

To: New Jersey Law Revision Commission
From: Susan Thatch
Re: *State v. Bessey* - Mental element for New Jersey disorderly persons offenses
Date: December 2, 2015

MEMORANDUM

Executive Summary

At the September 2015 meeting, the Commission requested additional information regarding the required mental state for disorderly person offenses in New Jersey in light of the New Jersey appellate court opinion in *State v. Bessey*.¹ This Memorandum provides background information and an overview of the required mental element for Title 2C disorderly persons offenses for the Commission's further consideration and guidance.

Background

In *State v. Bessey*, the Defendant was charged with the petty disorderly persons offense of "obstructing highways and other public passages" in violation of N.J.S. 2C:33-7.² Both the Trenton Municipal Court and the Law Division found defendant factually guilty of this offense.³ The Defendant subsequently appealed on the basis that she did not "knowingly" disobey the officer's command.⁴

The relevant portions of the N.J.S. 2C:33-7 disorderly persons offense are as follows:

a. A person, who having no legal privilege to do so, *purposely or recklessly* obstructs any highway or other public passage whether alone or with others, commits a petty disorderly persons offense . . .

b. A person in a gathering commits a petty disorderly persons offense if he *refuses* to obey a reasonable official request or order to move:

(1) To prevent obstruction of a highway or other public passage; or

(2) To maintain public safety by dispersing those gathered in dangerous proximity to a fire or other hazard . . .

[emphasis added]

The Appellate Division noted that although subsection a. of the statute requires that a defendant act "purposely or recklessly," subsection b. is silent as to the required mens rea.⁵ In the Criminal Code's general provisions, 2C:2-2 defines the culpability requirements, but also addresses the construction of statutes lacking

¹ 2014 WL 99282205 (App. Div. 2015).

² *Id.* at *4 - *5.

³ *Id.* at *1.

⁴ *Id.* at *6.

⁵ *Id.* at *6.

an express level of culpability.⁶ As a result, both parties to the appeal relied upon the “default” standard of culpability set forth in N.J.S. 2C:2-2c(3), each maintaining that a violation of subsection b. of 2C:33-7 requires a “knowing” mental state.

In assessing the culpability required by subsection b. of 2C:33-7, the court rejected the parties’ argument that N.J.S. 2C:2-2c(3) imposes a “knowing” mental element upon this disorderly person offense, stating “this provision is intended to apply only to a statute defining a *crime*. Defendant was charged and convicted of a petty disorderly persons offense, *not a crime*” (emphasis in original).⁷

The court’s subsequent determination of the applicable mens rea relied on the Legislature’s statutory use of the word “refuses” and was guided by its dictionary definition as “an act of defiance” that is “both knowing and willful.”⁸ Ultimately, the court affirmed the Defendant’s conviction, concluding that she willfully and knowingly refused to obey the officer’s reasonable request.⁹

Although the court’s interpretation of the word “refuses” in this instance comports with the default standard of knowing culpability contained in N.J.S. 2C:2-2c(3), the opinion clarifies that the gap-filler culpability established in 2C:2-2c(3) applies only to crimes and cannot be read into disorderly person offenses.

Analysis

Contemporary Context

Legal theories of overcriminalization have garnered significant publicity in recent years and have even forged unlikely alliances.¹⁰ Conceptually, those engaged with overcriminalization maintain that the lack of legislative clarity effectively creates punitive legislation or regulations that do not possess sufficient certainty¹¹

⁶ N.J.S. 2C:2-2c(3) provides that “[a] statute defining a crime, unless clearly indicating a legislative intent to impose strict liability, should be construed as a crime with the culpability defined in paragraph b(2) of this section. This provision applies to offenses defined both within and outside of this code.” Paragraph b(2) defines the “knowingly” standard of culpability.

⁷ *Ibid.* (citations omitted).

⁸ *Id.* at *8.

⁹ *Id.* at 9.

¹⁰ See Jordan Richardson, *Shining a Light on Overcriminalization*, HERITAGE FOUND., available at <http://www.heritage.org/research/reports/2015/06/shining-a-light-on-overcriminalization> (last visited November 30, 2015) (stating that “Americans all too often find themselves trapped by the very system that they assumed existed for their protection and prosecuted for crimes that most people would not even recognize as criminal offenses); see also Zach Dillon, *Symposium on Overcriminalization: Forward*, 102 J. CRIM. L. & CRIMINOLOGY 525 (2013) (“The Heritage Foundation and the American Civil Liberties Union joined forces to . . . send the unified message that whether you are liberal, moderate, or conservative, overcriminalization is an issue that can no longer be ignored.”); Anthony Romero and Mark V. Holden, *A New Beginning for Criminal Justice Reform*, July 7, 2015, available at <http://www.politico.com/magazine/story/2015/07/a-new-beginning-for-criminal-justice-reform-119822> (last visited November 30, 2015) (providing the ACLU’s and Koch Industries’ joint endorsement of the SAFE Justice Act).

¹¹ With respect to forbidden acts, “[i]f the penal code regulates too much conduct that is beyond the common law definitions of crimes or that is not inherently blameworthy, several problems arise. It becomes a formidable task for the average person to know what the law forbids, because the moral code offers no lodestar.” Paul J.Larkin, Jr., *Public Choice Theory and Overcriminalization*, 36 HARV. J.L. & PUB. POL’Y 715, 716 (2013).

or may have a disparate impact.¹² In the broadest sense, overcriminalization may occur through “(1) untenable offenses; (2) superfluous statutes; (3) doctrines that overextend culpability; (4) crimes without jurisdictional authority; (5) grossly disproportionate punishments; and (6) excessive or pretextual enforcement of petty violations.”¹³ Acts of legislative indulgence or omission potentially creating overcriminalization have been widely discussed at the federal level;¹⁴ but states have also grappled with this issue, especially with respect to the mens rea required for statutory offenses.¹⁵ Advocates believe that explicit mens rea requirements insure the law’s legitimacy and prevent prosecutorial overreach.¹⁶

New Jersey

In New Jersey, crimes are offenses carrying the possibility of imprisonment for longer than six months and are classified as being of the first, second, third or fourth degree.¹⁷

Disorderly or petty disorderly offenses are designated in the criminal code or in another state statute and carry a maximum penalty of no longer than six months imprisonment.¹⁸ Disorderly offenses are not crimes, and accordingly, charged individuals are not entitled to constitutional procedural protections such as the right to indictment by grand jury or to trial by jury.¹⁹ Title 2C also provides that conviction of these offenses does not

¹² ABA SECTION OF LITIGATION, ET AL., *Overcriminalization and Excessive Punishment: Uncoupling Pipelines to Prison 8* (2011), available at

http://www.americanbar.org/content/dam/aba/administrative/litigation/overcriminalization_conference_report.authcheckdam.pdf (noting the erosion of criminal intent and stating, that “[f]or the many millions who live in neighborhoods of concentrated poverty, the effects of overcriminalization are profound and immediate.”)

¹³ Erik Luna, *The Overcriminalization Phenomenon*, 54 AM. U. L. REV. 703, 717 (2005).

¹⁴ See, e.g., *Mens Rea: The Need for a Meaningful Intent Requirement in Federal Criminal Law: Hearing Before the H. Comm. on the Judiciary, Over-Criminalization Task Force*, 113th Cong. (2013) (statement of Congressman F. James Sensenbrenner, Jr. acknowledging that, “[i]ndeed, over the past three decades, Congress has created an average of 500 new crimes per decade, and the Administrative Office of the U.S. Courts estimate that over 80,000 defendants are sentenced in Federal courts annually. Many of the crimes on the books are antiquated or redundant, some are poorly drafted, and some have not been used in the last 30 years. Moreover, many of the regulatory crimes in the code lack any *mens rea*, the attempt to commit a crime. That means that an American citizen may not only be unaware that he is committing a crime, but he may be held strictly liable for his conduct”).

¹⁵ In December 2014, the Ohio legislature passed a law requiring that each new criminal offense must specify a level of culpability. S.B. 361, 130th General Assembly (Ohio 2014); similarly, the Michigan legislature is evaluating a bill mandating a “culpable mental state for legal violations.” H.B. 4713 (Mich. 2015).

¹⁶ See generally, Brian W. Walsh and Tiffany M. Joslyn, *Without Intent: How Congress is Eroding the Criminal Intent Requirement in Federal Law*, HERITAGE FOUND. AND NAT’L ASSOC. OF CRIM. DEFENSE LAWYERS (2010), available at http://s3.amazonaws.com/thf_media/2010/pdf/WithoutIntent_lo-res.pdf#page=21; Darryl K. Brown, *Prosecutors and Overcriminalization: Thoughts on Political Dynamics and A Doctrinal Response*, 6 OHIO ST. J. CRIM. L. 453 (2009).

¹⁷ N.J.S. 2C:1-4a.

¹⁸ N.J.S. 2C:1-4b.

¹⁹ N.J.S. 2C:1-4b. While the potential for imprisonment for a term of greater or less than six months is considered dispositive as to the nature of the offense (i.e., criminal or disorderly) and thus, the procedural protections available, significant additional penalties may attach to a disorderly persons conviction. Nevertheless, procedural protections such as the right to a jury trial may only be triggered “in the rare situation where a legislature packs an offense it deems serious with onerous penalties that nonetheless do not puncture the [six]-month incarceration line.” *Blanton v. N. Las Vegas*, 489 U.S. 538, 539-40 (1989); see also *State v. Denelsbeck*, 2014 WL 4916920 (App. Div. 2014), certif. granted, 220 N.J. 575 (2015) (appellate division upholding a sentence of 180 days imprisonment, ten-year driver’s license suspension, twelve hours in a resource program and \$1006 fine, without jury trial).

“give rise to any disability or legal disadvantage based on conviction of crime.”²⁰

New Jersey’s Criminal Code hews closely to the Model Penal Code (“MPC”), and largely adopts its four standards of culpability.²¹ However, in contrast to the prevailing six-month imprisonment threshold which demarcates offenses as either criminal or disorderly, the MPC categorized offenses as either crimes (those punishable by any term of imprisonment) or violations (those only punishable by fine), and prohibits conviction of any offense with a possibility of imprisonment that lacks a culpability element.²² New Jersey rejected this approach in adopting the New Jersey Criminal Code in 1971,²³ in 1981, the Legislature added today’s default mens rea, stating “that if no mens rea element is specifically indicated by a code offense then “knowingly” will be presumed to be the required state of mind for that offense.”²⁴ In contrast to other states, some consider New Jersey’s law strong in providing a required mental element for criminal offenses.²⁵

The linguistic challenge in parsing Title 2C’s generally applicable provisions is that while all crimes can be termed offenses, conversely, not all offenses can be termed crimes. In establishing the general requirements of culpability, subsection a. of 2C:2-2 provides that “[e]xcept as provided in subsection c.(3) . . . a person is not guilty of an offense unless he acted purposely, knowingly, recklessly or negligently, as the law may require, with respect to each material element of the offense.”²⁶ Additionally, even when no mental state is designated in a statute defining an offense, “a culpable mental state may nevertheless be required . . . if the proscribed conduct necessarily involves such mental state.”²⁷ Regardless of these statutory provisos, as determined by the *Bessey* court, the statutory stopgap culpability of “knowingly” contained in 2C:2-2c(3) relates exclusively to crimes. Thus, the required mental element for disorderly offenses lacking explicit statutory wording would presumably be a matter for the judiciary’s discretion and statutory interpretation, as the appellate court did in *Bessey*.

The Appendix contains a chart detailing disorderly person offenses contained within Title 2C and the mental element required for each offense. While many of the offenses explicitly provide for a required mental element, those that do not are often prohibitions of a regulatory nature. Title 2C likely contains only a portion of the disorderly person offenses otherwise threaded throughout New Jersey’s statutory provisions.²⁸

²⁰ N.J.S. 2C:1-4b. However, this is not plainly the case. *See e.g., State v. Medina*, 349 N.J. Super 108, 122 (App. Div.), *certif. denied*, 174 N.J. 193 (2002) (upholding forfeiture of public office upon disorderly persons conviction without jury trial); *see also Flagg v. Essex Ct. Prosecutor*, 171 N.J. 561, 578 (2002)(directing the Attorney General to issue guidelines regarding the waiver of job forfeitures as they “are such severe non-penal consequences”).

²¹ Sanford H. Kadish, *Fifty Years of Criminal Law: An Opinionated Review*, 87 CAL. L. REV. 943, 948 (1999).

²² MODEL PENAL CODE §2.05 (Proposed Official Draft 1962).

²³ FINAL REPORT OF THE N.J. CRIMINAL LAW REVISION COMM., REP. AND PENAL CODE § 2C:2-2 Commentary (Comm. Print 1971) (stating “[w]e reject the provision found in MPC § 2.05 which would prevent conviction of an offense for which a sentence of imprisonment is possible unless the offense contains a culpability element.”)

²⁴ STATEMENT TO THE S. COMM. SUBSTITUTE FOR SENATE NO. 1537 (N.J., January 2, 1981).

²⁵ Darryl K. Brown, *Criminal Law and the Persistence of Strict Liability*, 62 DUKE L.J. 285, 319 (2012).

²⁶ The cited exception seemingly references the 2C:2-2c(3) provision for strict liability crimes.

²⁷ N.J.S. 2C:2-2c(3).

²⁸ For some very brief examples, N.J.S. 5:3-36.1 (making the failure to comply with written warnings and directions a disorderly persons offense: “Individual riding an amusement ride shall comply with written warnings and refrain from behaving in a reckless manner which may cause injury to the individual or others”); N.J.S. 18A:7G-39 (penalizing a contractor “who willfully makes, or

Conclusion

In the context of clarifying statutory offenses, the New Jersey Law Revision Commission has been notably referenced as having “some success in cleaning up some redundant or outdated crimes, conflicting sentencing ranges, and poor organization in its code.”²⁹ With the provided information, Staff requests guidance from the Commission regarding how it would like to proceed with this project. The Commission may consider several different courses:

- Monitoring case law that interprets the mens rea requirements of disorderly person offenses and refraining from moving forward presently.
- Proposing a narrow modification of 2C:33-7b which more clearly incorporates the “knowing and willfully” mens rea requirement specified by the court in *Bessey*.
- Proposing modifications or a default provision for Title 2C disorderly offenses currently lacking an adequate mens rea requirement.
- Proposing modifications or a default provision for both Title 2C disorderly offenses and other disorderly offenses that may be dispersed through New Jersey’s statutes which are lacking an adequate mens rea requirement.
- Considering the concept of overcriminalization in New Jersey as a whole, evaluating statutory offenses for clarity in both the required mental elements and the forbidden conduct, and compiling a comprehensive report detailing areas of concern.

causes to be made, a false statement.”); N.J.S. 18A:38-31 (providing penalties for parents and guardians relating to school attendance); N.J.S. 44:4-108 and 44:4-107 (addressing the failure to pay child support).

²⁹ Darryl K. Brown, *Democracy and Decriminalization*, 86 TEX. L. REV. 223, 251 (2007) (referencing N.J. LAW REVISION COMM’N REPORT AND RECOMMENDATIONS RELATING TO THE COMPILATION OF CRIMINAL LAW 13 (1995)).

Appendix

Statutory section	Offense	Required mental element for disorderly offense
2C:5-5	Burglar's Tools	
2C:5-7	Keys for State property	Person knowingly uses, distributes, manufactures, duplicates or possesses key
2C:7-16	Authorized Use of Disclosed information	Person who uses information disclosed pursuant to [Megan's Law] to commit a disorderly persons offense is guilty of a disorderly person offense
2C:12-1	Simple Assault	Person (1) attempts to cause or purposely, knowingly or recklessly causes bodily injury, (2) negligently causes bodily injury with a deadly weapon or (3) attempts by physical menace to put another in fear of serious bodily injury.
2C:13-3	False Imprisonment	Person knowingly restrains another unlawfully so as to interfere substantially with his liberty.
2C:14-4	Lewdness	Person does any flagrantly lewd and offensive act which he knows or reasonably expects is likely to be observed by another nonconsenting persons who would be affronted or alarmed.
2C:17-3	Criminal Mischief	Person (1) purposely or knowingly damages tangible property of another or damages tangible property of another recklessly or negligently in the employment of fire, explosives or other dangerous means or (2) Purposely, knowingly or recklessly tampers with tangible property of another so as to endanger person or property
2C:17-3.1	Traffic Sign, Signal Damage, Removal	Person purposely, knowingly, recklessly or negligently defaces, injures or removes an official traffic sign or signal
2C:17-6	Certain Alterations of Motor Vehicle Trademarks	Person who for an unlawful purpose knowingly possesses any motor vehicle, or any of the parts thereof, from or on which any trademark, distinguishing or identification number, or serial number or mark has been removed, covered, altered, changed, defaced, destroyed or obliterated
2C:18-3	Unlicensed Entry of Structures – Defiant Trespasser	Person, knowing that he is not licensed or privileged to do so, enters or remains in any place as to which notice against trespass is given by
2C:18-5	Riding on Lands	Person knowingly or recklessly operates a motor vehicle or rides horseback on lands of another or knowingly or recklessly damages tangible property located on the lands of another
2C:20-10	Unlawful Taking of Means of Conveyance	Person, with purpose to withhold temporarily from the owner, takes, operates, or exercises control over any means of conveyance, other than a motor vehicle, without consent of the owner
2C:20-11	Shoplifting (less than \$200)	For any person purposely to take possession of, carry away, transfer or cause to be carried away or transferred, any merchandise displayed, held, stored or offered for sale. Provision contains other

		shoplifting definitions, each of which must be done purposely.
2C:20-37	Unauthorized Use of ATP Card or Food Stamps with value less than \$150	Person purposely or knowingly and without authorization receives or uses proceeds of food stamps or an ATP card.
2C:21-2.2	Transfer of Certain Law Enforcement Badges	Person sells or purchases a law enforcement agency badge without authorization from a member of law enforcement.
2C:21-2.3	Simulating a Motor Vehicle Insurance Identification Card	Person who possesses a falsely made, forged, altered, counterfeited or simulated motor vehicle insurance identification card, knowing that the insurance identification card was falsely made, forged, altered, counterfeited or simulated.
2C:21-2.4	Possession of Certain Fraudulent Receipts	Person who knowingly possesses a forged or altered retail sales receipt, universal product code (UPC) label or check for the purpose of defrauding a retail merchant
2C:21-3	Fraud Relating to Public Records	Person knowing that a written instrument contains a false statement or false information, offers or presents it to a public office or public servant with knowledge or belief that it will be filed with, registered or recorded in or otherwise become a part of the records of such public office or public servant.
2C:21-5	Bad checks, money orders, electronic fund transfers (under \$200)	Person issues or passes a check or similar sight order for the payment of money, or authorizes an electronic funds transfer, knowing that it will not be honored by the drawee
2C:21-7	Deceptive Business Practices	Person who in the course of business (a) uses or possesses for use a false weight or measure, or any other device for falsely determining or recording any quality or quantity; (b) sells, offers or exposes for sale, or delivers less than the represented quantity of any commodity or service; (c) takes or attempts to take more than the represented quantity of any commodity or service when as buyer he furnishes the weight or measure; (d) sells, offers or exposes for sale adulterated or mislabeled commodities; (e) makes a false or misleading statement in any advertisement addressed to the public or to a substantial segment thereof for the purpose of promoting the purchase or sale of property or services;
2C:21-7.4	Sale of Kosher Food	No specified culpability or mental element
2C:21-8	Misrepresentation of Mileage of Motor Vehicle	Person alters mileage reading instrument with purpose to misrepresent the mileage.
2C:21-11	Rigging Publicly Exhibited Contest	Person fails to report, with reasonable promptness, a solicitation to accept any benefit or do any tampering otherwise criminal under prior subsections.
2C:21-18	Slugs	Person inserts or deposits a slug with purpose to defraud or makes, possesses or disposes of a slug with a purpose to enable a person to deposit it in a coin, currency or credit card machine.
2C:21-19	Wrongful credit practices (Criminal Usury) (less than \$1,00)	Person loans or agrees to take any money or other property as interest on a loan in excess of the maximum rate permitted by law.
2C:24-1	Bigamy	Person contracts another marriage unless actor (1) believes prior

		spouse is dead; (2) actor and prior spouse have been living apart for 5 years and prior spouse was not known to be alive; (3) court has entered a termination order which actor does not know to be invalid; or (4) reasonably believes he is legally eligible to remarry.
2C:24-7	Endangering welfare of an incompetent person	Person knowingly acts in manner likely to be injurious to the physical, mental or moral welfare of a person unable to care for himself.
2C:28-3	Unsworn Falsification to Authorities	Person, with purpose to mislead a public servant in performing his function, makes statements he does not believe to be true or submits writings known to be forged.
2C:28-4	False Reports to Law Enforcement Authorities (Fictitious reports)	Person reports or causes to be reported an offense or other incident knowing that it did not occur or provides information relating to an incident when he knows he has no information relating to the incident.
2C:28-7	Tampering with Public Records or Information	Person knowingly makes a false entry on document kept by the government for information or record or purposely and unlawfully destroys or impairs the availability of such a record.
2C:28-8	Impersonating a Public Servant or Law Enforcement officer	Person falsely pretends to hold position in public service with purpose to induce another to submit to such pretended official authority.
2C:29-1	Obstructing Administration of Law or Government Function	Person purposely obstructs, impairs or perverts the administration of law or other governmental function.
2C:29-2	Resisting Arrest	Person purposely prevents or attempts to prevent a law enforcement officer from effecting an arrest.
2C:29-3	Hindering Apprehension or Prosecution	Person, with purpose to hinder the detention, apprehension, conviction of another, harbors or warns another individual, or provides aid to escape, or conceals or destroys evidence, etc.
2C:29-3.1	Animal Owned, Used by Law Enforcement	Person interferes with any law enforcement officer using an animal in the performance of his official duties.
2C:29-3.2	Offenses Against Service Animals	Person recklessly injures a service animal (disorderly) or recklessly interferes with use of a service animal (petty disorderly).
2C:29-6	Implements for Escape	Person provides an inmate with any other thing which the actor knows or should know it is unlawful for inmate to possess.
2C:29-7	Bail Jumping	Person who has been issued a summons to appear in connection with any violation of law punishable by a period of incarceration, without lawful excuse, fails to appear at that time and place.
2C:29-9	Contempt (Domestic Violence Orders)	Person purposely or knowingly violates any order issued under the Prevention of Domestic Violence Act of 1991.
2C:33-1	Riot; Failure to Disperse	Person who refuses or knowingly fails to obey an official order to disperse.
2C:33-2	Disorderly Conduct	Person, with a purpose to cause public inconvenience, annoyance or alarm or recklessly creating a risk thereof, engages in fighting or violent behavior or creates a hazardous or physically dangerous condition.
2C:33-2.1	Wandering	Person (1) wanders or prowls in public place with purpose of

		obtaining or distributing a CDS and (2) engages in conduct that manifests a purpose to obtain or distribute a CDS.
2C:33-4	Harassment	Person, with purpose to harass another, engages in specified annoying or alarming conduct.
2C:33-7	Obstructing Highways and other Public Passages	Person (1) purposely or recklessly obstructs any highway or other public passage or (2) refuses to obey a reasonable official request or order to move.
2C:33-8	Disrupting Meetings and Processions	Person with purpose to prevent or disrupt a lawful meeting, procession or gathering does an act tending to obstruct or physically interfere with it
2C:33-8.1	Disruption of Funeral	Person with purpose of causing inconvenience, annoyance or alarm to participants or of recklessly creating the risk thereof, knowingly obstructs/impedes or engages in demonstration activities.
2C:33-9	Desecration of Venerated Objects	Person purposely desecrates any public monument, insignia, symbol, or structure.
2C:33-11.1	Certain Actions Relating to Evictions	Person, after being warned by law enforcement about the illegality of the action, takes possession of residential real property without lawful execution of a warrant for possession.
2C:33-12	Maintaining a Nuisance	Person knowingly or recklessly creates or maintains a condition which endangers the safety or health of a considerable number of persons or knowingly maintains premises where people gather for engaging in unlawful conduct.
2C:33-13	Smoking in Public	Person who smokes on public transportation or in public place where prohibited by ordinance. (Petty disorderly)
2C:33-13.1	Sale of cigarettes to persons under age 19	Person who sells any cigarettes or any tobacco or nicotine devise to person under 19 years of age (Petty disorderly with detailed defense provision).
2C:33-14	Interference with Transportation	Person who purposely or knowingly interferes with transportation by obstructing or casting objects.
2C:33-15	Possession/Consumption of Alcoholic Beverages under Legal Age	Person under legal age who knowingly possesses or consumes alcohol in any public place or motor vehicle.
2C:33-16	Possession of Alcoholic Beverage on School Property	Person of legal age who knowingly and without consent, brings or possesses any alcoholic beverages on any school property.
2C:33-17	Offering Alcoholic Beverage to Under Age Person	Person who purposely or knowingly offers an alcoholic beverage to underage person
2C:33-19	Student possession of paging device on school property	Person who knowingly and without permission brings a paging devise on school property.
2C:33-23.3	Information Indicating Location of Law Enforcement Vehicles	Person knowingly intercepts a signal transmitted by a GPS, which identifies the location of a law enforcement vehicle or knowingly transmits this information to others.
2C:33-25	Sign to be Exhibited Where Spray Paint is Sold	Person may not knowingly sell spray paint unless posting a sign regarding graffiti.

2C:33-26	Sale of Motor Vehicles on Sunday	Person who engages in business of buying or selling motor vehicles on Sunday.
2C:33-27	Consumption of Alcohol in Restaurants	Person owning restaurant without liquor license shall not (1) allow alcohol consumption other than wine or malt beverage; (2) charge any corkage or service charge or advertise that patrons may bring own wine or malt beverage; or (3) allow consumption by those who are prohibited by state or municipal law.
2C:34-1	Prostitution and Related Offenses	Person engages in prostitution as a patron or engages in prostitution by personally offering sexual activity in exchange for something of economic value.
2C:34-1.1	Loitering for Purpose of Engaging in Prostitution	Person (1) wanders or prowls in public place with purpose of engaging in or promoting prostitution and (2) engages in conduct that manifests a purpose to engage in or promote prostitution.
2C:35-10	Possession, Use or Being Under the Influence, or Failure to Make Lawful Disposition	Person who uses or is under the influence of a CDS other than as lawfully prescribed or person who knowingly obtains or possesses a CDS in violation of this statute and fails to voluntarily deliver the CDS to the nearest law enforcement officer.
2C:35-10.4	Toxic Chemicals	Person who (1) inhales the fumes of any toxic chemical for the purpose of causing intoxication or (2) possess any toxic chemical for the purpose of causing intoxication.
2C:35-10.5	Prescription Legend Drugs	A person who knowingly distributes or knowingly possesses four or fewer dosage units of a prescription legend drug.
2C:35-24	Possession of Certain Prescription Drugs	A person possessing* a lawfully obtained CDS may possess it only in original container.
2C:35-25	Sale restrictions for ephedrine products	Person selling or purchasing more than three packages, or nine grams, of any drug containing ephedrine in any single retail transaction.
2C:36-2	Use or Possession with Intent to Use	Person may not use, or possess with intent to use, drug paraphernalia to cultivate, manufacture, or produce a CDS.
2C:36-6	Use or Possession of a Hypodermic Syringe or Needle	Person may not control or possess with intent to use, or distribute, a hypodermic syringe or needle adapted for the use of a CDS except pursuant to a valid prescription.
2C:36-6.1	Discarding Hypodermic Needle or Syringe	Person who discards a hypodermic needle or syringe in a public place without destroying the needle or syringe.
2C:37-2	Promoting Gambling	Person who knowingly (1) accepts money representing proceeds of gambling activity or (2) engages in conduct that materially aids any form of gambling activity.
2C:37-3	Possession of Gambling Records	Person who, with knowledge of the contents thereof, possesses any writing commonly used in operation of bookmaking scheme or lottery scheme.
2C:39-3	Prohibited Weapons and Devices	Person who knowingly possesses handcuffs, under circumstances not manifestly appropriate for such lawful uses as handcuffs may

* While some disorderly person offenses arising from unlawful possessions do not specify a mental element, New Jersey law provides that “[p]ossession is an act . . . if the possessor knowingly procured or received the thing possessed or was aware of his control thereof for a sufficient period to have been able to terminate his possession.” N.J.S. 2C:2-1c.

		have.
2C:39-9.2	Sale of Handcuffs to Minors	Person who sells handcuffs to a person under 18 years of age.
2C:39-10	Violations of the Regulatory Provisions Relating to Firearms	A dealer who knowingly violates the provisions of N.J.S. 2C:58-2 (requirements for gun delivery).
2C:39-11	Pawnbrokers; Loaning on Firearms	Person who loans money, the security for which is any gun.
2C:39-15	Advertising Sale of Machine Guns	Person offering to sell machine gun, semi-automatic rifle, or assault firearm through advertisement must specify that purchaser shall have valid license for the weapon.
2C:40-1	Creating a Hazard	Person maintains, stores or discards in any public or private space, a container with door which locks automatically and fails to remove the door. Person fails to cover abandoned well or cesspool on property. Person discards in any public or private place, an intact television picture tube.
2C:40-3	Hazing	Person knowingly or recklessly organizes, promotes, facilitates or engages in any conduct which places another person in danger of bodily injury.
2C:40-15	Penalty (Regulation of Oil Burning Heaters)	Person sells or uses any portable kerosene-burning heating device in violation of this act (N.J.S.2C:40-7 -13 containing requirements applicable to oil heaters without mental element).
2C:40-19	Consumer Products; Unauthorized Writing	Person who stamps, prints or inserts any writing in or on a consumer product offered for sale.
2C:40-21	Tattooing of a Minor	Person who knowingly tattoos or body pierces a minor without written parental consent.
2C:40-23	Production, Delivery of Ignition Key	Person may not produce and deliver an ignition key without proof that the requestor is the owner or lessee of the vehicle.
2C:40A-1	Employer Requiring Lie Detector Test	Person who requires an employee to take a lie detector test as a condition of employment.
2C:40A-2	Violation of Contract to Pay Employees	Employer who fails to pay wages when due or fails to pay compensation or benefits within 30 days after due.
2C:58-15	Storage of Firearms if Minors may have access	Person who knows or reasonably should know that a minor is likely to gain access to loaded firearm, if the minor gains access to the firearm, unless certain precautions were taken.