**17.1 Kidnapping—Interstate Transportation**

**(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] will; and

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

*or*

 [Third, the defendant [traveled in [interstate][foreign] commerce] [used the mail [in

committing] [in furtherance of] the offense] [used any [means] [facility] [instrumentality]

of [interstate][foreign] commerce in [committing] [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.]

**Comment**

 A previous version of this instruction included language requiring that the kidnapping be for “ransom, reward, or other benefit.” The Committee has deleted this language in light of contrary case law. *See United States v. Healy*, 376 U.S. 75, 81 (1964) (noting that 1934 amendment to §1201(a) “was intended to make clear that a nonpecuniary motive did not preclude prosecution under the statute . . . . The wording certainly suggests no distinction based on the ultimate purpose of a kidnaping”); *Gawne v. United States*, 409 F.2d 1399, 1403 (9th Cir. 1969) (“[I]n light of the language and legislative history of the 1934 amendment a purpose to obtain pecuniary benefit [is] no longer required . . . [and] an illegal purpose need not be shown”) (internal quotations and citations omitted). *Cf. United States v. Bradshaw*, 690 F.2d 704, 708 (9th Cir. 1982) (“Although it is true that motive need not be proved under 18 U.S.C. § 1201, it is far from irrelevant. Motive is evidence of the commission of any crime.”).

 “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 kidnaping.” *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.”).

*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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