

**CRIMINAL MISCHIEF – CAUSES SUBSTANTIAL INTERRUPTION  
OR IMPAIRMENT OF PUBLIC COMMUNICATION, ETC.  
N.J.S.A. 2C:17-3b(7)**

Count \_\_\_\_ of the indictment charges defendant with committing the offense of criminal mischief by **(insert allegation of indictment)**. In pertinent part, the indictment alleges that

**(Read material part of Count \_\_\_\_ to jury)**

Defendant is charged with violating a provision of our law that provides that a person is guilty of criminal mischief if he/she purposely or knowingly causes a substantial interruption or impairment of public communication/transportation/supply of water, oil, gas or power/other public service.

In order to convict defendant of this offense, you must find that the State has proved beyond a reasonable doubt each of the following three elements:<sup>1</sup>

1. That **(name of entity)** is a provider of public communication/transportation/supply of water, oil, gas or power/other public service;
2. That defendant caused a substantial interruption or substantial impairment of public communication/transportation/supply of water, oil, gas or power/other public service (specify) provided by **(name of entity)**.
3. That defendant acted purposely or knowingly.

The first element that the State must prove beyond a reasonable doubt is that **(name of entity)** is a provider of public communication/transportation/supply of water, oil, gas or power/other public service.

The second element that the State must prove beyond a reasonable doubt is that defendant caused a substantial interruption or a substantial impairment of public **[communication] [transportation] [supply of water/oil/gas/power] [other specified public service]** provided by **(name of entity)**. The term “substantial” means an ample or

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<sup>1</sup> The form of the offense defined here is a third degree crime. The second degree version of the offense contains additional elements and is considered within.

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considerable amount.<sup>2</sup> The term “interruption” means action in opposition or to hamper the operation of something.<sup>3</sup> The term “impairment” means damage or a worsening of the condition, value, strength or quality of something.<sup>4</sup>

The third element that the State must prove beyond a reasonable doubt is that defendant purposely or knowingly caused such substantial interruption or substantial impairment. A defendant acts purposely with respect to the nature of his/her conduct or a result thereof if it is his/her conscious object to engage in conduct of that nature or to cause such a result. A defendant acts purposely with respect to attendant circumstances if he/she is aware of the existence of such circumstances or believes or hopes that they exist.<sup>5</sup> In other words, for you to find that defendant acted purposely, you must be satisfied beyond a reasonable doubt that it was defendant’s purpose or conscious object to cause a substantial interruption or a substantial impairment of public **[communication]** **[transportation]** **[supply of water/oil/gas/power]** **[other specified public service]** provided by **(name of entity)** when he/she engaged in the conduct alleged.

A defendant acts knowingly with respect to the nature of his/her conduct or the attendant circumstances if he/she is aware that his/her conduct is of that nature, or that such circumstances exist, or he/she is aware of a high probability of their existence. A defendant acts knowingly with respect to a result of his/her conduct if defendant is aware that it is practically certain that his/her conduct will cause such a result.<sup>6</sup> In other words, for you to find that defendant acted knowingly, you must be satisfied beyond a reasonable doubt that defendant knew what he/she was doing, and that defendant was aware that the nature of his/her conduct and the attendant circumstances were such as to make it practically certain that his/her conduct would cause a substantial interference or a substantial impairment of

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<sup>2</sup> See The Random House Dictionary of the English Language, (2 ed., unabridged).

<sup>3</sup> See The Random House Dictionary of the English Language, (2 ed., unabridged).

<sup>4</sup> See The Random House Dictionary of the English Language, (2 ed., unabridged).

<sup>5</sup> See N.J.S.A. 2C:2-2b(1).

<sup>6</sup> See N.J.S.A. 2C:2-2b(2).

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public [**communication**] [**transportation**] [**supply of water/oil/gas/power**] [**other specified public service**] provided by (**name of entity**) when he/she engaged in the conduct alleged.

You should understand that purpose or knowledge is a condition of the mind. It cannot be seen. It can only be determined by inferences from conduct, words or acts. Therefore, it is not necessary for the State to produce witnesses to testify that defendant stated, for example, that he/she acted with purpose or knowledge when he/she did a particular thing. It is within your power to find that proof of purpose or knowledge has been furnished beyond a reasonable doubt by inference which may arise from the nature of the acts and the surrounding circumstances. The place where the acts occurred and all that was done or said by defendant preceding, connected with, and immediately succeeding the events in question are among the circumstances to be considered.

If you find that the State has failed to prove beyond a reasonable doubt any element of the offense of criminal mischief, you must find defendant not guilty. On the other hand, if you find that the State has proven beyond a reasonable doubt every element of the offense, you must find defendant guilty of criminal mischief.

**[THIS CONCLUDES THE CHARGE IF THE INDICTMENT ALLEGES ONLY THE THIRD DEGREE FORM OF CRIMINAL MISCHIEF UNDER THE STATUTE. CHARGE AS FOLLOWS IF SUBMITTING TO THE JURY THE 2<sup>ND</sup> DEGREE OFFENSE OF CRIMINAL MISCHIEF RESULTING IN DEATH AS WELL.]<sup>7</sup>**

If you have found defendant guilty of the offense of criminal mischief, you must then continue your deliberations to consider the more serious offense of criminal mischief causing death. Regarding this offense, you must determine whether the State has proved beyond a reasonable doubt two additional elements:

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<sup>7</sup> If a verdict sheet is to be submitted to the jury in connection with criminal mischief/criminal mischief causing death charges, that verdict sheet must clearly indicate that the criminal mischief causing death charge is to be considered if, and only if, the jury is first satisfied that the State has proved beyond a reasonable doubt the first three elements of criminal mischief under N.J.S.A. 2C:17-3(b)(7). If the State has failed to prove the underlying charge, the jury must find defendant not guilty of criminal mischief and is not to consider the criminal mischief causing death charge.

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4. That defendant's interruption or impairment of public **[communication]** **[transportation]** **[supply of water/oil/gas/power]** **[other specified public service]** caused the death of **(name of deceased)**; and

5. That defendant acted recklessly in causing this death.

Regarding the fourth element, the State must prove beyond a reasonable doubt the death of **(name of deceased)** and that **(name's)** death was caused by the interruption or impairment of public **[communication]** **[transportation]** **[supply of water/oil/gas/power]** **[other specified public service]** that resulted from defendant's conduct.

The fifth element that the State must prove beyond a reasonable doubt is that defendant acted recklessly in causing this death. A defendant acts recklessly when he/she consciously disregards a substantial and unjustifiable risk. A conscious disregard requires that defendant actually be aware of the risk, but that he/she ignores it anyway. The risk must be of such a nature and degree that, considering the nature and purpose of defendant's conduct and the circumstances known to him/her, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the same situation.<sup>8</sup> In other words, for you to find that defendant acted recklessly, you must be satisfied beyond a reasonable doubt that defendant was aware of and disregarded a substantial and unjustifiable risk that his/her conduct would cause the death of another person.

If you find that the State has failed to prove beyond a reasonable doubt any element of criminal mischief causing death, you must find defendant not guilty of that offense. If, however, you find that the State has proved beyond a reasonable doubt every element of the offense, you must find defendant guilty of criminal mischief causing death.

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<sup>8</sup> If causing death had been defendant's purpose or intention when causing substantial interruption or impairment of public communication/transportation/etc., defendant would also be exposed to prosecution under homicide statutes. Reckless conduct which causes death is also prosecutable as a homicide (manslaughter). See N.J.S.A. 2C:11-3 and 4.