

CHAPTER ONE: THE NATURE, PURPOSE AND FUNCTION OF CRIMINAL LAW

INTRODUCTION

New York State has a rich social history due, in part, to its harbors along its eastern coastline. Native Americans originally inhabited the territory. And in the early 17th century, Europeans settled in the territory: the Dutch in the Hudson Valley area, the English in the Long Island area, and the French in the northern part of the territory. In the early 19th century, other European groups immigrated to New York and ended up settling in New York City.

The evolution of both the New York State Penal Law and court system were influenced by the changing social conditions of the transformation of the economy from mainly agrarian rural areas to largely-populated commercially-dominated societies. Since the Industrial Revolution in the early 19th century, New York has had to reconsider its legal priorities to accommodate shifting economic conditions. New York today is composed of metropolitan areas surrounded by poor rural communities.

Additionally, immigrants from the Caribbean, Asia, the Middle East, Central and South America, and Africa have come to America through New York City, and many have stayed. The influx of immigration continues to impact the population. In 2004, New York State had a population of about 19 million and was ranked the third most populated state (behind California and Texas respectively). New York City, which comprises Manhattan, the Bronx, Brooklyn, Queens, and Staten Island, has over eight million residents and is the largest city in the country. Further, New York has 62 counties with varied economic needs, demographic populations, average educational levels, etc. The complexities associated not only with a burgeoning population, but a population with diverging interests and values poses challenges to a comprehensive and coherent body of laws.

This chapter will provide a brief overview of the history of the Penal Law and organization of the court system in New York State. It will also discuss the elements comprising the law as well as a brief introduction into the court reports in New York where case decisions are published.

High Profile Cases

Perhaps because the courts in New York have encountered so many famous and infamous personalities, the courts' impact have had far-reaching implications. Some of the better-known offenders, albeit killers, in recent history are the "Son of Sam" David Berkowitz, John Lennon's murderer Mark David Chapman, the Long Island Railroad shooter Colin Ferguson, Joel Steinberg, Amy Fisher, Bernie Goetz, Jean Harris, and Robert Chambers. Then there are famous victims such as the Central Park jogger, Amadou Diallo, Meier Kahane, the Happy Land Social Club attendees, Gavin Cato, Abner Louima, and Yusef Hawkins. Of course there is a plethora of non-homicidal offenders and their victims. This list could go on and on.

With 150 years of widely divergent experience, the Court of Appeals, the highest court in New York State, has been considered to have more impact on more areas of law than any other court in the United States. "No other state court has generated leading case after leading case in every decade...[N]o federal court has exerted influence comparable to that of the Court of Appeals over the wide range of problems that confront most Americans in their everyday lives: contracts, torts, property, trusts, wills,

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divorce law (to name a few).”¹ The far-reaching impact of the Court of Appeals continues today.

HISTORY

The Penal Law

New York’s codification of the common law into a written statutory scheme occurred in 1881 with the adoption of the Penal Code. The new penal code put in writing the common laws that were followed by judges through tradition rather than formal legislation. The new codes also defined degrees of punishment to match the relative degrees of crime and filled-in the gaps where deficiencies in the common law existed.²

The Penal Code remained essentially unchanged for 83 years, except that it was reorganized in 1909 and renamed the “Penal Law.” In 1961, the New York State Legislature was prompted by a frustration with the existing codes and an innovation in the revised codes of neighboring states influenced by the new Model Penal Code. In response, the Legislature created the State Commission on Revision of the Penal Law and Criminal Code in order to draft a simplified and more relevant body of substantive and procedural law.

The Commission proposed changes in both organization and content. All offenses under the former Penal Law were alphabetically arranged, and many were declared unconstitutional. The revised Penal Law grouped offenses according to similar categories and transferred regulatory crimes to other parts of the law. Some provisions, like adultery, were removed because they were believed to be concerns of private morality, and others, like driving animals on sidewalks, were removed because they were no longer relevant. Judges were also given wide discretion in sentencing matters.

Further, for those offenses indicated by degree, the new Penal Law defined these crimes by lowest degree first and then proceeded in ascending order. The reason is that the old law considered the various degrees to be mutually exclusive. Under the new Penal Law, however, the lower degree crimes could be charged as lesser included offenses of the higher degree crimes. This scheme was considered a more accurate statement of the law and would help in the plea bargaining process.³

In 1965, the revised New York Penal Law was sent to the Legislature for consideration. In 1967, the final version of the Penal Law took effect. Since 1967, offenses have been subsequently added, modified, and when declared unconstitutional, deleted. The New York Legislature, which creates the law, often considers bills to change the substantive language of the Penal Law. The Penal Law is also amended through the courts, which are tasked with interpretation of it.

The Court System

This section was drawn from a lecture given by Marc Blaustein, Deputy Counsel to the New York State Office of Court Administration. New York’s current court system emerged from the Constitutional Convention in 1846. Prior to this time, the New York judiciary was relatively unchanged since 1777 where judges rode from court to court, had no fixed terms of office, and were given great authority since an appellate structure was virtually nonexistent.

The Constitutional Convention further mandated that the Supreme Court become a statewide court of original jurisdiction, created a two-tiered appellate system, established the Court of Appeals to be the state’s highest court of appellate review, mandated that trial judges be popularly elected for fixed-length terms, and adopted a new state Constitution. The next Constitutional Convention in 1894 divided

New York State into four judicial departments which defined the geographical authority of each branch of the Appellate Division.

In 1962, the new Judiciary article of the State Constitution (Article VI) mandated an extensive reorganization of the structure of the New York courts. For the first time, the New York State Unified Court System was created. Courts could now, at the very least, be considered as part of a system. Blaustein, however, was not convinced that the court system in New York was actually “unified” as of 1987.⁴

New York State is made up of 12 judicial districts which are divided for administrative purposes. Each district contains from one to 11 counties. A profile of each district can be found at <http://www.fedstats.gov/mapstats/statecourts/sc36.html> for information on crimes reported, demographics, populations, etc. New York State is still divided into four judicial departments which comprise several judicial districts. A list of the judicial departments is found on the New York State Unified Court System website at <http://www.fedstats.gov/mapstats/statecourts/sc36.html> and includes the districts comprising each department. The 1st and 2nd departments consists of the New York City and lower New York State judicial districts. The 3rd and 4th departments include the upstate districts.

THE NEW YORK STATE UNIFIED COURT SYSTEM

This section will discuss the levels of the New York State court system. Although New York State courts handle cases other than criminal (i.e., civil, family, surrogate), for this discussion, only the relationships among the courts as they deal with criminal cases will be considered. The intent of the restructuring of the New York State Unified Court System is to meet two goals: 1. to promote the rule of law with consistency across the state; and 2. to promote the fair and timely processing of cases that come before the court.

As mentioned in the previous section, the reorganization and authority of the New York state courts is outlined in Article VI (which can be read at <http://public.leginfo.state.ny.us/menugtf.cgi?COMMONQUERY=LAWS>) of the state Constitution. The New York State Office of Court Administration, under the authority of the Chief Judge of the State of New York (who is also the Chief Judge of the Court of Appeals), oversees the administration of the New York State Unified Court System.

The court system is also composed of attorneys and jurors. District attorneys prosecute cases within the courts in New York. There are 62 district attorneys, one heading each county office. District attorneys are elected. They also direct the assistant district attorneys who handle the prosecution of cases encountered within their offices. Jurors are randomly selected for trials from registered voter, driver's license, taxpayer, public assistance benefits recipient, and state unemployment recipient lists. Jurors who make it past *voir dire* will serve on only one trial. Criminal trials last on average from five to 10 days.

A brief discussion about the structure of the courts in New York State is found at: <http://www.nycourts.gov/reports/ctstrct99.pdf>

The homepage of the New York State Unified Court System is located at <http://www.courts.state.ny.us/home.htm> and an organizational chart of the criminal court structure in

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New York is found on this site at the following link <http://www.courts.state.ny.us/courts/structure.shtml> on the bottom of the page.

New York's criminal court structure is divided by trial courts and appellate courts. The basic court unit is the local criminal court which comprises the town, village, or city court. These are courts of limited jurisdiction which means that they are limited to the types of cases that they hear.

Trial Courts of Limited Jurisdiction

Trial Courts of Limited Jurisdiction are also known as "Local Criminal Courts" according to Section 10.10 of the Criminal Procedure Law. Local criminal courts include: district courts, New York City Criminal Court, city courts, village courts, and town courts. These are the courts where cases essentially begin.

Within New York City

The Criminal Court of the City of New York

These criminal courts have jurisdiction over misdemeanors and violations. These courts also handle arraignments and preliminary hearings of felony cases, but felony cases are tried in Superior Court. New York City criminal court judges are appointed by the Mayor of New York City for a 10-year term.

Outside of New York City

District Courts

Like the Criminal Courts of the City of New York, district courts, located in Nassau County and the five western towns of Suffolk County, handle misdemeanors and violations but may also arraign felony cases. District court judges are elected to six-year terms.

City Courts

City courts, according to §10.10(4) are "any court for a city, other than New York City, having trial jurisdiction of offenses of less than felony grade only committed within such city." City court judges are either elected or appointed, depending upon the city. Full-time city court judges serve 10-year terms.

Town and Village Courts

Town and village courts also handle misdemeanors and violations, as well as arraign felony cases. Town and village justices are not required to hold law degrees and are elected to four-year terms.

Trial Courts of Superior Jurisdiction

Trial courts of superior jurisdiction have trial jurisdiction of all offenses, according to Section 10.20(1) of the Criminal Procedure Law. They primarily handle trials of felonies.

Supreme Courts

The Supreme Court handles proceedings of felonies in New York City. Outside of the New York City, criminal trials are mostly heard in the county courts.

County Courts

County courts, located in each county outside of New York City, have jurisdiction over felonies and misdemeanors, although most misdemeanors are actually handled by the lower courts. County courts also have appellate jurisdiction over cases originating in city, town, and village courts in the 3rd and 4th Judicial Departments. County court judges are elected to 10-year terms.

Intermediate Appellate Courts

Supreme Court, Appellate Terms, 1st and 2nd Departments

These courts hear appeals from cases originating in New York City criminal courts. In the 2nd Judicial Department, the Appellate Terms also hear appeals from cases originating in city, town, and village courts. Justices of the Appellate Terms are selected from the Supreme Court by the Chief Administrative Judge.

Appellate Divisions of the Supreme Court

There are four of these courts, one in each judicial department. These courts hear appeals of decisions of criminal cases from the trial courts. Judges are selected from the Supreme Court and designated by the Governor. Associate Judges serve for five-year terms and the Presiding Justice serves for the remaining length of his or her term.

Court of Appeals

The Court of Appeals was established to consider statewide principles of law. As such, it focuses on issues that have a broad ranging impact on case law, rather than individual factual disputes. The court is New York's highest and hears appeals from the intermediate appellate courts. Death penalty cases are appealed directly to the court. Decisions made by the Court of Appeals, the court of last resort, cannot be appealed further in New York State. Appeals may, however, further be made to the federal courts. The Court of Appeals is composed of a Chief Judge and six Associate Judges. Judith Kaye is the court's current Chief Judge. The judges are appointed by the Governor to a 14-year term.

THE PENAL LAW OF NEW YORK

The Penal Law has been so substantially overhauled in the 1960s that it can be conceived as a living document. Statutes are often amended, removed when deemed unconstitutional, and added when the Legislature wants to curb the proliferation of behaviors from turning into larger social problems, such as theft of computer data. Currently, there are 70 articles comprising the Penal Law of New York. They are categorized according to the common elements of the offenses within each grouping.

The general purposes of the Penal Law are described in Section 1.05 of the law. Generally, the purposes of the Penal Law are to: 1. proscribe conduct that unjustifiably or inexcusably threatens harm; 2. give notice of the acts that are proscribed and their consequent punishments; 3. define acts or omissions

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and the accompanying mental states that constitute each offense; 4. differentiate between serious and minor offenses; 5. provide for an appropriate public response to particular offenses, including the consequences to the victim and community; and 6. insure the public's safety through deterrence, rehabilitation, and confinement.

There are several sources on the web where the New York Penal Law can be found. One such site provides an easy to search resource. It is located at <http://ypdcrime.com/penal.law/index.htm> and another site, maintained by the State University of New York at Buffalo Law School is found at <http://wings.buffalo.edu/law/bclc/web/cover.htm>

The Penal Law grades offenses. An offense is defined by Penal Law Section 10.00, subsection (1) as:

conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law or ordinance of a political subdivision of this state, or by any order, rule or regulation of any governmental instrumentality authorized by law to adopt the same.

Offenses include traffic infractions, violations, misdemeanors, and felonies. The discussions in the textbook and this supplement will focus on misdemeanors and felonies, which, according to Penal Law 10.00(6) constitute crimes. Misdemeanors in New York State are those crimes for which punishment cannot exceed one year. Felonies are crimes where sentence terms in excess of one year may be imposed.

The basic elements of offenses considered by the New York Penal Law are: the *actus reus*, *mens rea*, circumstances, and result. The *actus reus* and *mens rea* will be discussed in much greater detail in Chapters Four and Five respectively. Essentially, the *actus reus* refers to the conduct that the Penal Law defines as criminal, either an act or omission to act. The *mens rea* means the mental culpability of the actor at the time of the act and concerns the extent to which the actor intended to commit the act. For example, accidents or involuntary acts are not crimes since the actor had no criminal intent. The circumstances concern the time and location of the offense, and the nature of the offender and victim. The result includes the consequent individual and/or social harm that was caused by the act.

The Penal Law also defines three levels of criminal culpability (or blameworthiness): criminal, justification, and excuse. Justification and excuse are defenses to criminal conduct and are discussed in more detail in Chapters Eight and Nine. Criminally culpable behaviors will be discussed in the chapters on substantive crimes, such as homicide or white collar crime.

OTHER SOURCES OF CRIMINAL LAW

As the textbook discusses, substantive law is complemented by procedural law that indicates how the substantive law will be administered. New York State thus has a Criminal Procedural Law in addition to its Penal Law. The Criminal Procedural Law can be found at <http://ypdcrime.com/cpl/index.htm> and provides rules regarding juries, time allowances for processing criminal cases, punishment, police procedures, etc. Other state criminal codes are organized according to the agency that has jurisdiction. For example, Chapter Fourteen discusses environmental crime which is regulated by the Environmental Conservation Law and overseen by the New York State Department of Environmental Conservation. A list of laws of New York State by topic is found at <http://public.leginfo.state.ny.us/menugetf.cgi?COMMONQUERY=LAWS> and is maintained by the New

York State Assembly. Other sources of criminal law can be found at the level of local governments through municipal ordinances, laws, codes, and charters.

NEW YORK STATE REPORTERS

Appellate case decisions in New York, as with other states, are published in federal and regional reports. New York State also maintains published decisions in its state reports. A list of reports that publish New York case decisions is maintained on the Rutgers School of Law website:

<http://law-library.rutgers.edu/resources/nyresearch.php#case>

New York state-specific reports include:

- N.Y. Reports (N.Y.) and N.Y.2d Reports (N.Y.2d) which are the official reports of decisions by the Court of Appeals
- Appellate Division Reports (A.D.) and Appellate Division 2d Reports (A.D.2d) which are the official opinions by the New York Appellate Division.
- Miscellaneous Reports (Misc.) and Miscellaneous Reports 2d (Misc.2d) which are the official reports of select decisions of the New York Supreme Court and lower New York Courts.
- N.Y. Supplement (N.Y.S.) and New York Supplement 2d (N.Y.S.2d) which are unofficial reports of the opinions of the Court of Appeals, Appellate Division, Supreme Court, and lower courts.

The opinions analyzed in this supplement will be from the New York and New York 2d Reports as well as the New York Supplement and New York Supplement 2d Reports.

The name of the reporter is located in a case's citation. The case citations provide the location where the legal researcher could find a specific case. A typical case citation looks the following: *People v. Gallagher*, 69 N.Y. 2d 525 (1987). The case in this example is criminal, the plaintiff is the State (*People*), and the defendant, *Gallagher*, has been accused of a crime. The case is found in the New York 2d Reports and is thus a Court of Appeals decision. In the N.Y.2d Report, the researcher will find the case in volume 69 beginning on page 525. The Court of Appeals decided the case in 1987.

A quick guide to legal citation in general is found at the following link <http://www.bc.edu/schools/law/library/meta-elements/pdf/researchguides/citations.pdf> which is maintained by the Boston College Law School.

REVIEW QUESTIONS

1. Sources of law in New York State include:

- A. the Penal Law.
- B. the Criminal Procedure Law.
- C. local ordinances.
- D. all of the above.

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2. The Court of Appeals:

- A. is a court of last resort.
- B. hears appeals directly from the county courts.
- C. handles misdemeanors only.
- D. consists of four separate courts.

3. The Legislature will modify or add a new law when:

- A. it feels like it.
- B. the courts ask for one.
- C. it notices an increase in harmful behavior in society.
- D. the Legislature does not make law.

4. Issues impacting the New York Penal Law are:

- A. a homogeneous population.
- B. different cultural values.
- C. a history of torturing prisoners.
- D. nothing impacts the law.

5. In *People v. Jones*, 63 Misc.2d 677 (1922), 677 indicates:

- A. the volume of the report.
- B. the first page of the case.
- C. the last page of the case.
- D. the number of months in prison the defendant received.

REFERENCES

¹ Sterk, S. (1998). Introduction: The New York Court of Appeals: 150 years of leading decisions. *Syracuse Law Review*, 48, 1391.

² Cohn, E. (2001). *Criminal justice in New York today*. Upper Saddle River, NJ: Prentice-Hall.

³ Schwartz, H. (1968). Drafting a new penal law for New York. *Buffalo Law Review*.

⁴ Blaustein, M. (September 1987). A short history of the New York State court system. Paper presented at a Seminar on the Unified Court System of New York. [Retrieved August 1, 2006, from http://www.courts.state.ny.us/history/pdf/Library/History/Short_History_of_NY_Court_System.pdf]

ANSWERS

1. D; 2. A; 3. C; 4. B; 5. B.