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Criminal Court Part X of Balto. City

by Dominic Fleming

Criminal Court Part X is located in the Court House Annex at 511 St. Paul St. The Annex was adopted from an Insurance Building. The court room is small and the acoustics are not the best in the city. When court is in session the court room is overflowing with people crowding the uncomfortable benches and lining the walls. Though air conditioned most of the time during the summer months, the mass of humanity opens sweat glands and liquifies brows and armpits creating a miasmatic state which assails the olfactory system of any breathing individual.

Anyone charged with an offense who faces incarceration of approximately six months or more is entitled to have his case tried before twelve randomly selected individuals chosen from the voting rolls of Baltimore City. Defendants praying a jury at the District Court level are sent downtown to Part X, there, theoretically, to have their case tried before a jury. Yet an actual jury trial is so rare that when one is actually prayed, it oftentimes necessitates a postponement in order to find a jury and/or a court room. The reasons given for the meandering lack of swiftness of the judicial process, namely, an over-crowded court docket, general inefficiency of the adversary-judicial system, and an excessive number of unnecessary postponements caused by unprepared attorneys, are not present in Part X. At least, not to a very appreciable extent.

The explanation for the spectacular number of cases (many times a dozen or more before the lunch recess) and the paucity of actual jury trials is twofold: judge-swapping and guaranteed postponement. The usual defendant in Part X is experienced in judicial proceedings

since he has gone through the system a number of times before. He may already have been before the District Court judge and now feels that he will get a better deal before a judge who has not seen him before; or he might think he will get a fairer hearing "downtown" with the "real" judges.

In the usual case in Part X the state has a substantial amount of convincing evidence against the defendant. The accused seldom desires a quick determination of his guilt and the usual unavoidable sentence that follows. By praying a jury trial at the District Court, the accused is assured of a postponement since his case must again be sent through Criminal Assignment.

The majority of the accused who are tried in Part X are represented by a public defender. The day of trial is often the first time the accused meets his attorney. Sometimes it is the accused's first meeting with anyone from the Public Defender's Office. This fault usually lies with the defendant who has been repeatedly contacted by the Public Defender's Office. This often strains the attorney-client relationship, since the accused feels he

would get much better representation if he had the money to retain a "real" lawyer.

The Public Defender's Office is aptly geared to defend the individual accused of a crime. Trained investigators first determine whether the accused is eligible for representation by a public defender. Any witnesses the defendant may have are immediately summonsed. Any necessary investigation of the defendant's witnesses, testimony, or facts surrounding his case are handled by investigators trained for this function.

Motions for Discovery and Inspection are forthwith sent to the States Attorney's Office. Necessary legal research is done by the public defender or by his law clerk. Any complicated issue that the attorney cannot readily resolve is informally brought to the attention of the other staff attorneys of the Public Defender's Office. It is the rare issue that is not resolved at this point. Should further research be required, the attorney and his associates, experienced experts in the area of criminal law, bring their collective attentions to the problem.

The defense strategy is determined by

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the attorney assigned to defend the case. But again any problems arising in this area are brought to the attention of the staff attorneys. Rarely is there a unique case.

The usual case in Part X does not require such extensive treatment. The charges are common: assault, robbery, theft, false pretenses, unauthorized use of a motor vehicle, and occasionally soliciting. The attorney has tried many cases involving similar factual situations and knows best how to proceed with a defense.

In many instances the evidence is so great against the accused there is little doubt in the attorney's mind that his client will be found guilty. In that situation and with the full agreement of the accused, the attorney attempts to "get a deal" for his client through plea negotiations with the state's attorney assigned to prosecute the case.

It is my opinion that the public defender is in a better position to obtain favorable concessions from the state's attorney than is a privately-retained counsel. The public defender and the state's attorney must deal with each other every day. The majority of each day's docket is tried by the public defender. The public defender knows the personality of the state's attorney and the appeal most likely to succeed with him.

With the recommendation from the state agreed upon, the case proceeds to trial on a "Not Guilty- Statement of Facts." The defendant pleads not guilty and the state's attorney reads the facts of

the case (i.e. the police report in most cases) allegedly sufficient to support a guilty verdict. If the presiding judge feels that the facts do not support a finding of guilt, he will grant the public defender's Motion for Judgment of Acquittal. This seldom occurs. The judge then finds the defendant guilty and passes sentence after hearing the state's recommendation as well mitigating factors such as education, employment, and the general background of the defendant. Almost invariably the sentence coincides with that recommended by the state.

If there is no agreement between the state's attorney and the public defender, or if the defendant insists on a trial, the state proceeds by calling its witnesses, usually the victim of the crime and/or the arresting officer. At the close of the state's case the trial is just about over. The defendant seldom has witnesses to testify in his behalf and usually elects to remain silent.

At the close of a few cases the judge may have some doubts about the length of sentence he should impose. He will therefore order the Department of Parole and Probation to formulate a Pre-Sentence Report on the defendant. This report covers in depth the defendant's home life, education, psychologically-motivating factors of his personality, attitude toward society, prior criminal history (adult and juvenile), and concludes by recommending probation or incarceration.

On the date of the defendant's sentencing the judge considers the Pre-Sentence Report and any mitigating factors the public defender or the defendant care to point out. He then passes sentence.

Criminal Court Part X has been criticized as being a place where criminals are processed rather than a forum where an accused receives justice. Cases may seem absurdly brief and the number which are resolved through plea negotiations is great, yet because of the expert competence of the public defender and state's attorneys who seek to achieve justice rather than merely winning cases, Part X is an example of the fair, impartial administration of justice.

note: On Sept. 1, 1975 Part X was changed to Part XI.

Law and Sensitivity

by Tom Duvall

Three or four years of law school are successfully completed. The bar exam is passed. Suddenly you find yourself an attorney.

Incredible power is then at your disposal. You have the ability to effect change in peoples lives, and in the society in which they live. The authority vested in an attorney can touch virtually every aspect of a client's life. His physical, intellectual, and emotional needs can either be positively or negatively reinforced by you, in your chosen role as a lawyer.

How you as a person are prepared to deal with this power and all of this power's corrupting side effects is one of the issues in the series of articles 2 will be writing. Basically, the series will attempt to deal with you as law student and person making many moral and ethical decisions throughout the course of your professional as well as private life. These decisions are crucial; they are fundamental to the ethical practice of law. I believe that being an integrated, sensitive individual directly relates to your abilities in being a successful, competent and fulfilled attorney.

In our contemporary, complex, and highly mobile American society the word lawyer has several synonyms; counselor is one of the more flattering ones.

It is ironic that members of our professional community are called counselors. No law school that I am aware of either offers to our requires of its graduates any formal professional counseling skills. There are few practicing attorneys with any formal education in the art of interviewing or in personal sensitivity. A rare exception might be the undergraduate psychology or sociology major who went into law. The profession of counsel-