

### Los Angeles Kidnapping Defense Lawyer Tracy M. Grayson

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Tracy Grayson is the recognized go-to lawyer for kidnapping cases, and has an outstanding trial and settlement track record. In a recent 2011 case, at the preliminary hearing, Mr. Grayson so thoroughly cross-examined the alleged victim and his wife that the judge had to stop the hearing and appoint them lawyers. At the end of the hearing, the judge dismissed all of the kidnapping charges and Mr. Grayson's client was held only on a lesser crime, false imprisonment. Instead of facing life in prison, the client only faced three years maximum on the false imprisonment charge.

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#### **The Law**

In order for you be found guilty of simple kidnapping, the prosecutor must prove that: you took, held, or detained another person by using force or by instilling reasonable fear; using that force or fear, you then moved the other person (or made them move) a substantial distance; the other person did not consent or agree to the movement; and you did not actually and reasonably believe that the other person consented or agreed to the movement. The maximum penalty for simple kidnapping is eight years in state prison.

A more serious charge is "Kidnapping for ransom, reward or extortion." In order to be found guilty of this crime, the prosecutor must prove that: you kidnapped, abducted, seized, confined, concealed, carried away, enticed, or decoyed someone; that you held or detained someone (or intended to do so); and that you did so for ransom, reward, to commit extortion, or to get money or something valuable. With this charge, it is not necessary that the other person be moved for any distance.

Also, in some kidnapping for ransom cases, the jury may be required to decide whether the defendant caused the victim to die or suffer bodily harm, or whether the defendant intentionally

confined the victim in a way that created a substantial risk of death. If the victim is actually injured you could get life in prison without the possibility of parole (LWOP). If there is even a risk of injury, you could get life in prison.

Here is a sampling of kidnapping crimes covered in the Penal Code and the maximum prison sentence possible for each:

- kidnapping for ransom: 7 years - Life in prison
- kidnapping for rape, robbery, or carjacking: 7 years - Life in prison
- kidnapping a victim under the age of fourteen: 11 years prison
- kidnapping for child molestation: 11 years prison

Keep in mind that kidnapping is a very serious crime and can be a violent and/or serious strike under California's Three Strikes Law. Also, the District Attorney (DA) or prosecutor may be able to add enhancements or special allegations to some kidnapping charges where the evidence shows that: the victim was injured or killed, in which case the punishment is life in prison without the possibility of parole (LWOP).

Other crimes similar to kidnapping include false imprisonment and child abduction. Felony false imprisonment carries a maximum of three years in state prison; if charged as a misdemeanor, you could serve up to one year in county jail. Felony child abduction carries up to four years in state prison; if charged as a misdemeanor, you could get anywhere from no jail time, time served, all the way up to one year in county jail.

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### **Possible Consequences**

- County jail or state prison
- Probation or parole
- A criminal record (which may or may not be expunged, reduced or dismissed)
- Fines and fees involving hundreds or even thousands of dollars
- Community service or work (your time and money)
- Restitution or reimbursement to the victim for loss of or damage to person or property

- Have to provide DNA sample which goes into a nationwide database
- May have to register as a sex offender
- Constitutes a violent and serious strike, which could result in a longer prison sentence now and if you commit a future felony
  - A five-year prior allegation can later add five years to prison sentence if you commit a future felony
  - Possible deportation or other immigration consequences
  - No longer able to own, use or possess a gun or weapon
  - Could affect current job, future employment or professional license
  - Could affect right to vote, jury service, and holding public office

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### **Defenses**

Lack of evidence, alibi, witness credibility, as well as the other defenses and issues outlined below have all come up during Attorney Grayson's 15 years of successfully fighting kidnapping cases.

There could be an issue regarding the requirement of "substantial distance" with some kidnapping charges. The movement has to be more than a slight or trivial distance.

Also, the issue of consent can be raised. If the jury is convinced that the other person consented to go with you, they could return with a not guilty verdict. Consent is defined as follows: the other person freely and voluntarily agree to go with you or to be moved by you; the other person was aware of the movement; and the other person had sufficient maturity and understanding to choose to go with you. Keep in mind that consent may be withdrawn. In other words, the other person can change their mind and decide they no longer wish to go with you or to be held by you.

A defendant is allowed to use the following defense if the facts in the case call for it: if he or she took, detained, concealed or harbored a child under the age of 14 to protect that child from danger or imminent harm, the defendant must be found not guilty.

A defendant is allowed to use the following defense if the facts in the case call for it: if he or she was making a lawful citizen's arrest because the person committed a felony; or the defendant

had reasonable cause to believe the other person committed a felony; or the other person committed a misdemeanor in the defendant's presence.

Police officers and federal investigators are usually not present when a kidnapping incident occurs, but they can still be important witnesses. For example, if you are arrested and you say something incriminating during questioning (never talk to the police); if officers locate fingerprints or DNA on particular items involved in the kidnapping (for example, on a door, window, etc.); if the police search you, your property, car, house, etc., and locate incriminating evidence--for example, something belonging to the alleged victim (never consent or agree to a search).

If you or your property are in fact searched, it is possible that the search was conducted illegally in violation of your Fourth Amendment rights, and if so, the evidence could be suppressed and your case dismissed.

Either way, as an experienced, skilled, and aggressive attorney, Tracy Grayson will thoroughly review, investigate and prepare your case, interview prosecution and defense witnesses, obtain additional discovery, research complexities in the law, prepare motions, appoint or hire experts, aggressively fight for your freedom in court, and make certain that we do everything possible to win your case.

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