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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

SENTENCING--TWO VIEWS

Training Module 6906

June, 1969

The Statewide Training Program  
for Correctional Personnel is supported  
by a grant from the Law Enforcement

Assistance Act, U.S. Department of Justice No. 357-(222)

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## A FOREWORD TO THE INSTRUCTOR

The training module, "Sentencing--Two Views," 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 the 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 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 various views on sentencing can be used independently as a short course of several hours' duration or it can be incorporated into the full series which P.A.C.T. has produced. This module would be the sixth 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 materials 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."

Charles L. Newman, Project Director

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## Training Module 6906

### SENTENCING--TWO VIEWS

- Objectives: (1) To develop thought regarding the two opposing views of the question: who should sentence the convicted man? (a) the judge alone, (b) a composite panel of professionals;
- (2) To suggest some methods for handling the dilemma short of major judicial upheaval.

#### I. The Judge Alone Responsible for Sentencing.

- A. Many judges believe they need no help from any outside source in the determination of the proper sentence.
- B. Some resent the suggestion that outside help should even be contemplated.
- C. This resentment is couched in a sound legal proposition.
1. Under the constitution and law the judge is the officer of government invested with the power and charged with the duty to impose sentence.
  2. The responsibility is his and it is an impertinence to suggest that any outsider can or should share the responsibility with him.

#### II. Shared Sentencing.

- A. Sentencing by a board.
1. Before sentence is passed the criminal should be studied by the probation officer, who collects material relevant to the offenders':
    - a. Mental condition.
    - b. Capacity to adjust to a community correctional status.
    - c. Physical condition.
  2. Sentencing involves both legal and extra legal considerations.
    - a. Statutes specifying nature of penalty.
    - b. The unique individual needs of the offender for correction.
  3. If a board of sentencing were used, it might include:

- a. Doctor, medical.
  - b. Psychologist.
  - c. Social worker.
  - d. Layman--represents public opinion.
  - e. Probation executive.
  - f. Judge.
4. Sentence should be indeterminate.
    - a. Observation by professionals would determine when the offender is ready to be released.
    - b. It would in some cases develop that the offender never is released.
  5. The court would still have the exclusive function of determining guilt.
    - a. The board would determine appropriate sentence.
    - b. Board would also determine tentative duration.

### III. Some Solutions.

- A. The pre-sentence clinic.
  1. The judge is unlikely to be stripped of sentencing power in the near future.
  2. An interim solution is for the presentence investigation to provide assistance.
    - a. Services of those who have scientific knowledge of human behavior can be utilized.
    - b. Would help to expedite the great volume of cases which pass through the courts.
- B. Parole and probation--its effect on the sentence.
  1. Before 19th century reforms all offenders were treated with inhumane equality.
  2. After reform disparate sentences for two equivalent crimes were possible.
    - a. Control devices were created to reduce this problem.
    - b. Parole was one of the solutions.



- c. Probation, suspended sentence and suspended pronouncements of judgment also affect to some extent unfair discrimination.
- 3. None of these devices solved the problem.
  - a. Probation invites disparity.
  - b. Two similar offenders might in the one case be sentenced to imprisonment and in the other case be granted probation.
  - c. Parole also does not solve the problem of unequal sentences.
    - 1) Cannot be granted until a stated portion of the minimum sentence has been served.
- C. U. S. only country in free world where a single judge may without being subjected to any review of his decision decide on minimum time of imprisonment.

#### IV. Summary.

- A. Two views of the appropriate sentencing method have been suggested.
- B. The justification for the judge passing sentence is based on sound legal grounds.
  - 1. As the law exists the judge is the officer charged with the duty of passing sentence.
  - 2. Based not only on law but tradition.
- C. Shared sentencing.
  - 1. Judge less qualified than trained personnel in the social sciences to determine proper treatment.
  - 2. The sentencing process involves both legal and extra-legal factors and would be most effectively handled by a group decision.
    - a. Would include judge.
    - b. Specialized personnel in field of human behavior.
- D. Alternative to group sentencing would be increased consultation of court with presentence clinic for assistance in disposing of cases.
  - a. Efficiency demands increased scientific knowledge of human behavior on the part of the sentencing officer.
  - b. Treatment must be accorded in relation to the needs of the individual offender if the correctional system is to function at the optimal level.

BIBLIOGRAPHY

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Guides for Sentencing, 1963, \$2.

Model Sentencing Act, 1963, \$1.

Smith, Kathleen, A Cure for Crime: The Case for the Self-determinate Prison Sentence, Duckworth, 1965.

Tappan, Paul, Courts, Crime and Correction, New York: McGraw-Hill, 1960, especially Part II.

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\*NCCD publications can be purchased from the National Council on Crime and Delinquency, 44 East 23 Street, New York, New York, 10010

FILMS\*

Odds Against, (AFIC), 30975, 32 minutes \$6.60

Typical procedures in arrest, detention, trial, sentencing, imprisonment, and parole; best and worst in existing institutions and programs; advantages of and necessity for alternatives to imprisonment; essentiality of integration and coordination of efforts.

Criminal Justice in the U.S., (EBF), 30950, 30 minutes, 1966, \$6.10.

Gap between ideals and realities of criminal justice. Review of cases of 12 convicted men who were later proved innocent provides an insight into the basis for occasional miscarriages of justice. Leading authorities in the field of criminal justice supplement the narration by Chet Huntley.

Justice Under the Law - The Gideon Case, (EBEC), 20856, 23 minutes, 1968, \$5.10.

The concept of justice seen in terms of a case study. Gideon vs. Wainwright (1963). Raises question: Is the accused entitled to the right of counsel? Can the Supreme Court overrule its own previous decisions?

Due Process of Law Denied, (TFC), 342-1, 30 minutes, 1950, \$6.10

Excerpt from the Oxbow Incident dramatizes threat to civil liberties when people take law into their own hands and act on circumstantial evidence and emotion.