

AGGRAVATED ASSAULT
(POINTING OR DISPLAYING FIREARM AT
LAW ENFORCEMENT OFFICER)
(N.J.S.A. 2C:12-1b(9))¹

Count _____ of this indictment charges the defendant with the crime of aggravated assault.

(READ INDICTMENT)

The applicable statute provides, in pertinent part, that:

- (a) person is guilty of aggravated assault if he . . . (k)nowingly, under circumstances manifesting extreme indifference to the value of human life, points or displays a firearm . . . at or in the direction of a law enforcement officer.

In order for you to find the defendant guilty, the State must prove each of the following elements beyond a reasonable doubt:

1. that the defendant knowingly pointed or displayed a firearm at or in the direction of a law enforcement officer;
2. that the defendant knew that the person was a law enforcement officer; and
3. that the defendant acted under circumstances manifesting extreme indifference to the value of human life.

The first element that the State must prove beyond a reasonable doubt is that the defendant knowingly pointed or displayed a firearm at or in the direction of a law enforcement officer. A firearm is defined as any handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances.²

¹ This statute took effect on April 20, 1999.

² The statutory definition of firearm also includes items such as air guns and spring guns. Should the case involve one of these items, the jury should be instructed on the full definition of firearm contained in N.J.S.A. 2C:25-19c.

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LAW ENFORCEMENT OFFICER)
(N.J.S.A. 2C:12-1b(9))
Page 2 of 3

A law enforcement officer is a person whose public duties include the power to act as an officer for the detection, apprehension, arrest and conviction of offenders against the laws of this State.³

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 if (he/she) is aware of a high probability of their existence. A person acts knowingly with respect to the 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 that cannot be seen and that can be determined only by inferences from 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) 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 the defendant's acts and conduct, from all that (he/she) said and did at the particular time and place, and from all surrounding circumstances.

The second element that the State must prove beyond a reasonable doubt is that the defendant knew that the person was a law enforcement officer.

As I instructed you earlier, a person acts knowingly with respect to the nature of the attendant circumstances if (he/she) is aware that such circumstances exist or if (he/she) is aware of a high probability of their existence.

The third element that the State must prove beyond a reasonable doubt is that the defendant acted under circumstances manifesting extreme indifference to the value of human life.

The phrase "under circumstances manifesting extreme indifference to the value of human life" does not focus on the defendant's state of mind but rather on the circumstances under which you find that the defendant acted.

The State must prove that the defendant acted in a way that showed that (he/she) was indifferent to whether the victim or another lived or died, that is, that the defendant acted in a way that showed that (he/she) did not care that someone might be killed. Put another way, the State must prove that the defendant's conduct indicated that life does not matter and constituted a

³ Cf. N.J.S.A. 2C:25-19c.

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LAW ENFORCEMENT OFFICER)
(N.J.S.A. 2C:12-1b(9))

Page 3 of 3

pronounced, unusual or violent failure to accord any importance or value to human life.⁴

If you find that the State has proved each and every element of this offense beyond a reasonable doubt, then you must find the defendant guilty of aggravated assault. If, however, you find that the State has failed to prove any element of this offense beyond a reasonable doubt, then you must find the defendant not guilty.

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State v. Farrell, 250 N.J. Super. 386, 390-391 (App. Div. 1991).