

PENNSYLVANIA ADULT CORRECTIONAL TRAINING INSTITUTES (P.A.C.T.)

Developed by the
Center for Law Enforcement and Corrections
College of Human Development
The Pennsylvania State University
University Park, Pennsylvania

A Training Module for Trainers of Personnel
in the Administration of Criminal Justice

Designed as Part of the Statewide Training Program for
Executive and Managerial Correctional Personnel

PENNSYLVANIA JUDICIAL SYSTEM: THE COURTS, THE JUDGE, THE JURY

Training Module 6905

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CONTENTS

	<u>Page</u>
A Foreword to the Instructor	iii
I Introduction	1
II Court Functions	1
III Organization	1
IV Courts Not of Record	2
V The Courts of Record	4
VI The Judge	6
VII The Jury	8
VIII Summary	11
Bibliography	13
Films	14

A FOREWORD TO THE INSTRUCTOR

The training module, "Pennsylvania Judicial System: The Courts, The Judge, The Jury," was developed into a course outline from material originally brought together by Superintendent Joseph R. Brierley of the State Correctional Institution at Pittsburgh. The Center for Law Enforcement and Corrections wishes to express its deep gratitude to Superintendent Brierley for both his generosity and assistance in making this material available.

All of this material has been edited, updated and incorporated into a series of training modules developed by the Pennsylvania Adult Correctional Training (P.A.C.T.) project. The entire series are intended to provide participants with the following:

1. An understanding of the administration of justice as a system, the interdependence of its elements, and the implications of their role performance for the successful operation of the system;
2. An understanding of the goals of the system and the role-relevancy of universally applicable principles, concepts, and procedures in providing protection for the community and rehabilitative services to the offender;
3. An understanding of the ways in which they may improve role performance consistent with the system's needs for increased understanding, cooperation, coordination, and improved service capabilities.

This training module on the judicial system can be used independently as a short course of several hour's duration or it can be incorporated into the full series which P.A.C.T. has produced. This module would be the fifth course presented when the entire series is used. The series would begin with "History of Law Enforcement and Correction in Pennsylvania" (T.M. No. 6901), followed by "The Administration of Justice" (T.M. No. 6902), and then "Criminal Law, the

Laws of Arrest, and Detention" (T.M. No. 6903), "The Police--Its History and Contemporary Place in Society" (T.M. No. 6904), "Pennsylvania Judicial System: The Courts, The Judge, The Jury" (T.M. No. 6905), "Sentencing--Two Views" (T.M. No. 6906), "Probation and Parole" (T.M. No. 6907), "Jails and Prisons" (T.M. No. 6908), "Capital Punishment" (T.M. No. 6909), and finally, "The Dynamics of Human Behavior" (T.M. No. 6910). Following this suggested order a cohesive picture of the offender, the arrest, sentencing, punishment, and corrections would be presented.

In order that each module be utilized to its fullest potential, the trainer or instructor first should have a sound background, preferably with field experience in the area in which he will be instructing. Secondly, he should have in-depth knowledge of the bibliographical material listed at the end of the training module, as well as other literature sources. With this basic preparation, the trainer can be in a position to employ the training module as a "road map" for the direction and substance of the course. Throughout the preparation and presentation of the course, the trainer should keep in mind the general objectives of the course as set forth at the outset of the outline.

As the course is presented, each heading and subheading should be treated by the instructor as a theme for expansion. The headings are meant only to provide the structure to the trainer, who should then build on them, expanding and enlarging as the needs of the class are demonstrated and his time and ability permits. Many examples and illustrations should be provided to the class. An abundance of case material and other examples carefully prepared by the instructor

is essential. It is the illustrative material that concretize concepts and enhance learning. The trainer should draw upon his own professional experience as well as the bibliographical material for much of this expansion. Obviously, the trainer should capitalize on the experiences of his class in order to make the material more viable.

While the trainer is preparing for the course, certain chapters and sections of the readings will suggest themselves to him as so basic or important that he will want to assign them to the class. Therefore, the bibliography will serve two purposes: preparation of material for the instructor, and training material for the class. No attempt was made on the part of those developing the training modules to dictate what, if any, the class assignment should be. The trainer will know his class and its needs better than anyone else, and should have full discretionary power on assignments, drawing from the bibliographical references or any other sources which he deems relevant.

We, of the staff of the Center for Law Enforcement and Corrections, hope that these training modules can serve an effective role in providing assistance to those who have the responsibility for training operating personnel. If the material has the potential to serve as a catalyst, it is, nevertheless, the instructor who stands before the class who carries the burden of teaching success. It is to him that we say, "Good luck."

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Training Module 6905

PENNSYLVANIA JUDICIAL SYSTEM: THE COURTS, THE JUDGE, THE JURY

- Course objectives:
- (1) To provide a general picture of the courts as they are organized and function in Pennsylvania;
 - (2) To describe the roles and power of the judge in Pennsylvania; and
 - (3) To explain how the jury system functions in Pennsylvania.

I. Introduction.

- A. The courts of the State form a hierarchy, each level having definite powers and duties.
- B. These functions are set forth in the Constitution, in the statutes, in court decisions, and in historical precedents which have adhered to the Anglo-Saxon court system for centuries.

II. Court Functions.

- A. Civil jurisdiction--settlement of disputes and suits between parties.
- B. Criminal jurisdiction--determination of guilt or innocence of persons accused of violating the law and disposition of the case.
- C. Probate jurisdiction--the control and settlement of estates of deceased and minors.
- D. Power to uphold the Constitution by:
 1. Safeguarding the rights of individuals.
 2. Determining the powers of the departments of officers of government.
 3. Declaring null and void laws of the legislature.
- E. Power to expound and interpret the law.
- F. Administrative and legal duties in local areas, such as issuance of writs, parole, office administration, etc.

III. Organization--the courts are divided into two general classes: Courts not of record and courts of record.

IV. Courts Not of Record--the minor courts.

- A. The minor courts of Pennsylvania trace their descent to the old Anglo-Saxon courts called "pied poudre" or "courts of the dusty feet" set up in the market place to deal with minor matters.
- B. The justices of these courts are provided for in the constitution, which states that justices shall be elected at municipal elections and commissioned by the Governor for a term of six years.
- C. The minor courts are presided over by:
 1. Magistrates--in first class cities.
 2. Aldermen--in second and third class cities.
 3. Justice of the peace--in boroughs and townships.
- D. Criminal jurisdiction.
 1. Summary offenses.
 - a. Proceeding involves the power to hear, dispose of, and impose a penalty in certain minor offenses; i.e., any offense defined by legislature as a summary proceeding and punishable, but not assigned to any other court.
 - b. A summary offense is a violation of a criminal law which may be disposed of by fine or imprisonment, or both by a minor judiciary.
 - c. Examples of summary offenses.
 - 1) Disorderly conduct, page 24, section 406-407 of Penal Code.
 - 2) Blasphemy, page 33, Section 523.
 - 3) Admission of children to motion picture theatres, page 53, section 646.
 - 4) Furnishing cigarettes to minors, page 53, section 647-648.
 - 5) Cutting or injuring trees, page 125, section 933.
 - 6) Cruelty to domestic animals, page 128, section 942.
 - 7) Fish and dog laws, page 130, section 948.
 - 8) Most of the provisions of the Vehicle Code.
 - d. An appeal from summary conviction must be made within ten (10) days in Courts of Greater Sessions.

2. Courts of Greater Sessions.

- a. Have jurisdiction over all offenses against city and borough ordinances.
- b. Power to hold preliminary hearings in all criminal cases.
 - 1) Inquire into the facts.
 - 2) Examine witnesses.
 - 3) Determine whether there is sufficient evidence to hold over for Grand Jury.
 - 4) Dismiss the case.
 - 5) "Bind over" to await further action.
 - 6) Admit bail in all criminal cases except those especially excluded by the Constitution or statute.
 - a) Bail is an absolute right of the defendant excepting in capital offenses.
 - b) Persons accused of murder or manslaughter may be admitted to bail only by a judge of the Supreme Court or the President Judge of the Court of Common Pleas.
 - c) Persons accused of arson, rape, mayhem, sodomy, robbery or burglary may be admitted to bail only by the Supreme Court, the Court of Common Pleas or any judge thereof.
 - d) All other crimes are bailable by a magistrate.

E. Qualifications and recompense of justices of the minor courts.

1. Do not have to be learned in law.
2. No requirements of experience, knowledge, education.
3. Must be resident of district for one year prior to election.
4. Some are on salary; some on salary plus fees.
5. Almost every motion performed has its fee (more than 125 fees are prescribed by statute.)
 - a. Filing a complaint.
 - b. Issuing warrants or summons.
 - c. Administering oaths.
 - d. Entering action on a docket.

- e. Recording a conviction or sentence.
- f. Committing a defendant.
- g. Taking bail.

V. The Courts of Record.

A. The district or county courts.

1. The Constitution provides that all counties with a population of 40,000 shall constitute a separate judicial district.
 - a. Counties with a smaller population may be formed together into a district.
 - b. There are fifty-eight districts.
2. Requirements of judges.
 - a. Must be learned in law.
 - b. Elected for a term of ten years.
 - c. Judge with seniority is named president judge.
 - d. Associate judges--exist only in districts where more than one county is included.
 - 1) Perform duties requiring judgment and discretion rather than legal knowledge.
 - 2) Sit in court with the president judge.
 - 3) Rights include charging a jury, receiving petitions, granting writs of habeas corpus.
3. The Judicial District Courts encompass the following:
 - a. Court of Common Pleas--for civil suits.
 - b. Court of Greater Sessions--for criminal cases.
 - c. Court of Oyer and Terminer and General Jail Delivery--for the more serious cases.
 - d. Orphans Court--for probate business.
 - e. Juvenile Court--for delinquent, dependent and neglected children.

B. Special Municipal Courts.

1. Set up by legislature in Philadelphia and Allegheny counties.
2. Civil jurisdiction--in all cases in law and equity where the value involved is not over \$2500.
3. Criminal jurisdiction--desertion and non-support, adoption, disorderly street-walking, juveniles, except in murder cases, and minors from 16 to 21 who are incorrigible.
4. Share the power of other courts of record to suspend sentence and place on probation and to parole from county institutions.

C. Appellate Courts.

1. Superior Court is the lower appellate court.
 - a. Set up in 1895 by the legislature, not named in the Constitution.
 - b. Intended as an intermediary court, to relieve pressure on the Supreme Court.
 - c. Has no original jurisdiction.
 - d. Exclusive and final appellate jurisdiction in:
 - 1) Civil cases where the value is not over \$2500.
 - 2) All criminal cases except felonies and homicide.
 - 3) Public Service Commission and workmen's compensation cases.
 - e. The above jurisdiction is final only if the Supreme Court refuses to allow an appeal.
 - f. The court meets yearly at Philadelphia, Harrisburg, and Pittsburgh.
 - g. Judges.
 - 1) Seven judges elected for terms of ten years.
 - 2) The judge holding priority of commission is the president judge.
2. Supreme Court--highest in State system.
 - a. Provided for in the Constitution.
 - b. Operation.

- 1) Seven judges elected by voters for a term of twenty-one years.
- 2) The one whose commission expires first is the chief justice.
- 3) Three districts for sitting--Philadelphia, Harrisburg, Pittsburgh.

c. Functions of the court.

- 1) Constitutional matters--determines whether the State Constitution is being upheld.
 - a) May declare acts of the legislature unconstitutional.
 - b) Decides constitutionality only as a specific case arises through appeal.
- 2) Jurisdiction extends to civil cases of a value over \$2500.
- 3) Criminal cases of felonious homicide.
- 4) Cases appealed from the lower courts and involving a public office.
- 5) Has original jurisdiction in certain writs:
 - a) Habeas corpus.
 - b) Quo warrants.
 - c) Mandamus.
 - d) Injunction cases in which a corporation is a party or defendant.
- 6) The court hears appeals from the Superior Court.

VI. The Judge.

- A. The judicial branch which the judge represents is founded on traditions which go back to medieval times.
 1. Ideas of freedom and individual rights stem from an Anglo-Saxon culture which has been preserved for centuries.

2. Within this tradition the judge must:
 - a. Guard the rights of the individual.
 - b. Enforce the rules of evidence.
 - c. Heed the precedents of the law.
 - d. Keep to the exactness of the legal code.
- B. Powers of the court.
1. To decide and pronounce a judgment and to carry it into effect between persons and parties who bring a case before it for decision.
 2. Interpretation of statutory law and constitution.
 3. Decide as to whether a particular statutory enactment contravenes the Constitution.
 4. Declaration as to what is the common or non-statutory law.
- C. The judge as an elected official.
1. Elected by the people and responsible to them.
 2. Must heed the attitudes and customs of his community.
 - a. No matter how advanced he may be in his approach to criminal cases.
 - b. Must be mindful of what constitutes justice in the minds of his constituents.
 - c. Must also be mindful of his position of leadership which can improve conditions in the community if he adopts and promotes new methods.
 3. He is "in politics", however idealistic he may be, and must keep this in mind if he wants re-election.
 4. Under the rules of the American Bar Association the judge is not allowed to be an active member of a political party or take part in any campaign except for his own re-election.
- D. A conscientious judge must operate on three levels:
1. His duty to the law in its written and traditional form.

2. His duty to the state of public opinion and his interest in it by way of the ballot.
3. His duty to keep up with advances in the field.

VII. The Jury.

A. Historical foundation.

1. Both grand and petit juries trace their ancestry to medieval times.
2. Earliest form of grand jury found in 9th century France.
3. In England the grand jury was first made use of by the kings as an "inquisition" to determine their rights.
 - a. Later the sheriff used the jury for persons accused of serious crime.
 - b. In 1166 at the Assize of Clarendon the jury closely resembled in power and duty as well as personnel our grand jury of today.

B. The Grand Jury.

1. Consists of 24 jurors.
2. Not a trial body--does not decide guilt or innocence.
 - a. Hears evidence of the prosecution against the accused persons.
 - b. Decides whether to ignore the accusation or hold for trial; that is, "find a true bill" or indict.
3. Majority of the cases that come before the grand jury are cases bound over from the minor courts.
 - a. May also arise through "information" presented by the district attorney or a citizen.
 - b. Old powers of the grand jury to accuse individuals or to initiate proceedings against them are falling into disuse.
4. Investigatory powers of a general nature still remain a duty of the grand jury.
 - a. Crime and criminal conditions in community.
 - b. Misconduct in office by public officials.
 - c. Investigation and inspection of public institutions.
 - d. Focuses attention on situations which law enforcement agencies have neglected.

5. Selection of jurors.

- a. Pennsylvania statutes provide for the election of two jury commissioners.
- b. They meet with a member of the judiciary at least thirty days before the first term of the Common Pleas Court each year, and choose names by lot from a panel of qualified voters who have been nominated by the borough, ward, and township authorities.
- c. The names are kept in a wheel under the care of the jury commissioners, who, in company with the sheriff, draw a panel of jurors from it, whenever directed to do so by the court.
- d. The court specifies the number of each panel.

C. The petit or trial jury.

1. Historical background.

- a. Grew out of the ancient inquisition.
- b. Medieval method of trial was by ordeal, through battle, wager of law, or torture.
- c. If the accused could win or survive the ordeal he was held innocent.
- d. In 1215 the Pope forbade the clergy to take part in ordeals and it became necessary to find another method.
- e. It became customary to use a small number of jurymen as a trial jury.
- f. This system was brought over by the colonists and was considered a bulwark of democracy, especially against the common law powers of the judges.
- g. The colonists also welcomed the resistance of the juries to the royal governors and unpopular legislation.
- h. As a result, the powers of the juries were not curbed.
- i. Today the trial jury differs in many particulars from the English jury, which is far more under judicial control.

2. Responsibilities of the trial jury.

- a. Composed of twelve men or women chosen by lot and subject to challenge by either the prosecution or the defense.
- b. Jury hears witnesses and evidence at the trial of an accused person.

- c. Passes on the facts by giving a verdict of guilty or acquittal.
- d. In certain cases the jury decides on the degree of guilt.
- e. In Pennsylvania it has been held that in the absence of statutory authority, a court could not permit a defendant to waive a jury trial.
- f. A 1935 statute states that a defendant can, in all criminal cases except where sentence of death or imprisonment of ten years or more may be imposed, waive trial by jury with the consent of his attorney, the judge, and the district attorney.

D. Criticisms of the grand and trial jury.

- 1. Grand jury proceedings involve time-consuming delays and great cost while losing the earlier advantage of being a group intimate with the neighborhood and its people.
- 2. The grand jury hearing is one more unnecessary step since the case has already had a preliminary hearing and been investigated by the district attorney's office.
- 3. The grand jury is being supplanted by the prosecutor's office and is being used as a mere rubber stamp for it.
 - a. Critics maintain that alternatives could be substituted with equal safeguards but far more efficiency.
 - b. Others oppose the abolition of the grand jury as long as the minor judiciary system remains unimproved.
- 4. The petit jury is also accused of being time consuming and costly.
- 5. It is possible to manipulate a jury to the advantage of the defendant and play upon the emotions of the jury.
- 6. Difficult to get the better qualified citizens to serve.
- 7. The desire to avoid jury trial by the prosecution has led to the development of barter and compromise with the defendant in order to get pleas of guilty.
 - a. Recent studies show that the percentage of pleas of guilty is increasing, while numerically the number of cases heard before a jury is decreasing.
 - b. The trend seems to be to restrict the use of the jury to serious cases or to special requests with a judge or a board of judges determining the facts in the majority of cases.

8. General opinion still favors the use of the trial jury for keeping the court and public in touch with each other and for making verdicts representative of the whole people, rather than a reflection of judicial attitude.
 - a. It gives a local interpretation to the laws and affords an excellent medium for deciding questions of fact.
 - b. However, there is a growing tendency to permit the defendant to waive a jury trial and to have his guilt or innocence adjudged by a single judge.

VIII. Summary

A. The courts.

1. Distinctions between the Courts Not of Record (minor) and Courts of Record.
2. Courts of Record include the county courts, special municipal courts, and appellate courts.
3. The functions of the court and qualifications of presiding officer vary with type of jurisdiction which the law assigns to the particular court.

B. The judge.

1. An elected official who operates on several levels.
 - a. Protects individual rights.
 - b. Enforces rules of evidence.
 - c. Adheres to precedents of the law.

d. Strictly interprets the legal code.

2. Must keep up with advances in the legal field while adhering to the tradition of the written law and be mindful of public opinion at the same time.

C. The jury.

1. Distinctions between grand jury and petit jury.

- a. Functions for each are distinct.
- b. Investigatory powers reside only in grand jury.
- c. Powers of conviction reside in petit jury.

2. Problems of the grand and petit jury.

- a. Time consuming, duplication of effort are charges issued against grand jury.
- b. Costly, time consuming, susceptible to manipulation-- charges made against petit jury.
- c. The petit jury is still generally favored for its ability to keep verdicts representative of the general society rather than exclusively judicial opinions.

- D. The courts, the judge, and the jury do not act in isolation but only in relation to and in conjunction with each other. The three together comprise the judicial system as it currently operates under Pennsylvania law.

BIBLIOGRAPHY

- Blumberg, Abraham S., Criminal Justice. Quadrangle Books, 1967.
- Freedman, Warren, Society on Trial: Current Court Decisions and Social Change. Charles C. Thomas., 1965.
- Jones, Harry W., ed., The Courts, The Public, and the Law Explosion. Prentice-Hall., 1965.
- Kamisar, Yale (and others)., Criminal Justice in Our Time. University Press of Virginia, 1965.
- President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society. U. S. Government Printing Office, Washington, D. C., 1967, ch. 5.
- Rubin, Sol., The Law of Criminal Correction. West Publishing Co., 1963.
- Weston, Paul B. and Wells, Kenneth M., The Administration of Justice. Prentice-Hall., 1967.

FILMS*

The Revolving Door. (AFIC) 1968, 30 min., 31337. \$6.10.

The minor offender is depicted in a cycle of arrest-detention-trial-jail-release. Scenes in lower court and jail. Trials in groups. The need to reform jail, probation, and rehabilitation. Pilot program to ease the court's burdens and to provide pre-sentencing information. Citizen aid in reform and group work.

Understanding the Law--Equal Justice for All. (EBF) 12 min., 321-3. \$3.10.

Right of individuals to be protected from and by the law; step by step functions in due process of law; dramatic sequences in actual courtroom, featuring criminal trial by jury; roles of various state and federal courts in American judicial system.

Interrogation and Counsel. (CF) 1968, 22 min., 20802. \$8.30.

Citizens express concern about increasing the efficiency of the police and the administration of justice. Others feel the individual needs greater protection against the machinery of the law. Portions of the 5th and 6th Amendments introduced followed by enacted sequences: 1) a young man, though seemingly guilty of a crime will go free, 2) another young man becomes entangled in lies during long interrogation and is advised by a court appointed lawyer to plead guilty to murder which he in fact did not commit.

*Films available from Audio-Visual Services. The Pennsylvania State University, 6 Willard Bldg., University Park, Pa. 16802. (Phone 814-865-6315). Prices refer to rental as of 1969.