

MISTAKE OF LAW AS TO LEGALITY OF ARRESTS

(N.J.S.A. 2C:3-9a)

(To accompany charge on N.J.S.A. 2C:3-7)

If the defendant's/policeman's belief in the lawfulness of an arrest which he/she endeavors to effect by force is erroneous and such error is due to ignorance or mistake as to the law governing arrests or searches, then his/her use of force is not justifiable. The fact that he/she was honestly mistaken as to what the law says is not a defense.

As has been explained to you (in the charge under 2C:3-7) (defendant/police officer) states that he/she believed his/her use of force against (complaining witness) to be immediately necessary to effect a lawful arrest. The (State/complaining witness) has argued that the arrest was illegal.

(Discuss the Law involved)

Your task is to apply this law to (defendant's/police officer's) conduct. If you find that the arrest was lawful, then it serves to justify (the defendant's/police officer's) use of force. If you find that the arrest was unlawful, and that (the defendant's/police officer's) belief in the lawfulness of the arrest was erroneous and such error was due to ignorance of or mistake as to the law, (the defendant's/police officer's) use of force was not justified.