

**TERRORISTIC THREATS<sup>1</sup>**  
**(THREATS TO KILL)**  
**(N.J.S.A. 2C:12-3(b))**

Count \_\_\_\_\_ of the indictment charges defendant with committing [a] terroristic threat[s].

**[READ COUNT OF INDICTMENT]**

That section of our statutes provides in pertinent part:

A person is guilty of a crime if he threatens to kill another with the purpose to put him in imminent fear of death under circumstances reasonably causing the victim to believe the immediacy of the threat and the likelihood that it will be carried out.

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

1. That the defendant threatened to kill another person;
2. That the threat was made with the purpose to put the person in imminent fear of death; and,
3. That the threat was made under circumstances which reasonably caused the person to believe that the threat was likely to be carried out.

The first element that the State must prove beyond a reasonable doubt is that defendant threatened to kill (**name of victim**). The words or actions of the defendant must be of such a nature as to convey menace or fear of being killed to the ordinary person. It is not a violation of this statute if the threat expresses fleeting anger or was made merely to alarm.<sup>2</sup>

The second element that the State must prove beyond a reasonable doubt is that the threat was made with the purpose to put (**name of victim**) in imminent fear of death.

The third element that the State must prove beyond a reasonable doubt is that the threat was made under circumstances which made (**name of victim**) believe that the threat was likely to be

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<sup>1</sup> The court should consider cautioning the jury that this charge does not deal with “terrorism” in the post September 11, 2001, sense of the term.

<sup>2</sup> See Final Report of the New Jersey Criminal Law Revision Commission, Vol. II: Commentary (October 1971).

**TERRORISTIC THREATS (THREATS TO KILL)**  
**N.J.S.A. 2C:12-3(b)**

carried out.<sup>3</sup> The threat must be such that it would reasonably convey a fear of death to an ordinary person.<sup>4</sup>

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. A person acts purposely with respect to attendant circumstances if the individual is aware of the existence of such circumstances or the individual believes or hopes that they exist. “With purpose,” “designed,” “with design” or equivalent terms have the same meaning.

The term purposely is a condition of the mind. A condition of the mind cannot be seen. It can only be determined by inference from 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 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 said and did at the particular time and place and from all surrounding circumstances established by the evidence.

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

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<sup>3</sup> It is unclear whether the statute requires that the victim be aware of the threat to support a conviction. See State v. Ortisi, 308 N.J. Super. 573, 597 (App. Div.), certif. denied, 156 N.J. 383 (1998) (Court “leaves for another day” issue of whether victims must be made aware of the threat because the evidence in the case showed that victims knew of threat).

<sup>4</sup> State v. Nolan, 205 N.J. Super. 1, 4 (App. Div. 1985).