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**Garden State CLE Presents:**

# **Municipal Court “Boot Camp”**



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Debra J. Gelson, J.M.C. (Ret.)**

# **PART I**

## **JURISDICTION OF THE MUNICIPAL COURTS**

### **1. Territorial Boundaries**

#### **N.J.S.A 2B:12-16**

Municipal Courts have jurisdiction over such actions as set forth in N.J.S.A. 2B:12-17 which occurred within the territorial boundaries of the municipality.

#### **N.J.S.A. 39:5-3**

Where a traffic offense occurs between two municipalities, either municipality has jurisdiction.

#### **N.J.S.A 32:4-6**

Where a traffic violation continues between two states, either state's Municipal Court has jurisdiction.

A joint or central municipal court shall have jurisdiction over cases arising within the territory of any of the municipalities which the court serves. Motor vehicle violations are also heard in the local municipal court whereas violations of 2C are heard in Superior court, Family Part, in the vicinage where the juvenile resides irregardless of where the offense occurred.

## 2. Statute of Limitations

### A. Traffic Violations

[N.J.S.A. 39:5-3](#) provides that a judge may issue process on a violation of any of the provision of Subtitle I of Title 39 within 30 days after the commission of a traffic offense. This 30 day time period applies to the vast majority of motor vehicle offenses. The following are exceptions:

<b>Violation</b>	<b>Statute</b>	<b>Statute of Limitations Period</b>
Leaving the Scene of an Accident	N.J.S.A. 39:4-129	1 year
Illegally Obtaining a License	N.J.S.A. 39:3-12	1 year
Applying for a License While Revoked	N.J.S.A. 39:3-34	1 year
Falsifying an Application	N.J.S.A. 39:3-37	1 year
Falsifying a Vehicle Title	N.J.S.A. 39:10-24	1 year
Driving on the Revoked List	N.J.S.A. 39:3-40	90 days
Drunk Under Influence	N.J.S.A. 39:4-50	90 days
Refusal to Submit to Breath Test	N.J.S.A. 39:5-50.4	90 days
Passing a School Bus	N.J.S.A. 39:4-128.1	6 months
Driving Without Liability Insurance	N.J.S.A. 39:6B-2	6 months

## **B. Statute of Limitations for 2C Violations**

Statute of Limitations for a disorderly persons offense is one year from the issuance of process in the form of a summons or warrant. N.J.S.A. 2C:1-6(b) (2).

Service of the summons and complaint must occur during the statutory period - [State v. Buczkowski, 395 N.J. Super. 40 \(App. Div. 2007\)](#). Police may make their own probable cause determinations and issue summons & complaint - [State v. Gonzalez, 114 N.J. 592 \(1989\)](#).

## **3. PROCEDURAL DUE PROCESS**

**Proper service R1:5-2**

**Served within Statute of Limitations**

**Defective Complaint**

**Notice of charges, right to remain silent, maximum potential penalties, including enhanced penalties, right to attorney, right to public defender and application process**

**Entry of not guilty plea**

**\*Implications for attorney filing letter of representation**

**File for discovery and driving record and/or criminal record. State v. Holup**

Upon receipt of discovery – analyze abstract **and calculate clients exposure.**

**Evaluate p/c for stop**

**p/c for arrest**

**analyze any search without warrant**

**Miranda**

**Prepare pretrial motions**

**A. Subject Matter Jurisdiction      N.J.S.A  
2B:12-17**

**A. MUNICIPAL ORDINANCES**

Violations of the ordinances of the municipality wherein the Municipal Court are often classified as disorderly persons offenses, the violation of which can involve a fine of up to \$2000 unlike the violation of a 2C disorderly persons offense which

## **B. Disorderly Persons Offenses N.J.S.A. 2C:1-4**

An offense designated as a disorderly persons offense or petty disorderly offense under 2C or a statute other than 2C, is an offense which is subject to the jurisdiction of the municipal court.

Disorderly persons offenses and petty disorderly persons offenses are petty offenses and **are not crimes** within the meaning of the Constitution of the State of New Jersey.

Other offenses which the municipal court has jurisdiction are set forth in N.J.S.A. 2B:12-17 and dispersed throughout the N.J.S.A.

## **3. Characteristics of disorderly persons' offenses**

**a. No conspiracy (NJSA 2C:5-2) or attempt (exception NJSA 2C:12-1(a)(1) and NJSA 2C:29-1) (See [State v. Clarke, 198 N.J. Super. 219, 225–26 \(App. Div. 1985\)](#)).**

**b. Accomplice liability permitted.**

**c. Expungement of three d/p convictions, subject to 5-year waiting period (NJSA 2C:52-1(a))**

**d. Required Burden of proof as to each element at trial in beyond a reasonable doubt – NJSA 2C:1-13.**

## **4. Authorized Punishment for Violations**

**a. Entitlement to Presumption against incarceration.**

**b. Jail term – Constitutionally limited to 6 months – NJSA 2C:43-8 [30-days for PDP]**

**c. Fines – Generally capped at \$1000 – NJSA 2C:43-3(c) [\$500 for PDP – NJSA 2C:43-3(d)] – Fines may be mandatory or doubled under certain circumstances.**

**d. Court costs \$33 NJSA 22A:3-4**

**e. VCCB Assessment - \$50.00 [N.J.S.A. 2C:43-3.1\(a\)\(2\)\(a\)](#).**

**f. Safe Neighborhoods - \$75.00 [N.J.S.A. 2C:43-3.2](#).**

**g. Suspended Sentence - NJSA 2C:43-2(b)**

**h. Loss of driving privileges if motor vehicle is used – NJSA 2C:43-2(c).**

**i. Probation - NJSA 2C:43-2(b)(2) Up to two years – supervised or unsupervised**

**j. Split Sentence - NJSA 2C:43-2(b)(2)**

**k. Pay Restitution – NJSA 2C:43-2(b)(4)**

**l. Perform Community Service - NJSA 2C:43-2(b)(5)**



- m. Forfeiture of public office**
- n. Removal from United States**
- o. No PTI Consideration**
- p. Candidates for *de minimis* consideration**
- q. Predicate offenses for domestic violence**

## **5. Common Offenses**

### **a. Simple ASSAULT**

- 1. Note that the statute contains every recognized culpability state.**
- 2. Harassment is a lesser-included offense. [State v. Berka, 211 N.J. Super. 717, 721, 512 A.2d 592 \(Law Div. 1986\).](#)**
- 3. Attempt would require purposeful conduct.**
- 4. Is a PDP when committed by mutual assault.**
- 5. Sensation of pain satisfies injury element (Morton Downey, Jr. Case)**

### **b. Drug Offenses in Chapters 35/36**

- 1. Plea bargaining considerations**
- 2. *Bendix* Issues State v. Bendix, 396 NJ Super. 91 (App. Div. 2007).**

- 3. No *de minimis* applications**
- 4. Conditional Discharges**

## **c. Shoplifting and theft**

- 1. Grading**
- 2. Multiple ways of committing shoplifting**
- 3. Presumptions**
- 4. Sentencing**

## **d. Harassment**

**Except as provided in subsection e., a person commits a petty disorderly persons offense if, with purpose to harass another, he:**

- a. Makes, or causes to be made, a communication or communications anonymously or at extremely inconvenient hours, or in offensively coarse language, or any other manner likely to cause annoyance or alarm;**
- b. Subjects another to striking, kicking, shoving, or other offensive touching, or threatens to do so; or**

**c. Engages in any other course of alarming conduct or of repeatedly committed acts with purpose to alarm or seriously annoy such other person.**

**A communication under subsection a. may be deemed to have been made either at the place where it originated or at the place where it was received.**

## **Part II – Traffic & Motor Vehicle Offenses**

### **1. Characteristics of Motor Vehicle Offenses**

**a. Organization of Title 39 (Subtitles & Articles)**

**b. Not Crimes and thus custodial term is limited to 6-months - no right to indictment or jury trial.**

**c. No constitutional or procedural issues addressed in Title 39 – All protections and procedures come thru the case law and the Rules of Court.**

**d. Proof beyond a reasonable doubt as to each element - [State v. Emery, 27 N.J. 348, 353 \(1958\)](#).**

**e. Double Jeopardy - [State v. Dively, 92 N.J. 573 \(1983\)](#).**

**f. Right to Counsel for Indigents - [Rodriguez v. Rosenblatt, 58 N.J. 281 \(1971\)](#);**

**g. Speedy Trial - [State v. Gallegan, 117 N.J. 345 \(1989\)](#);**

**h. Rules of court provide in every case for discovery, motion to suppress, appeal and PCR**

**i. Traffic control Devices - Presumption of Validity - [State v. Cooper, 129 N.J. Super. 229 \(App. Div. 1974\)](#).**

**j. Presumption of Identity of operator - [State v. Bucich, 134 N.J. Super. 111, 115 \(App. Div. 1975\)](#).**

### **3. Sentencing Options & Issues**

**1. Serious offenses carry mandatory D/L loss, fines and jail for repeat offenders.**

**2. Note double fines for 65 mph speed zones, construction area, safe corridors and +20 mph over limit.**

**3. When there is a range of sentencing, discretion is controlled by Rule 7:9-1(c).**

**4. See factors in State v. Moran, 202 NJ 311 (2020)**

**5. Probation: NJSA 39:5-7 (with conditions)**

## **4. Collateral Consequences**

**a. Penalty Points**

**b. Insurance Eligibility Points**

**c. Motor Vehicle Surcharges**

**d. Civil Liability**

**e. NJSA 39:6A-4.5**

## **5. Common Violations**

**a. Speeding**

**b. Careless Driving - [[State v. Wenzel, 113 N.J. Super. 215 \(App. Div. 1971\).](#)]**

**c. Reckless Driving – [State v. Moran, supra] The Code provides that a person acts recklessly when he consciously disregards a substantial and unjustifiable risk that the serious bodily injury or death 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.**

**d. Leaving the Scene**

## **6. Revoked List**

### **Elements of Offense**

**No person to whom a driver's license has been refused or whose driver's license or reciprocity privilege has been suspended or revoked, or who has been prohibited from obtaining a driver's license, shall personally operate a motor vehicle during the period of refusal, suspension, revocation, or prohibition.**

### **I. Driver Status**

**Refused D/L  
Suspended D/L or Reciprocity  
Revoked D/L or Reciprocity**

## **Prohibited from Obtaining D/L**

### **A. Includes the following types of Cases:**

#### **1. Reciprocity Privileges that are Suspended or Revoked**

**State v. Profita, 183 N.J. Super. 425 (App. Div. 1982)**

**State v. Colley, 397 N.J. Super. 214 (App. Div. 2007)**

#### **2. New Jersey License Suspended or Revoked**

**Court Imposed or Administrative**

#### **3. Grant of License Refused**

**Health, immigration status, not a fit person under N.J.S.A. 39:3-10**

#### **4. Prohibited from Obtaining**

**N.J.S.A. 39:3-10(b) or violators under the age of 17**

## **II. Personally Operate**

### **1. Acts Constituting Operation of a Motor Vehicle**

**State v. Derby, 256 N.J. Super. 702 (Law Div. 1992)**

### **2. Personal Operation**

**State v. Cattafi, 226 N.J. Super. 409 (App. Div. 1988)**



### **3. Place of Operation**

**State v. McColley, 157 N.J. Super. 525 (App. Div. 1978)**

## **III. Motor Vehicle**

### **1. Words & Phrases from 39:1-1**

**'Motor vehicle' includes all vehicles propelled otherwise than by muscular power, excepting such vehicles as run only upon rails or tracks and motorized bicycles.**

**Mo-peds – N.J.S.A. 39:4-14.3(d) - No person shall operate a motorized bicycle unless he is in possession of a valid driver's license of any class or a motorized bicycle license, which shall be issued by the commission to any person 15 years of age or older, upon proof of identity and date of birth, and after he has**

**passed a satisfactory examination as to his ability as an operator. Such examination shall include a test of the applicant's knowledge of such portions of the mechanism of motorized bicycles as is necessary to insure their safe operation and of the laws and ordinary usages of the road and a demonstration of his ability to operate a motorized bicycle.**

**Automobile” includes all motor vehicles except motorcycles.**

**Driver” means the rider or driver of a horse, bicycle or motorcycle or the driver or operator of a motor vehicle, unless otherwise specified.**

**“Operator” means a person who is in actual physical control of a vehicle or street car.**

## **IV. During Period of Refusal, Suspension, Revocation or Prohibition**

### **1. Term of Suspension Period**

**State v. Zalta, 217 N.J. Super. 209 (App. Div. 1987)**

**State v. Sandora, 272 N.J. Super. 206 (App. Div. 1994)**

**~~State v. Somma, 215 N.J. Super. 142 (Law Div. 1987)~~**

### **2. Requirement of Notice of Suspension vs. Strict Liability Offense**

**Collateral Attack on Suspension – State v. Ferrier, 294 N.J. Super. 198 (App. Div. 1996).**

**1. Sample Abstract Analysis – Counting the V & Dating the O**

**V = Violation Date**

**O = Date the Suspension Term Began**

**Or**

**“OH NO! The Cops just pulled up behind me!”  
(Hudson County only)**

**a. Determining the number of prior offenses**

**b. Determining the window of suspension term/restoration**

**c. Determining prior offenses – State v. Conte, 245 N.J. Super. 629 (Law Div. 1991)**

**d. Determining sentence enhancements (s/c, dwi, ins, POAA, school zone, etc)**