

Example of three strikes laws research paper

[Law](#), [Criminal Justice](#)



Introduction and Description

The three strikes law is coined from the game of baseball, where the batter is only allowed two strikes before he strikes out for the third. Three strikes laws are a group of statutes that are enacted by various states in the United States mandating state courts to inflict harsher punishments by issuing more punitive sentences for individuals who are convicted of perpetrating three or more staid criminal offenses. Most jurisdictions consider crimes at the felony level only as serious offenses. As such, the three strikes laws are applied to individuals convicted thrice or more for committing felonies (Pollock, 2012). The sentence imposed on the offender is dependent on the gravity of the present and prior offenses that the offender has committed. Accordingly, sentences vary from a minimum of twenty five years imprisonment to life imprisonment. In typical situations, offenders sentenced to life imprisonment are offered the likelihood of parole. The three strikes law causes significant increase in the sentences of individuals convicted of felonies and have been convicted of such offenses previously on more than two occasions. The law also diminishes the probability of these offenders getting a lesser sentence than life imprisonment. State laws list the crimes that qualify as felonies. These include robbery in residential places while wielding a deadly weapon, murder, rape and assault with the intention of perpetrating murder or robbery (Kieso, 2005).

The Background of the Three Strikes Law

Imposing longer prison terms to repeat offenders as compared to first-time offenders of similar crimes is a practice that has been there for a while now.

This has been so because one's prior offenses are taken into consideration before a judge issues a sentence. In recent times, there has been a history of obligatory prison sentences issued to repeat offenders. For instance, the Persistent Felony Offender law in New York State can be traced back to late nineteenth century. However, judges could exercise their discretion on the length of the term of incarceration and the sentences were not mandatory for each case (Cross & Miller, 2007).

There were other forms of the law before this but the first three strikes law was ratified when voters in Washington State approved the Initiative 593 in 1993. California followed soon in 1994 when they overwhelmingly passed Proposition 184 which referred to a de facto lifetime incarceration if one was convicted of a minimum of three felonies. The overwhelming support that the law got in California swept through the other states so much so that by 2004, the federal government and twenty six states had instituted laws that could be generally designated as three strikes laws. These laws held that being convicted of a felony for the third time warranted a life sentence with the possibility of parole only after serving over twenty five years of the sentence (Samaha, 2008).

The Use of the Three Strikes Laws in the United States

The application of these laws in the United States differs from one state to another. Some of the states hold as a requirement that for the obligatory prison term to be pronounced under the three strikes law, at least one of the three felonies that the accused is convicted of has to involve a violent crime. The state of California requires that the first two felonies are serious or violent or both for the enhanced sentence under the three strikes law to be

upheld and pronounced. Although it is not a prerequisite for any of the three convictions for felonies to be violent, the state specifically excludes particular state jail felonies for consideration when sentencing (Grim, 2009). The use of the three strikes law in the United States is governed by the philosophy of incapacitation rather than rehabilitation. In sentencing philosophy, incapacitation is the effect that a sentence has by positively preventing as opposed to merely deterring future offenses. Through imprisonment, the sentence incapacitates the prisoner by way of actually removing him from the community where he is deemed to have committed the offense. More precisely, the three strikes law puts into consideration the possibility of the offenders to commit future felonies. To remedy this, the law imposes long sentences of such offenders to incapacitate them. Criminal justice systems use this law to punish and incapacitate habitual criminals and prevent recidivism. This act protects the society from future crimes by the same offender (Kury & Ferdinand, 2008).

Conclusion

The philosophy of the three strikes law has been criticized widely and fervently. Some argue that it is extremely punitive. Other opponents of the law have argued that the philosophy of the law puts undeserving individuals in prison for a long time. For instance, individuals have been imprisoned for over twenty six years for breaking into soup kitchens, perjury and stealing cookies. Although the offenders in such cases had other strikes, the length with which they went without an incident is not considered.

For instance, a previous offender can go for over ten years without committing a felony and still be imprisoned for over twenty five years under

the sentencing philosophy of the three strikes law. These have been the arguments forwarded by the opponents of the laws. However, the law protects the society from recidivism and the potential for repeated offenses. The effectiveness of the law has been collaborated by a reduction in crimes like homicides in jurisdictions where the law is enforced (Siegel & Bartollas, 2011).

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