

CRIMINAL SOCIOLOGY, ETHICS, AND HUMAN RELATIONS

PART FIVE

CRIMINAL JUSTICE SYSTEM

TERMS TO PONDER

- **Criminal Justice System** – the totality of all the concerted efforts and activities of all agencies involved in the prevention, reduction, and control of crime.
- **Social Defense** – refers to all the systems and interplay of activities in the community which addresses all the negative factors affecting the health, security, and welfare of the public e.g. natural calamities, disaster, famine, drought, criminality, health epidemic, etc.
- **Criminology** – is the entire body of knowledge regarding crime and criminals and the efforts of the society to prevent and repress them.
- **Criminological Enterprise** – refers to all disciplines involved in the study of crime and criminals. The practice of certain disciplines such as research and statistics, natural science law, penology, sociology, psychology, medicine, forensic science, etc, make up the entire criminological venture.
- **Corrections** – are the process or system of taking care of the custody, treatment and rehabilitation of all convicted persons or prisoners punished by law for the commission of an offense.
- **Police** – a body of civil authority, which is tasked to maintain peace and order, enforce law, protect lives and properties and ensure the public safety.
- **Prosecution** – the CJS pillar mandated by law to bring to justice all criminal cases for prosecution and prove the guilt of the accused beyond reasonable doubt.
- **Court** – a court is a body or tribunal officially assembled under authority of the law in which judicial power is vested or the administration of justice is delegated.

- **Crime Prevention** – pertains to all government and non-government activities or programs designed to thwart, deter, preempt, and stop the crime from happening.
- **Crime Deterrence** – refers to the political will of the State to punish all criminals in accordance with law, to serve a lesson for others to refrain from further committing crime.
- **Crime Control** – refers to restraining or isolating criminals behind prison to effectively controlling them from further endangering the society thus protecting the public from harm and damage.

SCHOOL OF THOUGHTS AND CONCEPTS ON CJS

- **Positive Law Theory** - Justice is a creature of law made by men, or what is called positive law. Actions are unjust if they violate or are contradictory to the law, and justice is served by adhering to the law.
- **Social Good Theory** – Justice is more than what one finds in positive law, that there are standards or concepts of what is in the best interests of society, and that man-made laws can be judged against these standards or concepts and found lacking. The principles of what is right and just may change as social conditions and needs change and vary from society to society.
- **Natural Right Theory** - holds that a natural law exists that governs the affairs of men as much as it does the phenomena of the physical universe. This law may be divine in origin, as Aquinas and Augustine insist, but divine or not it is universal in application.
- **Substantive Justice** - is that which is concerned with how best to allocate, distribute, and protect the substantive values of society. these values include power, wealth, status, order, peace, and whatever other “goods” a society cherishes.
- **Procedural Justice** - is that which is concerned with how the law is administered – the mechanisms or processes are used applying the law and making decisions in specific cases.
- **Law** - is a method of social control that is formally enacted or promulgated by the agency or agencies of government duly authorized in that society to make law and that is subject to interpretation by and through the courts. It is society’s primary instrument for making known what acts are crimes and what



sanctions may be applied to those who commit acts defined as crimes.

- **Common Law** – body of principles, practices, usages and rules of action.
- **Statutory Law** – a legislated law; or law made by legislatures
- **Case Law** – law made by justices in cases decided in the appellate courts especially by the Supreme Court.
- **Civil Law** – law which has something to do with such things as contracts, wills, inheritances, marriage, property, divorce, adoption and the like, and with private injuries which are called “torts”.
- **Criminal Law** – is that branch or division of law which defines crimes, treats of their nature and provides for their punishment.
- **Criminal Justice System** – is the process in the community by which crimes are investigated, and the persons suspected thereof are taken into custody, prosecuted in court, and punished if found guilty, provision being made for their correction and rehabilitation.
- **CJS as a System** - the machinery which society uses in the prevention of crime. The process is the totality of the activities of law enforcers, prosecutors, defense lawyers, judges and correction personnel, as well as those efforts of the mobilized community in crime prevention and control.
- **System** - is one which consists of several parts that interacts with each other to produce some results, serve some functions, or meet some objectives. Each part of the system is expected to perform their responsibilities for the attainment of their common goals and objectives.
- **CJS as a Process** - refers to the orderly progression of events from the time a person is arrested or taken out of the community, investigated, prosecuted, sentenced, punished, rehabilitated, and eventually returned back to the community.

STAGES IN THE CRIMINAL JUSTICE SYSTEM

- **Arrest Stage** - criminal justice process begins with the commission of a crime. But it is more accurate to say that it begins with the detection of crime.



Detection is taken to mean not only observed acts of crime but the results of a crime.

Arrest is the taking of a person into custody in order that he may be bound to answer for the commission of an offense.

Booking - suspect is taken and booked into the city or municipal police station and will later be detained. This procedure involves such things as fingerprinting, identification check, and reading of rights and charges.

Investigation - purpose of developing a prosecutable case against the suspect. If the police feel that is warranted, they pass the case into the next stage.

- **Charging Stage** – the police output in the form of an arrested or booked suspect becomes input into the charging stage. The prosecution will decide whether the suspect will be tried for the commission of a crime. At this point, evidence is evaluated, law is studied, and police officers and witnesses are perhaps interviewed to assess the nature of the case and to decide whether the case will be dismissed or be forwarded to the next stage. If the prosecution decides that the suspect should be tried, criminal action is commenced by the filing of a complaint or information.

Complaint is a sworn statement charging a person with an offense, subscribed by the offended, any peace officer, or other public officer charged with the enforcement of the law violated.

Information is an accusation in writing charging a person with an offense, subscribed by the prosecutor and filed with the court.

- **Adjudication Stage** - The input triggering this stage is the adjudication of the case before the court. Formal charges are filed against the accused. The suspect will be arraigned.

Arraignment refers to the reading of charges against the accused and the declaration of his plea.

Trial refers to the presentation of the prosecution and the defendant of their respective case and arguments before a court.

Burden of Proof is on the State to remove all reasonable doubt about the guilt of the defendant. That burden is in theory entirely on the state or prosecution; the defense need prove



nothing. All the defense is required to do is raise reasonable doubt about the guilt of the accused, and the law requires an acquittal if such reasonable doubt is created.

Defense of Alibi - a claim by the defendant that he or she was in another place when the crime occurred and therefore could not have committed it.

Defense of Insanity - a claim that the defendant should be exonerated from criminal responsibility because she or he was (or is) suffering from a mental condition or mental incapacitation. However, burden of proof is now up to the accused to prove that he was suffering from such illness during the commission of the offense.

Defense of Instigation - defendant can establish that he or she would not have committed the crime were it not for the encouragement or compulsion of law enforcement agents, he/she is not criminally liable.

Defense of Duress - is based on the claim that the act was the result, not of any intent on the part of the accused, but of threats of loss of life, limb, or a loved one.

Defense of Consent - defense that the victim consented to the act for which the accused stands charged. This defense is common in rape and acts of lasciviousness where force is usually applied in their commission.

Defense of by virtue of Human Rights Violation- defense is invoked if the State or its agents violated the right of the defendant in obtaining evidence to prove the latter's guilt. Such evidence is inadmissible in a criminal proceeding.

Trial Procedure - the prosecution shall present evidence to prove the charge; the accused may present evidence to prove his defense; the prosecution and the defense may, in that order present rebuttal and sur-rebuttal evidence unless the court, in furtherance of justice, permits them to present additional evidence; upon admission of the evidence of the parties, the case shall be deemed submitted for decision.

Judgment - judgment of a court must state whether the accused is guilty or not guilty of the offense charged and impose on him the proper penalty and civil liability, if any.



- **Sentencing Stage** - conviction becomes the input of the fourth stage; sentencing. The judge will consider all circumstances surrounding the case and it is his duty to apply the provisions of the law in rendering punishment or sentence against the accused.

Facilities for Incarceration - are facilities with a common function to confine and isolate convicted persons from society at large. they include prisons and jails.

Parole and Probation Programs - an alternative to incarceration and allows convicted persons to remain at large under varying degrees of restriction and supervision.

Juvenile Corrections – are correction facilities provided for youthful offenders.

Severity – refers to the length of jail service or amount of fine imposed.

Appeal - A person convicted by a trial court may appeal his conviction to a superior court if he feels that the judgment rendered is erroneous. The accused has the right within fifteen (15) days to appeal from the judgment of conviction.

- **Correction Stage** - involves the convicted person's serving of the sentence imposed. It is the stage where the offender will be reformed and rehabilitated prior to his reintegration in the community.

COMPARATIVE CRIMINAL JUSTICE SYSTEM

- **United States** - CJS is made up of three key components – the *police*, the *courts*, and *corrections*. The *police* initiate the criminal justice process by the arrest of the criminal. The *court* conducts the trial and impose the penalty if found guilty. The criminal is confined to the prison or *corrections* not for the punishment but for treatment and rehabilitation.
- **Philippine** - CJS is an influence of the US criminal justice system, except that it added two additional pillars aside from the police, court, and corrections and these are the prosecution and the community, which gave rise to the five pillars of the Criminal Justice System.



- **United States** Prosecution has no identity of its own because its role was subsumed in the court's overall functions as one of the three pillars of the CJS.
- **Philippine** Prosecution is supplementary with vital responsibility and role in the criminal justice process, as it has the distinct power to conduct preliminary investigation as it presents the government's case in all criminal proceedings in the name of the People of the Philippines.
- **Community Pillar**, as a separate and distinct pillar of the Philippine CJS was given credit in this model as the informal part of the system since it is an indispensable key player in the attainment of a lasting peace and order being the main stakeholder in the political mainstream.

KEY PURPOSES OF THE CRIMINAL JUSTICE SYSTEM

- **Crime Prevention** – involves all the measures designed to avert or avoid the commission of crime. It is effectively attained by the denial of opportunity for any crime to happen. The police in working partnership with the community, operate in preventing crime by patrolling the streets. The community helps the police by providing information necessary to prevent the commission of crime.
- **Crime Deterrence** - pertains to the measures imposed upon by the State through CJS so that criminals will be punished in accordance with the law to serve a lesson for others not to commit crime and for criminals to refrain from further committing crime.
- **Crime Control** - is achieved by isolating the criminals for incarceration thereby effectively controlling them from further endangering the society thus protecting the public from harm and damage.

FIVE PILLARS OF CJS AND THEIR FUNCTIONS

- **Police/ Law Enforcement Pillar** - occupies the frontline of the CJS because they are regarded as the initiator of the system. They are the first contact of the law violator in the CJS process. It is the police that investigates, make arrest and prepares evidence against the suspects needed to prosecute them.
- **Prosecution Pillar** - takes care of evaluating the evidences and formally charges the suspects before the court. It serves as



screening process on whether to file a case based on evidence or dismiss the same. It determines what particular crime shall be formally filed and presents the burden of proof against the suspect in the court.

- **Court Pillar** - conducts arraignment and trial. It shall issue warrant of arrest if the accused is at large. It acquits the innocent and adjudicate penalty for the accused if found guilty.
- **Correction Pillar** - is responsible for the incarceration and rehabilitation of the convicted person to prepare for eventual reintegration in the community.
- **Community Pillar** - helps the penitent offender to become law-abiding citizen by accepting the ex-convict's re-entry and assists said penitent offender lead a new life as a responsible member of the society.

POLICE OR LAW ENFORCEMENT PILLAR

- **Law enforcement** - activities of some members of government who act in an organized manner to enforce the law by discovering, deterring, rehabilitating, or punishing people who violate the rules and norms governing that society
- **Law Enforcement Pillar** - is a branch of the criminal justice system that has the specific responsibility of maintaining law and order and combating crime within the society.
- **Police** - from the Greek word "*Politeia*" meaning government of a city. It applied to civil officers and not necessarily policeman. The Romans changed the word slightly to "*Politia*". The French changed word to "*Police*" and applied it to that person who actually enforced the law. Thereafter, the English and the Americans borrowed the word intact form the French and used it to describe a law enforcer.
- **Orlando W. Wilson** – “Father of Modern Police Administration” – list the functions of the police as - patrol, traffic, detective/ investigation, vice control, juvenile delinquency control, records and communication, laboratory, jail operation, maintenance, planning, inspection, budgets and accounts, personnel maintenance, public relation, and intelligence.
- **Response Time** - the time that elapses between receipt of the call or alarm and the arrival of responding officers at the crime scene.



- **Criminal Investigation** - is a specialized aspect of police work which is the responsibility of both the uniformed patrolman and the investigator. In the investigation of crime, evidence technicians and other highly trained persons, known as Scene of the Crime Operations (SOCO) officers, assist in the collection, preservation, analysis and presentation of physical evidence found at the crime scene.
- **Initial Investigation** - is the initial or beginning phase of a systematic inquiry into an alleged crime. The patrolman should always carry out, or participate in the preliminary investigation except in those cases where the crime was discovered long after it was committed. In such instances the investigator could be the one who conducts both the initial and continuing investigation.
- **Follow-up Investigation** - is an extension, or continuation of the preliminary investigation. It is necessary to bring a case to a successful conclusion, or to solve an unsolved case.
- **Apprehension of Suspects** - An arrest is made by an actual restraint of a person to be arrested, or by his submission to the custody of the person making the arrest. No violence or unnecessary force shall be used in making an arrest. The person arrested shall not be subject to a greater restraint than is necessary for his detention.
- **Warrant of Arrest** - an order in writing issued in the name of the People of the Philippines, signed by a judge and directed to a peace officer, commanding him to take a person into custody in order that he may be bound to answer for the commission of an offense.
- **Arrest without a Warrant** - arrest may lawfully be made even without a warrant under certain limited conditions which approximate the existence of probable cause as would justify the issuance of a warrant of arrest.
- **Search and Seizure** - almost as important as the authority to arrest is the authority of the police to perform searches and to seize evidence. Like arrests, searches may be performed with or without court-issued search warrants.
- **Search Warrant** - an order in writing issued in the name of the people of the Philippines, signed by a judge and directed to a peace officer, commanding him to search for personal property described therein and bring it before the court.



- **Probable Cause** - refers to such facts and circumstances that would lead a reasonably discreet and prudent man to believe that an offense has been committed and that the object sought in connection with the offense are in the place sought to be searched.
- **Validity of Search Warrant** – a search warrant shall be valid for ten (10) days from its date. Thereafter, it shall be void.
- **Warrantless Search and Seizure** – there are several instances where a search may lawfully be made without a warrant, such as where there is consent or waiver; where a person voluntarily submits himself to a search, a warrant therefore is unnecessary; where search is an incident to a lawful arrest; and or dangerous items, contraband, weapons in plain sight.
- **Checkpoint searches** - “Stop-and-search” at military police checkpoints.
- **Case Preparation** - the process of bringing together in an organized and logical manner all evidence collected during the investigation of a crime and present it to the prosecutor. The investigator must be able to present to the prosecutor and prove before the court the corpus delicti.
- **Corpus Delicti** (substance or body of the crime)- means that a specific crime was committed at a specified time, date and place, and that the person named in his report committed the crime.
- **Order Maintenance** - sometimes referred to as “peacekeeping”. The regulation of non-criminal acts, including specific matters as crowd control, traffic regulation, and riot prevention or control.
- **Police discretion** - is the wise use of one’s judgment in a police situation requiring immediate and decisive action. It is an authority conferred by law to act in a certain conditions or situations in accordance with an officer or an official agency’s own considered judgment or conscience.

THE PROSECUTION PILLAR

- **Prosecution** - is the process or method whereby accusations are brought before a court of justice to determine the innocence or guilt of the accused. It is also the institution for continuation of a criminal suit involving the process of exhibiting formal charges



against an offender before a legal tribunal and pursuing to final judgment on behalf of the State or government.

- **Adversarial system** - or accusatorial which was being adopted by most countries who have common laws, whereby the victim or his representative has the primary responsibility for finding and presenting evidence to the court. The judge listens to the accusation and determines the applicable punishment to the accused.
- **Inquisitorial system** - This system of prosecution was used in some continental countries wherein the judge searches the facts, listens to witnesses taken and investigate to prove the guilt or innocence of the accused.
- **Mixed approach** - which is used in the Philippines. Mixed is a system wherein adopts both inquisitorial and accusatorial, where the victim or his representatives provides the facts, evidence and testimony of witnesses to prove the guilt of the accused. The accused is presumed innocent against the accusation of the complainant. The judge will investigate and determine the guilt of the accused beyond reasonable doubt and its moral certainty.
- **Rules on Criminal Procedure** - our prosecutors have the power to dismiss a case or hold a suspect for trial. Prosecution in criminal cases is initiated on behalf of the People rather on the individual victim or complainant.
- **Preliminary Investigation** - is an inquiry or proceeding for the purpose of determining whether there is sufficient ground to engender a well-founded belief that a crime cognizable by the Regional Trial Court has been committed and that the respondent probably guilty thereof.
- **Authorized to Conduct Preliminary Investigation** - National and Regional State Prosecutors, Provincial and City Prosecutors, such other officer that may be authorized by law.
- **Object of Preliminary Investigation** - paramount to the prosecutor's role is to establish at the initial stages that a "*probable cause*" exists that a crime has been committed.
- **Probable Cause** - is the existence of such facts circumstances as would exile the beliefs, in a reasonable mind, acting on the facts within the knowledge of the prosecutor, that a person charge was of the crime he was prosecuted.



- **Inquest Procedure** - is an inquiry made by the duty prosecutor to determine the legality of the arrest made especially those arrests made without warrant.
- **Prosecutorial Discretion** - is the prudent use of judgment being exercised by the investigating fiscal or prosecutor in determining the existence of probable cause during preliminary investigation. The prosecutor, just like the police, has wide latitude of discretion and as such, it enjoys absolute, unrestricted discretion in the performance of his duties.
- **National Prosecution Service** – established under direct supervision of the secretary of the Department of Justice. It is empowered to investigate and prosecute all crimes described by the Revised Penal Code (RPC), investigate administrative cases against its own officers, prepare legal opinions or queries about violations of the RPC and other laws, and to review appeals to resolutions of cases by prosecutors.
- **Complaint** – is a sworn written statement charging a person with an offense, subscribed by the offended party, any peace officer, or other public officer charge with the enforcement of the law violated.
- **Information** – is an accusation in writing charging a person with an offense, subscribed by the prosecutor and filed with the court.
- **Sufficiency of Complaint or Information** – a complaint or information is sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.
- **Bail** - is the security given for the release of a person in custody of the law, furnished by him or a bondsman, to guarantee his appearance before any court as required under the conditions hereinafter specified. Bail may be given in the form of corporate surety, property bond, cash deposit, or recognizance.
- **Prosecution Protects Rights of Accused** – in all criminal prosecutions, the accused shall be entitled to be presumed innocent until the contrary is proved beyond reasonable doubt; be informed of the nature and cause of the accusation against him; be present and defend in person and by counsel at every stage of the proceedings, from arraignment to promulgation of the judgment;



testify as a witness in his own behalf but subject to cross-examination on matters covered by direct examination. His silence shall not in any manner prejudice him; be exempt from being compelled to be a witness against himself; confront and cross-examine the witnesses against him at the trial; have compulsory process issued to secure the attendance of witnesses and production of other evidence in his behalf; have speedy, impartial and public trial; and to appeal in all cases allowed and in the manner prescribed by law.

- **Prosecution of a Child in Conflict with the Law (CILC)** - With the enactment of Republic Act No. 9344, children in conflict with the law are prosecuted as stated *“There shall be a specially trained prosecutor to conduct inquest, preliminary investigation and prosecution of cases involving a child in conflict with the law. If there is an allegation of torture or ill-treatment of a child in conflict with the law during arrest or detention, it shall be the duty of the prosecutor to investigate the same”*.

THE COURT PILLAR

- **Court** - is the center pillar of the criminal justice system. It plunks as the “cornerstone” of the system. The court is involved in securing the efficacy, efficiency and fairness in the administration of criminal justice. It is a government institution, which decides disputes between citizen and between citizen and government. Its basis function is to determine the guilt or innocence of person accused of crime and imposed punishment on those found guilty.
- **Jurisdiction** - is defined as the power to try and decide, or hear and determine, a cause. To try and decide means to receive evidence from the parties (including their arguments); to decide or determined a case means to resolve the disputes by applying the law to the facts.
- **Venue** - is the site or location where the case is to be tried on the merits. It also refers to the specific judicial branch or sala of the judge who acquire jurisdiction or authority for trial/hearing of the case through the conduct of raffle.
- **Judgment** - is the adjudication by the court that the accused is guilty of the offense charged, and the imposition of the proper penalty and civil liability provided for by law against an accused. The judge must set out his conclusions of fact and his conclusions of law.



- **Administration of Justice** - refers to the determination of the facts of the case based on submitted evidence and the application of laws to such facts as presented by evidence to settle and decide a case. Administration of justice involves two things, namely: (1) ascertainment or determination of the relevant facts of a controversy; and (2) the application of the law to those facts in order to resolve the controversy.
- **The Judiciary** - the constitutionally designated arbiter of all legal disputes in our democratic system of government, must, at all times, maintain its independence and remain immune from undue influence, not at the cost, however, of sacrificing comity with the co-equal branches.
- **Judicial Power** - is vested in one Supreme Court and in such lower courts as may be established by law. Judicial power includes the duty of the courts to settle actual controversies involving rights, which are legally demandable and enforceable; determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.
- **Composition of Philippine Courts**
 - **Regular Courts** - Supreme Court, Court of Appeals, Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, Municipal Circuit Trial Courts
 - **Special Courts** - Sandiganbayan, Court of Tax Appeals, Shari'a District Courts, Shari'a Circuit Courts
 - **Collegiate Courts** - Supreme Court, Court of Appeals, Sandiganbayan, Court of Tax Appeals
 - **Lower Courts** - Court of Appeals, Sandiganbayan, Court of Tax Appeals, Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, Municipal Circuit Trial Courts, Shari'a District Courts, Shari'a Circuit Courts, Municipal Trial Courts and Municipal Circuit Trial Courts
- **Litigation Process**
 - **Arraignment** - accused must be arraigned before the court where the complaint or information was filed or assigned for trial.



Bill of particulars - accused may, before arraignment, move for a bill of particulars to enable him properly to plead and prepare for trial. The motion shall specify the alleged defects of the complaint or information and the details desired.

Suspension of arraignment - Upon motion by the proper party, the arraignment shall be suspended on any of the following grounds - accused appears to be suffering from an unsound mental condition which effectively renders him unable to fully understand the charge against him and to plead intelligently thereto; there exists a prejudicial question; and a petition for review of the resolution of the prosecutor is pending.

Motion to Quash - At any time before entering his plea, the accused may move to quash the complaint or information.

Pre-Trial - criminal cases recognizable by the Sandiganbayan, Regional Court, Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court and Municipal Circuit Trial Court, the court shall, after arraignment and within thirty (30) days from the date the court acquires jurisdiction over the person of the accused, unless a shorter period is provided for in special laws or circulars of the Supreme Court, order a pre-trial conference to consider plea bargaining; stipulation of facts; marking for identification of evidence of the parties; waiver of objections to admissibility of evidence; modification of the order of trial if the accused admits the charge but interposes a lawful defense; and such matter as well as promote a fair and expeditious trial of the criminal and civil aspects of case.

Pre-trial agreement - agreements or admissions made or entered during the pre-trial conference shall be reduced in writing and signed by the accused and counsel; otherwise, they cannot be used against the accused.

Pre-trial order - after the pre-trial conference, the court shall issue an order reciting the actions taken, the facts stipulated, and evidence marked. Such order shall bind the parties, limit the trial to matters not disposed of, and control the course of the action during the trial to matters not disposed of, and control the course of the action during the trial, unless modified by the court to prevent manifest injustice.

Time to prepare for trial - After a plea of not guilty is entered, the accused shall have at least fifteen (15) days to prepare



for trial. The trial shall commence within thirty (30) days from receipt of the pre-trial order.

Continuous trial until terminated - trial once commenced shall continue from day to day as far as practicable until terminated. It may be postponed for a reasonable period of time for good cause.

Judgment - is the adjudication by the court that the accused is guilty or not guilty of the offense charged and the imposition on him of the proper penalty and civil liability, if any. It must be written in the official language, personally and directly prepared by the judge and signed by him and shall contain clearly and distinctly a statement of the facts and the law upon which it is based.

New trial or reconsideration - At any time before a judgment of conviction becomes final, the court may, on motion of the accused or at its own instance but with the consent of the accused, grant new trial or reconsideration.

Appeal - Any party may appeal from a judgment or final order, unless the accused will be placed in double jeopardy.

- **Uniform Procedure** The procedure to be observed in the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall be the same as in the Regional Trial Courts, except where a particular provision applies only to either of said courts and in criminal cases governed by the Revised Rule on Summary Procedure.

In all criminal cases appealed to the Court of Appeals, the party appealing the case shall be called the “appellant” and the adverse party the “appellee,” but the title of the case shall remain as it was in the court of origin.

Unless otherwise provided by the Constitution or by law, the procedure in the Supreme Court in Original and in appealed cases shall be the same as in the Court of Appeal.

THE CORRECTION PILLAR

- **Correction** - denotes its concern and operates as society’s primary formal dispenser of punishment. Corrections, however, is more than simply nice term for punishment. The root of the word implies



and focuses on correcting a problem or series of problems in society.

- **Punishment** - is designed directed towards retrofitting the offenders to community, and enhancing community's acceptance for him to fit and be a law abiding and productive citizen. The offenders' stigma of being bad or evil must be dealt as a sick person. Its sickness maybe physical, emotional or socio-cultural where his negative behavior is emanating from. Thus, correction is on focus of rehabilitation is to restore to be socially acceptable behavior.
- **Corrections Systems** - are entrusted to take care of the treatment and rehabilitation programs for all convicted criminals and delinquents for eventual reintegration in the free community. Corrections practices in the Philippines are provided by the three lead government agencies, namely the Department of Justice (DOJ), the Department of the Interior and Local Government (DILG), and the Department of Social and Welfare and Development (DSWD).
- **Corrections and the Police** – Segregation and isolation of prisoners to protect society are achieved through joint undertakings of corrections and the police. Background investigation for court and the case referrals for probation and parole processes need the cooperation and coordination between the corrections authorities and the police.
- **Corrections and the Prosecution** – pertinent data and information concerning criminal records and case history is provided by the prosecution to the corrections officials to achieve an effective and responsive correctional treatment programs for all prisoners.
- **Corrections and the Court** – a convicted person cannot be confined in a prison or jail or in any correctional facilities without the necessary court orders. A mittimus or a commitment order bearing the seal of the court and the signature of the judge addressed to prison or jail warden or correctional authorities is necessary to admit a convict to serve prison sentence. Correctional officials need documents regarding case history of criminals, which are provided by the courts for better treatment and rehabilitation of prisoners.



- **Correction and the Community** – to better address issues and concerns of rehabilitation programs, corrections officials seeks the cooperation and support of the community such as the religious group, school and the academe, professional and business groups, the media, the private sectors, the civic and cause oriented groups and all others that comprise the prison community which aim to enhance the treatment and rehabilitation.
- **Retribution** – under the Philippines penal law, the basis of criminal liability is human freewill and the purpose of punishment is retribution. Incarceration or imprisonment is carried out and justified by the State as penalty for the law violated. Imprisonment is expected to make life unpleasant for the people who, by their crimes, made others' lives unpleasant.
- **Deterrence** – the State wants to protect the society by reducing crime and isolating and segregating criminals through imprisonment. Prison is expected to reform convicts and effectively deters or discourages others from becoming criminals and thereby effectively reduces crime rates as a result.
- **Isolation** – segregations criminals from society are aimed at preventing the occurrence of crime and protecting the public from harm, which criminals may inflict.
- **Reformation** – this involves the use of punitive and disciplinary measures such as solitary confinement, to modify or reform criminal behavior whose conduct and deportment is not totally responding to rehabilitation programs.
- **Rehabilitation** – rehabilitation is based on the premise that through correctional intervention (educational and vocational training and psychotherapeutic programs), an offender may be changed. This punishment is also known as individualized treatment.
- **Reintegration** – the effort of correction to change criminal behavior should result in a situation and ability on the part of the penitent offender to return to society in some productive and meaningful capacity in a free community.
- **Classical School of Thought** - “Let the punishment fits the crime” (Beccaria). The philosophy of hedonism and freewill - to make a rational choice between what will cause pain and what will result in pleasure. The emphasis is in response to the offense. A swift and



certain punishment for criminal behavior is assumed by that will deter people from committing crime.

- **Neo-classical School of Thought** – is a modification of the classical assumption of freewill where there was no definition as to who has freewill. Therefore, neo-classical concept defined the boundaries of freewill, that children and lunatic person do not have freewill thus they must be excluded to any punishment since they do not know what is right and wrong.
- **Positive School of Thought** - “Let the treatment fits the criminal” (Lombroso). People cannot always be held accountable for their behavior because of factors beyond their control. This is known as determinism. That man’s freewill can be influenced and be dictated by physical, psychological and environmental conditions. That when a person commits a crime there are effects or he sick either physically, psychologically or environmentally which causes him to commit crime.
- **Institutions-Based Correction** – those agencies and institution responsible for maintaining physical custody of an offender and includes juvenile hall, camps and prison.
- **Community-based Correction** – comprising all correctional activity that takes place outside the institution and includes probation, parole and other programs outside the prison walls.
- **Diversion** - means the utilization of alternatives to initial or continue processing into the justice system; in terms of processing, it implies halting or suspending formal criminal proceedings in favor or processing through non-criminal disposition or means. Its purpose is aimed at keeping offender of the CJS or out of its institutional component.

THE COMMUNITY PILLAR

- **Mobilized Community** – represents the entire people cohesively organized and mobilized in synchronized energy with the government to help in the decision making and participatory criminal justice administration involvement to effectively address the law and order concern of the society and its people. It comprised the population representative of people in all walks of life to wit; family, barangay council, school, church, civic organizations, GOs, NGOs, POs, labor and peasants, farmers and fisher folks, youth, women, elderly, urban poor, the handicap, business and professional groups, mass media, etc.



- **Crime Prevention** - effective administration of justice, and treatment of offenders are not merely the concern of the police, prosecution, courts, and corrections; it is everybody's concern. As they say, it's everybody's business. Any program addressed to the prevention and control of crime can succeed only if the massive and pervasive base of the community is effectively harnessed, organized, orchestrated, and mobilized to achieve desired goals.
- **Community-Based Crime Prevention** - practitioners voice of common concerns to fight crime in the community including activities of reinforcing the home and family life; educational improvement; health improvement; involvement of religion; mass media; other community group services, and the citizenry.
- **Home and Family** - is the basic unit of society that binds children to parents and parents to children through constant interplay of parent's authority and final obedience. No other institution of the community exerts a more wholesome and positive effect upon the growth and achievers, on the one hand, and the most notorious criminals and deviates, on the other hand, are nurtured. It is in the home that a child is given the basic elements that would allow him to grow up as a responsible and law-abiding member of the community. Strong and solid family ties based on love of God and neighbor ensure a child's satisfactory physical, mental, emotional, social and moral development. The first five years of a child's life are so-called formative years during which the personality of the individual is molded.
- **The School** - is the sector ordained to educate the youth and to infuse in them the right values, morals and character for useful and productive citizenship. Next to the family, the school exercises the greatest influence on the youth's growth and socialization since the child spends most of his time in school. Teachers are rightly called second parents who assume the delicate responsibility of parenthood.
- **The Church** - dimension of church influence embraces the whole country and the remotest of communities where mission or laity work takes place. The church has unique resources that can be used in any planned effort against crime and delinquency. Religion has spiritual and moral persuasions that can easily generate sets and denominations for the solution of the many problems in society. Charismatic communities offer alternatives for spiritual and moral development of the individual, which, if



sustained, will have visible effect in deterring him from engaging in deviant activities.

- **The Media** - responsible and sustained public information programs help in educating the public about the ill-effects of crime and the ways by which the community can assist in preventing and controlling it. Media link the government to the community and vice versa. It serves as conveyor, teacher, forum of ideas, creator and maintainer of social values, and facilitator of desirable, government-induced innovations.
- **The Barangay** - As the smallest political unit in the country, the barangay provides the necessary mechanism for community support and cooperation. Barangays can be mobilized into effective action for law enforcement or peacekeeping functions within their respective jurisdictions.
- **Community Groups Services** - business and industrial associations as well as civic and professional organization have direct influence in shaping the lives of people.
- **NGOs and Peoples Organizations** - role of non-government organizations (NGO) and private voluntary organizations (PVOs) in the attainment of national development and peace and order is critical in the light of scarce government resources and serious inadequacies in the delivery of social services to the poorer sectors of society. They serve as legitimate channels through which foreign and private funds are converted into services delivered to the community and in advocating support for vital issues and concern.

BARANGAY JUSTICE SYSTEM

- **Presidential Decree No. 1508** - Katarungang Pambarangay, considered one of the landmark pieces of legislation issued during martial law, is an innovation of the Philippine Criminal Justice System. It provides for resolution of disputes at the barangay level in order to achieve peace and harmony within the community and to provide an accessible and effective form of justice for community members.
- **Katarungang Pambarangay Law** - provides for local disputes, which will fall under its jurisdiction to be resolved through the process of mediation, conciliation, or arbitration by the Lupong Tagapamayapa or LUPONS of which the Punong Barangay is the chairman.



- **Katarungang Pambarangay under RA 7160** - The Local Government Code of 1991 (RA 7160), which took effect on January 1, 1992, has included provisions for the concept of Katarungang Pambarangay. The revision of the Katarungang Pambarangay Law under RA 7160 has expanded the jurisdiction of the Katarungang Pambarangay to include a wider range of cases and introduced certain minor procedural amendments to the law. The implementation and supervision of the Katarungang Pambarangay was given to the city or municipality to empower local government units (LGUs). Under the local Government Code, law to provide the necessary budgetary outlay for the efficient administration and implementation of Katarungang Pambarangay now mandates every city/municipal council and every city municipal lawyer and public prosecutor is tasked to render legal opinion on cases presented by the Punong Pambarangay or the Pangkat ng Tagapagsundo through the Lupong Tagapamayapa.
- **Amicable Settlement** - At the barangay level, mediation is a form of the indigenous system of promoting friendship, keeping the peace, ensure order and justice originally practiced as an alternative mode of governance and people empowerment. The active participation of people on proving effective solutions to problems and disputes require innate wisdom and ability to put everything under control following win-win situations. The principle of mediation, conciliation and arbitration as a mode of settling disputes is to bring the concerned parties together and reach an agreement of mutual understanding that the whole process rests upon the parties.
- **Mediation** - is a face-to-face disputes process with the Punong Barangay as mediator assisting the negotiating disputants in defining issue and interest, reviewing interest, exploring solutions, and developing mutually acceptable settlements. The mediation (or conciliation) proceeding are not held for the purpose of determining the legal the rights and obligations of the parties. Rather, they are for the purpose of encouraging and helping the parties to arrive at an amicable settlement of their dispute.
- **Conciliation** - is a form of mediation where the Pangkat ng Tagapagkasundo, a panel of three mediators selected from the Lupong Tagapamayapa, assists the parties in formulating their own agreement in a face-to-face meeting.
- **Arbitration** - is a face-to-face dispute resolution process whereby the Punong Barangay or the Pangkat ng the disputing parties grant Tagapagkasundo, acting as an arbitrator. The parties present



evidence as to the facts and merits of the case to the arbitrator. On the basis of the facts, the arbitrator makes a decision, an award that he or she believes to be fair and just. The arbitrator(s) must be neutral, impartial, and acceptable to the disputing parties.

- **Dispute Resolution** - If parties are unable to settle disputes themselves through negotiation and the disputes falls under the jurisdiction of the Katarungang Pambarangay, they must bring the case to the Punong Barangay to attempt settlement prior to filling their complaint in court. In the Katarungang Pambarangay system the Punong Barangay will, as directed by the parties, mediate or arbitrate the case. If the Punong Barangay is unable to achieve a settlement, the case is referred to the Pangkat ng Tagapagkasundo, a panel of three members of the Lupon Tagapamayapa, who can conciliate (mediate) or arbitrate the case. If neither the Punong Barangay nor the Pangkat is able to arrive at a settlement, the Lupon Secretary or the Pangkat Secretary (with attestation by the Lupon or Pangkat Chairman) will issue a certificate to file action in court, and the parties may then file the complaint in court. The Katarungang Pambarangay law also provides for the resolution of disputes through indigenous system of dispute resolution; where settlement is not achieved, the Punong Barangay will issue a certificate to file action in court.

- End of Part 5 -

