

Adjudication and punishment essay sample



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What really is punishment? It seems that all anyone gets is a slap on the wrist unless they have committed mass murder. Malcolm Feeley seems to feel the same way about punishment, well sort of. According to Feeley, the court process that someone goes through is in itself a punishment. Feeley sees the judicial process as something that should be added on as ‘time served’. In Feeley’s book *The Process is the Punishment*, it is obvious that Feeley feels that adjudication is no longer being seen in the courts.

Feeley begins by introducing the reader to the lower court system with all of its components, ins and outs up through the 4th chapter in a 9 chapter book. Feeley himself has placed the setting of his studies in the Court of Common Pleas (lower criminal courts) of New Haven, Connecticut. It is here that Feeley chose to study 1600+ cases to fully evaluate and understand whether or not the adjudication process still exists. He soon realized that the court system bore very few trials due to the defendant’s being lower class. By being lower class there was a “...frequent lack of concern about the stigma of conviction by the more practical and far more immediate concerns about what the sentence would be and how quickly they could get out of court (Feeley, pg. 200-201)”. Feeley argued that basically the individuals who were committing the crimes were living on a paycheck to paycheck basis and were simply willing to accept whatever punishment was brought before them in order to return home, if there still was a home.

I felt this to be obvious, but what it lacked was true insight on behalf of Feeley; who seemed to be more concerned about the majority of the “victims” being black. I also dislike Feeley’s reference to “price tags”. When he refers to this he states that the court process is typically longer than the

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jail time served. He also considers attorney and bail fees to be “ price tags” along with loss of wages to even make it to a court appearance for the crime committed. I think that he has lost the vision of what crime means. It almost seems as if Feeley actually feels sorry for the individuals who have placed themselves within the current situation that they are in. Is a six month trial really enough punishment for a repeat felony theft offender? In my opinion no, and in Feeley’s opinion it is a definite yes. However, I did find some of Feeley’s findings not only intriguing but disturbing:

- Not one single person out of 1, 640 requested a right to a trial.
- Only half of the defendant’s actually used a court appointed attorney.
- The 6th Amendment did not seem to be anywhere in sight with regards to minor cases.

True adjudication in the eyes of Feeley, is the court simply being run the way it is suppose to, with the exception that the individuals should all be handed help (guilty or not) on a silver platter. Since a lot of the individuals were repeat offenders, you would think that they would understand the system and that they would have learned to use it to their advantage. It is a shame to see individuals who have committed their third theft (ex. a car) and being given a 1year sentence and 6 months probation with no defense attorney or true processing of the court by Feeley’s standards. In actuality if I were evaluate a case that was similar it would be seen as poor judgment on behalf of the court. I think the individual should be given the maximum sentence with several years’ probation. The car that was stolen could have been the only means of transportation for a struggling family.

Feeley also seems to complain about the time differences spent in small offense v. large offense cases. The smaller cases seem to drag while the larger cases seem to process more expediently. I think this is great for small offenders; it may just be what is needed to deter them from committing the crime again.

Feeley's adjudicative ideal (ch. 9) is comprised of providing precise court proceedings for each individual, having evidence and proof presented, actually making a true determination of guilt, and the lack of it in the Court of Common Pleas. In order for someone to get due process, they need to basically request it. With the court systems being bogged down with offenders, it is difficult for the courts to say that they are going to take someone to trial for a lower felony that the defendant would rather plead guilty to. It is simply a matter of whether or not the court has the room to try the case and whether or not the defendant even wants to be tried. Since a lot of the cases were repeat offenders, they simply choose to plead guilty and take the punishment being offered by an over crowded system. This allows them to have some sort of punishment for the crime that they have committed. I simply do not agree with the lack of space in the corrections facilities for these offenders. I bear no qualms about the slow processing (like I said it is at least some punishment for the crime), but I do have a problem with the offenders not truly getting the time that they deserve to be serving.

In conclusion, I feel that Feeley did have some points of argument with regards to the processing of the offenders. But, I think that the court system needs to further evaluate some of these offenders before re-releasing them

back into society. It seems like the court system was almost causing a constant spiral of criminal activity by allowing the offenders to plead guilty with very little inquiry to the true nature of the offense. Since the book was written, it seems that the court system has not improved much further. There have been more jails built, but only extremely serious offenders seem to be filling the empty positions in them. I would like to see a greater due process and balance within the system. Then true justice and adjudication would be served.

Bibliography

Malcolm M. Feeley (1979). *The Process is the Punishment*. New York: Russell Sage Foundation.