

17.1 Kidnapping (18 U.S.C. § 1201(a)(1))

The defendant is charged in [Count _____ of] the indictment with kidnapping in violation of Section 1201(a)(1) of Title 18 of the United States Code. For the defendant to be found guilty of that charge, the government must prove each of the following elements beyond a reasonable doubt:

First, the defendant [seized] [confined] [inveigled] [decoyed] [kidnapped] [abducted] [carried away] [*name of kidnapped person*];

Second, the defendant [held] [detained] [*name of kidnapped person*] against [his] [her] [other pronoun] will; and

[Third, the defendant intentionally transported [*name of kidnapped person*] across state lines]

or

[Third, the defendant traveled in [interstate][foreign] commerce [in committing] [in furtherance of committing] the offense] .

or

[Third, the defendant used [[the mail] [any [means] [facility] [instrumentality] of [interstate][foreign] commerce]] [[in committing] [in furtherance of committing]] the offense].

[The government is not required to prove that the defendant kidnapped [*name of kidnapped person*] for reward or ransom, or for any other purpose.]

[The fact that [*name of kidnapped person*] [may have] initially voluntarily accompanied the defendant does not necessarily [prevent the occurrence] [negate the existence] of a later kidnapping.]

To “kidnap” a person means to unlawfully hold, keep, detain, or confine the person against their will and without their consent. Involuntariness or coercion in connection with the

victim’s detention is an essential part of the offense.

[To “inveigle” a person means to lure, entice or lead the person astray by false representations, promises, or other deceitful means.]

Comment

“The act of holding a kidnapped person . . . necessarily implies an unlawful physical or mental restraint for an appreciable period against the person’s will and with a willful intent so to confine the victim. If the victim is of such an age or mental state as to be incapable of having a recognizable will, the confinement then must be against the will of the parents or legal guardian of the victim.” *Chatwin v. United States*, 326 U.S. 455, 460 (1946). The “involuntariness of seizure and detention . . . is the very essence of the crime of kidnapping.” *Id.* at 464.

As to the last paragraph of the instruction, see *United States v. Redmond*, 803 F.2d 438, 439 (9th Cir. 1986) (“The fact that one originally accompanies another without being forced does not prevent the occurrence of a kidnapping where force is later used to seize or confine the victim.”).

Under 18 U.S.C. § 1201, there are three bases for federal jurisdiction: (1) transporting the victim across state lines, (2) the offender’s interstate movement in committing or in furtherance of committing the offense, or (3) using instrumentalities of interstate commerce in committing or in furtherance of committing the offense. *United States v. Stackhouse*, 105 F.4th 1193, 1199 (9th Cir. 2024); see also *id.* at 1200-02 (holding that the Commerce Clause permits Congress to regulate intrastate kidnappings where an instrumentality of interstate commerce (a cellphone) is used intrastate).

See Comment to Instruction 17.2 (Kidnapping—Within Special Maritime and Territorial Jurisdiction of United States) concerning the need for an instruction distinguishing kidnapping from other offenses involving seizure, confinement, detention, or asportation.

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