

**To: New Jersey Law Revision Commission**  
**From: John Cannel**  
**Re: Throwing of Bodily Fluid at Law Enforcement Officer - N.J.S. 2C:12-13 (*State v. Majewski*)**  
**Date: April 6, 2020**

## MEMORANDUM

Staff prepared a draft Tentative Report responding to the case of *State v. Majewski*<sup>1</sup>, where the Appellate Division held that N.J.S. 2C:12-13, which prohibits the throwing of bodily fluids at law enforcement officers, required the State to prove that the defendant intended to hit the officer with bodily fluid. A statutory amendment to make the statute express the court holding is relatively straightforward.

However, recent news reports may require broadening the project. A person was reported to have intentionally coughed on another person claiming that he had a COVID-19 infection and could transmit it. The news report was that the person had been charged with “terroristic threats” 2C:12-3. That statute is a bad fit for the activity charged, and it is not clear that any existing statute would make the act criminal. I have drafted an amendment to N.J.S. 2C:12-1 to fill this gap.

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<sup>1</sup> *State v. Majewski*, 450 N.J. Super. 353 (App. Div. 2017).