

## CRIMES AGAINST PROPERTY UNDER THE CRIMINAL LAW OF USA

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**Formulation of the problem.** Crimes against property are known from very early times. Due to the psychological nature of man, his ability to negative emotional expressions, such as envy and greed, the need to regulate human behavior in general, and in particular the prohibition of committing acts of this kind occurred simultaneously with the appearance of the first sights rights and religious sources. One of the Biblical commandment declares: do not steal. One of the factors that contribute to the development of this type of crime is impact by the media that say about the importance of owning certain things. Names of television programs which speak for themselves: «Luxury Lifestyle» «High Life,» «Star of Life» and more. Young people growing in relentless observation of the luxurious life in which expensive cars, watches and other things are the most important. The effect on consciousness creates confidence and a strong goal of life – some material possessions.

In terms of action in the Criminal Code of Ukraine in the new edition from 2001 is still much disputed, conflicting and controversial issues in the science of criminal law and their practical application. In particular, the ongoing debate regarding the form and content of criminal law protection of property in Ukraine and some countries.

**Analysis of recent research and publications.** The study is based on the works of V. Alexandrov, P. Andrushko, N. Bazhanov, P. Levin, G. Tymeyko, E. Rokh, M. Radmanesh and others.

**The aim of the article** is an analysis of crimes against property under the Criminal law of USA.

**Key research findings.** Like laws in general, the criminal law has a variety of purposes. Some say that the primary purpose of the criminal law is to «make society safe for its embers, and to punish and rehabilitate those who commit offenses» [1].

The criminal law also serves to restrain those whom society considers dangerous, often through imprisonment, home confinement, or other means. It deters potential offenders through examples of punishments applied to those found guilty of crimes, and it protects honest and innocent citizens by removing society's most threatening members. In short, criminal law protects law-abiding individuals while maintaining social order through the conviction and sentencing of criminals. A more complete list shows that criminal law functions to:

- Protect members of the public from harm
- Preserve and maintain social order
- Support fundamental social values
- Distinguish criminal wrongs from civil wrongs
- Express communal condemnation of criminal behavior

- Deter people from criminal activity
- Stipulate the degree of seriousness of criminal conduct
- Establish criteria for the clear determination of guilt or innocence at trial
- Punish those who commit crimes
- Rehabilitate offenders
- Assuage victims of crime [2].

The Model Penal Code, referred to briefly earlier in this chapter, deserves special mention. The Model Penal Code is not law, but a proposed model, which states can use in developing or revising their statutory codes. The Model Penal Code was published as a “Proposed Official Draft» by the American Law Institute in 1962, after having undergone thirteen previous revisions and represented the culmination of efforts that had been ongoing since the ALI's inception. In New York, in the Penal Law reflect property offenses. These offenses span the spectrum according to type of force used, property taken, offender, level of mens rea, etc. The additional articles related to property offenses are: larceny (including extortion), offenses involving computers, welfare fraud, Robbery, other offenses related to theft, forgery and related offenses, offenses involving false written statements, insurance fraud, criminal diversion of prescription medications and prescriptions, frauds on creditors and other frauds [3, p. 26].

The category of crimes against property includes two groups—crimes in which property is destroyed and crimes in which property is stolen or taken against the owner's will. During the late 1990s, there were fewer crimes against property, in part because Americans developed better ways to prevent these crimes.

Arson and vandalism are examples of crimes involving the destruction of property. Arson is the intentional and malicious burning of another person's property. In most states it is a crime to burn any building or structure, even if the person setting the fire is the owner. Vandalism is the willful destruction of or damage to another person's property. Effects of vandalism include broken windows, graffiti, and damage to cars.

There are many other categories of crimes that involve taking property against the will of the owner. Larceny is the unlawful taking and carrying away of another person's property with the intent never to return it to the owner. Most states identify larceny as either grand or petty. Grand larceny—which is a felony—occurs when anything above a certain value is stolen. Petty larceny is a misdemeanor that involves the theft of anything of small value.

Robbery is the taking of property from a person's immediate possession by using force or threats, while burglary is the unlawful entry into any dwelling or structure with the intention to commit a crime. A person who is entrusted with property but then takes it unlawfully is guilty of embezzlement. Extortion, which is also called blackmail, takes place when one person uses threats to obtain another person's property. The threats may include harm to the victim's body, property, reputation, or loved ones.

Other crimes against property include forgery, receiving stolen property, and unauthorized use of a vehicle. The Internet has led to an increase in computer crime, which is any unlawful use of a computer or computer technology. It can

involve such acts as the use of a computer to make fake identifications or the intentional spreading of a computer virus [4].

Criminal law of USA knows burglary. Burglary – often just called breaking and entering – is a crime related to theft. It typically involves someone breaking into a house with intent to commit a crime.

In most jurisdictions in the United States, burglary is a felony and involves trespassing, or entering a building with intent to commit any crime, not necessarily a felony or theft. Thus, a conviction for burglary may qualify as a conviction under a three strikes law or habitual criminal statute, even though only something of low value or nothing at all was stolen. As with all legal definitions in the U.S., the foregoing description may not be applicable in every jurisdiction since there are 51 separate criminal codes in force.

The state of Massachusetts is somewhat unique in that it does not formally use the term «burglary;» instead, the acts of breaking and entering and any theft that occurs coincident with such entry are treated as separate offenses, with the former being officially denoted «breaking and entering in the nighttime (or daytime, as applicable) with intent to commit a felony (or misdemeanor, as applicable),» and the latter «(grand or petit) larceny from a building,» if any property was indeed stolen. Thus if the perpetrator's intended act after entering the burglarized premises was not a felony, the result can be two different misdemeanor charges rather than a felony count [5].

Larceny is defined in Article 155 in the Penal Law. Until 1942, New York defined larceny in terms of common law theft: larceny by trespassory taking, trick, embezzlement, or false pretenses. After 1942, the Legislature no longer required that prosecutors prove an underlying theory of larceny (i.e., by trespassory taking, trick embezzlement, or false pretenses). The Legislature eliminated these distinctions and instead only required the burden to prove the larceny itself regardless of the underlying common law offense.

Larceny is the removal of goods or money from a person without his or her consent with the intention of permanently depriving them of control over and physical possession of said goods or money. This crime requires asportation, or movement, of the stolen property, even if only a very slight one. It also requires caption of the property, asserting control over it. The intent to permanently deprive the victim of the property is the essential mens rea element of the crime and distinguishes it from a taking with the intent so simply borrow the property. If larceny is committed through the use of violence or threat of violence, then the crime is called robbery. Robbery also includes some specialized categories like carjacking. Where robbery requires the use of violence or threat of immediate violence, a separate crime called extortion is a theft that is made under the threat of future violence or other future harm.

False pretense is a crime that was defined by common law to encompass the obtainment of property by fraud or deceit. In these cases an individual tricks someone into transferring ownership of property to the perpetrator, such as by misrepresenting the value of property. This crime requires that the perpetrator commit the act knowingly and that he or she acts by design to defraud the victim.

In some states, all three of these crimes, larceny, embezzlement, and false pretense, are combined into one statute and collectively punished as theft.

Two special cases of theft that were not foreseen by the drafters of original theft laws are identity theft and computer crime. Identity theft involves stealing another person's identifying information, such as name, birth date, and social security number. This is typically done for the purposes of obtaining credit and making purchases in the victim's name. Computer crime involves the unlawful access of another person's computer, most commonly access of programs, databases, and personal information. This crime often requires separate legislation because of the uniquely intangible nature of the property in question [6].

Vandalism is a crime that is defined a bit differently among the 50 states, hundreds of counties, and thousands of communities in the United States, and by federal statute. It can be generally described as the malicious or willful destruction or disfigurement of public or private property that doesn't belong to the vandal, without the consent of the property's owner. It's a crime, not a harmless prank. Vandalism costs millions of dollars worth of taxpayer money to counteract.

Vandalism may be thought of as a minor crime by some people, with a «boys will be boys» attitude, but they may be unaware that vandalism offenses are often punishable as misdemeanors or even felonies, with strict consequences such as: fines mandatory community service, incarceration (jail time).

Additional factors can make the punishment for vandalism more severe (this is sometimes called «penalty enhancement»). For instance, in 1998 California enacted a statewide law that makes vandalism done because of a person's race, religion, sexual orientation, color, ancestry, disability, or national origin punishable as a misdemeanor or a felony.

Vandalism can take many forms, including: broken windows, graffiti, from insignificant scribbles to huge paintings on buildings, trains, and buses, theft of property, arson posting leaflets and handbills, damage to mailboxes, destruction of playground equipment, library books, campground or beach facilities, defacing gravestones, egging or toilet papering property, littering.

The federal (national) government takes an especially dim view of vandalism. Although some teens think that trashing a public mailbox is funny, they're probably not aware that such a mailbox is federal property, and that the potential punishment for the destruction of federal property is rather severe. Vandalism at national parks, monuments, historic sites, military installations, and post offices will not be dealt with lightly by federal prosecutors.

If your child has been charged with vandalism, or if you are accused of committing vandalism, it's a good idea to consult a criminal defense attorney. Contact a criminal lawyer in your area today to discuss your case and your options.

**Conclusion.** Thus, property crime is the illegal taking or damaging of property, including cash and personal belongings. Examples include burglary, theft, robbery, and vandalism. In many instances, the offender acts furtively, and the victim is often not present when the crime occurs. Larceny is the theft or attempted theft of property or cash without using force or illegal entry. An alternate label for this crime is «theft.» It is a property crime. Personal larceny is purse snatching and

pocket picking. Personal larceny involves the theft or attempted theft of property or cash directly from the victim by stealth but without force or threat of force. It is both a property crime and a personal crime. Robbery is the taking of property or cash directly from a person by force or threat of force. Robbery is both a property crime and a violent crime. Burglary is the unlawful or forcible entry or attempted entry of a structure with the intent to commit an offense therein. This crime usually, but not always, involves theft. It is a property crime. Vandalism is the willful or malicious destroying, defacing, or damaging of property without the consent of the owner. It is a property crime.

## BIBLIOGRAPHY

1. British Columbia Superior Courts home page, Available online at <http://www.courts.gov.bc.ca/LegalCompendium/Chapter9.htm>
2. M. Findlay, S. Odgers, S. Yeo. Australian Criminal Justice, 2nd ed. - Oxford: Oxford University Press, 1999.
3. Frank Schmalleger. Criminal Law Today: An Introduction with Capstone Cases. Third Edition. - Pearson Education, Inc. Published by Prentice Hall, 2006. - 43 p.
4. Street Law: A Course in Practical Law // Available online at <http://glencoe.mheducation.com/>
5. Crimes against property & ownership // Available online at <http://mpa.ub.uni-muenchen.de/8600/>
6. Chapter 13: Crimes Against Property // Available online at <http://www.sagepub.com/lippmancl2e/study/supplements/Florida/FL13.pdf>
7. Vandalism // Available online at <http://www.criminal-law-lawyer-source.com/terms/vandalism.html>

### **Soloviova Alina. Crimes against property under the Criminal law of USA**

*Article examines some property crimes under the Criminal law of USA. Examples include burglary, theft, robbery, and vandalism.*

**Keywords:** *criminal law, crimes against property, theft, robbery.*

### **Соловійова Аліна. Злочини проти власності за кримінальним законодавством США**

*У статті проаналізовані деякі злочини проти власності за Кримінальним правом США. Розглядаються такі злочини як пограбування, крадіжка, грабіж, вандалізм та інші.*

**Ключові слова:** *кримінальне право, злочини проти власності, крадіжка, грабіж.*

### **Соловьева Алина. Преступления против собственности по уголовному законодательству США**

*В статье анализируются некоторые преступления против собственности по Уголовному праву США. Рассматриваются такие преступления как ограбление, кража, грабеж, вандализм и другие.*

**Ключевые слова:** *уголовное право, преступления против собственности, кража, грабеж.*

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