Three Strikes And You’re Out Essay, Research Paper

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Samuel Walker, author of Sense and Nonsense about Crime

and Drugs, presented us in his book with forty-eight

propositions that dealt with crime, drugs, and our efforts

toward getting rid of these problems. A few of these

propositions informed us on positive actions taking place in

our criminal justice system, but the majority of them told

us what was not working to fight crime and drugs. One of

those propositions that was a negative aspect of our justice

system today in Mr. Walker’s eyes was the “three strikes and

you’re out” laws (referred to here after as three strikes

laws). He gives numerous reasons why this law is not

considered to be an effective one. This paper will first

explain Walker’s view on the issue and then review some of

the current research and opinions on the matter.

Samuel Walker conducted very thorough research on the

propositions he presented to us in his book. His twentieth

proposition read as follows; “ ‘Three strikes and you’re

out’ laws are a terrible crime policy” (Walker, 1998: 140).

Walker justifies his claim by asking and then explaining

three questions. The first question is whether the law

would actually be implemented. Walker states that “hardly

any states were using there three strikes laws” (Walker,

1998: 138). California is leading the nation in

prosecutions of offenders through the current two and three

strikes laws (Tischler, 1999). Fifteen of the twenty-three

states that have three strikes laws have incarcerated

between zero and six inmates since 1993 according to The

Campaign for an Effective Crime Policy (Tischler, 1999).

The second reason Walker cites is the impact of the

three strikes laws on the criminal justice system. These

laws are affecting the system by overcrowding prisons,

subjecting criminals to excessive prison terms, and costing

society entirely too much money (Walker, 1998). The three

strikes law in California stipulates that your first two

“strikes” are acquired when you commit two serious or

violent felonies. However the third strike can be any type

of felony, violent or nonviolent (Schafer, 1999). For this

reason, more and more criminals are being put away,

especially in California, for third strikes that are

nonviolent and relatively small crimes and overcrowding our

prisons at a fast rate.

In 1996, males under the age of twenty-five accounted

for forty-five percent of the individuals arrested for index

crimes (Schafer, 1999). This raises questions for skeptics

of three strikes laws. Why incarcerate offenders for life

when their criminal tendencies statistically drop after a

certain age? These opponents assert that three strikes laws

subject offenders to over-incarceration. This leads to the

next issue concerning money. Burr states in his study

comparing the impact of the three strikes law in California

to the impact in Canada that “over-incarceration does not

serve the interest of justice or the interests of the

taxpayer” (2000: 5). Walker estimates that if California

were to implement the new law to the full extent for the

next twenty-five years, the state would have to pay an extra

$5.5 billion (1998). A significant piece of this estimate

would be funding the incarceration of elderly prisoners who

require more funds to maintain (Walker, 1998).

The third reason Walker uses to support his proposition

is that the law will not reduce crime (1998). He supports

this claim by stating that there is no evidence that crime

has been reduced by these laws and that the law is not

consistently enforced (1998). Burr affirms this statement

in his own study by stating that “no study has demonstrated

that the three strikes law has reduced violence” (2000). As

stated earlier, the three strikes law has not been

administered by all the states that currently have it

either. By 1997, twenty-four states and the federal

government had adopted some form of three strikes mandatory

sentencing laws (Schafer, 1999). Walker suggests as well

that three strikes laws are nothing new and that “most

states have had some kind of habitual offender law for many

decades” (1998).

There are two additional considerations that have been

documented supporting Walker’s claim that three strikes is a

“terrible crime policy.” The first is that it has forced

more criminals both underground and to become more violent.

Dannie Martin, an ex-convict with seven prior felonies on

his record, now a novel writer suggests through his

observations that this new law has only forced criminals to

work underground (1995). They are more often working alone

as well and created a “nothing-left-to-lose mentality” among

criminals making them even more violent (1995: 2). “If a

robber has two priors, a murder and an arson is no different

to him than a robbery” (1995: 2). Schafer found that

fifty-four percent of offenders responding to a survey he

conducted responded that they “would kill witnesses or law

enforcement officers to avoid a life sentence” (1999: 10)

Criminals believe that if they are going to have a mandatory

sentence of life imposed on them they might as well go one

step further.

The other concern is the racial disparity that is

seemingly spawning from this new law. Walker briefly

addresses this issue stating that “African-Americans were

being sent to prison thirteen times as often under the law

as were whites” (1998: 140). Tischler affirms this

statistic stating that “44 percent of those convicted under

three strikes laws are black” (1999: 1).

Along with the supporting materials to Walker’s

argument there is also opposing views that say that three

strikes laws are working. The first is the deterrent effect

of three strikes laws. Any way you look at it, the crime

rate in California since the adoption of this law in March

of 1994 has significantly decreased (Schafer, 1999). There

is a wide range of percentages that are given to represent

this decrease. One of the more conservative statistics

quotes a 26.9% decrease, or 815,000 crimes, since 1994

(Schafer, 1999). Schafer presents his deterrent argument

stating that “[i]n the year prior to the law’s passage,

California’s population of paroled felons increased by

226….In the year after the law’s enactment, the number of

paroled felons plunged as 1,335 moved out of California”

(1999: 7).

Schafer conducted a survey of offenders to measure the

specific and general deterrence affects, if any. The survey

found that seventy-eight percent of those surveyed

understood the concept of the three strikes law. Schafer

found that “seventy percent said they would not or probably

would not commit the crime if they knew they would receive

life in prison, thus demonstrating a specific deterrent

effect” (1999: 9). When asked a similar question that

focused on general deterrence, that number dropped to forty

percent, illustrating a weaker effect (1999: 9). While

Schafer suggests that more studies similar to this one

should be conducted in other states, this serves as a good

starting point for assessing the deterrence effect. Schafer

concludes that three strikes laws should be addressed to

offenders in specific terms to maximize the deterrent

effect.

The second opposing view to Walker’s proposition is

Secretary of State Bill Jones’ report outlining the effects

of the law. Bill Jones is the author of the now famous

three strikes law. His report, more than likely a little

exaggerated, announces a thirty-eight percent decline in

violent crime since the passage of the three strikes law

(Wood, 1999). He also estimates that approximately one

million crimes have been prevented and $21.7 billion in

costs associated to those crimes have been saved (Wood,

1999). He recognizes, however, that the decrease in crime

is not solely attributed to the three strikes law but that

is definitely is “not accidental” (Wood, 1999: 2). His

report has obvious flaws but is certainly something to

consider when discussing the effectiveness of this law.

One interesting look at the impact of the three strikes

law is to view it from the eyes of the actual offender. In

Martin’s article A View from the Underworld: Life After

three Strikes, he tells of a friend of his that has a few

prior convictions but is out of prison at the time. After

trying to reach him by phone and being unsuccessful, he

catches up with him sometime later. He learns that his

phone was turned off and done so on purpose. Martin’s

friend explains it as so: “I’m afraid that someone will

call and ask me for a lawnmower part and a narcotics

detective will get on the stand and say that ‘lawnmower’

part was really cocaine or heroin and I’m gone” (Martin,

1995: 2). This may serve as an example of how some

criminals that roam the streets feel about the three strikes

law. If they have two prior convictions, it will not take

much to get that third, leaving them on thin ice.

The three strikes law seems to have more going against

it than for it at the present time. One major problem is

that it is not enforced everywhere it is available and when

enforced, it is not done so consistently. However, if this

law were to be enforced as it were designed, it would have a

profound effect on our crime statistics in a good way. One

way to possibly confront the problem of prison overcrowding

and financial burden would be the establishment of a release

age wherein that criminals subjected to this law would be

released after such a time. With all the research on the

crime rates of certain ages, there is bound to be an age

where offenders could be released with the confident

assumption that they will not commit again. Three strikes

laws originated from a reasonable assumption; those that

have committed three felonies will probably commit again.

This law should stressed harder rather than abolished.

References

Burr, G., Wong, S., Veen, S. & Gu, D. (2000, June). Three

strikes and you’re out: An investigation of false positive

rates using a Canadian sample. Federal Probation, 64,

3-7.

Martin, D. (1995, September 13). A view from the underworld:

Life after three strikes. Available: http://www.

pacificnews. org/jinn/stories/columns/voices/950913-

three-strikes.html

Schafer, J. (1999, April). The deterrent effect of three

strikes law. FBI Law Enforcement Bulletin, 68, 6-11.

Tischler, E. (1999, Feburary). Three strikes striking out?

Corrections Today, 61, 19.

Walker, S. (1998). Sense and nonsense about crime and drugs:

A policy guide. Belmont, CA: Wadsworth Publishing Company.

Wood, D. (1999, March 8). The impact of ‘three strikes’

laws. Christian Science Monitor, 91, 1-5.

Bibliography

References

Burr, G., Wong, S., Veen, S. & Gu, D. (2000, June). Three

strikes and you’re out: An investigation of false positive

rates using a Canadian sample. Federal Probation, 64,

3-7.

Martin, D. (1995, September 13). A view from the underworld:

Life after three strikes. Available: http://www.

pacificnews. org/jinn/stories/columns/voices/950913-

three-strikes.html

Schafer, J. (1999, April). The deterrent effect of three

strikes law. FBI Law Enforcement Bulletin, 68, 6-11.

Tischler, E. (1999, Feburary). Three strikes striking out?

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Walker, S. (1998). Sense and nonsense about crime and drugs:

A policy guide. Belmont, CA: Wadsworth Publishing Company.

Wood, D. (1999, March 8). The impact of ‘three strikes’

laws. Christian Science Monitor, 91, 1-5.