

CPL ARTICLE 1: DEFINITIONS.

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ACCUSATORY INSTRUMENTS: Filing of an accusatory instrument commences a proceeding in a Criminal Court. The various types of such instruments are:

- 1) INDICTMENT, including an INDICTMENT REDUCED;
- 2) INFORMATION;
- 3) SIMPLIFIED INFORMATION;
- 4) PROSECUTOR'S INFORMATION;
- 5) SUPERIOR COURT INFORMATION;
- 6) MISDEMEANOR COMPLAINT;
- 7) FELONY COMPLAINT.

All accusatory instruments have the State as plaintiff, and are issued "on behalf of the people of the State of New York" against a defendant.

The various courts of New York having criminal jurisdiction are broken down into two categories: SUPERIOR courts, and LOCAL CRIMINAL courts.

The ONLY accusatory instruments of the Superior Courts are Indictments, and Superior Court information (duh). All others are the province of the Local Criminal Courts.

An Indictment is a written document by a GRAND JURY, delineating at least one CRIME; it may also include one or more OFFENSES. Superior Court Information is a similar such document, but from the District Attorney.

** NOTE: An OFFENSE is any act punishable by fine and/or imprisonment; A CRIME in New York legal parlance is limited to MISDEMEANORS and FELONIES [see Penal Law]. **

An Information is a verified document by an individual, which alleges at least one offense, but NO FELONIES!

Simplified Information is authored by a Police Officer or other Public Servant, charging a person with a Traffic Infraction or related Misdemeanor; or *non-felony* offenses regarding Parks & Recreation Law or Environmental Conservation Law.

Prosecutor's Information is by the District Attorney, and is also limited to non-felony offenses.

Misdemeanor Compliant alleges at least one misdemeanor, but no felonies. While a Felony Complaint in Local Criminal Court specifies ONLY one or more felonies.

ARRAIGNMENT = an appearance before the Court, by which such court acquires control over the defendant.

JURY TRIAL commences with jury selection.

BENCH TRIAL commences with the first opening address; else if none, then with the first witness.

CONVICTION = when Plea or Verdict is *entered*; **EXCEPT**: regarding a Felony Complaint!!!

JUDGMENT is composed of the conviction, plus the Sentence.

A Criminal Action commences with the filing of the accusatory instrument, and continues until sentencing or other disposition.

A Criminal *Proceeding* can be part of an action; **OR**: can occur in a criminal court with respect to prospective/pending/completed action in ANY jurisdiction or involve a criminal investigation.

Intermediate Appellate Court is any such court **EXCEPT**: the Court of Appeals.

The term "Judge" includes any Judicial Officer who is a member of a court, including Justices.

A court has TRIAL JURISDICTION when it is the proper venue to file the accusatory instrument, **AND** when it has authority to take a plea or enter verdict. Else a court can *commence* a proceeding only, when it has PRELIMINARY JURISDICTION.

An APPEARANCE TICKET (or desk appearance ticket) is a written notice by a public servant directing an individual to appear before the court regarding an accusatory instrument which has not yet filed (but presumably will be).

A SUMMONS is process by and of the court itself, directing such an appearance for arraignment purposes. It may only be issued *after* an action has commenced.

WARRANTS are issued by Local Criminal Courts **ONLY**, and must be executed by POLICE! A Superior Court may issue a SUPERIOR COURT WARRANT to the same effect.

A BENCH WARRANT is also by the Local Criminal Court, but may be executed by a uniformed Court Officer of NYC/Nassau/Suffolk/Westchester in addition to the police.

The term "District Attorney" herein also includes the ATTORNEY GENERAL,

as well as such deputies and special appointees.

POLICE includes all of the following:

- 1) Sworn State/County/County Parkway/City/Park/Capital police officer.
- 2) Sheriffs, *outside* NYC, only!;
- 3) Investigator of the Office of District Attorney;
- 4) NYC Fire Investigation Marshalls;
- 5) Long Island Rail-Road police (and other such as authorized by Section 88 of the Rail-Road Law);
- 5) Organized Crime Task Force investigators;
- 6) certain Westchester County Public Safety officers;
- 7) NYC Water-Supply police;
- 8) Tax Enforcer;
- 9) Sate University Police;
- 10) sworn Buffalo Municipal Housing Authority Public Safety officer;
- 11) Indian Police;
- 12) Forrest Ranger.

However, police officers may be limited to their "Geographical Area of Employment".

COMMITMENT to Sheriff in a county with A Department of Corrections, means to the Commissioner of Corrections.

Ordinarily, NYC is treated as **one** county!

A "Lesser-Included Offense" is any such where a charged count cannot have been committed without also having concomitantly the "lesser-included". All counts wherein an attempt to commit thereby is also a valid and legal offense automatically include the attempt charge as a lesser-included.

OATHS "attest to truth", either by Affirmation, or some other mode.

PETTY OFFENSE = Violation or Traffic Infraction.

EVIDENCE in CHIEF: *substantive* proof establishing a charge.

An ARMED FELONY includes a crime wherein a defendant displays what *appears* to be a firearm.

JUVENILE OFFENDER:

- 1) 13 year-old charged with Murder in the second degree; **OR**,
- 2) aged 14-15 =

- a) murder 2, plus attempted;
- b) kidnapping 1, plus attempted;
- c) arson 1;
- d) assault 1;
- e) manslaughter 1;
- f) rape/criminal sex act 1;
- g) burglary 1, 2;
- h) robbery 1, 2;
- i) Penal Law section 265 ONLY: where firearm or machine gun is present on school grounds;

Judicial Hearing Officer (JHO) is defined in Article 22 of the Judiciary Law.