SUPPLEMENTAL CHARGE ON THEFT
USED IF DEFENDANT IS FOUND TO BE IN POSSESSION OF STOLEN PROPERTY
WITHIN A SHORT TIME AFTER THE THEFT[1]

If you find that defendant was in possession of (property stolen), within a reasonably short period of time after the theft, you may infer that defendant is the thief.

Although possession of stolen property within a short period of time from the theft is not in and of itself a crime, since it is possible under our law innocently to possess such goods, such possession within a reasonably short time after the theft may be found sufficient by you to infer that the possessor is the thief unless the evidence shows to your satisfaction that the property was acquired by defendant by legal means.

Exclusive possession of stolen property shortly after the theft is ordinarily a circumstance from which you may reasonably draw the inference and find, in light of the surrounding circumstances shown by the evidence in the case, that the possessor is the thief.

An inference is a deduction of fact that may logically and reasonably be drawn from another fact or group of facts established by the evidence. Whether or not an inference should be drawn is for you to decide using your own common sense, knowledge and everyday experiences. Ask yourselves is it probable, logical and reasonable. However, you are never required or compelled to draw an inference. You alone decide whether the facts and circumstances shown by the evidence support an inference and you are always free to draw or not to draw an inference. If you draw an inference, you should weigh it in connection with all the other evidence in the case keeping in mind that the burden of proof is upon the State to prove all the elements of the crime beyond a reasonable doubt. The term, "recently," is a relative term and has no fixed meaning. Whether property may be considered as recently stolen depends upon the nature of the property, and all the facts and circumstances shown by the evidence in the case. The shorter the period between the theft and the possession, the stronger the inference becomes. Conversely, the longer the period of time since the theft, the more doubtful becomes the inference which may reasonably be drawn from the possession.

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[1]   This charge may be given even if the defendant testifies. See State v. Ippolito, 287 N.J.Super. 375, 384 n. 2 (App. Div.), certif. denied, 144 N.J. 585 (1996). However, if the defendant raises a claim of right, the charge should not be given. Id.

SUPPLEMENTAL CHARGE ON THEFT

[IF DEFENDANT DOES NOT TESTIFY AND ELECTS TO HAVE THE JURY CHARGED ON HIS/HER DECISION NOT TO TESTIFY, CHARGE FOLLOWING]

You must remember that a defendant has the constitutional right to decline to testify and to remain silent. You must not consider for any purpose or in any manner, in arriving at your verdict, that defendant did not testify. However, you may consider the possession of recently stolen property, along with other circumstances and other evidence, independent of any testimony of the accused in determining whether the State has met its burden of proof.

[CHARGE IN ALL CASES]

If you find that the State has proven beyond a reasonable doubt that the defendant was in exclusive possession of the property and that the property had been recently stolen, you may find the defendant guilty of theft in the absence of evidence as to the circumstances surrounding the possession of the property. I have already defined possession for you.

As I have previously mentioned, possession of the stolen property by a person shortly after the theft raises a permissible inference that the possessor is in fact the thief. However, you may accept or reject such an inference after considering all the other evidence in the case. If you find the inference, you should weigh it in connection with all the other evidence, keeping in mind that the State must prove defendant's guilt beyond a reasonable doubt, and that the inference does not shift the burden of proof to the defendant to prove his/her innocence.