

**12.4(c) CRIMINAL MISCHIEF – [DISPLAYING] [OR] [PROJECTING] AN
IMAGE ONTO A BUILDING, STRUCTURE, OR OTHER PROPERTY WITHOUT
WRITTEN CONSENT [WITH A CREDIBLE THREAT]**

§ 806.13(6), Fla. Stat.

To prove the crime of Criminal Mischief, the State must prove the following two elements beyond a reasonable doubt:

- 1. (Defendant) used any medium to knowingly and intentionally [display] [or] [project] an image onto a building, structure, or other property.**
- 2. The [display] [or] [projection] was without the written consent of the owner of the building, structure, or other property.**

“Image” means a visual representation or likeness of a person or object, including text, graphics, logos, other artwork, or any combination thereof.

§ 806.01, Fla. Stat.

“Structure” means any building of any kind, any enclosed area with a roof over it, any real property and appurtenances thereto, any tent or other portable building, and any vehicle, vessel, watercraft, or aircraft.

Give only if the felony in § 806.13(6)(b), Fla. Stat. is charged.

If you find the defendant guilty of Criminal Mischief, you must further determine if the State proved beyond a reasonable doubt that the image [displayed] [or] [projected] onto the building, structure, or other property contained a credible threat.

“Credible Threat” means a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat; however, the State is required to prove the defendant was aware that a reasonable person who viewed the image could regard the image as a serious expression of an intent to commit an act of violence.

Lesser Included Offenses*

CRIMINAL MISCHIEF – [DISPLAYING] [OR] [PROJECTING] AN IMAGE ONTO A BUILDING, STRUCTURE, OR OTHER PROPERTY WITHOUT WRITTEN CONSENT WITH A CREDIBLE THREAT — 806.13(6)(b)

CATEGORY ONE	CATEGORY TWO	FLA. STAT.	INS. NO.
Criminal Mischief [Displaying] [or] [Projecting] an image, without a credible threat		806.13(6)(a)	12.4(c)
	Attempt	777.04(1)	5.1

Comments

*When the third-degree felony in § 806.13(6)(b), Fla. Stat., is charged, most judges will likely require the jurors to answer an interrogatory on the verdict form about whether the defendant displayed or projected a credible threat. If so, there would be no lesser included crime of the first-degree misdemeanor in § 806.13(6)(a), Fla. Stat.

This instruction was adopted on September 8, 2023.