Self-Defence

Cases Cited (in the order they are discussed)

Palmer v The Queen [1971] AC 814

R v Beckford [1988] AC 130

Majewski's case [1977] AC 44

R. v Taj (Simon) [2018] EWCA Crim 1743

R v Harris [2013] MHLR 171

Oraki v CPS [2018] EWHC 115 (Admin)

Kenlin v Gardiner [1967] 2 QB 510

Riddell [2017] EWCA Crim 413

R v Ray(Steven) Crim. L.R. 2018, 4

R v Martin(Anthony) [2001] EWCA Crim

Collins [2016] QB 862

R v Keane (Daniel) [2010] EWCA Crim 2514

Welcome to Crimeline. In this podcast we discuss self-defence.

The idea for today's episode was sparked by a comment on self-defence contained in the 1971 judgement of *Palmer v The Queen [1971] AC 814*:

> *In their Lordships' view the defence of self-defence is one which can be and will be readily understood by any jury. It is a straightforward conception. It involves no abstruse legal thought. It requires no set words by way of explanation. No formula need be employed in reference to it. Only common sense is needed for its understanding.*

With all due respect, what may have been true in 1971 is certainly not the case in 2020. I find the law on self-defence to be anything but straightforward. I find it to be full of contradictions and exceptions. It is being pulled in one way by logical consistency, and another by public outcry. It's a get-out-of-jail-free card for the defendant against whom the evidence is overwhelming. His last chance saloon. Perhaps for that reason, it regularly gives rise to all manner of legal acrobatics,

by the prosecution, the defence *and* – perhaps above all – by the judiciary. Sometimes it will tempt us to argue the unarguable.

It may, even, be in need of drastic legislative revision.

Three particular self-defenders are going help elucidate this point by way of example. They are the Drunk, the Obstructer, and the Householder. They all came before our appellate courts in 2018. All intent on fitting within self-defence's basic formulation. Prosecutors equally intent on keeping them out of it.

Lets remind ourselves of that basic formulation. It was set out in *R v Beckford [1988] AC 130*:

> *the test to be applied for self-defence is that a person may use such force as is reasonable in the circumstances as he honestly believes them to be in the defence of himself or another.*

In practice, the test is broken down into two limbs.

> (1) Did the defendant genuinely believe that force was required to defend himself or another?
> (2) Was the nature and degree of force used reasonable in the circumstances as the defendant understood them?

A test which is simple enough in the abstract. But wait until the Drunk, the Obstructer and the Householder have had their way with it.

First, the case of the Drunk

Can a drunk person claim self-defence?

Yes. A drunk person has the same right to defend themselves as anyone else.

But intoxication blurs the lines in the neat formulation we set out above. This is particularly so where the drunk defendant relies on a *mistaken* belief that they are under attack.

Now remember the first limb of the self-defence test – that belief that I am under imminent threat of injury from another – is subjective. We don't have to actually be under attack. We just have to *believe* that we are. And that belief doesn't have to be reasonable. It just has to be genuine.

It follows that a mistaken belief is perfectly acceptable. This was true at common law. Its now cemented in s.76(4) Criminal Justice and Immigration Act 2008. If my friend puts their hand up to hail a taxi, and I think that they are aiming a punch at my face, I am entitled to defend myself from this imagined assault.

If I'm intoxicated then I have less leeway. Because subjection 5 of s.76 tells us that the defendant is not able:

> *"to rely on any mistaken belief attributable to intoxication that was voluntarily induced."*

The difference between voluntary and involuntary intoxication is well known. A voluntarily intoxicated person knowingly ingests a substance knowing the rough affect that it will have on them. Knowing that it will cloud their reason, increase their aggression, etc. etc. An involuntarily intoxicated person is spiked.

The distinction in how we treat these two defendants has everything to do with public policy. Say a person decides to down a half litre of vodka and then mistakenly concludes that the waiter handing them a steak knife is attempting to stab them. The public would not accept that person having an *absolute* defence to homicide. So what the courts do is treat the act of getting drunk or drugged up as itself the wrongdoing. That, itself, is the reckless act. See *Majewski's case [1977] AC 44*.

Then is the law just this: that the voluntarily drunk man forgoes the right to defend himself from imagined threats?

Not quite. It's a knottier still.

Lets look at the exact phrasing of subsection 5. "Attributable to intoxication". What does "attributable to intoxication" mean?

This was a question for the Court of Appeal in the strange case of *R. v Taj (Simon) [2018] EWCA Crim 1743*. Here the defendant convinced himself that an innocent electrician stood beside his broken-down vehicle was a terrorist planning a bomb attack. The Prosecution did not dispute that this was Mr Taj's genuinely held belief. And for their part the Defence didn't suggest that there was any good reason for jumping to the conclusions which Mr Taj jumped to.

Though Mr Taj is our drunk, there was in fact no evidence to suggest that he was intoxicated at the *time* he launched at the innocent electrician with a tyre lever – no suggestion that he had drugs or alcohol still in his system. Although he was not tested on arrest, witnesses did not recall him being slurred in speech or off balance. And Mr Taj said himself that he had not drunk anything that day.

The defence argued that since Taj was not intoxicated he was not covered by subsection 5. He did not have intoxicants in his system. Therefore anything he did was not "attributable to intoxication".

The prosecution, the Crown Court, and ultimately the Court of Appeal all disagreed. Why?

Well although Mr Taj was not intoxicated that Sunday afternoon, he *was*, he admitted, a longstanding abuser of drink and drugs. He'd been drinking to excess in the weeks that led up to it. He had snorted cocaine. On the Friday he had been out into the early hours. Drunk light ales, lager, Jägerbombs, Quattro, Red Bull, vodka, champagne and possibly Sambuca. On the Saturday night he'd had a

further 4 pints. He admitted the alcohol and other drugs often left him feeling paranoid some time after the fact. He heard voices. He could feel under threat. He knew that this led to feelings of aggression and vulnerability.

It was agreed between the Crown and Defence psychiatrists that at the time of the attack, Mr Taj was in a "drug and alcohol-induced paranoid state of mind". This had characteristics similar to psychosis, and could last for weeks. But it was not permanent. In fact the Defendant was "remarkably normal" by the time they came to assess him.

The Court of Appeal found that mistakes "attributable to intoxication" encompassed not only the affects of any alcohol or drugs currently swirling round the body. It included a "mistaken state of mind" which was the "short-term effect" of earlier substance abuse. Mr Taj's paranoia – which led him to conclude that this man was a terrorist – could not be relied on in self defence because it was "the direct and proximate result of his immediately prior drink- and drug-taking".

The Court defended their position on both linguistic and policy grounds. According to the Oxford English Dictionary, to "attribute" is to "regard as the effect of a stated cause". The experts agreed that Mr Taj's paranoia was *caused* by his drinking. As far as policy was concerned, Mr Taj knew what drinking did to him. He knew that it affected him even after the alcohol and drugs had been flushed from his system. So he was taking the same risks that a binge drinker takes on a heavy night out. He demonstrated the same degree of recklessness.

Was the Court making new law here? They thought not. Of if they *were* extending the law, it was "the most incremental extension".

Traditionally the common law has treated voluntary intoxication differently from mental illness caused by alcohol or drug misuse. The former rules out certain defences, for example the partial defence of insanity. The latter does not. See for example the judgment in *R v Harris [2013] MHLR 171*.

The Court in *Taj* didn't do a way with this distinction. But it did decide to put cases of *immediate* psychotic illness triggered by *proximate* substance abuse in the same category as current intoxication, for the reasons of language and policy I set out above.

Does this leave the law in a sober state? I worry not.

First, there will be later cases which blur the line between long and short-term drink-induced paranoia. When is the drinking "proximate" to the crime? A day? A week? At least when "attributable to intoxication" meant "currently intoxicated", the question was binary. You were or you weren't. At some point the Court will have to cross that bridge.

Second, from a public policy perspective, why treat long-term drink-induced paranoia differently? Why place it in a different moral category? Imagine that every fact in Mr Taj's case was exactly the same, except that his paranoia lasted for years not weeks. At some point he made the decision to keep drinking, and this is the outcome. If we accept the premise that there is moral blameworthiness in the recklessness inherent in a life of heavy drinking, is it right that he enjoy the protection of a *complete* defence? And even if we take morality out of it, it there not a public safety concern here if psychotic delusions which lead to violence can also lead to acquittals. What's to say they wont be repeated?

In the final paragraphs of *Taj* the Court of Appeal did attempt to square this circle. They do so in a way that Mark Dsouza, writing in the Archbold Review, has described as "incoherent and illogical".[1] In essence, when applying the *second* limb of the self defence test to persons suffering psychotic delusions (whether drink induced or otherwise), a jury is apparently *not* to regard those delusions as part of the circumstances which the defendant finds himself in. The jury is *not* to take a psychotic person's understanding of their surroundings into account

[1] Mark Dsouza, "Intoxication, psychoses, and self-defence: evaluating Taj", Arch. Rev. 2018, 9, 6-9.

when deciding whether or not the force they used was reasonable. Dsouza is right. This makes no sense at all. Why accept the genuine beliefs of a psychotic person in relation to the first limb of self defence, only to ignore them for the second? The level of force used will *never* be reasonable once the psychotic delusion is pulled away. All you'll have is a confused electrician with a broken-down van. So its a pointless, nonsensical exercise. You will be setting these defendant's up to fail every single time.

The Court of Appeal has not arrived on a satisfying solution here.

Next, the Obstructer

The man who makes it harder for the police to lawfully carry out their duty, and then claims self defence (or defence of another) for doing so. How does he muddy the legal waters?

The case here is *Oraki v CPS* [2018] EWHC 115 (Admin). This began as an appeal to the Crown Court from the Magistrates, and then was case stated to the Divisional Court.

Mr Oraki was driving with his mother in the passenger seat. The police stopped him. On suspecting that he didn't have valid insurance (something they turned out to be correct about) the officers decided to seize the car. At some point Mr Oraki's mother got into the driver's seat, put the keys in the ignition, and attempted to make off. One of the officers – PC Nash – put his hand on the mother's arm to stop her. The Crown Court found that officer acted "reasonably and proportionately" here – i.e. lawfully.

Mr Oraki's mother started to scream "loudly and vociferously". Oraki thought that she was being assaulted by the officer. He tried to pull the officer from his mother, which the Crown Court found "was not unreasonable" given his mother's reaction, and the way in which this caused him to misinterpret what was happening.

For this act, the pulling of PC Nash away, Oraki was charged and convicted of obstructing a police officer in the execution of his duty. He claimed to be acting in defence of another (which as we know falls within self-defence). Sounds fine in theory. He wasn't drunk. He could rely on a mistake.

But the Crown Court said that self-defence simply couldn't *ever* be used to resist a charge of police obstruction. It couldn't – as a matter of law – apply to that offence. Why?

Well it appeared to rely for this on the case of *Kenlin v Gardiner [1967] 2 QB 510*. But this case had nothing to do with obstruction. It was about an assault PC. Obstruction was never mentioned. And in *Kenlin* the court held that self-defence *could* be pleaded against an assault charge. So something went wrong in the Crown Court's decision-making here. In *Oraki* specifically it also led to the illogical scenario in which, on the exact same facts, a person could defend themselves from a charge of assaulting a police officer (by claiming self-defence) but not from obstructing him.

Was the Crown Court doing whatever it could to avoid an outcome which didn't smell right? After all, whatever he thought or didn't think, Mr Oraki was getting in the way of legitimate police work.

Unsurprisingly, the Divisional Court rejected the Crown Court's reasoning. It also rejects its conclusion. Self-defence *could*, it said, be used to justify obstructing an officer. Why?

Now the Divisional Court in *Oraki* might have relied here on the 2017 case of *Riddell* [2017] EWCA Crim 413. A woman was charged with dangerous driving when she edged repeatedly towards a taxi driver, hitting his knee, and then accelerated at speed with him sat on her bonnet. The main ground of appeal turned on whether self-defence was *ever* available in relation to that charge, just as it did in our obstructer's case.

The Court of Appeal in *Riddell* characterised self-defence as "where a person uses *force* in order to meet actual or perceived force or threat of force". But it saw no reason why force need be a necessary ingredient of the offence charged, as it is with assault, for example. If force was used in the act of driving dangerously then the defence was available. If there was no force, then it wasn't.

An exact analogy could have been made by the Divisional Court between driving dangerously and obstructing a police officer. Nice and simple.

Unfortunately *Riddell* wasn't referred to in *Oraki*, or raised in Counsel's arguments. Instead the Court developed a very different line of reasoning, which went much further than the Court of Appeal had in the earlier case. Not only was self-defence not confined to certain offences, it was not confined to cases involving the use of force at all.

Here's the key passage from *Oraki*:

> *"It might be said [...] that [self-defence] is restricted to cases of the use of force. However, I do not think that is right as a matter of principle. For example, if a person does not touch a police officer but gets in his way, perhaps by blocking a police car by driving his own car in front of it, which enables a third party to get away, I can see no reason in principle why the defence of protection of another person should not be available."*

Remember the formulation in *Beckford* we started with:

> *the test to be applied for self-defence is that a person may* ***use such force*** *as is reasonable...*

Take away the use of force from self-defence and it's not entirely clear to me what we've got left. Karl Laird wrote about *Oraki* in an article for the Criminal

Law Review.[2] He characterises this new version of self-defence proffered by the Divisional Court as "committing a crime in the protection of [oneself or] another".

And Laird then gives an example of what this might look like. A person who commits fraud to obtain funds in order to protect a third party from an aggressive debtor could arguably now claim self-defence. Or what about this? Perhaps a woman could now plead self-defence having used false ID documents to flee the country because her ex-partner wants to kill her.

Traditionally we would think of this type of justification as falling within "duress of circumstances". "Duress of circumstances" means acting unlawfully in order to avoid a worse situation from occurring. It is infamously restrictive. In very few cases has it been successfully pleaded. It must be that literally not other action could be taken to avoid the greater evil.

Self-defence on the other hand is much more flexible. Because it is about force against force, it often takes place in the heat of the moment. So the law allows for mistakes, even unreasonable mistakes. It allows for rash decisions, which looked necessary at the time, but which were, as seen in the cold light of day, an overreaction.

Did the Divisional Court really intend to transplant the law of self-defence (with all its flexibility) onto a wide range of factual scenarios which were once the sole arena of duress of circumstances? This would be a very drastic thing to have done.

Likely not. Lets look again at the examples which the Divisional Court gave of potential self-defensive actions by our obstructer, Oraki, which wouldn't involve force: (1) getting in a police officer's way; (2) blocking a police officer's car with

[2] Karl Laird, "Defence of self-defence: Oraki v Crown Prosecution Service Queen's Bench Division (Divisional Court): Singh LJ and Sir David Calvert-Smith: 17 January 2018; [2018] EWHC 115 (Admin)", Crim. L.R. 2018, 8, 655-657.

my car in order to help another escape. These two acts may not involve the direct application of force, but they very nearly do. When we block a person's path we essentially leave them with no option but to use force on us in order to get where they want to be. The officer must attempt to push the defendant aside, or ram his car, in order to get past him. In some sense, the threat of force – of physical contact – rather than the use of force, is the defensive action.

There is logic in the Divisional Court wanting to make self-defence available for the defendant who merely blocks a police officer's path instead of physically restraining him. But arguably they could have achieved this without throwing the baby out with the bath water. Perhaps self-defence could be minimally extended to include these more indirect, pre-emptive acts.

However we could have sympathy with a Court which wanted to go even further than this. *Riddell* is not a perfect decision. This is accepted in the judgment itself. The dangerous driver who hits the complainant with her car because she fears being attacked can have a go claiming self-defence. The dangerous driver who speeds away can't. And will have a much, much harder time relying of duress of circumstances. I can't find the inherent logic in this.

So in a way the way the Court in *Oraki* was damned if it did, and damned if it didn't.

THE HOUSEHOLDER

Our final self-defender is the householder. You might say that this defendant starts off with significantly more sympathy then our other two. Their drunkenness, their mistakes, there attacks on innocent people, put them on the back foot. But the householder is just in their own home, minding their own business, when the victim crosses their threshold, usually intent on doing them some kind of wrong. Lets see how this potential for greater sympathy is reflected in the law.

The case we're looking at is *R v Ray(Steven)* Crim. L.R. 2018, 4. On the night of the incident, the defendant was actually staying at the home of his partner, Ms. Allen. But for purposes of self-defence, a householder can be anyone who has the permission of the homeowner to be there – i.e. not a trespasser.

So there is Mr Ray. Ms Allen. Her children also lived there. In the middle of the night the deceased, Ms. Allen's ex-partner, knocks on the door.

According to the evidence of Ms. Allen, the deceased had been violent during their relationship. On one occasion he had held a knife to her throat. That night he had been at a party. Apparently a friend had told him that he had slept with Ms Allen. The deceased was angry about this. He was also angry to find out that Mr Ray, our defendant, was staying there that night. So he burst in when Ms Allen opened the door to him, and he was shouting and screaming at her.

The evidence was that Mr Ray initially tried to calm the deceased down, and get him to leave. But ultimately the two men began to fight. That fight ended when Mr Ray stabbed the deceased. He stabbed him once. An ambulance was called. Mr Ray attempted to perform CPR.

Mr Ray was charged with murder. He claimed self-defence. He said that he thought the deceased had a weapon on him. He was stood near the draining board. He saw a knife lying there. Fearing the deceased would see it and use it, he grabbed the knife himself. And then he stabbed the other man out of fear.

Now most people listening this podcast will know something about the case of *R v Martin(Anthony)* [2001] EWCA Crim. A 55-year-old man lived alone on a remote farm in Norfolk. He had an unlicensed shot gun, which he discharged on two intruders, hitting at one of them in the back. When Mr Martin was convicted of murder this precipitated a public outcry. As one government document put it: *"There is a public perception that the existing law does not give people sufficient protection when defending themselves or their properties from intruders."* There were a few attempts at Private Members' Bills, but these failed. Then finally the

Crimes and Courts Act 2013 brought us the so-called "householder defence", which amends s. 76 of the Criminal Justice and Immigration Act 2008.

It's this defence that Mr Ray made use of, unsuccessfully as it turned out.

The householder amendment (found specifically at s. 76(5A)) applies to the second part of the self-defence test. The question of whether the degree of force used by the defendant was reasonable. It reads:

> *In a householder case, the degree of force used by D is* ***not*** *to be regarded as having been* ***reasonable*** *in the circumstances as D believed them to be if it was grossly disproportionate in those circumstances* .

In non-householder cases, s.76(6) tells us that such force will not be reasonable if it was merely disproportionate. So the only difference in the tests is the inclusion of the word "grossly"

Again, we have one of these not particularly helpful pieces of legislation which tells us what something *isn't.* A recipe for confusion. Inevitably there was soon an argument over what they mean.

Mr Ray's case was the chosen battleground. It was the first criminal appeal to tackle these words.

The defence argued before the Court of Appeal that the new provision meant that *any* force used by householders in legitimate self-defence would be reasonable so long as it was not grossly disproportionate. In other words, so long as the first part of the self-defence test was met (i.e. I genuinely believe that I am under threat of imminent attack), then both proportionate and disproportionate force would be allowed. Only grossly disproportionate force was outlawed.

The defence supported this reading on the basis that it would create a considerable, tangible difference in the position of householders and non-

householders. The alternative interpretation of the Crown Court, they said, did not in practice offer householders any extra protection. And since Parliament had been vocal about its desire to respond to a public demand for change, this couldn't have been what it intended.

The problem with this interpretation is that it misrepresents the clear, literal meaning of the new subsection. Saying that X can never mean Y, doesn't mean that anything which isn't X *must* be Y. Saying that grossly disproportionate force can never be reasonable doesn't mean that any force which isn't grossly disproportionate must be reasonable.

And under the rule in *Pepper v Hart [1993] AC 593*, we're only supposed to look at statements in Parliament, statements of Ministers, where the language of the statute is ambiguous. It doesn't allow us to twist language, or indeed to twist logic, to get to where we think the legislators wanted to be.

For this reason, the Court of Appeal didn't side with the defence here. Instead they did as the Crown Court had done. They followed the non-binding interpretation of subsection 5A arrived at in the case of *Collins [2016] QB 862*.

The court in *Ray*, following *Collins*, determined that juries in householder self-defence cases no longer just have two questions to answer. Another question has been slipped in between the two.

After establishing that the defendant genuinely believed that he needed to use force to protect himself, but *before* asking whether the degree of force used was reasonable, there is now an additional task. The householder jury must ask itself: was the force that was used in self-defence on the trespasser *grossly disproportionate*? If yes, no defence. If no, proceed to final question.

That's a lot for a jury to be getting on with. For this reason, the Court of Appeal in *Ray* went on to give future Crown Court judges some pointers for the summing up.

First, don't get caught up in esoteric conceptual distinctions between proportionality and reasonableness. You'll just confuse things further.

Second, grossly disproportionate means "way over the top".

Third, help the jury, and help Parliamentary intent to be fulfilled, by giving some "colour" to the concept of reasonableness in the context of a householder defending themselves. Stress that Parliament has given greater latitude to householders. Stress that reasonableness of the degree of force is to be judged according to the defendant's reality, as he perceived it. His subjective understanding. The court gives examples of factors which will influence this:

> "the shock of coming upon an intruder, the time of day, the presence of other help, the desire to protect the home and its occupants, the vulnerability of the occupants, [etc. etc.]"

And then finally explain that these factors can make force which would be unreasonable in one context – say that of a bouncer confronting an aggressive patron in a nightclub – reasonable in another – say of a mother coming across a burglar in her child's bedroom.

The Court in *Ray* insists that s.76(5A) (and its interpretation of it) doesn't change the law. It only slightly refines it. Karl Laird, writing again in the Criminal Law Review, doesn't appear to agree with this.[3] Who's right? I think it depends on how you view the question.

Say you are a government minister wanting to show that you have listened to the public. You want to demonstrate that the law has changed. That householders are now better protected. You can do this quite easily. Whatever the court may say, the fact is that in the world of self-defence "reasonable" and "proportionate"

[3] Karl Laird, "Self-defence: R. v Ray (Stephen Jason) Court of Appeal (Criminal Division): Lord Thomas CJ, Davis and Treacy LJJ and Sweeney and Spencer JJ: 26 September 2017; [2017] EWCA Crim 1391", Crim. L.R. 2018, 4, 342-344.

used to mean the same thing. There was no such thing as disproportionate reasonable force. See for example the case of *R v Keane (Daniel)* [2010] EWCA Crim 2514, which is in fact quoted in *Ray.* As Laird points out, proportionality was the very tool a jury used to assess reasonableness.

But *now* gross disproportionality serves only as an objective stop gap, and so long as that boundary line isn't crossed, the jury has a wide pool of scenarios which it can judge as reasonable. Some such scenarios involve disproportionate force.

Think of it this way. Degrees of force are objectively disproportionate if they are more than is in fact required to quell the threat which is faced. Don't stab a burglar if you can pin him to the ground until the police get there. But stabbing a burglar might nevertheless be reasonable if some subjective factor, like a mother's fear for her children's safety, make it understandable that she did not want to run the risk of that lesser proportionate degree of force not working.

So if two key concepts of self-defence, which used to be synonymous, have now been prized apart, how can the Court tell us in good faith that the law has only been "slightly refined"?

They can because by taking proportionality out of the assessment of reasonableness (by cordoning it off in its own sub-question) they are, above all, emphasizing self-defence's subjective nature. Since at least *Beckford*, the case we started with, reasonableness should have been judged according to "the circumstances as he honestly believes them to be". If juries were not distinguishing between bouncers and householders in making this assessment, then they were arguably not doing it properly. So the Court in *Ray* was not changing the law. It was putting the law back on the right track.

The question remains though, where does this leave the non-householder? Take the mother who defends herself and her children from an attacker in the middle of an empty forest. Perhaps she stabs him using her picnic knife. Perhaps he was

unarmed, and in the cold light of day it's clear that she could have restrained him in some lesser way. As a non-householder she cannot use disproportionate force. That is what s.76(6) tells us. If disproportionality is to mean the same thing in householder and non-householder cases, if it is to be the objective stopgap to reasonableness, then the law for has just got a lot tougher for defendants like this mother. The subjective element of reasonableness has been restricted, not widened.

Either this, or proportionality means something entirely different in householder and non-householder cases. As Laird points out, this is hardly peak clarity.

Conclusion

The Drunk, the Obstructer and the Householder have shown us that self-defence is not a coherent legal concept. Where can we go from here? Is there any pattern to these shortcomings?

Perhaps this is a problem of over-categorisation. In each case, it is hard to justify the different in treatment between two groups. The long-term v. the short term drink-induced paranoia; the violent v. the non-violent obstructer; the mother in her child's bedroom v the mother picnicking in the forest.

But if the solution means given juries and judges greater discretion, will the public accept that?

In the meantime, working through these cases, painful though it might have been, is a warning not to underestimate self-defence, but also an invitation to exploit its potential for creative advocacy.