

INTERCEPTION OF EMERGENCY COMMUNICATIONS
FOR UNLAWFUL PURPOSE
(N.J.S.A. 2C:33-21)

The defendant is charged with the crime of interception of an emergency communication for an unlawful purpose. The statute provides in pertinent part as follows:

Any person who intercepts any message or transmission made on or over any police, fire or emergency medical communications system, or any person who is the recipient of information so intercepted, and who uses the information obtained thereby to facilitate the commission of or the attempt to commit a crime or a violation of any law of this State, or uses the same in a manner which interferes with the discharge of police or firefighting operations or provision of medical services by first aid, rescue or ambulance squad personnel, shall be guilty of a crime

For you to find the defendant guilty of this offense, the State must prove the following elements beyond a reasonable doubt:

1. that the defendant knowingly intercepted or received a message or transmission made on or over a police, fire or emergency medical communications system; and
2. that the defendant used the information in the message or transmission that he/she intercepted or received with the purpose [**CHOOSE AS APPROPRIATE**] [to facilitate the commission of or the attempt to commit a crime or a violation of law] or [interfere with the discharge of police or firefighting operations or the provision of medical services by first aid, rescue or ambulance-squad personnel].

The first element that the State must prove beyond a reasonable doubt is that the defendant knowingly intercepted or received a message or transmission made on or over a police, fire or emergency medical communications system.

A police, fire or emergency medical communications system is a radio system or other communicators system used by police officers, firefighters and/or emergency medical personnel to communicate among themselves and/or with each other.

A person acts knowingly with respect to the nature of his/her conduct if he/she is aware that his/her conduct is of that nature. A person acts knowingly with respect to the attendant

**INTERCEPTION OF EMERGENCY
COMMUNICATIONS FOR
UNLAWFUL PURPOSE
(N.J.S.A. 2C:33-21)**

circumstances if he/she is aware that such circumstances exist or is aware of a high probability of their existence. A person acts knowingly with respect to a result of his/her conduct if he/she is aware that it is practically certain that his/her conduct will cause such a result.

Knowledge is a condition of the mind. It cannot be seen. It can only be determined from the defendant's conducts, words or acts. A state of mind is rarely susceptible of direct proof but must ordinarily be inferred from the facts. Therefore, it is not necessary that the State produce witnesses to testify that an accused said that he/she had a certain state of mind when he/she did a particular thing. It is within your power to find that such proof has been furnished beyond a reasonable doubt by inference which may arise from the nature of his/her acts and conduct and from all he/she had and did at the particular time and place and from all the surrounding circumstances established by the evidence.

The second element that the State must prove beyond a reasonable doubt is that the defendant used the information in the message or transmission that he/she intercepted or received with the purpose [**CHOOSE AS APPROPRIATE**] [to facilitate the commission of or the attempt to commit a crime or a violation of law]¹ or [interfere with the discharge of police or firefighting operations or the provision of medical services by first aid, rescue or ambulance-squad personnel.] I have used the term "purposely." A person 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. In other words, a person acts purposely if he/she means to act in a certain way or to cause a certain result. A person acts purposely with respect to attendant circumstances if the person is aware of the existence of such circumstances or believes or hopes that they exist. Purpose, like knowledge or "knowing," is a condition of the mind. It cannot be seen. Therefore, it is not necessary that the State produce witnesses to testify that an accused said that he/she had a certain state of mind when he/she did a particular thing. It is within your power to find that such proof has been furnished beyond a

¹ When the case involves an attempt theory, attempt should be charged. See Model Charge for N.J.S.A. 2C:5-1. Note that attempt requires a purposeful state of mind. State v. Robinson, 136 N.J. 476 (1994).

**INTERCEPTION OF EMERGENCY
COMMUNICATIONS FOR
UNLAWFUL PURPOSE
(N.J.S.A. 2C:33-21)**

reasonable doubt by inference which may arise from the nature of his/her acts and conduct and from all he/she had and did at the particular time and place and from all the surrounding circumstances established by the evidence.

CHOOSE AS APPROPRIATE

[In this case, the State contends that the defendant used the information contained in the intercepted or received message or transmission to facilitate **[INSERT CRIME COMMITTED OR ATTEMPTED]**_____.]²

[In this case, the State contends that the defendant used the information contained in the intercepted or received message or transmission in a manner that interfered with the discharge of police or firefighting operations or the provision of medical services by first aid, rescue or ambulance-squad personnel by **[INSERT/DESCRIBE ALLEGED CONDUCT]**_____.]

In summary, if you find that the State has proved, beyond a reasonable doubt, the elements as I have just explained them, then you must find the defendant guilty. If you find that the State has failed to prove any of these elements beyond a reasonable doubt, then you must find the defendant not guilty.

² The State must identify the crime that defendant was in the course of committing or attempting to commit when he/she possessed a radio capable of receiving a message made over an emergency communications system. The court's charge should advise the jury of the elements of the underlying crime. Cf. State v. MacIlwraith, 344 N.J. Super. 544, 548 (App. Div. 2001).