

LEWDNESS
(N.J.S.A. 2C:14-4)

Charge where applicable as a lesser included offense to indictable crimes under "Sexual Offenses" chapter of Title 2C.

The indictment charges the defendant with _____. In the event you find the State has not proven each and every element of this crime to you beyond a reasonable doubt, then you should consider whether the following statute has been violated:

A person commits a disorderly persons offense if he does any flagrantly lewd and offensive act which he knows or reasonably expects is likely to be observed by other non consenting persons who would be affronted or alarmed.¹

In order to establish the guilt of the defendant the burden is upon the State to prove beyond a reasonable doubt each of the following elements of the offense. They are that on _____ (date) _____ in the _____ (place) _____ the defendant committed an act:

1. which was flagrantly (conspicuously bad) lewd and offensive.

Lewd means sexually indecent behavior. Lewd acts shall include (but are not limited to) the exposing of the genitals for the purpose of arousing or gratifying the sexual desire of the defendant (or any other person).

Offensive means an act that is grossly vulgar and causing resentment, one which offends common modesty and delicacy.

2. which the defendant knows or reasonably expects is likely to be observed by non consenting persons who would be affronted or alarmed.

(Define Knowledge)

In other words the State must prove that the defendant intended his act to be seen or he was aware that (it was probable) it would be seen by casual observers if they had looked.

The defendant's act must be done knowingly and not accidental and further it must be under circumstances through which the defendant knew his conduct would or was likely to cause alarm to those disinterested, casual, non-consenting spectators who would consider the behavior as threatening sexual aggression.

¹

The statute abandons the limitation of "public" lewdness and broadens the prohibited activities to private as well as public places relying instead on the "circumstances." N.J. Penal Code Commentary. p. 201. But see State v. Ramos, 203 N.J Super 206 (Law Div. 1985).