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The Defendant and the Criminal Trial : Does Providing Knowledge About the Criminal Justice System Help?

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Running Head: A COURT KNOWLEDGE INTERVENTION

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**The Defendant and the Criminal Trial: Does Providing Knowledge About
the Criminal Justice System Help?**

By

Daniel B. Hurley

a thesis submitted as partial fulfillment for the Degree of Bachelor of Arts
(psychology) Honours at Edith Cowan University Faculty of Community
Services, Education and Social Sciences

28th October 1999

Abstract

Defendants are required to make many decisions during their encounter with the criminal justice system (i.e., plea, venue, representation, bail and, possibly, appeal). The assumption exists that defendants possess sufficient organizational and pragmatic knowledge of the system to make these decisions. However, research suggests that many defendants lack sufficient knowledge of the criminal justice system to make these decisions, and that this lack of knowledge may lead to feelings of anxiety. As a consequence of these findings, many defendants may be unable to effectively participate in the criminal justice system. By way of remedying this situation, it has been argued that the provision of court-related information may increase defendants' knowledge of the criminal justice system, decrease their feelings of anxiety and, therefore, increase their confidence to understand and participate in the criminal justice system. The present study was designed to evaluate this argument, and consisted of three hypotheses: that the provision of court-related information would (a) increase defendants knowledge of the criminal justice system, (b) decrease defendants anxiety concerning their court appearances, and (c) increase defendants confidence to understand and participate in their court appearances. Forty non-convicted, remanded in custody participants were assigned to one of two conditions: experimental and control. The experimental intervention comprised a 40-minute court-related educational session, whilst the control intervention comprised a 40-minute health-related educational session. Pre-test and post-test measures of Knowledge, Anxiety, and Confidence determined the effect of the experimental intervention. Data was analyzed using three analysis of covariance (ANCOVA). The pattern of results found support for the Knowledge and Confidence hypotheses, however, the

Anxiety hypothesis was not fully supported. The implications of these results and directions for future research are discussed.

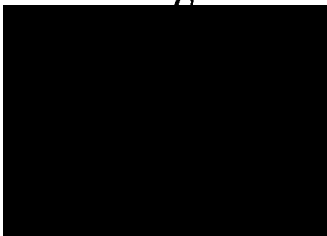
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27.11.00

Daniel Hurley

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Table of Contents

Title Page	ii
Abstract	iii
Declaration	v
Acknowledgments	vi
List of Tables	ix
Introduction	1
<i>The Defendant and the Criminal Justice System</i>	2
The impact of legal representation.	13
<i>The Lay Person and Other Specialised Systems</i>	16
<i>Intervention Programs</i>	18
Child witnesses.	19
Medical patients.	21
Prisoner populations.	23
<i>The Present Study</i>	25
Method	28
<i>Research Design</i>	28
<i>Participants</i>	28
<i>Materials</i>	30
Intervention Packages	30
Measures	31
<i>Pilot Study</i>	33
Analysis of pilot study	35
<i>Main study</i>	36
Procedure	36
Results	41
<i>Data Screening</i>	41
<i>Demographics</i>	42
<i>Preliminary Analyses</i>	43

<i>Main Analyses</i>	46
Court Knowledge Intervention and Knowledge of Court	48
Court Knowledge Intervention and Confidence	48
Court Knowledge Intervention and Anxiety	49
<i>Further Analyses</i>	50
Court Knowledge Intervention and Confidence (Ability to Participate)	51
Court Knowledge Intervention and Confidence (Ability to Understand)	51
Discussion	53
<i>Hypotheses</i>	54
Knowledge	54
Confidence	56
Anxiety	58
<i>Interpretation of the Hypotheses</i>	59
<i>Implications and limitations of the present study</i>	64
<i>Future Research</i>	67
<i>Conclusion</i>	69
References	71
Appendix A: Overheads	77
Appendix B: Teaching Manual	96
Appendix C: Defendant Workbook	113
Appendix D: Test Booklet	122
Appendix E: Information Sheet/Consent Form	131

- **List of Tables**

Table 1 Demographic Characteristics of Defendants	42
Table 2 Mean Pre-test-Post-test Scores for Knowledge, Confidence, and Anxiety	47
Table 3 Mean Pre-test and Post-test Scores for Confidence (understand) and Confidence (participate)	50

The Defendant and The Criminal Trial: Does Providing Knowledge About The Criminal Justice System Help?

Introduction

Australia has an adversarial system of justice based on the traditional principles of English common law (Disney, Redmond, Basten, & Ross, 1986). An assumption of the adversarial system of justice is both defence and prosecution stand as equals before the law and the decisions made by both parties will be rational and based upon an understanding of all the implications of their respective decisions (Bottoms & McClean, 1976; Carlen, 1976; McBarnet, 1981).

For each participant (e.g., magistrates or judges, police, lawyers, defendants, witnesses, etc) the level of familiarity with and involvement in the criminal justice system depends upon the role that each participant plays within the system (Bottoms & McClean, 1976; Carlen, 1976; Casper, 1978; Ericson & Baranek, 1982; McBarnet, 1981). When considering all the participants involved in the criminal justice system, it is only the defendant who may experience the process from beginning to end (Bottoms & McClean, 1976; Ericson & Baranek, 1982). From arrest, through to acquittal or sentencing, the defendant is usually the only person who is present at each decision-making point of the criminal justice system (Bottoms & McClean, 1976). At each point, the defendant is expected to make a decision regarding his or her case. There appears to be an assumption in the criminal justice system that the defendant possesses sufficient

organisational and pragmatic knowledge about the system to make accurate decisions and, consequently, to be able to effectively participate in his or her criminal trial (Ericson & Baranek, 1982).

In order to maintain the dignity necessary for the administration of criminal justice all defendants must be able to make basic legal decisions (Ausness, 1978; Bonnie, 1992, 1993). It is suggested that if defendants are unable to participate in the criminal justice system then the integrity of the system is questioned, as there is little accuracy, fairness or dignity involved in the trial of an individual who is unable to defend their own interests (Ausness, 1978).

However, little empirical investigation has been undertaken with defendants who are deemed competent. Only limited information exists regarding what defendants know and understand about the system and how this knowledge and understanding impacts on their ability to participate.

The Defendant and the Criminal Justice System

The limited research on defendants in the criminal justice system does not support the assumption that defendants make rational and informed decisions (Bottoms & McClean, 1976; Carlen, 1976; Ericson & Baranek, 1982; McBarnet, 1982). Indeed, there is a consensus in the literature that, due to a lack of knowledge regarding legal terminology and procedure, defendants are ill-prepared to participate in a criminal trial (Bottoms & McClean, 1976; Carlen, 1976; Ericson & Baranek, 1982; Kraszlan & Thomson, 1997, 1998; McBarnet, 1981). Furthermore, as the criminal justice process may be the most serious and

- stressful interaction that will occur in the defendant's life, a lack of understanding is likely to arouse profound anxiety in the defendant (Bottoms & McClean, 1976; Casper, 1978; Ericson & Baranek, 1982; Kraszlan & Thomson, 1998; St John-Kennedy & Tait, 1999). A serious implication of this lack of knowledge and its related anxiety, is that the defendant's ability to understand and effectively participate in his or her trial may be impaired (Bottoms & McClean, 1976; Carlen, 1976; Ericson & Baranek, 1982).

Research conducted in England (Bottoms & McClean, 1976; Carlen, 1978), Scotland (McBarnet, 1981), the United States (Casper, 1978), and Canada (Ericson & Baranek, 1982) suggests that, for many defendants, including those with previous criminal trial experience, the complexity of the criminal justice system not only bewilders and alienates the defendant from the process, inducing a state of high anxiety, but also reduces their ability to participate in the process. The defendant becomes powerless to exert any control over his or her environment and, consequently, may be seen as a dependent rather than a defendant in the criminal justice process (Carlen, 1976; Ericson & Baranek, 1982; McBarnet, 1981).

Carlen (1976) observed English Magistrates' courts and argues that the organisation of the court is problematic for the unrepresented defendant. She sees the court as an absurd play and the defendant as the actor without a script. It is this lack of a script, which diminishes the defendant's ability to effectively participate in the court process. Carlen argues that full-time courtroom personnel determine the layout of the courtroom, the timing of events, and the language of the law. What is routine and familiar to these courtroom personnel mystifies and

excludes the defendant to such an extent that the defendant's role becomes one of a passive observer, alienated from his or her surroundings and at the mercy of court procedures rather than the evidence (Carlen, 1976).

McBarnet's (1981) observational research on contested trials in Scottish Magistrates' courts focused on unrepresented defendants. Arguing from a similar standpoint as Carlen (1976), McBarnet suggests the lack of understanding in legal procedures prohibits defendants from presenting their case. Indeed, due to the unrepresented defendant's lack of knowledge regarding the formal and informal rules of the court, the archaic language of the law, the perceived familiarity amongst the courtroom personnel, and the skills required to mount a defence, the defendant cannot, even at a minimum, participate in his or her trial. Thus, the 'procedural pedantics' of Magistrates' courts hinders the defendant from challenging the court and obstructs the defendant from effectively participating in his or her trial (McBarnet, 1981).

Both Carlen (1976) and McBarnett (1981) suggest that the unrepresented defendant becomes less concerned with the issue of guilt or innocence and more concerned with the process of the system. Due to their exclusion from the process, unrepresented defendants are unable to mount a defence and the issue of their guilt or innocence becomes submerged in the need to follow court procedures. Consequently, defendants are not standing as an equal with the prosecution before the law as is assumed within the adversarial system of justice.

Bottoms and McClean (1976) investigated the decisions made by legally represented English defendants at certain key stages in the criminal justice process: (a) Plea; (b) Venue; (c) Representation; (d) Bail; and (e) Appeal.

Disney, Redmond, Basten, and Ross (1986) offer support to the investigation of these decisions as they suggest that these decisions form the ‘objectives of representation’, which are those key decisions that all defendants must make and cannot defer to their lawyers (Disney et al, 1986; Ashworth, 1994; Bonnie, 1991, 1992, 1993). Bottoms and McClean’s (1976) sample comprised 100 legally represented adult male defendants. The alleged offences of the sample were indictable (heard in the higher courts) plus non-indictable (heard in the lower courts) offences. The study utilised post-disposition semi-structured interviews (i.e., one to two weeks after either acquittal or sentencing). This methodology has significant flaws, as it relied on retrospective self-report data, interviewer interpretation of responses and, importantly, the final verdict may have influenced defendant responses.

A significant finding advanced from Bottoms and McClean’s (1976) research was the sense of confusion and exclusion that defendants experienced in the criminal justice process. They found that these feelings of uncertainty and alienation were not confined to first-time or less educated defendants; all defendants in the sample, regardless of charge, previous criminal history, or verdict, indicated that they felt alienated from the criminal justice system. A typical response amongst defendants interviewed regarding which jurisdiction they wished to have their case heard in was, “I found this very confusing ... I didn’t really choose ... I just said ‘tried here’ to get it done there and then” (Bottoms & McClean, 1976, p. 84). Bottoms and McClean suggest that many defendants in the criminal justice process are typically uninformed outsiders, with little knowledge or control over the procedures they are involved in and, furthermore, the criminal justice system or the full-time members of the system

do little to moderate this position. Moreover, the researchers argue that the criminal justice system is at fault in failing not only to inform defendants of their rights but also in failing to provide information to defendants about the courts and its procedures.

Further to this, Bottoms and McClean (1976) argue that the provision of court-related information would enable defendants to better understand and participate in the criminal trial process. This need for court-related information has also been supported by St John and Tait (1999) who observe that a fundamental requirement for a fair and just criminal justice system is the provision of information to those members of the public who are unfamiliar with its workings. St John and Tait, in observing Western Australian courts, found that the situation and the requirements of a criminal trial were difficult for the layperson to understand. Although the research conducted by St John and Tait lacked methodological rigor – it involved non-random surveys of individuals coming into contact with the courts – it is interesting that they found results consistent with that obtained over 20 years ago in a different jurisdiction (i.e., Bottoms & McClean, 1976).

Ericson and Baranek (1982) also highlight the negative consequences many defendants may experience by not being a full-time organisational or professional member of the criminal justice system. Ericson and Baranek argue that, as lay-participants, many defendants (including those with previous criminal trial experience) lack the pragmatic and organisational knowledge as well as the skills required to engage in the criminal justice process. Therefore, many defendants may be placed in a position where their ability to make decisions are

narrowed, if not foreclosed.

Employing a semi-structured interviewing methodology, Ericson and Baranek (1981) interviewed 101 legally represented Canadian defendants about their experience with the criminal justice system. The researchers interviewed each defendant twice; at the defendant's first court appearance and again at final disposition. As with the methodology employed by Bottoms and McClean's (1976) study, Ericson and Baranek's study had similar methodological flaws, such as the study's reliance on defendants self-report data and interviewer interpretation of responses.

Of the 101 defendants interviewed in Ericson and Baranek's (1982) study, 60 had direct previous criminal trial experience, 13 had watched a court proceeding, and 25 had no prior experience in the criminal justice system. The researchers observed that a number of defendants claimed to have little understanding of the terminology or procedures employed in the criminal trial process. Thirty two defendants felt that they did not fully understand their court proceedings (20 did not understand the legal terminology, six did not know who the court personnel were, four did not understand any part of the proceedings, and two could not remember their trial at all). Interestingly, of these 32 defendants, 16 had previous criminal trial experience and five had watched a criminal trial. Ericson and Baranek found that of the seventy defendants who stated that they understood the criminal justice system, it was apparent that their responses to the interview questions did not demonstrate an understanding. These defendants indicated that they were unaware of the nature of the charges against them, they were unaware of the defences available to these charges, and they

were unaware of the ramifications of their sentences. It was also apparent that defendants did not apply rational decision-making strategies, specifically in the decision regarding choice of venue. Defendants appeared unaware of the differences between courts and the possibility of harsher penalties applying in the higher courts. What became clear was that those defendants who professed to an understanding of the criminal justice system were unaware of their lack of knowledge.

As a result of these findings, Ericson and Baranek (1982) argue that the defendant's lack of knowledge concerning the criminal justice system and its associated anxiety results in the defendant making decisions based not on the evidence but on strategies designed to reduce the interactions they have with the system, or on a flawed understanding. Bottoms and McClean's (1976) study, discussed previously, and Hedderman and Moxom (1990) offer support for this view. Hedderman and Moxom's study on legally represented English defendants found that the decision to move to a higher court was predicated on the defendant's belief that the chances of acquittal were greater in a higher court. This belief was based less on the outcomes of trials and more on the belief in the non-impartiality of magistrates. However, Hedderman and Moxom's investigation found that there was not a greater chance of acquittal in the higher courts. The defendant's decision to move to a higher court resulted in no greater chance of acquittal and in conjunction the definite possibility of a harsher penalty. Therefore, it could be hypothesized that if defendants had a greater knowledge of acquittal rates and sentencing outcomes they may have made different decisions. As this study has not been replicated in other countries, it is difficult to conclude whether similar defendant decisions on jurisdictional

matters are being made in Australia or in other adversarial hierarchical legal systems.

Although not directly investigating the court related knowledge mentioned in the previous studies but consistent with their findings, the Criminal Justice Commission (1996) surveyed 489 Queensland defendants concerning their perception and knowledge of the police investigation and arrest process. Findings suggest that almost 50% of defendants were not only confused regarding the arrest procedure and but also had no knowledge of their legal rights, obligations, and status as arrestees. A similar study by Phillips and Brown (1998) on police arrest procedures in England and Wales support these findings. They found similar results regarding defendant knowledge of the arrest process and their legal rights. Interestingly, Phillips and Brown's study was conducted post the Police and Criminal Evidence Act, 1984 (PACE), which enshrined the right to legal representation at the point of arrest. Phillips and Brown found that even post PACE defendants were unaware of their rights. McConville, Hodgson, Bridges, and Pavlovic (1994) support this finding, stating that many defendants are unaware of their legal rights at the point of arrest. Furthermore, many defendants are unable to ask lawyers the right questions and, in conjunction with this, many lawyers are unaware of how little defendants know or understand about the legal process, and as a consequence do little to inform defendants (McConville et al., 1994).

In recent research, Kraszlan and Thomson (1998) interviewed 40 Western Australian defendants about their experience in the criminal justice system. Responses indicated that defendants were not only aware that they did not

understand what was occurring in the criminal justice system, but that they did not know how to access information that could inform them. Defendants also indicated that they wanted knowledge that was directly relevant to their interaction with the criminal justice system, such as information about the court and sentencing.

Kraszlan and Thomson (1998) found that when asked about their most stressful (anxiety provoking) experience in the criminal justice process, 47.5% of defendants answered 'going to court', while 20% answered 'waiting for trial'. Furthermore, 57% of the interview sample indicated that this stress affected their decision-making when participating in the criminal justice process. Of the 57%, 26% indicated that their stress 'did not allow them to think straight', 26% felt stress 'made them make decisions that would get the trial over with', 22% stated that stress 'made them make decisions quickly', and 13% felt stress 'allowed someone else to make the decision'. This is similar to the findings of Bottoms and McClean (1976) (England) and Casper (1978) (United States) who observed that the defendant is placed in a position where his or her anxiety dominates their decision making processes, rather than the forensically relevant aspects of the case.

An English study by Hicks and Nixon (1991) on allegations of child sex abuse found that persons, later determined to be falsely accused, reported significant stress levels and displayed numerous indications of somatic complaints. These included sleeplessness, increases or decreases in appetite, migraines and other disorders. The accused persons indicated that it was not simply the allegation of sexual abuse that caused them stress but also their

inability to understand the criminal justice system and, thus, defend themselves against the accusations. It is difficult to generalize this study to the wider defendant population as all participants were not guilty of the charges and in the majority of cases the charges were dropped shortly before the trial date. However, it is one of the few studies where measures of the defendant's level of anxiety were employed, thus providing a better understanding of how stressful and anxiety-provoking criminal charges and involvement in the criminal justice system can be on an individual.

Some authors have argued that a guilty plea when the defendant is not guilty may be a strategy designed to better deal with the system. Zander (1993) states that, "it is not unreasonable to assume that the more experienced a defendant, the more likely a guilty plea will be either genuine or at worst a sophisticated playing of the system to get the best advantage of the sentence discount" (p. 85). The suggestion that there is a 'sophisticated playing of the system' appears to be based on the assumption that defendants, especially experienced defendants, have a thorough understanding of the criminal justice system. As previously mentioned, Bottoms and McClean (1976) and Ericson and Baranek (1982) did not find any differences in understanding between experienced and inexperienced defendants. Thus, while the experienced defendant's behaviour in court may give the outward appearance of expertise, closer investigation may reveal that the defendant lacks an understanding of the proceedings and is only knowledgeable about some of the court process (e.g., being aware of the correct language and formalities of a criminal trial). Additionally, Casper's (1978) study on United States defendants found that those defendants with previous experience in the criminal justice system did not

exhibit less anxiety regarding the judicial process than those defendants with little or no previous experience.

As well as level of experience in the criminal justice system, McBarnet (1981) suggests that the level of court (i.e., lower or higher) and the level of offence (i.e., non-serious or serious) does not influence the defendant's level of anxiety concerning the judicial process. Despite charges heard in the lower courts being seen as less serious than charges heard in the higher courts, McBarnet argues that the formality and legal structures of both types of court are indistinguishable. Consequently the level of knowledge required by defendants to participate is equal and, accordingly, a lack of knowledge may have similar consequences for the defendant: increased anxiety. This is contradictory to the Australian decision articulated in Dietrich v The Queen (1992), whereby Deane J stated that there was no need for legal representation in cases that were not complex (by default those cases where there was no jury involved) as defendants are able to defend their own interests in these matters. As indicated by McBarnet, this judgment may be based on a faulty assumption, as those defendants whose cases are heard in lower courts are still required to understand the process and it is apparent that they do not.

Similar to the results found regarding the impact of level of court, research suggests no difference in levels of pre-trial anxiety between defendants who plead guilty and defendants who plead not guilty (Bonnie, 1993; Bottoms & McClean, 1976; Casper, 1978; Ericson & Baranek, 1982). Indeed, Bonnie (1993) suggests that the level of knowledge required for a defendant to plead guilty is greater than that required to plead not guilty as, in Boykin v. Alabama (1969),

the United States Supreme Court stated that a guilty plea should only be accepted if it is made knowingly and voluntarily. The decision concerning plea, therefore, is determined by an individual who is aware of his or her rights and who is aware of the consequences of the decision.

The impact of legal representation.

It could be argued that the legally represented defendant's lack of knowledge is not an issue as one of the roles of the lawyer is to interpret and understand the system for the defendant. However, the notion of defendant autonomy is a fundamental aspect of the criminal justice system, and this autonomy underscores the defendant-lawyer relationship (Bonnie, 1992, 1993). The principle of defendant autonomy encompasses the notion that it is the client who is in charge of the relationship and the lawyer who is the client. It is the client who is responsible for determining the 'objectives of representation' (Disney et al., 1986), whilst the lawyer is the defendant's advocate; the lawyer is there to represent the rights of the accused against the state (Disney et al., 1986, Greenspan, 1990).

Bottomley, Gunningham and Parker (1994) and Naffine (1990) expand on this principle, stating that it is the defendant who puts the arguments during a trial, not the lawyer. The lawyer's role is to facilitate the defendant's ability to participate in the trial and that despite the lawyer's opinion on a matter, it is the instructions of the client that must be adhered to. Cain (1983 as cited in Bottomley et al, 1994) states that lawyers should not dominate their clients and impose their own interpretations of the matter on the client, but instead should act as comparative ideologists. Their role is to interpret the client objectives in

terms of legal realities.

The premise that the defendant instructs the lawyer assumes that the defendant has sufficient knowledge of the legal system and the particulars of their case to do this effectively. However, when interviewing lawyers about their perceptions of defendant decision-making in the criminal justice system, Kraszlan and Thomson (1997) found that lawyers often perceived defendant decision-making strategies to be poorly formulated. Lawyers indicated that knowledge of the criminal justice system and the ability to participate in their case were the most important characteristics of a defendant. However, most lawyers interviewed did not perceive the majority of defendants as possessing these characteristics.

Kraszlan and Thomson (1997) found that with the decision to apply for bail, 75% of lawyers indicated that defendants are making the decision and stated that the defendant always applied regardless of the chance of success. As one lawyer stated, “they apply for bail, regardless of their chances of success as they are desperate to get out of detention”. Lawyers indicated that this was often a poor decision, as the defendant, if unsuccessful, had problems with future applications and that failure to acquire bail adversely affected sentencing decisions. Similar results were found in the defendant’s decision regarding plea. Lawyers felt that defendants were making decisions to plead guilty on factors other than those related to evidence or to admissions of guilt. Lawyers indicated that when defendants make the decision to plead guilty it should be based on the probability of beating the case. However, lawyers felt that the defendant’s decision to plead was based on financial issues (28%), the reduction in penalties

for an early plea (14%) and the desire to get it over and done with (36%).

Lawyers felt that these were poor decision-making strategies as the defendant may have been able to defend a not guilty plea. However, for many defendants the importance of these factors may reflect the reality of the defendant's life. It is the impact of these non-legal factors that separates clients and lawyers.

A comparison with the roles found in the doctor-patient relationship can be used to explain some of the difficulties observed in the lawyer-defendant relationship. Roter and Hall (1992) define the doctor-patient relationship as one of competing realities; the professional versus the personal. These competing realities can also be observed in the lawyer-defendant relationship. The predominant view a lawyer brings to the criminal justice system is one anchored in the world of common and statutory law. In contrast, a defendant's world comprises personality, culture, living situations, and relationships, and it is these personal experiences that may colour and define the defendant's experience with the criminal justice system.

The difficulties that arise in the defendant-lawyer relationship may be due to these conflicting realities; the lawyer's perspective loses the context of the defendant's life, whilst the defendant's perspective lacks insight into legal necessities. Therefore what is important to the defendant may not be to a lawyer, and the lawyer may perceive the defendant's perspective and instructions as being irrational and not based on legal factors.

It could be hypothesized that personal or non-legal factors are more salient to defendants because defendants lack knowledge of the legal system. However, it may be just as likely that the personal or non-legal factors may still

take precedence in the defendant's decision-making strategies regardless of knowledge level. Nevertheless, it is fundamental to the reliability of the criminal justice system that defendants make legal decisions that are based on both personal factors and legal factors. The research on defendants indicates that currently, many defendants may be unable to incorporate the legal factors into their decision-making strategy due to their lack of knowledge about the legal system.

Despite differences in methods, instruments, cultures, and jurisdictions, the view that emerges from the foregoing discussion is that many defendants lack the knowledge, skills, and emotional detachment required to participate in the criminal justice system. A significant effect of this situation is that the defendant's ability to understand and, consequently participate in the criminal justice system is narrowed, if not removed. Furthermore, the discrepancy that exists between what defendants are required to do (i.e., cognitive aspects) and what they are able to do may exacerbate the feelings of anxiety and helplessness (i.e., emotional aspects) that often accompany being charged with a criminal offence. As such, the consensus within the literature is an urgent need to provide defendants with information concerning the criminal justice process. The provision of information may offer the defendant some control, at both a cognitive and emotional level, during their involvement in the criminal justice process.

The Lay Person and Other Specialised Systems

Research examining other lay persons-specialised systems interactions suggests the lay person's lack of understanding, inability to effectively

participate, and associated anxiety within specialised systems is not an abnormal occurrence (Flin, Stevenson, & Davies, 1989; Greenfield, Kaplan, & Ware, 1985; Sisterman Keeney, Amacher, & Kastanakis, 1992; Nease & Brooks, 1995).

Similar problems to those observed in the defendant-criminal justice relationship have been observed in the child witness-criminal justice relationship. In recent years the number of children involved in the criminal justice system has increased and the rising numbers of children in the criminal justice system has raised concerns about their ability to understand and participate effectively in the system (Brigham & Spier, 1992; Flin, Bull, Boon, & Knox, 1992). These concerns resulted in considerable research that investigated the child's experience with the criminal justice system (Flin et al., 1992). This research suggested that a lack of legal understanding, the long delays before trial, unsuitable court facilities, and the stress and uncertainty as to what their role would be as a witness combined to further traumatize the child witness (Flin et al., 1992; Flin et al., 1989; Saywitz, 1989). A consequence of this lack of understanding, inability to participate, and anxiety is that the child's credibility as a witness in the criminal justice system may be diminished as they are unable to provide effective evidence (Bellett, 1999; Flin et al., 1992; Flin et al., 1989; Saywitz, 1989). To counter this situation, a number of writers advocated preparing children before their interaction with the criminal trial which may not only reduce their anxiety but also increase their ability to understand and participate in the criminal justice process (Bellett, 1999; Flin et al., 1989; Saywitz, Jaenicke, Camparo, 1990; Spencer & Flin, 1990).

Research on the patient-health-care system relationship observed related

problems to those experienced by the layperson in the criminal justice system.

Studies suggest that despite many patients desiring a more active role in decision-making regarding their health, they often receive little information regarding their diagnoses, laboratory tests, and medications (Barry & Henderson, 1996; Kaplan, 1991; Nease & Brooks, 1995; Speedling & Rose, 1985). A consequence of exclusion from making health-care decisions, either through a lack of knowledge or an inability to communicate preferences, is that some patients often expressed high levels of dissatisfaction with their medical care (Barry & Henderson, 1996; Nease & Brooks, 1995). This dissatisfaction was expressed in non-compliance with medical treatment, seeking alternative sources of information, or continued anxiety concerning the state of their illness (Nease & Brooks, 1995; Speedling & Rose, 1985). As such, a number of authors argue that patient participation in medical decision-making is not only beneficial with regard to patient health outcome but is also achievable (Greenfield et al., 1985; Nease & Brooks, 1995; Speedling & Rose, 1985).

Intervention Programs

A common theme emerging from the literature is that when lay-persons (i.e., defendant, witness, or patient) interact with an unfamiliar system (i.e., criminal justice or health-care) their lack of understanding may exclude them from participating in the system. For many laypersons, a consequence of this confusion and exclusion is heightened levels of anxiety and a feeling that events are out of their control. Thus, the layperson's role becomes one of dependence rather than participation (Ericson & Baranek, 1982).

By way of countering this imbalance, intervention programs have been

developed for the purpose of increasing the lay persons ability to understand and participate in a particular system, as well as reducing the associated stress and anxiety (Bellett, 1999; Dezwirek-Sas, 1992; Greenfield et al., 1985; Sisterman Keeney et al., 1992).

Child witnesses.

Child witness intervention programs designed to familiarize children with courtroom personnel and proceedings and reduce associated stress and anxiety have been developed in the United States (Court Prep Group [CPG]) (Sisterman Keeney et al., 1992), Canada (Child Witness Project [CWP]) (Dezwirek-Sas, 1992), and Australia (Child Witness Service [CWS]) (Bellett, 1999). A commonality with the CPG, CWP, and CWS intervention programs is the employment of educational activities (aimed at increasing children's knowledge about courtroom personnel and proceedings), and stress reduction activities (aimed at reducing children's anxiety concerning all aspects of their trial appearances), as well as providing an advocacy role.

Although the CPG (Sisterman Keeney et al., 1992) and the CWS (Bellett, 1999) suggest that child witnesses benefit from court preparation intervention programs, the CWP (Dezwirek-Sas, 1992) provides empirical support. The CWP examined the effectiveness of a court preparation intervention for child witnesses in the Canadian criminal justice system. An experimental pre-test-post-test design was used to examine court knowledge and court fears of child witnesses.

Pre-intervention measures included the Knowledge of Court Questionnaire (KCQ), the Peabody Picture Vocabulary Test (PPVT) and a Fear

of Court (FC) measure. The KCQ measured the child's understanding and knowledge of his or her role as a witness as well as courtroom participants and procedures. The KCQ was developed from a list of key legal terms and procedures and consisted of 21 open-ended questions requiring either a verbal or written response. The PPVT measured the child's cognitive functioning. The FC measured the child's fears of facing the accused in the criminal trial and fears concerning his or her role as a witness.

After collation of pre-intervention measures, 144 child witnesses (114 females and 30 males; age range = five to 17; mean age = 11.5 years) were randomly assigned to either an experimental or control group. The experimental intervention involved the CWP Court Preparation procedures and was conducted over three to eight sessions, depending on the needs of the individual child. The experimental intervention involved individualized criminal justice system educational activities (such as the use of scaled models of a courtroom, working with soft dolls representing courtroom participants, booklets describing court personnel and procedures, role-playing, homework assignments, and courtroom tours) and stress reduction activities (such as deep breathing exercises, deep muscle relaxation, and systematic desensitization). The control intervention was a standard procedure provided to all Canadian child witnesses and involved a tour of a courtroom and one individual discussion (by a staff member of the Victim Witness Assistance Program) with the child regarding court procedures. Furthermore, control intervention participants did not receive individual preparation by the CWP.

Following post-intervention measures (KCQ and FC), results indicated

that the CWP Court Preparation intervention had a measurable effect on children's knowledge of court and fear of court. The Court Preparation intervention (experimental condition) was significantly more effective in educating child witnesses about courtroom personnel and procedures and in reducing anxiety related to testifying in court relative to the standard procedure intervention (control condition). This demonstrates that it is possible to develop an intervention program in the criminal justice system that is successful in educating and reducing the anxiety of witnesses without influencing the evidence.

Medical patients.

Although a number of studies document the desire and ability of many patients to become involved in health-care decision-making with their doctor (Barry & Henderson, 1996; Kaplan, 1991; Nease & Brooks, 1995; Speedling & Rose, 1985), these studies have not determined how to prepare patients for greater involvement in the doctor-patient interaction. Greenfield et al (1985), in examining whether increased patient involvement in health-care decision-making resulted in improvements in the doctor-patient interactions and patient health outcomes, investigated the effectiveness of an educational and communication skills intervention for patients with peptic ulcer disease. An experimental pre-test-post-test design was employed to examine the doctor-patient interaction and patient health status.

Pre- and post-intervention measures included audio recordings of the doctor-patient interaction, six standardised health status instruments (i.e., general health perception, number of health problems, disability days, level of health

concern, and physical and role limitations due to poor health), frequency, severity, and duration of ulcer-related pain, patient preference for active involvement in medical decision-making, and general satisfaction with care. A further post-intervention measure was knowledge of ulcer disease. Following collation of pre-intervention measures, 45 adult patients with peptic ulcer disease were randomly assigned to either an experimental ($n = 23$) or control group ($n = 22$).

The experimental intervention was conducted during a 20-minute session immediately preceding the patient's scheduled doctor appointment. Using the patient's most recent treatment algorithm as a guide, a research assistant instructed the patient on how to read his or her medical record as well as how to ask questions and discuss medical decisions with his or her doctor. The control intervention was also conducted during a 20-minute session just prior to the patient's doctor appointment. The research assistant followed a Standardised protocol that simply provided the patient with information about the cause, complications, and treatment of ulcer disease. A diagram of the gastrointestinal tract was also provided.

Analysis of covariance (ANCOVA) was employed to assess outcome differences between experimental and control groups with pre-intervention measures as the covariates. Results indicated that the experimental intervention had a measurable impact on a number of measures. Experimental group patients exhibited a more active role in medical decision making, were more effective in obtaining information from their doctor, reported lower levels of illness concerns, and felt a greater sense of control over their illness relative to control

group patients. The experimental intervention did not have a measurable impact on 'satisfaction with care' or 'knowledge of ulcer disease'. Experimental patients were as satisfied with their care as control patients, however, control patients reported a greater knowledge of ulcer disease relative to experimental patients. However, despite a greater knowledge of ulcer disease, control patients did not participate more actively in their care or report better health outcomes. This finding of a poor relationship between knowledge of disease and participation in health care is supported by Kirscht and Rosenstock's (1977) study on compliance with antihypertensive medical regimes. Kirscht and Rosenstock found that despite educating patients about the disease, the intervention had no meaningful impact patients' compliance with medication. Nevertheless, the Greenfield et al (1985) study demonstrates that interventions in the medical arena can help both patients and doctors in the development of health-care strategies.

Prisoner populations.

Intervention programs have also been developed for offenders experiencing difficulties within the United States prison system (Lutz, 1990; Pomeroy, Kiam, & Abel, 1999). Employing a non-randomized experimental/control pre-test-post-test design, Pomeroy et al (1999) examined the effectiveness of a psychoeducational group intervention in reducing depression, anxiety, and physical/sexual abuse trauma symptoms of 139 HIV/AIDS-infected and affected female prisoners. The study had two groups: experimental ($n = 87$); control ($n = 52$). Due to prison system constraints, participants were not randomly assigned to the experimental and control groups. Pre- and post-intervention measures employed in the study included the State

Anxiety scale of Spielberger's State-Trait Anxiety Inventory, Beck's Depression Inventory, and the Trauma Symptom Checklist. The Trauma Symptom Checklist is an instrument designed to measure the long-term impact of physical and sexual abuse. The psychoeducational intervention was conducted over five weeks with two sessions per week, and provided information on HIV/AIDS as well as social and emotional support using cognitive-behavioral techniques. Results indicated that the psychoeducational group intervention had a significant impact upon depression, state anxiety, and physical/sexual abuse trauma symptom levels. Experimental group participants were less depressed, less anxious, and experienced less trauma symptoms relative to control group participants.

Lutz (1990) examined the effectiveness of a relaxation training intervention on reducing sleep disturbances, state anxiety, and sick call in male prisoners. Employing a non-randomized experimental/control pre-test-post-test design, participants were assigned to either an experimental ($n = 20$) or a control group ($n = 20$). Pre- and post-intervention measures for the study included the State Anxiety scale of Spielberger's State-Trait Anxiety Inventory, Richards Campbell Sleep Questionnaire, and the number of sick calls made by participants. The relaxation intervention was for a 20-minute duration and consisted of meditation techniques. Participants were asked to practice for two weeks before post-test measures were conducted. Despite results indicating the relaxation intervention did not have a significant impact on sleep disturbances, state anxiety, or sick call, a trend was found for an increase in sleeping patterns, a decrease in state anxiety, and a decrease in sick calls in the experimental group.

Although post-sentencing, the Pomeroy et al (1999) and Lutz (1990)

interventions were successful with a prisoner population, indicating that small intervention's can aid the individual in contact with an anxiety-inducing situation.

The Present Study

All the interventions discussed above have demonstrated that it is possible to develop small intervention programs that can aid the individual in their interactions with a specialised system through the development of knowledge or reduction in anxiety. As can be seen from the foregoing review of defendants and the criminal justice system, there is an obvious need for interventions targeting defendants. However, no research has yet determined what such an intervention should comprise. The difficulties encountered by child witnesses and medical patients when interacting with the criminal justice or health-care systems, respectively, and the subsequent intervention programs developed to alleviate these difficulties suggest that the introduction of a similar intervention program may result in comparable benefits to defendants when encountering the criminal justice system. Intervention programs can deal with both knowledge and skills, however, as the present study was the first of its kind, the focus was on knowledge rather than skills because of the difficulties involved in determining what skills a defendant requires when encountering the criminal justice system. Therefore, the aim of the present study was to determine whether the provision of specific knowledge concerning the criminal justice system impacted on the defendant's knowledge of the criminal justice system and psychological factors such as anxiety and confidence. The research reported previously indicated that these psychological factors may be related to a lack of

knowledge.

Given the dangers of interfering with evidentiary matters, determining what constitutes appropriate knowledge for the defendant in the criminal justice system is problematic. A significant problem is that every offence - even the same offence (i.e., homicide or manslaughter) - differs with regard to its complexity and nature. Therefore, the question becomes, 'what is the minimum standard of knowledge required for a defendant to understand and participate in the criminal justice system?' The literature on criminal competency has provided a number of key functions that all defendants need to be able to understand and participate in the criminal justice system (Ausness, 1978; Freckelton, 1996; Grisso, 1986). The common functions that all defendants require to participate in the criminal justice system are:

1. to understand the nature of a criminal charge;
2. to understand the difference between guilty and not guilty pleas;
3. to understand the roles of various participants in the criminal justice system;
4. to understand their right of challenge to the jury;
5. to understand court procedures;
6. to understand the need to provide their lawyer with facts related to their case;
7. to understand the need to testify relevantly;
8. to understand the legal defences available to them
(Ausness, 1978; Freckelton, 1996; Grisso, 1986).

- Function 8, however, is offence specific and, therefore, is an evidentiary matter (i.e., function 8 relates to the defendant's specific offence and, as such, can and should be determined by counsel). Therefore, functions 1 through 7 represent the 'minimum standard of knowledge' required for all defendants to understand and participate in the criminal justice system.

In establishing a knowledge intervention for defendants confronted with the criminal justice system, functions 1 through 7 were used to develop an intervention aimed at providing defendants with the knowledge required to address these 'minimum standards'.

Based on the child witness, patient, and prisoner interventions, and using a pre-test-post-test non-randomised experimental/control design, the present study provided defendants with court-related information aimed at increasing their knowledge of the criminal justice system, increasing their confidence in understanding and participating in the criminal justice system, and reducing their anxiety regarding their ongoing participation in the criminal justice system. The provision of the court-related information took the form of a 40-minute training session. This court-related information was based on the 'minimum standard of knowledge' criteria. Defendants who received the court-related information were compared with defendants who did not receive the court-related information. Three primary hypotheses were tested in the current study and are stated as follows:

Hypothesis 1: Knowledge - defendants receiving the court-related information will be significantly more knowledgeable of the criminal justice system than defendants who did not receive the court-related information.

- Hypothesis 2: Anxiety - defendants receiving the court-related information will be significantly less anxious about their upcoming trial than defendants who did not receive the court-related information.

Hypothesis 3: Confidence - defendants receiving the court-related information will be significantly more confident in their ability to understand and participate in their court appearances than defendants who did not receive the court-related information.

Method

Research Design

The present study employed a pre-test-post-test non-randomized experimental/control group design. The present study had one independent variable (intervention) comprising two levels (experimental and control) and three dependent variables (knowledge, anxiety, and confidence). Participants were exposed to either the experimental intervention or the control intervention. The experimental intervention involved a 40-minute court-related educational session. The control intervention involved a 40-minute health-related educational session. The pre-intervention and post-intervention measures were Spielberger's (1983) State-Trait Anxiety Inventory state anxiety scale and two measures developed for the present study (Confidence and Knowledge of Court).

Participants

Prior to conducting the study, ethical clearance was obtained from the Ministry of Justice, Ethics Committee, Perth, Western Australia and Edith

Cowan University, School of Psychology Ethics Committee, Joondalup, Western Australia.

The participants were recruited from the population of non-convicted remanded prisoners detained at the C. W. Campbell Remand Centre, Canning Vale, Western Australia. Forty adult males (≥ 18 years of age) volunteered for the study. All participants had been charged with an indictable offence and had been remanded in custody. Literacy levels of all participants were obtained from the C. W. Campbell Remand Centre education officer. Intake assessments at the remand centre include an assessment of the defendant's literacy level. The assessment scores of study participants were obtained from the education officer prior to their participation. All participants in the study had achieved a literacy level at the level of year 9 or above on this assessment¹ (personal communication, C. W. Campbell Remand Centre education officer, August, 1999), and were consequently deemed literate for the purpose the study.

Participants were assigned to the two groups: control ($n = 20$), experimental ($n = 20$). Due to the constraints of the prison system, participants were not randomly assigned to the control and experimental conditions. The first twenty participants to arrive at the experimental room were assigned to the control group, whilst the second twenty participants were assigned to the experimental group.

¹ Copies of the assessment tool were unavailable to the researcher

Materials

Intervention Packages

Court Knowledge. A Court Knowledge intervention, based on the criminal court systems of Western Australia, criminal law terminology, and criminal courtroom procedures, was developed and was used as the experimental group's intervention in the present study. The aim of the intervention was to address the 'minimum standard of knowledge' previously discussed (Ausness, 1978; Freckelton, 1996; Grisso, 1986). Information from the Western Australian Ministry of Justice and discussions with the Western Australian Legal Aid Education Officer was used in the development of the intervention.

Microsoft Power Point software was employed in the development of the overheads and the teaching manual utilised in the intervention (see Appendices A and B). A defendant workbook was developed from the overheads, with space provided for participants to make notes during the intervention session (see Appendix C).

To ensure evidentiary matters were not infringed upon, all materials developed for the intervention were forwarded to the President of the Western Australian Criminal Lawyers Association and the Editor of the Criminal Law Journal of Western Australia for review. Comments and corrections were addressed. The intervention was then piloted, as described below.

Keeping Safe. The Keeping Safe package was used as the control group's intervention in the present study. Keeping Safe is a health information package utilised by the Western Australian Ministry of Justice within the Western

Australia prison system. The Keeping Safe package provides information on the prevention of Blood Borne Communicable Diseases (e.g., HIV/AIDS and Hepatitis B and C). There were a number of reasons for the use of the Keeping Safe package in the present study. First, Keeping Safe is presented in all Western Australian metropolitan prisons and remand centers and has been for more than two years. Second, Keeping Safe does not provide information on any criminal trial or court-related matters. Third, the experimenter is a service provider of the Keeping Safe package within C. W. Campbell Remand Centre and, thus, is familiar with the package. Fourth, there is no evidence that the Keeping Safe package increases prisoner or remanded person's anxiety.

Keeping Safe is the property of the Western Australian Ministry of Justice. Copies of Keeping Safe may be obtained through the Western Australian Ministry of Justice.

Measures

A test booklet consisting of a battery of measures was bound in the following order: Demographics, Confidence, Anxiety, and Knowledge of Court (see Appendix D). The test booklet was used pre- and post-intervention:

Demographics. This section comprised the following: name/initials, date of birth, current charges, previous offending, most common previous offence, and grade of leaving school.

Confidence. This section was developed for the present study and comprised two questions: 'how confident are you about your ability to participate in your court appearances?' and 'how confident are you about your ability to

understand what happens during your court appearances?’ Each question had a Likert-type scale ranging from 0 through 10 (0 = Not confident; 10 = Very confident). The scores of both questions were summed to give a total score ranging from 0 to 20. The two questions were employed to determine whether knowledge of the criminal justice system would affect defendants’ perceptions of their ability to understand and participate in a criminal trial.

Anxiety. The State Anxiety scale in Spielberger’s (1983) State-Trait Anxiety Inventory (STAI) was employed in the present study. Research suggests the STAI is a theoretically and methodologically sound instrument for the measurement of state and trait anxiety (Ramanaiah, Franzen, & Schill, 1983). The STAI is written to a sixth-grade reading level (Spielberger, 1983). Previous research has established the STAI’s utility for investigating anxiety patterns in prison populations (Lutz, 1990; MacKenzie, 1987; Pomeroy et al., 1999; Reinhardt & Rogers, 1998).

The State Anxiety scale of the STAI is designed to measure the intensity of feelings of anxiety at a particular point in time (Spielberger, 1983). The STAI state anxiety scale consists of 20 statements that ask how the participant feels ‘right now, that is, at this moment’ with four response choices: (1) not at all; (2) somewhat; (3) moderately so; and (4) very much so (Spielberger, 1983). Ten of the statements are reversed scored. The scores range from 20 to 80, with low scores indicating a state of calm or serenity, and high scores reflecting a state of apprehension that borders on panic (Spielberger, 1983).

The State Anxiety scale of the STAI (Spielberger, 1983) was modified in the present study. In the Anxiety section of the test booklet, participants were

asked to report how they felt ‘about your trial now’, rather than how they felt ‘right now, that is, at this moment’.

Knowledge of Court. This section was developed for the present study and comprised 30 multiple-choice questions concerning court-related information. The 30 questions were developed from the Competence Assessment for Standing Trial for Defendants with Mental Retardation (CAST*MR) Questionnaire (Everington & Luckasson, 1992) and the Court Knowledge intervention. The questions focused on legal terminology, the Criminal Courts of Western Australia, courtroom participants and their respective roles, and criminal court procedures. The scores range from 0 to 30 (1 for a correct answer, 0 for an incorrect answer), with low scores indicating little knowledge of specific aspects of the criminal justice system, and high scores reflecting greater knowledge.

The President of the Western Australian Criminal Lawyers Association and the Editor of the Criminal Law Journal of Western Australia reviewed this section for legal issues, whilst prison education staff and a senior educator within the Western Australian school system reviewed this section for reading ease and understandability. Following comments made by the respective reviewers, minor adjustments were made.

Pilot Study

A pilot study was conducted at Riverbank Prison Complex (Riverbank), Caversham, Western Australia. Riverbank is a medium security prison complex housing convicted adult male prisoners. Permission to conduct the pilot study was obtained from Riverbank’s Acting Superintendent.

– The purpose of the pilot study was twofold. First, to refine both the Court Knowledge intervention and the test booklet. Second, to examine the effectiveness of the Court Knowledge intervention on participants similar to the present study's participants. That is, participants had either been convicted of an indictable offence (pilot sample) or were currently in the process of defending an indictable matter (study sample). A separate prison complex was chosen in order to minimise the risk of pilot study participants communicating the nature of the study to potential participants in the present study.

The test booklet was modified for the pilot study. The Anxiety section of the test booklet was removed. As all Riverbank prisoners had been convicted of an offence, questions concerning feelings 'about your trial now' was deemed irrelevant.

Ten convicted adult males (M age = 33.40, SD = 5.50) volunteered for the pilot study. The pilot study was conducted in one of the teaching rooms located within Riverbank. The teaching/experimental room contained audio-visual equipment, a white board, and was set up to provide educational sessions.

Day One. Participants were given a brief introduction of the purpose and nature of the pilot study including assurance of anonymity and confidentiality, acknowledgment of their voluntary participation, and their right to withdraw from the study at any time. Modified test booklets were presented to participants for completion. At completion, all test booklets were collected and participants were thanked for their assistance and were asked to return to the experimental room in one hour. Upon returning to the experimental room, participants were informed that they would be involved in a 40-minute educational session on the

criminal justice system (i.e., Court Knowledge intervention). At the beginning of the education session the experimenter gave a brief introduction outlining what would occur in the session. Each participant was then provided with a defendant workbook. At completion of the education session, participants were thanked and asked to retain their defendant workbook for revision purposes, and asked to return to the experimental room on the following day.

Day Two. Before providing the participants with post-intervention test booklets, all defendant workbooks were collected by the experimenter. Test booklets were then given to participants for completion. At completion, all test booklets were collected and participants were thanked and debriefed. During debrief, participants were asked to comment on any difficulties they may have encountered with the test booklet and the education session. Suggestions were noted, such as, the provision of four large visual aids (i.e. flow-charts outlining the process of Simple/Summary and Indictable offences, and diagrams of participants within the Court of Petty Sessions and the District/Supreme Courts).

Analysis of pilot study

Analysis of the pilot study was conducted using SPSS for Windows, version 8.0. Paired-samples t-tests were conducted on the pre- and post-Knowledge of Court scores. The post-Knowledge of Court scores ($\underline{M} = 24.80$, $\underline{SD} = 3.77$) were significantly higher than the pre-Knowledge of Court scores ($\underline{M} = 22.40$, $\underline{SD} = 4.45$), $t(1,9) = -3.273$, $p = .010$. This indicated that the Court Knowledge intervention was successful in improving participants' knowledge of the criminal justice system.

– Paired-samples t-tests were conducted on the pre- and post-Confidence scores. The post-Confidence scores ($M = 15.50$, $SD = 2.80$) were not significantly better than the pre-Confidence scores ($M = 13.00$, $SD = 4.42$), $t(1,9) = -1.658$, $p = .132$. This indicated that the Court Knowledge intervention was not successful in increasing participants' confidence in their ability to understand and participate in the criminal justice system.

These results suggest the impact of the Court Knowledge intervention on participants' knowledge of and confidence in understanding and participating in the criminal justice system was mixed. On one hand, exposure to the Court Knowledge intervention saw participants exhibiting a greater knowledge of the criminal justice system. However, participants' confidence in their ability to understand and participate in the criminal justice system was not influenced by the Court Knowledge intervention. This result possibly reflected a lack of sensitivity within the Confidence measure, or it could be argued that due to a lack of salience to participants (i.e., they were currently convicted) any finding would be meaningless. Therefore, it was decided to retain the Confidence measure in the present study.

Additionally, minor changes to two questions in the Knowledge of Court section were undertaken following the analyses. It was apparent that the two questions contained a number of responses that were confusing to participants.

Main study

Procedure

To be eligible for the present study, each participant (a) had to be

remanded in custody at the C. W. Campbell Remand Centre on an indictable offence; and (b) was currently not convicted for that indictable offence. Additionally, the literacy levels of all participants had to be deemed satisfactory (i.e., year 9 and above).

The study was conducted in one of the teaching rooms located within C. W. Campbell Remand Centre. The teaching/experimental room contained audio-visual equipment, a white board, and was set up to provide educational sessions. The study was conducted during remanded prisoners' recreational time.

Day one.

Allocation of groups. Allocation to groups was conducted during participants' morning recreational period. Due to constraints within the prison, participants could not be randomly assigned to experimental or control groups. Allocation to groups was such that the first twenty participants to arrive at the experimental room were the control group, whilst the second twenty participants were the experimental group. As the experimenter was not aware of participants' current offences, age, previous offending, level of criminal justice system knowledge, or level of anxiety concerning their trial, confounding variables between groups were minimized. The control group was asked to remain in the experimental room, whilst the experimental group were asked to return to the experimental room during their afternoon recreational period later that day.

Morning session. Prior to the commencement of the study, control group participants were provided with an information/consent form (see Appendix E). The experimenter read out the contents of the information/consent form. The information/consent form provided participants with a brief introduction of the

purpose and nature of the study including assurance of anonymity and confidentiality, acknowledgment of their voluntary participation, and their right to withdraw from the study at anytime.

Pre-intervention test booklets were given to participants. At completion, test booklets were collected and participants were thanked and asked to return to the experimental room at the beginning of their morning recreational period on the following day.

Afternoon session. Prior to the commencement of the study, all participants in the experimental group were provided with the same information/consent form as the control group. The experimenter read out the contents of the information/consent form.

Pre-intervention test booklets were given to participants. At completion, test booklets were collected and participants were thanked and asked to return to the experimental room at the beginning of their afternoon recreational period on the following day.

Day two.

Morning session. The control group returned to the experimental room and the Keeping Safe package was presented. The Keeping Safe intervention was for a 40-minute duration. At completion of the Keeping Safe intervention, a 10-minute recess was taken before participants were provided with the post-intervention test booklet for completion. At completion, test booklets were collected and participants were thanked and asked to return to the experimental room on the following day during their afternoon recreational period.

–Afternoon session. The experimental group participants returned to the experimental room and were provided with a defendant workbook. Participants were informed that they would be involved in a 40-minute educational session (i.e., Court Knowledge) on the criminal justice system. At the commencement of the Court Knowledge intervention, participants were informed that,

“This education session is not specific to your trial but is the general things that every defendant has to experience. All the things we are going to talk about will not happen to some of you and some of you may have more hearings. I am only going to talk about the major things ... The most important thing is that you should not talk to me about the specific issues of your case ... I am not a lawyer and I was not there at the time. So I cannot tell you what to do, whether or not you will be found guilty, or what sentence you will receive. You need to talk to your lawyer about these things. So, today we are going to cover these aspects of the criminal justice system: Courts in Western Australia (where are they?); participants in a criminal trial (who are they?); and the process of a criminal trial (what happens to me?)”.

At the completion of the Court Knowledge intervention, participants were thanked and asked to retain the defendant workbook for revision purposes and asked to return to the experimental room on the following day during their morning recreational period.

Day three.

Morning session. The experimental group returned to the experimental room. Before providing participants with the post-intervention test booklet, all defendant workbooks were collected by the experimenter. The test booklet was then given to participants for completion. At completion, all test booklets were collected and participants were thanked and debriefed.

Afternoon session. In the interests of equity it was deemed necessary to provide control group participants the opportunity to participate in the Court

Knowledge intervention. Once the control group returned to the experimental room, participants were provided with a defendant workbook and were informed that they would be involved in a 40-minute educational session (i.e., Court Knowledge) on the criminal justice system. The procedure for the Court Knowledge intervention was identical to that of the experimental group. At completion of the Court Knowledge intervention, the experimenter collected the defendant workbooks and participants were thanked and debriefed.

Results

The results are reported under the following four headings: (a) data screening; (b) demographics; (c) preliminary analyses; and (d) main analyses. Data screening, preliminary and main analyses were conducted using SPSS for Windows, version 8.0.

Data Screening

Prior to analyses, data screening was conducted. No univariate outliers were detected. The assumption of normality was found to be violated, as demonstrated by a significant Shapiro-Wilks statistic on the experimental group's pre-test Knowledge of Court and Confidence variables, and the experimental group's post-test Knowledge of Court and Confidence variables. Inspection of the skewness and kurtosis values, histograms, and stem-and-leaf plots indicated that for the experimental group: (a) pre-test Knowledge of Court scores displayed moderate negative skewness and moderate positive kurtosis; (b) post-test Knowledge of Court scores displayed large negative skewness and large positive kurtosis; (c) pre-test Confidence scores displayed large negative skewness and moderate negative kurtosis; and (d) post-test Confidence scores displayed large negative skewness and moderate negative kurtosis. Inspection also revealed that for the control group post-test Knowledge of Court scores displayed moderate negative skewness and moderate positive kurtosis. However, Stevens (1996) suggests that skewness and kurtosis have only minor effects on power and significance levels. Furthermore, analysis of covariance (ANCOVA) is relatively robust in the face of normality violations, particularly when cell sizes are equal (Tabachnik & Fidell, 1996). As the present study employed

ANCOVA in the main analyses, and the homogeneity of variance was satisfied for the Knowledge of Court, Confidence, and Anxiety scores, it was decided not to transform the data.

Demographics

Table 1

Demographic Characteristics of Defendants

Variable	Control (<u>n</u> = 20)	Experimental (<u>n</u> = 20)	Total (<u>n</u> =40)
Mean age(SD)	29.05 (8.70)	27.50 (3.53)	28.27 (6.11)
Type of Charge			
Homicide	1	4	6
Acts Against a Person	0	4	4
Acts Against Property	12	10	22
Drug Offences	6	1	7
Other	1	1	2
Prior Adult Convictions			
0	3	5	8
1 to 9	7	9	16
10 to 19	1	2	3
20 and over	9	4	13
Education			
Before Year 10	2	8	10
Year 10	9	6	15
Year 11	6	2	8
Year 12	2	2	43
Tertiary	1	2	3
Literacy			
A (Year 11/12)	8	5	13
A/B (Year 10/11)	4	2	6
B (Year 10)	7	12	19
B/C (Year 9/10)	1	1	2

Demographic information was obtained regarding participants age, type of charge, previous adult convictions, education, and literacy levels (refer to Table 1). The results of the demographics indicate that the majority of defendants were charged with a property offence, had prior convictions, some secondary schooling, and had been assessed as being literate at a year 9 or above level.

Preliminary Analyses

The goal of the preliminary analysis was twofold. First, it was of theoretical interest to determine whether the three dependent variables (knowledge, confidence, and anxiety) were related. Second, it was also of interest to determine whether participants' level of education and previous adult convictions were associated with knowledge of the criminal justice system prior to intervention. The preliminary analyses took the form of twelve separate bivariate correlations. Significance levels for all of the correlations reported below were set at .05.

It is worth noting that during the main analyses three of the measures used here (pre-test Knowledge of Court, pre-test Confidence, and pre-test Anxiety) were treated as covariates and, therefore, cannot be considered as dependent variables in the strictest sense of the word. However, in some cases, it was deemed desirable to ascertain what the dependent variable was like prior to the intervention, hence, the use of pre-test scores. Furthermore, in the case of testing correlations between two dependent variables it was felt that including both pre-test and post-test scores would provide more general insight than using

post-test scores alone.

Knowledge of court and anxiety.

Bivariate correlations for the Knowledge of Court and Anxiety pre-test scores were not significant, $r(38) = -.112$, $p = .245$. Post-test scores for these measures also revealed that Knowledge of Court and Anxiety scores were not significantly correlated, $r(38) = -.150$, $p = .177$. Taken together, these values indicate that there was no relationship between Knowledge of Court and Confidence before or after the administration of the intervention packages.

Confidence and anxiety.

Analysis of the Confidence and Anxiety pre-test scores revealed that Confidence and Anxiety were significantly correlated, $r(38) = -.577$, $p < .001$. Post-test Confidence and Anxiety scores were also significantly negatively correlated, $r(38) = -.600$, $p < .001$. Taken together, the two correlations indicate that anxiety decreased as confidence increased.

Confidence and knowledge of court.

Analysis of the Confidence and Knowledge of Court pre-test scores revealed that Knowledge of Court and Confidence were not significantly correlated, $r(38) = .159$, $p = .163$. This indicates that there was no relationship between Knowledge of Court and Confidence prior to the administration of the intervention packages.

Analysis of post-test Confidence and Knowledge of Court scores indicated a significant, though weak positive, correlation, $r(38) = .357$, $p = .012$.

This indicates that, post-intervention, Confidence scores increased as Knowledge of Court scores increased.

Confidence (understand and participate) and knowledge of court.

As the Confidence measure was made up of two components (ability to understand and ability to participate), it was decided to conduct further correlations between the Knowledge of Court measure and the two aspects of the Confidence measure.

Correlations between pre-test Knowledge of Court and pre-test Confidence (ability to participate), and pre-test Knowledge of Court and pre-test Confidence (ability to understand) were both positively correlated, $r(38) = .126$, $p = .220$, and $r(38) = .170$, $p = .148$, respectively. These values indicate that neither of the two components within the pre-test Confidence measure were correlated with pre-test Knowledge of Court scores.

Correlations between post-test Knowledge of Court and post-test Confidence (ability to participate), and post-test Knowledge of Court and post-test Confidence (ability to understand) were, $r(38) = .338$, $p = .017$, and $r(38) = .336$, $p = .017$, respectively. These values indicated that both respondents' Confidence in their ability to participate, and Confidence in their ability to understand increased significantly as Knowledge of Court increased. After inspection of the r values, the amount of variance these two Confidence components shared with Knowledge of Court did not appear to differ appreciably and, furthermore, the variance these two components shared with the Knowledge of Court measure did not differ substantially from that exhibited by the global confidence measure.

- Level of education and pre-test knowledge of court.

Analysis of respondents' level of education and pre-test Knowledge of Court scores revealed that education and knowledge were not significantly correlated, $r(38) = .064$, $p = .349$.

Previous adult convictions and pre-test knowledge of court.

The minimum number of previous convictions amongst the sample was zero. Regarding the maximum number of previous convictions, 13 participants could not remember their exact amount of prior convictions, although they indicated that the amount was large. In order to accommodate this data, it was decided to create a '20 and above' category. Respondents' number of previous adult convictions and pre-test Knowledge of Court were not significantly correlated, $r(38) = .163$, $p = .157$.

Main Analyses

The objective of the main analyses was to determine the effect the Court Knowledge intervention (experimental condition) had upon the three dependent variables (knowledge, confidence, and anxiety). Descriptive statistics for experimental and control group confidence, knowledge, and anxiety pre-test and post-test scores can be viewed in Table 2.

Mean scores indicate the experimental group reported higher knowledge scores than the control group, both pre- and post-intervention. Similarly, the experimental group reported higher confidence scores than the control group, both pre- and post-intervention. Finally, the experimental group reported lower

anxiety scores than the control group, both pre- and post-intervention.

Table 2
Mean Pre-test-Post-test Scores for Knowledge, Confidence, and Anxiety (N = 40)

Variable	Control		Experimental	
	<u>M</u>	<u>SD</u>	<u>M</u>	<u>SD</u>
Pre-Test				
Knowledge	19.30	3.84	19.90	4.04
Confidence	11.15	4.63	14.80	5.91
Anxiety	52.60	15.79	49.10	13.48
Post-Test				
Knowledge	20.05	2.87	24.95	5.22
Confidence	11.00	4.70	16.15	4.63
Anxiety	51.50	13.79	45.60	10.27

Due to observed differences between the control and experimental groups on the Knowledge of Court, Confidence, and Anxiety measures before intervention, as well as non-randomised group allocation², it was decided to use analysis of covariance (ANCOVA), with the effect of the intervention upon these three measures being assessed after group variance before the intervention (i.e., pre-test differences) had been accounted for.

A separate ANCOVA was conducted for each measure (Knowledge of Court, Confidence, and Anxiety). For the main analyses, alpha was calculated using Bonferroni’s adjustment (.05/3) so as to avoid Type I error. Alpha was calculated as .017. The results of the three ANCOVA are reported below.

² Stevens (1996) supports this by stating that ANCOVA is useful in non-randomized studies so as to draw more accurate conclusions, consideration was given to using MANCOVA. However Tabachnik and Fidell (1996) state that results using MANCOVA may be difficult to interpret.

- Court Knowledge Intervention and Knowledge of Court

Respondents post-intervention Knowledge of Court scores were submitted to a one-way (experimental v. control) ANCOVA. Respondents' pre-intervention Knowledge of Court scores served as the covariate. The estimated marginal means for the experimental and control groups were 24.73 and 20.27, respectively. The value for the covariate was, $F(1,37) = 34.377$, $p < .001$. The effect size was .482. This indicated that differences between the groups prior to the intervention accounted for 48.2% of the variance. There was a reliable difference, at the Bonferroni adjusted significance level (.017), between the two groups, $F(1,37) = 20.893$, $p < .001$. The effect size was .361. This indicated that the Court Knowledge intervention was associated with greater knowledge of the criminal justice system after pre-intervention group differences were accounted for. The Court Knowledge intervention accounted for 36.1% of the variance. A power analysis revealed that there was a 97.7% probability of the ANCOVA detecting an effect of this magnitude at the Bonferroni adjusted significance level of .017.

Court Knowledge Intervention and Confidence

Respondents post-intervention Confidence scores were submitted to a one-way (experimental v. control) ANCOVA. Respondents' pre-intervention Confidence scores served as the covariate. The estimated marginal means for the experimental and control groups were 14.905 and 12.245, respectively. The value for the covariate was, $F(1,37) = 55.972$, $p < .001$. The effect size was .602. This indicated that differences between the groups prior to the intervention accounted for 60.2% of the variance. There was a reliable difference, at the Bonferroni

adjusted significance level (.017), between the two groups, $F(1,37) = 7.081$, $p = .011$. The effect size was .161. This indicated that the Court Knowledge intervention was associated with greater confidence in understanding and participating in the criminal justice system after pre-intervention group differences were accounted for. The Court Knowledge intervention accounted for 16.1% of the variance. A power analysis revealed that there was a 56.8% probability of the ANCOVA detecting an effect of this magnitude at the Bonferroni adjusted significance level of .017.

Court Knowledge Intervention and Anxiety

Respondents post-intervention Anxiety scores were submitted to a one-way (experimental v. control) ANCOVA. Respondents' pre-intervention Anxiety scores served as the covariate. The estimated marginal means for the experimental and control groups were 46.905 and 50.195, respectively. The value for the covariate was, $F(1,37) = 158.282$, $p < .001$. The effect size was .811. This indicated that differences between the groups prior to the intervention accounted for 81.1% of the variance. There was not a reliable difference, at the Bonferroni adjusted significance level (.017), between the two groups, $F(1, 37) = 3.706$, $p = .062$. The effect size was .091. This indicated that the Court Knowledge intervention was not associated with reduced anxiety concerning participants' upcoming trial after pre-intervention group differences were accounted for. The Court Knowledge intervention accounted for 9.1% of the variance. A power analysis revealed that there was a 29.6% probability of the ANCOVA detecting an effect of this magnitude at the Bonferroni adjusted significance level of .017.

Further Analyses

As the Confidence measure comprised two aspects (‘ability to understand what happens during your court appearances’ and ‘ability to participate in your court appearances’) it was deemed necessary to determine what, if any, impact the Court Knowledge intervention had on the two aspects of the Confidence measure. Descriptive statistics for experimental and control group confidence (understand) and confidence (participate) pre-test and post-test scores can be viewed in Table 3.

Table 3
Mean Pre-test and Post-test Scores for Confidence (understand) and Confidence (participate) (N = 40)

Variable	Control		Experimental	
	<u>M</u>	<u>SD</u>	<u>M</u>	<u>SD</u>
Pre-Test				
Confidence (understand)	6.00	2.58	7.65	2.91
Confidence (participate)	5.15	2.81	7.15	3.33
Post-Test				
Confidence (understand)	5.60	2.85	8.15	2.21
Confidence (participate)	5.40	2.50	8.00	2.45

Mean scores indicate the experimental group reported higher confidence (‘the ability to understand what happens during your court appearances’) scores than the control group, both pre- and post-intervention. Similarly, the experimental group reported higher confidence (‘ability to participate in your court appearances’) scores than the control group, both pre- and post-intervention.

– Analysis of the two aspects of the confidence measure took the form of two ANCOVA. The pre-intervention scores for the two aspects of the Confidence measure served as covariates. Alpha was calculated using Bonferroni's adjustment (.05/5) so as to avoid Type I error. Alpha was calculated as .01. The results of the two ANCOVA are reported below.

Court Knowledge Intervention and Confidence (Ability to Participate)

Respondents post-intervention Confidence (ability to participate) scores were submitted to a one-way (experimental v. control) ANCOVA. Respondents' pre-intervention Confidence (ability to participate) scores served as the covariate. The estimated marginal means for the experimental and control groups were 7.466 and 5.934, respectively. The value for the covariate was, $F(1,37) = 29.330$, $p < .001$. The effect size was .442. This indicated that differences between the groups prior to the intervention accounted for 44.2% of the variance. There was not a reliable difference, at the Bonferroni adjusted significance level (.01) between the two groups, $F(1,37) = 6.022$, $p = .019$. The effect size was .140. This indicated that the Court Knowledge intervention was not associated with greater confidence regarding the ability to participate in court appearances after pre-intervention group differences were accounted for. The Court Knowledge intervention accounted for 14% of the variance. A power analysis revealed that there was a 40.8% probability of the ANCOVA detecting an effect of this magnitude at the Bonferroni adjusted significance level of .01.

Court Knowledge Intervention and Confidence (Ability to Understand)

Respondents post-intervention Confidence (ability to understand) scores

were submitted to a one-way (experimental v. control) ANCOVA. Respondents' pre-intervention Confidence (ability to understand) scores served as the covariate. The estimated marginal means for the experimental and control groups were 7.499 and 6.251, respectively. The value for the covariate was, $F(1,37) = 95.586$, $p < .001$. The effect size was .721. This indicated that differences between the groups prior to the intervention accounted for 72.1% of the variance. There was a reliable difference at the Bonferonni adjusted significance level (.01) between the two groups, $F(1,37) = 7.629$, $p = .009$. The effect size was .171. This indicated that the Court Knowledge intervention was associated with greater confidence regarding the ability to understand what happens during court appearances after pre-intervention group differences were accounted for. The Court Knowledge intervention accounted for 17.1% of the variance. A power analysis revealed that there was a 52.5% probability of the ANCOVA detecting an effect of this magnitude at the Bonferroni adjusted significance level of .01.

Discussion

Defendants are required to make many decisions during their encounter with the criminal justice system (i.e., plea, venue, representation, bail, and appeal), and the assumption exists that defendants possess sufficient organizational and pragmatic knowledge of the system to make these decisions (Bottoms & McClean, 1976; Carlen, 1976; Ericson & Baranek, 1982; Kraszlan & Thomson, 1998; McBarnet, 1981). Research suggests that many defendants have insufficient knowledge of the criminal justice system and are often aware that they lack this knowledge (Bottoms & McClean, 1976). The authors suggest that many defendants may subsequently experience stress and anxiety due to this lack of knowledge, which may transfer to anxiety about the court process and their trial. As a consequence, Bottoms and McClean argue that many defendants are unable to effectively participate in their trials.

As a way of increasing the ability of defendants to participate in the system, numerous authors advocated the need to prepare defendants for trial by providing relevant information regarding the criminal justice system (Bottoms & McClean, 1976; St John Kennedy & Tait, 1999). It has been proposed that the provision of criminal justice-related information may increase the defendant's knowledge of the criminal justice system and possibly reduce his or her associated stress/anxiety and, therefore, provide the opportunity for the defendant to effectively participate in his or her defence. However, although advocating the need to prepare defendants for their interactions with the criminal justice system, the authors left unanswered the important question of how this could be done. The present study aimed to develop an intervention (Court Knowledge) and

subsequently assess its impact on defendants knowledge of the criminal justice system and associated defendant psychological functioning (anxiety and confidence).

Three primary hypotheses were tested in the present study: (a) Knowledge - defendants receiving the Court Knowledge intervention would be significantly more knowledgeable of the criminal justice system than defendants who did not receive the intervention; (b) Anxiety - defendants receiving the Court Knowledge intervention would be significantly less anxious about their upcoming trial than defendants who did not receive the intervention; and (c) Confidence - defendants receiving the Court Knowledge intervention would be significantly more confident in the ability to understand and participate in their court appearances than defendants who did not receive the intervention. Results indicated support for the Knowledge and Confidence hypotheses, while the Anxiety hypothesis was not fully supported.

Hypotheses

Knowledge

It was apparent that the majority of the defendants in the current study did not possess a strong knowledge of the criminal justice system. Scores for the pre-intervention Knowledge of Court measure ranged from 10 to 25 (out of a possible 30), with a mean of 19.60. As the Knowledge of Court measure was based on the minimum standard of knowledge required to participate in the criminal justice system, it was apparent that many defendants in the current study were not knowledgeable about the system. This finding offers support to earlier

research, which suggested that defendants lacked knowledge of the criminal justice system (Bottoms & McClean, 1976; Ericson & Baranek, 1982; Kraszlan & Thomson, 1997, 1998).

The current study also found similar results to previous research, which suggested that the defendant's level of education or previous convictions (experience in the criminal justice system) had little or no impact on the defendant's knowledge of the criminal justice system (Bottoms & McClean, 1976; Carlen, 1976; Casper, 1978; Ericson & Baranek, 1982; McBarnet, 1981). Pre-intervention Knowledge of Court scores were not related to education ($r(38) = .064, p = .349$) or previous convictions ($r(38) = .163, p = .157$). This indicates that those defendants with previous convictions were not more knowledgeable about the criminal justice system, and those defendants who had a higher level of education did not have a greater advantage.

The Knowledge hypothesis was supported, as the Court Knowledge intervention had a significant impact on knowledge of the criminal justice system. Following the intervention, defendants in the experimental group ($M = 24.95, SD = 5.22$) were significantly more knowledgeable about the criminal justice system than defendants in the control group ($M = 20.05, SD = 2.87$), ($F(1,37) = 20.893, p < .001$). This finding offers support to earlier research, which suggested that providing defendants with court-related information may lead to an increase in their knowledge of the criminal justice system (Bottoms & McClean, 1976; St John Kennedy & Tait, 1999).

- Confidence

Prior to the Court Knowledge intervention, the participants' confidence in their ability to understand and participate in the criminal justice system was poorly related to their knowledge of the criminal justice system, ($r(38) = .159$, $p = .163$). This indicates that those defendants who were highly confident prior to intervention were not more knowledgeable than those defendants with low confidence. There was a moderate negative relationship between confidence and anxiety ($r(38) = -.577$, $p < .001$) in the pre-intervention scores, indicating that defendants who reported poor levels of confidence were more anxious about their upcoming trial. This moderate negative relationship remained constant throughout the experiment as, post-intervention, low confidence and high anxiety remained related ($r(38) = -.600$, $p < .001$).

The Court Knowledge intervention had a significant impact on the participants' confidence to understand and participate in the criminal justice system. Following the intervention, defendants in the experimental group ($M = 16.15$, $SD = 4.63$) reported a greater confidence in the ability to understand and participate in the criminal justice system than defendants in the control group ($M = 11.00$, $SD = 4.70$) ($F(1,37) = 7.081$, $p = .011$). In contrast to the pre-intervention results, there was a weak positive relationship between post-intervention Confidence and Knowledge of Court scores ($r(38) = .357$, $p = .012$). This suggests that, post-intervention, an increase in knowledge of the criminal justice system was associated with an increase in the perceived confidence to understand and participate in the system. The provision of court-related information appears to provide defendants with the belief that they are better able

to understand and participate during their involvement in the criminal justice system. Thus, the Confidence hypothesis was supported.

As the Confidence measure comprised two distinct aspects (the ability to understand and the ability to participate), further analysis was conducted in order to determine if these aspects were affected differentially by the Court Knowledge intervention. This analysis indicated that the Court Knowledge intervention had a significant impact on confidence in the ability to understand ($F(1,37) = 7.629, p = .009$), but did not have a significant impact on confidence in the ability to participate ($F(1,37) = 6.022, p = .01$). Although confidence in the ability to participate was not significant at the Bonferroni adjusted alpha of .01, this result shows a distinct trend and, furthermore, would have reached significance if the .05 alpha level was accepted. Further support for this trend was found in the positive relationship between post-intervention Knowledge of Court and Confidence (the ability to participate) scores ($r(38) = .338, p = .017$), which was significant. These results suggest that defendants perceive that the Court Knowledge intervention may aid their ability to participate in the criminal justice system, but that the intervention was more beneficial in helping them to understand the system.

This finding reflects earlier research in the medical field, where Greenfield et al (1985) found that an increase in patients' knowledge of ulcer disease did not translate into patients being able to participate more actively in their health care. It appears that effective participation requires more than simply acquiring information. Not only must a defendant (as a patient in the aforementioned circumstances) possess knowledge, he or she must also have the

skills to interact with the professionals in the criminal justice system.

Furthermore, a number of other psychological variables may impact on the capacity to participate, including emotional state, past experience with authority figures, or with previous attempts at interactions (Greenfield et al., 1985; Lutz, 1990; Pomeroy et al., 1999).

Anxiety

The participants' pre-intervention Anxiety scores ($M = 50.85$, $SD = 14.64$) were very high when compared to the pre-intervention Anxiety scores of the convicted prisoner populations seen in the literature (i.e., Lutz, 1990 [$M = 45.15$, $SD = 12.62$]; Pomeroy et al., 1999 [$M = 45.35$, $SD =$ not provided]; Spielberger, 1983 [$M = 45.96$, $SD = 11.04$]). The higher scores of the current study's sample may be a function of their non-convicted status. Reinhardt and Rogers (1998) found that the uncertainty of the verdict and sentence for pre-trial remanded defendants interacted with the prison environment to contribute to heightened levels of state anxiety. Thus, for many remanded defendants, state anxiety appears to be intertwined with a range of anxiety-inducing factors, not simply trial anxiety alone.

The Anxiety hypothesis was not fully supported, as defendants' anxiety concerning their trial was not significantly influenced by the Court Knowledge intervention. Following the intervention, defendants in the experimental group ($M = 45.60$, $SD = 10.27$) did not report significantly less anxiety than defendants in the control group ($M = 51.50$, $SD = 13.79$) ($F(1,37) = 3.706$, $p = .062$). Despite the non-significant finding, it appears that defendants in the experimental group were less anxious about their participation in the criminal justice system

following the Court Knowledge intervention. The lack of significance may be the result of a number of factors. First, as previously mentioned, anxiety in non-convicted remanded defendants may comprise a number of factors, such as the type of offence the defendant is defending (i.e., murder or armed robbery), the difficulties the defendant may have in maintaining regular contact with their lawyer whilst they are remanded in custody, the salience of the defendant's upcoming trial (i.e., trial within one month or one year), and the defendant's discomfort and fear associated with the prison environment (i.e., separated from family and friends and/or threats from other prisoners) (Reinhardt & Rogers, 1998). Defendants' anxiety about their trial is only one of these factors. The previous research which has used the STAI with convicted prisoner populations (Lutz, 1990; Pomeroy et al., 1999; Spielberger, 1983) have found an average state anxiety level of 45.59 ($45.15 + 45.35 + 45.96/3$), which is higher than that generally found in the community (Spielberger, 1983). The experimental group in the current study, post-intervention, had a mean state anxiety level of 45.60, suggesting that the experimental group's state anxiety may reflect the anxiety levels found in general convicted prisoner populations. As such, the Court Knowledge intervention is unlikely to reduce anxiety levels to a significant effect because of high baseline anxiety levels found among convicted inmates of prison systems.

Interpretation of the Hypotheses

The present study supported two of three hypotheses (Knowledge and Confidence) and provided some support for the third (Anxiety). Interpretation of the results indicates that the factors are interrelated and that previous

assumptions about the provision of knowledge directly leading to a decrease in the anxiety related to the criminal justice system were simplistic. The current study found no direct relationship between knowledge and anxiety but instead found that the relationship was mediated by the defendants' perceived confidence in their ability to use their knowledge.

Defendants' confidence was positively related to their knowledge (post-intervention): increases in knowledge resulted in increases in confidence, particularly in the confidence to understand. However, no relationship existed between knowledge and anxiety (pre- or post-intervention), although an inverse relationship between confidence and anxiety was found (pre- and post-intervention). Participants with high confidence in their abilities to interact with the criminal justice system were less anxious and vice versa, suggesting that it is the belief in one's ability to interact with the criminal justice system which results in significant change rather than just knowledge.

This result can be interpreted in light of the relationship previously found between perceptions of control and stress. It is argued that it is the perception of control which is stress-reducing or the lack of control which is stress-inducing (Litt, 1988). Stress results when an individual is called upon to respond to circumstances where they have no adequate response or when the consequences of not responding are negative, such as the circumstances experienced by defendants in the criminal justice system. Bandura (1977) argues that self-efficacy expectancies (the belief in one's abilities to produce a desired outcome) are the primary causal factors in behavioral change, and proponents of self-efficacy theory suggest that one needs cognitive strategies to limit the

aversiveness of a given situation before control over the situation can be enhanced (Litt, 1988). Cognitive strategies can include skills in exercising self-control (Shipley, Butt, & Horowitz, 1979), seeking information (Miller & Mangan, 1983), planning (Rosenbaum, 1980), and questioning techniques (Greenfield et al., 1985).

The current study, although providing the information required to interact in the criminal justice system, did not provide any of these skills. The results found regarding the relationship between knowledge and confidence to participate illustrate the effect of not receiving skills. Defendants, although indicating that they felt they were better able to understand, did not necessarily translate this improved knowledge into a sense of confidence about their ability to participate. It is this failure to significantly improve the ability to participate which, more than likely, resulted in the lack of significance in anxiety reduction. The information was also presented in a short 40-minute session and, thus, did not allow defendants sufficient time to process the information and/or develop cognitive strategies to use this information.

Comparison between the current study's intervention and those developed for child witnesses indicate the need to combine knowledge with the provision of cognitive strategies aimed at providing some level of control over the criminal justice system interaction. The author of the current study does, however, recognise that it is difficult for a participant in the criminal justice system to change or take control over many facets of the situation (i.e., trial location, judicial officer, date of trial, and evidence). Consequently, only minimal control can be observed.

_ Court preparation interventions for child witnesses do provide this limited control. These interventions provide court-related information and stress reduction activities over a three to eight week period, depending on the needs of the child (Dezwirek-Sas, 1992). The finding is that children are more knowledgeable of the court system and also experience less anxiety concerning their interaction with the court (Dezwirek-Sas, 1992). The use of stress reduction activities appears to be the main difference between the current intervention and the child witness interventions. Without these skills, knowledge alone can not impact significantly on stress and its associated anxiety. The child witness interventions were also conducted over a lengthy time frame, allowing the child time to process the information effectively and recognize when the information can be used in their criminal justice system interactions. Furthermore, the children are provided with examples of situations that may occur in the court setting and are given the opportunity to use this information in role-play situations. All of these factors appear to contribute to a reduction in anxiety.

The need to provide lengthier, generalised interventions, if reductions in stress/anxiety are to be observed in low control environments, is indicated by Lutz's (1990) study on the effectiveness of relaxation training among male prisoners. She found that the provision of a 20-minute relaxation training session with no formal follow-up had no significant effect on state anxiety levels, although a similar trend to the current study was found. In comparison, Pomeroy et al (1999) found that a five week psychoeducational group intervention on HIV/AIDS combined with emotional support groups resulted in significant reductions in state anxiety.

_ However, it must be noted that the child witness interventions are individualized to the child's specific needs, rather than being conducted in groups. The current study trialed a group intervention and, thus, could not address each participant's individual needs. It is not possible to assume that each participant was anxious about the same aspects of the criminal justice system and generalised stress reduction activities would need to be developed. Activities, such as those conducted in Pomeroy et al (1999) study on HIV/AIDS infected/affected women prisoners, could be developed rather than the intensive interventions developed for child witnesses before reductions in stress/anxiety can be achieved.

In conclusion, the results showed a significant effect for knowledge and confidence but demonstrate that reducing anxiety is more difficult. The current study found that although provision of knowledge did have some impact on anxiety, the effect was too small to be significant. It was the increases in confidence which appeared to have more impact on anxiety, and increasing confidence in one's ability appears to be related to more than the simple provision of knowledge. Finally, it may have been beneficial in the current study to have collected some qualitative information from defendants (i.e., did participants feel the Court Knowledge intervention had an impact on their perceived anxiety or stress). This information may have demonstrated where the Court Knowledge intervention was most effective in reducing anxiety related to the criminal justice system.

Implications and limitations of the present study

The results of the present study suggest that the development of court-related information programs for defendants interacting with the criminal justice system is possible and has merit. In this study a relatively small intervention demonstrated positive results.

However, the present study is not without its limitations and, for a number of reasons, caution should be exercised in drawing conclusions. The fact that participants were remanded in custody, were defending an indictable offence, and were not randomly assigned to the experimental and control groups limits the generalisability of the findings. Defendants remanded in custody experience different conditions to those defendants on bail. Remanded defendants are unable to contact their counsel, see their families, and must comply with prison regulations. Remanded defendants are also more likely to be pleading guilty, have previous convictions and limited financial resources (Bottomley, 1970). All these factors may impact on how bailed defendants would respond to an intervention similar to the one developed in the current study. Bailed defendants' greater ability to seek out information and increased financial resources may reduce the impact of this style of intervention. Whether or not similar results could be obtained with bailed defendants who have been charged with either an indictable or non-indictable offence is a question for future research.

One implication of the present study is that a non-legal professional was able provide this court-related information. There are a number of advantages in non-legal professionals providing such information. Firstly, non-legal

professionals do not touch on evidentiary matters when providing this information, as such matters are outside the non-legal professional's knowledge. Secondly, the provision of this information by non-legal professionals allows the defendant's lawyer to do what they are supposed to be doing, such as preparing a defence or organizing a mitigating plea, rather than explaining court procedures. Reducing the time lawyers are required to spend with clients is important in the current situation of limited Legal Aid funding (personal communication A Fitzgerald³, June 10, 1999).

It is not known if the background of the individual who is presenting the information would have any impact on the defendants knowledge, confidence or anxiety. Presentation of this information from a legal professional may impact on the defendant's perception of the intervention. For example defendants may see information coming from a lawyer as more salient than that coming from a non-lawyer.

The current intervention package may have relevance to self represented defendants. The increasing numbers of self represented defendants in the lower courts is of increasing concern to legal professionals and court staff. Their lack of knowledge and failure to adequately prepare defenses may result in unfair trials. The current information package could be upgraded to include information relevant to self represented defendants. Information on the criminal justice system would be beneficial to these defendants and ensure that they have some knowledge regarding the proceedings and, subsequently, be able to effectively mount a defence.

³ Legal Aid Education Officer

_ The study presented the information in a group setting which is significantly different to similar intervention packages (medical and child witness). This method of delivery did have a significant impact and consequently has major implications for its ability to be delivered to a large number of defendants. Presenting information in a group setting is both cost and time effective, factors which need to be considered in the criminal justice system.

It is possible the study was limited by its small sample size ($n=40$) and the method of sample selection. The Court Knowledge intervention's lack of significance in reducing trial anxiety may have been related to the lack of power inherent in a small sample, the Court Knowledge intervention only accounted for 9.1% of the variance, with only a 29.6% probability of an effect of this magnitude being detected. It could be hypothesized that a larger sample may have demonstrated a significant reduction in trial anxiety. Given the adequacy of the sample for the other measures it is unlikely that the lack of a significant effect, in the anxiety scores, was a result of a small sample size.

Participants in the current study volunteered to participate after being given some knowledge about what would happen. Thus the defendants in this study were interested in improving their knowledge about the system and similar effects may not be found in the wider defendant population when such interest may be lacking.

A further limitation of the current sample was that its small size did not allow for any analysis to be conducted regarding the impact of the intervention on different cultural groups. No distinction was made between Aboriginals and

non-Aboriginals or individuals from a non English speaking background⁴ These defendants may have different needs which were not addressed in the current intervention.

The use of a global measure of state anxiety (STAI, Spielberger, 1983) may also be considered a limitation in the current study. This measure aims to determine overall state anxiety and may not be sensitive enough to determine one aspect of state anxiety (trial anxiety). The use of more a more refined instrument or the development of a specific instrument of trial anxiety may have provided different results regarding trial anxiety.

Future Research

The Court Knowledge intervention described in this study may be an efficient mechanism for future research endeavors. An initial line of research would be determining the intervention's applicability among the wider community of defendants (i.e., bailed defendants and unrepresented defendants).

Research involving the provision of court-related information and stress reduction activities, over a number of sessions, could be conducted with both remanded and bailed defendants. This research could also investigate the utility of teaching defendants communication skills so as to interact more effectively with their lawyers. As previously discussed it is apparent that reductions in anxiety are related to the defendants belief in their ability to exert some control over their situation, and the skills provided in an intervention which incorporates all these factors may give defendants a greater sense of control and self efficacy.

⁴ All defendants could however read and write English.

– Determining how close to trial the intervention package should be presented is another avenue of research. The salience and proximity of a defendant’s trial (i.e., is the trial in one week, one month, or one year) may impact on the information intervention’s effectiveness on retention of knowledge, confidence, and anxiety. In the current study the timing of each participant’s upcoming trial may have reduced the salience of the intervention to the defendant. Those defendants whose trials were a long way in the future may not remember the information provided at their trial. Also, due to the distant nature of their trials, the intervention may have lacked salience for these defendants. Any future developments need to investigate this issue.

Who provides this information is another potential area of research. In the current study the intervention was presented by a non-legal professional, different results may have been obtained if a legal professional had delivered the intervention. Whether the instructor is a lawyer, a prison officer, or other non-legal professionals or a combination of the above, may have some impact, either positively or negatively, on the effectiveness of the intervention. Future development of legal based intervention programs needs to determine who is best suited to provide instruction or if a combination of different professions is warranted.

Other methods of information presentation may also impact on its utility regarding knowledge, confidence, and anxiety. The current intervention utilised a group setting and found that it was effective. However, this method of delivery would not be suitable for defendants in remote areas or who are unable to attend

such groups. The use of multimedia, CD ROM packages may be a way to reach these defendants.

Given the overrepresentation of Aboriginals in the criminal justice system (Schlosser, 1994), future research needs to determine if the current intervention is culturally appropriate to this groups of defendants. If it is not, then interventions designed to meet the needs of this population group need to be developed.

Conclusion

This study provided empirical support to the previous research regarding defendant knowledge. Defendants' pre-intervention scores reflected a lack of knowledge concerning the criminal justice system. Similar to previous research, defendant knowledge was unaffected by level of education or previous experience in the criminal justice system, demonstrating that experience in the criminal justice system does not provide defendants with the knowledge or the skills they need to participate.

In response to the perceived need for court-related information, the current study trialed a small intervention with successful results. However, this study was only a start to what should be a series of programs aimed at the defendant and their interaction with the criminal justice system.

These programs may serve to enhance the fundamental principle upon which our adversarial system is based: that all should be equal before the law. To be equal with the prosecution before the law requires that the defendant is able to understand the nature of the allegations made against them, understand how to reply to these allegations, and understand the process by which they are accused.

This can only be realised if defendants are provided with sufficient knowledge and skills to allow them to make rational and informed decisions.

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Appendix A: Overheads

An overview of the criminal justice system

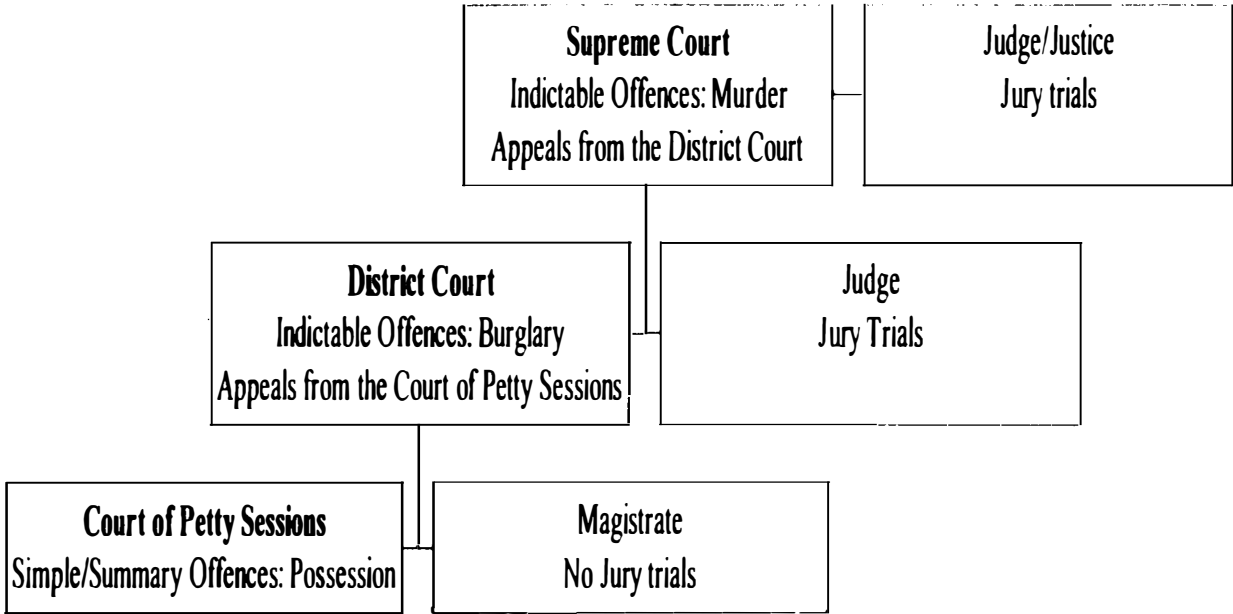
Dan Hurley

Introduction

- Courts in Western Australia
 - Where are they?
- Participants in a criminal trial
 - Who are they?
- The process
 - What do you have to do?

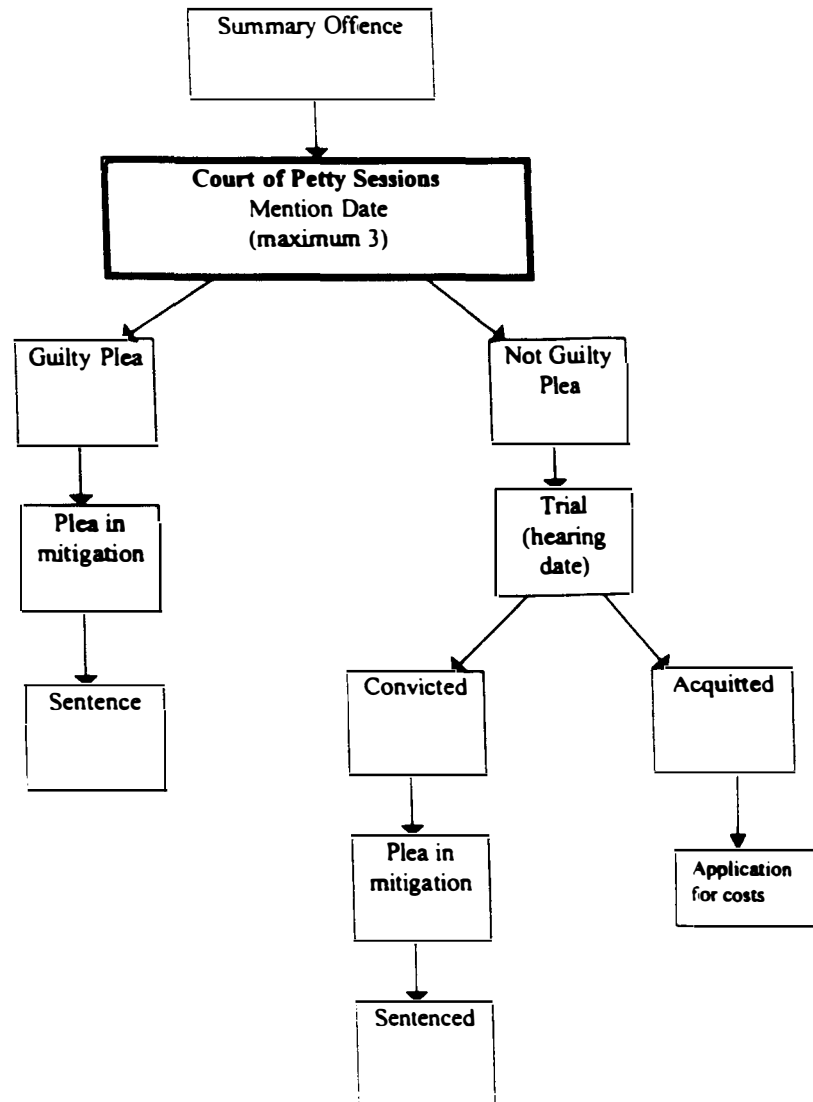


Courts in Western Australia

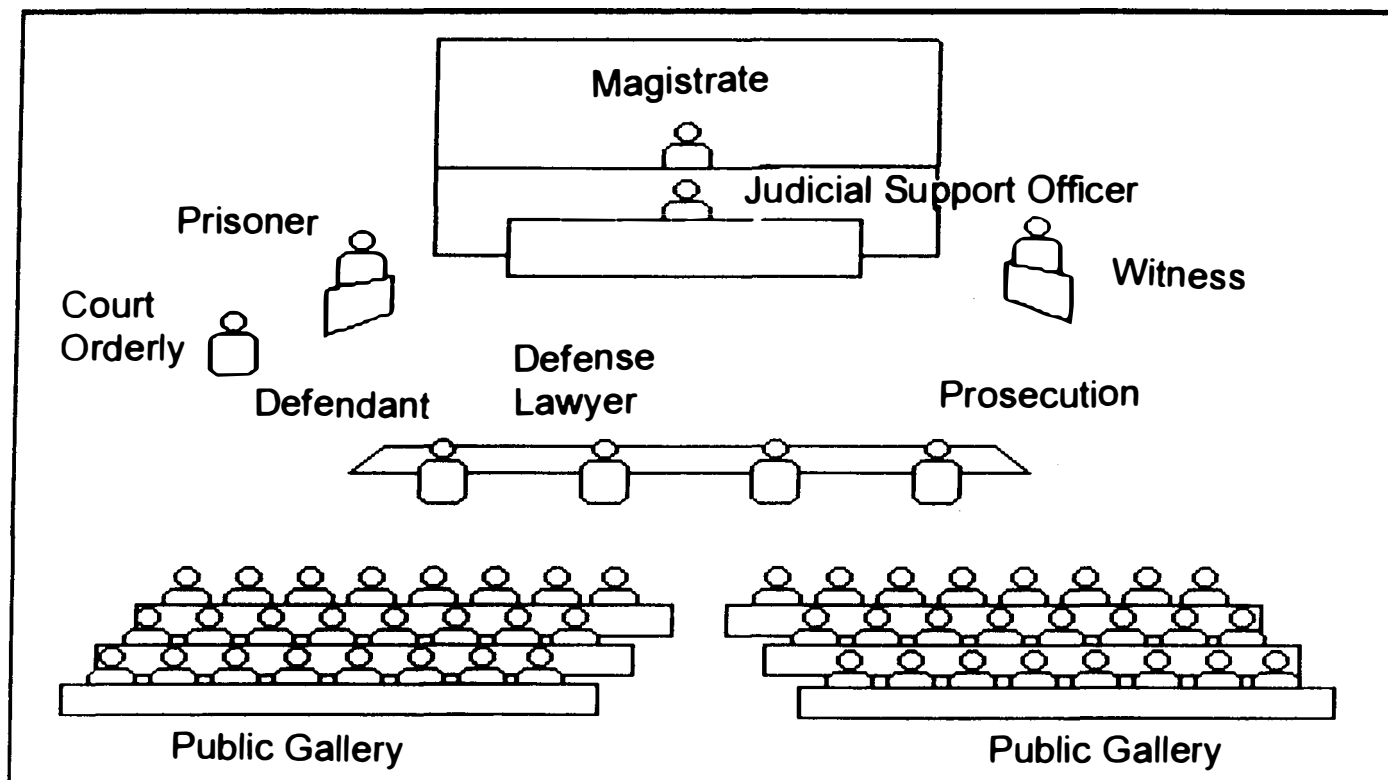


Who is in the Court of Petty Sessions?

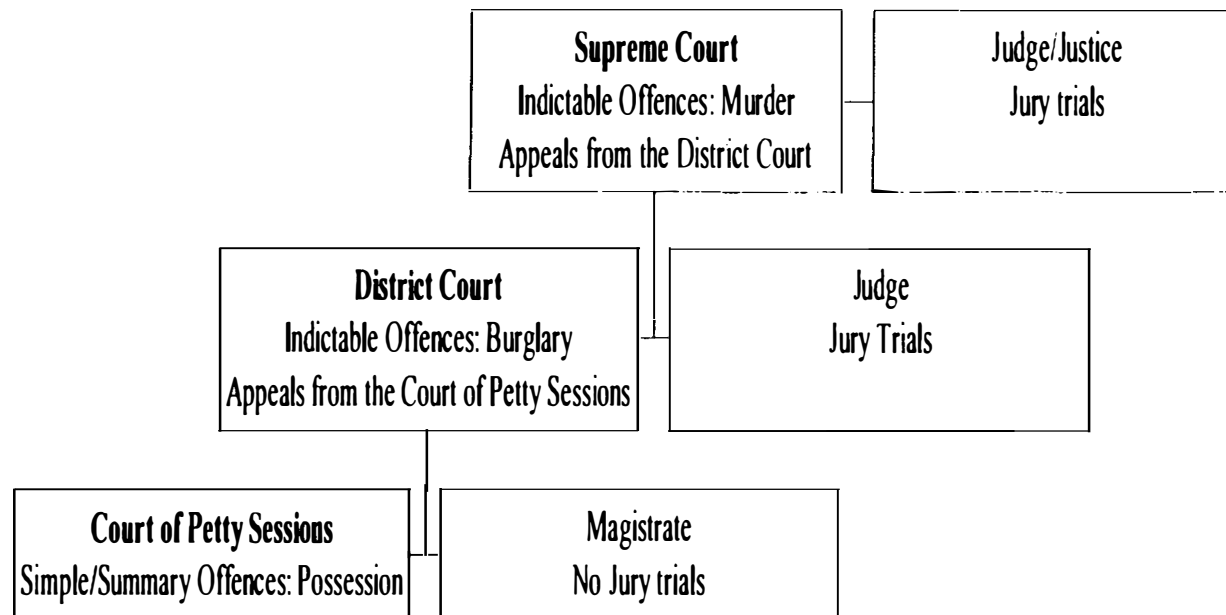
- Magistrate
 - decides matters of law and fact
- Defendant
 - person accused of committing an offence
- Defence Lawyer
 - lawyer who works for the defendant
- Judicial Support Officer
 - person who helps the Magistrate
- Witness
 - person who saw/or knows something about the offence
- Prosecutor
 - lawyer or police officer who tries to prove that the defendant did the crime



Court of Petty Sessions

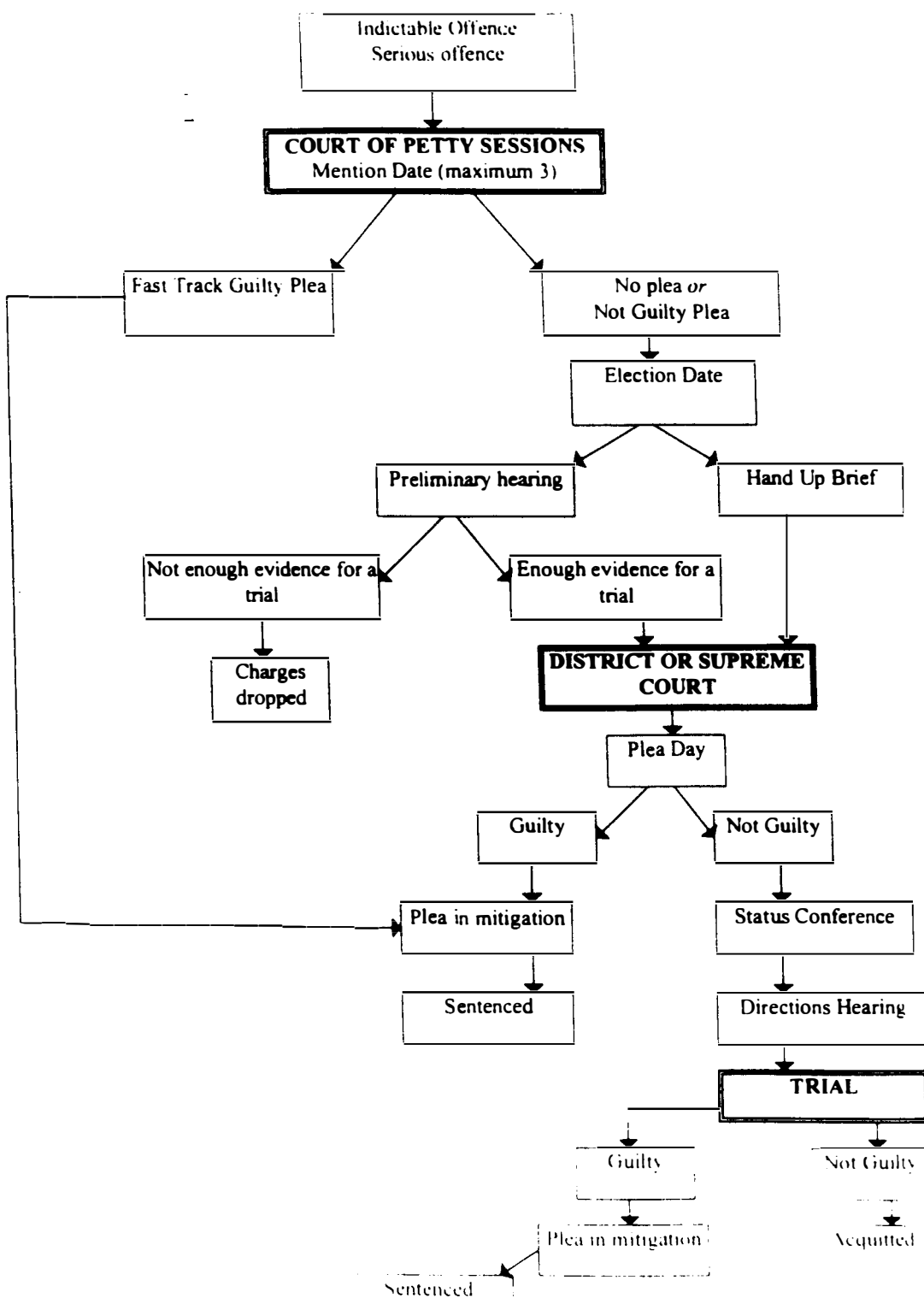


Courts in Western Australia

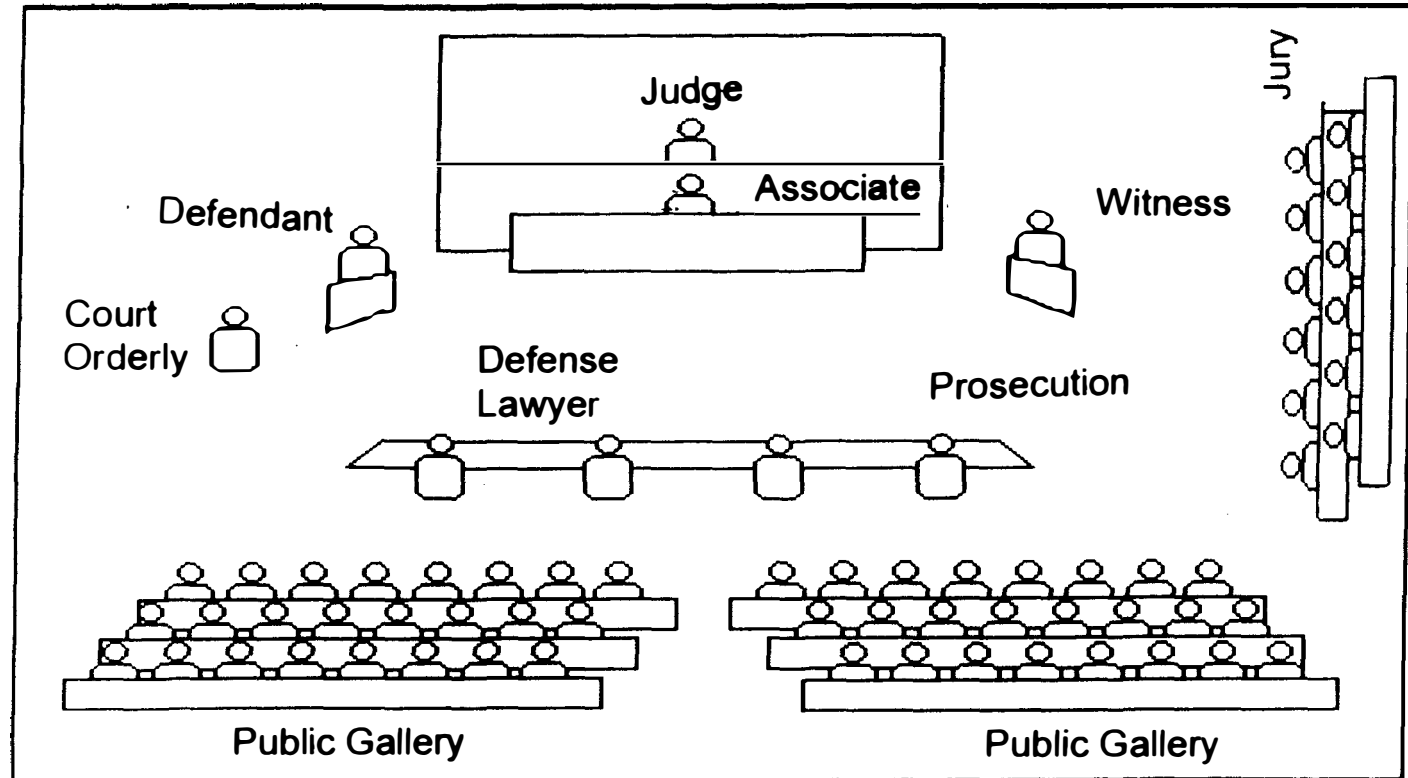


Who is in the District/Supreme Court?

- Judge
 - decides matters of law
- Defendant
 - person accused of committing an offence
- Defence Lawyer
 - lawyer who works for the defendant
- Jury
 - people who decide matters of fact
- Associate
 - person who helps the judge
- Witness
 - person who saw/or knows something about the offence
- Prosecutor
 - lawyer who tries to prove that the defendant did the crime.



District or Supreme Court



Mention Dates

- Mention Dates

- dates where matters are listed for mention only

- matter may be remanded so defendant can get legal advice - time to get more information
 - application for bail can be made
 - plea of guilty on a minor charge (summary matter)
 - fast track plea of guilty may be entered and the matter then sent to the District or Supreme court
 - plea of not guilty on a minor charge and a hearing date set

- Usually you can have up to three mention dates before a plea of guilty must be entered or an election date requested

Election Dates

- Election date

- defendant can elect to do one of two things
 - Have a preliminary hearing
 - if the defendant chooses not to have a preliminary hearing then the election papers become the 'hand up brief'.
- election papers - all the prosecution statements, exhibits and any records of interviews with the defendant

Hand-Up Brief

- Hand-up Brief
 - when the prosecution brief is sent to the District or Supreme Court without a preliminary hearing

Preliminary Hearing

- Preliminary hearing
 - where the magistrate determines whether there is sufficient evidence for a trial in the District or Supreme Court

Fast Track Pleas

- A fast track plea is when the defendant enters a plea of guilty based on the statement of material facts (prosecution brief).
 - enters the plea in the Magistrates court and sentenced in the District or Supreme Court
 - is given credit for an early plea of guilty when sentenced

Directions Hearing

- Directions hearing
 - Where the prosecution and defence lawyers prepare the matter for trial
 - There is no jury at a Directions Hearing

Plea in Mitigation

- This is where you (the defendant) give mitigating evidence
 - evidence why you should get a lesser sentence
 - character evidence
 - your background
 - previous criminal history
 - circumstances of the offence

Status Conferences

- Status Conference
 - a date where the defendant confirms plea of not guilty and is assigned a trial date.

Trial

- After all of this you are now appearing at your trial.
- During your trial you need to do what your lawyer says
 - if your lawyer does not follow your instructions talk to your lawyer first
 - do not stand up in court and say what you think without talking to them first.
 - if you do not understand anything that happens during your trial talk to your lawyer

Appendix B: Teaching Manual

An overview of the criminal justice system

Dan Hurley


Introduction

Hi, i am dan hurley, you did a questionnaire for me last

Some of the questions involved things that happen to you or you have to do in the criminal justice system. Some of you got a lot of the questions right and some of you got some wrong. I am not going to tell everyone what score you got, instead, I am going to provide you with the information to answer all the questions correctly.

Introduction

- Courts in Western Australia
 - Where are they?
- Participants in a criminal trial
 - Who are they?
- The process
 - What do you have to do?



This training/education session is not specific to your trial but is the general things that every defendant has to experience. All the things we are going to talk about will not happen to some of you and some of you may have more hearings. I am only going to talk about the major things. Lawyers go to University for 4 years to learn about all the little things and we don't have the time to do all of that *-although given the delays in coming to trial you might think you do!*

The most important thing is that you should not talk about the specific issues of your case with me. I am not a lawyer and I was not there at the time. So I can not tell you what to do, whether or not you will be found guilty or what sentence you will receive. You need to talk to **your lawyer** about these things.

So, today we are going to cover these aspects of the criminal justice system.

•Courts in Western Australia

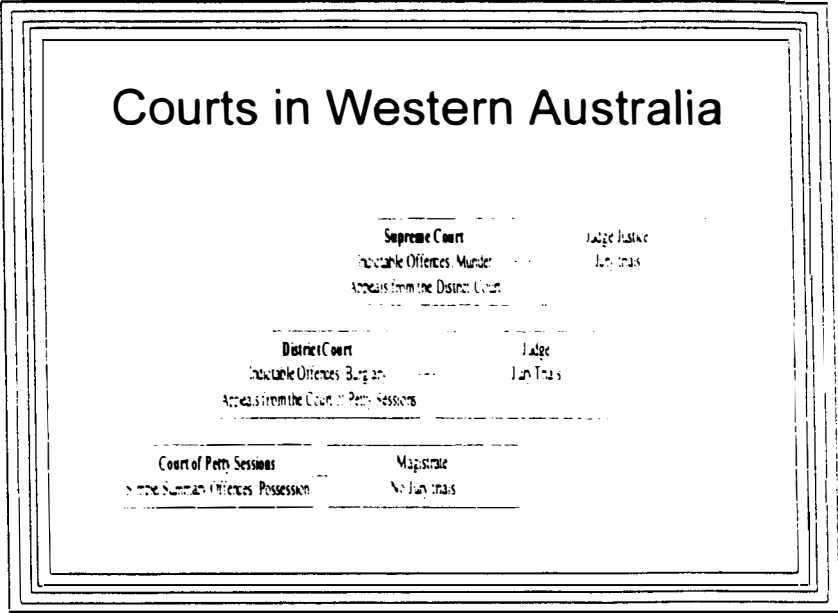
•Where are they?

•Participants in a criminal trial

•Who are they?

•The process of a criminal trial

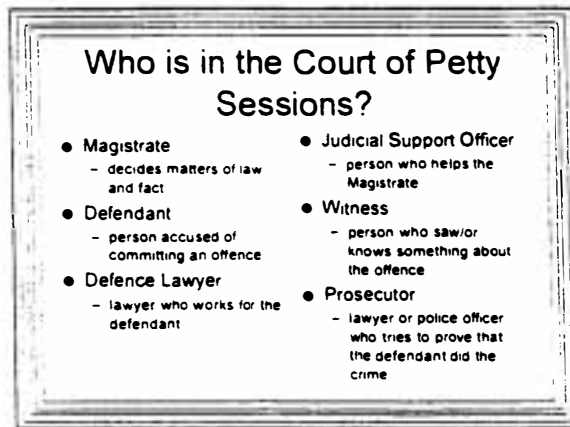
•What happens to me?



In Western Australia, there are 3 criminal courts.

The Court of Petty Sessions

- The 1st court is the Court of Petty Sessions. This court is also known as the Magistrates court or the court of summary jurisdiction. The court is presided over by a Magistrate or a Justice of the Peace. JP's usually preside in country Courts of Petty Sessions or when it is difficult for a Magistrate to be present. Magistrates now have to be lawyers but JP's do not.
- There are no juries in the Court of Petty Sessions.
- Courts of Petty Sessions deal with Summary/Simple offences (minor offences) and are also the jurisdiction (place) where Indictable offences (serious offences) are examined before they go to the Higher courts (District/Supreme courts)
- There are 5 inner metropolitan Courts of Petty Sessions located at Perth (St Georges Tce/Central Law Courts), Armadale, Midland, Joondalup, & Fremantle. There are also courts at Rockingham and Mandurah.



A trial/hearing in the Court of Petty Sessions involves the following people (*Go through roles using picture*).

Magistrate

Decides matters of law and fact. They decide whether everything is legal and also if the defendant is innocent or guilty.

Judicial Support Officer

Is the person who sits in front of the Magistrate. They read out charges and organise the court.

Defendant/accused

Is the person charged with committing the offence.

Defence Lawyer

Is the lawyer who works for the defendant. They can be from Legal Aid or they can be private lawyers.

Witness

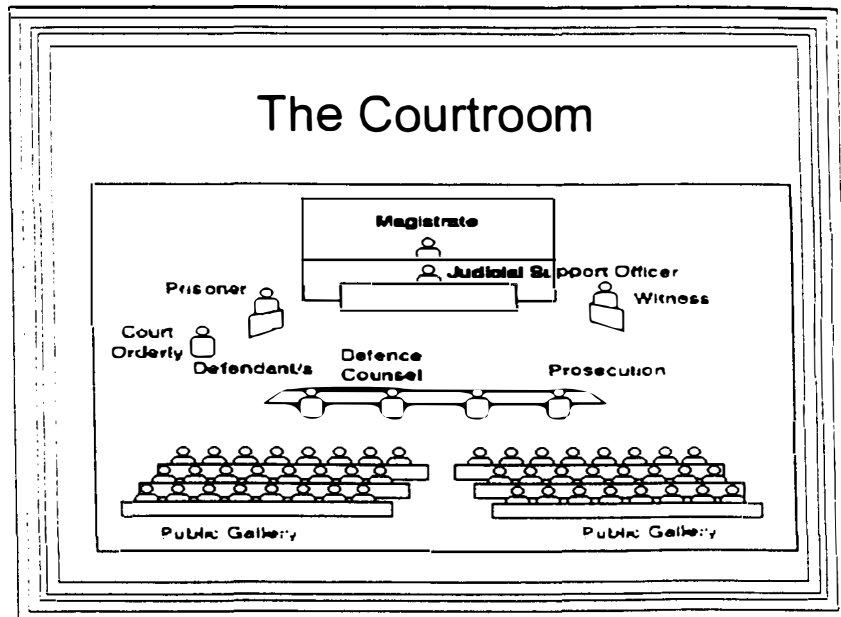
is the person who saw/or knows something about the offence. They are called to give evidence for either the prosecution or the defense.

Prosecutor

Is usually a specially trained police officer or a lawyer who tries to prove that the defendant did the crime. In the Magistrates court prosecutors are mostly police officers, although this will be less & less in the future.

Orderly

The orderly is the person who assists the magistrate to keep order in the courtroom and calls each case.



The Courtroom.

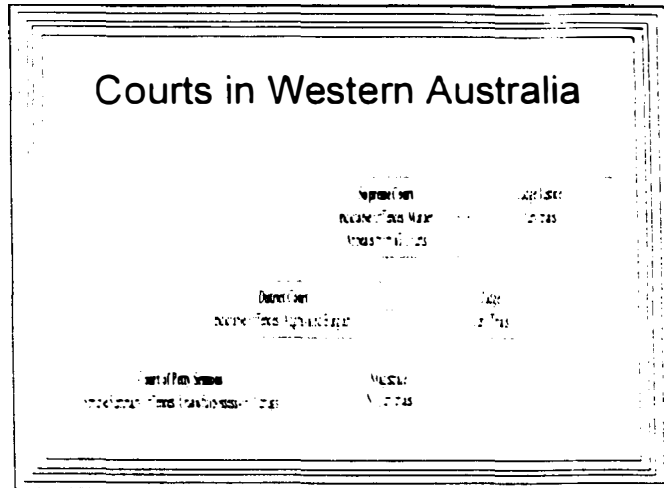
When you enter or leave the courtroom you should bow towards the magistrate. You should enter and leave the courtroom quietly so you do not disrupt proceedings. Talking eating and drinking is not permitted. You should also make sure that your page or mobile phone is turned off.

A magistrate is in charge of the trial and can ask someone to leave if they are not dressed correctly or behave badly. In the Magistrates court, you call the Magistrate 'your worship', Sir or Ma'am.

In the Magistrates court the defendant sits next to their lawyer. However, if they are in custody they sit in the dock with a police officer.

*** Use flow chart overhead now**

This Diagram shows how cases are heard in the Court of Petty Sessions. I will be discussing Mention Dates and Mitigating Pleas later



District Court

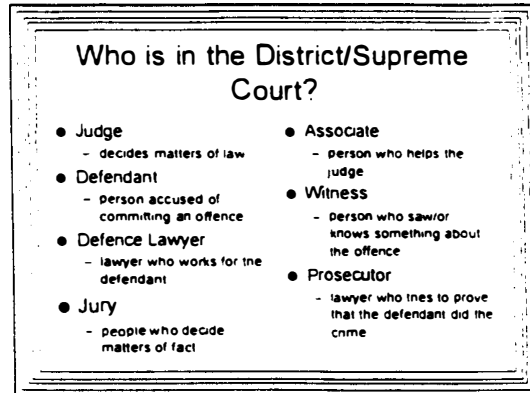
The District Court is the intermediate court in WA, is presided over by a judge. The district court deals with serious criminal offences for which the maximum penalty is 20 years imprisonment. (serious assaults, selling drugs and aggravated burglary).

- In the district court a jury of 12 people may decide if a person is guilty or innocent.
- The metropolitan District courts are located in the Central Law Courts (St. Georges Terrace) and the May Holman Centre (next door to the Central Law Courts).

Supreme Court

The supreme court is the superior court in WA and its proceedings are presided over by a supreme court judge or justice. It deals with criminal offences of a serious nature such as murder or armed robbery.

- In the Supreme court a jury of 12 people may decide if a person is guilty or innocent.
- The supreme court is the highest state court of appeal which means that it can hear appeals from the Court of Petty Sessions, the District Court and the Supreme Court.
- The metropolitan Supreme Court is located in the Supreme Court Building (corner of St Georges Terrace and Barrack Street) and at the National Mutual Building (St Georges Terrace)



Who is in the District or Supreme Court.

A major difference between the Court of Petty Sessions and the higher courts is that in the higher courts the

Judge decides matters of law (if something is legal)

whilst a

Jury decides matters of fact (if a person is guilty or innocent)

** (IF QUESTION IS ASKED: You can elect to have a matter heard by judge alone in the higher courts, this is something they need to talk about with their lawyer)*

Then similar to Magistrates court

Associate

Is the person who sits in front of the Judge. They read out charges and organise the court.

Defendant/accused

Is the person charged with committing the offence.

Defence Lawyer

Is the lawyer who works for the defendant. They can be from Legal Aid or they can be private lawyers. Sometimes called a Barrister.

Witness

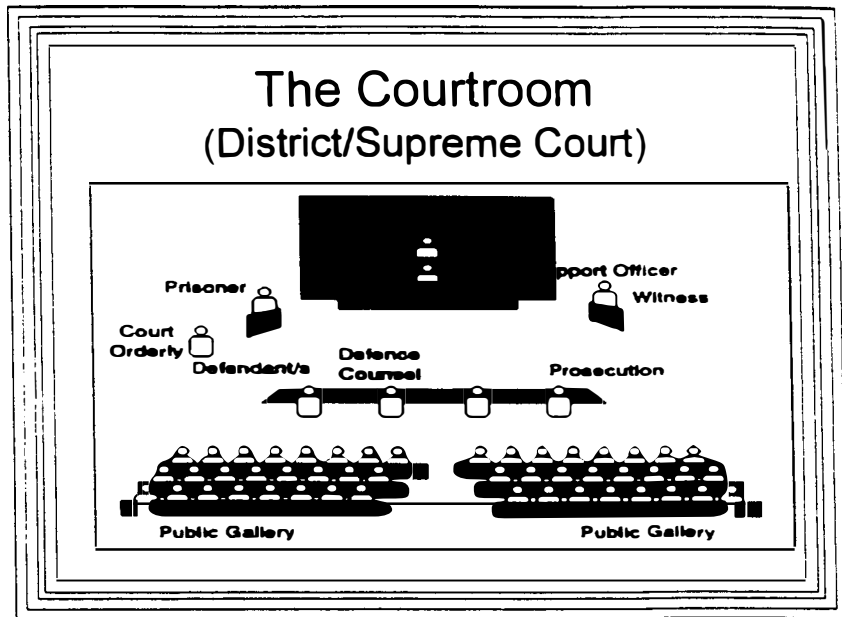
is the person who saw/or knows something about the offence. They are called to give evidence for either the prosecution or the defense.

Prosecutor

Is a lawyer who tries to prove that the defendant did the crime. Police Officers are not prosecutors in the District/Supreme Court

Orderly

The orderly is the person who assists the magistrate to keep order in the courtroom and calls each case.



When you appear in the District or Supreme court the you need to follow the same procedures as in the magistrates court. For example dress correctly and be polite to the judge. There are some differences between the lower and higher courts for example:

- In the District and Supreme court offences are presented to the court on a document called an indictment. This is simply a charge sheet, a sheet which lists all the offences that the defendant has been charged with. At the beginning of a trial the associate reads out the indictment and the defendants says how they are going to plead to the charges.
- Both the prosecution and the defense can challenge people who are called to sit on the jury. Usually the defence lawyer will make the challenges for the defendant. This is because the lawyer is experienced and knows about the process. However, if there is someone called to sit on the jury and you do not want them to be there you need to let your lawyer know before the juror takes the oath.
- There are more hearings (especially if you are pleading not guilty).
- * **Use flow chart overhead here.**

This diagram shows how cases are heard in the higher courts. I will go through each of these steps in detail after a short break. (10-15 minutes break).

Mention Dates

● Mention Dates

- dates where matters are listed for mention only
 - matter may be remanded so defendant can get legal advice - time to get more information
 - application for bail can be made
 - plea of guilty on a minor charge (summary matter)
 - fast track plea of guilty may be entered and the matter then sent to the District or Supreme court
 - plea of not guilty on a minor charge and a hearing date set

- Usually you can have up to three mention dates before a plea of guilty must be entered or an election date requested

Mention Dates

The first court appearance you make is called a Mention Date. This will always be in the Court of Petty Sessions. At a Mention Date, matters (cases) are listed for 'mention only'. It does not always mean the start of your trial. 'Mention only' means that the following things can happen:

1. The matter (case) may be remanded to another mention date so that the defendant can get legal advice - time to get more information
2. An application for bail can be made
3. A plea of guilty on a minor charge (summary offence) may be entered. You can be sentenced on this date or the Magistrate can sentence you at a later date.
4. On Indictable offences only, a fast track plea of guilty may be entered and the matter (case) is then sent to the District or Supreme court
5. A plea of not guilty on a minor charge may be entered and a Hearing Date is set

Usually you can have up to three mention dates, including your first appearance, before a plea of guilty or a plea of not guilty must be entered (on summary matters) or an Election Date or a fast-track plea of guilty is requested (on indictable matters).

This is probably one of the more difficult aspects of the criminal justice system that we will talk about today.

Election Dates

- Election date
 - defendant can elect to do one of two things
 - Have a preliminary hearing
 - if the defendant chooses not to have a preliminary hearing then the election papers become the 'hand up brief'.
 - election papers - all the prosecution statements, exhibits and any records of interviews with the defendant

If a defendant has made a fast-track plea of guilty, then they are sent to the District or Supreme court for sentencing. We will come back to this later.

Election Dates

- If you have not entered a plea of guilty (for an indictable offence) then you need to have an Election Date.
- The Election Date is simply the day when the defendant is required to choose one of two things.
 - 1 To have a Preliminary Hearing or
 - 2 To have a Hand-up Brief.

This choice is based on the information contained in the election papers.

all the prosecution statements, exhibits and any records of interview made by the defendant.

Hand-Up Brief

- Hand-up Brief
 - when the prosecution brief is sent to the District or Supreme Court without a preliminary hearing

Hand Up Brief

- A Hand-up Brief is one alternative at an Election Date.
- A Hand-up Brief is the handing up of the prosecution brief
 - The prosecution brief is all the prosecution statements, exhibits, and any records of interview made by the defendant. These were called the election papers at the election date
- When you have a hand up brief you choose not to have a preliminary hearing. After a hand up brief the defendant is asked to appear at the next sitting of either the District or Supreme court.

Preliminary Hearing

- Preliminary hearing
 - where the magistrate determines whether there is sufficient evidence for a trial in the District or Supreme Court

Preliminary hearing

- A preliminary hearing is a short trial like hearing in the Court of Petty Sessions.
- At a preliminary hearing some prosecution witnesses may give evidence under oath and are able to be cross examined. After the prosecution evidence the defendant can choose if they want to give evidence. The defendant does not have to give evidence during a preliminary hearing.
- The defense can tell the court why they do not think there is enough evidence for the matter to be tried in the District or Supreme Court.
- At the end of the preliminary hearing the magistrate decides if there is sufficient evidence for a jury to convict the defendant in the District or Supreme Court.
- If the magistrate decides that there is not enough evidence to convict the defendant then the case is dropped.
- If the magistrate decides that there is enough evidence to convict then the defendant is asked to appear at the next sitting of either the District or Supreme Court.

Fast Track Pleas

- A fast track plea is when the defendant enters a plea of guilty based on the statement of material facts (prosecution brief).
 - enters the plea in the Magistrates court and sentenced in the District or Supreme Court
 - is given credit for an early plea of guilty when sentenced

Pleas day

Defendants who have not made a fast track plea of guilty appear on a pleas day before a judge. On the Pleas day the defendant is required to enter either a plea of guilty or not guilty to the indictment which is read to them by the associate.

Fast Track guilty pleas.

Early on we mentioned fast track guilty pleas, this is the point where defendants who made a fast track come before the judge. As you can see by making a fast track plea they have saved a lot time and also costs by avoiding the other steps in the process.

If you make a fast track plea of guilty what you are saying is that what the police and prosecution said in the statement of material facts is correct. So there is no need for the defence to argue that the facts were wrong or made up.

When you make a fast track plea of guilty you are given credit (a bonus/discount) for making an early plea and saving the courts time. The judge will then take this into account when deciding on what sentence to give you.

Plea in Mitigation

- This is where you (the defendant) give mitigating evidence
 - evidence why you should get a lesser sentence
 - character evidence
 - your background
 - previous criminal history
 - circumstances of the offence

Before you are sentenced you should give a plea of mitigation. This is where you (the defendant) give mitigating evidence, basically this means that you are telling the judge why you should get a lesser sentence.

Mitigating Evidence

Mitigating evidence can include:

•character evidence - what is your character like - do you have a family or stable job.

•your background - educational and technical qualifications, medical and psychological history e.g. do you have a history of alcohol or substance use. Did you have a lot of foster families etc...

•previous criminal history - is this your first offence, or first offence of this type. Are you currently on parole?

•circumstances of the offence - were you drunk when you did the offence, were other people encouraging you to commit the offence. What you actually did.

Status Conferences

- **Status Conference**
 - a date where the defendant confirms plea of not guilty and is assigned a trial date.

If you plead not guilty on the pleas day in the District or Supreme court it is assumed that you want to go to trial. So the first thing you have to do is have a status conference.

Status Conference

- A status conference is a date in court where the defendant confirms that they are pleading not guilty.
- After this they are given a trial date and if necessary a directions hearing.

Directions Hearing

- Directions hearing
 - Where the prosecution and defence lawyers prepare the matter for trial
 - There is no jury at a Directions Hearing

After a status conference you sometimes have a directions hearing. This can be referred to as a "housekeeping hearing".

Directions hearing

- During a directions hearing the case is prepared for trial.
 - Any legal issues which can be finished without needing a jury are discussed and the judge makes a decision.

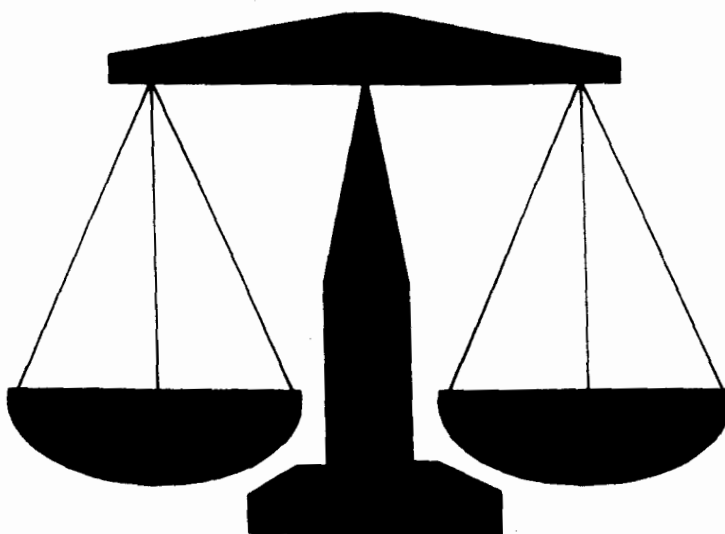
After the directions hearing the matter is sent to trial.

Trial

- After all of this you are now appearing at your trial.
- During your trial you need to do what your lawyer says
 - if you lawyer does not follow your instructions talk to your lawyer first
 - do not stand up in court and say what you think without talking to them first.
 - if you do not understand anything that happens during your trial talk to your lawyer

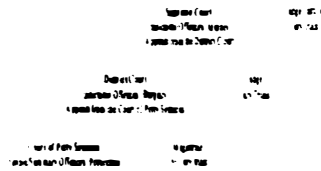
Appendix C: Defendant Workbook

THE DEFENDANT AND THE CRIMINAL JUSTICE SYSTEM



Defendant Notebook

Courts in Western Australia

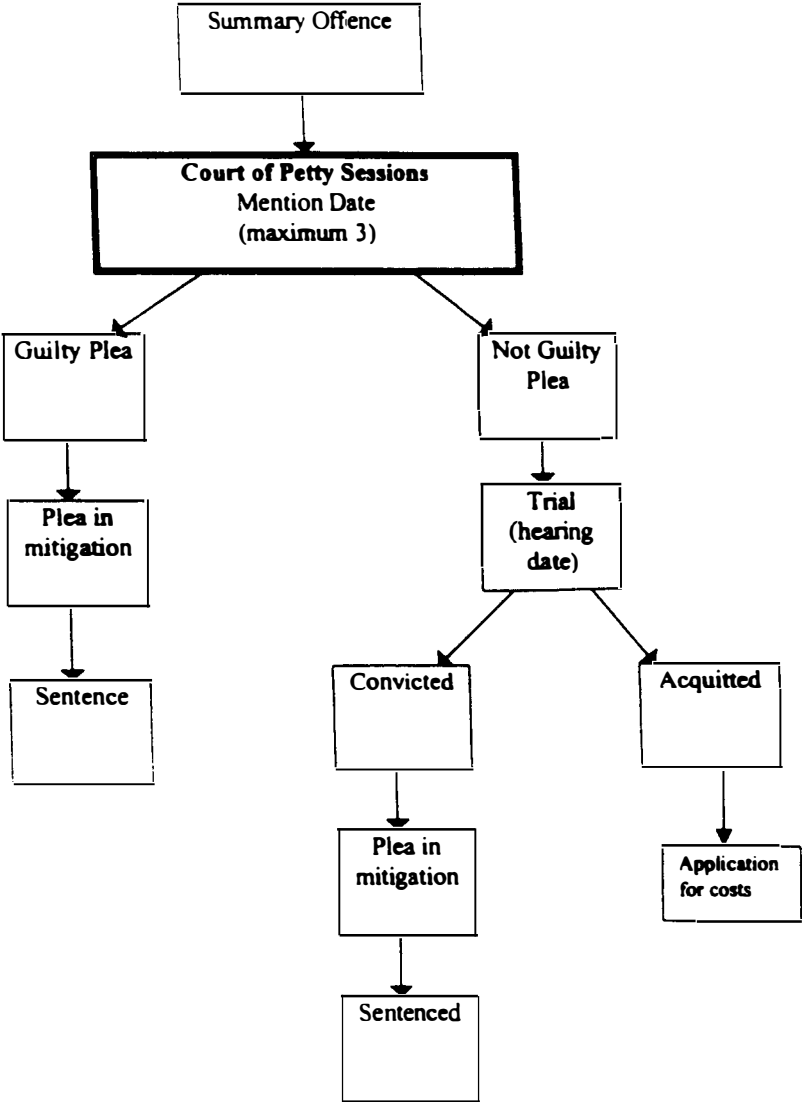


Who is in the Court of Petty Sessions?

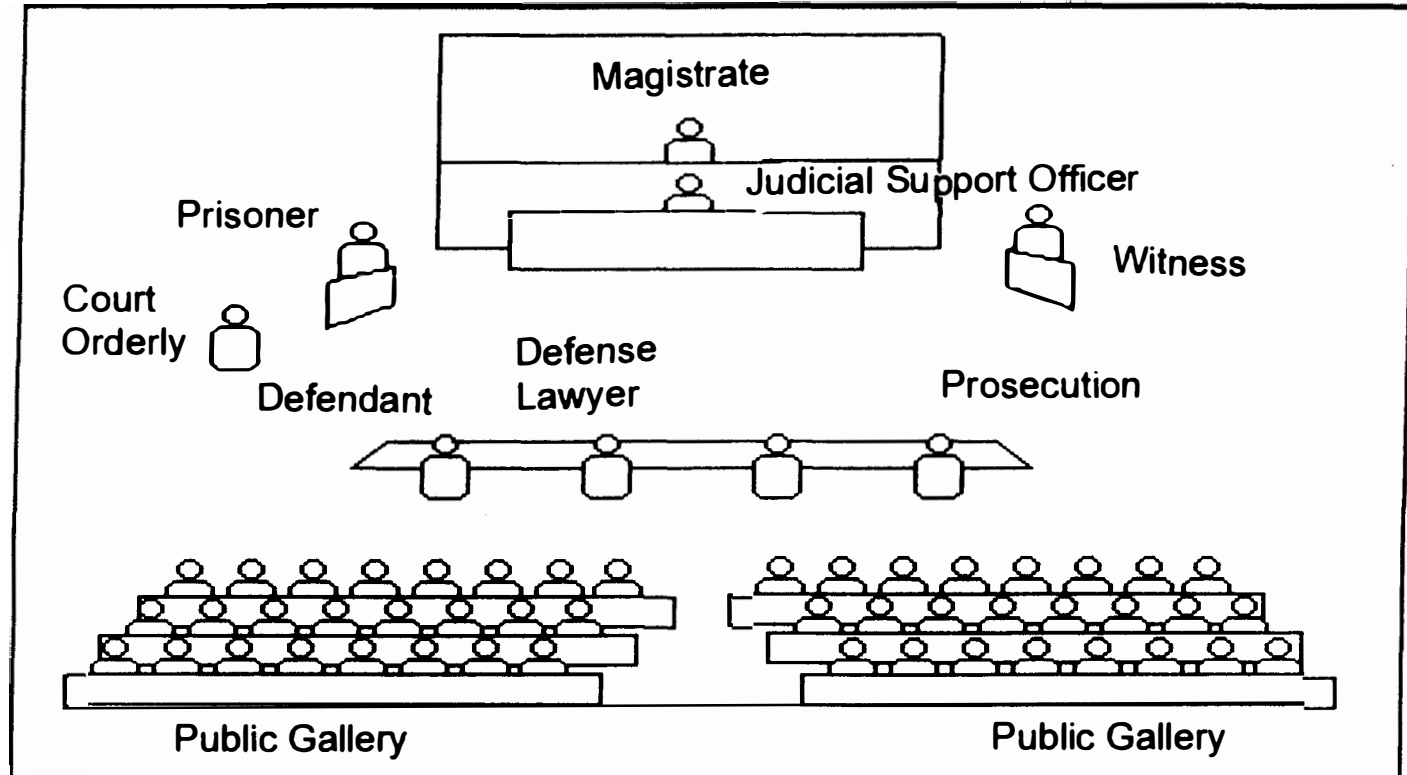
- Magistrate
 - decides matters of law and fact
- Defendant
 - person accused of committing an offence
- Defence Lawyer
 - lawyer who works for the defendant
- Judicial Support Officer
 - person who helps the Magistrate
- Witness
 - person who saw or knows something about the offence
- Prosecutor
 - lawyer or police officer who tries to prove that the defendant did the crime

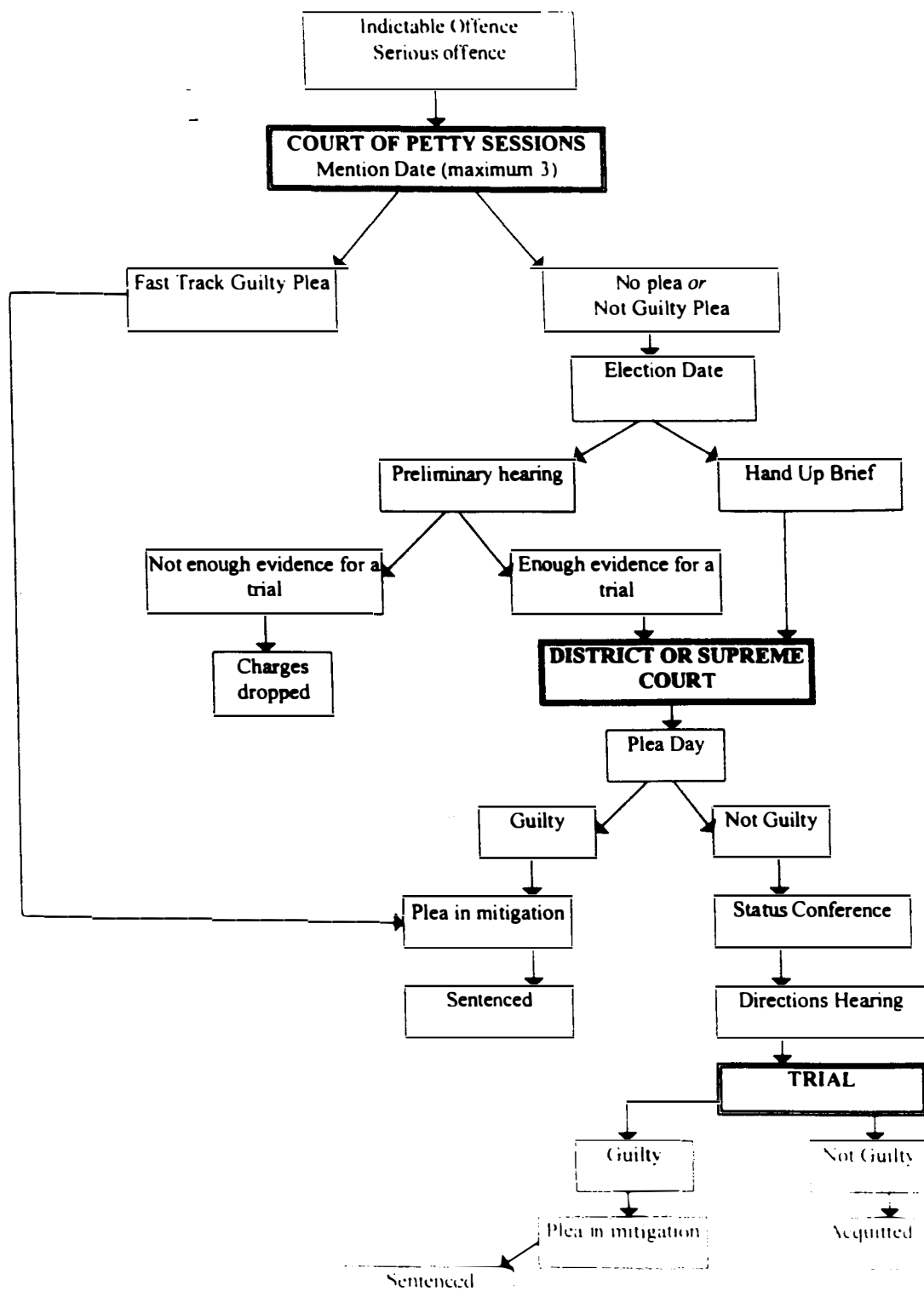
Who is in the District/Supreme Court?

- Judge
 - decides matters of law and fact
- Defendant
 - person accused of committing an offence
- Defence Lawyer
 - lawyer who works for the defendant
- Jury
 - people who decide matters of fact
- Associate
 - person who helps the Judge
- Witness
 - person who saw or knows something about the offence
- Prosecutor
 - lawyer who tries to prove that the defendant did the crime

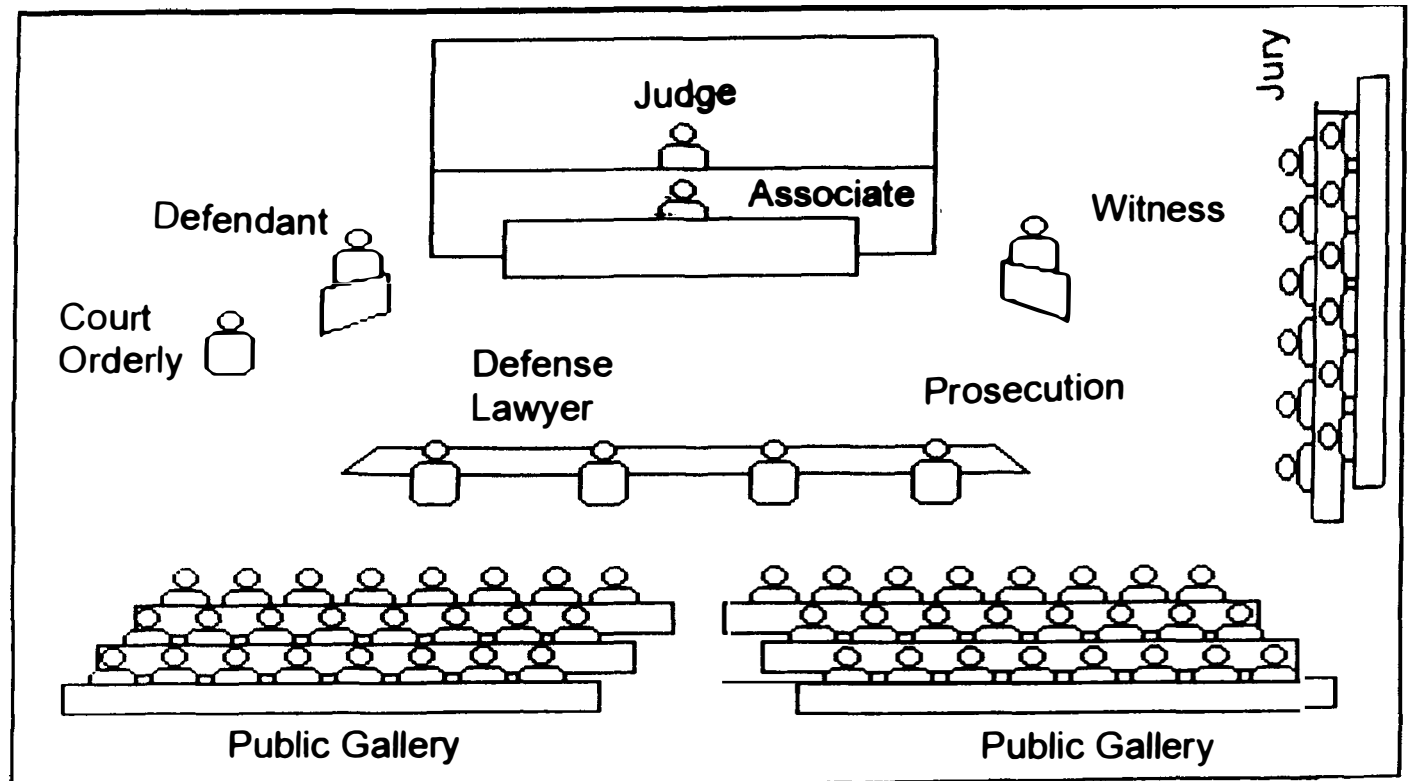


Court of Petty Sessions





District or Supreme Court



Mention Dates

- Mention Dates
 - dates where matters are listed for mention only
 - matter may be remanded so defendant can get legal advice - time to get more information
 - application for bail can be made
 - plea of guilty on a minor charge (summary matter)
 - fast track plea of guilty may be entered and the matter then sent to the District or Supreme court
 - plea of not guilty on a minor charge and a hearing date set
- Usually you can have up to three mention dates before a plea of guilty must be entered or an election date requested

Election Dates

- Election date
 - defendant can elect to do one of two things
 - Have a preliminary hearing
 - if the defendant chooses not to have a preliminary hearing then the election papers become the 'hand up brief'
 - election papers - all the prosecution statements, exhibits and any records of interviews with the defendant

Hand-Up Brief

- Hand-up Brief
 - when the prosecution brief is sent to the District or Supreme Court without a preliminary hearing

Preliminary Hearing

- Preliminary hearing
 - where the magistrate determines whether there is sufficient evidence for a trial in the District or Supreme Court

Fast Track Pleas

- A fast track plea is when the defendant enters a plea of guilty based on the statement of material facts (prosecution brief).
 - enters the plea in the Magistrates court and sentenced in the District or Supreme Court
 - is given credit for an early plea of guilty when sentenced

Plea in Mitigation

- This is where you (the defendant) give mitigating evidence
 - evidence why you should get a lesser sentence
 - character evidence
 - your background
 - previous criminal history
 - circumstances of the offence

Status Conferences

- Status Conference
 - a date where the defendant confirms plea of not guilty and is assigned a trial date

Directions Hearing

- Directions hearing
 - Where the prosecution and defence lawyers prepare the matter for trial
 - There is no jury at a Directions Hearing

Trial

- After all of this you are now appearing at your trial
- During your trial you need to do what your lawyer says
 - if your lawyer does not follow your instructions talk to your lawyer first
 - do not stand up in court and say what you think without talking to them first
 - if you do not understand anything that happens during your trial talk to your lawyer

Appendix D: Test Booklet

Defendant Questionnaire

This questionnaire is concerned with your trial, some of the questions will be about your feelings about the trial and some will be about what happens during a criminal trial.

Please answer all the questions. If you have any questions ask Dan and he will explain the question to you.

1. Your initials _____

2. Date of Birth _____

3. What are your current charges?

4. How many adult convictions do you have? _____

5. How many juvenile convictions do you have? _____

6. What were most of these convictions for? _____

7. What grade were you in when you left school? _____

8 How confident are you about your ability to participate in your court appearances?

0 1 2 3 4 5 6 7 8 9 10
Not Very
confident confident

9 How confident are you about your ability to understand what happens during your court appearances?

0 1 2 3 4 5 6 7 8 9 10
Not Very
confident confident

Section B – Self-Evaluation Questionnaire

A number of statements which people have used to describe themselves are given below. Read each statement and then fill in the circle to the right of the statement to indicate how you feel **about your trial now**, that is, at this moment. There are no right or wrong answers. Do not spend too much time on any statement but give the answer which seems to describe your present feelings best

	Not at all	Somewhat	Moderately so	Very much so
I feel calm	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I feel secure	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I feel tense	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I feel strained	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I feel at ease	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I feel upset	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I am presently worrying over possible misfortunes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I feel satisfied	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I feel frightened	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I feel comfortable	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I feel self-confident	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I feel nervous	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I am jittery	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I feel indecisive	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I am relaxed	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I feel content	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I am worried	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I feel confused	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I feel steady	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
I feel pleasant	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

This is a multiple choice quiz, you should read the question and then put a tick in the box next to the answer that you think is correct. Please answer all the questions, if you don't know the answer put a tick in the box that you think is the most correct.

1. A witness is someone who

Saw the crime ☐

Sits on the jury ☐

Read about the crime ☐

Works for the prosecution ☐

2. What happens when you go to court for a trial?

Nothing ☐

Your case is presented ☐

Lawyers argue over issues ☐

The judge gives you a test ☐

3. What do you do when the judge enters the courtroom?

Nothing ☐

Stand up and bow your head ☐

Sit down ☐

Leave the courtroom ☐

4. What can you do if you did not like someone who is chosen to be a jury member in your trial?

You can do nothing ☐

Only a lawyer can say who can be on a jury

You or your lawyer can challenge the juror

You can wait till the end of the trial and then appeal

5 What does the judge do in a trial?

- Defends you _____
- Protects the witnesses _____
- Works for your lawyer _____
- Decides on points of law _____

6 What is a summary offense?

- Murder _____
- A guilty plea _____
- A minor crime _____
- A trial _____

7 What is the difference between a magistrate and a judge?

- The judge is a lawyer and the magistrate is not _____
- The magistrate is a lawyer and the judge is not _____
- The magistrate hears minor offenses, the judge hears serious offenses _____
- The judge hears minor offenses, the magistrate hears serious offenses _____

8 What is mitigating evidence?

- Evidence given by a witness during a trial _____
- Evidence which proves that you are not guilty _____
- Evidence entered to reduce your sentence _____
- The defendant's evidence in a trial _____

9 What matter may be dealt with on a mention date?

- The jury can be chosen for the trial _____
- Nothing can be dealt with on a mention date _____
- Unrepresented people can go to court _____
- A fast track plea of guilty may be entered _____

10 During the trial who is the defendant?

A person who sits in the jury

A person who saw the crime

The innocent person

The person on trial

11 What if you are in the middle of your trial and you decide that you wanted to tell the judge something – so you stood up and said it. What could happen?

You could hurt your case

It would be OK as the judge would know who you are

The judge will think you know what you are doing

Your lawyer will agree with what you had to say

12 What is a barrister?

A very good lawyer

A very bad lawyer

A lawyer who appears in court

A lawyer who only works for Legal Aid

13 What is a Status Conference?

A date where the defendant confirms their plea of not guilty

A conference between the prosecution and defense to decide the defendant's sentence

A conference between the prosecution and defense to decide what evidence will be used in the trial

Where the defendant applies for bail

14 A magistrate presides over what court?

The District Court _____

The Court of Petty Sessions _____

The Supreme Court _____

All courts _____

15 What is a brief?

Underwear _____

A short trial _____

The details of the case _____

A committal hearing _____

16 What is an indictable offense?

A guilty plea _____

A serious crime _____

A trial _____

A minor crime _____

17 What should you tell your lawyer?

You should tell them everything _____

You should tell them all the facts relevant to the case _____

You should tell them nothing _____

You should tell them that you are innocent _____

**18 Let's pretend that the prosecutor asked you a question in court.
Your lawyer says he objects to the question. What would you do?**

Answer the question _____

Leave the courtroom _____

Refuse to answer the question _____

Wait for the judge to tell you what to do _____

19 What do you do when the judge’s associate tells you what you have been charged with?

- Wait for you lawyer to tell you what to do
- Say your side of the story
- Say what you are pleading
- Say nothing

20 What does the defense lawyer do during a trial?

- Works for Legal Aid
- Takes the defendant’s side
- Decides the facts of the case
- Works for the DPP

21 What is a Directions Hearing?

- Where the case is prepared for trial in the absence of a jury
- When you decide who will be on the jury
- A hearing where the defendant is directed to plead guilty
- A hearing in the Court of Petty Sessions where the case is directed to a higher Court

22 What does it mean to be acquitted?

- You go to jail
- You are granted bail
- You are found not guilty
- You are arrested on another charge

23 What is an Indictment?

- A charge sheet
- A simple offense
- A major crime
- A criminal record

24 What should you do if you are in the courtroom and you hear your lawyer and the judge talking about you, and you do not understand what they are saying?

Pretend that you understand ☐

Ask your lawyer about it later ☐

Demand that they talk to you about it ☐

Ask them to stop talking ☐

25 What is a hand-up brief?

Helping a defendant to get a lawyer ☐

Sending the case to a higher court ☐

Where there is no evidence ☐

A status conference ☐

26 What does the prosecutor do during the trial?

Decides the facts of the case ☐

Lie for the police ☐

Tries to prove that the defendant is guilty ☐

Works for the Judge ☐

27 What is a Preliminary Hearing?

A short hearing to investigate the evidence ☐

A trial ☐

A sentencing hearing ☐

A guilty plea ☐

28 What is an Intensive Supervision Order?

To be put into protection ☐

Parole ☐

A Community Based Order ☐

Work release ☐

29 What if you and your lawyer decide that you are going to say certain things when you are on the stand then, later on, you decide to change your story. What should you do?

Say what you are want to when you are on the stand ☐

Tell the court to get you a new lawyer ☐

Tell your lawyer that you would like to change your story ☐

Say what the lawyer said to do and then appeal against it later ☐

30 What is fast track plea of guilty?

A guilty plea entered at the earliest date ☐

A guilty plea entered in the Court of Petty Sessions ☐

An early guilty plea based on the statement of material facts entered in the Court of Petty Sessions ☐

Any plea of guilty ☐

Thank you for filling out this questionnaire

Appendix E: Information Sheet/Consent Form**EDITH COWAN
UNIVERSITY**PERTH WESTERN AUSTRALIA
JOONDALUP CAMPUS100 Joondalup Drive Joondalup
Western Australia 6027
Telephone +61 8 9400 5555
Facsimile +61 8 9300 1257**INFORMATION SHEET**

The study in which you are invited to participate in will ask you about your knowledge of the criminal justice system, your feelings concerning your court appearance, and how confident you feel in participating in the criminal justice system. The aim of the study is to see what effect specific knowledge has on the defendant's ability to participate in the criminal justice system. This study will hopefully lead to the development of a training program for all defendants participating in the criminal justice system.

The study is being conducted by Dan Hurley, under the supervision of Dr. Alfred Allan, as part of his requirement a course at Edith Cowan University. The study conforms to guidelines produced by the Edith Cowan University Committee for the Conduct of Ethical Research. The study is not connected to the Ministry of Justice, the police, or any legal firm, however, the Ministry of Justice has approved the study.

During this study, you will be asked:

A) to complete a questionnaire which will ask about your knowledge of the criminal justice system, your feelings about your court appearance, and your confidence in participating in the criminal justice system. This will take about 20 to 30 minutes. You will be asked to complete these questionnaires twice, once at the beginning of the study and a second time after the group session.

B) to participate in a group session which will last about 30 minutes.

Your participation in this study is totally voluntary and you are free to withdraw at any time during this study without penalty, and to remove any data that you may have contributed. You are also free to consult your lawyer about participating in this study. Any information that you provide will be held in strict confidence by the researcher. At no time will your name or any other identifying details be reported. All data will be reported in group form only. At the conclusion of the study, a summary of the study will be available upon request (please indicate in the space provided on the next page if you would like a summary of the study)

Any questions concerning this study can be directed to either myself or my supervisor at the School of Psychology on (08) 9328 8216. If there are difficulties in contacting me please talk to your Prisoner Support Officer who will then contact me.

Please keep this document for your records.

CONSENT DOCUMENT

I (the participant) have read the information above and any questions I have asked have been answered to my satisfaction. I agree to participate in this activity, realising that I may withdraw at any time. I agree that research data may be published, provided I am not identifiable.

Participant**Date**

Researcher**Date**

_____ **Tick here if you would like a summary of the study**