

**AGGRAVATED ASSAULT - WHILE FLEEING OR
ATTEMPTING TO ELUDE A LAW ENFORCEMENT OFFICER**
(N.J.S.A. 2C:12-1b(6))

The defendant (Name) is charged in count _____ with the crime of aggravated assault.
The indictment alleges:

(READ APPROPRIATE COUNT OF INDICTMENT)

The statute upon which this charge is based provides:

A person is guilty of aggravated assault if he causes bodily injury to another person while fleeing or attempting to elude a law enforcement officer in violation of [another statute defining the offense of eluding]...

In order for you to find the defendant guilty of this crime the State must prove the following elements beyond a reasonable doubt:

1. That defendant caused bodily injury to another person;
and
2. That defendant did so while fleeing or attempting to elude a law enforcement officer in violation of the statute defining the eluding offense.

Bodily injury is defined as physical pain, illness or any impairment of physical condition.¹ In order to find that the defendant caused bodily injury to (victim), you must find beyond a reasonable doubt, first, that (victim) would not have been injured but for defendant's conduct, and, second, that the bodily injury was a probable consequence of the defendant's conduct.² A probable consequence is one which is not too remote, accidental in its occurrence or too dependent on the conduct of another to have a just bearing on defendant's liability or the gravity of his offense.³

¹ N.J.S.A. 2C:11-1a.

² N.J.S.A. 2C:2-3e.

³ State v. Martin, 119 N.J. 2 (1990).

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I have already instructed you on the crime of eluding, and you should apply those instructions here to determine whether the State has proven beyond a reasonable doubt that defendant was fleeing or attempting to elude a law enforcement officer.⁴

In conclusion, the two elements the State must prove beyond a reasonable doubt are:

1. That defendant caused bodily injury to another person;
and
2. That defendant did so while fleeing or attempting to elude a law enforcement officer in violation of the statute defining the eluding offense.

If you are satisfied that the State has proven both of these elements beyond a reasonable doubt, then you must find the defendant guilty of aggravated assault. However, if you are not convinced that each of the elements has been proven beyond a reasonable doubt, then you must find the defendant not guilty.

⁴ This charge is drafted for the typical situation in which the predicate offense of eluding a law enforcement officer in violation of N.J.S.A. 2C:29-2b will also have been charged in the indictment. In other situations, the charge will have to be modified to incorporate the eluding charge in full.