

MEMORANDUM

Re: Updates to the Pattern Jury Instructions

Date: August 18, 2026

The following updates have been made to the Pattern Jury Instructions:

1. Former 2.19 Conspiracy 18 U.S.C. § 371 was eliminated and replaced with 2.19.1 Conspiracy to Commit Offense 18 U.S.C. § 371 and 2.19.2 Conspiracy to Defraud 18 U.S.C. § 371 (Second Clause).
2. 2.55 Kidnapping 18 U.S.C. § 1201(a)(1) was changed as follows:

2.55 KIDNAPPING 18 U.S.C. § 1201(a)(1)

The defendant is charged in count _____ with a violation of 18 U.S.C. section 1201(a)(1).

This law makes it a crime to kidnap another person in connection with interstate commerce.

To find the defendant guilty of this crime you must be convinced that the government has proved each of the following beyond a reasonable doubt:

First: the defendant, knowingly and unlawfully, [seized] [confined] [inveigled] [kidnapped] [abducted] [carried away] [the person described in the indictment]:

Second: the defendant held [the person described in the indictment] against his will for an appreciable period of time:

Third: the defendant did so for some purpose or benefit:

Fourth: [the defendant willfully transported [the person described in the indictment] and that transportation was in interstate [foreign] commerce] [the defendant traveled in interstate [foreign] commerce in committing or in furtherance of the offense] [the defendant used the mail or any means, facility, or instrumentality of interstate [foreign] commerce in committing or in furtherance of the offense].

Involuntariness or coercion in connection with the victim's detention is an essential part of the offense. [Additionally, an appreciable period of time is time beyond that required to commit a related offense, here [describe relevant offense(s)].

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

[The term "willfully" means that the defendant acted voluntarily and with the intent to violate the law.]

Comment

Definitions of “interstate commerce,” “foreign commerce,” and “commerce” are in the general instructions at Instruction 1.39.

In 2006, Congress amended the jurisdictional element of the statute to reach crimes where the defendant travels in interstate or foreign commerce, or uses the mail or any means, facility, or instrumentality of interstate or foreign commerce, in committing or in furtherance of the commission of the offense. What constitutes an “instrumentality of interstate commerce,” e.g., the Internet, a cell phone, or GPS tracking device, is a question of law for the courts to decide.

In *United States v. Sarracino*, 131 F.3d 943, 947 (10th Cir. 1997) (quoting 18 U.S.C. § 1201(a)), the court held that in order to meet the requirement that the victim was abducted “for ransom or reward or otherwise,” “[i]t is only necessary . . . that the kidnappers had some reason for the kidnapping which, to them, would be of some benefit.” See also *De Herrera v. United States*, 339 F.2d 587, 588 (10th Cir. 1964) (“The use in the statute of the words ‘or otherwise’ shows an intent of Congress to include within the offense any holding of a kidnapped person for a purpose desired by the captor and negatives the need for ransom or reward.”).

In *United States v. Murphy*, 100 F.4th 1184, 1196–99 (10th Cir. 2024), the court held that the statutory requirement of “hold[ing]” in § 1201 contains a temporal limitation: namely, that the defendant held the victim for an appreciable period of time. Additionally, the court agreed with cases that “interpret[] the scope of § 1201 as requiring an appreciable temporal period of detention (i.e., holding) beyond that necessary to commit any other offense.” *Id.* at 1199. Accordingly, the bracketed language regarding related offenses will be appropriate where a trial involves “other crimes that can involve some form of holding,” so as to distinguish the temporal period of detention required for kidnapping from “that inherent in the commission of another offense.” *Id.* at 1196, 1199, 1202–04.

An additional element, prompted by the *Apprendi v. New Jersey*, 530 U.S. 466 (2000) doctrine, is required when the indictment alleges that the kidnapping resulted in the death of a person and the prosecution is seeking the death penalty. If a disputed issue is whether a death resulted, a court should consider giving a lesser included offense instruction.

Section 1201(b) provides that failure to release the victim within twenty-four hours after the unlawful seizure creates a rebuttable presumption that the victim has been transported in interstate or foreign commerce.

Use Note

The jury need not unanimously agree on why the defendant kidnapped the person in question, so long as each juror finds that the defendant had some purpose or derived some benefit from the kidnapping.

The government need not prove that the defendant knew that he was crossing a state line with the victim. So long as the defendant crossed a state line while intentionally transporting the victim, the interstate transportation of a victim element that is applicable in some cases has been satisfied.

This instruction covers kidnappings under section 1201(a)(1). The statute provides several other bases for jurisdiction in subsections 1201(a)(2)–(5). Where those bases are charged, the instruction should be modified accordingly.