guilty was returned by jury against one defendant and guilty against three other defendants on three of six counts, record was persuasive that jury was in no wise coerced, influenced or biased, for it reflected by its verdict careful consideration of issues as to each defendant. [United States v. Furlong, 194 F.2d 1, 1952 U.S. App. LEXIS 2724 \(7th Cir.\)](#), cert. denied, 343 U.S. 950, 72 S. Ct. 1042, 96 L. Ed. 1352, 1952 U.S. LEXIS 2110 (1952).

26. Sentence and punishment

Sentence of 5 years in federal penitentiary was not excessive where defendant pleaded guilty to indictment charging violations of predecessor to [18 USCS § 912](#). [Elliott v. Hudspeth, 110 F.2d 389, 1940 U.S. App. LEXIS 4964 \(10th Cir. 1940\)](#).

Upon conviction on two counts for false impersonation of United States officer and for theft of property, trial court should have indicated term of imprisonment applicable to each count, and whether sentences were to run consecutively. [Laing v. United States, 145 F.2d 111, 1944 U.S. App. LEXIS 2414 \(6th Cir. 1944\)](#).

If all defendant had done by way of acting as such pretended official was to demand or obtain valuable thing, it could not be supposed that Congress intended to authorize imposition of separate sentences, to run consecutively, upon one count of indictment charging offense described in first clause of section and another count charging offense under second clause. [Ekberg v. United States, 167 F.2d 380, 1948 U.S. App. LEXIS 2446 \(1st Cir. 1948\)](#).

Where separate counts of indictment charged detention of persons and obtaining thing of value while pretending to be officer of United States, although offenses arose out of same transaction, they were separate offenses, and punishment for each did not constitute double punishment prohibited by [Fifth Amendment to United States Constitution](#). [Newman v. United States, 212 F.2d 450, 1954 U.S. App. LEXIS 4049 \(6th Cir. 1954\)](#).

Imposition of maximum sentence of 3 years' imprisonment on each of 4 impersonation counts, although severe in comparison to sentences imposed for other crimes within jurisdiction and for similar crimes elsewhere, is appropriate where necessary to prevent defendant from resuming illegal activity on release from prison and where defendant's criminal conduct has resulted in serious damage to person and property. [United States v. Kimberlin, 781 F.2d 1247, 1985 U.S. App. LEXIS 25968 \(7th Cir. 1985\)](#), cert. denied, 479 U.S. 938, 107 S. Ct. 419, 93 L. Ed. 2d 370, 1986 U.S. LEXIS 4601 (1986).

District court properly imposed sentencing enhancement under U.S. Sentencing Guidelines Manual when defendant not only posed as INS officer but also misrepresented and defrauded aliens out of money when defendant stated that defendant could expedite immigrants' claims for fee. [United States v. Romero, 293 F.3d 1120, 2002 Cal. Daily Op. Service 5371, 2002 D.A.R. 6797, 2002 U.S. App. LEXIS 11893 \(9th Cir. 2002\)](#), cert. denied, 537 U.S. 1144, 123 S. Ct. 948, 154 L. Ed. 2d 844, 2003 U.S. LEXIS 216 (2003).

After defendant's probation was revoked, he was properly ordered to serve 12 months in prison followed by one year of supervised release with special conditions, including mental health counseling which, pursuant to [18 USCS § 3583\(d\)](#), was reasonably related to his offense of impersonating federal officer under [18 USCS § 912](#). [United States v. Wynn, 553 F.3d 1114, 2009 U.S. App. LEXIS 2490 \(8th Cir. 2009\)](#).

Unpublished decision: Condition of defendant's supervised release regarding defendant working for close personal friend was not unconstitutionally vague, because defendant was also required by terms of defendant's supervised release to consult defendant's probation officer before accepting any employment, meaning defendant could never

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accidentally violate close personal friend condition. [United States v. Hanover, 522 Fed. Appx. 420, 2013 U.S. App. LEXIS 8240 \(9th Cir. 2013\)](#).

Where defendant was sentenced on first count for 18 months for obtaining money by falsely pretending he was officer of United States, and was sentenced on second count for unlawfully wearing uniform of United States Navy, petition by defendant to correct sentence on ground that sentences exceeded maximum punishment was denied, since under count one he could have been sentenced for three years, and under count two he could have been sentenced for six months. [Shepherd v. United States, 92 F. Supp. 479, 1950 U.S. Dist. LEXIS 1877 \(D. Neb. 1950\)](#).

27. Appeal and review

Judgment of Federal District Court sustaining demurrer to indictment in prosecution for impersonation of federal officer was properly brought to Supreme Court by direct appeal where decision below stated that defendant's conduct did not come within terms of statute and concluded that indictment did not make sufficient allegations either of impersonation or of intent to defraud, and was based on construction of predecessor to [18 USCS § 912](#). [United States v. Lepowitch, 318 U.S. 702, 63 S. Ct. 914, 87 L. Ed. 1091, 1943 U.S. LEXIS 761](#), reh'g denied, 319 U.S. 783, 63 S. Ct. 1171, 87 L. Ed. 1727, 1943 U.S. LEXIS 651 (1943).

On petition to have judgment vacated and correct sentences on convictions for falsely impersonating officer of United States and theft of property of value of \$100, Court of Appeals had no jurisdiction to review proceedings, since no appeal was taken, but petitioner should apply to sentencing court for correction of sentence. [Laing v. United States, 145 F.2d 111, 1944 U.S. App. LEXIS 2414 \(6th Cir. 1944\)](#).

Court did not err in overruling motions for judgment of acquittal and in arrest of judgment where evidence disclosed issue of fact as to whether defendants were guilty of state offense or federal offense. [Dickson v. United States, 182 F.2d 131, 1950 U.S. App. LEXIS 2762 \(10th Cir. 1950\)](#).

District court lacked jurisdiction under [18 USCS § 3742\(a\)](#) to reconsider sentence of defendant who pled guilty to charge of impersonating IRS officer under [18 USCS § 912](#) solely on basis of his accountability for actions of his codefendants and received equal sentence. [United States v. Coe, 220 F.3d 573, 2000 U.S. App. LEXIS 17247 \(7th Cir. 2000\)](#).

Unpublished decision: Although defense theory might have seemed implausible, there was basis in record for it and, if accepted by jury, would have led to acquittal and it, contrary to government's assertion, was not effectively presented to jury in charge; however, defendant did not satisfy third requirement necessary to secure vacatur on basis of flawed jury charge—instruction he proposed was not legally correct in every respect; defendant argued requested instruction communicated defense theory, which he correctly noted was legally accurate, but given requested instruction's ambiguous wording, it also suggested that jury members could find defendant not guilty if they determined he had not impersonated federal officer with codefendant even if they concluded he did so with other witnesses—that was clearly not correct as matter of law. [United States v. Rodriguez, 222 Fed. Appx. 61, 2007 U.S. App. LEXIS 7163 \(2d Cir. 2007\)](#).

28. —Evidentiary matters

It was error to exclude evidence that person from whom property was obtained knew that accused was impersonating only state official whereas accused claimed to be United States marshall. [Ferguson v. United States, 293 F. 361, 1923 U.S. App. LEXIS 1610 \(8th Cir. 1923\)](#).

Judgment of conviction must be reversed because there was no proof that representations of defendants that they were Federal officers were false. [United States v. McNaugh, 42 F.2d 835, 1930 U.S. App. LEXIS 4359 \(2d Cir. 1930\)](#).

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It was reversible error in jury trial of defendant charged with pretending to be FBI agent and demanding automobile from another in violation of [18 USCS § 912](#), to allow government, during its case in chief, to introduce evidence of prior criminal act of accused in order to show willfulness and intent when accused does not, except for demanding instruction on requisite willfulness and intent, otherwise put that issue in dispute. [United States v. Fierson, 419 F.2d 1020, 1969 U.S. App. LEXIS 9666 \(7th Cir. 1969\)](#).

Notwithstanding contention that defendant did not purport to act on behalf of government but acted only on behalf of himself, defendant's conviction for violation of [18 USCS § 912](#) was affirmed where evidence showed that he not only falsely represented himself to be an employee of the United States but also while acting in this capacity and solely by virtue of the pretense, obtained loan from Army Emergency Relief. [United States v. Etheridge, 512 F.2d 1249, 1975 U.S. App. LEXIS 15566 \(2d Cir.\)](#), cert. denied, 423 U.S. 843, 96 S. Ct. 77, 46 L. Ed. 2d 63, 1975 U.S. LEXIS 2500 (1975).

Where defendant was charged with impersonating federal officer and raised misidentification defense, based upon credit card receipts that allegedly showed defendant's location in New York at time swindler was in China, district court abused its discretion by excluding receipts as unauthenticated under [Fed. R. Evid. 901](#) and exclusion was not harmless error. [United States v. Tin Yat Chin, 371 F.3d 31, 93 A.F.T.R.2d \(RIA\) 2004-2519, 64 Fed. R. Evid. Serv. \(CBC\) 517, 2004 U.S. App. LEXIS 10707 \(2d Cir. 2004\)](#), app. after remand, [476 F.3d 144, 2007 U.S. App. LEXIS 1976 \(2d Cir. 2007\)](#).

Defendant argued unsuccessfully on appeal that evidence was insufficient to prove that he "pretended" to be federal officer when he was, in fact, federal officer; defendant incorrectly read [18 USCS § 912](#) to mean that individual could not, as matter of law, be convicted of impersonating particular kind of federal officer or employee if individual was any kind of federal officer or employee; it was no defense to impersonating federal officer that defendant was employed as security police officer for federal agency with arrest authority in certain area; prohibition in § 912 was on impersonating officer or employee that person was not, regardless of what person's actual position was. [United States v. Roe, 606 F.3d 180, 82 Fed. R. Evid. Serv. \(CBC\) 889, 2010 U.S. App. LEXIS 10865 \(4th Cir.\)](#), cert. denied, 562 U.S. 1051, 131 S. Ct. 617, 178 L. Ed. 2d 448, 2010 U.S. LEXIS 8976 (2010).

In case in which jury convicted defendant of count of false impersonation of employee of United States, circuit court noted that defendant did not attempt to address clear and gross injustice standard of review and instead only addressed plain error standard; circuit court considered this aspect of defendant's sufficiency claim waived for inadequate briefing. [United States v. Vázquez-Rosario, 2022 U.S. App. LEXIS 22847 \(1st Cir. Aug. 17, 2022\)](#).

29. Habeas corpus

Indictment charging offenses in language of statute, that defendant falsely pretended to be officer and employee acting under authority of United States government, was clearly sufficient and was not vulnerable to attack based in habeas corpus proceeding. [Garrison v. Hudspeth, 108 F.2d 733, 1939 U.S. App. LEXIS 2634 \(10th Cir. 1939\)](#).

In prosecution for fraudulently impersonating officer of United States and thereby obtaining money, argument that admission of evidence that defendant had living wife undivorced at time he married victim who furnished money for honeymoon expenses allegedly constituted unconstitutional denial of due/faith and credit to marriage certificate could not serve to annul plea of guilty and sentence thereon in collateral attack by Habeas Corpus. [Conroy v. Sanford, 157 F.2d 847, 1946 U.S. App. LEXIS 2826 \(5th Cir. 1946\)](#).

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It was necessary that person defrauded relied upon fact that defendant was officer of United States, and if it appears that person defrauded may have had other motives to lead him to part with his money, than that defendant was United States officer, verdict of conviction should be set aside. [United States v. Farnham, 127 F. 478, 1904 U.S. Dist. LEXIS 397 \(D. Pa. 1904\)](#).

In prosecution for knowingly and falsely pretending to be special agent of Federal Bureau of Investigation and falsely taking it upon himself to act as such, any possible prejudice occasioned by denial of defendant's motion for bill of particulars was cured by trial court's repeated offer of continuance at close of government's evidence and by defendant's refusal of that offer. [United States v. Hamilton, 276 F.2d 96, 1960 U.S. App. LEXIS 5052 \(7th Cir. 1960\)](#).

B. Indictments and Informations

31. Duplicity

Indictment which charged that defendant feloniously and unlawfully, with intent to defraud third person, falsely assumed and pretended to be officer or employee acting under authority of Treasury Department of United States, and falsely and with intent to defraud such third person took upon himself to act as such officer or employee, and in such assumed and pretended character demanded and received sum of money, was bad for duplicity under predecessor of [18 USCS § 912](#). [United States v. Taylor, 108 F. 621, 1900 U.S. Dist. LEXIS 25 \(D. Mo. 1900\)](#).

Indictment which charged that defendant falsely pretended to be officer acting under authority of Federal Bureau of Investigation "and acted as such, to wit" and in such assumed or pretended character demanded and obtained registration cards of motel, was bad for duplicity, since this statute defines two separate offenses and defendant was entitled to know for which he was being prosecuted, and use of phrase "to wit" did not merge into one such separate and distinct offenses and did not save indictment from duplicity. [United States v. Leggett, 312 F.2d 566, 1962 U.S. App. LEXIS 3299 \(4th Cir. 1962\)](#).

Indictment suffers from duplicity where each count charged both offenses contained in [18 USCS § 912](#), acting as officer, and obtaining money in such character. [United States v. Aguilar, 756 F.2d 1418, 1985 U.S. App. LEXIS 29903 \(9th Cir. 1985\)](#).

Single count indictment charging both false impersonation of federal official coupled with overt act in conformity with pretense and false impersonation of federal official coupled with demanding or obtaining of item of value is duplicitous but duplicity is of technical semantic nature from which defendant suffers no plain error sufficient to overturn conviction. [United States v. Kimberlin, 781 F.2d 1247, 1985 U.S. App. LEXIS 25968 \(7th Cir. 1985\)](#), cert. denied, 479 U.S. 938, 107 S. Ct. 419, 93 L. Ed. 2d 370, 1986 U.S. LEXIS 4601 (1986).

Where indictment in one count charged that defendant intended to defraud person named in indictment, that he assumed and pretended to be federal officer acting under authority of United States, and that he took it upon himself to act as such, and in another count it charged same first two elements as in first count, but, instead of third element, charged that defendant obtained money from person he sought to defraud, indictment charged two separate offenses. [Graham v. Squier, 53 F. Supp. 881, 1944 U.S. Dist. LEXIS 2688 \(D. Wash.\)](#), aff'd, [145 F.2d 348, 1944 U.S. App. LEXIS 2512 \(9th Cir. 1944\)](#).

32. Particular averments and sufficiency thereof

Indictment charging false personation of officer of United States, with intent to defraud, cannot be held insufficient on ground that it failed to describe circumstances of offense, where it clearly charged illegal acts complained of and requisite fraudulent intent, stated date and place of commission of acts charged, and gave name and official

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character of officer whom accused was charged with having falsely personated, and there was no suggestion of any want of knowledge of crime which was charged, or of any surprise concerning same, and there was no intimation that any request was made for bill of particulars concerning details of offense charged. [Lamar v. United States, 241 U.S. 103, 36 S. Ct. 535, 60 L. Ed. 912, 1916 U.S. LEXIS 1785 \(1916\)](#).

Impersonation of Government official within meaning of predecessor to [18 USCS § 912](#) was sufficiently charged by general allegation to that effect. [United States v. Lepowitch, 318 U.S. 702, 63 S. Ct. 914, 87 L. Ed. 1091, 1943 U.S. LEXIS 761](#), reh'g denied, 319 U.S. 783, 63 S. Ct. 1171, 87 L. Ed. 1727, 1943 U.S. LEXIS 651 (1943).

Indictment charging defendants falsely represented themselves to be revenue officers in violation of predecessor to [18 USCS § 912](#) was sufficient. [United States v. Brown, 119 F. 482, 1902 U.S. App. LEXIS 5299 \(C.C.D.N.Y. 1902\)](#).

Counts in indictment were sufficient in charging defendants with assuming and pretending to be officers and special agents of Department of Justice charged with duty and authority of enforcing penal laws of United States, particularly White Slave Act, and with assuming and pretending to be officers acting under authority of United States, authorized to make arrests in criminal cases. [Roberts v. United States, 248 F. 873, 1918 U.S. App. LEXIS 1479 \(9th Cir.\)](#), cert. denied, 247 U.S. 522, 38 S. Ct. 583, 62 L. Ed. 1247, 1918 U.S. LEXIS 1898 (1918).

Allegation that accused did "falsely and fraudulently obtain" money and property "by inducing" automobile company to part with it "by falsely representing himself to be such officer and employee" sufficiently charges that money and property was fraudulently obtained "in such pretended character" because it is not necessary to violation of predecessor of [18 USCS § 912](#) that accused take upon himself to act as such United States officer or employee; it is only necessary that property be obtained by accused in pretended character. [Brafford v. United States, 259 F. 511, 1919 U.S. App. LEXIS 1662 \(6th Cir. 1919\)](#).

Indictment charging that accused did assume and pretend, was good without using word "falsely." [King v. United States, 279 F. 103, 1922 U.S. App. LEXIS 1504 \(5th Cir. 1922\)](#); [Ferguson v. United States, 293 F. 361, 1923 U.S. App. LEXIS 1610 \(8th Cir. 1923\)](#).

Indictment charging defendants with conspiracy to violate predecessor of [18 USCS § 912](#) by falsely assuming and pretending to be employees acting under authority of the United States, with intent to defraud certain persons, and that they obtained from certain persons various sums of money by reason of such impersonation, clearly showed crime of conspiracy to violate such statute. [United States v. Ford, 58 F.2d 1029, 1932 U.S. Dist. LEXIS 1243 \(D. Pa. 1932\)](#).

Indictment charging in effect that defendant falsely and feloniously represented himself to be federal officer, and by such means sought and obtained written, signed statement from another person in violation of statute, was sufficient after verdict to support judgment of conviction. [Kane v. United States, 120 F.2d 990, 1941 U.S. App. LEXIS 3598 \(8th Cir. 1941\)](#).

Indictment was insufficient, where it did not allege that accused did something in his pretended character, or at least demanded something of value while so pretending. [Ekberg v. United States, 167 F.2d 380, 1948 U.S. App. LEXIS 2446 \(1st Cir. 1948\)](#).

Indictment charging defendant with violation of [18 USCS § 912](#) was not defective on ground that it failed to identify person or object defrauded. [United States v. Pollard, 491 F.2d 1387, 1974 U.S. App. LEXIS 9275 \(5th Cir.\)](#), cert. denied, 419 U.S. 851, 95 S. Ct. 92, 42 L. Ed. 2d 82, 1974 U.S. LEXIS 2560 (1974).

Government had adequately stated in indictment two charges for violations of [18 USCS § 912](#) when government asserted that defendant falsely impersonated U.S. Department of Labor Compliance Officer on specified date and used false identity to influence outcome of proceeding before Connecticut Commission of Human Rights and Opportunities and also stated that on second specified date that he was undercover Labor Department official investigating complaint. [United States v. Zerbe, 596 F. Supp. 2d 267, 2009 U.S. Dist. LEXIS 393 \(D. Conn. 2009\)](#).

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Indictment charging that defendant impersonated officer of United States and falsely took upon himself to act as such, in that he falsely stated to named person that he was special agent of Federal Bureau of Investigation engaged in investigation of criminal violation, did not state offense in that it did not specify that he acted as such. [United States v. Larson, 125 F. Supp. 360, 1954 U.S. Dist. LEXIS 2673 \(D. Alaska 1954\).](#)

33. —Acting or overt act

Indictment alleging that defendant pretended “to be acting under the authority of the United States,” was not equivalent to statutory words “and shall take upon himself to act as such”. [Baas v. United States, 25 F.2d 294, 1928 U.S. App. LEXIS 2946 \(5th Cir. 1928\).](#)

Allegation of overt acts lawful in themselves but alleged to be in pursuance of conspiracy to personate immigration inspector was sufficient to charge offense; Time and place were sufficiently fixed in indictment by allegation of overt acts. [Heskett v. United States, 58 F.2d 897, 1932 U.S. App. LEXIS 4790 \(9th Cir.\), cert. denied, 287 U.S. 643, 53 S. Ct. 89, 77 L. Ed. 556, 1932 U.S. LEXIS 314 \(1932\).](#)

Count of indictment charging that defendant pretended to be officer of United States acting under orders from United States Navy, and took upon himself to act as such, and count charging that in such pretended character he demanded and obtained money, charged two separate and distinct offenses. [Shepherd v. United States, 191 F.2d 682, 1951 U.S. App. LEXIS 2598 \(10th Cir. 1951\).](#)

Indictment which alleges that pretended officer “acted as such” is complete and sufficiently states first of two separate offenses defined by this section. [United States v. Leggett, 312 F.2d 566, 1962 U.S. App. LEXIS 3299 \(4th Cir. 1962\).](#)

Allegations that defendant knowingly and falsely pretended to be sergeant in United States Air Force and falsely took upon himself to act as such and that he falsely stated to another individual that he was sergeant in Air Force currently on leave as returned Viet Nam prisoner of war do not make out offense under [18 USCS § 912](#) where indictment fails to allege that defendant performed any acts under guise of his assumed identity. [United States v. Harmon, 496 F.2d 20, 1974 U.S. App. LEXIS 9006 \(2d Cir. 1974\).](#)

Indictment based on [18 USCS § 912](#), charging false personation of an officer or employee of the United States, is fatally defective if it fails to allege that the accused performed an “act” under his falsely assumed identity. [United States v. Harmon, 496 F.2d 20, 1974 U.S. App. LEXIS 9006 \(2d Cir. 1974\).](#)

Indictment for violation of [18 USCS § 912](#) must allege facts sufficient to constitute “act” within meaning of § 912. [United States v. Robbins, 613 F.2d 688, 5 Fed. R. Evid. Serv. \(CBC\) 329, 1979 U.S. App. LEXIS 10110 \(8th Cir. 1979\).](#)

Indictment charging that defendant acted as Associate Attorney General by signing in as such at federal penitentiary sufficiently describes “acting” even though it also describes “assuming and pretending”. [United States v. Cohen, 631 F.2d 1223, 7 Fed. R. Evid. Serv. \(CBC\) 257, 1980 U.S. App. LEXIS 11723 \(5th Cir. 1980\), reh'g denied, 636 F.2d 315 \(5th Cir. 1981\).](#)

Indictment under [18 USCS § 912](#) is sufficient if it contains general allegations of impersonating and acting as federal officer; indictment need not allege additional acts beyond general act of impersonation. [United States v. Gayle, 967 F.2d 483, 6 Fla. L. Weekly Fed. C 845, 1992 U.S. App. LEXIS 16676 \(11th Cir. 1992\).](#)

Where false personation indictment alleged that defendant, while pretending to be agent of Internal Revenue Service, and falsely took upon himself to act as such, and that he solicited information about gasoline sales and arranged for gasoline sales and service, it sufficiently charged that he acted as employee of “Internal Revenue Service.” [United States v. Rosser, 528 F.2d 652, 174 U.S. App. D.C. 79, 1976 U.S. App. LEXIS 13522 \(D.C. Cir. 1976\).](#)

34. —Intent

Intent to defraud or intent to wrongfully deprive another of property is essential element of crime of falsely assuming to be officer of United States and obtaining something of value in such character, and indictment must allege such intent. [Honea v. United States, 344 F.2d 798, 1965 U.S. App. LEXIS 5769 \(5th Cir. 1965\)](#), overruled, [United States v. Gayle, 967 F.2d 483, 6 Fla. L. Weekly Fed. C 845, 1992 U.S. App. LEXIS 16676 \(11th Cir. 1992\)](#).

Indictment charging impersonation of federal official by falsely assuming to be federal bank examiner and acting as such did not need to allege fraudulent intent. [United States v. Guthrie, 387 F.2d 569, 1967 U.S. App. LEXIS 4303 \(4th Cir. 1967\)](#), app. after remand, [391 F.2d 930, 1968 U.S. App. LEXIS 7872 \(4th Cir. 1968\)](#).

No prejudicial error appeared in allegations of two counts of indictment charging impersonating officer or employee of United States which failed to allege intent to defraud, where indictment fully informed defendants of crime with which they were charged so that they could adequately prepare their defense and evidence was overwhelming that defendant had defrauded number of businessmen out of substantial amounts of property by falsely pretending to be United States government officer, and trial court found that he did it willfully and knowingly. [United States v. Mitman, 459 F.2d 451, 1972 U.S. App. LEXIS 9994 \(9th Cir.\)](#), cert. denied, [409 U.S. 863, 93 S. Ct. 154, 34 L. Ed. 2d 111, 1972 U.S. LEXIS 1492 \(1972\)](#).

Indictment charging violation of [18 USCS § 912](#) was held fatally defective because it did not charge that defendants did the acts allegedly violative of the section "with intent to defraud". [United States v. Pollard, 486 F.2d 190, 1973 U.S. App. LEXIS 7464 \(5th Cir. 1973\)](#).

It was enough that indictment based on [18 USCS § 912](#) charged defendant with falsely assuming and pretending to be detective of Immigration and Naturalization Service, officer and employee acting under authority of United States, and that in such character he demanded and obtained money; it was not necessary to charge that crime was committed with intent to defraud. [United States v. Rose, 500 F.2d 12, 1974 U.S. App. LEXIS 7701 \(2d Cir. 1974\)](#), vacated, [422 U.S. 1031, 95 S. Ct. 2648, 45 L. Ed. 2d 688, 1975 U.S. LEXIS 2065 \(1975\)](#).

Intent to defraud may not be alleged in indictment for violation of [18 USCS § 912](#). [United States v. Cord, 654 F.2d 490, 1981 U.S. App. LEXIS 11252 \(7th Cir. 1981\)](#).

Indictment alleging violation of [18 USCS § 912](#) need not specifically allege intent to defraud. [United States v. Wilkes, 732 F.2d 1154, 1984 U.S. App. LEXIS 23350 \(3d Cir.\)](#), cert. denied, [469 U.S. 964, 105 S. Ct. 364, 83 L. Ed. 2d 299, 1984 U.S. LEXIS 4217 \(1984\)](#).

Indictment under [18 USCS § 912](#) need not allege intent to defraud, since such intent can be inferred from alleged acts. [United States v. Gayle, 967 F.2d 483, 6 Fla. L. Weekly Fed. C 845, 1992 U.S. App. LEXIS 16676 \(11th Cir. 1992\)](#).

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Indictment which employed language to predecessor to [18 USCS § 912](#) in charging impersonation of officer of government and acting as such with intent to defraud was proof against demurrer, and covered acquisition of information by impersonation although information may have been wholly valueless to its giver. [United States v. Lepowitch, 318 U.S. 702, 63 S. Ct. 914, 87 L. Ed. 1091, 1943 U.S. LEXIS 761](#), reh'g denied, [319 U.S. 783, 63 S. Ct. 1171, 87 L. Ed. 1727, 1943 U.S. LEXIS 651 \(1943\)](#).

In prosecution under predecessor to [18 USCS § 912](#), fact that company which defendant was charged with having obtained property from was not alleged to have been corporation was not variance, and lack of variance applied equally to second allegation that defendant defrauded company which was shown to have been merely trade name

under which named individual carried on business. [Brafford v. United States, 259 F. 511, 1919 U.S. App. LEXIS 1662 \(6th Cir. 1919\)](#).

Where separate counts of indictment charged detention of persons and obtaining thing of value while pretending to be officer of United States, although offenses arose out of same transaction, they were separate offenses, and punishment for each did not constitute double punishment prohibited by [Fifth Amendment to United States Constitution. Newman v. United States, 212 F.2d 450, 1954 U.S. App. LEXIS 4049 \(6th Cir. 1954\)](#).

Unpublished decision: Defendant's argument that prosecutorial misconduct, allegedly withholding of evidence tending to impeach victim, required dismissal of indictment against defendant was rejected because record was clear as to victim's supposed history of dishonesty and any further evidence of victim's dishonesty would have been cumulative. [United States v. Hanover, 522 Fed. Appx. 420, 2013 U.S. App. LEXIS 8240 \(9th Cir. 2013\)](#).

Portion of indictment charging defendant with pretending to be employee of department of United States and in such pretended character obtaining from Officers Open Mess sum of money, which charged that act was done "with intent to defraud", and which charged defendant "fraudulently" obtained money, was actually surplusage, and as such it was harmless and would be disregarded. [United States v. Carr, 194 F. Supp. 144, 1961 U.S. Dist. LEXIS 3234 \(N.D. Cal. 1961\)](#).

C. Evidence and Witnesses

36. Presumptions and burden of proof

Any facts and circumstances which to average mind would fairly tend to indicate that defendants were not federal officers was sufficient to warrant jury in reaching such conclusion and to cast on defendants burden of proving their authority as officers. [Scala v. United States, 54 F.2d 608, 1931 U.S. App. LEXIS 3988 \(7th Cir. 1931\)](#), cert. denied, 285 U.S. 554, 52 S. Ct. 411, 76 L. Ed. 943, 1932 U.S. LEXIS 569 (1932).

Where defendants charged with falsely assuming and pretending to be federal prohibition agents of United States failed to produce evidence showing that they were such federal officers, it would be presumed that had evidence thereon appeared it would have been unfavorable to defendants. [Scala v. United States, 54 F.2d 608, 1931 U.S. App. LEXIS 3988 \(7th Cir. 1931\)](#), cert. denied, 285 U.S. 554, 52 S. Ct. 411, 76 L. Ed. 943, 1932 U.S. LEXIS 569 (1932).

37. Admissibility, exclusion and suppression of evidence

It was error to exclude evidence that person from whom property was obtained knew that accused was impersonating only state official whereas accused claimed to be United States marshal. [Ferguson v. United States, 293 F. 361, 1923 U.S. App. LEXIS 1610 \(8th Cir. 1923\)](#).

Badge thrown away by defendant when arrested was admissible. [Kelly v. United States, 46 F.2d 286, 1931 U.S. App. LEXIS 2414 \(3d Cir. 1931\)](#).

In trial of one charged with having fraudulently and falsely represented himself as personal envoy of President of United States, admission into evidence of properly authenticated affidavit of personnel officer of White House having custody of all records of officers and employees did not deprive accused of his right, under [Sixth Amendment to United States Constitution](#), "to be confronted by witnesses against him.". [T'Kach v. United States, 242 F.2d 937, 1957 U.S. App. LEXIS 2877 \(5th Cir. 1957\)](#).

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Admission into evidence of utterances of defendant charged with impersonating employee or officer acting under authority of United States and of using dangerous weapon when assaulting, resisting, opposing, impeding, intimidating, or interfering with two agents of FBI, regarding two documents defendant signed during time he was conversing with hotel manager did not constitute error on grounds that defendant was not properly warned of his rights as required by Miranda decision, since defendant was not in custody at time, nor was he being questioned by law enforcement officers. [Yates v. United States, 384 F.2d 586, 1967 U.S. App. LEXIS 4681 \(5th Cir. 1967\)](#).

Defendant should have been allowed to present evidence of his physical appearance and condition of his vehicle at time he allegedly represented himself to be Federal Bureau of Investigation agent when he was stopped for traffic violation; jury could certainly have determined that if someone was trying to impersonate FBI agent he might not be dressed in work clothes and be driving old, ill-kept car. [United States v. Cortes, 600 F.2d 1054, 1979 U.S. App. LEXIS 12404 \(5th Cir. 1979\)](#).

In prosecution for violation of [18 USCS § 912](#) trial court did not abuse its discretion in admitting testimony concerning defendant's motives for impersonating federal officer, especially since government's case hinged on testimony of single witness. [United States v. Sheker, 618 F.2d 607, 1980 U.S. App. LEXIS 17649 \(9th Cir. 1980\)](#).

Where defendant was charged with impersonating federal officer and raised misidentification defense, based upon credit card receipts that allegedly showed defendant's location in New York at time swindler was in China, district court abused its discretion by excluding receipts as unauthenticated under [Fed. R. Evid. 901](#) and exclusion was not harmless error. [United States v. Tin Yat Chin, 371 F.3d 31, 93 A.F.T.R.2d \(RIA\) 2004-2519, 64 Fed. R. Evid. Serv. \(CBC\) 517, 2004 U.S. App. LEXIS 10707 \(2d Cir. 2004\)](#), app. after remand, [476 F.3d 144, 2007 U.S. App. LEXIS 1976 \(2d Cir. 2007\)](#).

Where police gained entrance into premises searched through ruse which arguably involved technical violation of federal statute ([18 USCS §§ 912](#) and [913](#)), in that one of police officers posed as postman in gaining entry into residence, evidence found during execution of valid search warrant would not be suppressed. [People v. Rudin, 77 Cal. App. 3d 139, 143 Cal. Rptr. 360, 1978 Cal. App. LEXIS 1198 \(Cal. App. 2d Dist. 1978\)](#).

On defendant's charge of violating [18 U.S.C.S. § 912](#) by masquerading as DEA agent to persuade girl to go out with him, district court properly granted government's motion in limine because defendant's alleged romantic motivation was not relevant to whether he knowingly falsely pretended to be United States officer or employee, and engaged in overt act sought to cause victim to follow course of action she otherwise would not have pursued. [United States v. Wade, 962 F.3d 1004, 2020 U.S. App. LEXIS 19904 \(7th Cir. 2020\)](#).

38. —Prior or other acts

Fact that on two prior occasions defendant had impersonated law enforcement official was admissible in evidence on charge of impersonating Federal Bureau of Investigation agent for purpose of shedding light on defendant's intent in committing act charged although both prior instances were two and six months, respectively, removed from time charged offense was committed. [Whaley v. United States, 324 F.2d 356, 1963 U.S. App. LEXIS 3763 \(9th Cir. 1963\)](#), cert. denied, [376 U.S. 911, 84 S. Ct. 665, 11 L. Ed. 2d 609, 1964 U.S. LEXIS 1831 \(1964\)](#), reh'g denied, [376 U.S. 966, 84 S. Ct. 1122, 11 L. Ed. 2d 984 \(1964\)](#).

It was reversible error in jury trial of defendant charged with pretending to be FBI agent and demanding automobile from another in violation of [18 USCS § 912](#), to allow government, during its case in chief, to introduce evidence of prior criminal act of accused in order to show willfulness and intent when accused does not, except for demanding instruction on requisite willfulness and intent, otherwise put that issue in dispute. [United States v. Fierson, 419 F.2d 1020, 1969 U.S. App. LEXIS 9666 \(7th Cir. 1969\)](#).

Proof of other crimes is admissible in prosecution for violation of [18 USCS § 912](#) insofar as such crimes establish pattern or plan of impersonation of federal official; testimony showing pattern of impersonation was not limited by

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events which transpired at particular place since indictment for violation of § 912 referred exclusively to "overt act" as opposed to element of impersonation. [United States v. Robbins, 613 F.2d 688, 5 Fed. R. Evid. Serv. \(CBC\) 329, 1979 U.S. App. LEXIS 10110 \(8th Cir. 1979\).](#)

39. Sufficiency of evidence

Case was clearly one where proof was of such character as to justify its being submitted to jury for its consideration, and conviction was sustained upon indictment for false personation of officer acting under authority of United States with intent to defraud. [Lamar v. United States, 241 U.S. 103, 36 S. Ct. 535, 60 L. Ed. 912, 1916 U.S. LEXIS 1785 \(1916\).](#)

One who presented fraudulent check and obtained money after having falsely represented himself to be in Secret Service was improperly convicted under this statute in absence of evidence that he used falsehood to obtain money. [United States v. Farnham, 127 F. 478, 1904 U.S. Dist. LEXIS 397 \(D. Pa. 1904\).](#)

It is unnecessary to prove violation of predecessor of [18 USCS § 912](#) that property be furnished on credit of government as debtor; it is enough that it is procured by means of representations that person obtaining property is officer or employee of United States. [Brafford v. United States, 259 F. 511, 1919 U.S. App. LEXIS 1662 \(6th Cir. 1919\).](#)

Evidence warranted jury in finding that accused was not Federal officer where he assumed to state what his business was, and failed to mention business of Federal officer. [Haggerty v. United States, 5 F.2d 224, 1925 U.S. App. LEXIS 2632 \(7th Cir. 1925\).](#)

Testimony did not disclose that appellants expressly or orally represented themselves as United States Immigration Officers, and badges they displayed were police badge and deputy sheriff badge; but without reviewing evidence, it is sufficient to say that there is ample testimony to show that they intentionally represented themselves as immigration officers, with authority to inquire as to whether their intended victim was in possession of passport, and by their words and actions, they held themselves out as acting under authority of United States and in such falsely assumed capacity attempted to extort money from their victim. [Heskett v. United States, 58 F.2d 897, 1932 U.S. App. LEXIS 4790 \(9th Cir.\), cert. denied, 287 U.S. 643, 53 S. Ct. 89, 77 L. Ed. 556, 1932 U.S. LEXIS 314 \(1932\).](#)

In prosecution for impersonating federal officer and for conspiracy to commit such offense, defendant could be convicted on testimony of victim and co-conspirator. [Westenrider v. United States, 134 F.2d 772, 1943 U.S. App. LEXIS 3678 \(9th Cir. 1943\)](#) ; [Haid v. United States, 157 F.2d 630, 1946 U.S. App. LEXIS 2763 \(9th Cir. 1946\)](#), overruled in part, [United States v. De Bright, 730 F.2d 1255, 1984 U.S. App. LEXIS 24076 \(9th Cir. 1984\).](#)

Evidence sustained finding that defendant charged with impersonating United States officer voluntarily and knowingly signed written waiver of indictment and consent to be prosecuted by information so that motion to vacate and set aside judgment of conviction and sentence was properly denied. [United States v. Jones, 177 F.2d 476, 1949 U.S. App. LEXIS 3222 \(7th Cir. 1949\).](#)

In prosecution of defendant for falsely representing himself to be agent of Federal Bureau of Investigation, and in such assumption of character arrested two persons and robbed them, evidence was sufficient to show that defendant represented himself as agent of FBI, despite fact that witness had difficulty in reproducing sounds "F-B-I" during his testimony. [United States v. Hessbrook, 504 F.2d 1375, 1974 U.S. App. LEXIS 5624 \(5th Cir. 1974\)](#), cert. denied, 420 U.S. 1006, 95 S. Ct. 1450, 43 L. Ed. 2d 764, 1975 U.S. LEXIS 1174 (1975).

Notwithstanding contention that defendant did not purport to act on behalf of government but acted only on behalf of himself, defendant's conviction for violation of [18 USCS § 912](#) was affirmed where evidence showed that he not only falsely represented himself to be an employee of the United States but also while acting in this capacity and solely by virtue of the pretense, obtained loan from Army Emergency Relief. [United States v. Etheridge, 512 F.2d](#)

18 USCS § 912

[1249, 1975 U.S. App. LEXIS 15566 \(2d Cir.\)](#), cert. denied, 423 U.S. 843, 96 S. Ct. 77, 46 L. Ed. 2d 63, 1975 U.S. LEXIS 2500 (1975).

Evidence sufficient to sustain conviction for impersonating federal agent and acting as such is found where it is shown that defendant represented that he was agent of Internal Revenue Service and asserted that he was investigating report that individual was not paying taxes on sale of firewood. [United States v. Parker, 699 F.2d 177, 12 Fed. R. Evid. Serv. \(CBC\) 1150, 1983 U.S. App. LEXIS 31005 \(4th Cir.\)](#), cert. denied, 464 U.S. 836, 104 S. Ct. 122, 78 L. Ed. 2d 120, 1983 U.S. LEXIS 1320 (1983).

Conduct of former officer in State Department met 2-pronged test for conviction under [18 USCS § 912](#) where he used his diplomatic passport not only in passing through Customs in England, but also in identifying himself on at least 3 occasions when registering at London hotels as being with State Department, in presenting his diplomatic passport and asking for discount as United States State Department employee when renting car, and in receiving as employee 25 percent discount. [United States v. Martindale, 790 F.2d 1129, 1986 U.S. App. LEXIS 25241 \(4th Cir.\)](#), cert. denied, 479 U.S. 855, 107 S. Ct. 193, 93 L. Ed. 2d 125, 1986 U.S. LEXIS 3911 (1986).

Evidence was sufficient to establish that defendant “acted as” federal police officer when he instructed real police officer to slow down, activated his siren, and maneuvered behind him while activating emergency lights, and when he asserted that he was “a police officer” and specifically, that he was “federal police officer.” [United States v. Roe, 606 F.3d 180, 82 Fed. R. Evid. Serv. \(CBC\) 889, 2010 U.S. App. LEXIS 10865 \(4th Cir.\)](#), cert. denied, 562 U.S. 1051, 131 S. Ct. 617, 178 L. Ed. 2d 448, 2010 U.S. LEXIS 8976 (2010).

Evidence was sufficient to support conviction for impersonating officer or employee of United States where defendant, who was proprietor of tax business, prepared letter responding to client’s tax problems using formal letterhead of U.S. representative, signed letter of behalf of fictional congressional aide, and faxed letter to client. Jury could reasonably conclude that defendant’s actions were consistent with assumed character of government official and in furtherance of impersonation when she transmitted fraudulent letter. [United States v. Tomsha-Miguel, 766 F.3d 1041, 2014 U.S. App. LEXIS 17238 \(9th Cir. 2014\)](#).

Unpublished decision: Sufficient evidence supported defendant’s conviction because evidence demonstrated that defendant not only told victim that defendant was FBI agent, but also elicited information from victim in that capacity, information victim would never have provided but for ruse, and defendant then threatened to have victim jailed. [United States v. Hanover, 522 Fed. Appx. 420, 2013 U.S. App. LEXIS 8240 \(9th Cir. 2013\)](#).

Defendant was properly convicted of falsely pretending to be officer of the United States because jury could find, inter alia, that he told several deputies, court officials, and towing company owner that he was Assistant United States Attorney in effort to exert pressure and influence. [United States v. Ziegler, 1 F.4th 219, 2021 U.S. App. LEXIS 17664 \(4th Cir. 2021\)](#).

Evidence sustained conviction for false representation that defendant was special agent of Federal Bureau of Investigation engaged in investigation and tracing of checks stolen from United States mail and that defendant voluntarily and knowingly pleaded guilty to such information, upon which plea he was sentenced, and required denial of motion to vacate judgment and sentence thereon. [United States v. Mimeo, 89 F. Supp. 148, 1950 U.S. Dist. LEXIS 3940 \(D. Mich. 1950\)](#).

Unpublished decision: Sufficient evidence supported defendant’s conviction pursuant to [18 USCS § 912](#) for impersonating officer in U.S. Army because, though defendant questioned state-of-mind evidence, evidence supported finding that he knew that he had been discharged and that he attempted to conceal that fact to take advantage of computer system glitch. [United States v. Wright, 300 Fed. Appx. 608, 2008 U.S. App. LEXIS 24190 \(10th Cir. 2008\)](#).

Unpublished decision: There was sufficient evidence that defendant falsely represented himself as United States Marshal and “acted as such” by pointing to defendant’s badge and demanding immediate access to mayor. [United](#)

[States v. Neidlinger, 354 Fed. Appx. 357, 2009 U.S. App. LEXIS 26193 \(10th Cir. 2009\)](#), cert. denied, 559 U.S. 1055, 130 S. Ct. 2359, 176 L. Ed. 2d 572, 2010 U.S. LEXIS 2977 (2010).

Evidence was sufficient to convict defendant of false impersonation of federal officer because while conversing with bank employee regarding obtaining access to account, after bank employee stated that information could only be released to account holder or to IRS agent, defendant told employee three times that she worked for IRS; defendant knew she was not IRS agent; and in same conversation, defendant directed bank employee to make check for account's proceeds to her, so that she could give it to owner of company. [United States v. Peatross, 377 Fed. Appx. 477, 2010 FED App. 0299N, 105 A.F.T.R.2d \(RIA\) 2010-2361, 2010 U.S. App. LEXIS 9880 \(6th Cir.\)](#), cert. denied, 562 U.S. 940, 131 S. Ct. 356, 178 L. Ed. 2d 230, 2010 U.S. LEXIS 7229 (2010).

40. Miscellaneous

Where government only asked defrauded witness as to what happened when he got into car with defendants, trial court erred in not allowing cross-examination of witness as to conversation between witness and defendants when they first contacted him. [Dickson v. United States, 182 F.2d 131, 1950 U.S. App. LEXIS 2762 \(10th Cir. 1950\)](#).

Defendant's claim that evidence showed only that he purported to be former Immigration and Naturalization Service (INS) employee (which he was), rather than present INS employee (which he was not) was directly contradicted by testimony of witness. [United States v. Tin Yat Chin, 476 F.3d 144, 2007 U.S. App. LEXIS 1976 \(2d Cir. 2007\)](#).

Research References & Practice Aids

Cross References:

Indictment for impersonation of Federal Officer, USCS Court Rules, Federal Rules of Criminal Procedure, Appendix of Forms, Form 8.

Indictment for obtaining money by impersonation of Federal Officer, USCS Court Rules, Federal Rules of Criminal Procedure, Appendix of Forms, Form 9.

United States defined, [18 USCS § 5](#).

Department and agency defined, [18 USCS § 6](#).

Sentencing Guidelines for the United States Courts, [18 USCS Appx § 2J1.4](#).

Am Jur:

32 Am Jur 2d, False Personation §§ 5, 6, 8, 10, 11.

[63C Am Jur 2d, Public Officers and Employees § 16](#).

Am Jur Proof of Facts:

23 Am Jur Proof of Facts, Confidence Games and Swindles, p. 1.

Forms:

16 Bender's Federal Practice Forms, Forms CrR7:16, CrR7:17, Federal Rules of Criminal Procedure.

Annotations:

18 USCS § 912

Criminal liability for false personation during stop for traffic infraction. [26 ALR5th 378](#).

“Acts as such” element of [18 USCS § 912](#), making it a crime to pretend to be an officer or employee of the United States. *55 ALR Fed 494*.

False personation of Federal officer. [86 L Ed 232](#).

Hierarchy Notes:

[18 USCS, Pt. I](#)

United States Code Service
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