

# What Is Malicious Mischief, Anyway?

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## What Is Malicious Mischief, Anyway?

by Lewis & Laws



# What Is Malicious Mischief, Anyway?

We tend to think of mischief as a quaint or harmless trait; in mythology, mischievous creatures or beings are typically an irritation but rarely malevolent. Children are mischievous, cats can be mischievous—but when it comes to the law, mischief can be a lot more than just a cheeky prank.

## When Mischief Becomes Malicious (In the Eyes of The Law)

Malicious mischief is broken down, under Washington law, into three categories—first, second, and third degree.

RCW 9A.48.070 outlines malicious mischief in the first degree is a class B felony which is committed if a person:

Causes physical damage to the property of another in an amount exceeding five thousand dollars;

Causes an interruption or impairment of service rendered to the public by physically damaging or tampering with an emergency vehicle or property of the state, a political subdivision thereof, or a public utility or mode of public transportation, power, or communication; or

Causes an impairment of the safety, efficiency, or operation of an aircraft by physically damaging or tampering with the aircraft or aircraft equipment, fuel, lubricant, or parts.

First degree malicious mischief is punishable by up to 10 years in prison and a fine of \$20,000

Malicious mischief in the second and third degrees are progressively less serious and involve other industries and public goods. Malicious mischief in the second degree occurs if a person:

Causes physical damage to the property of another in an amount exceeding seven hundred fifty dollars; or

Creates a substantial risk of interruption or impairment of service rendered to the public, by physically damaging or tampering with an emergency vehicle or property of the state, a political subdivision thereof, or a public utility or mode of public transportation, power, or communication.

In the third degree, malicious mischief has been committed if a person:

Knowingly and maliciously causes physical damage to the property of another, under circumstances not amounting to malicious mischief in the first or second degree; or

Writes, paints, or draws any inscription, figure, or mark of any type on any public or private building or other structure or any real or personal property owned by any other person unless the person has obtained the express permission of the owner or operator of the property, under circumstances not amounting to malicious mischief in the first or second degree.

Third degree malicious mischief, which is a misdemeanor, is the most common charge for graffiti artists, but may be applied to other defacement of public or private property.

## What It Takes to Prove Malicious Mischief

Determining intent is a crucial aspect of this charge. An alleged perpetrator's knowledge of both the act and the consequences are key components of the definition of malicious mischief.

Under the law, a person is guilty of malicious mischief if they "knowingly and maliciously" commit the offenses listed. That means it's often up to the prosecution to prove a person's knowledge *and* intent. That means that an accident or another unexpected event could result in a malicious mischief charge, but if the defense is able to prove that the suspect didn't know the damage it would cause or didn't mean to act maliciously, the charges may be dropped.

It's important to note that "malice" doesn't necessarily need to be a strong intent; "malicious" is defined under the law as "an evil intent, wish, or design to vex, annoy, or injure another person."

Regardless of the circumstances, if you've been hit with a charge of malicious mischief, you deserve your day in court and counsel that understands and is willing to fight for you. Contact our offices today.

## If You've Been Charged with Malicious Mischief in Seattle, Contact the Experienced Criminal Defense Lawyers at Baker, Lewis, Schwisow & Laws

The expert defense team at Baker, Lewis, Schwisow & Laws, PLLC vigorously defend the rights of individuals facing a multitude of charges in Seattle, Bellevue, and Kirkland. Contact us today at 206.209.0608 or fill out our online contact form to get more information or to get a free case review!