

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**

**CRIMINAL LAW, THE LAWS OF ARREST, AND DETENTION
Training Module 6903**

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)**

CONTENTS

	<u>Page</u>
A Foreword To The Instructor	iii
I Definition of Crime	1
II Classes of Crimes	1
III Varieties of Crime as Listed in the Pennsylvania Penal Code of 1937	2
IV Elements of Crime	3
V Definition of Arrest	4
VI Classes of Arrest	4
VII Use of Force in Making Arrest	5
VIII Introduction to Detention	6
IX History of Detention	7
X Problems and Solutions for Modern Detention	9
XI Summary	10
Bibliography	12
Films	13

A FOREWORD TO THE INSTRUCTOR

The training module, "Criminal Law, the Laws of Arrest, and Detention", 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 criminal law and detention 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 third 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 assignments 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

William H. Parsonage, Associate Project Director

Barbara R. Price, Assistant Project Director

Training Module 6903

CRIMINAL LAW, THE LAWS OF ARREST, AND DETENTION

- Course objectives:
- (1) To present an overview of crime including:
 - (a) a definition, (b) the classes, (c) varieties, and (d) elements required for commission;
 - (2) To explore arrest as a concept related to crime; and
 - (3) To present the notion of detention in its historical development, the problems and solutions in modern detention procedures.

I. Definition of crime.

- A. Sir William Blackstone (1723-1780) of England defines a crime as "an act committed or omitted in violation of public law either forbidding or commanding it."
- B. A contemporary definition of crime is: "A crime is any act or omission prohibited by public law and made punishable by the state in a judicial proceeding in its own name."

II. Class of crimes--statutory law in Pennsylvania recognizes three classes.

- A. Felonies--the most serious crimes.
 1. Capital crimes are in this category.
 2. In Pennsylvania the two capital crimes are:
 - a) Murder in the first degree--the commission of a felonious and malicious homicide, willful, deliberate, and premeditated, with a specific intent to take life (18 P.S. Sec. 4701-24).
 - b) Assault by life prisoner--every person who has been sentenced to imprisonment for life....who commits an assault with intent to kill....upon conviction thereof,

shall be sentenced to death.... (18 P.S. Sec. 4710.2)

B. Misdemeanor--less serious than felony.

C. Summary Offenses--least serious crimes.

III. Varieties of Crime as Listed in the Pennsylvania Penal Code of 1937.

A. Article II--Offenses Against the Government of the Commonwealth.

1. Examples given for each article are not exhaustive and meant only to be illustrative.

2. Treason.

3. Insulting the flag.

B. Article III--Offenses Against Public Justice and Administration.

1. Example, bribery of judges, jurors.

Example, prison breach, impersonating an officer.

C. Article IV--Offenses Against the Public Peace.

1. Riots.

2. Forcible entry.

3. Carrying deadly weapons.

D. Article V-- Offenses Against Public Morals and Decency.

1. Sodomy.

2. Adultery.

3. Incest.

E. Article VI--Offenses Against Public Policy, Economy, and Health.

1. Lotteries, making gambling devices.

2. Frequenting opium joints.

3. Pollution of drinking water.

4. Employment and use of minors.

5. Throwing rubbish on streets.

F. Article VII--Offenses Against the Person.

1. Murder of the first and second degree.
2. Robbery and robbery by assault and force.
3. Abortion.
4. Kidnapping for extortion.

G. Article VIII--Offenses Against Personal Property and Fraudulent Dealing Therewith.

1. Blackmail.
2. Larceny.
3. Embezzlement.
4. Fraudulent use of credit cards.

H. Article IX--Offenses Against Real Property and Malicious Mischief.

1. Arson.
2. Burglary.
3. Injuring trees on highway.
4. Trespassing upon posted land.

I. Article X--Offenses Against the Coin and Forgery.

1. Counterfeiting coin, counterfeiting national currency.
2. Forgery of seals and uttering instruments.

IV. Elements of crime.

A. Generally crime requires two elements.

1. Physical--the act.
2. Mental--the intent.

B. The attempted crime.

1. A criminal act may involve an attempt to commit a crime.
2. Example: Attempt to kill, attempt to commit a robbery.

C. Solicitation.

1. Consists in counseling, urging, inciting, requesting, or ordering another person to commit a crime.
 2. The solicitant becomes an accessory before the fact.
 3. Both are equally guilty.
- D. Conspiracy is an agreement between two or more persons to do an unlawful act, or to do a lawful act by unlawful means.

V. Definition of Arrest.

- A. The taking of a person into custody by legal authority constitutes an arrest.
- B. An arrest is completed when:
1. The officer touches the defendant and informs him he is under arrest; or
 2. When the defendant consents to arrest, either by word or deed, even though not touched by the officer.
- C. The importance of warning accused of his constitutional rights: (e.g. self incrimination, representation by counsel)

VI. Classes of Arrest.

- A. Warrant--arrests made with a warrant involve the service of a writ and designates:
1. The defendant by name or description.
 2. Charges defendant with the commission of some specific crime.
 3. Directs the arresting officer to bring defendant before the issuing authority for disposition.
 4. A warrant may be issued by:

- a. A member of the minor judiciary.
- b. A judge of a Court of Record.
- c. Any other person authorized by law to issue writ of arrest.

B. Arrest on view.

1. Used in cases of misdemeanor.
2. Person is arrested without a warrant.
3. He should be taken immediately before a member of the minor judiciary.
 - a. A sworn complaint is lodged.
 - b. Warrant is read to offender.

C. Arrest on suspicion (reasonable or probable cause to believe a felony committed) of a felony.

D. Arrest by private person.

1. A private person who is present when any felony is committed is bound by law to arrest the felon on pain of fine and imprisonment.
2. Arrest can be made with a warrant.
3. Without a warrant for a felony, he must be able to prove that a felony has been committed.
4. Misdemeanor.
 - a. Private citizen has the right to arrest on view for a "breach of the peace" being committed in his presence.
 - b. No matter what may be the case of misdemeanor there is no power for a private citizen to apprehend.

VII. Use of Force In Making Arrest.

A. Misdemeanor.

1. Sufficient force by officer to subdue and confine the prisoner.
2. Officer not obligated to retreat when met with forcible resistance.
3. Officer not justified in taking life even if the arrest cannot otherwise be effected.
4. Exception--when resistance puts officer's life in danger or threatens great bodily harm.

B. Felony.

1. Officer may kill if a felony has been committed and offender refuses to stop and attempts to flee.
2. Private citizen has right to kill to effect the arrest of a felon.
 - a. Must be able to prove the deceased committed a felony.
 - b. Otherwise citizen is guilty of manslaughter.

VIII. Introduction to Detention.

A. Definition.

1. Detention refers to the holding of an individual in a place of safe keeping after the arrest and prior to the disposition of his case by the court.
2. In theory the individual in detention is presumed innocent and is not undergoing punishment or correctional treatment.

D. Detention: How long, who, where.

1. May be for a few minutes or many months pending preliminary hearing in a minor court.
2. Detention in fact is for those who cannot afford bail; in effect, it becomes a penalty for poverty.

3. Detention takes place in a jail or correctional institution.
 - a. Individual meets full discomforts of imprisonment.
 - b. Encounters the dangers of criminal association.
4. Pennsylvania law forbids the detention of children under the age of sixteen in a place where there are adult offenders.
5. The law sets no standards and describes no approved methods for care or housing of the adult.
 - a. Federal Bureau of Prisons inspects for the detention of federal prisoners.
 - b. The State Bureau of Corrections inspects all lock-ups and county prisons; it makes recommendations for improvements, housing, sanitation, etc.
6. Movement toward regional detention in Pennsylvania.

IX. History of Detention.

- A. Detention is the oldest part of our correctional system, antedating by hundreds of years prisons, probation and police forces.
 1. In medieval days detention was used for safekeeping while awaiting trial for:
 - a. Religious prisoners.
 - b. Political prisoners.
 - c. Debtors.
- B. England.
 1. The White Tower of London was begun by William I in 1078 for the purpose of detention rather than punishment.
 2. The typical detention jail of contemporary England was provided for by the Duke of York's laws of 1676--accused held between court meetings.

C. Pennsylvania.

1. In 1682 the Provincial Council ordered the first jail (goal) to be constructed.
 - a. Was a cage seven feet long and five feet wide.
 - b. Built by William Clayton in the middle of Market Street.
2. In 1685 a larger place was required.
 - a. A prison "with fetters and chains" was established.
 - b. Was in the hired house of Patrick Robinson "clerk of the Provincial Council."
3. A brick prison was built in 1695 where the cage had been.
 - a. People objected because it was on such a conspicuous site.
 - b. Soon overcrowded.
4. In 1718 a new stone prison was erected which had two sections, one for debtors and a workhouse for criminals.
5. This lasted until 1773 when the Walnut Street Jail was built which became in 1790 the first penitentiary in the world.

D. Conditions of the old jails.

1. No heat--fireplace in each room.
2. Food was sold by the jailer.
3. Prisoners of all ages, color, and sex together.
4. Jailer was put on salary in 1792, prior to that the fee system brought over from England prevailed.
 - a. Jailer charged fees for receiving prisoners.
 - b. Feeding and clothing prisoners.
 - c. Putting on or taking off irons.

E. Many Jails in Pennsylvania built in the 19th Century, and still in use.

- a. Pike County--1814.
- b. Bucks County--1874.

X. Problems and Solutions for Modern Detention.

A. The problems.

- 1. Too many people held in detention by stringent bail laws.
- 2. Poverty of many offenders contributes to the problem.
- 3. Offenders who cannot pay fine and costs are obliged to work them out by imprisonment.
- 4. Public pays twice--loss of fines, supporting offender and family.

B. Some solutions.

- 1. More flexible bail laws.
 - a. Wider use of recognizance under the supervision of a probation officer.
 - b. Payment of fines by installment.
- 2. Places of detention and county jails should be separated.
 - a. Cannot be performed efficiently together.
 - b. Each requires different personnel and programs.
- 3. The detention system should play a constructive part in correctional treatment.
 - a. Clinical use of case study and classification.
 - b. Constructive program of occupational work, guidance, and treatment so that detention plays its part in the process of rehabilitation.
- 4. The following should be avoided:
 - a. Indiscriminate mixing.
 - b. Prolonged periods of detention.
 - c. Enforced idleness.

- d. Unkind or unintelligent treatment.
- e. Holding juveniles with adult offenders.

XI. Summary.

- A. Crime is best understood as a violation of the law for which a punishment can be imposed.
- B. The felony, misdemeanor, and summary offense are the classes of crime under Pennsylvania statutory law.
- C. Varieties of crime.
 - 1. Against the government.
 - 2. Against the public peace.
 - 3. Against public morals.
 - 4. Against public policy, economy, and health.
 - 5. Against the person.
 - 6. Against personal property.
 - 7. Against real property.
 - 8. Against coin and forgery.
- D. Arrest--taking into custody by legal authority.
 - 1. Execution of arrest can be made:
 - a. By warrant.
 - b. On view.
 - c. With reasonable or probable cause to believe a felony has been committed.
 - 2. The amount of force exerted by the officer should be related to need.
 - a. Taking of life if justified only when suspect puts officer's life in danger; or

b. When a suspected felon attempts to escape.

E. Detention--incarceration after arrest and prior to disposition of case.

1. Problems include strict bail laws which result in taxpayer's loss of revenue or extra expenditures.
2. Need for separate facilities and programs for detention and corrections.

BIBLIOGRAPHY

Allen, Francis, A. The Borderland of Criminal Justice: Essays in Law and Criminology. University of Chicago Press, 1965.

Day, Frank D. Criminal Law and Society. Charles C. Thomas, 1964.

Freedman, Warren. Societal Behavior: New and Unique Rights of the Person. Charles C. Thomas, 1965.

Hall, Livingston and Kamisar, Yale. Modern Criminal Procedure. West Publishing Co., 1965.

Kamisar, Yale (and others). Criminal Justice in Our Time. University Press of Virginia, 1965.

Purdon's Pennsylvania Statutes Annotated. Title 18 Secs. 1 to 4700 and Secs. 4701 to End. George T. Biesel Co., Philadelphia, 1963.

Trebach, Arnold S. The Rationing of Justice: Constitutional Rights and the Criminal Process. Rutgers University Press, 1964.

Wootton, Barbara A. Crime and the Criminal Law: Reflections of a Magistrate and Social Scientist. Stevens, 1963.

FILMS*

Odds Against. (AFIC) 32 min., 30975. \$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) 30 min., 30950. \$6.60.

Gap between ideals and realities of criminal justice. Preview of cases of twelve convicted men who were later proved innocent of justice. Leading authorities in the field of criminal justice supplement the narration by Chet Huntley.

*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.