

**TAMPERING WITH PUBLIC RECORDS OR INFORMATION**  
**(MAKING, PRESENTING OR FILING A FALSE**  
**DOCUMENT, RECORD OR THING)**  
**(N.J.S.A. 2C:28-7a(2))**

The indictment charges the defendant with the crime of tampering with public records or information and reads as follows:

**(Read Indictment)**

The statute upon which this charge is based reads in pertinent part:

A person commits an offense if he makes, presents, offers for filing, or uses any record, document or thing knowing it to be false, and with purpose that it be taken as a genuine part of any record, document or thing belonging to, or received or kept by, the government for information or record, or required by law to be kept by others for information of the government<sup>1</sup> . . . [with the purpose to defraud or injure anyone.]<sup>2</sup>

In order to convict the defendant, the State must prove each of the following elements beyond a reasonable doubt:

- (1) that the defendant falsely made, presented, offered for filing, or used a record, document or thing;
- (2) that the defendant knew the record, document or thing to be false; and
- (3) that the defendant acted with the purpose that the item be taken as a genuine part of a record, document or thing that belonged to, or was received or kept by, the government for information or record, or was required by law to be kept by others for information of the government.

The first element that the State must prove beyond a reasonable doubt is that the defendant falsely made, presented, offered for filing, or used a record, document or thing.

The second element that the State must prove beyond a reasonable doubt is that the defendant knew the record, document or thing to be false.

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<sup>1</sup> N.J.S.A. 2C:28-7a(1).

<sup>2</sup> N.J.S.A. 2C:28-7b. This is the grading portion of the statute which makes the offense a third degree crime as opposed to a disorderly persons offense. This part of the statute should be charged to the jury only after a finding of guilt as to subsection (a)(2).

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A person 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 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. "Knowingly," "with knowledge" or equivalent terms have the same meaning.<sup>3</sup>

Knowledge is a condition of the mind which cannot be seen and can only be determined by inferences from the defendant's conduct, 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, members of the jury, that the State produce witnesses to testify that an accused said he/she had a certain state of mind when he/she engaged in a particular act. 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 his/her conduct, and from all he/she said and did at the particular time and place, and from all of the surrounding circumstances.

The third element that the State must prove beyond a reasonable doubt is that the defendant acted with the purpose that the record, document or thing be taken as a genuine part of one that belonged to, or was received or kept by, the government for information or record, or was required by law to be kept by others for information of the government.<sup>4</sup>

"Government" includes any branch, subdivision or agency of the government of the State or any locality within it.<sup>5</sup>

Here, the State alleges that the defendant's purpose was \_\_\_\_\_ **[Here, the court should state to the jury the allegations made by the State and the defense's position(s), if any].**

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. That is, 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 he/she is aware of the existence of such circumstances or he/she believes or hopes that they exist. In other words, if he/she means

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<sup>3</sup> N.J.S.A. 2C:2-2b(2).

<sup>4</sup> The question of who receives, keeps or maintains the item, to whom it belongs, and for what purpose should be provided for by statute, ordinance, rule, regulation or otherwise. The trial court might wish to refer to or quote the appropriate provision, if it is in issue.

<sup>5</sup> N.J.S.A. 2C:27-1b.

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to do it.<sup>6</sup>

Purpose is a condition of the mind which cannot be seen and can only be determined by inferences from the defendant's conduct, 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, members of the jury, that the State produce witnesses to testify that an accused said he/she had a certain state of mind when he/she engaged in a particular act. 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 his/her conduct, and from all he/she said and did at the particular time and place, and from all of the surrounding circumstances.

If you find that the State has failed to prove any one of these elements beyond a reasonable doubt, then you must find the defendant not guilty.

If you find, however, that the State has proven these three elements beyond a reasonable doubt, then you must consider a fourth element, namely whether the defendant's purpose was to defraud or injure anyone.<sup>7</sup>

I have already defined "purpose" for you. It remains the same.

As to this element, the State must prove beyond a reasonable doubt that the defendant's purpose was to defraud or injure anyone. Here, the State alleges that the defendant's purpose was \_\_\_\_\_ **[Here, the court should state to the jury the allegation(s) made by the State and the defense's position(s), if any].**

If you find that the State has proven all four elements beyond a reasonable doubt, you must find the defendant guilty of the crime of tampering with public records or information with purpose to defraud or injure anyone. If you find that the State has failed to prove the fourth element beyond a reasonable doubt, but has proven the first three elements beyond a reasonable doubt, then you must find the defendant guilty of the offense of tampering with public records or information.

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<sup>6</sup> N.J.S.A. 2C:2-2b(1).

<sup>7</sup> N.J.S.A. 2C:28-7a(3).