

2C:29-1

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2C:29-1

(Obstructing the administration of justice--increase to crime of 4th degree)

LAWS OF: 1986

CHAPTER 34

BILL NO: S103

Sponsor(s): Bubba

Date Introduced: Pre-filed

Committee: Assembly: Judiciary

Senate: Judiciary

Amended during passage: Yes

Substituted for A511 (not attached since identical to S103). Amendments during passage denoted by asterisks.

Date of Passage:

Assembly:

May 8, 1986

Senate:

March 3, 1986

Date of Approval:

June 23, 1986

Following statements are attached if available:

Sponsor statement:

Yes

Committee statement:

Assembly

Yes

Senate

Yes

Fiscal Note:

No

Veto Message:

No

Message on Signing:

No

Following were printed:

Reports:

No

Hearings:

No

Not Remove From Library

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SENATE, No. 103

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Senator BUBBA

AN ACT concerning obstructing administration of law or other governmental function and amending N. J. S. 2C:29-1.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 2C:29-1 is amended to read as follows:

2 2C:29-1. Obstructing Administration of Law or Other Govern-
3 mental ****[Functions]**** ***Function***. **a.** A person commits
4 ****[a]**** **[disorderly persons offense]** **[crime of the fourth de-**
5 **gree]** **an offense** if he purposely obstructs, impairs or perverts
6 the administration of law or other governmental function or pre-
7 vents or attempts to prevent a public servant from lawfully per-
8 forming an official function by means of intimidation, force, vio-
9 lence, or physical interference or obstacle, or by means of any in-
10 dependently unlawful act. This section does not apply to flight by
11 a person charged with crime, refusal to submit to arrest, failure to
12 perform a legal duty other than an official duty, or any other means
13 of avoiding compliance with law without affirmative interference
14 with governmental functions.

15 **b. An offense under this section is a crime of the fourth degree*
16 *if the actor obstructs the detection or investigation of a crime or*
17 *the prosecution of a person for a crime, otherwise it is a disorderly*
18 *persons offense.**

1 2. This act shall take effect immediately.

CRIMINAL JUSTICE (Penalties)

Increases to a fourth degree crime the offense of obstructing the administration of law in certain cases.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Senate committee amendments adopted January 30, 1986.

**—Assembly committee amendments adopted May 5, 1986.

SENATE, No. 103

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Senator BUBBA

SENATE, No. 115

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Senator BUBBA

AN ACT concerning obstructing administration of law or other governmental function and amending N. J. S. 2C:29-1.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey*:

1 1. N. J. S. 2C:29-1 is amended to read as follows:

2 2C:29-1. Obstructing Administration of Law or Other Govern-
3 mental Function. A person commits a **[disorderly persons offense]**
4 *crime of the forth degree* if he purposely obstructs, impairs, or
5 perverts the administration of law or other governmental function
6 or prevents or attempts to prevent a public servant from lawfully
7 performing an official function by means of intimidation, force,
8 violence, or physical interference or obstacle, or by means of any
9 independently unlawful act. This section does not apply to flight
10 by a person charged with crime, refusal to submit to arrest, failure
11 to perform a legal duty other than an official duty, or any other
12 means of avoiding compliance with law without affirmative inter-
13 ference with governmental functions.

1 2. This act shall take effect immediately.

STATEMENT

This bill recognizes the seriousness of the offense of obstructing the administration of law or other governmental function by raising it from a disorderly persons offense to a crime of the fourth degree.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.
Matter printed in italics thus is new matter.

SENATE JUDICIARY COMMITTEE

STATEMENT ON

Senate, No. 103 SCADATED January 30, 1986

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 103.

S-103 deals with the penalty prescribed for the offense of obstructing the administration of law or other governmental function. In its original form, the bill would have upgraded this offense from its present designation as a disorderly persons offense to a crime of the fourth degree. S-103 was amended by the committee to provide that the obstruction of the administration of justice would be graded as a crime of the fourth degree only if the offense involved the obstruction of the detection, investigation or prosecution of a crime. In other cases, the offense would remain a disorderly persons offense. Crimes of the fourth degree are punishable by up to 18 months' imprisonment, a fine of up to \$7,500 or both. Disorderly persons offenses are punishable by up to 6 months' imprisonment, a fine of up to \$1,000 or both.

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SENATE, No. 103

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Senator BUBBA

AN ACT concerning obstructing administration of law or other governmental function and amending N. J. S. 2C:29-1.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
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5 posely obstructs, impairs, or perverts the administration of law
6 or other governmental function or prevents or attempts to prevent
7 a public servant from lawfully performing an official function by
8 means of intimidation, force, violence, or physical interference or
9 obstacle, or by means of any independently unlawful act. This
10 section does not apply to flight by a person charged with crime,
11 refusal to submit to arrest, failure to perform a legal duty other
12 than an official duty, or any other means of avoiding compliance
13 with law without affirmative interference with governmental func-
14 tions.

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Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

***—Senate committee amendments adopted January 30, 1986.**

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 103

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 1, 1986

The Assembly Judiciary Committee reports favorably and with committee amendments Senate Bill No. 103.

As amended this bill provides that the obstruction of the administration of justice would be graded as a crime of the fourth degree, but only if the offense involved the obstruction of the detection, investigation or prosecution of a crime. In other cases, the offense would remain a disorderly persons offense. Crimes of the fourth degree are punishable by up to 18 months' imprisonment, a fine of up to \$7,500.00 or both. Disorderly persons offenses are punishable by up to six months' imprisonment, a fine of up to \$1,000.00 or both.

[ASSEMBLY REPRINT]
SENATE, No. 103
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1986 SESSION

By Senator BUBBA

AN ACT concerning obstructing administration of law or other governmental function and amending N. J. S. 2C:29-1.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

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***—Senate committee amendments adopted January 30, 1986.**

****—Assembly committee amendments adopted May 5, 1986.**



The New Jersey Penal Code

final report

Volume II: Commentary

Final Report of the New Jersey
Criminal Law Revision Commission.

FOR THE PROVISIONS OF THE PENAL CODE, CONSULT
VOLUME I OF THE COMMISSION'S REPORT

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NEWARK, NEW JERSEY

OCTOBER, 1971

The New Jersey Penal Code

Volume II: Commentary



Final Report of the
New Jersey
Criminal Law Revision
Commission

OCTOBER, 1971

§ 2C:28-7. COMMENTARY

1. *Present New Jersey Law.* The offense here defined is now covered by several New Jersey statutes. See N.J.S. 2A:109-1 (Forgery or uttering forged records, instruments, writings, etc.); N.J.S. 2A:122-3 (Malicious destruction of written instruments; N.J.S. 2A:136-9 (Stealing or altering records; additional penalty when verdict, judgment or sentence affected).

§ 2C:28-8. COMMENTARY

1. *Present New Jersey Statutes*

- 2A:135-10 Personating public officers or employees
- 2A:135-11 Unauthorized persons taking acknowledgments
- 2A:170-20.5 Impersonating officer, member or employee of law enforcement organization

2. *The Scope of Section 2C:28-8.* Our present statute requires no more than a false pretense of official status. N.J.S. 2A:135-10. The Code requires proof of a purpose to induce submission to official authority by the person to whom the pretense is made.

§ 2C:29-1. COMMENTARY

1. *In General.* The purpose of this Section is to prohibit a broad range of behavior designed to impede or defeat the lawful operation of government. The Section is therefore a general supplement to the other provisions of the Code dealing with particular methods of interfering with proper functioning of the administration, e.g., official misconduct or oppression, bribery, intimidation, perjury, tampering with evidence, escapes. Although such a general supplement is desirable, it must incorporate certain limitations lest the Section be used to nullify policy decisions expressed elsewhere in this article. It is necessary to avoid language so broad that it might be construed to cover political agitation opposed to governmental policy or other exercise of civil liberties. Accordingly, Section 2C:29-1 has been confined by limiting it to (1) violent or physical interference, (2) other acts which are "unlawful" independently of the purpose to obstruct the government.

2. *Present Law.* At the present time, New Jersey operates both under the common-law crime of Obstructing Justice and under several specific offenses.

As to the common-law crime, the Appellate Division defined the crime in *State v. Cassatly*, 93 N.J. Super. 111, 118-19 (App. Div. 1966), as follows:

"Defendant argues that he could not lawfully be adjudged guilty of the crime of obstructing justice because the proofs did

not show that at the time he refused to surrender the recordings to law enforcement officials there was a proceeding pending before a court or a grand jury relating to the bribery solicitation, and that he had knowledge of it.

"The precise issue has not been dealt with in any of the reported decisions in our State. However, we do not agree that the offense requires that at the time of commission of the act charged there must be pending a proceeding before a court or a grand jury.

"We are not here concerned with a crime which has been specifically defined by a statute. The crime of obstructing justice is a common law crime made punishable as a misdemeanor under N.J.S. 2A:85-1. Under the common law it was a misdemeanor to do any act which prevents, obstructs, impedes, or hinders the due course of public justice. 1 *Burdick, Law of Crimes*, § 283, p. 409 (1946), *Perkins, Criminal Law*, p. 422 (1957). It is an obstruction of justice to stifle, suppress or destroy evidence knowing that it may be wanted in a judicial proceeding or is being sought by investigating law enforcement officers.

* * * *

"It is undisputed that defendant knew crimes against the State (solicitation of a bribe) had been committed; that the wire and tape recordings he obtained contained vital evidence thereof; and that a police investigation of such crimes had been instituted. He initiated the investigation himself, and was provided with recording equipment to obtain evidence and the assistance of a police officer. He had no right to secrete, suppress or destroy such evidence, knowing that it might be wanted in a judicial proceeding or that it was being sought by investigating officers. We are satisfied that one who knowingly and willfully impedes a lawfully conducted investigation by police of a crime, whether or not a formal charge has been made or a grand jury proceeding begun, can be prosecuted for the crime of obstructing justice."

See also the cases as to the common-law crime of Misconduct in Office. *State v. Begyn*, 34 N.J. 35 (1961); *State v. Lally*, 80 N.J. Super. 502 (App. Div. 1963); *State v. Silverstein*, 76 N.J. Super. 536 (App. Div. 1962) *aff'd.*, 41 N.J. 203 (1963); *State v. Winne*, 12 N.J. 152 (1953). Additionally, several New Jersey statutes deal with obstructing governmental functions.

3. *Violent or Physical Interference.* The Section embraces the common provisions against assaults on officials while engaged in the performance of their duties, making it clear, however, that the behavior must be directed at interference with the official function; *i.e.* the Section does not extend to a private altercation which happens to

occur at a time when the victim is engaged in official duties. Also covered is violent and disorderly conduct intended to prevent the convening or functioning of legislatures, courts or other tribunals. Non-violent physical interference, such as tampering with an official's automobile to prevent his attendance at a proceeding or his execution of duty is also reached by the Section.

4. *Other Unlawful Act.* Examples of unlawful acts which obstruct, impair or pervert the functioning of government are usurpation of public office, and impersonating a candidate in a civil service examination. It means any act which is, without regard to its purpose to obstruct government, already declared illegal.

5. *Exceptions.* The exception in this Section for flight, refusal to submit to arrest, and other forms of non-submission to authority, are necessary to prevent an overly broad application of the terms "physical interference" and "unlawful act." One who runs away from an arresting officer or who makes an effort to shake off the policeman's detaining arm might be said to obstruct the officer physically. A person who violates a condition of his probation or parole by going to a forbidden place would be engaged in an unlawful act. Failure to file tax returns or other required documents may be unlawful and properly punishable by special provisions. But these are not cases within the contemplation of a Section concerned with affirmative subversion of government processes. Nor would we desire to make it criminal to flee arrest. The adequate social measure for this is to authorize police to pursue and use force necessary to arrest. If the arrest is effectuated, prosecution can be had for the original offense. If, as is very often the case, the arrested person is innocent or cannot be proved guilty of the offense for which he was arrested, it would be unjust and conducive to grave abuse to permit prosecution for an unsuccessful effort to evade the police.

6. We have not recommended enactment of a separate provision as to interference with firefighting operations. See MPC § 229.8 and N.Y. § 195.15. We believe that subject to be adequately covered by this section.

§ 2C:29-2. COMMENTARY

1. Resistance to arrest is one of the most common forms of obstructing the execution of the laws. We deal with it specifically rather than leaving it to the general terms of Section 2C:29-1, because we wish to grade the offense depending upon the presence of forcible resistance that involves some substantial danger to the person. We reject the MPC view that mere non-submission should not be an offense, believing an affirmative policy of submission to be appropriate as seems now to be our law. *State v. Mulvihill*, 57 N.J. 151 (1970); *State v. Washington*, 57 N.J. 160 (1970); *State v. Koonce*, 89 N.J. Super. 169 (App. Div. 1965).

The Section is not limited to arrest or other police activity, but extends to any discharge of official duty which is opposed by forcible or other means endangering the official.

2. Resisting Arrest is now a crime in New Jersey only to the extent it could be prosecuted under the common law crime of Obstructing Justice as defined in *State v. Cassatly*, 93 N.J. Super. 111 (App. Div. 1966). It is covered by ordinances in most municipalities.

§ 2C:29-3. COMMENTARY

1. *Background; Accessory after the Fact; Present New Jersey Law.* This Section derives from the common law rules relating to accessories after the fact, but breaks decisively from that tradition. The common law rests on the notion that a person who helps an offender avoid justice becomes in some sense an accomplice in the original crime. Modern legislation, although often retaining the old terminology of accessory, rejects the earlier consequences of the "accomplice" theory. Our present statute is N.J.S. 2A:85-2. See *State v. Sullivan*, 77 N.J. Super. 81 (App. Div. 1962).

2. *The Theory of Section 2C:29-3.* Rather than proceeding on an "accomplice" theory, we use the theory of obstructing justice. A person who aids another to elude apprehension or trial is interfering with the processes of government. It is his willingness to do that and the harm threatened by such behavior that makes appropriate penal measures, rather than any fiction that equates a "harborer" with the murderer or traitor whom he harbors. It is obvious that many persons who have no other inclination to antisocial activity may be influenced by offer of gain, or by friendship or kinship, to help a fugitive from justice. Once this distinct criminologic problem is recognized, the basis is laid for prosecuting this kind of obstructive behavior for what it is, without regard to whether the prime offender can be tried or convicted, and with penalties not necessarily related to those prescribed for the principal offense.

3. *Minor Offenses; Principal Offense Committed in Another Jurisdiction.* Our present statute applies only to lending aid to persons whose offense amounts to a high misdemeanor. Federal law, some states, and the Code extend the prohibition to aiding all lesser offenses. This follows from our purposes to deter obstruction of justice. One can add to the difficulties of the police just as much where they are pursuing a misdemeanant as where they are after a felon. Furthermore, there are situations where the aider does not know what crime the putative offender may have committed, as where an unscrupulous surgeon agrees to change the appearance of a fugitive without caring to know the nature of his offense. In any event, it seems undesirable to introduce into prosecutions of this sort an issue of law (and defendant's knowledge thereof) as to the classification of the primary offense.

The principal crime referred to in this Section may have been committed in another state. The mutual interest of the states in effective enforcement of the criminal law justifies the broad scope of this Section.

3. *Mens Rea.* The Section requires proof of a purpose to hinder apprehension, prosecution or conviction. Our statute still seems to require guilt of the person aided. By requiring a purpose to obstruct, it is not necessary to require guilt on the part of the person aided or a mental element by the actor as to it.

A purpose to aid the offender to avoid arrest is not proved merely by showing that defendant gave succour to one who was in fact a fugitive. A fugitive is likely to seek from his friends and relatives shelter, food, and money to sustain himself. Their provision of such personal relief betokens other motivations than the objective of impeding law enforcement. We recognize that motivations may be mixed and permit conviction where the obstructive purpose was present, leaving other motivations to be taken into consideration either by way of exemption of certain classes of near kin, or as ground for mitigating sentence after conviction.

4. *Acts Constituting Prohibited Aid.* Our present law has both a general phrase "aids or assists," and a specific enumeration, "provides with money, transportation, conveyance, place of abode, refuge, concealment, disguise, or otherwise aids or assists." We abandon this to forbid specified kinds of aid. That there may be need to limit the kinds of aid which will be made criminal appears when we consider the possible application of the Section to a person who merely refuses to answer police questions about the fugitive, or gives or counsels him as to likely refuges or the law of extradition, or supplies bail. Although assistance of this character would appear to fall within the ordinary meaning of the term "aid," the courts have shown a reluctance to extend the law so far.

Among the activities specifically brought within the scope of this Section, we list first the traditional offense of harboring or concealing the fugitive, which requires proof that he was hidden or secreted by the actor. Efforts to conceal the commission of the crime, or to suppress, alter, destroy, or hide evidence are and ought to be covered. Warning the principal of imminent discovery or apprehension is likewise an unequivocal intervention against law enforcement.

Paragraph d has an exception to take care of cases like fellow-motorists warning speeders to slow down for a speed trap or a lawyer advising a client to discontinue illegal activities.

One form of assistance to the putative offender that deserves special consideration is money. Providing a fugitive with funds is an act of equivocal significance. He may use it to escape or hide, to pay debts

or go into business, or to support himself or his dependents, or to hire a lawyer. Paragraph b is intended to require proof that money was furnished not merely pursuant to a general desire to promote the offender's plan to remain at large, but specifically to facilitate escape efforts.

Clauses f and g have been added to MPC § 242.3. They are from § 205.50 of the New York Code. As to subsection f, this provision is new to our law. It is in MPC § 242.4 as well as the New York Code. It covers the situation where, with a purpose to facilitate the consummation of a criminal plan, after an offense has been committed, a person assists in carrying out the unlawful object, for a share in the loot or for other reasons. It is distinguished from Section 2C:29-1 by the fact that there is no purpose to obstruct justice. For example, one might act as custodian of the proceeds of a bank robbery until the robbers should agree on a distribution, or help a thief to collect a reward for the return of stolen goods, or to exchange marked ransom money. Although behavior of this sort might be regarded as helping to conceal the culprit, so that prosecution under Section 2C:29-1 might be possible, there is a certain artificiality in proceeding on the theory of obstruction of justice against one who has really linked himself to the principal offense, and whose interest in frustrating detection is bound to be as much for himself as others.

With regard to non-cooperation with police investigations, it should be borne in mind that the law provides means of compelling testimony under oath, and that a penal policy with respect to unsworn false statements to police has been laid down in other Sections of the Code with advertence to the danger of abusive charges being brought by police against persons interviewed in the course of investigating crime. The borderline case of 'volunteered' misinformation to the police, dealt with in clause g would not be covered elsewhere, and is intended to reach those who take the initiative in throwing the police off the track.

5. *Exemption of Relatives.* Our present statute exempts husbands and wives. We reject this preferring to leave this factor for consideration in sentence and treatment. It is hard to justify any particular limit of the exemption, and exemption rules make trial difficulties even where the defendant may not be within the exempt class if the government has the burden of proving that the exempted relationship does not exist.

6. *Gradation.* Our statute now makes the crime punishable for up to 3 years. We use here a system of grading intended to vary the seriousness of the offense with that of the offense committed by the other person. There is, however, no need to go so far as to equate the two.

§ 2C:29-4. COMMENTARY

1. *Basic Policy.* The common law offense of "compounding" and its statutory replacement penalize agreements, for a consideration, to refrain from giving information to law enforcement authorities concerning a crime. Our statute is N.J.S. 2A:97-1. See *State v. Fisher*, 94 N.J.L. 12 (Sup. Ct. 1920); *Brittin v. Chegary*, 20 N.J.L. 615 (Sup. Ct. 1846).

2. *Restoration or Indemnification.* A major legislative issue is whether the prohibition should cover the situation where the victim of a crime agrees to drop prosecution if the alleged offender restores property belonging to the victim or pays damage for harm he has suffered. The common law and our statute made no such exception. The position of the Code is to make fair restitution or indemnification an affirmative defense. It does not require prior judicial approval. The reasons for adopting this position are essentially that our society does not, in general, impose penal sanctions to compel persons to inform authorities of crime. A person who refrains from reporting a crime of which he was the victim because his loss has been made good is no more derelict in his social duty than one who, out of indifference or friendship to the offender, fails to report a known crime. The criminal law is ineffective to promote reporting to offenses by victims who are willing to "settle" with the offender, since compounding laws can easily be evaded by accepting restitution or indemnification without any explicit "agreement" to drop prosecution. Finally, compounding laws impugn the widespread practice of prosecutors, who are frequently content to drop prosecution when restitution has been made by the offender.

3. *Permitted Compromises.* Restoration or indemnification is the only standard. We find it impossible to adequately classify offenses according to the seriousness of it for this purpose and then to forbid compromises in such cases.

4. *Concealing, Misprision; Failure to Report Serious Offenses.* The common law offense of misprision of treason or felony went beyond accessory law and punished mere failure to report the commission, or even the prospective commission, of grave offenses. MPC T.D. 9, p. 209 (1959). Our statute requires concealing and not disclosing knowledge of the actual commission of arson, manslaughter, murder or any high misdemeanor. N.J.S. 2A:97-2. See also N.J.S. 2A:148-2 (Misprision of Treason). Modern interpretations of such statutes require affirmative acts of hiding although misprision simply required neglecting the duty to inform. *State v. Hann*, 40 N.J.L. 228 (E. & A. 1878).

The Code has no concealing or misprision statute. It requires instead either obstructing (Section 2C:29-1), hindering (Section 2C:29-3), aiding (Section 2C:29-4) or compounding (this Section).

Thus, specific affirmative acts are required and mere failure to report is insufficient.

§ 2C:29-5. COMMENTARY

1. *Current New Jersey Statutes.* Our current statutes are N.J.S. 2A:104-1 through 10. See *State v. Wedin*, 85 N.J.L. 399 (Sup. Ct. 1914); *In Re Rigg*, 95 N.J. Eq. 341 (Ch. 1924); *State v. Errickson*, 32 N.J.L. 421 (Sup. Ct. 1868); *Meehan v. State*, 46 N.J.L. 355 (Sup. Ct. 1884).

2. *Escape.* Subsection a follows prevailing law in defining escape simply as departure without lawful authority from official detention including departure from certain kinds of constructive custody. See N.J.S. 2A:104-6. It is important, however, that the concept of escape should not be extended to such things as failure of a probationer to report at a specified time to his probation officer, or to a parolee's violation of parole conditions by going outside a specified area. Ordinary administrative sanctions for breach of probation or parole are appropriate for such incidents.

Defining escape as departure without lawful authority should prevent application of the Section to situations where the prisoner has not left custody, although he may be in a part of the prison where he is not supposed to be. Even if the prisoner goes outside the prescribed boundary of his freedom of movement, as in the case of a trusty who walks off limits for a moment without purpose to elude official control, this need not be held a 'departure from detention.' On the other hand, an intention to return to custody will not prevent a finding of "departure" where there has been a substantial severance of official control.

3. *Official Detention.* New Jersey's present laws and the Code agree in defining official detention more broadly than merely institutions for detaining persons charged with or convicted of crime. The breadth of the institutional coverage is desirable in view of the diversity of institutional facilities employed in modern penology. At the same time care must be exercised to avoid making it criminal for a person to depart from an institution which he has voluntarily entered for psychiatric or other treatment, although his entry may for some purposes be described as a "commitment."

4. *Permitting or Facilitating Escape.* Subsection deals with those who aid escapes, either by failing as public officials to maintain requisite control over prisoners, or by helping prisoners to overcome official control. The general complicity Section (2C:2-6) will not be sufficient to deal with this problem because it is limited to persons having a "purpose to promote or facilitate" but this Section permits convictions of those who "knowingly" or "recklessly" cause or facilitate escapes. In this connection it should be noted that present