

Critical Thinking Exercise

IDENTIFYING VIOLATIONS OF DUE PROCESS

The following situation is an actual case. Fortunately, it is not typical of our criminal justice system. Yet for such a situation to occur, even infrequently, confirms that there is a constant need to ensure that all rights that constitute due process are respected.

Work in small groups, read the events of the case and respond to the questions and instructions that follow it. Be prepared to present and explain your responses to the class.

In 1980 in a small town, a sixteen-year-old white girl disappeared while looking for a restroom at a high school. Two custodians later found her body hidden in the loft of the school auditorium. She had been raped and strangled. The community in which this crime occurred was one with a history of racial prejudice and conflict.

The custodians were Jones, a white man, and Smith, an African American. Both were questioned by the police and made to sign statements explaining where they had been and how they had found the body. They were taken to a hospital and were made to give samples of their saliva, blood, and hair. Then a police officer drove them back to the high school. As he dropped them off, he said, "One of you two is gonna hang for this." Then he turned to Smith and said, "Since you're the black, you're elected." One week later, Smith was arrested for raping and murdering the girl. He was tried and convicted by an all white jury from which qualified blacks had been excluded, and he was sentenced to death.

A writ of **habeas corpus** to the state supreme court was filed, and a hearing was held seven years later. The appeals court judge found that the arresting officer and district attorney suppressed evidence favorable to Smith. They had lied and created false testimony to have Smith charged and convicted.

At Smith's trial, the medical evidence that would have shown that Smith was innocent was "lost." The medical examiner "forgot" the results of the autopsy, "lost" his notes on his findings, and "lost" the samples he had taken from the victim's body.

A police officer threatened witnesses whose testimony supported Smith's innocence, then coached witnesses to lie in court. The officer also falsified the findings of the lie-detector test that supported Smith's innocence.

The sheriff defied the original trial court's order to release Smith on bail. The judge, rather than enforcing his order, changed it and denied bail. Smith's defense lawyer won two stays of execution, which saved his life while he waited for his case to be heard by the appeals court.

The judge who presided over the 1987 hearing stated in his findings that Smith "did not receive a fair trial, was denied the basic fundamental rights of due process of law, and did not commit the crime for which he now resides on death row."

At the end of the hearing the judge stated, "In the thirty years this court has presided...no case has presented a more shocking scenario of the effects of racial prejudice, perjured testimony, [and] witness intimidation.... The continued incarceration of [Smith] under these circumstances is an affront to the basic notions of fairness and justice."

It took two more years for the state supreme court to uphold the order of the appeals court judge and to set Smith free. The court stated, "Due process of law is the cornerstone of a civilized system of justice. Our society wins not only when the guilty are convicted but when criminal trials are fair; our system of justice suffers when an accused is treated unfairly."

1. In what ways was Smith denied a fair trial?
2. In what ways were Smith's rights violated?
3. Although some law enforcement officers and judges appear to have tried to deprive Smith of his rights, what were the actions of certain people to ensure that his procedural rights were honored? Explain your answer.
4. What fundamental values and interests of our society were endangered in this situation?
5. What ways can you suggest to prevent the injustices in this case from happening to someone else in the future?
6. What do you think should happen in a case like this, if the defendant is indeed guilty?

★ Answer on a separate sheet of paper

1. Why is procedural due process called the cornerstone of a civilized system of justice?
2. What limits, if any, would you put on the number of times a person could use the right to a writ of habeas corpus to appeal a case to a higher court? Explain your position.
3. Why is procedural due process as important and difficult today as in colonial times?
4. The statement by the British jurist Sir William Blackstone (1723-1780) is often quoted "Better that nine guilty men go free than one innocent man be convicted." Do you agree or disagree? Would you agree if the figures were "ninety-nine" and "one"?