Effectiveness of the criminal justice system

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The task at hand is to work towards the development of indicators of effectiveness for the criminal justice system.

This paper outlines some of the issues involved in developing a framework.

The recommendation is that a group work through the items and plan a way forward. (The Australian Institute of Criminology is prepared to chair/guide such a group)

Five sets of questions shape the discussion:

1. What is the criminal justice system, why do we have it and what should it do?
2. What does the criminal justice system do?
3. How does it do it?
4. How is it financed?
5. Who wins and who loses?

Methodologically we are constrained by our understanding of causality in criminal justice, cause and effect are never unequivocally demonstrable.

What is the criminal justice system, why do we have it and what should it do?
• There is no one criminal justice system. In Australia there are nine jurisdictions with different operational activities in law enforcement, prosecution, sentencing, and corrections. Philosophies of criminal justice vary, not by jurisdiction, but by components within each jurisdiction, and by personal views. Recent times have seen swings in the degree of emphasis on prevention, rehabilitation, retribution, restorative justice etc.

• Law breaking has been a common phenomenon since earliest times. However, most people do not commit crime and probably would not, whether we had a criminal justice system or not.

• Changes in social and economic structure, and changes in technology have meant that notions of trust and risk in society have changed, and these must be accommodated in any development of effectiveness indicators.

• Philosophically the criminal justice system can be seen as a mechanism to maximise liberty and minimise coercion (Braithwaite and Pettit). Goals of the criminal justice system can be analysed in terms of
  * retribution
  * incapacitation
  * rehabilitation
  * deterrent (both in respect of the individual and society)

• Debates on what the criminal justice system should do revolve around
  * reduction of crime
  * reduction of fear
  * punishment of offenders
  * rehabilitation/re-integration of offenders
  * compensation for, and assistance and support to victims
* compliance with human rights obligations
* humane treatment of suspects/offenders
* generating perceptions of fairness
* containment of costs

Effectiveness indicators can be developed for each of these, but only after clarification of desired outcomes.

- It must be remembered that the main business of criminal justice is not serious crime. Richard Fox (Monash University) estimates that in Victoria in 1991 for every offence brought to trial in the Supreme Court or County Court, 45 more came before the Magistrate’s Court, and a further 337 were handled administratively by way of an “on-the-spot ticket”.

**What does the criminal justice system do?**

- The criminal justice system is more than the sum of its component parts

- Building a list of specific activities can wait until another time.

**How does it do it - what are the outcomes?**

- System performance is impacted upon by other policy systems - where are the boundaries? For example it could be argued that policies such as those in education and training policy, maternal and child health policy, mental health policy (particularly de-institutionalisation), public works activities (e.g. road construction or landscaping), housing policy, social welfare policy etc all affect the effectiveness of the criminal justice system.
• The above items are **external** influences on the criminal justice system, and could be broadened to include macro-economic policy (especially its effect on employment), and broad social values, which have affected gender, family, and domestic relations.

• Within the system itself, performance by component parts has an effect on other parts. Police effectiveness impacts on Court effectiveness, which impacts on Corrections effectiveness. Changes in one, and outside the sphere of direct policy influence, impact on others. Efficiency measures in one system affect effectiveness in others e.g. delays in court may result in greater police overtime, as officers wait around more than necessary; excessive custodial remand dissipates resources etc.

• The above are **internal** influences, and can be broadened to include “truth in sentencing”, “three strikes”, Operation Noah (or other “wars on drugs”) etc., as well as management skills in criminal justice.

• New technologies can improve effectiveness eg. better use of telecommunications can provide remote bail hearings; smart cards can have a significant impact on prison operations.

• Client satisfaction

  * How satisfied are components upstream and downstream from each other? Are courts satisfied with police activities? Are corrections satisfied with court activities? Are police satisfied with corrections outcomes - on release? How satisfied are upstream clients e.g. government departments such as Tax, Immigration, Social Security with police investigations? How satisfied are downstream clients e.g. DPP
with police investigations? (greater police productivity will mean more work for Directors of Public Prosecutions!)

* What satisfaction data help structure effectiveness indicators? crime rates, offences reported, arrests, convictions, incarcerations, community corrections, victimisation rates, fear indicators, etc. All of these, and more can be disaggregated by numerous demographic and socio-economic variables.

- Criminal justice statistics are currently being examined by the Australian Institute of Criminology with a view to improving national consistency. However, Australian criminal justice data, like criminal justice data elsewhere are not as precise as one might wish.

**How is it financed?**

- Three resource issues shape policy, and ultimately effectiveness
  
  * optimal allocation of resources to the criminal justice system
  
  * optimal distribution of resources among branches or components of the system, e.g police, courts, corrections etc.
  
  * optimal allocation of resources to non-criminal justice policy areas that impact (beneficially?) on criminal justice activities.

- Analysis of the economics of justice can identify the costs of inefficiencies and delays - but value questions of whether costly justice is better than cheap injustice will always be with us.
• However one assesses the above, fiscal constraint will dominate future scenarios as all agencies of criminal justice will be called upon to do more with less. Fiscal discipline will prevail where rational decision making might not.

**Who wins and who loses?**

• Who gets what in the system? wins and losses - police, courts, victims, offenders, employees, families, governments/treasuries, taxpayers etc etc.

• What proportion of people are directly affected by the criminal justice system? - in the USA it is estimated that 42 million people have criminal records, and at any time about 2.5% (about 5 million) are clients of corrections systems. A lot of people also depend on the criminal justice system for their employment.

Any attempt to analyse the effectiveness of the criminal justice system depends on the philosophy, the politics and the economics of our activities.