

Lay people essay sample



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In Britain crimes are committed everyday and people break the law. People who are accused of committing these crimes must be tried in a court of law where they are called the defendant. When someone breaks the law, they are accused of committing a crime against society so therefore it is a section of society that will judge them. These representatives are known as lay people because they are selected from the public to provide societies opinion in the courtroom. They are vital to the criminal law system of today and usually provide fair verdicts when judging someone.

Even though lay people tend to be good representatives of society, there are problems that can hinder their effectiveness. In England and Wales there are two main types of court that deal with criminal cases, these being the Magistrates Court and the Crown Court. Crimes are split up into these two courts depending on how serious they are; Summary Offences being only minor crimes, Triable Either Way Offences being the middle range of crimes and indictable offences which are the most serious of crimes.

Juries reside in the crown court where they hear indictable offences like murder, rape and GBH. Generally offences that have a minimum sentence of one year are tried in the crown court. However juries could also be made to hear Triable Either Way Offences, crimes that have been sent up to them from the magistrates court because they have deemed the case to be too serious for them to try. In the magistrates court, summary offences are seen to like theft, ABH and Assault. The magistrates court will only deal with cases that have a maximum sentence of a year.

They also have the power to issue fines of up to £5, 000 where they see fit. Every person charged with a criminal offence will first have to be presented to a magistrates court where they decide what type of offence was committed. When a person stands before a magistrates court accused of a summary or Triable Either Way offence they will be first asked for a plea of guilty or not guilty. This is called the 'Plea before venue'. Where the defendant pleads not guilty he has the right to choose where he wants his case to be heard, be it in the Crown court or the Magistrates court.

The magistrates court can choose to send the case up to the Crown court regardless if they think that the maximum sentence they could give is not suitable for the crime. If a defendant pleads guilty then the court makes the decision for the offender. If they believe that the sentence they could issue is adequate enough then they will punish the offender in the magistrates court. However if they think the offender deserves a greater punishment than they could give, they would send the case up to the Crown court.

With indictable offences being the most serious of crimes, they are sent straight up to the crown court regardless of the Plea before venue.

Magistrate Courts are found in all major towns and cities throughout England. There are roughly 435 Magistrate courts throughout the county but even this many has trouble dealing with all the criminal and civil cases. As Quoted by Wikipedia " They are generally considered to be the workhorses of the criminal justice system in England & Wales and handle over 95% of all criminal cases".

Magistrate Courts are bound to only deal with cases in their local geographical area of 15 miles and some are even attached to their local prisons. One of the main reasons Magistrates courts are so busy is that they have to check every accused persons identity and make sure they know what they are being charged with. They then have to decide where the case should be heard and whether or not to grant the defendant Bail or to remand them in custody.

When denying a defendant bail, the magistrates have to make sure there reason is good enough because they are breaking the persons human rights. The two main reasons they may remand someone is to protect society from that person who may re-offend or if there is a very high likelihood that they wont attend court. This will be decided upon depending on if the person had a history of offences and breaking bail. The decision is usually lenient however because a person is innocent until proven guilty.

Once the defendant has been granted bail he will be sent a summons usually through the post telling him when he needs to attend court.

Magistrates have many roles in our legal system ranging from hearing Summary and Triable Either way offences right through to dealing with licensing issues. A Magistrates court has the power to issue search warrants for the police and they can deal with civil offences that effect their local area. The majority of people that sit to hear cases in a magistrates court are legally unqualified Lay people that work together with district judges.

Whereas Lay magistrates are unpaid (justice's of the peace), district judges are paid professionals who are required to have at least seven years

experience as a barrister or solicitor. District judges sit alone in the courts but they still have the same powers as a bench of lay magistrates. To be a Lay magistrate you must be between the ages of 18 and 65 when appointed and live within 15 miles of Magistrates court you wish to preside in. Lay Magistrates sit part time and are required to sit in court at least 26 half days a year. As Lay magistrates are not qualified they sit in bench of three magistrates.

There are roughly 29, 000 Lay Magistrates with nearly 1800 being appointed each year. Anyone can apply to become a Magistrate and if they do they will be required to attend two interviews and write up an extremely detailed application. People could also be asked to become Magistrates if they are involved in Local political parties or trade unions who think they meets the right criteria. The proposed Magistrates application will then be checked at the lord Chancellors office and from there the magistrate may be asked to attend an interview.

In the Interviews the local committees will look for candidates which show six key qualities being; A good Character, good understanding and communication, social awareness, maturity and sound temperament, sound judgement, commitment and reliability. A person may be disqualified from becoming a magistrate if they have any serious criminal convictions, if they are bankrupt or are members of the armed forces or police. The idea of the selection process is to create a panel representative of all sections of society. Once someone has been accepted they must follow a training course to become a lay magistrate.

The course they have to follow is called the Lay Magistrates New Training Initiative which came about in 1998. The training course lasts 6 weeks and is carried out by the Clerk of the court. His job being to advise the Lay magistrates as aren't usually legally qualified. Once past the training course Magistrates are stationed at their local Magistrates court as they can provide a better understanding of the area they are from. Juries are another form of Lay people who normally preside in the Crown court but can also sit in a Coroners or high court..

Indictable and the more serious Triable either way offences are heard at the crown court so a larger representation of society is needed in the courtroom to make sure there are no mistakes. Juries are only called upon if the defendants plea is not guilty. When this happens a full trial takes place and 12 jury members are sworn in to hear the case. Only about 1% of all criminal cases are heard in a crown court with a jury as most issues are settled in the magistrates court but even when cases are sent up to the crown court three quarters of the defendants plea guilty anyway.

There are two sides in a crown court case, the prosecution and the defence. The sides taking it in turns, begging with the prosecution, giving evidence to support their cases. The defence may try to convince the judge that there is lack of evidence in the case and that he should rule there is insufficient evidence for the case to go to the jury. After all the evidence has been given on both sides they each give a final speech pointing out their strengths and most important points in the case. The judge then sums up the case and explains any relevant points of law to the jury.

The jury must then decide beyond reasonable doubt their verdict and if it is guilty the judge decides the punishment for the criminal. If it is innocent then the defendant has done nothing wrong and is free to go. Cases at the Crown court can take a long while to deal with as it must be made sure that the whole jury understands all the evidence being given. The whole panel must be present every moment of the trial to make sure they all receive the evidence from the different sides. All the evidence must be presented to the jury no matter how complicated and confusing it may be.

If a person is illiterate then the court must make sure the evidence is given in a way that the person can understand because he is a representative of the illiterate section of society. The whole point of a jury is to represent society and decide whether the person's actions are wrong in the eyes of society. Juries try to give a unanimous verdict but a judge can choose to take a majority decision. Juries are highly valued in the system and are rarely seen to do things wrong. For example if they were to make a verdict and it was unfair because they didn't understand, it would be the judge's fault for not explaining the point of law to them.

This could cause a re-trial. To be liable for jury service you must be aged between 19 and 70 and have lived in the United Kingdom for at least five years after reaching the age of 13. The selection process is completely random as the names are selected from the electoral register and the summoning bureau. You are disqualified from jury service if you have been imprisoned or detained for more than 5 years, imprisoned for the protection of society or if you have served an extended sentence for any crime.

You can be suspended for 10 years if at anytime in the last 10 years you have been given a community order or served a prison sentence. If you suffer from a mental illness you are not allowed to sit in a jury. You could also be exempt to Jury service if you were a doctor or in the armed forces. There are also people who wish to be excused from jury service and they have to write an explanation called a Discretionary Excusal to the court why they think they should be excused. Failure to attend court could land you with a £5000 fine. Once selected as a juror you are expected to attend court for a minimum of two weeks. When you arrive at court all jury members meet in a separate room where they participate in a Jury Ballet in which 12 names are randomly selected out of a hat. These 12 people will then form a panel and will be taken to see a case. If any of the jury members know each other or any one in the case they have been assigned, then they must let the court know as soon as possible so the panel can be remade or assigned to another case.

After both sides cases have been heard, the jury is taken to a separate room to decide a verdict. The foreman of the Jury must then give the verdict to the judge saying whether or not it was unanimous and if not, how many jurors that agreed with the verdict. Once the case is over the jurors go back into the sorting room where they are assigned to another case if they haven't served for a minimum of 2 weeks. One of the biggest advantages of Lay Magistrates is that are usually very willing and happy to do there job as they have applied through there own means.

They have put the effort into getting to there position and they are more positive towards there job, taking more time to make sure the defendant

receives a fair trial. Because Magistrates only have to give up 26 half days they have more time familiarize themselves with the community as they tend to have real jobs as well as being a lay Magistrate. The magistrates courts take the strain off the crown court freeing up funds to be used on more important cases. They tend to get through the minor cases a lot faster than other courts and there are few successful appeals which suggest that the system is working satisfactory.

The system also involves members of the local community as Magistrates can only sit in there local courts. This means that some magistrates will have a better understanding of the area they are working in and will have a more reflective view of how the local society would treat different situations. This helps when an area has a high ethnic population. An ethnic judge would provide a better representation of the local area and his opinions would probably be more understanding of the area. However, the 15 mile rule doesn't help if not enough ethnic people want to become magistrates.

Only about 6% of all Lay Magistrates are from an ethnic background and 94% from a white middle-aged background according to a census of lay magistrates in 2002. It is a stereotype that Lay Magistrates are middle class, middle aged and middle minded whereas offenders tend to be young, from an ethnic minority and are of a lower class background with little education. So it isn't very fair when a Magistrate who has no idea of the situation that the defendant may be in is in control of his innocence or guilt.

This difference in the backgrounds could be a reason as to why convictions are given to 80% of the cases compared to 35% in the crown court. Another

factor that may discourage new ethnic magistrates is that there isn't enough compensation for lost earnings while they are away training and participating in Magistrates duty. As a high majority of Ethnic minorities live in poverty this gap in their earnings may be highly detrimental to their welfare and their families may suffer. This would convince a lot of Ethnic to remain in work and avoid becoming a magistrate.

It could also be said that the workload is becoming too much for the amateur Magistrates. Lack of Magistrate training could contribute to this high percentage of convictions as there is much evidence that Magistrates rely heavily on the Clerk of the Court to help them. Similar to the Magistrates the Judicial system also has its ups and downs. The most important advantage of that ordinary people are involved in the decisions in some of the most serious cases in the crown court. The whole idea is that the defendant is to be tried by his peers.

This is to judge whether what the defendant has done is wrong in the eyes of society. The fact that juries are made of lay people keeps the law more open and accessible. Another advantage of the Jury system is that it is pretty certain that juries are not biased as they sit in a panel of 12. The jury should not have any direct interest in the case and they should not know any of the people involved. The jury is allowed as long as they like in their decision making and should not be pressurised into a verdict like in R. v.

McKenna where the verdict was quashed because the judge had threatened the jury saying that if they didn't come up with a verdict in the next ten minutes they would be spending the rest of the night locked up. Juries can

also choose to acquit a defendant even though the judge has told the jury that the defendant has no legal defence. This can be good as a jury can refuse to operate a law as they feel it is unjust. At present this is popular in murder cases where the defendant has committed euthanasia on a loved one who wished to end their own life but was unable to do so.

The defendant could be clearly guilty of murder but they may drop the conviction down to manslaughter where there is no fixed penalty and it is quite possible that the defendant will get away with no punishment. Juries do not have to give a reason to their verdict. This is bad because in some cases it has been known that the jury has clearly not understood the case but have convicted the defendant anyway. There is no intelligence test to become a juror and it is quite possible that someone picked from the public at random could hold a prejudice against a defendant.

In the case of *R. v Gregory* one of the jurors wrote a letter to the judge explaining that he was worried that there was racism in the jury and that this may unfairly harm the defendant's case. In the case of *R. v Young (Stephen)* (1995) the jury had decided to use a Ouija board in a hotel outside of the jury discussion room in the court. They tried to contact the dead victims to ask who had killed them. This was wrong not because of the use of the Ouija board but because the jury had not used it in their discussion room and had discussed the case out of court.

Another problem is that in cases involving money and large figures such as fraud the jury may have to sift through pages and pages of digits without properly understanding it. This isn't pleasant for the jury and it could cause

an unfair verdict. Jury members may become bored and rush the verdict. A full jury trial can also take a lot of time and cost a great deal. Jurors lives could be greatly effected by the length of a case. Media coverage could also cause jurors to form a bias view of the case.

It can be very hard for jurors not to hear about a popular case and receive outside information that could be false and harmful to the fairness of the case. There is also a risk that outside sources could corrupt a jury. There is currently talk that an important case involving a drugs baron is being discussed as to weather a jury should be used as there is such a high chance of corruption. The name of the case hasn't been disclosed to the public but if the decision to not use a Jury does go ahead then it may change our judicial system for many years to come.

In my opinion I believe that the system works well as it is. The Magistrates acts as a workhorse dealing with all the minor cases and it does this well. Perhaps there could be more done to increase the amount of Ethnic working in the Magistrates to reflect local communities and more adequate training to be given to decrease the amount the Magistrates rely on the Clerk of the court. The Jury system also works well providing the Jurors with plenty of power to reflect societies opinion. I don't believe that Juries should be removed in the future because if this were to happen then societies opinion may be overlooked.