FALSE IMPRISONMENT-LESSER INCLUDED[1]
(N.J.S.A. 2C:13-3)

The defendant is charged in the indictment with the crime of criminal restraint. If you find the defendant not guilty of criminal restraint, you should go on to consider the included offense of false imprisonment.

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

> A person is guilty of false imprisonment if he knowingly . . .
> (a)   Restrains another unlawfully so as to interfere substantially with his/her liberty.

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 restrained **[name of victim];**

2.   That the restraint was unlawful;

3.   That the restraint interfered substantially with **[name of victim's]** liberty; and

4.   The defendant acted knowingly.

The first element that the State must prove beyond a reasonable doubt is that the defendant restrained **[name of victim]**. The word "restraint" means confinement, abridgement or limitation. Restraint involves hindrance, confinement or restriction of liberty.[2]

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

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[1]   This charge is intended for use in connection with the model charges of Criminal Restraint N.J.S.A. 2C:13-2a.

[2]   Black's Law Dictionary (4th Edition, rev.) p. 1477.

[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.[3]

[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.[4]

The third element that the State must prove beyond a reasonable doubt is that the restraint interfered substantially with _____ **[name of victim's]** liberty. Whether the interference with a victim is substantial is for you to decide. A "substantial interference" is one that is significant. If the victim is restrained only slightly, and such restraint does not substantially interfere with his/her liberty, then you must not convict the defendant of the false imprisonment charge. In determining whether the interference was substantial, you may consider the duration and manner of restraint, and all other relevant facts and circumstances before you.

"Liberty" means the state or fact of being free. It is freedom from external restraint or compulsion of power, to do as one pleases.[5]

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[3]   See N.J.S.A. 2C:13-1d.
[4]   See N.J.S.A. 2C:13-1d.
[5]   Webster's New International Dictionary, 2nd Edition Unabridged (1957).

With regard to each 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 four 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.

[AFFIRMATIVE DEFENSE – CHARGE IF APPLICABLE]

Defendant contends that **[name of alleged victim]** was a child, less than eighteen years old, that he/she was a relative or legal guardian of **[name]**, and that his/her sole purpose in restraining **[name]** was to assume control of the child. I have already defined purpose for you. It is the State's burden to prove beyond a reasonable doubt that **[name]** was not a child, less than eighteen years old, or that defendant was not a relative or legal guardian of **[name]**, or that defendant's purpose in restraining **[name]** was not solely to assume control of the child.

If you find that the State has proven all four elements of this offense beyond a reasonable doubt, and you find that the State has proven beyond a reasonable doubt that **[name]** was not a child, less than eighteen years old, or that defendant was not a relative or legal guardian of **[name]**, or that defendant's purpose in restraining **[name]** was not solely to assume control of the child, you must find the defendant guilty. On the other hand, if you find that the State has failed to prove any element beyond a reasonable doubt, or that the State has failed to prove beyond a reasonable doubt that **[name]** was not a child, less than eighteen years old, or that defendant was not a relative or legal guardian of **[name]**, or that defendant's purpose in restraining **[name]** was not solely to assume control of the child, you must find the defendant not guilty.