

Effectiveness of the criminal justice system assignment

Law



Effectiveness of the criminal justice system BY 234567890 offenders and society during the criminal investigation process from new legislations constructed reflecting society's demands and enhancing Justice. A crime is an act or omission committed against the community at large that is punishable by the state. An offender is a person who commits an offence which is a breach of a law or rule; an illegal act.

A victim is the person who suffers some kind of harm as the result of the offender's action. This includes a person who has been directly harmed or indirectly affected. During the criminal investigation process the suspected offender(s) and victim(s) are set with certain rights to ensure each individual is treated equally with Justice. The rights to fair trial, supported by strict rules of evidence and procedure is fundamental to the criminal Justice system and this balancing act. Society expects the police to keep them safe and protect them from harm brought on by other people(s).

They are also expected to be treated fairly and therefore have specific rights to meet these expectations from society. Police are responsible for the prevention and detection of crime and for the maintenance of public order. Importantly, it is the police that are responsible for ensuring the criminal laws are observed. The role of the police in the criminal investigation process is to investigate crimes, make arrests if necessary, interrogate suspects and gather evidence (that would substantiate that a crime has occurred).

The law imposes certain limits on the way police can gather evidence that can be used, to help ensure the collection of evidence is legitimate and does not interfere with the rights of ordinary citizens. The strict rules of evidence

is administered by virtue of the Evidence Act, (INS). The INS police force is awarded special legal powers under statute to enable them to carry out their duties effectively. The majority of these powers are contained in the Law Enforcement (Powers and Responsibilities) Act 2002 (INS) (LEPER).

Some of the main police powers include power to, detain and question a suspect, search property and seize evidence, use reasonable force if necessary to carry out their duties, use particular technologies to assist an investigation, such as phone taps, surveillance or DNA sample, Arrest and interrogate suspects recommended whether should be granted. This depicts a balanced move to protect the rights of individuals and society during the investigation process.

The special powers awarded to police by virtue of LEPER can be controversial because they will often create conflict with the ordinary rights of citizens. Case in point, increase access to electronic surveillance information may be deemed as an invasion of individual rights, hence an imbalance. However, society and lawmakers deem such police powers lawful and necessary to ensure criminal law can be effectively enforced and public order maintained. Expectations with the rights of offenders and victims during the criminal investigation and sentencing process.

Some areas of the community believe the justice system has dealt with rights respectively and logically whilst others do not. A recent case has been addressed with disgust in the media and society to demand changes in certain legislations for the ' UN-Justifying punishment given to offenders y the Judicial system. The case that has brought on this outcry is R v

<https://assignbuster.com/effectiveness-of-the-criminal-justice-system-assignment/>

Lovebirds. Kiering Lovebirds was sentenced to six years' goal maximum, and with a non-parole period of four years. Initially, this balance appears in favor of the accused.

This sentence sparked an enormous outcry from members of Thomas Kelly's family and friends, the public and the legal community from media concerns especially in the printed media, such as the Sydney Morning Herald. The court of public opinion considered this sentence too lenient, and called for mandatory sentencing for alcohol fuelled violence' offences. The Director of Public Prosecutions (DIP) have been asked by the Attorney-General, Greg Smith whether there are sufficient grounds to appeal this sentencing decision.

While the INS Crimes Act already covers fatal assaults, Mr. Smith proposed laws in INS to carry a maximum penalty of 20 year imprisonment with offences of assault causing death. In INS, victims of crime are recognized and guaranteed certain rights under the Victims Rights Act 1996 (INS). The act contains a Charter of Victims' rights which requires, among a number of hinges respect for a victims dignity, victims compensation, protection from the accused, protection of identity and certain rights to information and assistance during the criminal process.

The charter also introduces victim impact statements (V. I. S.) to the sentencing process. A victim impact statement is a voluntary statement written by the victim about the impacts that the crime has had on them. It allows the victim an opportunity to participate in the process by letting the court know the crime has affected them. The VISE demonstrates the extent

<https://assignbuster.com/effectiveness-of-the-criminal-justice-system-assignment/>

to which the law balances the sights of the victims and society during the investigation and sentencing process. Suspects have certain rights, rights to protect them from arbitrary use of power by the state through the police.

The legislation changes in (LEPER) enable extensive increase in police powers. It must be acknowledged that this power must be balanced with individual rights and society protection. Case in point, the right to silence. It could be held, that the right to silence can be exploited by criminals and therefore impede police investigations, hence an imbalance in favor of the accused at the detriment of society. This action by accused persons has been highlighted by the recent bike war in Sydney during the past three years.

To counter balance this favor, the government introduced an amendment to the Evidence Act (INS) which would allow a Jury to make an adverse finding against an alleged criminal who refuses to speak with investigating police but later produces evidence at trial. The justice system made further progress balancing the rights of offenders and the rights to society in the case R v Dietrich (1992) that introduced the right to a legal representation and the right to a fair trial. Prior to the Dietrich case, the accused could be convicted in court without the protection of legal representation, hence, an unfair imbalance against the accused.

The Dietrich case demonstrated a precedent rights have also been altercate on the legislations pertaining to the Bail Act 1978 (INS) from society demands for Justice and safety. Changes to the Bail Act between 2003 and 2010 saw the introduction of stringent test for granting bail to persons

<https://assignbuster.com/effectiveness-of-the-criminal-justice-system-assignment/>

accused of murder and persons who are 'repeat serious personal violence offenders' Hence a law balance in favor of victims and society. It may be held that these changes primarily provide greater protection to the community against the risk that persons will commit offences while awaiting trial.

This provides another demonstration of how the law balances the rights of the victims, offenders and society during the investigation and sentencing process. Other legislations have also been updated to protect society with giving greater power and availabilities to law enforcement officers which have been questioned by many with obstructing basic human rights. It is the authors' opinion, that such changes that protect the majority ND the expense of the minority reflect the extent to which the law balances the rights of victims, offenders and society.

In 2005 the federal government passed the Anti-Terrorism Act (no. 2) which, among other things, provides for preventative detention. A person suspected of being about to engaging in a terrorist activity can be detained in prison for up to forty-eight hours without charge. But in the case of Mohamed Hansen an Indian citizen with the profession as a doctor was arrested and detained in Brisbane for twelve days, and finally charged with providing support to a restrict organization. Hansen was granted \$10, 000 bail, and was released without charge.

This provoked media coverage in the Sydney Morning Herald as well as the Herald Sun and public outcry, and led to an inquiry into the laws which found that DRP Hansen was completely innocent. It is these changes to the

<https://assignbuster.com/effectiveness-of-the-criminal-justice-system-assignment/>

legislation where it could be said individual civil liberties have been eroded with a view to the protection of the whole community. In conclusion, this response demonstrates that the rights of the accused are protected by the legislative requirements imposed upon law authorities y government during the investigative and sentencing procedures.

The rights of the victims has been acknowledged and improved over time. I draw your attention to the introduction of Victim Impact Statements and the positive affect it has had on addressing victim rights during this process. The recent changes to the bail laws in the Bail Act have further protected the rights of society and the expectation that society needs to feel protected by law enforcement. It reinforces the aspect that legislation needs to protect society rights. It is my submission that the balance between these rights is Justified, fair and equitable.