

**RECKLESS OR NEGLIGENT INJURY OR RISK
OF INJURY TO INNOCENT PERSONS
(N.J.S.A. 2C:3-9c)**

The defense has argued that the use of force against (Victim 1) was justified under the law for the purpose of (insert one of the following):

Execution of public duty	-	2C:3-3
Self-protection	-	2C:3-4
Protection of other persons	-	2C:3-5
Defense of premises or personal property	-	2C:3-6
Law enforcement	-	2C:3-7
Carrying out a special responsibility	-	2C:3-8

The State has charged that in using force against (Victim 1) the defendant recklessly or negligently injured or created a risk of injury to (Victim 2), an innocent person.

A person is reckless in injuring or creating a risk of injury to an innocent person when (he/she) consciously disregards a substantial and unjustifiable risk that the injury or risk of injury will result 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 (him/her), its disregard involves a gross deviation from the standard of conduct that a reasonable-person would observe in the actor's situation.¹ In other words, if the defendant knew that it was very likely that (his/her) use of force against (Victim 1) would injure or create a risk of injury to an innocent, person, but (he/she) went ahead and used it anyway, where a reasonable person would not have used force, then (he/she) acted recklessly.

A person is negligent² in injuring or creating a risk of injury to an innocent person when (he/she) should be aware of a substantial and unjustifiable risk that the injury or risk of injury will result from (his/her) conduct. The risk must be of such a nature and degree that the actor's failure to perceive it, considering the nature and purpose of (his/her) conduct and the circumstances known to (him/her), involves a gross deviation from the standard of care that a reasonable person would observe in the actor's situation. In other words, if it were very likely

¹ N.J.S.A. 2C:2-2 (3)

² N.J.S.A. 2C:2-2(4)

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that the defendant's use of force against (Victim 1) would injure or create a risk of injury to an innocent person, and given the circumstances, the defendant should have known that, but (he/she) went ahead and used force anyway, where a reasonable person would not have used force, then (he/she) acted negligently.

If you find that the defendant, in using force against (Victim 1) was either reckless or negligent in injuring or creating a risk of injury to (Victim 2), then the fact that the defendant might have been justified under the law in acting against (Victim 1) cannot be used as a defense to the charges as to (Victim 2).