

Garden State CLE presents::



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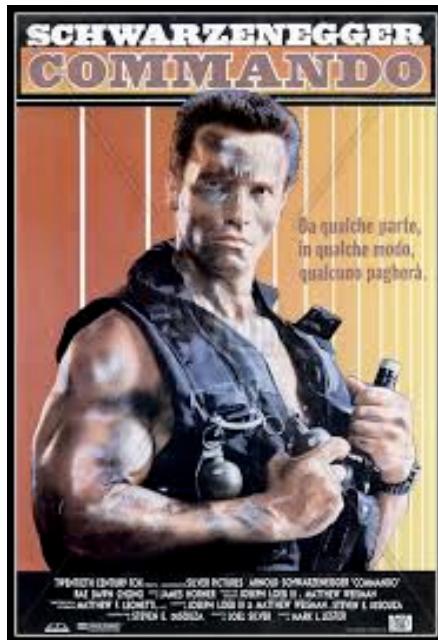
Lesson Plan

## **NJSA 2C: 1-5 – Abolition of Common Law Crimes**



- a. Common law crimes are abolished and no conduct constitutes an offense unless the offense is defined by this code or another statute of this State.**

## **NJSA 2C: 2-2(b)(1) - Purposeful Conduct**



- a. Minimum requirements of culpability. Except as provided in subsection c.(3) of this section, 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.**
  
- b. Kinds of culpability defined.**

**(1) *Purposely.*** A person acts purposely with respect to the nature of his conduct or a result thereof if it is his conscious object to engage in conduct of that nature or to cause such a result. A person acts purposely with respect to attendant circumstances if he is aware of the existence of such circumstances or he believes or hopes that they exist. “With purpose,” “designed,” “with design” or equivalent terms have the same meaning.

## NJSA 2C: 2-2(b)(2) - Knowing Conduct



[“Made it Ma! Top of the world!”]

**(2) *Knowingly*.** A person acts knowingly with respect to the nature of his conduct or the attendant circumstances if he is aware that his conduct is of that nature, or that such circumstances exist, or he is aware of a high probability of their existence. A person acts knowingly with respect to a result of his conduct if he is aware that it is practically certain that his conduct will cause such a result. “Knowing,” “with knowledge” or equivalent terms have the same meaning.

See: State v. Clausell, 121 NJ 298 (1990)

## NJSA 2C: 2-2(b)(3) – Recklessly



[“Welcome to Bergen County!”]

**(3) *Recklessly*.** A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his 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, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe in the actor's situation. “Recklessness,” “with recklessness” or equivalent terms have the same meaning.

## NJSA 2C: 2-2(b)(4) – Negligently



***Negligently.*** A person acts negligently with respect to a material element of an offense when he should be aware of a substantial and unjustifiable risk that the material element exists or will result from his 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 conduct and the circumstances known to him, involves a gross deviation from the standard of care that a reasonable person would observe in the actor's situation. “Negligently” or “negligence” when used in this code, shall refer to the standard set forth in this section and not to the standards applied in civil cases.

## **NJSA 2C: 2-1(c) – Possession**



**Possession is an act, within the meaning of this section, 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.**

## **NJSA 2C: 2-6 – Liability for the conduct of another; complicity**



- a. A person is guilty of an offense if it is committed by his own conduct or by the conduct of another person for which he is legally accountable, or both.
- b. A person is legally accountable for the conduct of another person when:
  - (1) Acting with the kind of culpability that is sufficient for the commission of the offense, he causes an innocent or irresponsible person to engage in such conduct;
  - (2) He is made accountable for the conduct of such other person by the code or by the law defining the offense;
  - (3) He is an accomplice of such other person in the commission of an offense; or
  - (4) He is engaged in a conspiracy with such other person.
- c. A person is an accomplice of another person in the commission of an offense if:
  - (1) With the purpose of promoting or facilitating the commission of the offense; he
    - (a) Solicits such other person to commit it;
    - (b) Aids or agrees or attempts to aid such other person in planning or committing it; or
    - (c) Having a legal duty to prevent the commission of the offense, fails to make proper effort so to do; or
  - (2) His conduct is expressly declared by law to establish his complicity.

See - State v. Lisa, 391 NJ Super. 556 (App.

## **NJSA 2C: 2-3 – Causation**



**a. Conduct is the cause of a result when:**

- (1) It is an antecedent but for which the result in question would not have occurred; and**
  - (2) The relationship between the conduct and result satisfies any additional causal requirements imposed by the code or by the law defining the offense.**
- b. When the offense requires that the defendant purposely or knowingly cause a particular result, the actual result must be within the design or contemplation, as the case may be, of the actor, or, if not, the actual result must involve the same kind of injury or harm as that designed or contemplated and not be too remote, accidental in its occurrence, or dependent on another's volitional act to have a just bearing on the actor's liability or on the gravity of his offense.**
- c. When the offense requires that the defendant recklessly or criminally negligently cause a particular result, the actual result must be within the risk of which the actor is aware or, in the case of criminal negligence, of which he should be aware, or, if not, the actual result must involve the same kind of injury or harm as the probable result and must not be too remote, accidental in its occurrence, or dependent on another's volitional act to have a just bearing on the actor's liability or on the gravity of his offense.**
- d. A defendant shall not be relieved of responsibility for causing a result if the only difference between what actually occurred and what was designed, contemplated or risked is that a different person or property was injured or affected or that a less serious or less extensive injury or harm occurred.**

## **NJSA 2C: 2-1(b)(2) – Requirement of voluntary act**



- a. A person is not guilty of an offense unless his liability is based on conduct which includes a voluntary act or the omission to perform an act of which he is physically capable. A bodily movement that is not a product of the effort or determination of the actor, either conscious or habitual, is not a voluntary act within the meaning of this section.
- b. Liability for the commission of an offense may not be based on an omission unaccompanied by action unless:
  - (1) The omission is expressly made sufficient by the law defining the offense; or
  - (2) A duty to perform the omitted act is otherwise imposed by law, including but not limited to, laws such as the “Uniform Fire Safety Act,” P.L.1983, c. 383 ([C.52:27D-192 et seq.](#)), the “State Uniform Construction Code Act,” P.L.1975, c. 217 ([C.52:27D-119 et seq.](#)), or any other law intended to protect the public safety or any rule or regulation promulgated thereunder.

## **NJSA 2C: 5-2 – Conspiracy**



**a. Definition of conspiracy.** A person is guilty of conspiracy with another person or persons to commit a crime if with the purpose of promoting or facilitating its commission he:

- (1) Agrees with such other person or persons that they or one or more of them will engage in conduct which constitutes such crime or an attempt or solicitation to commit such crime; or
- (2) Agrees to aid such other person or persons in the planning or commission of such crime or of an attempt or solicitation to commit such crime.

**b. Scope of conspiratorial relationship.** If a person guilty of conspiracy, as defined by subsection a. of this section, knows that a person with whom he conspires to commit a crime has conspired with another person or persons to commit the same crime, he is guilty of conspiring with such other person or persons, whether or not he knows their identity, to commit such crime.

**d. Overt act.** No person may be convicted of conspiracy to commit a crime other than a crime of the first or second degree or distribution or possession with intent to distribute a controlled dangerous substance or controlled substance analog as defined in chapter 35 of this title, unless an overt act in pursuance of such conspiracy is proved to have been done by him or by a person with whom he conspired.

## **NJSA 2C: 5-1 – Criminal attempt – assault – Graves Act – Domestic Violence**



**a. Definition of attempt. A person is guilty of an attempt to commit a crime if, acting with the kind of culpability otherwise required for commission of the crime, he:**

- (1) Purposely engages in conduct which would constitute the crime if the attendant circumstances were as a reasonable person would believe them to be;**
- (2) When causing a particular result is an element of the crime, does or omits to do anything with the purpose of causing such result without further conduct on his part; or**
- (3) Purposely does or omits to do anything which, under the circumstances as a reasonable person would believe them to be, is an act or omission constituting a substantial step in a course of conduct planned to culminate in his commission of the crime.**

**b. Conduct which may be held substantial step under subsection a. (3). Conduct shall not be held to constitute a substantial step under subsection a. (3) of this section unless it is strongly corroborative of the actor's criminal purpose.**

## **Other Legal Issues**

**NJSA 2C:12-1(b). Aggravated assault.** A person is guilty of aggravated assault if he:

- (1) Attempts to cause serious bodily injury to another, or causes such injury purposely or knowingly or under circumstances manifesting extreme indifference to the value of human life recklessly causes such injury; or**
  - (2) Attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon; or**
  - (3) Recklessly causes bodily injury to another with a deadly weapon; or**
  - (4) Knowingly under circumstances manifesting extreme indifference to the value of human life points a firearm, as defined in section 2C:39-1f., at or in the direction of another, whether or not the actor believes it to be loaded; or**
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**NJSA 2C:39-1(f).** “Firearm” means any handgun, rifle, shotgun, machine gun, automatic or semi-automatic rifle, or any gun, device or instrument in the nature of a weapon from which may be fired or ejected any solid projectable ball, slug, pellet, missile or bullet, or any gas, vapor or other noxious thing, by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances. It shall also include, without limitation, any firearm which is in the nature of an air gun, spring gun or pistol or other weapon of a similar nature in which the propelling force is a spring, elastic band, carbon dioxide, compressed or other gas or vapor, air or compressed air, or is ignited by compressed air, and ejecting a bullet or missile smaller than three-eighths of an inch in diameter, with sufficient force to injure a person.

## Other Legal Issues

**NJSA 2C:25-19(d).** “Victim of domestic violence” means a person protected under this act and shall include any person who is 18 years of age or older or who is an emancipated minor and who has been subjected to domestic violence by a spouse, former spouse, or any other person who is a present or former household member. “Victim of domestic violence” also includes any person, regardless of age, who has been subjected to domestic violence by a person with whom the victim has a child in common, or with whom the victim anticipates having a child in common, if one of the parties is pregnant. “Victim of domestic violence” also includes any person who has been subjected to domestic violence by a person with whom the victim has had a dating relationship.

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**NJSA 2C:25-19(d).** As used in this act:

a. “Domestic violence” means the occurrence of one or more of the following acts inflicted upon a person protected under this act by an adult or an emancipated minor:

(2) Assault [N.J.S. 2C:12-1](#)

## **NJSA 2C:11-2 – Criminal Homicide**



- a. A person is guilty of criminal homicide if he purposely, knowingly, recklessly or, under the circumstances set forth in [section 2C:11-5](#), causes the death of another human being.**
  
- b. Criminal homicide is murder, manslaughter or death by auto.**

**NJSA 2C:11-3 – Murder**  
**NJSA 2C:11-4(a) - Manslaughter**



- a. Except as provided in [N.J.S.2C:11-4](#), criminal homicide constitutes murder when:
- (1) The actor purposely causes death or serious bodily injury resulting in death; or
  - (2) The actor knowingly causes death or serious bodily injury resulting in death; or
  - (3) It is committed when the actor, acting either alone or with one or more other persons, is engaged in the commission of, or an attempt to commit, or flight after committing or attempting to commit robbery, sexual assault, arson, burglary, kidnapping, carjacking, criminal escape or terrorism pursuant to section 2 of [P.L.2002, c. 26 \(C.2C:38-2\)](#), and in the course of such crime or of immediate flight therefrom, any person causes the death of a person other than one of the participants;

**a. Criminal homicide constitutes aggravated manslaughter when :**

**(1) The actor recklessly causes death under circumstances manifesting extreme indifference to human life; or**

**(2) The actor causes the death of another person while fleeing or attempting to elude a law enforcement officer in violation of subsection b. of [N.J.S.2C:29-2](#). Notwithstanding the provision of any other law to the contrary, the actor shall be strictly liable for a violation of this paragraph upon proof of a violation of subsection b. of [N.J.S.2C:29-2](#) which resulted in the death of another person. As used in this paragraph, “actor” shall not include a passenger in a motor vehicle.**

**b. Criminal homicide constitutes manslaughter when:**

**(1) It is committed recklessly; or**

**(2) A homicide which would otherwise be murder under [section 2C:11-3](#) is committed in the heat of passion resulting from a reasonable provocation.**

**c. Aggravated manslaughter under paragraph (1) of subsection a. of this section is a crime of the first degree and upon conviction thereof a person may, notwithstanding the provisions of paragraph (1) of subsection a. of [N.J.S.2C:43-6](#), be sentenced to an ordinary term of imprisonment between 10 and 30 years. Aggravated manslaughter under paragraph (2) of subsection a. of this section is a crime of the first degree. Manslaughter is a crime of the second degree.**

## NJSA 2C:27-2 – Bribery



A person is guilty of bribery if he directly or indirectly offers, confers or agrees to confer upon another, or solicits, accepts or agrees to accept from another:

- a. Any benefit as consideration for a decision, opinion, recommendation, vote or exercise of discretion of a public servant, party official or voter on any public issue or in any public election; or
- b. Any benefit as consideration for a decision, vote, recommendation or exercise of official discretion in a judicial or administrative proceeding; or
- c. Any benefit as consideration for a violation of an official duty of a public servant or party official; or
- d. Any benefit as consideration for the performance of official duties.

For the purposes of this section “benefit as consideration” shall be deemed to mean any benefit not authorized by law.

See - **In re Cammarano, 219 NJ 415 (2014)**

## **NJSA 2C: 2-9 – Duress**



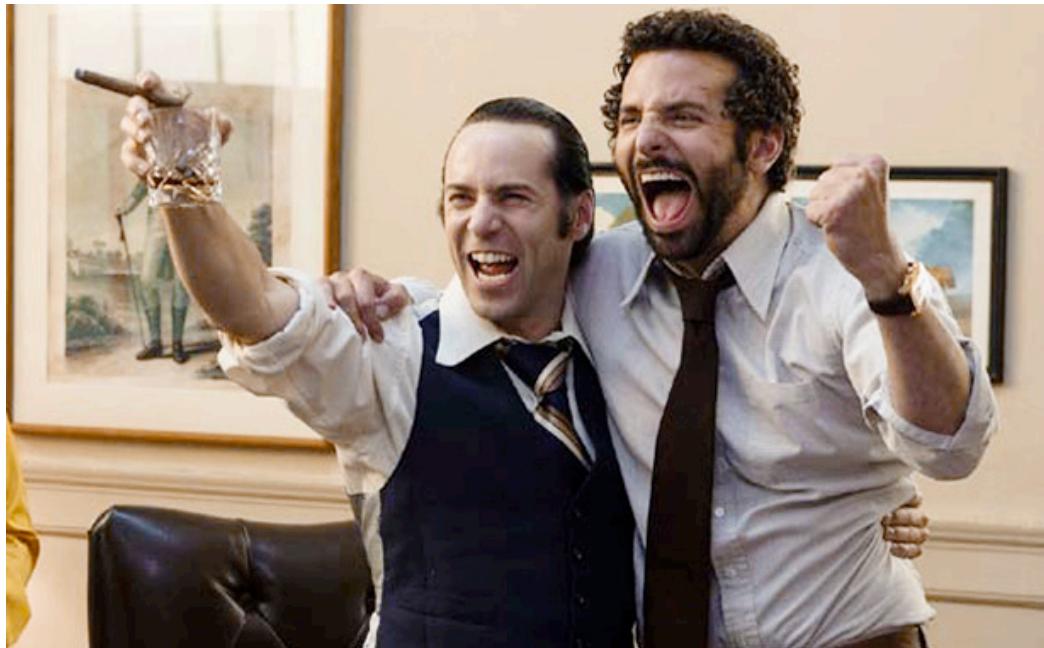
- a. Subject to subsection b. of this section, it is an affirmative defense that the actor engaged in the conduct charged to constitute an offense because he was coerced to do so by the use of, or a threat to use, unlawful force against his person or the person of another, which a person of reasonable firmness in his situation would have been unable to resist.**
  
- b. The defense provided by this section is unavailable if the actor recklessly placed himself in a situation in which it was probable that he would be subjected to duress. The defense is also unavailable if he was criminally negligent in placing himself in such a situation, whenever criminal negligence suffices to establish culpability for the offense charged. In a prosecution for murder, the defense is only available to reduce the degree of the crime to manslaughter.**

## **NJSA 2C: 2-10 – Consent**



- a. In general.** The consent of the victim to conduct charged to constitute an offense or to the result thereof is a defense if such consent negatives an element of the offense or precludes the infliction of the harm or evil sought to be prevented by the law defining the offense.
- b. Consent to bodily harm.** When conduct is charged to constitute an offense because it causes or threatens bodily harm, consent to such conduct or to the infliction of such harm is a defense if:
  - (1) The bodily harm consented to or threatened by the conduct consented to is not serious; or**
  - (2) The conduct and the harm are reasonably foreseeable hazards of joint participation in a concerted activity of a kind not forbidden by law; or**
  - (3) The consent establishes a justification for the conduct under chapter 3 of the code.**

## **NJSA 2C: 2-12 – Entrapment**



- a. A public law enforcement official or a person engaged in cooperation with such an official or one acting as an agent of a public law enforcement official perpetrates an entrapment if for the purpose of obtaining evidence of the commission of an offense, he induces or encourages and, as a direct result, causes another person to engage in conduct constituting such offense by either:**
  - (1) Making knowingly false representations designed to induce the belief that such conduct is not prohibited; or**
  - (2) Employing methods of persuasion or inducement which create a substantial risk that such an offense will be committed by persons other than those who are ready to commit it.**
- b. Except as provided in subsection c. of this section, a person prosecuted for an offense shall be acquitted if he proves by a preponderance of evidence that his conduct occurred in response to an entrapment. The issue of entrapment shall be tried by the trier of fact.**
- c. The defense afforded by this section is unavailable when causing or threatening bodily injury is an element of the offense charged and the prosecution is based on conduct causing or threatening such injury to a person other than the person perpetrating the entrapment.**

## **NJSA 2C: 39-7 – Certain persons**



a. Except as provided in subsection b. of this section, any person, having been convicted in this State or elsewhere of the crime of aggravated assault, arson, burglary, escape, extortion, homicide, kidnapping, robbery, aggravated sexual assault, sexual assault, bias intimidation in violation of [N.J.S.2C:16-1](#) or endangering the welfare of a child pursuant to [N.J.S.2C:24-4](#), whether or not armed with or having in his possession any weapon enumerated in subsection r. of [N.J.S.2C:39-1](#), or any person convicted of a crime pursuant to the provisions of [N.J.S.2C:39-3](#), [N.J.S.2C:39-4](#) or [N.J.S.2C:39-9](#), or any person who has ever been committed for a mental disorder to any hospital, mental institution or sanitarium unless he possesses a certificate of a medical doctor or psychiatrist licensed to practice in New Jersey or other satisfactory proof that he is no longer suffering from a mental disorder which interferes with or handicaps him in the handling of a firearm, or any person who has been convicted of other than a disorderly persons or petty disorderly persons offense for the unlawful use, possession or sale of a controlled dangerous substance as defined in [N.J.S.2C:35-2](#) who purchases, owns, possesses or controls any of the said weapons is guilty of a crime of the fourth degree.

## **NJSA 2C: 20-3 – Theft**



- a. Movable property. A person is guilty of theft if he unlawfully takes, or exercises unlawful control over, movable property of another with purpose to deprive him thereof.**
  
- b. Immovable property. A person is guilty of theft if he unlawfully transfers any interest in immovable property of another with purpose to benefit himself or another not entitled thereto.**

## **NJSA 2C: 3-4 Use of Force in Self-protection**



- a. Use of force justifiable for protection of the person. Subject to the provisions of this section and of [section 2C:3-9](#), the use of force upon or toward another person is justifiable when the actor reasonably believes that such force is immediately necessary for the purpose of protecting himself against the use of unlawful force by such other person on the present occasion.
  
- c. (1) Notwithstanding the provisions of [N.J.S.2C:3-5](#), [N.J.S.2C:3-9](#), or this section, the use of force or deadly force upon or toward an intruder who is unlawfully in a dwelling is justifiable when the actor reasonably believes that the force is immediately necessary for the purpose of protecting himself or other persons in the dwelling against the use of unlawful force by the intruder on the present occasion.

**(2) A reasonable belief exists when the actor, to protect himself or a third person, was in his own dwelling at the time of the offense or was privileged to be thereon and the encounter between the actor and intruder was sudden and unexpected, compelling the actor to act instantly and:**

**(a) The actor reasonably believed that the intruder would inflict personal injury upon the actor or others in the dwelling; or**

**(b) The actor demanded that the intruder disarm, surrender or withdraw, and the intruder refused to do so.**

**(3) An actor employing protective force may estimate the necessity of using force when the force is used, without retreating, surrendering possession, withdrawing or doing any other act which he has no legal duty to do or abstaining from any lawful action.**