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Just Deserts and Justice: That is the Question?

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The public is alarmed when repeat offenders are given very little time behind bars. Sentencing guidelines are the result of the popular notion called "*just deserts.*" Just deserts are predicated on the idea that if one does the crime he/she must do the time. The problems that arise from this paradigm are assembly line sentencing for minor offences and equal interpretation of punishment. Recent decisions from the Ninth Circuit Court exposed the differences in interpretation with sentencing guidelines.

The Judiciary Act of 1789 established and defines jurisdictional lines for the court system (Henderson, p. 3, 1985). Therefore, in America, those accused are allowed to hear and see the evidence that is presented against them in a court of law. The courts are expected to render judicious opinions under the guidelines of the U. S. Constitution. Also, the courts are expected to honor the concerns of the general public while issuing reasonable sentences to convicted criminals. The courts, legislators, and the public find it

difficult to synchronize efforts and satisfy those involved. In order to satisfy public demands, legislators and the courts began offering lengthy prison sentences in high profile cases.

To further complicate things, in the mid-1980s the war on drugs began and the conviction rate for crack possession exploded. With crime rates climbing, the public has grown impatient with repeat offenders returning to the streets only to continue offending. This explosion nearly caused the system to implode. According to Michael Vitiello, the Three Strikes Law is the result of a decade long movement toward getting tough on criminals. With many high profile cases in California and other states, politicians decided to satisfy the public's demand and the three strikes were established. Getting tough on crime means that more people will serve jail or prison sentences. Nevertheless legislators, the courts and the public should not be surprised when jails and prisons become overcrowded. Vitiello thinks three strikes legislation is not a prudent choice; nevertheless, it passed with few objections (Vitiello, 1997).

One Size Fits All Legislation

Eric Sevigny thinks mandatory minimum sentencing is problematic because the results are too much uniformity. Perhaps uniformity in sentencing does not include compassion or consideration of mitigating circumstances according to Sevigny (2009). For example, a Three Strikes Law would send a person whose third offense is *simple harassment or possession of drug paraphernalia* to a lengthy prison sentence. According to Sevigny examples like this are observed in many drug cases. Sevigny said the original sentencing commission evaluated mandatory minimums and determined that modifications to just deserts should be considered in conjunction with the amount of

harm offender's cause. One-size fits all models are particularly unappealing in cases where little or no harm is caused (Sevigny, 2009).

The Impact in Alabama

One should not assume that disparities in justice are nonexistent because several studies have substantiated this fact. *The War on Drugs* could be directly linked to excessive policing and drug related convictions in non-white communities. Wool & Stemen (2004) determined that Alabama's incarceration rate is 43% greater than the national average. According to the Alabama Department of Corrections (ADOC), there are about 31,156 prison inmates in their various facilities; this does not include the juvenile population. According to ADOC, 17,156 are black males, 11,463 are white males, 823 black females, 1668 white females, and 49 are classified as other-race (ADOC, 2012).

The statistics show that Alabama is incarcerating an average of 381 black inmates per month, 366 white inmates per month, and about 2 from various ethnic groups. On the surface this would appear to be evenhanded justice, but consider that the 2000-2010 census data revealed that Alabama's population is about 4,779,736 wherein 68.5% are White, and 26.2% are Black (ADOC, 2012). According to ADOC, 28.6% of its inmates are incarcerated for drug related crimes. Most would agree that drug usage is not a good thing. Drugs are addictive; and, perhaps precipitate additional criminal activity. Additional research into drug offenders in Alabama's prisons could further explain this phenomenon. Albeit, few will argue that reforming drug laws could reduce the inmate population.

Conclusion

Conceivably, when the public gets what it wants the subsequent ramifications are worse than the initial problem. In this case, prison overcrowding is the negative result of the three strikes law and just deserts. States could build more prisons, relax enforcement, or develop more alternative supervision programs. It appears that developing more alternative programs is the future for corrections; but the criminal justice prophet's would predict the public would not be satisfied.

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