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Vagueness challenge in Manhattan DA's use of gravity knives

By David Kopel

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Shortly after taking office as District Attorney of Manhattan, Cyrus Vance, Jr., began enforcing a novel interpretation of New York State's half-century old ban on "gravity knives." A state statute bans possession of a gravity knife, which is defined as "any knife having a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force which, when released, is locked in place by means of a button, spring, lever or other device." N.Y. Penal L. § 265.00(5).

The [gravity knife](#) was invented for German paratroopers during World War II. It is made to open (the blade coming out of the handle) with almost no effort. In contrast, common folding knives require a push on the blade to open. Unlike the gravity knife, they have a bias toward closure.

District Attorney Vance and the New York City Police Department (under Mayors Bloomberg and de Blasio) have prosecuted individuals and stores (e.g., Home Depot, Orvis, Eastern Mountain Sports) for possession/sale of common folding knives from mainstream manufacturers such as Husky and Benchmade. The prosecutions are based on the claim that any folding knife which possibly could be opened with a hard and dexterous flick of the wrist is a "gravity knife." Owners and vendors have no way of knowing which folding knives are legal, since the Vance/Bloomberg/de Blasio position is that even if one person tries to open the knife with a wrist flick and cannot, maybe someone else could.

Several individual plaintiffs, joined by [the organization Knife Rights](#), filed suit in 2011, challenging the New York City policy (but not the state statute) as unconstitutionally vague under the 14th Amendment. District Judge Katherine Forrest granted a motion to dismiss the suit, on the grounds that none of the plaintiffs had standing, because they had not listed specific models of knives which they wished to possess. The plaintiffs argued that this was impossible, because the vagueness of Vance/Bloomberg/de Blasio policy makes it impossible for anyone to tell which folding knives are or are not allowed.

The case is now on appeal to the Second Circuit, and the [appellants' brief is available here](#). The brief includes an appendix reproducing Judge Forrest's decisions on the motion to dismiss.

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