

CRIMINAL RESTRAINT
(N.J.S.A. 2C:13-2a)

The defendant is charged in the indictment with the crime of criminal restraint.

The statute upon which the charge is based reads in pertinent part as follows:

A person is guilty of criminal restraint if he knowingly . . .

- (a) Restrains another unlawfully in circumstances exposing the other to risk of serious bodily injury . . .

In order for you to find the defendant guilty of this offense, the State must prove the following elements of this offense beyond a reasonable doubt:

1. That the defendant knowingly restrained [name of victim] ;
2. That the defendant knew the restraint was unlawful; and
3. That the restraint was under circumstances in which the defendant knowingly exposed [name of victim] to the risk of serious bodily injury.

The first element that the State must prove beyond a reasonable doubt is that the defendant knowingly restrained [name of victim]. The word “restraint” means confinement, abridgement or limitation. Restraint involves hindrance, confinement or restriction of liberty.¹

The second element that the State must prove beyond a reasonable doubt is that the defendant knew that the restraint was unlawful.

**[If the person restrained is over the age of 14 and not
incompetent, use the following definition]:**

The term “unlawful” means to accomplish the restraint by force, threat or deception.²

**[If the person restrained is under the age of 14 or incompetent,
use the following definition]:**

The term “unlawful” means to accomplish the restraint without the consent of the parent, guardian or other person responsible for the general supervision of (his/her) welfare.³

The third element that the State must prove beyond a reasonable doubt is that the restraint was under circumstances in which the defendant knowingly exposed [name of victim] to a

¹ Black's Law Dictionary (4th Edition, rev.) p. 1477.

² See N.J.S.A. 2C:13-1d.

³ See N.J.S.A. 2C:13-1d.

risk of serious bodily injury. The term “serious bodily injury” means bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of the functions of any bodily member or organ.⁴

With regard to all three of these elements, the State must prove beyond a reasonable doubt that the defendant acted knowingly. A person acts knowingly with respect to the nature of (his/her) conduct or the attendant circumstances if (he/she) is aware that (his/her) conduct is of that nature, or that such circumstances exist, or (he/she) is aware of a high probability of their existence. A person acts knowingly with respect to a result of (his/her) conduct if (he/she) is aware that it is practically certain that (his/her) conduct will cause such a result. "Knowing," "with knowledge" or equivalent terms have the same meaning.

Knowledge is a condition of the mind which cannot be seen and can only be determined by inferences from the defendant’s conduct, words or acts. A state of mind is rarely susceptible of direct proof, but must ordinarily be inferred from the facts. Therefore, it is not necessary that the State produce witnesses to testify that an accused said (he/she) had a certain state of mind when (he/she) engaged in a particular act. It is within your power to find that such proof has been furnished beyond a reasonable doubt by inference which may arise from the nature of (his/her) acts and (his/her) conduct, and from all (he/she) said and did at the particular time and place, and from all of the surrounding circumstances reflected in the testimony [and evidence adduced at trial].

If after a consideration of all of the evidence you are convinced beyond a reasonable doubt that the State has proven all three elements of the offense, then you must find the defendant guilty.

If you find that the State has failed to prove any of the elements of the offense beyond a reasonable doubt, then you must find the defendant not guilty.

⁴ Definition is from N.J.S.A. 2C:11-1(b).