

CRIMINOLOGY REVIEW CENTER  
Review Notes in Introduction to Philippine Criminal Justice System  
*Compiled by: Glenda Civil Panugaling, MS Crim*

### The Justice System of the Philippines

The **Constitution of the Philippines**- provides that the Republic of the Philippines is “a democratic and republican state,” a representative government whose public officials derive their mandate from the people, act on their behalf, and are at all times accountable to them on the principle that their office is a **public trust**.

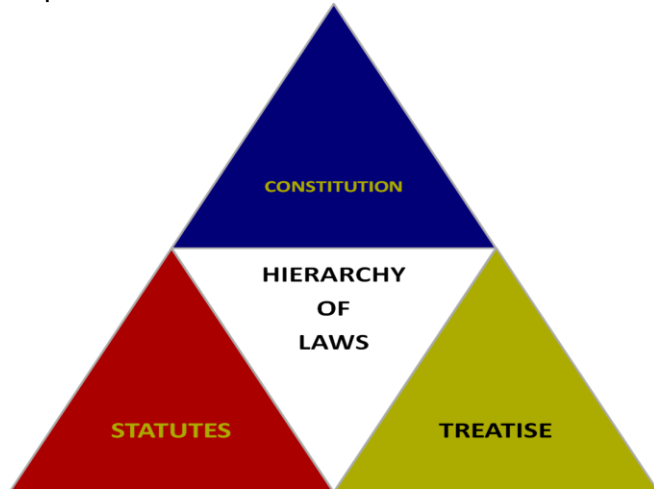
**There are three equal branches of government** operating under the doctrine of separation of powers and a system of checks and balances:

1. Legislative
2. Judicial
3. Executive

**EXECUTIVE BRANCH** - is charged with the faithful execution of laws. This entails the prerogative to choose who to prosecute for criminal violations, as well as the apprehension and punishment of lawbreakers. The executive branch also has the power to grant reprieves, commutations, and pardons and to remit fines and forfeitures after a final judgment of conviction has been issued by a court.

**LEGISLATIVE BRANCH** - in the Philippines, the power to propose, enact, amend, and repeal laws is vested primarily in Congress. Congress consists of the Senate and House of Representatives. The Constitution also provides certain mechanisms by which people can directly propose and enact laws, or approve or reject any act or law passed by Congress or local legislative bodies. Laws generally take effect 15 days from publication in a newspaper of general circulation.

**JUDICIAL BRANCH** - The judiciary is the branch of government that is engaged in dispute resolution. It is the only agency that has the power to interpret the law when it is unclear or susceptible to different interpretations. The judiciary also must protect rights and resolve disputes in accordance with its definitive interpretation of the law.



**Constitution** - occupies the highest level in the hierarchy of laws of the Philippines. “**MOTHER OF ALL LAWS**”

**Statutes** - Enacted by the legislative branch have the next-highest precedence.

**Treatise** - that are entered into by the executive branch with the Senate’s concurrence have the same status as a statute passed by Congress.

“**Acts**” or “**Public Acts**”- Statutes enacted by the legislature from **1899 to 1935**.

“**Commonwealth Acts**” - Statutes enacted from **1935 to 1941**.

“**Republic Acts**” - Those enacted from **1946 to 1972** and from **1987 until now**.

“**Batas Pambansa**” (**National Law**) - Statutes passed by the legislature from **1978 to 1984**.

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During periods when the **executive** exercised legislative powers, presidential issuances have also been considered **statutes**.

Some examples are **Presidential Decrees** issued by **President Ferdinand Marcos** from 1972 until 1986.

As well as **Executive Orders** issued by **President Corazon Aquino** from 1986 to July 1987.

Local government **ordinances**, which are passed by local legislative bodies, are also **considered laws** that apply within the jurisdiction of the local government unit that passed them, provided that they are consistent with national laws.

DEFINITION OF TERMS:

**CRIMINAL** – is a person who omitted or committed an act which is in violation of law and being convicted and punished for such violation.

**JUSTICE** – is rendering what is due or merited. According to the SUPREME COURT, **JUSTICE**, is symbolically represented by a blindfolded woman, holding with one hand a sword and with the other a balance.

**SYSTEM** – is being defined as the instrumentality that combines interrelated interacting artifacts designed to work as a coherent entity.

**CRIMINAL JUSTICE SYSTEM** – is the machinery which society uses in the prevention and control of crime. The process is the totality of activities of **LAW ENFORCERS, PROSECUTORS, DEFENSE LAWYERS, JUDGES AND CORRECTIONS PERSONNEL**, as well as those of the MOBILIZED COMMUNITY in crime prevention and control.

**WHAT ARE THE MAJOR COMPONENTS/ PILLARS OF THE CJS AND ITS FUNCTIONS?**

1. Police or Law Enforcement
2. Prosecution
3. Courts
4. Corrections
5. Mobilized Community

**How does the CJS operate?**

The first four pillars,

- (1) **law enforcement**,
- (2) **prosecution**,
- (3) **courts and**
- (4) **corrections** pertain to the traditional agencies vested with the official responsibility in dealing with crime control. The
- (5) **community pillar** is the broadest pillar.

Under the concept of a **participative criminal justice system** in the Philippines, public and private agencies, as well as citizens, become a part of the CJS when **they become involved in the issues and participate in activities related to crime prevention and control**.

**WHAT IS A LAW? WHY DO WE HAVE LAWS?**

Law is a rule of conduct just, and made obligatory by legitimate authority for the general welfare and benefit of all people. According to Max Weber an imminent sociologist of the early twentieth century said; "The primary purpose of law is to regulate the flow of human interaction". Creating enforceable rules, laws make the behavior of others predictable. The first and most significant purpose of the law can be simply stated as: Laws maintain order in society; Laws regulate human interaction; Laws define the economic environment; Laws enhance predictability; Laws support the powerful; Laws promote orderly social change; Laws sustain individual rights; Laws redress wrongs; Laws identify evildoers and Laws mandate punishment and rehabilitation of offenders.

**LAW**

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- The principles and regulations established in a community by some authority and applicable to its people, whether in the form of legislation or of custom and policies recognized and enforced by judicial decision.
- Any written or positive rule or collection of rules prescribed under the authority of the state or nation, as by the people in its constitution.

## DEVELOPMENTS OF LAWS

The early Filipinos had both forms of written and unwritten laws. A **written law** is one in which has been given definite written form at a particular time and process, usually by a constituted authority of legislature. The **unwritten** form of law is one in which is entirely a product of social evolution, consisting largely of a mass of customs, rites, mores, folkways, traditions and the like. Usage of judicial decisions in their statutory bodies which enacts fundamental forms of character but not codified or written in document form, but it as well governs the behavior of its constituents. Our written laws were promulgated by the datus. The two known written codes during the pre-Spanish era are the "**Maragtas Code**" which was said to have been written about 1250 A.D. by Datu Sumakwel of Panay, and the "**Kalantiao Code**" written in 1433 A.D. by Datu Kalantiao, also of Panay. These written laws had its origin in their customs and traditions which had been practiced down from generation to generation.

Our criminal law or penal code was patterned from the Spanish Penal Code of 1843 which was also enacted through the Royal Order dated December 17, 1886 directed the execution of the Royal Decree of September 4, 1884. Our penal law was called "**Revised Penal Code**" because the committee was created by Administrative Order No. 94 of the Department of Justice on October 18, 1927 and was instructed to revise the old Penal Code taking into consideration the existing conditions, special laws and rulings of the Supreme Court. The Revised Penal Code as enacted by the Philippine Legislature and was approved on December 8, 1930 and took effect on January 1, 1932. From the period of 1930 to December 1931 the old Penal Code was still enforced.

**CRIMINAL LAW** is defined as a branch or division of law which defines crimes, treats of their nature and provides for their punishment.

The sources of the Philippine Criminal Law are:

1. the Revised Penal Code (Act No. 3815)
2. Special Laws
3. Presidential Decrees

The power of the state to define and punish crime is vested on one of its Inherent powers, the police power. **Police power** is defined as the power of the state to enact such laws or regulations in relation to persons and property as may promote public health, morals, safety and general welfare and convenience of the people. The right of the state to prosecute and punish crime is one of the attributes of natural law which belongs to the sovereign power instinctively charged by the common will of the members of society to look after, guard and defend the interests of the community, the individual and social rights, and the liberties of every citizen.

## CHARACTERISTICS OF CRIMINAL LAW:

1. **GENERAL** - which means that our criminal law is binding on all persons who live or sojourn in the Philippine territory. Except for Chiefs of State, Ambassadors or Diplomats

2. **TERRITORIALITY** -which means that our criminal laws undertake to punish all crimes committed within the Philippine territory. Including crimes committed in a Philippine ship or airship, forging or counterfeiting Philippine money or obligations and securities issued by the government of the Philippines.

Jurisdiction over crimes committed aboard foreign merchant vessels, are govern by two rules which will apply.

a. **French Rule**-such crimes are not triable in the courts of that country, unless their commission affects the peace and security of the territory or the safety of the state is endangered.

b. **English Rule**-such crimes are triable in the country, unless they merely affect things within the vessel or they refer to the internal management thereof.

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3. **PROSPECTIVE**- which means that our Penal Law cannot make an act punishable in a manner in which it was not punishable when committed.

### **MESOPOTAMIAN LAWS AND CODES**

The earliest signs of well-developed written laws were from early cultures in Mesopotamia, the land bordered by the Tigris and Euphrates rivers.

### **I. THE POLICE or LAW ENFORCEMENT PILLAR: Its Nature and Functions**

Who are the Police?

According to **Robert Peel** "The Police are the Public and the Public are the Police". The police officers are those who are paid to give full-time attention to the duties of every citizen. While, civilians are part-time workers to the social responsibility and concern of policing. They cooperate and support the police officer in crime prevention, suppression, and solution. Basically, policing or peacekeeping is everybody's concern, it is not a sole function of the police in spite of the fact that they are paid. Their salary is the payment of their full-time service being rendered to society. Even though they are paid, this does not mean that the people's social obligation for keeping peace and order has been fully laid unto them. The people give only the power and authority to police from the community and not the responsibility of policing.

In a democratic society like the Philippines, law enforcement constitute one of the enduring pillars of the Criminal Justice System and among the law enforcement agencies mandated to maintain the peace and uphold the law is the **PHILIPPINE NATIONAL POLICE** which is considered as the prime cutting edge of criminalities.

The police stand **at the forefront of the Criminal Justice System**. The powers and functions of the PNP are the following:

1. Enforce all laws and ordinances relative to the protection of lives and properties;
2. Maintain peace and order and take all necessary steps to ensure public safety
3. Investigate and prevent crimes, effect the arrest of criminal offenders, bring offenders to justice and assists in their prosecution;
4. Exercise the general powers to make the arrest, search and seizure in accordance with the Constitution and pertinent laws;
5. Detain an arrested person for a period not beyond what is prescribed by law, informing the person so detained of all his rights under the Constitution;
6. Issue licenses for the possession of firearms and explosives in accordance with law;
7. Supervise and control the training and operation of security agencies, and security guards and private detectives for the practice of their professions;
8. Perform such other duties and exercise all other functions as may be provided by law.

### **PHILIPPINE NATIONAL POLICE ORGANIZATIONAL SET-UP**

The Philippine National Police is organized as follows:

The Command Group is composed of the Chief PNP whose hand is vested with the command and direction of the PNP. He has two (2) Deputies, one for Administration and other for Operations; and the Chief of the Directorial Staff who act as the Chief Operating Officer of the PNP. He coordinates, supervises and directs the Directorial Staff of the PNP and all PNP units/offices in the performance of their respective functions. The Inspector General or the Chief Inspectorate and Internal Affairs Office (IIAO) assists the Chief PNP in ensuring the operational readiness of the command and in investigating offenses committed by the PNP personnel.

The Directorial Staff consists of ten (10) Directorates, namely:

1. Directorate for Personnel and Records Management
2. Directorate for Intelligence
3. Directorate for Operations
4. Directorate for Logistics
5. Directorate for Plans
6. Directorate for Comptrollership
7. Directorate for Police-Community Relations
8. Directorate for Investigation and Directive Management
9. Directorate for Human Resource and Doctrine Development
10. Directorate for Research and Development

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There are twenty (20) National Support Units, nine (9) of which are Administrative and eleven (11) are Operational.

The Administrative Support Units are the following:

1. Logistic Support Unit (LSS) – which is responsible for the procurement, distribution and management of all the logistical requirements of the PNP including firearms and ammunitions.
2. Computer Service (CS) – is tasked to design, implement and maintain a data base system for the PNP.
3. Finance Service (FS) – is responsible for the delivery of fiscal services to the PNP personnel.
4. Health Service (HS) – which provides for the health requirements of the PNP.
5. Communications Service (COMMO SVC) – is tasked to establish an effective police communication network
6. Chaplain Service (CHS) – which provides religious, spiritual and other counseling services for moral growth of PNP personnel and their dependents
7. Legal Service (LS) – which serves as the legal arm of the PNP.
8. Headquarters Support Service (HSS) – which provides general house-keeping and camp security services
9. Engineering Service (ES) – which is responsible for all engineering matters in the PNP including its housing program.

The Operational Support Units are:

1. Maritime Group (MG) – which performs all police functions over Philippine territorial waters and rivers
2. Intelligence Group (IG) – which serves as the intelligence and counter-intelligence operating unit of the PNP
3. Security and Protection Office (PSPO) – which provides security to government officials, visiting dignitaries and private individuals authorized to be given protection
4. Criminal Investigation and Detection Group (CIDG) – which undertakes the monitoring, investigation and prosecution of all crimes involving economic sabotage and other crimes of such magnitude and extent as to indicate their commission by highly placed or professional criminal syndicates and organizations
5. Special Action Force (SAF) – which function as a mobile strike force or reaction unit to augment regional, provincial, municipal and city police forces to civil disturbance control, internal security operations, hostage-taking, rescue operations and other special operations
6. Narcotics Group (NG) – which enforces all laws relative to the protection of the citizenry against dangerous and other prohibited drugs and substances
7. Aviation Security Group (ASG) now is known as **CAAP** – which is responsible for the security of all airports throughout the country
8. Traffic Management Group (TMG) (**HPG**) – which enforce traffic laws and regulations
9. Police Community Relations Group (PCRG) – which implements plans and programs that promote community and citizen participation in the maintenance of peace and order.
10. Civil Security Group (CSG) – which regulates business operations and activities of all organized private detectives, watchmen, security guards/agencies and company guard forces. It also supervise the licensing and registration of firearms and explosives
11. Crime Laboratory (CRIMELAB) – which provides scientific and technical investigative aid in support to the PNP and other government investigative agencies.

The PNP has the following rank structure and corresponding Military equivalent.

PNP RANK	MILITARY EQUIVALENT
<b>Police Commissioned Officers (PCO)</b>	
Police Director General	General
Police Deputy Director General	Lt. General
Police Director	Major General
Police Chief Superintendent	Brigadier General
Police Senior Superintendent	Colonel
Police Superintendent	Lt. Colonel
Police Chief Inspector	Major
Police Senior Inspector	Captain
Police Inspector	First Lieutenant

**Police Non-Commissioned Officers (PNCO)**

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Sr. Police Officer IV	Master Sergeant
Sr. Police Officer III	Technical Sergeant
Sr. Police Officer II	Staff Sergeant
Sr. Police Officer I	Sergeant
Police Officer III	Corporal
Police Officer II	Private 1 <sup>st</sup> Class
Police Officer I	Private

## THE POLICE IN ACTION

### Police Patrol

Patrol is a proactive measure in policing. The presence of uniform police officers in an area deters an individual who plans to commit any violation of law. Basically, all functions of the police are an inherent police patrol function. Such as: patrol observation in public places, conducting investigation, check points, assisting the people who needs police assistance, collection and preservation of evidences, arresting violators of law, preparing or making reports, controlling traffic and investigation of accidents and testifying in court. The police cannot satisfy the community in its services without patrol, as it is the backbone of the police organization and the eyes and ears wherein police plans and actions are based upon. On the other hand, patrol is the bridge in establishing a better relation of the police and the community towards one common goal which is busting crime and keeping peace and order.

### Police Investigation

Investigating crime is one tedious activity of a police officer. Its aims are, to identify the identity of the person who committed the crime, its location and gather evidences to prove his guilt through criminal proceedings.

The first thing that the investigator should do in conducting investigation is to determine whether a law has been violated. After knowing the violation committed, the investigation must discover how it was committed, then by whom it was committed, where was it committed, when was the crime committed and under what circumstances, why it was committed. On this process the investigator is added with the tools to use, to further determine the personalities involve and the necessary evidence needed. These tools are: **information**, which could be gathered or acquired from other persons, witnesses and victim of the crime. **Interrogation** is done by questioning the witnesses and suspect to obtain further facts. **Instrumentation** is the application of forensic sciences to obtain physical evidences which would help in proving the guilt of the person who violates the law.

### Rights of person under investigation:

Any person under criminal investigation for the commission of an offense shall have the following rights as provided by the 1987 Constitution

1. Right to be informed of his right to remain silent.
2. Right to have a competent and independent counsel preferably of his own choice or to be provided with one.
3. Right against the use of torture, force, violence, threat, intimidation, or any other means which vitiates the freewill.
4. The right against being held in secret, solitary, incommunicado or other similar forms of detention.

Any confession obtained in violation of any of the above rights is declared not admissible as evidence before any court proceedings. The violators to these rights shall be subject to penal and civil sanctions as provided by R.A. 7438.

These constitutional safeguards are made to secure the rights of the accused particularly the privilege against self incrimination of persons under arrest or in custody of law enforcement officer. The words "under investigation" includes custodial interrogation or investigation but not were the proceeding is a mere general inquiry into an alleged crime. These rights are available the moment an arrest without the warrant is made. The right of silence and counsel cannot be waived except, in writing and in the presence of a counsel.

Surveillance and Intelligence is another form of police investigation. **Surveillance** is a secret observation of places and persons for the purpose of obtaining information of person suspected to have been violated the law. While, **intelligence** is getting involve on the activities of organized criminals or syndicates in undercover, in order to gather information about their

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activities and reveal their identities and locations for the purpose of gathering evidences and effecting arrest unto them.

## **ENTRAPMENT AND INSTIGATION**

**Entrapment** signifies the ways and means device by a peace officer to catch or apprehend a person who has committed a crime, with or without it the crime has already been committed. While, instigation takes place when a police officer induces a person to commit a crime, without it the crime would not be committed.

There is a wide difference between entrapment and instigation. In **instigation**, the instigator who induces someone to perform a criminal act is a co-principal by inducement if he is a private individual; the one who actually commits the crime is a co-principal by direct participation. If a law enforcer induces someone to buy some cocaine and after which the law enforcer effect arrest for illegal possession of cocaine, the means employed by the police is not proper and would not sustain conviction of the offense committed. But if, a law enforcer connives the commission of the crime and suggest to someone who then adopts and or execute the idea, the police could be liable as principal of the crime. While, entrapment is a ways and means resorted for the purpose of trapping or capturing a lawbreaker in the execution of his criminal plan. The means originates from the mind of the criminal and result to the commission of the crime. That with or without entrapment the crime has already been committed. Entrapment is not a case where innocent person is induced to commit crime merely to arrest and prosecute him, but to trap the criminal in its criminal activities.

## **II. THE PROSECUTION PILLAR: Its Nature**

The procedure of the prosecution evolved within the discretion of the prosecutor. In screening cases and determining and deciding which would be filed in courts and which of the cases shall be dropped and the determination as to what crime should be charged for him. The prosecutor is the one who decides whether the person arrested or suspected be in the sit of the criminal justice process. He determines whether the evidence gathered by the police meets the standard of proof for successful prosecution and conviction. The prosecutor has more control over the life, liberty and reputation of a person suspected to have between violated the law.

**Prosecution** is the process or method whereby accusation is brought before the court of justice to determine the guilt or innocence of the accused.

**Prosecutor** refers to the person who is a quasi-judicial officer which he assures full discretion and control over a criminal case in the administration of justice and represents the government or the people of the Philippines in a criminal proceeding in the court of law.

### **Prosecution System:**

1. **Adversarial System or Accusatorial** – This was being adopted by most countries that have common laws, whereby the victim or his representative have the primary responsibility for finding and presenting evidences to the court. The judge listens to the accusation and determines the applicable punishment to the accused.

2. **Inquisitorial System** – this system was used in some continental countries wherein the judge searches the facts, listens to witnesses be taken and investigate to proved the guilt or innocence of the accused.

3. **Mixed System** – This is used in the Philippines. Mixed is a system wherein adopts both inquisitorial and accusatorial, where the victim or his representatives provides the facts, evidences and testimony of witnesses to proved the guilt of the accused. The accused is presumed innocent and also provides facts, evidences and testimony of its witness to disprove the accusation of the complainant. The judge will investigate and determine the guilt of the accused beyond reasonable doubt and its moral certainty.

## **National Prosecution Service**

Presidential Decree (PD) 1275 of 1978 established the National Prosecution Service under direct supervision of the secretary of the DOJ. 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.

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The CSP is the head of the NPS. Five Assistant Chief State Prosecutors (ACSPs) have oversight over divisions of the NPS, namely: Inquest and Special Concerns; Preliminary Investigation and Prosecution; Review and Appeals; Administrative, Personnel Development, and Support Services; and Disciplinary, Field Operations, and Special Concerns.

The Inquest and Special Concerns Division conduct inquests and examine criminal complaints filed directly with the prosecutor's office. As mentioned earlier, inquest proceedings are carried out by inquest prosecutors on cases involving persons arrested without the benefit of an arrest order (as prescribed by the DoJ Circular 16).

The Preliminary Investigation and Prosecution Division is responsible for the conduct of investigation and prosecution of cases once they are filed with the Office of the Chief State Prosecutor (OCSA), or those cases filed under inquest proceedings. It has oversight over the proper conduct of preliminary investigation and the prosecution of cases in courts.

The Review and Appeals Division evaluates and reviews appeals made or petitions filed for review on final resolutions of prosecutors, as described above.

### **Prosecution of Offenses**

The prosecution of crimes committed shall be determined by the prosecutor as to what court has the jurisdiction over the offense committed.

- For crimes committed which carries six (6) years of imprisonment or below. The complainant may file the complaint directly to the court that has jurisdiction over it such as Municipal Trial Courts and Municipal Circuit Trial Courts or to the Prosecutor's Office. However, for Metropolitan Cities and chartered cities the complaint may be filed only with the office of the prosecutor.

- For offense falling under the jurisdiction of the Regional Trial Court, such as; rape, murder, homicide or has a penalty above six (6) years, the filing of complaint must be in the Prosecutor's Office for the purpose of conducting a preliminary investigation.

### **Inquest**

It is an informal and summary investigation conducted by a public prosecutor in criminal cases involving persons arrested and detained without the benefit of a warrant of arrest issued by the court, for the purpose of determining whether or not the said persons should remain under custody and correspondingly be charged in court.

### **Inquest Procedure**

1. Upon receipt by the inquest officer or inquest prosecutor from the law enforcement authorities, the complaint/referral documents which includes the following:
  - a. affidavit of arrest
  - b. investigation report
  - c. statements of the complainants and witnesses
  - d. other supporting evidences gathered by the police in the courts of the latter's investigation of the criminal incident involving the arrested or detained person
2. The Inquest Prosecutor shall determine whether the matter is a proper inquest case. Determining whether the arrest made is legal in accordance with Section 5 Rule 113 of 1985 Rules of Court which states:
  - a. When in the presence of the arresting officer the person to be arrested has committed is actually committing or is attempting to commit an offense.
  - b. When an offense has in fact just been committed and he has been committed and he has personal knowledge of the facts indicating that the person to be arrested has committed it.
3. If the Inquest Prosecutor finds that the arrest made by the police without the warrant is not proper the inquest prosecutor shall execute the following:
  - a. recommend the release of the detained or arrested person
  - b. note down the disposition on the referral document
  - c. prepare brief memorandum indicating results of the action taken
  - d. forward the same together with the records of the case to the City or Provincial Prosecutor for appropriate action.



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4. If the Inquest Prosecutor finds that the arrest made by the police without the warrant is proper then the Inquest Prosecutor shall start the preliminary investigation. But since the preliminary investigation will last for fifteen (15) days upon its inception. Therefore the prosecutor must be able to comply the following:
  - a. waiver of the respondent, waiving the Provisions of Art. 125 RPC with the assistance of the counsel and the arrested person.
  - b. The Inquest Prosecutor will then forward the case to the City or Provincial Prosecutor for preliminary investigation.
5. If the arrested person will not execute a waiver, waiving the Provisions of Art. 125 of RPC the prosecutor shall proceed with the inquest by examining the affidavits or sworn statements of complainant, witnesses and other supporting evidences presented.
6. If the Inquest Fiscal finds that there is a probable cause he shall recommend the filing of the corresponding complaint or information in court. Indicating then the offense committed and the amount of bail recommended, if the offense committed is bailable.
7. The arrested person may apply for bail even if the preliminary investigation is not yet terminated at the court.
8. After the inquest prosecutor has conducted the preliminary investigation he will forward the records of the case with the complaint or information to the city or provincial prosecutor for appropriate action.
9. The information should contain a certification by the filing prosecutor that he is filing the case with the approval of the City or Provincial Prosecutor.
10. If during the preliminary investigation the inquest prosecutor finds no prima facie case he should accomplish the following:
  - a. recommend the release of the arrested or detained person
  - b. note down the disposition of the case on the referral document.
  - c. prepare a brief memorandum indicating reasons for the action taken
  - d. forward the records of the case to the City or Provincial Prosecutor
  - e. If the offense committed is cognizable by the Regional Trial Court the City or Provincial Prosecutor shall approve the release of the detained person
11. The inquest proceedings will terminate within the period prescribed by law on the following hours:
  - a. 12 hours for light offenses
  - b. 18 hours for less grave offenses
  - c. 36 hours for grave offenses

**Presumption of Innocence** is defined as “one right of the accused which is founded on the principle of justice and it is intended not to protect the guilty but to present as far as human agencies can exercise its power, the conviction of an innocent person.”

**Beyond Reasonable Doubt** is the degree of proof which offers to the whole facts and produces moral certainty in an unprejudiced mind of the culpability of the accused person.

**Due Process of Law** is defined as a means which the course of legal proceedings are in accordance to the rules and forms which have been established for the protection of private rights of the citizens.

### **Preliminary Investigation**

**Preliminary Investigation** defined as 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 is probably guilty thereof and should be held for trial.

### **Officers authorized to conduct preliminary investigation**

1. Provincial or City Prosecutors and their assistants;
2. National and Regional State Prosecutors; and,
3. Such other officers as may be authorized by law.

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**Prima Facie Evidence defined.** It denotes evidences which if unexplained or uncontradicted, are sufficient to sustain the proposition it supports or to establish the facts as to counter-balance the presumption of innocence to warrant a conviction.

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

**Information defined.** It is an accusation in writing charging a person with an offense subscribed by the fiscal and filed with the court.

**Sufficiency of Complaint or Information**

A complaint or information is sufficient if it state the name of the accused; the designation of the offense; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate time of the commission of the offense; and the place wherein the offense was committed.

**Partiality of the Prosecutor**

If the prosecutor unreasonably refuses to file an information to the court or does not include a person as an accused therein despite the fact that the evidence clearly warrants such action. The offended party has the following remedies:

1. The offended party, in case of grave abuse of discretion by the prosecutor, may file an action for mandamus to compel the prosecutor to file such information in court.

**Mandamus defined.** Is a writ from the high court ordering or compelling the performance of public duty.

2. The accused may lodge a new complaint against the offenders to the court having jurisdiction over the case, and have a new examination conducted as required by law.

3. Make an appeal to the Secretary of Justice who may take measures in the interest of justice. He can reverse the opinion of the prosecutor and designate a special prosecutor to review and handle the case.

4. The offended part may institute administrative charges against the erring prosecutor.

5. He may file criminal charges under Art. 208 of Revised Penal Code which is dereliction of duty.

6. He may file a civil action for damage under Art. 27 of the New Civil Code which is refusal or neglect in the performance of official duty.

7. He may secure the appointment of another prosecutor.

8. He may institute another criminal action if no double jeopardy is involved.

**Procedure in the Conduct of Preliminary Investigation by the Prosecutor**

No complaint or information for an offense cognizable by the Regional Trial Court shall be filed without a preliminary investigation having first conducted in the following manner:

a. The complaint shall have the known address of the respondent and the accompanied by affidavits of the complainant and his witnesses as well as other supporting documents. In such number of copies as there are respondents, plus two (2) copies of the official file. The said affidavit shall be sworn to before any prosecutor or government official authorized to administer oath, or in their absence or unavailability, a notary public, who must certify that he had personally examined the affidavits and that he is satisfied that they voluntarily executed and understood their affidavits.

b. Within ten (10) days after the filing of the complaint the investigating officer shall either dismiss the same if he finds no grounds to continue with the inquiry or issue a subpoena to the respondent, attaching thereto a copy of the complaint affidavits and other supporting documents. Within ten (10) days from receipt thereof, the respondent shall submit counter-affidavits and other supporting documents. He shall have the right to examine all other evidence submitted by the complaint.

c. Such counter-affidavits and other supporting evidences submitted by the respondent shall also be sworn to and certified true copies thereof shall be furnished by him to the complaint.

d. If the respondent cannot be subpoenaed, or if subpoenaed, does not submit counter affidavits within ten (10) days period, the investigating officer shall base the resolution on the evidence presented by the complainant.

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e. If the investigating officers believe that there are matters to be clarified, he may set a hearing to profound clarificatory questions to the parties or their witnesses, during whom the parties shall be afforded an opportunity to be presented but without the right to examine or cross-examine. If the parties so desire, they may submit questions to the investigating officer or witnesses concerned.

f. Thereafter, the investigation shall be deemed concluded and the investigating officer shall resolve the case within ten (10) days there from. Upon the evidences thus adduced, the investigating officer shall determine whether or not there is sufficient ground to hold the respondent for trial.

**Duty of the Investigating Prosecutor**

If the investigating prosecutor finds cause to hold respondent for trial, he shall prepare the resolution and corresponding information. He shall certify under oath that he, or as shown by the record, an authorized officer has personally examined the complainant and his witnesses, that there is reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof, that the accused was informed of the complaint and of the evidence submitted against him and that he was given an opportunity to submit controverting evidence. Otherwise, he shall recommend dismissal of the complaint.

In either case, he shall forward the records of the case to the provincial or city prosecutor or chief state prosecutor within five (5) days from his resolution. The latter shall take appropriate action thereon within ten (10) days from receipt thereof, immediately informing the parties of said action.

No complaint or information may be filed or dismissed by an investigating prosecutor without the prior written authority or approval of the provincial or city prosecutor or chief state prosecutor.

Where the investigating assistant prosecutor recommends the dismissal of the case but his findings are reversed by the provincial or city prosecutor on the ground that a probable cause exist, the latter may by himself, file the corresponding information against the respondent or direct any other assistant prosecutor or state prosecutor to do so, without conducting another preliminary investigation.

If, upon the petition of the proper party, the Secretary of Justice reverses the resolution of the provincial or city prosecutor, he shall direct the prosecutor concerned to file the corresponding information without conducting another preliminary investigation or to dismiss or move dismissal of the complaint or information.

**Rules on Appeals from Resolution in  
Preliminary Investigation/Reinvestigation**

**What may be appealed?**

1. Only resolutions of the Chief State Prosecutor/Regional State Prosecutor or Provincial or City Prosecutor DISMISSING a criminal complaint.
  - a. Regional State Prosecutor shall resolve the appeals with finality where the penalty prescribed for the offense charged does not exceed prison correctional, regardless of the imposable fine.
  - b. Secretary of Justice is not precluded from ordering, in the interest of justice and pursuant to his residual authority to supervise the prosecutors of the DOJ, the automatic review of the resolution of the Regional State Prosecutor in the cases appealed to them.

**When to appeal?**

1. Within a period of fifteen (15) days from receipt of the questioned resolution by the party or his counsel.
2. Interrupted by the filing of a motion for reconsideration within ten (10) days from receipt of the resolution and shall continue to run from the time the resolution denying the motion shall have been received by movant or counsel.

**Non – Appealable Cases, exceptions**

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1. Resolution of the State Prosecutor/Regional State Prosecutor/Provincial or City Prosecutor finding probable cause EXCEPT upon showing of manifests error or grave abuse of discretion.
2. Where the appellant had already arraigned.
3. If appellant is arraigned during the pendency of the, the appeal shall be dismissed motu proprio.

**Who must prosecute Criminal Actions?**

All criminal actions either commenced by complaint or by information shall be prosecuted under the direction and control of the public prosecutor assigned. However, in the Municipal Trial Courts or Municipal Circuit Trial Courts when there is no prosecutor available, the offended party, any peace officer or public officer charged with the enforcement of the law violated may prosecute the case. This authority ceases upon actual intervention of the prosecutor or upon elevation of the case to the Regional Trial Court.

The crimes of Adultery and Concubinage shall not be prosecuted except upon a complaint filed by the offended spouse. The offended party cannot institute criminal prosecution without including both guilty parties, if they are both alive, or, in any case, if the offended party has consented to the offense or pardoned the offenders.

The offenses of Seduction, Abduction or Acts of Lasciviousness, shall not be prosecuted except upon a complaint filed by the offended party or her parents, grandparents or guardian, nor in any case, if the offender has been expressly pardoned by the above-named persons, as the case may be. In case the offended party dies or becomes incapacitated before she could file the complaint and has no known parents, grandparents or guardian, the state shall initiate the criminal action in her behalf or if the crime was committed by its parents or grandparents as the case may be, the government shall take the necessary legal action to it.

The offended party, even if she were a minor, has the right to initiate the prosecution for the above offenses, independently of her parents, grandparents or guardian, unless she is incompetent or incapable of doing so upon grounds other than her minority. Where the offended party who is a minor fails to file the complaint, her parents, grandparents or guardian may file the same. The right to file the action granted to the parents, grandparents or guardian shall be exclusive of all other persons and shall be exercised successively in the order herein provided, except as stated in the immediately preceding paragraph.

No criminal action for defamation which consists in the imputation of an offense mentioned above shall be brought except at the instance of and upon complaint filed by the offended party.

If the accused is maliciously charged with an offense he may institute a writ of injunction or prohibition to restrain a criminal prosecution of the following grounds:

- a. to afford adequate protection of the constitutional rights of the accused;
- b. when necessary for the orderly administration of justice or to avoid oppression or multiplicity of actions;
- c. when there is a pre-judicial question which is sub-judice;
- d. When the acts of the officer are without or in excess of authority;
- e. When the prosecution is under an invalid law, ordinance or regulation;
- f. When double jeopardy is clearly apparent;
- g. When the court has no jurisdiction over the offense;
- h. Where it is a case of persecution rather than prosecution;
- i. Where the charges are manifestly false and motivated by the lust or vengeance;
- j. When there is clearly no prima facie case against the accused and a motion to quash on that ground has been denied.

**Injunction defined.** It is an order of the court directing a person to refrain from doing or continuing to do an act complained of or restraining him from continuing such action.

**Sub-judice defined.** It is under the judicial consideration or not yet been decided.

**III. THE COURT: Its Nature**

**The Administration of Justice**

Of all the components of Criminal Justice System, Court stands as the "corner stone" of the system. The court is involved in securing the efficacy, efficiency and fairness in the administration of criminal justice. The judicial bodies managed by judges handle the most sensitive part of the criminal justice process. It determines the innocence or guilt of the accused. Judges exercise enormous discretionary power, since they function without any kind of direct supervision and perform their work alone.

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**Court defined** – is the body to which the public administration of justice is delegated, being a tribunal officially assembled under authority of law at the appropriate time and place for the administration of justice through which the state enforces its sovereign rights and powers.

**Judge defined** – is a public officer so named in his commission and appointed to preside over and to administer the law in a court of justice.

**Early Method of Administration of Justice**

**Trial by Ordeal** – an ancient procedure whereby an appeal was made to God to make manifestation of the guilt or innocence of the accused. This was considered as “judicium” which means the judgment of God. Which involved ordeal by fire, in which the guilt is establish if the wounds of the accused sustain during the carrying of a heated iron for nine steps where not healed after three days; or by water in which the accused is bound with a rope and let down into the water, innocence is being establish if he sank to a knot tied in the rope. This method of administration of justice was abolished in 1215.

In the Philippines, during the Pre-Spanish period almost the same concept was being adopted based from the early laws of the Philippines.

During the Spanish era there were laws being followed by the people but no due process of law was used to establish the guilt or innocence of the person. Only the determination of punishment to be imposed upon the person who is believed to have violated the law.

**Importance of the Judiciary**

The court performs a crucial function in society.

**In the language of Lord Bryce:**

“Nothing more clearly touches the welfare and security of the average citizen than his sense that he can rely on the certain and prompt administration of justice. Law is respected and supported when it is trusted as the shield of innocence and the impartial guardian of every private civil right. But if the law were dishonestly administered, the salt has lost its savor, if it be weakly or unfaithfully enforced, the guarantee or order fail, for it is more by the certainty that by the severity of punishment that offences are repressed. If the lamp of justice goes out in darkness, how great is that darkness.”

**According to Chancellor James Kent:**

“Where there is no judicial department to interpret and execute the law, to decide controversies and to enforce rights, the government must either perish by its own imbecility or the departments of government must usurp powers for the purpose of commanding obedience to the destruction of liberty.”

**In the words of Justice Arthur Vanderbilt:**

“It is in the courts and not in the legislature that our citizen primarily feels the keen cutting edge of the law. If they have respect for the work of the courts, their respect for law will survive the shortcomings of any other branch of the government; but if they lose their respect for the work of the courts, their respect for law and order will banish with it to the great detriment of society.”

**Meaning of Judicial Power**

**Judicial power defined.** Is the power to apply the laws, to contest or disputes concerning legally recognized rights and duties between the states and private persons or between individual litigants in cases properly brought before the judicial tribunals.

**ORGANIZATION OF COURTS:**

**REGULAR COURTS**

- Supreme Court (Act No. 136)
- Court of Appeals (BP 129)
- Regional Trial Court (BP 129)
- Municipal Trial Court (RA 7691)

**SPECIAL COURTS**

- Court of Tax Appeals (RA 1125)
- SandiganBayan (PD 1606)
- Family Courts ( RA 8369)
- Shari’a Court (PD 1083)

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The **Supreme Court** of the Philippines was officially established on June 11, 1901 through the passage of **Act No. 136**, otherwise known as the Judiciary Law of the Second Philippine Commission

- The Supreme Court of the Philippines (is the Philippines' highest judicial court and final court of appeal.
- **The Supreme Court is composed of the Chief Justice and 14 Associate Justices.**
- All justices are appointed by the **President** from a list of recommendees presented by the Judicial and Bar Council for a term until they reach the age of 70.

The **Court of Appeals** reviews the decisions and orders of the Regional Trial Courts and decisions of the Court of Tax Appeals. The Court of Appeals is composed (en banc) of the **Presiding Justice** and **69 Associate Justices**. The court sits in divisions composed of three members. The Court is located in Manila and has subdivisions in Cebu City and Cagayan de Oro City.

The **Sandiganbayan** is a specialized court which has jurisdiction over criminal and civil cases involving graft and corrupt practices and such other offenses committed by public officers and employees, including those in government-owned or controlled corporations, in relation to their office as may be determined by law. (Art. XIII), 1973 Constitution.

- The Sandiganbayan court sits in **5 divisions of three justices each**, located in Manila, Cebu City (Visayas region) and Cagayan de Oro City (Mindanao region)

The **Court of Tax Appeals** was created under **Republic Act No. 1125** and is a special court of limited jurisdiction. The court is composed of a **Presiding Justice and 8 Associate Justices**.

**Religious Appeal Court** - The **Shari'a District Courts** are equivalent in rank to the Regional Trial Courts and are established in certain specified provinces where the Code of Muslim Personal Laws of the Philippines is being enforced.

**Regional Trial Courts** are established in the thirteen regions in the Philippines (Regions I-XII and the National Capital Region (NCR). A Region can have more than one regional trial court.

Every municipality (**1,491**) in the Philippines has its own **Municipal Trial Court**.

When the court covers two or more municipalities it is called a **Municipal Circuit Trial Court**.

Municipal Trial Courts in the towns and cities (**143** cities) in the Metropolitan Manila area are called **Metropolitan Trial Courts**.

**Quasi-judicial agencies** are administrative bodies under the Executive Branch performing quasi-judicial functions, like the NATIONAL LABOR RELATIONS COMMISSIONS, the INSURANCE COMMISSION, do not form part of the integrated judicial system.

**Certiorari** – is a writ issued from a Superior Court requiring a Lower Court or a board or officer exercising judicial functions to transmit the records of a case to the superior court for the purpose of review.

**Prohibition** – a writ by which a superior court commands a lower court or a corporation, board or person acting without or in excess of its or his jurisdiction or with grave abuse of discretion, to desist from further proceedings in an action or matter.

**Mandamus** – an order issued by a superior court commanding a lower court or a corporation, board, or person to perform a certain act which it is its or his duty to do.

**Quo Warranto** – an action by the government to recover an office or franchise from an individual or corporation usurping or unlawfully holding it.

#### **Jurisdiction of Courts**

1. General – when it is empowered to decide all disputes which may come before it except those assigned to other courts.
2. Limited – when it has authority to hear and determine only a specified case (Special Court).
3. Original – when it can try and decide a case presented for the first time.
4. Appellate – when it can take a case already heard and decided by a lower court remove from the latter by appeal.
5. Exclusive – when it can try and decide a case which cannot be presented before any court.

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6. Concurrent – when anyone of two or more courts may take cognizance of a case.
7. Criminal – that which exists for the punishment of crime.
8. Civil – that which exists when the subject matter is not a criminal nature.

**Jurisdiction defined.** The word jurisdiction is derived from the Latin term “juris” and “deco” which means, “I speak the law”. It is the authority by which judicial officers take cognizance and decide cases.

**Criminal Jurisdiction defined.** Is the authority to take cognizance of a criminal offense and to impose the penalty prescribed by law after a proper trial.

**Venue defined.** Venue is a territorial unit where the power of the court is to be exercised; it is the geographical division in which an action is brought to trial of the place of a trial for a criminal action.

**Venue and Jurisdiction distinguished.** Jurisdiction is the authority, the power itself while, venue relates to territorial unit. Jurisdiction exists as a matter of law and cannot be conferred or changed by consent of the parties, while venue in a criminal case is jurisdictional.

**Criminal Procedure defined.** It is the method pointed out by law for the apprehension, trial or prosecution and fixing a punishment of the person who have violated or accused to have broken or violated the law, prescribed for the coagulation of the conduct of the people of the community and who have thereby laid themselves liable to fine or imprisonment or both. Criminal procedure provides and regulates the steps by which one who commits the crime is to be punished.

#### **Meaning of Power of Judicial Review**

The power of judicial review is the power of the courts, ultimately of the Supreme Court, to interpret the constitution and to declare any legislative or executive act invalid because it is in conflict with the fundamental law. This authority is derived by clear implication from the provisions of Sections 4&5, Article 8 of the new Constitution.

#### **THE COURT LITIGATION PROCESS**

**Pre-trial** – to expedite the trial, where the accused and counsel agree, the court shall conduct a pre-trial conference on the matters enumerated below, without impairing the rights of the accused.

Pre-trial conference considers the following:

- a. Plea bargaining
- b. Stipulation of facts
- c. Marking for identification of evidence of the parties
- d. Waiver of objections to admissibility of evidence and
- e. Such other matters as will promote a fair and expeditious trial

**Plea-bargaining** – the process whereby the accused and the prosecution of the criminal case work out a mutually satisfactory disposition of the case subject to court approval. It usually involves the defendants pleading guilty for the lesser offense.

**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, unless modified by the court to prevent manifest injustice.

**Pre-trial agreements must be signed** – no agreement or admission made or entered during the pre-trial conference shall be used in evidence against the accused unless reduced to writing and signed by him and his counsel.

**Admission** – it is a self-incriminatory statement by the subject falling short of an acknowledgment of guilt. It is an acknowledgment of facts or circumstances from which guilt maybe inferred.

**Confession** – is a declaration of an accused acknowledging his guilt of the offense charged, or any offense necessarily included therein, may be given in evidence against him.

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Confession or admission will only be admissible if the accused voluntarily executed it and not under duress, coercion, or psychological restraint.

**Judicial admission** – is an admission, verbal or written made by a party in the course of the proceedings in the same case, which does not require proof. The admission may be contradicted by showing that it was made through palpable mistake or that no such admission was made.

**Deposition** – is the testimony of a witness reduced into writing under oath or affirmation, before a person empowered to administer oaths in answer to interrogatory questions and cross-interrogation submitted by the deposition and the opposite party.

## **TRIAL**

The parties shall be notified of the date of trial at least two (2) days before such date.

### **How arraignment and plea is made?**

The accused must be arraigned before the court where the complaint or information has been or assigned for trial. The arraignment must be made in open court by the judge or clerk by furnishing the accused a copy of the complaint or information with the list of witnesses, reading the same in language or dialect known to him and asking him whether he pleads guilty or not guilty. The prosecution may, however, call at the trial witnesses other than those named in the complaint or information.

The accused must be present at the arraignment and must personally enter his plea. Both arraignment and plea shall be made of record, but a failure to enter or record shall not affect the validity of the proceedings. If the accused refuses to plead, or makes a conditional plea of guilty, a plea of guilty shall be entered for him.

## **ORDER OF THE TRIAL**

The trial shall proceed in the following order:

- a. The prosecution shall present evidence to prove the charge and in the proper case, the civil liability.
- b. The accused may present evidence to prove his defense and damages, if any, arising from the issuance of any provisional remedy in the case.
- c. The parties may then respectively present rebutting evidence only, unless the court in furtherance of justice permits them to present additional evidence bearing upon the main issue.
- d. Upon the admission of the evidence, the case shall be deemed submitted for decision unless the court directs the parties to argue orally or to submit memoranda.
- e. However, when the accused admits the act or omission charged in the complaint or information but interposes a lawful defense, the order of trial may be modified accordingly (such as self-defense, insanity, etc.)

### **Examination of Witness for the Prosecution**

Where it shall be satisfactorily appear that the witness for the prosecution is too sick to infirm to appear at the trial as directed by the order of the court, or has to leave the Philippines with no definite date of returning thereto, he may forthwith be conditionally examined before the judge of the court where the case is pending. Such examination in the presence of the accused or after reasonable notice to attend the examination has been served on him, will be conducted in the same manner as an examination at the trial. Failure or refusal on the part of the accused to attend the examination after notice herein before provided shall be considered a waiver. The statement thus taken may be admitted in behalf of or against the accused.

### **Examination of Defense Witness**

If the court is satisfied that the examination of witness for the accused is necessary, an order will be made directing that the witness be examined at a specified time and place, and that a copy of the order be served on the fiscal within a given time prior to that fixed for the examination. The examination will be taken before any judge or if not applicable, any member of the Bar in good standing so designated by the judge in the order, or, if the order be granted by a court of superior jurisdiction, before an inferior court to be designated in the order. The statement thus taken may be admitted in behalf of or against the accused.

### **Rights and Obligation of a Witness**



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A witness must answer questions, although his answer may tend to establish a claim against him. However, it is the right of a witness:

- a. to be protected against irrelevant, improper, or insulting questions and from a harsh or insulting demeanor.
- b. not to be detained longer than the interest of justice requires
- c. not to be examined except only as to matters pertinent to the issue
- d. not to give an answer which will tend to subject him to a penalty for an offense unless otherwise provided by law or
- e. not to give an answer which will tend to degrade his reputation, unless it be to the very fact at issue or to a fact from which the fact in issue would be presumed. But the witness must answer to the fact of his previous or final conviction for an offense.

**Order in the Examination of an Individual Witness**

1. **Direct-examination** – is the examination in chief of a witness by the party presenting him on the facts relevant to the issue.
2. **Cross-examination**: its purpose and extent- upon the termination of the direct examination, the witness may be cross-examined by the adverse party as to any matters stated in the direct examination, or connected therewith with sufficient fullness and freedom to test his accuracy and truthfulness and freedom from interest or bias, or the reverse and to elicit all important facts bearing upon the issue.
3. **Re-direct examination**: its purpose and extent – after the cross-examination of the witness has been concluded, he may be re-examined by the party, calling him, to explain or supplement his answer given during the cross-examination. On re-direct examination, questions on matters not dealt with during the cross-examination, may be allowed by the court in its discretion.
4. **Re-cross examination** – upon the conclusion of the re-direct examination, the adverse party may re-cross examine the witness on matters stated in his re-direct examination, and also on such other matters as may be allowed by the court in its discretion.

**Judgment** – the term judgment as used in the rule means the adjudication by the court that the accused is guilty or is not guilty of the offense charge and the imposition of the proper penalty and civil liability provided for by law on the accused.

**Forms and Contents of Judgment**

The judgment 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 proved or admitted by the accused and the law upon which the judgment is based.

If it is of conviction, the judgment shall state: (a) the legal qualification of the offense constituted by the acts committed by the accused and the aggravating or mitigating circumstances attending the commission thereof, if there are any; (b) the participation of the accused in the commission of the offense, whether as principal, accomplice, or accessory; (c) the penalty imposed upon the accused; (d) the civil liability or damages caused by the wrongful act to be recovered from the accused by the offended party, if there is any, unless the enforcement of the civil liability by a separate action has been reserved or waived.

In case of acquittal, unless there is a clear showing that the act from which the civil liability might arise did not exist, the judgment shall make a finding on the civil liability of the accused in favor of the offended party.

**Decision** – is the judgment rendered by a court of justice or competent tribunal after presentation of the respective positions of the parties in an ordinary or criminal case or upon a stipulation of the facts upon which the disposition of the case is based.

**Conviction** – is the judgment of a court based on the verdict of a judicial officer or judge, that the accused is guilty of the offense in which he/she was charged.

**Sentence** – is the penalty imposed by the court upon a person convicted of a crime.

**Acquittal** – is the judgment of a court based on the verdict or decision of the judge, that the defendant is not guilty of the charge against him.

**Punishment** – it is the redress that the state takes against an offender where it signifies pain, suffering or curtailment of its freedom.

**Penalty** – is the suffering that is inflicted by the state for the transgression of law.

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**Indeterminate Sentence** – is a type of sentence to imprisonment where the commitment is not specified to a fixed period.

**Maximum Periods for Rendition of Court Decision:**

1. Supreme Court – within twenty four (24) months.
2. The Court of Appeals and other collegiate appellate courts – within twelve (12) months.
3. Lower Courts – within three (3) months unless reduced by the Supreme Court.

**Goals of Sentencing:**

1. **Retribution** – is the act of taking revenge upon a criminal perpetrator.
2. **Incapacitation** – is the use of imprisonment or other means to reduce the likelihood that an offender will be capable of committing future offenses.
3. **Deterrence** – is a means, which seeks to prevent others from committing crimes or repeating criminality.
4. **Rehabilitation** – is the attempt to reform a criminal offender, the state in which a reformed offender is said to be rehabilitated.
5. **Restoration** – a goal of which attempts to make the victim whole again.

**The Concept of Penalty**

Penalty in its general sense signifies pain, in the juridical sphere; it means suffering undergone, because of the action of society to one who commits a crime.

The very purpose or reason why society has to punish a criminal is to secure justice. The society or state has to protect its existence, assert what is right for the people based on moral principles, which must be vindicated. The giving of punishment, which is exercised by society, is the fulfillment of service and satisfaction of a duty to the people it protects.

**Social Justification of Penalty**

1. **Prevention** – the state must punish the criminal to prevent or suppress the danger to the state arising from the criminal acts of the offender.
2. **Self-defense** – the state has a right to punish the criminal as a measure of self-defense so as to protect society from the threat and wrong inflicted by the criminal.
3. **Reformation** – the object of punishment in criminal cases is to correct and reform the offender.
4. **Exemplarity** – the criminal is punished by the state as an act to deter others from committing crimes.
5. **Justice** – that crime must be punished by the state as an act of retributive justice, a vindication of absolute right and moral violated by the criminal.

**Purpose of Penalty**

1. **Retribution or Expiation** – the penalty is commensurate with the gravity for the offense as a matter of payment for the damage done.
2. **Correction or Reformation** – as shown by the rules which regulates the execution of the penalties consisting in deprivation of liberty thereby giving chance for his reformation.
3. **Social Defense** – as shown by its inflexible severity to recidivist and habitual delinquents. Society must provide the welfare of the people against any disorder in the community.

**Juridical Conditions of Penalty**

1. The penalty must be productive of suffering without affecting the integrity of the human personality.
2. The penalty must be commensurate with the offense, that different crimes must be punished with different penalties.
3. The penalty must be personal in that no one should be punished for the crime of another.
4. The penalty must be legal, that it is the consequence of a judgment according to law.
5. The penalty must be certain, that no one escape its effects.
6. The penalty must be equal for all.
7. The penalty must be correctional.

**Constitutional Restriction on Penalties**

The Philippine Constitution directs that excessive fines shall not be imposed, nor cruel and unusual penalties when it is so disproportionate to the offense committed as to shock the moral sense of all reasonable men as to what is right and proper under the circumstances.

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**Classification of Penalties:**

1. Capital or Corporal Punishment – death through lethal injection
2. Afflictive Penalties – deprivation of freedom
  - a. Reclusion Perpetua – 20 years and 1 day to 40 years of imprisonment.
  - b. Reclusion Temporal – 12 years and 1 day to 20 years of imprisonment
  - c. Prison Mayor and Temporary Disqualification – 6 years and 1 day to 12 years.  
Except when the disqualification is accessory penalty, in which case its duration is that of the principal penalty.
3. Correctional Penalties – deprivation of freedom or restriction of freedom
  - a. Prison Correctional – 6 months and 1 day to 6 years
  - b. Arresto Mayor
  - c. Destierro
4. Light Penalties
  - a. Arresto Menor – 1 day to 30 days of imprisonment
  - b. Public censure

**Preventive Imprisonment** – the accused undergoes preventive imprisonment when the offense charge is non-bailable, or even if bailable he cannot furnish the require bail.

**Subsidiary Penalty** – it is subsidiary personal liability to be suffered by the convict who has no property with which to meet the fine, at the rate of one (1) day for eight pesos, for its imprisonment. This is only applicable when the penalty imposes a fine and not to damages or civil liabilities imposed upon the convicted felon.

**Extinction of Criminal Liability**

The criminal liability of the person is extinguished in two instances; the partial and total extinction of the criminal liability of the convicted felon.

**Total Extinction of Criminal Liability**

1. **By the death of the convict** – as to the personal penalties; and as to pecuniary penalties, liability therefore is extinguished only when the death of the offender occurs before final judgment.

If the offender died before final judgment, its pecuniary penalties or civil liabilities are extinguished. But, if the convict died after final judgment the pecuniary penalties or civil liabilities are not extinguished. If the offended party died, it does not extinguish the civil and criminal liability of the offender, because the offense is committed against the state.

2. **By service of sentence**

Crime is a debt incurred by the offender as a consequence of his wrongful act and the penalty is the amount of his debt. When the payment is made, the debt is extinguished. After the convict has served its sentence, its criminal liability is extinguished but does not include the civil liability.

3. **By amnesty**, this completely extinguishes the penalty and all its effects.

**Amnesty** defined. It is an act of the sovereign power granting oblivion or a general pardon for a past offense. Is rarely, if ever, exercised in favor of a single individual and is usually exerted in behalf of certain classes of persons; who are subject to trial but have yet been convicted. However, amnesty maybe granted after conviction. All its civil liabilities are being extinguished also.

4. **By absolute pardon**

**Absolute pardon** defined. It is an act of grace proceeding from the power entrusted with the execution of the laws, which exempts the individual on whom it is bestowed form the punishment, the law inflicts for the crime he has committed.

Pardon will only extinguished the punishment of crime upon acceptance of the grantee. Once pardon is accepted by the grantee the pardon already delivered cannot be revoked by the authority, which granted pardon.

**Purpose of Pardon**

1. To do away with the miscarriage of justice.
2. To keep abreast with the current philosophy, concept or practice of criminal justice administration.
3. To restore full political and civil rights of persons who have already served their sentence and have waited the prescribed period.

Limitations of pardoning power

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1. it cannot be extended to cases of impeachment.
2. it cannot be granted to violation of election law without approval of COMELEC.
3. it is only exercised after conviction.

**Amnesty and Pardon distinguished**

- a. Pardon includes any crime and is exercise individually by the President; while, amnesty is a blanket pardon to classes of persons or communities who may be guilty of political offense.
- b. Pardon is exercised when the person is already convicted; while, amnesty maybe exercise even before trial or investigation.
- c. Pardon looks forward and relieves the offender from the consequences of an offense of which he has been convicted, it abolishes or forgives the punishment, and for that reason it does not work for the restoration of his rights to hold public office or the right of suffrage, unless such rights be expressed, restored by the term of the pardon. On the other hand, amnesty looks backward and abolishes and put into oblivion the offense itself, it over looks and obliterates the offense with which he is charged that the person released by amnesty stands before the law precisely as though he has committed no offense.

Pardon does not alter the fact that the accused is a recidivist because it produces the extinction only of the personal effects of the penalty.

Amnesty makes an ex-convict no longer a recidivist because it obliterates the last vestige of the crime.

- d. Pardon being private act of the President, must be pleaded and proved by the person being pardoned; while, amnesty being a proclamation of the Chief Executive with the concurrence of Congress, is a public act of which should take judicial notice.

**5. By prescription of the crime**

Prescription of the crime defined. It is the forfeiture or loss of the right of the state to prosecute the offender after the lapse of a certain time.

**6. By prescription of penalty**

Prescription of penalty defined. It is the loss or forfeiture of the right of the government to execute the final sentence after the lapse of a certain time.

**Conditions necessary in Prescription of Penalty:**

1. That there must be final judgment.
2. That the period of time prescribed by law for its enforcement has lapsed.

Prescription whether by penalty or crime, the state or the people loses the right to prosecute the crime or to demand of the sentence of the penalty imposed.

**Period of Prescription of Crimes**

1. Crimes punishable by death, reclusion perpetua or reclusion temporal – 20 years
2. Crimes punishable by other afflictive penalties – 15 years
3. Crimes punishable by correctional penalty – 10 years
4. Crimes punishable by arresto mayor – 5 years
5. Crimes of libel or other similar offenses – 1 year
6. Offenses of oral defamation and slander by deed – 6 months
7. Light offenses – 2 months

**Period of Prescription of Crimes under Special Laws or Ordinances**

1. Offenses punished only by a fine or by imprisonment for not more than one (1) month, or both – after 1 year
2. Offenses punished by imprisonment for more than one (1) month, but less than two (2) years – after 4 years
3. Offenses punished by imprisonment for six (6) years or more – after 12 years
4. Offenses punished by imprisonment for two (2) years or more – after 8 years
5. Offenses under Internal Revenue Law – after 5 years
6. Violations of Municipal Ordinances – after two (2) months
7. Violations of the regulations and conditions of certificate of convenience by the Public Service Commission – after two (2) months

The computation of prescription of offenses or crime shall start to count from the day of which offense or crime is being discovered by the offended party, authorities or their agents. It is interrupted by filing of complaint or information. It would commence to run again when such

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proceedings terminate without the accused being convicted or acquitted or are unjustifiably stopped for any reason not imputable to him. The term of prescription shall not run when the offender is absent from the Philippines.

**Period of Prescription of Penalties**

1. Crimes sentence to death and reclusion perpetua – 20 years
2. Afflictive penalties – 15 years
3. Correctional penalties – 12 years
4. Arresto mayor – 5 years
5. Light penalties – 1 year

The period of prescription of sentence commence when the sentence imposed is already final. If a convict appealed and thereafter fled, the penalty imposed upon him would never prescribed, because pending the appeal the sentence is not yet final. The period of prescription of penalties commence to run from the date when the culprit evaded the service of sentence. It will only be interrupted if the culprit:

1. gives himself up
2. be captured
3. goes to a foreign country with which we have no extradition treaty
4. commits another crime before the expiration of the period of prescription.

**6. By marriage of the offender woman**

Marriage of the offender with the offended woman after the commission of any of the crimes of rape, seduction, abduction, or acts of lasciviousness must be contracted by the offender in good faith. The marriage contracted only to avoid criminal liability is devoid or has no legal effects and that the criminal liability of the offender is not extinguish.

**IV. CORRECTIONS PILLAR:**

This pillar undertakes the reformation of offenders. The rehabilitation of offenders is aimed towards their eventual assimilation into society. The key government agencies responsible for institutional correction are the following: The **Bureau of Corrections**. Charged with the custody as well as with the rehabilitation of national offenders, that is, those sentenced to serve a term of imprisonment of more than three (3) years.

**Provincial Jails** All provincial jails in the country are placed under the respective provincial governments pursuant to the provision of Section 61 of Republic Act no. 6975 which states: "The **provincial jails** shall be supervised and controlled by the provincial government within its jurisdiction."

**Municipal Jails/City Jails** **Municipal Jails and City Jails**, on the other hand, are administered by the Bureau of Jail Management and Penology (BJMP) created also under RA No. 6975. BJMP is placed under the Department of the Interior and Local Government. BJMP is mandated to establish jails in every district, city, and municipality and to maintain secured, clean, adequately equipped, and sanitary jails for the custody and safekeeping not only of city prisoners and municipal prisoners but also of: fugitives from justice, detainees, and violent/mentally ill persons (Section 63, RA No. 6975).

**CORRECTIONAL AGENCIES**

- **BUCOR** – Bureau of Corrections
- **PPA** – Parole and Probation Administration
- **BPP** – Board of Pardons and Parole
- **BJMP** – Bureau of Jail Management and Penology
- **PRC** – Provincial Rehabilitation Center
- **RYRC** – Regional Youth Rehabilitation Center

**SEVEN CORRECTIONAL FACILITIES:**

1. **BILIBID PRISON** – 1847 Admin Code of 1917
2. **SAN RAMON PRISON**- Aug. 21, 1869/ Zamboanga by Capt. Ramon Blanco for political offenders
3. **IWAHIG PENAL COLONY** – Nov. 16, 1904/ Palawan by Gov. Forbes intended for incorrigible prisoners but on Nov. 1, 1905 it changed its concept. (Inagawan, Santa Lucia, Montible and Central Sub-colonies)
4. **CIW** – Nov. 27, 1929/ Mandaluyong through Act 3579 under the Directorship of Ramon Victorio. The Old name was "**WOMEN'S PRISON**".

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5. **DAVAO PENAL COLONY** – Jan. 21, 1932 through Act No. 3732 by Lt. General Paulino Santos. It was used as concentration camp for American Prisoners' of War.
6. **Sablayan Penal Colony and Penal Farm** – September 26, 1954, through Proclamation Number 72 located at Sablayan, Occidental Mindoro, under the Directorship of Atty. Alfredo M. Bunye.
7. **Leyte Regional Prison** – January 16, 1973 through Proclamation No. 1101 under the Directorship of Gen. Vicente R. Rabal.

**V. COMMUNITY PILLAR:**

After convicts have passed through the Correction Component - either unconditionally (as by full service of the term of imprisonment imposed on them), or by parole, or by pardon - they revert to the COMMUNITY and either lead normal lives as law-abiding citizen in their barangays or regrettably commit other crimes and thus go back through the same stages of the Criminal Justice System.

The community at large - through the appropriate legislative agencies, public and private educational institutions, parents and guardians, churches, religious organizations, civic associations, etc. - develops and exacts conformity with acceptable moral and ethical values, creates the environment for the development of civic-spirited citizens, and fosters respect for and observance of the Rule of Law.

**COMMUNITY PILLAR HAS A TWO-FOLD ROLE:**

- ▶ **First**, it has the responsibility to participate in law enforcement activities by being partners of the peace officers in reporting the crime incident and helping the arrest of the offenders.
- ▶ **Second**, it has the responsibility to participate in the promotion of peace and order through crime prevention or deterrence and in the rehabilitation of convicts and their reintegration to society.
- ▶ **Rehabilitation** – takes place when the convict is serving his sentence.
- ▶ Thus, citizen-based crime prevention groups become part of the CJS within the framework of their involvement in crime prevention activities and in the reintegration of the convict who shall released from the corrections pillar into the mainstream of society.

**The Mobilized Community is composed of:**

- ▶ **DSWD** – Department of Social Welfare and Development
- ▶ **NEDA** – National Economic Development Authority
- ▶ **DILG** – Department of the Interior and Local Government
- ▶ **PIA** – Philippine Information Agency
- ▶ **DDB** – Dangerous Drugs Board
- ▶ And other governmental agency
- ▶ **NON- GOVERNMENT ORGANIZATIONS (NGO's)** and other private institutions.
- ▶ **People's Organizations**

**IMPORTANCE OF COORDINATION**

Among the Five Pillars it should now be evident that the Philippine Criminal Justice System is not just the agencies charged with law enforcement; not just the prosecution arm of the government; nor just the courts; nor just the correctional system, nor just the community. The Criminal Justice System is all of these "pillars" considered collectively. So also, it should now be obvious that, for an efficacious Criminal Justice System to work speedily, it is essential for all these five (5) pillars to work with dispatch and in full coordination with each other. Any perceived failure of the CJS in a particular given case due to some deficiency in one pillar cannot be blamed upon any of the other pillars.

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