

Due process and crime control models: compare and contrast



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The purpose of this paper is to research both the Due Process and Crime Control Models. After researching each of the topics, they will be discussed in further detail. Both of the models will be compared and contrasted as well. Both of the models have proven to be well known and used throughout the United States, as well as many other parts of the world; both models have been used since the 1960's. The contemporary state court system status and the model that is used there will be discussed further in the paper.

Both of the models named above are very complex systems that are used in criminal justice systems throughout the United States as well as many other parts of the world. The models were developed as some type of guideline to aid in the arrest and prosecution of criminals. The purposes of the two models are to help maintain safety in society, as well as protect the rights of the suspect in various situations and scenarios. In order to fully understand both of the models, each system must be viewed separate and together.

Various models and techniques have been used in the criminal justice system since its development, some of the models have been more structured than others, some have been less structured than others. When evaluated, some of the different models have worked well in some areas, while other models have not appeared to be beneficial at all.

Literature Review

Choongh (1998) provided readers with information regarding the limitations of Packer's crime control and due process models, which were developed in the 1960's. Choongh informed readers that the crime control model follows procedures very closely, as well as screen suspects, determines guilt, and

secures punishment all according to written policies, procedures, and laws. Choongh suggested that there are some problems with the model. One of the problems is that the model defines efficiency by speed and finality. This could possibly be beneficial in some ways, but could also cause harm in other ways; the quicker the investigation the more likely that the work may be incomplete or sloppy. The due process model is more concerned with individual integrity and autonomy. The main purpose of the due process model is to maintain close control over the power of the state. Choongh reported that neither model is effective, this is because the investigations are not thorough enough, court processes are rushed, and prosecutors and law enforcement rush to accusing a person of guilt rather than taking their time and finding the real villain.

Henham (1998) provided readers with information about the rights-based approach. The author explained that there is a large need for a rights-based approach to be used for criminals during the sentencing process. Henham feels that the crime control model and the due process model are not adequate. The crime control model is based on repressing criminal activity and maintaining a low crime rate. The due process model focuses mainly the protection of the individual through stressing adherence to courtroom procedures. The rights-based approach is concerned to postulate a number of fundamental normative propositions that have moral, rather than empirical validity. The crime control model and the due process model do not provide adequate choices to criminals when mental health problems are involved, but a rights-based approach would address several areas that the other models do not address. Henham felt that people who suffer from

different mental disorders are essentially being discriminated against, by not providing for their need.

Schrieber, Renneberg, and Macracker (2009) and Tucker, Hasselt, and Russell (2008) all wrote about the criminal justice system, mentally ill patients, and the professionals inadequate training for dealing with the mentally ill. All of the above authors agreed that there is a great need for special training and possibly special crime models that should be used when police are dealing with mentally ill criminals. Recently there has been a rise in the number of cases that law enforcement officials have responded to in which mentally ill individuals were the reason the police were called.

Schrieber, Renneberg, and Macracker reported that the criminal justice system is not capable of dealing with offenders who suffer from mental disorders that uncontrollable. Recent studies have shown that law enforcement officials have are generally the first contact with mentally ill suspects in criminal cases, but also in many cases that are not criminal and have to be dealt with through social service programs. The authors reported that the models need to be reorganized so that the criminal justice system will be more sensitive to individuals who suffer from major depression, post traumatic stress disorder, schizophrenia, and psychosis. Rehabilitation is very important for individuals who have these disorders and the treatment that they need is not offered in many of the detainment facilities that criminals are sent to.

Klein (2006) wrote about the crime control model. She reported that the crime control model has a very reliable process for screening suspects, and many of the criminals that are charged with crime using this model, will <https://assignbuster.com/due-process-and-crime-control-models-compare-and-contrast/>

spend time in jail or prison, because the system is so reliable. Klein also wrote about the due process model and how it helps an individual to maintain some autonomy during the criminal justice process. Even though there is room for improvement in the areas of pleading and discovery, Klein supports most of the aspects in each model and the basis behind them.

Duff (1998) wrote about the crime control model and the due process model and how the models are viewed in the criminal justice system. Duff reported that the due process model does not agree with the majority of cases in which criminal are sanctioned for their crimes, this is because if the crimes do not involve any harm to others, Duff feels that the criminal should be punished less severely. Roach (1999) provided readers with information about four different models used in the criminal justice system. Roach directed more attention to the due process model and the crime control model. Roach explained Herbert Packer provided professionals with a guide to criminal justice systems by using these models. Both of the authors reported that if the crime control model is used correctly, most criminals plead guilty to the charge or the prosecuting attorney withdraws the charges. Roach, as well as Duff reported that both models were not only efficient, but also very durable in order to withstand as many years as they have.

Edkins (2007) provided readers with information about the due process model and its purpose of helping suspects maintain their individual rights during the criminal justice process. Edkins also provided readers with information about the crime control model and its purpose of making sure that all convicted criminals have harsh punishments. Edkins gave

information about seven different studies that were completed which measured attitudes about the due process and crime.

Vance and Trani (2008) conducted numerous studies on the crime control model and the due process model. The authors are not in agreement with the crime control model, but they do support the due process model. Vance and Trani reported that both of the models have ethical standards and should be supported across the board, but in some places, law enforcement and prosecuting attorneys will not support either of the models. The authors reported that there are many reasons for different crime models, some of these purposes are to help catch criminals, detain them, and reduce crime. Arias and Ungar (2009) wrote about Latin Americans and the impact that the two models have on their lifestyle. The authors informed readers that the purpose of the crime control model is to reduce crime and the purpose of the due process model is to protect individual rights of the accused when it is used as a guide for the criminal justice process.

Discussion

Due Process

The basis of the due process model is formal structure. When used correctly, the due process model protects the rights of suspects accused of various crimes. The due process model reduces many errors that occur during the investigation, arrest, evidence gathering, and trial. Due process does not support much of the evidence that is used in many criminal trials, and there are many reasons and factors for this. Basically, the due process model criticizes every type of evidence except definitive physical evidence that cannot be disputed. The object of looking at evidence in the due process

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model is deciding what information may be incorrect, falsified, or coerced from an individual. This has occurred on many occasions when other criminals have testified against the suspect, because they may be rewarded with time off of their sentence or other things. Because the main goal of the due process model is to reduce mistakes that can place an innocent person in prison, the process is very slow (Henham, 1998 & Klein, 2006).

Crime Control

The idea of the crime control model is to decrease crime in all areas; for this to be done criminal conduct needs to be drastically reduced. Many of the problems that arise in the crime control model is directed at law enforcement officials. People commit crimes and get away with them, then it may create a higher crime rate because they are likely to be more followers. The crime control model directs more attention in investigating, screening people, establishing guilt, seeking harsher punishments for individuals who have committed crimes (Roach, 1999).

For the crime control model to work appropriately, the processes must be efficient. Higher arrest and conviction rates need to be seen, as a way of deterring other people from committing crimes. The investigation and arrest process needs to be expedient, so that fewer resources are used on each case. The main purpose of the crime control model is for there to be enough evidence gathered that the suspect pleads guilty to the charges, and there is no need to waste time, money, or effort on a trial that may last for an unknown amount of time (Duff, 1998).

The crime control model utilizes law enforcement officials and prosecuting attorneys to establish the innocence or guilt of a suspect early during the investigation. Individuals who are most likely guilty of committing such crimes progress through the criminal justice systems with great speed; they either plead guilty to such crimes, or they are found innocent or guilty in a criminal trial. , the less likely to find the evidence needed, and the more money spent on the investigation (Klein, 2006).

Similarities and Differences between the Two Models

The main goal of the due process model is for individuals to be treated fairly in the criminal justice system, so they will not be deprived anything that they deserve in life if they are innocent. The due process model explains that all individuals have a right to freedom and security, unless they are guilty of committing a crime. The crime control model does not hold an individual's rights in high regard, and feels that criminals should be caught at all cost (Roach, 1999).

The crime control model puts a lot of their trust into law enforcement officials and prosecuting attorney's to complete the criminal investigations. Depending on the amount of work put into the investigation and the quality of the work that is done, many suspects will either plead guilty, therefore there is no trial. Speed and finality two tasks the crime control model looks to complete (Roach, 1999). When people are arrested for a crime, they are seen as innocent until they actually admit to or are convicted of such crimes (Klein, 2006).

When dealing with the due process model, policing society in a positive nature becomes a very vital issue. Followers of the crime control model feel that the number of arrests may deter other criminals from committing crimes, by showing them that the criminal justice system does work (Klein, 2006).

Much of the population is in favor of the due process model, because of reasons such as equality, human rights, and freedom. Under the United States Constitution each individual has certain rights, and the due process model helps to maintain and restore these rights (Henham, 1998).

Law enforcement agencies generally prefer the crime control model; they treat suspects who are arrested as though they have already been found guilty (Henham, 1998). The due process model protects individuals with the 4th and 8th amendments which address the issues of illegal searches on individuals suspected of crimes, as well as the right not to incriminate one's self (Choongh, 1998).

State Court Systems Model of Choice

It appears that each of the models are very unique and are used for different purposes. Just as different defense attorneys have different styles and models that they follow, so do law enforcement officials and prosecuting attorneys. The model that is used is completely up to the individual who is gathering the information and investigating the crime. In an ideal world, the due process model would be the model of choice, because it helps keep the rights of individuals intact, as well as serving its purpose in the criminal

justice system. Both the crime control model and the due process model have a positive side as well as a negative.

The United States criminal justice system and judicial system has debated the subject of which models are the most beneficial for numerous years, but no common ground has been reached. Two of the main factors that are looked at when making a decision such as this are, which model helps maintain social order, and which model helps reduce the risk of imprisoning innocent individuals. As close as these two factors are related, the answer should be simplistic, however it is not. In the criminal justice system, these factors actually conflict with one another, therefore there is not a common system that can be used for both of the factors. Maintaining and restoring social order is best maintained by the crime control model, whereas protecting individual rights is best maintained by the due process model (Edkins, 2007).

The population that law enforcement officials are serving may affect the crime model that they decide to use. Areas with high crime rate may be better served by using the crime control model, whereas areas with less crime may be better served by the due process model. Along with the population, the type of crimes that are being committed may also be a factor in which model is chosen. Areas that suffer from drug trafficking and violence may be best served by using the crime control model, whereas areas that suffer from trespassing and burglaries may be best served by using the due process model. The crime control model implies that law enforcement and prosecuting attorneys act promptly to allegations and investigate them more thoroughly at a later time, but the due process model requires careful

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consideration in each and every case, prior to arresting individuals (Duff, 1998).

Conclusion

Both of the models have very different key points. Both of the models have different methods that are used to reach a common goal. If the main goal of the United States Criminal Justice System is to maintain social order and protect the rights of individuals, then there is no way to utilize just one of the two models. The crime control model appears to be the best model used for maintain and restoring order in society. In the ideal world, decisions would not be made in haste. But in order to complete a job and catch certain criminals, then there has to be room for quick decisions, even if it becomes clear that the decisions that were made were wrong.

Each state, county, and city has their own way of operating and reducing crime. Unfortunately at times innocent people are brought into the mix, this is a chance that has to be taken in order to have a fully functioning criminal justice system. Scholars have researched for many years how to make the criminal justice system work by following one model, but at this time nobody has been successful in developing such a model.