



Garden State CLE
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Garden State CLE Presents:

Indict Dwight!



High crimes and misdemeanors in “The Office”

Instructors:



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Certified Criminal Trial Attorney**



Doris Galuchie, First Assistant Prosecutor (ret).

**Robert Ramsey, Esquire
Author**

Lesson Plan

Introduction

For many years, millions of viewers have been entertained by the antics of the staff of Dunder-Mifflin, as portrayed on “The Office.” The main characters on the program have become legendary in American culture and their popularity seems to increase over time. However, one character in particular stands out among the others for his antics.

Dwight Schrute is the owner of a 60-acre beet farm and a long time, top paper salesman at Dunder-Mifflin. He may mean well, but as you will see in the following sample video clips, his actions often conflict with any modicum of common sense and the criminal law.

For purposes of this CLE, let’s assume that all of Dwight’s actions occur in New Jersey. Let’s see how a seasoned prosecutor and defense attorney analyze Dwight’s conduct under New Jersey criminal law.

For purposes of our CLE, let's review the Criminal Code's culpability states under N.J.S.A. 2C:2-2:

(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.

(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.

(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.

(4) ***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.

Part I
The Fire Drill

https://www.youtube.com/watch?v=gO8N3L_aERg

Arson
N.J.S.A. 2C:17-1

(a) A person is guilty of aggravated arson, a crime of the second degree, if he starts a fire or causes an explosion, whether on his own property or another's:

(1) Thereby purposely or knowingly placing another person in danger of death or bodily injury; or

(2) With the purpose of destroying a building or structure of another;

(b) A person is guilty of arson, a crime of the third degree, if he purposely starts a fire or causes an explosion, whether on his own property or another's:

(1) Thereby recklessly placing another person in danger of death or bodily injury; or

(2) Thereby recklessly placing a building or structure of another in danger of damage or destruction;

Criminal Mischief
N.J.S.A. 2C:17-3

(a) A person is guilty of criminal mischief if he:

(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 listed in subsection a. of N.J.S.A. 2C:17-2.

Felony Murder **N.J.S.A. 2C:11-3**

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;

Kidnapping **N.J.S.A. 2C:13-1(b)**

A person is guilty of kidnapping if he unlawfully removes another from his place of residence or business, or a substantial distance from the vicinity where he is found, or if he unlawfully confines another for a substantial period, with any of the following purposes:

- (1) To facilitate commission of any crime or flight thereafter;
- (2) To inflict bodily injury on or to terrorize the victim or another;

Part II
Stayin' Alive

<https://www.youtube.com/watch?v=Vmb1tqYqyII>

Possession of a Weapon
N.J.S.A. 2C:39-1(r)

“Weapon” means (3) gravity knives, switchblade knives, daggers, dirks, stilettos, or other dangerous knives, billies, blackjacks, bludgeons, metal knuckles, sandclubs, slingshots, cesti or similar leather bands studded with metal filings or razor blades imbedded in wood;

Possession
N.J.S.A. 2C:39-5(d)

Other weapons. Any person who knowingly has in his possession any other weapon under circumstances not manifestly appropriate for such lawful uses as it may have is guilty of a crime of the fourth degree.

Unlawful Purpose
N.J.S.A. 2C:39-4(d)

Any person who has in his possession any weapon, except a firearm, with a purpose to use it unlawfully against the person or property of another is guilty of a crime of the third degree.

Part III

Firearms at Work

<https://www.youtube.com/watch?v=fLkzx9VPZEc>

Possession at Work

N.J.S.A. 2C:39-6(e)

e. Nothing in subsections b., c., and d. of [N.J.S.2C:39-5](#) shall be construed to prevent a person keeping or carrying about the person's place of business, residence, premises, or other land owned or possessed by the person, any firearm, or from carrying the same, in the manner specified in subsection g. of this section, from any place of purchase to the person's residence or place of business, between the person's dwelling and place of business, between one place of business or residence and another when moving, or between the person's dwelling or place of business and place where the firearms are repaired, for the purpose of repair. For the purposes of this section, a place of business shall be deemed to be a fixed location.

Method of Transport

N.J.S.A. 2C:39-6(g)

g. Any weapon being transported under paragraph (2) of subsection b., subsection e., or paragraph (1) or (3) of subsection f. of this section shall be carried unloaded and contained in a closed and fastened case, gun box, securely tied package, or locked in the trunk of the automobile in which it is being transported, and in the course of travel shall include only deviations as are reasonably necessary under the circumstances.

Part IV
The Family Funeral Tradition

<https://www.youtube.com/watch?v=erw7d8pXjLc>

Criminal Homicide
N.J.SA 2C:11-2

a. A person is guilty of criminal homicide if he purposely, knowingly, recklessly causes the death of another human being.

Murder
N.J.S.A. 2C:11-3

a. 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

Grave Desecration
N.J.S.A. 2C:17-3(b)(6)

Criminal mischief is a crime of the third degree if the actor tampers with a grave, crypt, mausoleum, or other site where human remains are stored or interred, with the purpose to desecrate, destroy or steal such human remains or any part thereof.

Part V
Let's Frame Toby

<https://www.youtube.com/watch?v=19MNAajZnts>

Conspiracy
N.J.S.A. 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.

Giving False Information to Law Enforcement
N.J.S.A. 2C:29-3(a)(7)

a. A person commits an offense if, with purpose to hinder the detention, apprehension, investigation, prosecution, conviction, or punishment of another for an offense or violation of Title 39 of the Revised Statutes or a violation of chapter 33A of Title 17 of the Revised Statutes he:

(7) Gives false information to a law enforcement officer or a civil State investigator assigned to the Office of the Insurance Fraud Prosecutor.

Attempt
N.J.S.A. 2C:5-1

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.

Part VI
Hot Chocolate

<https://www.youtube.com/watch?v=Ljp4fHFulgE>

Attempt
N.J.S.A. 2C:5-1(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.

Aggravated Assault
N.J.S.A. 2C:12-1(b)(1)

A person is guilty of aggravated assault if the person:

(1) Attempts to cause serious bodily injury to another, or causes injury purposely or knowingly or under circumstances manifesting extreme indifference to the value of human life recklessly causes such injury