**Criminal Defenses and Criminal Punishments**

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The American legal system provides controversial issues, especially on how it deals with criminal punishment and types of defenses. Some of these controversies relate to concepts of self-defense, castle doctrine, defenses of immunity, entrapment, and the “three strikes” as discussed in this paper.

**The lawfulness of the use of force and how the courts determine reasonable self-defense**

There are many key points that American courts use to determine the lawfulness of use of force by the police. They include the severity of the crime, consideration of whether the person resisted arrest or flee away, determination of whether the arrested posed immediate danger or threat to officers or people, the mental health of the accused, the facts of the incident and the individual possessed lethal weapon or equipment. The courts vindicate the actions of the police officers based on the above determinations. American court system determines whether an incident was a case self-defense or not based on specific justifications on the incident. Self-Defense is seen self-protection to battery, assault or case of criminal homicide; however, issues of self-defense can be modified by the courts based on specific facts available in the individual incident.

For a person to claim self-defense, he or she must convince the American legal system on four elements. Firstly, the defendant must show evidence of deadly unprovoked attack or confrontation. Secondly, the defendant must show that there was an imminent threat of death or injury. Thirdly, the defendant must convince that the level or degree of force applied at the time was objectively reasonable given the prevailing circumstances. Fourthly, the defendant must prove to the court that he or she had a justifiable or reasonable fear that the attacker could kill or injure unless he or she used self-defense. The above factors are justifiable reasons for killing a person to defend oneself. If the attacker possesses a lethal weapon and shows an unwavering intention of committing a crime or assault, a person has every opportunity to safeguard his or her life through self-defense.

**Castle doctrine**

Castle doctrine is a common law principle stating that a person has the right to use deadly force to protect themselves against an intruder in their home, who is exhibiting evidence of committing a crime (Randall & DeBoer, 2012). The state legislatures have expanded this principle to give people the right to apply it not only at home but any other place that a person is exercising his or her duties. I support this principle because it provides every American with the opportunity to protect or defend themselves against threatening circumstances in and outside their homes. In a situation that the attacker invades legally occupied personal space such as their houses, place of work, or car, and threatening the occupant, the assaulted is permitted to attack intruder instead of retreating. Retreating in this situation gives the attacker opportunity to perpetrate other crimes, including destroying property, harming other people in the place, or unlawfully possessing a property. I view that castle doctrine is an acceptable practice since it gives the defendant the right to protect property, lives of other people and deter the would-be criminals from committing other crimes. Furthermore, castle doctrine provides the initial step for an individual to ensure personal safety by protecting themselves against criminals intending commit crimes even before law enforcement officers arrive.

**The defenses of diplomatic, legislative, and witness immunity**

The law provides different levels of immunity and defenses to diplomats, legislators and witnesses. Diplomatic immunity refers to the protection of foreign diplomats against criminal prosecution. The rationale of giving this protection is to safeguard the relationship between America and countries of diplomats. Legislative immunity provides senators and members of the house of representative protection against arrest while the legislature is in session. This protection, however, does not apply in cases of treason or felonies. Witness immunity means granting protection to a crime against prosecution in exchange for providing vital information to investigative agencies. It gives the government access to critical information relating to criminal activities which may be crucial in deterring future crimes or prosecuting other perpetrators.

The defenses given to diplomats, legislators and witnesses play a role in the criminal justice system. The diplomatic immunity is particularly necessary for the maintenance of peaceful cooperation and friendly relationship among states as this ensures smooth commerce and better exchange of information and ideas (Akande & Shah, 2010). Legislator’s immunity protects dignity and respect of the law-making bodies and promotes non-interference of activities of the legislative branch. Besides, protecting legislators ensure continuity of legislation process since the bills introduced by accused legislator will continue deliberated without disturbance.

The application of witness immunity gives fairness to the defense since it cushions an individual from facing charges and possible penalties in exchange for a testimony to prosecute high-level criminals. By granting witness immunity, legal balance is achieved. The criminal offense committed is excusable in exchange for information required to prosecute a dangerous criminal. The witness gets justice for not being subjected to the punitive legal system since his or her willingness to provide information exonerates crimes. It is a fair deal that benefits all parties as it prevents lawsuits against a witness and ensures that investigators acquire impactful information.

**Elements of the defense of entrapment**

Entrapment refers to defense of charges facing a person on the idea that the defendant committed crimes because of coercion or harassment by government officials. It means without such coercion; the defendant could not have committed the crime. Entrapment has two related elements, i.e. government officials inducing a crime, and secondly lack predisposition commit a crime. Of these elements aspect of defendant’s predisposition is crucial. If predisposition inquiry is certain that defendant committed crime through inducement, then defense entrapment is granted. Entrapment occurs when enforcement officers overly encourage or urge an individual to commit a crime that one could otherwise not commit. I think defense entrapment has little value in the American criminal law system because it is difficult to assess and requires a thorough evaluation of facts.

**The “three strikes” law**

Three strike statute increases prison sentence of individuals who committed a felony or other violent offenses in two or more instances. It reduces the chance that offender will get other penalties other than life sentence (United States Department of Justice, 2017). It is unacceptable practice since it curtails the individual’s right to get leaner punishment, and does not give a chance for rehabilitation. Importantly, the statute increases individual’s penalties and removes the opportunity for parole or other chance of acquitting. It also leads to overpopulation in prisons since individuals are convicted for life.

In conclusion, as noted in the study, there are many controversies in America’s criminal defenses and legal punishments. Some of these defenses and punishments are contentious as it contravenes the fundamental rights of people. Apparently, some of the defenses and punishment have been expanded to include broader definitions and jurisdictions.

**References**

Nelson, J (2016) *How to figure out when police use of force is justified.* Retrieved from <https://www.dailynews.com/2016/02/06/how-to-figure-out-when-police-use-of-force-is-justified/>

Randall, M & DeBoer, H (2012). *The Castle Doctrine and Stand-Your-Ground Law*. Retrieved from <https://www.cga.ct.gov/2012/rpt/2012-R-0172.htm>

Akande, D., & Shah, S. (2010). Immunities of state officials, international crimes, and foreign domestic courts. *European Journal of International Law*, *21*(4), 815-852.

United States Department of Justice. (2018) *Entrapment – Elements.* Retrieved from <https://www.justice.gov/jm/criminal-resource-manual-645-entrapment-elements>

United States Department of Justice. (2018). *Sentencing Enhancement—"Three Strikes" Law*. Retrieved from <https://www.justice.gov/jm/criminal-resource-manual-1032-sentencing-enhancement-three-strikes-law>