

CRIMINAL MISCHIEF – RESEARCH FACILITY PROPERTY
N.J.S.A. 2C:17-3b(3)

Count _____ of the indictment charges defendant with committing the offense of criminal mischief by **[insert aspect[s] of offense alleged in the indictment]**. In pertinent part, the indictment alleges that

(Read material part of Count _____ to jury).

Defendant is charged with violating a provision of our law that provides that a person is guilty of criminal mischief if he/she damages, defaces, eradicates, alters, receives, releases or causes the loss of any research property used by a research facility or otherwise causes physical disruption to the functioning of the research facility.

In order to convict defendant of this offense, you must find that the State has proved beyond a reasonable doubt each of the following three elements:

1. That **(name of location)** is a research facility;
2. That defendant damaged/defaced/eradicated/alterd/received/released/caused the loss of research property used by **(name of research facility)**;

[OR, IN THE ALTERNATIVE]

2. That defendant caused physical disruption to the functioning of **(name of research facility)**, and
3. That defendant acted purposely, knowingly or recklessly when he/she committed the **[damage/defacement-physical disruption.]**¹

¹ N.J.S.A. 2C:17-3b(3) provides two ways in which this form of criminal mischief can be committed. It can occur if defendant (1) damages, defaces, eradicates, alters, receives, releases or causes the loss of any research property used by a research facility or (2) if defendant otherwise causes physical disruption of the functioning of a research

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The first element that the State must prove beyond a reasonable doubt is that **(name of location)** is a research facility. Research facility means any building, laboratory, institution, organization, school, or person engaged in research, testing, educational or experimental activities, or any commercial or academic enterprise that uses warm-blooded or cold-blooded animals for food or fiber production, agriculture, research, testing, experimentation or education and includes, but is not limited to, any enclosure, separately secured yard, pad, pond, vehicle, building, structure or premises or separately secured portion thereof used for research purposes.²

The second element that the State must prove beyond a reasonable doubt is that defendant damaged/defaced/eradicated/altered/received/released/caused the loss of research property used by **(name of research facility)**.

[OR, IN THE ALTERNATIVE/CHARGE AS APPROPRIATE]

The second element that the State must prove beyond a reasonable doubt is that defendant caused physical disruption to the functioning of **(name of research facility)**. Physical disruption means interference, interruption or destruction of any operation of a research facility but does not include any lawful activity that results from public, governmental or research facility employee reaction to the disclosure of information about the research facility.³

The third element that the State must prove beyond a reasonable doubt is that defendant acted purposely, knowingly or recklessly when he committed the **[damage/defacement - physical disruption]**. A person acts purposely with respect to the nature of his/her conduct or a result

facility. Both of the above are third degree offenses irrespective of the amount of the pecuniary loss suffered by the research facility.

² See N.J.S.A. 2C:1-14p.

³ See N.J.S.A. 2C:17-3b(3).

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thereof if it is his/her conscious object to engage in conduct of that nature or to cause such a result. A defendant acts purposely with respect to attendant circumstances if he/she is aware of the existence of such circumstances or believes or hopes that they exist.⁴ In other words, for you to find that defendant acted purposely, you must be satisfied beyond a reasonable doubt that it was his/her purpose or conscious object to **(damage, deface, etc., research property)** used by **(name of research facility)** [or, in the alternative] to cause physical disruption to the functioning of **(name of research facility)**.

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 defendant acts knowingly with respect to a result of his/her conduct if defendant is aware that it is practically certain that his/her conduct will cause such a result.⁵ Thus, for you to find that defendant acted knowingly, you must be satisfied beyond a reasonable doubt that defendant knew what he/she was doing and that defendant was aware that the nature of his/her conduct and the attendant circumstances were such as to make it practically certain that defendant's conduct would **(damage, deface, etc., research property)** used by **(name of research facility)** [or, in the alternative] would cause physical disruption to the functioning of **(name of research facility)**.

A person acts recklessly when he/she consciously disregards a substantial and unjustifiable risk. A conscious disregard requires that defendant actually be aware of the risk, but that he/she ignores it anyway. The risk must be of such a nature and degree that, considering the nature and

⁴ See N.J.S.A. 2C:2-2b(1).

⁵ See N.J.S.A. 2C:2-2b(2).

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purpose of defendant's conduct and the circumstances known to him/her, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the same situation.⁶ In other words, for you to find that defendant acted recklessly, you must be satisfied beyond a reasonable doubt that defendant was aware of and disregarded a substantial and unjustifiable risk that his/her conduct would **(damage, deface, etc., research property)** used by **(name of research facility)** [or, in the alternative] would cause physical disruption to the functioning of **(name of research facility)**.

You should understand that purpose, knowledge and recklessness are conditions of the mind. They cannot be seen. They can only be determined by inferences from conduct, words or acts. Therefore, it is not necessary for the State to produce witnesses to testify that defendant stated, for example, that he/she acted purposely, knowingly or recklessly when he/she did a particular thing. It is within your power to find that proof of purpose, knowledge or recklessness has been furnished beyond a reasonable doubt by inferences which may arise from the nature of the acts and the surrounding circumstances. The place where the acts occurred and all that was done or said by defendant preceding, connected with, and immediately succeeding the events in question are among the circumstances to be considered.

If you find that the State has failed to prove beyond a reasonable doubt every element of the offense, you must find defendant not guilty. But if you determine that the State has proved beyond a reasonable doubt every element of criminal mischief as have been explained to you, you must find defendant guilty of that offense.

⁶ See N.J.S.A. 2C:2-2b(3).