

FORGERY¹
(N.J.S.A. 2C:20-1.1)

Any removal, erasure, defacement, alteration, destruction, covering or other change to an access device² from its original configuration performed by any person other than an authorized manufacturer of, or service provider to access devices may be inferred³ to be for an unlawful purpose.

An inference is a deduction of fact that may be drawn logically and reasonably from another fact or group of facts established by the evidence. Whether or not an inference should be drawn is for you to decide using your own common sense, knowledge and everyday experience. Ask yourselves is it probable, logical and reasonable. However, you are never required or compelled to draw an inference. You alone decide whether the facts and circumstances shown by the evidence support an inference and you are always free to draw or not to draw an inference. If you draw an inference, you should weigh it in connection with all the other evidence in the case keeping in mind that the burden of proof is upon the State to prove all the elements of the crime beyond a reasonable doubt.⁴

¹ This section should be utilized in conjunction with a theft prosecution under N.J.S.A. 2C:20-1 when the theft involves an access device.

² Access device is defined in N.J.S.A. 2C:20-1s. Defaced access device is defined in N.J.S.A. 2C:20-1t.

³ The statute speaks in terms of “presumption” but must be construed as creating an inference. See N.J.R.E. 303.

⁴ Direct and circumstantial evidence already should have been charged.