

TERRORISTIC THREATS
(N.J.S.A. 2C:12-3a)

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 commit any crime of violence with the purpose to

[CHOOSE APPLICABLE ALTERNATIVE]

terrorize another or in reckless disregard of the risk of causing such terror

OR

cause evacuation of a building, place of assembly or facility of public transportation or in reckless disregard of the risk of causing such evacuation

OR

otherwise to cause serious public inconvenience or in reckless disregard of the risk of causing such inconvenience.

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 commit a crime of violence.
2. That the threat was made with the purpose to

[CHOOSE APPLICABLE ALTERNATIVE]

terrorize another or in reckless disregard of the risk of causing such terror

OR

cause evacuation of a building, place of assembly or facility of public transportation or in reckless disregard of the risk of causing such evacuation

OR

otherwise to cause serious public inconvenience or in reckless disregard of the risk of causing such inconvenience.

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The first element that the State must prove beyond a reasonable doubt is that defendant threatened to commit any crime of violence. The State alleges that defendant threatened to commit the violent crime of _____. The elements of the crime(s) of _____ are as follows: [charge the elements of the crime(s) of violence alleged. If appropriate, explain the difference between a crime and an offense and explain to the jury that the State must prove beyond a reasonable doubt that the defendant threatened to commit a crime, not a disorderly persons offense or a petty disorderly persons offense.].¹

The words or actions of the defendant must be of such a nature as to convey menace or fear of a crime of violence to the ordinary person. It is not a violation of this statute if the threat expresses fleeting anger or was made merely to alarm.²

The second element that the State must prove beyond a reasonable doubt is that the threat was made with the purpose to

[CHOOSE APPLICABLE ALTERNATIVE]

terrorize another or in reckless disregard of the risk of causing such terror. In this case, the State alleges that defendant intended to terrorize (name of victim). The State need not prove that the victim actually was terrorized.

OR

to cause evacuation of a building, place of assembly or facility of public transportation or in reckless disregard of the risk of causing such evacuation. In this case, the State alleges that defendant intended to cause the evacuation of (name of location). The State need not prove that there actually was an evacuation of a building, place of assembly or facility of public transportation.

¹ State v. MacIlwraith, 344 N.J. Super. 544, 548 (App. Div. 2001).

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

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OR

to cause serious public inconvenience or in reckless disregard of the risk of causing such inconvenience. In this case, the State alleges that defendant intended to cause serious public inconvenience by (set forth allegation). The State need not prove that there actually was serious public inconvenience.

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.

A person acts recklessly with respect to the result of his/her conduct if he/she consciously disregards a substantial and unjustifiable risk that the result will occur from his/her conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor’s conduct and the circumstances known to the actor, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor’s situation. One is said to act recklessly if one acts with recklessness, with scorn for the consequences, heedlessly, or foolhardily.

The terms purposely and recklessly are conditions 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, 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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[CHARGE IF APPLICABLE]

If the State has proven defendant guilty of committing [a] terroristic threat[s], then you must further determine beyond a reasonable doubt whether the threat was made during a declared period of (choose appropriate) national, State or county emergency. In this case, the State alleges that when defendant's threat was made, _____ had declared a period of emergency. It is no defense to the charge that the defendant did not know that there was a declared period of emergency at the time the crime occurred.

If you find that the State has proven beyond a reasonable doubt that the defendant committed a terroristic threat and that the offense occurred during a declared period of national, State or county emergency, then you must find defendant guilty of committing a terroristic threat during a declared period of emergency. If you find that the State has proven beyond a reasonable doubt that the defendant committed a terroristic threat but find that the State has failed to prove beyond a reasonable doubt that the offense occurred during a declared period of national, State or county emergency, then you must find defendant not guilty of committing a terroristic threat during a declared period of emergency.