

The Death of Jeffrey Stapleton

*Exploring the Way
Lawyers Think*

Hugh Gibbons

Living Control Systems Publishing
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First used in 1990 as course literature at Franklin Pierce Law Center, now the New Hampshire School of Law, University of New Hampshire. This 2013 edition revised and expanded.

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Publisher's note

What makes this work unique are the explanations embodied in Part II, all based on a new concept of how all living organisms work. Here is some background.

A revolution in the engineering sciences

In 1927, Harold Stephen Black, an American electrical engineer, revolutionized the field of applied electronics by inventing the negative feedback amplifier, a control device. To some, his invention is considered the most important breakthrough of the twentieth century in the field of electronics, since it has a wide area of application.¹

Today, we are surrounded by control devices, doing work humans used to perform. One application most everyone is familiar with is the cruise control in your car. Here, instead of the driver monitoring the speed of the car and stepping on the gas as needed, a negative feedback control circuit senses the speed, compares it to the speed set by the driver, then steps on the gas, as needed.

While engineers understand how control works and now build capable robots, most lay people and psychologists, while they may have a very general sense that we control, do not yet understand this very simple phenomenon.

A revolution under way in psychology and social sciences

Understanding the process of control provides an explanation for the way living organisms behave, what behavior is, how it works, and what it accomplishes. This idea has been developed by William T. Powers in great detail for 60 years. Powers' work, which applies the theory of control to the field of psychology, is now called Perceptual Control Theory, PCT. It lays a foundation for psychology to become a natural science rather than merely an art.

This has profound implications for litigation where psychology is involved.

The insight PCT offers can be applied in many different fields to great advantage. One field is law. Others are represented in Recommended Reading, page 211.

What does this have to do with a book on how lawyers think?

Lawyers recognize that intention is very important. People are responsible for their actions because their actions are purposeful. PCT explains how purpose works. Purposeful behavior is control.

¹ For more, see http://en.wikipedia.org/wiki/Harold_Stephen_Black.

Hugh Gibbons was teaching law and economics in Evanston, Illinois in 1973 when Aldine published William T. Powers' seminal work *Behavior: The Control of Perception*.² Because Powers had contacts in Evanston, Gibbons learned of this work right away. He read it and realized that it refutes contemporary psychology and its methods—which have been of very limited use for understanding law or for resolving legal conflicts.³

Working alone, Gibbons' first interpretation of PCT and its application to law came in 1984: *Justifying Law: An Explanation of the Deep Structure of American Law*, *Law and Philosophy*, Vol. 3, No. 2, pp. 165-279.

Gibbons proceeded to develop course literature to teach new students how to understand law using the principles of PCT. This took the form of *The Death of Jeffrey Stapleton*, with the final version ready by 1990. As you can see in this work, PCT explains motivation in a way that makes sense to lawyers.

But professor Gibbons did not stop there. Through the 1990s and early 2000s he kept thinking about PCT and the basics of law. He proceeded to develop *Rights and Wrongs: The Tangled Twins of American Law* (2001). A multimedia program on CD-ROM, this has been converted to a series of videos, posted at biologyoflaw.org under STORY.

Gibbons followed up with *The Biological Basis of Human Rights*, presented at the 4th Annual Scholarship Conference of the Society for Evolutionary Analysis in Law, 2002. Published by the Boston University Public Interest Law Journal, Vol 13, Number 1 (Fall 2003).

Finally, before he retired in 2005, Gibbons created the website *BiologyOfLaw*. Once abandoned, this has now been substantially restored: www.biologyoflaw.org. Papers mentioned above are available at that site. Enjoy!

Dag Forssell
Hayward, CA

2 See p. 214 for Powers' seminal work, *Behavior: The Control of Perception*

3 The experimental method widely used in psychology was borrowed without change from the method used in the physical sciences. In physics and engineering the study of inanimate objects and processes with linear cause-effect relationships between two variables are the rule and the method appropriate. Without change, this experimental method fails to provide for the fact that organisms are living (animate) control systems where circular, interactive relationships between multiple variables are the rule. As a result, a huge body of observations in psychology (much now embedded in our culture) reflect the properties of various experimental setups, not the organisms purportedly studied.

Preface

Introduction to the 2013 edition

Law is the institution that is based upon the assumption that human beings are responsible for their own behavior and the effect of their behavior on others. Perceptual Control Theory, PCT, is the science that explains what behavior is and how it works. The relationship between law and PCT is that simple.

In this volume I will use a tragedy—the death of a musical prodigy at the hands of a reckless driver—to explore the way our minds work when we “think legally.” All of us think legally many times each day, often so automatically that we are largely unaware of it: Who was responsible for the breakup of a family, the collapse of a corporation, the failure to investigate a crime? When is it permissible to use force, to lie to achieve our ends, to take credit for another’s work, to download something from the internet without permission? These questions roll through our minds with little effort, and the answers to them shape how we think about our behavior.

To get a sense of our thinking, I will slow it down, hopefully not to the point of tedium. From four decades of teaching law to students from a great many other countries, as well as my own, I’m quite confident that our thinking will be very similar regardless of where we’ve come from. When we’ve resolved the case, I will turn to PCT for a theoretical account of our thinking, which I will present in words and diagrams.

Let me give a quick illustration. One of the classic mysteries of law is the fact that it requires jurors and judges to make an assessment of the inner state of the defendant’s mind: How on earth is one person ever to know what’s going on in another’s mind? Every interesting legal question requires us to do that. Consider the firefighter who is crushed by a person falling out of a building. The firefighter’s estate might bring suit against the estate of the falling man, which instantly raises a question about why the man fell. Did he leap to his death to commit suicide, failing to check out the area where his body would land? Or was the building on fire and he leaped out in a desperate attempt to avoid the heat? Or was he thrown off the roof of the building by someone who intended him ill? Or was there a longstanding conflict between him and the firefighter?

The answer to those questions will let the jury determine the mental state of the defendant. The jury will have no way to determine it with certainty, but certainty is not required. They will debate the issue, reevaluate the evidence, and finally get “comfortable” with one assessment of the defendant’s inner state or another. In a truly difficult case, there may not be enough evidence to allow them to get comfortable with any assessment, but those are rare.

Perceptual Control Theory gives us a framework for explaining where purposive behavior comes from (for example, from a desire to enter a world in which there is no fire at one’s back), thereby explaining the way that law works. PCT explains a lot more, from the mechanics of controlling an automobile to understanding what happens to a person whose purposive powers have disintegrated due to an addiction. Here, we will satisfy ourselves with an understanding of the way we think through a legal problem.

Hugh Gibbons, J.D.
Professor of Law Emeritus
New Hampshire School of Law,
University of New Hampshire

Useful Websites

www.biologyoflaw.org

The author's website, where, among other things, you will find:

Gibbons, Hugh (1984) *Justifying Law: An Explanation of the Deep Structure of American Law*, Law and Philosophy, Vol. 3, No. 2, pp. 165-279.

Gibbons, Hugh (2001) *Rights and Wrongs: The Tangled Twins of American Law*. Multimedia Program on CD-ROM, here converted to a series of video files.

Gibbons, Hugh (2002) *The Biological Basis of Human Rights*, Presented at the 4th Annual Scholarship Conference of the Society for Evolutionary Analysis in Law, Tallahassee, Florida, April 19-20, 2002.
Published in Boston University Public Interest Law Journal, Vol 13, Number 1 (Fall 2003).

www.iapct.org

Website for The International Association for PCT, aka the Control Systems Group, a loosely knit group centered on the creator of PCT, William T. (Bill) Powers.

www.livingcontrolsystems.com

The publisher's website features books and introductions to PCT, plus tutorials and simulation programs you can run on Windows.

www.pctweb.org

This well developed website is maintained by Dr Warren Mansell from the University of Manchester as an international resource for the dissemination of PCT.

www.pctresources.com

Website featuring Control Systems Group archives.

www.mindreadings.com

Rick Marken's website features books, articles and demonstrations you run using your Internet browser.

Recommended Reading

The range of applications and body of literature that has developed around Perceptual Control Theory is significant. These pages hold an overview of this literature.

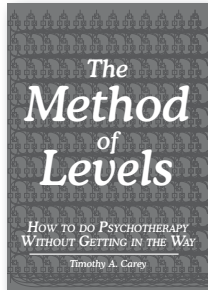
Books in order by author and publication date, except for Cziko.

Publishers

Benchmark: Bloomfield, NJ: Benchmark Publications.
LCSP: Hayward CA: Living Control Systems Publishing.
Kiddy World: Arnhem, The Netherlands: Kiddy World Promotions B.V.
MIT: Cambridge MA: MIT Press.
New View: Chapel Hill, N.C.: New View Publications.
Routledge: Routledge / Taylor & Francis.

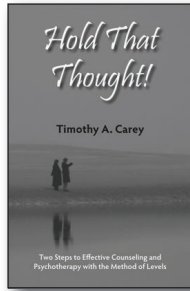
Books by LCSP can be previewed 100% at Google Books.

Carey, Timothy A. (2006). *The Method of Levels: How to do Psychotherapy Without Getting in the Way*. LCSP.



Tim Carey is the peerless expert on and practitioner of the Method Of Levels (MOL), based on the hierarchical structure of PCT. While working for Scotland's National Health Service he used this approach exclusively with his primary care patients. Some of his colleagues learned MOL from Tim and used it too. MOL achieved a new level of service efficiency as evidenced by the fact that the waiting list went from 15 months when he arrived to less than one month five years later.

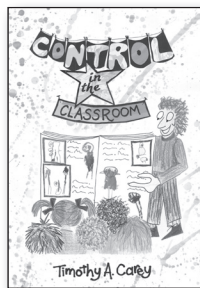
Carey, Timothy A. (2008). *Hold That Thought! Two Steps to Effective Counseling and Psychotherapy With the Method of Levels*. New View.



Believing that people with psychological problems get themselves better, Carey introduces readers to the Method of Levels, an approach to psychotherapy based on PCT.

Carey's lighthearted style does not obscure his message: that people can change only themselves, and do not need prescriptive solutions from psychotherapists. With lots of examples, Carey shows readers how to find a new perspective on their conflict and ultimately resolve it.

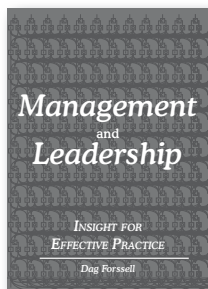
Carey, Timothy A. (2012). *Control in the Classroom: An Adventure in Learning and Achievement* LCSP.



This new book is a great addition to the educational literature. It introduces educators to the most important and revolutionary new development in psychology in decades, PCT. And it does this in an easy, accessible style. It has something for everyone in education, from pre-school teachers to secondary teachers, as well as their students. Even college instructors and educational policy makers can find much of value in this slim volume. ... Read this book! You'll be glad you did.

— Hugh G. Petrie

Forsell, Dag (2008). *Management and Leadership: Insight for Effective Practice*. LCSP.

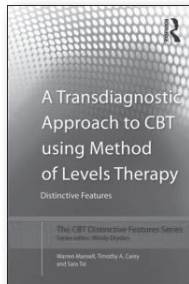


When i first learned of PCT [back in 1998], I read everything I could get my hands on and your articles, for me, most clearly explained PCT. Somehow, your unique use of language, (perhaps it's more humanizing?) allowed me to understand it better, whereas much that was written (that seems to be changing) is so technical. The result being, if one has not mastered PCT language one becomes lost—at least for a time. Your explanations revealed PCT almost immediately for me.

— David Hubbard, LMHC

Mansell, Warren, Carey, Timothy A., and Tai, Sara (Dec. 2012).

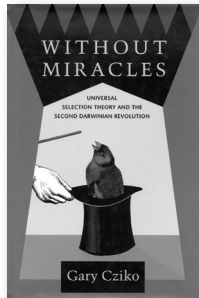
A Transdiagnostic Approach to CBT using Method of Levels Therapy. Routledge.



This innovative volume will be essential reading for freshly minted as well as experienced Cognitive Behavior Therapists (CBT) who wish to work using a transdiagnostic approach. Its core principles also apply to counselling, psychotherapy and a range of helping professions. Its accessible explanation of Perceptual Control Theory and its application to real world problems also makes a useful resource for undergraduates, graduates and researchers in psychology.

Cziko, Gary (1995). *Without Miracles: Universal Selection Theory and the Second Darwinian Revolution*. MIT.

Cziko, Gary (2000). *The Things We Do: Using the Lessons of Bernard and Darwin to Understand the What, How, and Why of Our Behavior*. MIT.



The inside flap of *The Things We Do* (Complete)

The remarkable achievements that modern science has made in physics, chemistry, biology, medicine, and engineering contrast sharply with our limited knowledge of the human mind and behavior. A major reason for this slow progress, claims Gary Cziko, is that with few exceptions, behavioral and cognitive scientists continue to apply a Newtonian-inspired view of animate behavior as an organisms output determined by environmental input. This

one-way cause-effect approach ignores the important findings of two major nineteenth-century biologists, French psychologist Claude Bernard and English naturalist Charles Darwin.

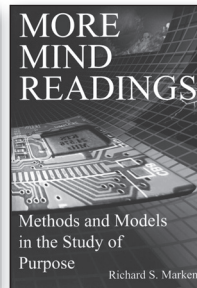
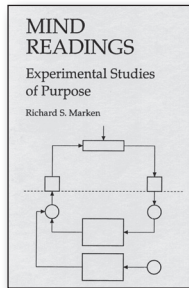
Approaching living organisms as purposeful systems that behave in order to control their perceptions of the external environment provides a new perspective for understanding what, how, and why living beings, including humans, do what they do.

Cziko examines in particular perceptual control theory, which has its roots in Bernard's work on the self-regulating nature of living organisms and in the work of engineers who developed the field of cybernetics during and after World War II. He also shows how our evolutionary past together with Darwinian processes currently occurring within our bodies, such as the evolution of new brain connections, provides insights into the immediate and ultimate causes of behavior.

Writing in an accessible style, Cziko shows how the lessons of Bernard and Darwin, updated with the best of current scientific knowledge, can provide solutions to certain long-standing theoretical and practical problems in behavioral science and enable us to develop new methods and topics for research.

Gary Cziko is Professor and AT&T Technology Fellow in the Department of Educational Psychology at the University of Illinois, Urbana-Champaign. He is the author of *Without Miracles* (MIT Press, 1995).

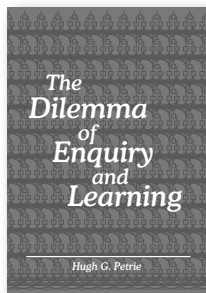
Marken, Richard S., *Mind Readings* and *More Mind Readings: Studies of Purpose*.
New View (1992) & (2002).



[These are books] that can show a willing psychologist how to do a new kind of research. The theme that runs through all these papers is modeling, the ultimate way of finding out what a theory really means. Richard Marken is a skilled modeler, as will be seen. ... He finds the essence of a problem and an elegantly simple way to cast it in the form of a demonstration or an experiment.

— William T. Powers

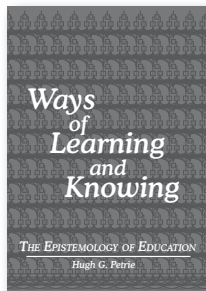
Petrie Hugh G. (1981, 2011). *The Dilemma of Enquiry and Learning*. LCSP.



I think that this book will be 'compulsory reading' in graduate schools of education around the country, and that it will arouse a vigorous and healthy controversy by shaking people out of unexamined assumptions and compelling them to rethink stale issues in fresh terms.

— Stephen Toulmin

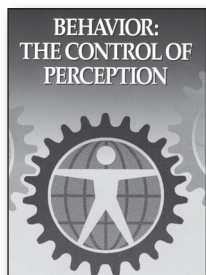
Petrie Hugh G. (2012). *Ways of Learning and Knowing*. LCSP.



For most of his career, Hugh was way ahead of his time. His papers in this volume still are. The role of the evolutionary process of blind variation and selective retention in all knowledge processes and the understanding of behavior as the control of perception are still mostly unknown in mainstream educational research, theory and philosophy. These perspectives, combined with Hugh's analytical skills and accessible writing, lead to some radical (and radically useful) implications for our understanding of the process of knowledge growth and the practice of education.

— Gary Cziko

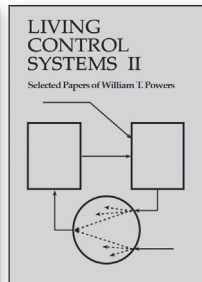
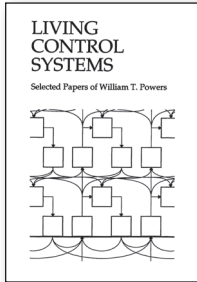
Powers, William T. (1973). *Behavior: The Control of Perception*
Second edition (2005). Revised and expanded. Benchmark.



Powers' manuscript, *Behavior: The Control of Perception*, is among the most exciting I have read in some time. The problems are of vast importance, and not only to psychologists; the achieved synthesis is thoroughly original; and the presentation is often convincing and almost invariably suggestive. I shall be watching with interest what happens to research in the directions to which Powers points.

— Thomas S. Kuhn

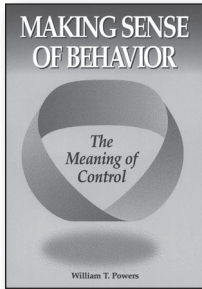
Powers, William T. *Living Control Systems I & II: Selected Papers of William T. Powers*. Benchmark (1989) & (1992).



Some of the best science is done by people who refuse to take the obvious for granted. Copernicus didn't take the sun's daily trek across the sky for granted, and Einstein didn't take the regular tick of time for granted, and William T. Powers didn't take the appearance of behavior for granted.

— Richard S. Marken

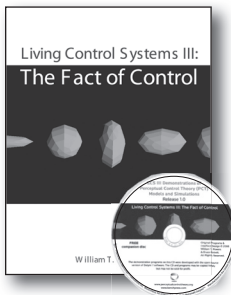
Powers, William T. (1998). *Making Sense of Behavior: The Meaning of Control*. Benchmark.



This is the first book on PCT written for “the rest of us.” Powers describes in a relaxed, easy-to-read style the fundamentals of this revolutionary theory of the behavior of living organisms—in particular, human beings.

This book is for anyone interested in how our systems work and how people interact and why. For researchers new to PCT, a comprehensive reference points to further studies, demonstrations and applications.

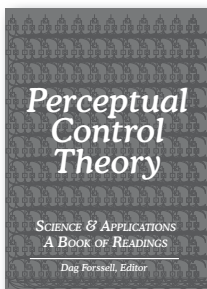
Powers, William T. (2008). *Living control systems III: The Fact of Control*. Benchmark.



... A unique feature of the book is the accompanying computer programs where Powers ‘puts his models where his mouth is,’ graphically demonstrating how negative feedback control systems can account for a wide range of goal-oriented behavior. This book is required reading (and computing) for anyone seeking a deep understanding of the behavior of living organisms.

— Gary Cziko

Powers, William T. (Creator). (Updated as new books become available). *Perceptual Control Theory: Science & Applications—a Book of Readings*. LCSP.



This *Book of Readings* provides a sampling of the literature on Perceptual Control Theory, the science and applications to date.

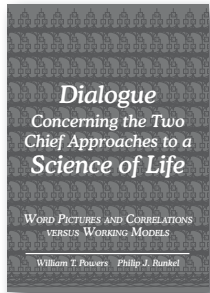
20+ papers cover a broad range of subjects such as feelings, therapy, management, science, and dogma.

Chapters and samples from 16 (as of 2013) books on PCT.

Free PDF file at the LCSP website and, as other LCSP books, available for reading at Google books.

Powers, William T. and Runkel, Philip J. (2011)

Dialogue Concerning the Two Chief Approaches to a Science of Life: Word Pictures and Correlations versus Working Models. LCSP.



This book holds more than 500 pages of tightly focused, original correspondence between two lucid gentlemen—the creator of PCT, William T. (Bill) Powers, and Philip J. (Phil) Runkel. The significance of the correspondence lies in the subject matter, Perceptual Control Theory (PCT).

The preface and Part II provide

- a brief introduction to PCT (p. 509)
- notes regarding PCT and scientific revolutions
- a guide to resources for your study of PCT

From *Dialogue* / Comments on this volume — the letters and the emerging science

[This volume] provides an outstanding case study of how science develops when real scientists are involved. There are suggestions, descriptions of experiments, computer modeling, explorations of consequences, criticisms, false starts, new breakthroughs, and throughout it all the sense that this is real science in the making. ... It is a must read for anyone who is interested in bringing psychology out of the dark ages and in observing how two outstanding scientists make science really work.

Hugh Petrie, Ph.D. (Philosophy) Professor Emeritus and Dean,
Graduate School of Education, State University of New York at Buffalo

Bill Powers is one of the clearest and most original thinkers in the history of psychology. For decades he has explored with persistence and ingenuity the profound implications of the simple idea that biological organisms are control systems. His background in engineering allowed him to avoid many of the traps that have victimized even the best psychologists of the past. I believe his contributions will stand the test of time.

Henry Yin, Ph.D. (Cognitive Neuroscience)
Professor of Psychology & Neuroscience, Duke University, NC

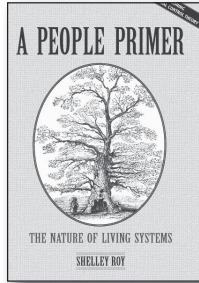
Bill Powers' work in the 20th century will prove to be as important for the life sciences as Charles Darwin's work in the 19th century. By the time this notion has become common knowledge, historians of science will be very happy with this correspondence between two giants.

Frans X. Plooi, Ph.D. (Behavioral Biology) Director,
International Research-institute on Infant Studies, Arnhem, The Netherlands

... When I discovered PCT in the late 1990s, I saw immediately a theory that could bridge the gaps between cognition, behaviour, and motivation by considering them as integral components of a single unit—the negative feedback loop. When I read Powers (1973) further, I realised that these units could be configured in such a way as to model learning, memory, planning and mental imagery. I was 'sold', and since this time I have endeavoured to test and apply PCT within my research and clinical work. It is often difficult for therapists to grasp the notion that there can be a precise, empirical and quantitative model of purposive, humanistic psychology—but here it is.

Warren Mansell, Ph.D. (Clinical Psychology) Reader, Chartered Clinical Psychologist,
Accredited Cognitive Behavioural Therapist, University of Manchester, UK

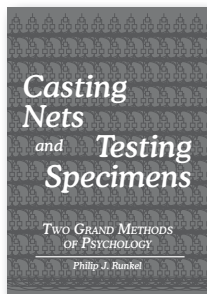
Roy, Shelley A.W. (2008). *A People Primer: The Nature of Living Systems*. New View.



What a blast of a book! Shelley Roy obviously has a deep and clear understanding of Perceptual Control Theory, and her style of presentation shows respect for the intelligence of the reader while at the same time making sure that her message gets across. Shelley successfully suppresses the writer's ego and never condescends—a very nice combination.

— William T. Powers

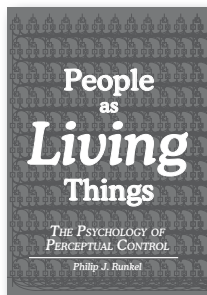
Runkel, Philip J. (1990). *Casting Nets and Testing Specimens*.
Second edition (2007). Revised and updated. LCSP.



A major contribution to the study and practice of socio-psychological research. Runkel's prescriptions understood and followed would revolutionize the behavioral sciences. ... Runkel shows what statistical studies of groups of people, which he calls the method of relative frequencies or "casting nets" can do and what it cannot do: tell anything specific about the nature of individuals. Runkel shows how the scientific study of the individual can get done, what he calls "the method of specimens."

— Bruce I. Kodish

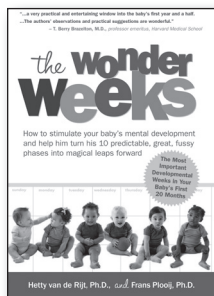
Runkel, Philip J. (2003). *People as Living Things: The Psychology of Perceptual Control*. LCSP.



Runkel has written a book ... which is at one and the same time: a text book for graduate and undergraduate psychology; an introduction to perceptual control theory (PCT) for the general reader; a paean to William Powers and his achievement—PCT; a memoir about his (Runkel's) exposure to PCT; and an integration of the research and theoretical work on PCT for those familiar with the theory. In my opinion, he succeeds in all these tasks....

— Len Lansky's complete review: tinyurl.com/lansky-runkel

van de Rijt, Hetty, and Plooi, Frans (2010). *The Wonder Weeks: How to stimulate your baby's mental development and help him turn his 10 predictable, great, fussy phases into magical leaps forward*. Kiddy World.



The Dutch title for *The Wonder Weeks*, *Oei, ik groei!*, can be translated as Wow, I am growing! Since the original Dutch version was published in 1992, it has sold more than 550,000 copies—in a country of 17 million, one 20th that of the U.S.

This book shows how and when the levels of perception outlined by Hierarchical PCT develop in human infants. The English edition enjoys excellent reviews at Amazon and numerous comments by mommy-bloggers, saying that the predictions about the timing and nature of infant mental development in the first 20 months are right on.

Twijnstra, Margreet H. and Plooi, Frans X. (2011)

Oei ik Groei! Voor Managers Spring door je mentale blokkades Kosmos



Dutch title translated: (Title relates to *The Wonder Weeks*, prior page).

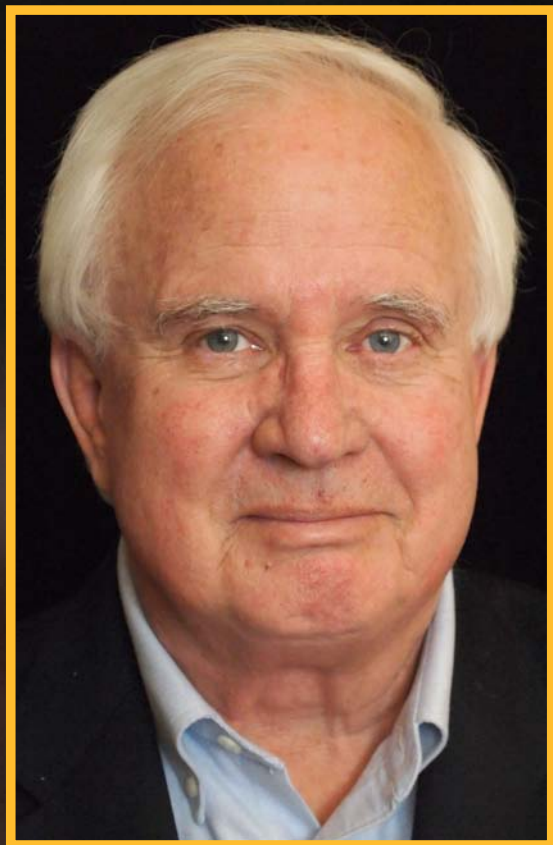
*Wow, I am growing! For Managers
Jump through your mental blocks*

This work features interviews by organizational consultant Margreet H. Twijnstra with 15 top managers who tell of crises in their lives. Frans X. Plooi provides an overview of PCT and explains what is going on during the crisis periods in terms of reorganization, a concept that is integral to Perceptual Control Theory.

Papers recommended – download and enjoy!

These and many more at www.livingcontrolsystems.com

- Powers, William T. (2009). *PCT in 11 Steps.*
- Powers, William T. (2009). *Reorganization and MOL.*
- Powers, William T. (2007). *On Emotions and PCT: A Brief Overview*
- Soldani, James (1989). *Effective Personnel Management: An Application of Control Theory.*
- Soldani, James (2010). *How I Applied PCT to Get Results.*
- Forssell, Dag (2013). *The Experimental Method is Crippling Psychology.*



About the author

Hugh Gibbons taught law for thirty-one years at Franklin Pierce Law Center, now the University of New Hampshire School of Law. In a field in which teachers tend to focus on a narrow specialty, his interests ranged broadly across the law, teaching courses in Torts, Property, Corporations, Law and Economics, Legal Philosophy, Computers and Law, Medical Malpractice, and many others. This range of study convinced him that there was a common core to law, a “generative principle” that makes of law, not a series of arbitrary administrative fiats, but a self-consistent set of human guides.

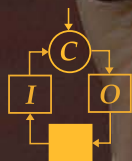
There certainly is a great difference in personality and style between trial lawyers, business lawyers, and estate attorneys, for example, but they share a common mental process that accounts, perhaps, for the underlying structure of law. Revealing the common element in law, and the common mental process that allowed disparate individuals to see it similarly, was the focus of Professor Gibbons’s effort. *The Death of Jeffrey Stapleton* is the result of that effort, as are *Justifying Law: The Deep Structure of American Law*, *Rights and Wrongs: The Tangled Twins of American Law*, *The Biological Basis of Human Rights*, and *The Biological Basis of Law*.

About this book

Hugh Gibbons explains:

I wrote this manuscript to serve as part of the orientation for new students at the law school. The case of Jeffrey Stapleton was presented during the orientation as a trial, with the new students as the jury. I figured that students would be more accepting of the explanation that I provided than would practicing lawyers, who simply practice without reflection. The fact that lawyers need not reflect on what they are doing to be good at lawyering offered powerful support for my proposition that what is spelled out in this analysis, Perceptual Control Theory, PCT, is simply a correct explanation for how lawyers and all humans actually work.

Lawyers may want to notice that PCT is well documented and provides a solid explanation for behavior that stands in sharp contrast to the personal, subjective interpretations provided by expert psychology witnesses.



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