CHAPTER THIRTEEN: CRIMES AGAINST PROPERTY

INTRODUCTION

In New York, at least 11 articles in the Penal Law reflect property offenses besides those discussed in Chapter 12. 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:

- 155: Larceny (including extortion)
- 156: Offenses involving computers
- 158: Welfare fraud
- 160: Robbery
- 165: Other offenses related to theft
- 170: Forgery and related offenses
- 175: Offenses involving false written statements
- 176: Insurance fraud
- 178: Criminal diversion of prescription medications and prescriptions
- 185: Frauds on creditors
- 190: Other frauds.

This chapter will focus on some of the offenses covered in the textbook, such as larceny and robbery. Extortion, which is defined in and is an element of the larceny statutes, will also be discussed. Further, this chapter will consider the extent to which identity theft and computer crimes are regulated by the law in New York. And a few offenses found mostly in New York City (jostling, fraudulent accosting, and fortune telling) will be briefly discussed.

Both robbery and larceny data in New York can be obtained from the 2008 New York State Crime Update, maintained by the New York State Division of Criminal Justice Services. Robbery and larceny are Part I index offenses that are reported by New York State to the FBI for inclusion in the annual Uniform Crime Report. Robbery is classified as a violent crime whereas larceny is classified as a property crime.

LARCENY

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 proof of the larceny itself regardless of the underlying common law offense.

Today, larceny still includes the common law doctrine (larceny by trespassory taking, trick, embezzlement, or obtaining property by false pretenses) as one of the elements that the prosecution may prove (§155.05(2)(a)). The common law doctrine is, however, only one of several elements to be proven.

Section 155.05 provides the basic elements of larceny. Extortion, an element of larceny in the both the fourth and second degrees, is defined in §155.05(2)(e). The elements of extortion, the taking of property, threat of violence, blackmail, and the intent to deprive the possessor, are included as well as several others.

Section *155.05,* Larceny, states:

1. A person steals property and commits larceny when, with intent to deprive another of property or to appropriate the same to himself or to a third person, he wrongfully takes, obtains or withholds such property from an owner thereof.

2. Larceny…[is] committed in any of the following ways:
   (a) By conduct …defined…as common law larceny.
   (b) By…issuing a bad check.
   (c) By acquiring lost property.
   (d) By false promise.
   (e) By extortion.
   A person obtains property by extortion when he compels or induces another person to deliver such property to himself or to a third person by means of instilling in him a fear that, if the property is not so delivered, the actor or another will:
      (i) Cause physical injury to some person in the future; or
      (ii) Cause damage to property; or
      (iii) Engage in other conduct constituting a crime; or
      (iv) Accuse some person of a crime or cause criminal charges to be instituted against him; or
      (v) Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or
      (vi) Cause a strike, boycott or other collective labor group action injurious to some person's business; or
      (vii) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
      (viii) Use or abuse his position as a public servant by performing some act within or related to his official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or
      (ix) Perform any other act which would not in itself materially benefit the actor but which is calculated to harm another person materially with respect to his health, safety, business, calling, career, financial condition, reputation or personal relationships.

Larceny is divided into five degrees: fifth degree petit larceny and first through fourth degree grand larceny. The primary aggravating factor for grading grand larceny is the value of the property taken. A person is guilty of petit larceny, **Section *155.25,*** when he steals property.

Petit larceny is a class A misdemeanor punishable by up to one year imprisonment.

According to **Section 155.30,** a person is guilty of grand larceny in the fourth degree when he steals property and when the property:

1. exceeds $1,000 in value; or
2. is a public record; or
3. is secret scientific material; or
4. is a credit or debit card; or
5. is taken from the person of another regardless of the value; or

6. is obtained by extortion regardless of the value; or
7. is a firearm; or
8. is a motor vehicle (i.e., vehicle operated upon a public highway, snowmobile, all terrain vehicle, but not a motorcycle) with a value exceeding $100; or
9. is a religious item used for worship; or
10. is an access device to unlawfully obtain telephone service; or
11. is anhydrous ammonia or liquefied ammonia gas used to manufacture methamphetamine.

Grand larceny in the fourth degree is a class E felony punishable by up to four years of imprisonment.

Grand larceny in the third degree (§155.35) involves stealing property valued in excess of $3,000. According to **Section *155.35,*** A person is guilty of grand larceny in the third degree when he steals property and when the value of the property exceeds three thousand dollars.

Grand larceny in the third degree is a class D felony.

Grand larceny in the second degree (§155.40(1)) concerns the stealing of property with a value in excess of $50,000 unless the property is obtained by extortion, which would make any value of the stolen item(s) second degree grand larceny.

According to **Section 155.40,** A person is guilty of grand larceny in the second degree when he steals property and when:

1. The value of the property exceeds fifty thousand dollars; or

2. The property, regardless of its nature and value, is obtained by extortion committed by instilling in the victim a fear that the actor or another person will (a) cause physical injury to some person in the future, or (b) cause damage to property, or (c) use or abuse his position as a public servant by engaging in conduct within or related to his official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely.

Grand larceny in the second degree is a class C felony.

Grand larceny in the first degree involves stealing property valued over $1 million. According to **Section 155.42,** A person is guilty of grand larceny in the first degree when he steals property and when the value of the property exceeds $1 million.

Grand larceny in the first degree is a class B felony.

In *People v. Kozlowski and Swartz*,[1] the defendants were convicted of, among other charges, grand larceny pursuant to §155.42. Defendants were the CEO and CFO, respectively, of Tyco International, Ltd., a publicly held company. Their convictions arose mainly out of the abuse of two loan programs maintained by Tyco. After a six-month trial, the jury convicted them of 12 counts of first degree larceny, eights counts of first degree falsifying business records, and one count of fourth degree conspiracy. The charges stem from four multi-million dollar “bonuses” that defendants gave themselves from the loan program.

For example, Kozlowski charged $12.75 million in loans the cover the cost of nine paintings, including a Monet and a Renoir. He also purchased a $7.2 million Park Avenue apartment in Manhattan as part of a no-interest relocation loan from Tyco. Further, Kozlowski used no-interest loans from the

business to finance millions of dollars in jewelry and an $8.3 million stake in a New Jersey sports partnership. Swartz similarly used loans to finance personal expenditures and investments.

Kozlowski and Swartz were provided base salaries, regardless of the company's performance, and bonuses if they exceeded certain performance goals under authority delegated by the corporation's board of directors. These procedures were not employed with respect to the four "mega-larceny" bonuses of which Kozlowski and Swartz were convicted of stealing. Kozlowski stole a total of $77 million, and Swartz stole a total of $44.5 million.

After their convictions, defendants were sentenced to concurrent prison terms of 8 1/3 to 25 years on each of the four bonus counts. In addition, the court ordered joint restitution of $134,000,000, and fines of $35 million and $70 million were imposed on Swartz and Kozlowski, respectively.

COMPUTER OFFENSES

Offenses involving computer laws are found in Article 156. These offenses pertain to:

- unauthorized use of a computer
- computer trespass which encompasses unauthorized use and intent to commit a felony or knowingly gain access to computer material
- computer tampering which is an offense comprising four degrees
- unlawful duplication of computer material
- criminal possession of computer related material.

Computer tampering contains four degrees of culpability. In the fourth degree, **Section 156.20,** a person is guilty of computer tampering when he has no authorization to use a computer and intentionally alters or destroys computer data or a program. This is a class A misdemeanor. The elements of each increasing offense grade is that the person is guilty of at least fourth degree tampering with the aggravating factor of increasing property damage amounts.

A person committing computer tampering in the third degree, **Section 156.25,** intentionally destroys computer data or a program by causing damage in excess of $1,000. For computer tampering in the second degree, **Section 156.26,** the amount of damage exceeds $3,000. And for a first degree offense, **Section 156.27,** the damage exceeds $50,000. A first degree offense is a class C felony.

Defenses to computer offenses include: the defendant had a reasonable belief that he had authorization to use the computer, the right to alter or destroy the computer data or program, or the belief that he had the right to copy or duplicate the computer data or program.

ROBBERY

In New York, robberies are called "forcible larcenies." Prior to 1965, robbery required that the property be taken from the person or in the presence of the owner. This definition, however, failed to account for forcible larcenies where the offender knocked the owner unconscious or killed the owner prior to the theft or forced the owner to direct a friend or employee to deliver money to an appointed location at a specific time. In such instances, the property taken was either from outside the presence of the owner or from other than the owner's person, which made these acts undefinable within the statute. After 1965, however, the presence or person doctrine was removed from the language of the statute.

> Robbery, defined in **Section 160.00,** now requires a forcible stealing when, in the course of committing a larceny, the actor 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 of the property immediately after the taking; or

2. compelling the owner of the property or another person to deliver the property or to engage in conduct that otherwise aids in committing the larceny.

Robbery in the third degree, **Section 160.05,** is the forcible stealing of property. It is the basic element to all robberies. Robbery in the third degree is a class D felony.

An example of third degree robbery is found in *People v. Jones*[2] whereby the defendant shoplifted items from a supermarket in Rensselaer County. His acts became robbery when, after leaving the store and being confronted by store personnel, defendant refused to go back inside to return the items. Instead, he grabbed a pole, struggled with the personnel, and threatened to "cut up" the assistant manager. He then freed himself from the employees' restraint, fled in a car with an accomplice, and was arrested by police minutes later while still in possession of the stolen items. Defendant was convicted. The Supreme Court of New York affirmed his robbery conviction based on his use of force to retain control of the stolen property.

Robbery in the second degree consists of the aggravating factors of being aided by another person, physical injury to a nonparticipant to the robbery, the display of a firearm, or the stealing of a motor vehicle.

Section 160.10, Robbery in the second degree, states:

A person is guilty of robbery in the second degree when he forcibly steals property and when:

1. He is aided by another person actually present; or

2. In the course of the commission of the crime or of immediate flight therefrom, he or another participant in the crime:
   (a) Causes physical injury to any person who is not a participant in the crime; or
   (b) Displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or

3. The property consists of a motor vehicle (i.e., vehicle operated upon a public highway, snowmobile, all terrain vehicle) but not a motorcycle.

Robbery in the second degree is a class C felony.

In *People v. Esquilin*[3], defendant was convicted of second degree robbery. This case exemplifies the aggravating factors of being aided by others and causing injury to the victim. In this case, defendant offered to sell heroin to an undercover officer during a "buy and bust" in Brooklyn. Defendant and three others then attacked the officer by striking him with fists, a stick, and a broom, and robbed him of $70 of prerecorded "buy" money. Defendant was convicted of assault in the third degree in addition to robbery.

Robbery in the first degree is charged when serious physical injury results, and a dangerous instrument is used or threatened on the victim. Subsection (4) indicates that the display of a weapon that turns out to be unloaded is an affirmative defense to first degree robbery. However, displaying an unloaded weapon will not relieve the offender from being convicted of second or third degree robbery.

Section 160.15, Robbery in the first degree, states:

A person is guilty of robbery in the first degree when he forcibly steals property and when, in the course of the commission of the crime or of immediate flight therefrom, he or another participant in the crime:

1. Causes serious physical injury to any person who is not a participant in the crime; or

2. Is armed with a deadly weapon; or

3. Uses or threatens the immediate use of a dangerous instrument; or

4. Displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; except that in any prosecution under this subdivision, it is an affirmative defense that such pistol, revolver, rifle, shotgun, machine gun or other firearm was not a loaded weapon from which a shot, readily capable of producing death or other serious physical injury, could be discharged. Nothing contained in this subdivision shall constitute a defense to a prosecution for, or preclude a conviction of, robbery in the second degree, robbery in the third degree or any other crime.

Robbery in the first degree is a class B felony.

An issue regarding the applicability of a robbery charge was found in *People v. Childs.*[4] In this case, defendant asserted that he could not have committed first degree robbery since the victim may have been dead when he removed the victim's wallet, credit cards, and car keys from his person. Even though defendant stabbed the victim to death, defendant argued that robbery cannot be committed on someone who has died. The Supreme Court of New York disagreed and reasoned that the *mens rea* of the defendant was not affected by the status of the victim. According to the court, "The defendant's lack of awareness of the victim's condition does not preclude a finding that a robbery has occurred when the victim's actual condition does not affect or alter the defendant's intent…Resistance on the part of the victim is either anticipated or it may actually occur…[but] resistance need not be established to prove a robbery. Only the intent of the defendant to use force to accomplish one of the enumerated consequences outlined in Penal Law §160.00 must be proven." Defendant's conviction for murder and robbery in the first degree was upheld.

The Court of Appeals in the following case also analyzed the intent element of robbery. This case required the court to provide a statutory interpretation of *mens rea* in first degree robbery.

PEOPLE V. SMITH
Court of Appeals of New York
79 N.Y. 2d 309 (1992)

Opinion By: Kaye, J.

The issue in this case concerns whether the robbery statute requires proof that the defendant intended that his threatened use of force would either compel the victim to deliver up her property or overcome her resistance to his taking her property.

Shortly after midnight on September 10, 1983, the victim and two of her friends were at a bar in Buffalo. The victim left for a restaurant next door, and since she did not want to eat alone in the restaurant, she sat in her friend's car nearby. Defendant entered the car, pressed a knife to the victim's neck, and repeatedly threatened that she would "pay" for what her girlfriend did. When she asked what he meant, he pushed her down, blindfolded her, and drove her for about 10 or 15 minutes. He parked on a dark street, ordered her out of the car, and then raped and sodomized her. After the assault, he threatened

to kill her because she could identify him. The victim pleaded for her life and suggested that defendant take her purse instead. Defendant went to the car, emptied the contents of her purse, and fled with the money. Defendant was convicted of rape, sodomy, robbery, and unauthorized use of a motor vehicle, each in the first degree. He appealed on the issue that the evidence was insufficient to sustain the robbery conviction. The Appellate Division agreed and held that defendant did not threaten the use of force in compelling the victim to deliver up her property. The Appellate Division then reversed the conviction and dismissed the robbery count in the indictment.

The Court of Appeals thus had to consider whether the robbery statute sets forth *a mens rea* element of robbery. In other words, "[M]ust a defendant intend that the use of force will either compel a person to deliver up the property, or prevent resistance to the taking of property, or is it sufficient that the force employed has that unintended effect?"

According to the Court, "The statute defines robbery [in §160.00] as a larceny accompanied by force employed for one of the purposes set forth. Logically, a defendant cannot act with a specified purpose unless an intent is formed to carry out that purpose. Thus, courts in this State have uniformly read the 'for the purpose' language [in §160.00] as an intent element of the statute."

With regard to the sufficiency of the proof to support the *mens rea* element for the robbery conviction, the Court stated, "Often there is no direct evidence of a defendant's mental state and the jury must infer the *mens rea* circumstantially from the surrounding facts. We conclude that a jury could rationally have found from the circumstances surrounding the larceny that defendants (sic) continuous application of the threat of force was with the conscious objective [of intent] of compelling his victim to deliver up her property or preventing or overcoming resistance to the taking or retention of her property."

The Court of Appeals reversed the Appellate Division's order and reinstated the trial court's judgment.

IDENTITY THEFT

Identity theft is found under Article 190 which is entitled "Other frauds." The identity theft statutes comprise definitions, three degrees of the offense, unlawful possession of personal identification information, and defenses to both offenses. First, items of information that comprise a person's identity are listed in **§190.77** (Definitions) and include:

> name, address, telephone number, date of birth, driver's license number, social security number, place of employment, savings account number, credit card number, debit card number, computer system password, signature, automated teller machine code, telephone calling card number, and other information that is used to identify a person.

Identity theft in the third degree requires both knowledge of taking the identity of another and intent to defraud. As with larceny and robbery, an aggravating element is the value of the item taken. Additionally, previous convictions for specified enumerated offenses increase the level of culpability for identity theft.

Section 190.78, Identity theft in the third degree, states:

> A person is guilty of identity theft in the third degree when he or she knowingly and with intent to defraud assumes the identity of another person by presenting himself or herself as that other person, or by acting as that other person, or by using personal identifying information of that other person, and thereby:

1. obtains goods, money, property or services or uses credit in the name of such other person or causes financial loss to such person or to another person or persons; or
2. commits a class A misdemeanor or higher level crime.

Identity theft in the third degree is a class A misdemeanor.

For identity theft in the second degree (§190.79), the obtainment of goods, money, property or services or financial loss is raised to $500.

According to **Section 190.79,** A person is guilty of identity theft in the second degree when he or she knowingly and with intent to defraud assumes the identity of another person by presenting himself or herself as that other person, or by acting as that other person or by using personal identifying information of that other person, and thereby:

1. obtains goods, money, property or services or uses credit in the name of such other person in an aggregate amount that exceeds five hundred dollars; or

2. causes financial loss to such person or to another person or persons in an aggregate amount that exceeds five hundred dollars; or

3. commits or attempts to commit a felony or acts as an accessory to the commission of a felony; or

4. commits identity theft in the third degree and has been previously convicted within the last five years of:
   - identity theft in the first, second, or third degree; or
   - unlawful possession of personal identification information in the first, second, or third degree; or
   - grand larceny in the first, second, third, or fourth degree.

Identity theft in the second degree is a class E felony.

For identity theft in the first degree, the value of the obtained goods, money, and property or financial loss is increased to greater than $2,000. According to **Section 190.80,** A person is guilty of identity theft in the first degree when he or she knowingly and with intent to defraud assumes the identity of another person by presenting himself or herself as that other person, or by acting as that other person or by using personal identifying information of that other person, and thereby:

1. obtains goods, money, property or services or uses credit in the name of such other person in an aggregate amount that exceeds two thousand dollars; or

2. causes financial loss to such person or to another person or persons in an aggregate amount that exceeds two thousand dollars; or

3. commits or attempts to commit a class D felony or higher level crime or acts as an accessory in the commission of a class D or higher level felony; or

4. commits the crime of identity theft in the second degree and has been previously convicted

within the last five years of:

- identity theft in the first, second, or third degree; or
- unlawful possession of personal identification information in the first, second, or first degree; or
- grand larceny in the first, second, third, or fourth degree.

Unlawful Possession of Personal Identification Information

The Penal Law also recognizes three degrees of unlawful possession of the types of personal identification listed under §190.77, which was mentioned earlier. Unlawful possession of personal identification in the third degree (**§190.81**) is simply possession of any of these items while intending that the identification will be used in the commission of a crime. This offense is raised to the second degree (**§190.82**) when the individual knowingly possesses 250 or more pieces of such identification.

Unlawful possession of personal identification information in the first degree (**§190.83**) occurs when the following conditions exist:

A person is guilty of unlawful possession of personal identification information in the first degree when he or she commits the crime of unlawful possession of personal identification information in the second degree and:

1. with intent to further the commission of identity theft in the second degree, he or she supervises more than three accomplices; or
2. he or she has been previously convicted within the last five years of:
   - identity theft in the first, second, or third degree
   - unlawful possession of personal identification information in the first, second, or third degree
   - grand larceny in the first, second, third, or fourth degree

Unlawful possession of personal identification information in the first degree is a class D felony.

The Penal Law recognizes affirmative defenses to both identity theft and unlawful possession of personal identification when teens use unlawful identification to obtain alcohol, tobacco, or to get into a place where they haven't reached the minimum age for entry.

Section 190.84, Defenses, states:

In any prosecution for identity theft or unlawful possession of personal identification information pursuant to this article, it shall be an affirmative defense that the person charged with the offense:

1. was under twenty-one years of age at the time of committing the offense and the person used or possessed the personal identifying or identification information of another solely for the purpose of purchasing alcohol;

2. was under eighteen years of age at the time of committing the offense and the person used or possessed the personal identifying or identification information of another solely for the purpose of purchasing tobacco products; or

3. used or possessed the personal identifying or identification information of another person solely for the purpose of misrepresenting the person's age to gain access to a

place the access to which is restricted based on age.

OTHER OFFENSES RELATED TO THEFT

Article 165 contains a smattering of property offenses not readily classifiable under other articles. These include offenses such as unauthorized use of a vehicle, auto stripping, theft of services, unlawful use of credit card, criminal possession of stolen property, and the following offenses that appear to have prevalence in New York City: jostling, fraudulent accosting, and fortune telling.

According to **Section 165.25,** Jostling:

A person is guilty of jostling when, in a public place, he intentionally and unnecessarily:

1. places his hand in the proximity of a person's pocket or handbag; or
2. jostles or crowds another person at a time when a third person's hand is in the proximity of such person's pocket or handbag.

Jostling is a class A misdemeanor.

The crime of jostling provides a tool for the police to arrest pick pockets (i.e., jostlers) who target tourists, millions of whom have visited New York City over the years. In many jostling cases, the "stall" distracts the victim and the "hook" goes through the victim's pockets or purse.[5] The types of scams are limited only by the jostler's imagination. For example, at John F. Kennedy Airport in Queens, jostlers have sprayed mustard or ketchup on Japanese tourists (who were believed to be carrying large amounts of cash). When the pick pockets apologize and try to wipe off the confused visitor, another thief goes through the tourist's pockets, handbag, or luggage. This problem became so prevalent that in its travel handbook, the Japanese government warned travelers to New York to avoid individuals bearing mustard or ketchup bottles.[6] These "mustard chuckers" also operated in Manhattan whereby the jostlers would steal money, credit cards, and jewelry. Pick pockets would also quietly prey off of crowds congregating around street musicians, break dancers, magicians, etc. in midtown Manhattan.[7] Pickpockets prefer areas in midtown like Times Square or the Diamond District where they can work among the crowds of unsuspecting or naïve tourists.

Fraudulent accosting consists of the swindle or confidence game. **Section 165.30,** Fraudulent accosting, states:

1. A person is guilty of fraudulent accosting when he accosts a person in a public place with intent to defraud him of money or other property by means of a trick, swindle or confidence game.

2. A person who, either at the time he accosts another in a public place or at some subsequent time
or at some other place, makes statements to him or engages in conduct with respect to him of a kind commonly made or performed in the perpetration of a known type of confidence game, is presumed to intend to defraud such person of money or other property.

Fraudulent accosting is a class A misdemeanor.

An example of fraudulent accosting occurred when two women, posing as nuns, solicited donations on a street corner and collected $175.[8] Another was when a taxi driver paid two homeless men to steal unattended taxis at a gas station and then leased the taxis to other licensed drivers at

discounted prices.[9]

Fortune telling has a long history in New York as it figures prominently among the many groups of people who have come to America. The belief in fortune tellers' abilities to predict success and drive away evil spirits compels individuals, even today, to seek out the fortune teller.

Section 165.35, Fortune telling, states:

> A person is guilty of fortune telling when, for a fee or compensation which he directly or indirectly solicits or receives, he claims or pretends to tell fortunes, or holds himself out as being able, by claimed or pretended use of occult powers, to answer questions or give advice on personal matters or to exorcise, influence or affect evil spirits or curses; except that this section does not apply to a person who engages in the aforedescribed conduct as part of a show or exhibition solely for the purpose of entertainment or amusement.

Fortune telling is a class B misdemeanor punishable by up to three months of imprisonment.

Fortune telling prosecutions are rare in New York. However, instances where the fortune teller has bilked the client out of thousands of dollars sometimes do capture the attention of law enforcement. Typically, however, these offenders are charged with other crimes, such as grand larceny. In one example, a fortune teller, who had been peddling her psychic powers to Chinese immigrants from a storefront in Flushing, Queens, charged a client $8,000 to grant him the same psychic powers that had made her so successful.[10] In another case, two women had demanded thousands of dollars from clients whom they said were cursed. One victim had spent $30,000 to have evil spirits lifted, and others had lost their life savings to these women made enough money to afford a $3,000 a month apartment on the Upper East Side of Manhattan where they conducted their business.[11]

REVIEW QUESTIONS

1. Extortion does **not** include which of the following acts?

   A. the threat of future physical injury
   B. publicizing an embarrassing secret
   C. unlawful restraint
   D. causing property damage

2. Petit larceny is:

   A. the stealing of property.
   B. the stealing of property exceeding a value of $50.
   C. the stealing of property exceeding a value of $100.
   D. the stealing of property exceeding a value of $200.

3. In New York, robbery is also known as:

   A. excessive larceny
   B. forcible larceny
   C. minor theft
   D. theft by homicide

4. Robbery requires the *mens rea* of:

- A. intent to overcome resistance to the taking of property.
- B. intent to prevent resistance to the retention of property after the taking.
- C. intent to compel the property owner to deliver the property.
- D. all of the above.

5. Unlike unlawful possession of personal identification information, identity theft includes which *actus reus?*

- A. obtains goods, money, property, or services
- B. possesses a stolen credit card
- C. causes physical injury to the owner
- D. solicits donations for a nonexistent charity

REFERENCES

[1] 869 N.Y.S.2d 848 (2008)
[2] 771 N.Y.S. 2d 613 (2004)
[3] 530 N.Y.S. 2d 177 (1988)
[4] 615 N.Y.S. 2d 972 (1994)
[5] Lee, F. (1989, July 13). Pickpockets swarming summer's crowds of tourists. *The New York Times.*
[6] James, G. (1988, July 24). Here, let me clean you out…er, off! *The New York Times.*
[7] Ramirez, A. (1997, June 1). Neighborhood Report: Midtown; Fifth Ave. crime now an inside job. *The New York Times.*
[8] 2 posed as nuns, police say. (1997, March 22). *The New York Times.*
[9] Herszenhorn, D. (1997, January 19). Ex-cabby accused in stolen taxi plot. *The New York Times.*
[10] Kershaw, S. (2003, January 1). For one fortuneteller, unforeseen steel bracelets. *The New York Times.*
[11] 2 'Psychics' charged with larceny. (1999, January 21). *The New York Times.*

ANSWERS

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