

Criminal procedure policy essay sample



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Criminal procedures are safeguards against the indiscriminate application of criminal laws and the treatment of suspected criminals. Specifically, they are designed to enforce the constitutional rights of criminal suspects and defendants, beginning with initial police contact and continuing through arrest, investigation, trial, and sentencing. These rules are designed to limit what the state can do to individuals when enforcing the laws. “ If the intrusions of state officers are not justified and authorized by law, their actions are illegal and they undermine the constitutional foundations of American government” (Zalman, 2011). The due process model and the crime control model are the two models of criminal justice. The due process model is the idea that each individual has absolute rights and cannot be deprived of life, liberty, or property without the appropriate legal procedures and safeguards.

The due process model emphasizes fairness in court proceedings. Every citizen is entitled to be notified of charges against them and have the opportunity to be heard at a fair and public hearing. The Fourth Amendment has a large effect on the due process model. The Fourth Amendment states “ The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized” (Fourth Amendment, Bill of Rights). This amendment affects the due process model as well as all law enforcement by requiring that there be probable cause before a warrant is issued or an arrest is made. It requires that the proper channels are taken and the right

procedures are followed before issuing a warrant or charging someone with a crime. Criminal Procedure Policy

The Fifth Amendment states “ No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury. Nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law” (Fifth Amendment, Bill of Rights). The due process model helps to uphold this amendment by requiring all of the proper procedures are followed before arresting an individual and charging them with a crime. No one can be charged with a crime unless probable cause has been established, evidence has been gathered, and the individual has been arrested and then formally charged with the crime. The Sixth Amendment gives the right to a speedy and public trial by an impartial jury of the state (Sixth Amendment). This amendment prevents individuals from being charged with a crime and incarcerated without giving them a fair trial to determine their guilt. The Fourteenth Amendment has a large effect on the Due Process model.

This amendment not only limits the powers of the Federal Government, it also limits the powers of the State Government. It requires that each state not infringe upon the rights of the citizens laid out in the amendments the same as the Federal Government. The Fourteenth Amendment ensures that the Bill of Rights is followed by both the Federal Government as well as the government in each state. These amendments have shaped the Due Process model as well as the Criminal Justice system. These amendments have also had an effect on the Crime Control Model. The Crime Control Model is a <https://assignbuster.com/criminal-procedure-policy-essay-sample/>

theory of criminal justice that places emphasis on reducing crime through increased police and prosecutorial powers. It gives less emphasis to the liberties of the citizens. By increasing the powers of the police and the court crime rates will be reduced. Criminal Procedure Policy

With the crime control model the Fourth Amendment upholds the right of security by protecting against unlawful searches and seizures. The requirement of probable cause is still in place, and requires law enforcement to obtain a warrant before conducting a search or seizure. The Fifth Amendment limits the power of law enforcement by requiring proper procedures are followed in obtaining a warrant for arrest before an indictment for a crime. The Sixth Amendment limits powers by ensuring the individual receives a speedy and public trial, and is not made to be a witness against himself. This amendment limits the powers of the police and prosecution by ensuring that each individual receives a trial and is not held without due process. The Fourteenth Amendment limits the powers of the state, it requires that not only the Federal Government's powers be limited, it also limits the powers of the state.

It requires the state to not infringe upon the rights given in the Bill of Rights. “ The underlying rule is that the Bill of Rights in the U. S. Constitution protects people's rights only against acts of the federal government, not against acts of state or local governments” (Zalman, 2011). The Fourteenth Amendment was added to ensure that each state uphold the rights laid forth in the Bill of Rights. The Fourth, Fifth, Sixth, and Fourteenth Amendments helped to shape the criminal justice system along with the crime control model and the due process model. The criminal procedures that safeguard

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against the indiscriminate application of criminal laws and the treatment of suspects were written to ensure that the rights given in those amendments are not infringed upon while upholding the laws that protect society. The Due Process Model emphasizes fairness in the courts and was based on ensuring due process is given.

The Crime Control Model is a theory of criminal justice that places emphasis on reducing crime through increased police and prosecutorial powers. The Fourth, Fifth, Sixth, and Fourteenth Amendments ensure that with the Crime Control Model and the Due Process Model the rights of the citizens are upheld by the State and Federal Government. The Fourth Amendment protects against unlawful searches and seizures. The Fifth Amendment ensures that indictments for crimes come from a grand jury after the proper procedures have been followed, as well as protect against being called to testify against themselves. The Sixth Amendment ensures the right to a speedy and public trial by an impartial jury; it prevents individuals from being held without a trial. The Fourteenth Amendment was put in place to not only limit the powers of the Federal Government but to ensure that the State government is required to uphold the rights laid forth in the Bill of Rights. These Amendments ensure that all procedures are in place to protect the rights of society as well as allow for punishing criminals.

References

Criminal Procedure: Constitution and Society, Zalman, Prentice Hall, 2011
Fourth, Fifth, Sixth, and Fourteenth Amendments, Bill of Rights, All

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