

**AGGRAVATED ASSAULT - USE OF LASER SIGHTING SYSTEM OR
DEVICE AGAINST LAW ENFORCEMENT OFFICER**
(N.J.S.A. 2C:12-1b(11))

Count _____ of the indictment charges the defendant with aggravated assault by use of a laser sighting system or device against a law enforcement officer.

(Read Count of Indictment)

The defendant is accused of violating a law that provides as follows:

A person is guilty of aggravated assault if he/she [u]ses or activates a laser sighting system or device, or a system or device which, in the manner used, would cause a reasonable person to believe that it is a laser sighting system or device, against a law enforcement officer acting in the performance of his duties while in uniform or exhibiting evidence of his authority.

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

1. that the defendant knowingly used or activated a laser sighting system or device, or a device which, in the manner used, would cause a reasonable person to believe that it is a laser sighting system or device; and
2. that the defendant knowingly used the laser sighting system or device, or a system or device which, in the manner used, would cause a reasonable person to believe that it is a laser sighting system or device, against a person who he/she knew was a law enforcement officer acting in the performance of his/her duties while in uniform or exhibiting evidence of his/her authority.

The first element that the State must prove beyond a reasonable doubt is that defendant knowingly used or activated a laser sighting system or device, or a device which, in the manner used, would cause a reasonable person to believe that it is a laser sighting system or device.

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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 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.

A "laser sighting system or device" means any system or device that is integrated with or affixed to a firearm and emits a laser light beam that is used to assist in the sight alignment or aiming of the firearm.¹ A laser sighting system or device also includes a system or device which, in the manner used, would cause a reasonable person to believe that it is a laser sighting system or device.

[CHARGE IF APPROPRIATE] The term firearm also includes devices in the nature of an air gun,

¹ N.J.S.A. 2C:12-1b(11).

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spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person.

A "firearm" means 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

The second element that the State must prove beyond a reasonable doubt is that the defendant knowingly used a laser sighting system or device or a system or device which, in the manner used, would cause a reasonable person to believe that it is a laser sighting system or device against a person whom he/she knew was a law enforcement officer acting in the performance of his/her duties while in uniform or exhibiting evidence of his/her authority.

² Handgun means any pistol, revolver or other firearm originally designed or manufactured to be fired by the use of a single hand. N.J.S.A. 2C:39-1k. The handgun need not be presently operable. State v. Gantt, 101 N.J. 573 (1986).

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Law enforcement officer means 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

If you find that the State has proven all the elements of the offense beyond a reasonable doubt, then you must find 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.

³ N.J.S.A. 2C:25-19c.