



Weekly Information Sheet 10

The Criminal Law

Definitions:

The Criminal Law: The body of law defining offenses against the community at large, regulating how suspects are investigated, charged and tried, and establishing punishments for convicted offenders.

The Criminal Justice System: The collective institutions through which an accused offender passes until the accusations have been disposed of or the assessed punishment concluded.

Substantive Criminal Law:

Substantive criminal law defines crimes, the conduct that constitutes them, and the punishment that is proscribed for such conduct.

Substantive criminal law defines crime and punishment.

For example, what act constitutes murder or what punishment a murderer should receive.

In New York State, substantive criminal law is contained within the New York State Penal Law.

Criminal Procedure:

Criminal Procedure establishes the procedures for the implementation and enforcement of substantive criminal law.

Criminal procedure is concerned with the legal rules to be followed, and the steps taken, to investigate, apprehend, charge, prosecute, convict, and sentence to punishment individuals who violate substantive criminal law.

For example, criminal procedure describes how a murder trial must be conducted.

In New York State, procedural criminal law is contained within the New York Criminal Procedure Law.

Purpose of the Criminal Law:

The Criminal law seeks to protect the public from harm by:

1. **Inflicting punishment on those who have already done harm, and**
2. **Threatening with punishment those who are tempted to do harm.**

Many Crimes Are Also Torts:

In many cases, a person's wrongful and harmful act can invoke both criminal and civil law responses.

As a result, most crimes also contain a civil remedy, known as a tort.

Different Theories of Criminal Punishment:

Various theories have been advanced to justify or explain the goals of criminal punishment.

These include:

Retribution;

Deterrence;

Restraint (or incapacitation);

Rehabilitation; and

Restoration.

Criminal Law - Common Law Felonies

MR & MRS LAMB.



Murder
Rape
Manslaughter
Robbery
Sodomy
Larceny
Arson
Mayhem
Burglary



Common Law Felonies vs. Modern Felonies

At common law, a **felony** was a capital offense, meaning the ultimate **punishment** was **DEATH**.

Today, a **felony** under New York law is generally considered a **crime that can be punished by more than a year in jail**. While a **Misdemeanor** is generally considered a **crime that can be punished by less than a year in jail**.

Murder

A person is guilty of murder when:

1. With intent to cause the death of another person, he causes the death of such person or of a third person;
2. Under circumstances evincing a depraved indifference to human life, he recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes the death of another person; or
3. Acting either alone or with one or more other persons, he commits or attempts to a felony, and, in the course of and in furtherance of such crime or of immediate flight therefrom, he, or another participant, if there be any, causes the death of a person other than one of the participants.

Rape

A person is guilty of rape (in the first degree) when:

He or she engages in sexual intercourse with another person:

1. By forcible compulsion; or
2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old; or
4. Who is less than thirteen years old and the actor is eighteen years old or more.

Robbery

Robbery is forcible stealing.

A person forcibly steals property and commits robbery when:

In the course of committing a larceny, he uses or threatens the immediate use of physical force upon another person for the purpose of:

1. Preventing or overcoming resistance to the taking of the property or to the retention thereof immediately after the taking; or
2. Compelling the owner of such property or another person to deliver up the property or to engage in other conduct which aids in the commission of the larceny.