

Building a more Just Society

Student's Name

Institutional Affiliation

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CASE NO. 1: JUVENILE JUSTICE AND LAW ENFORCEMENT

Summary of Issues and Processes

The defendant is charged on drug-related issues, which led the judge to call for his waiver to the adult justice system. The judge has the power to waive a defendant to adult court based on his discretion of factors like nature of the current offense, chances of rehabilitation, prior delinquency, maturity, mental capacity, and age (Cruz, 2011). The second issue, in this case, is the communication between the law enforcement personnel and multilingual communities. During custodial interrogation, the law enforcement failed to use the native language for the defendant's parent to ask them to maintain silence in the proceedings. The law enforcement should have a bilingual interpreter or language assistance technology to solve the issue of the language barrier. In addition, the defendant provides that while in custody, the law enforcement asked him incriminating questions.

Criminology

According to the case study, the defendant lives in an impoverished community and his drug-related crime can be explained using sociological criminology. Sociologists argue the issue of crime not from an individual perspective (psychological, biological) but from a social context, which views it from social environmental factors like a breakdown of informal social control, cultural deviance, social disorganization, and poverty (Byrne & Hummer, 2016). A strain theory that applies the sociological perspective argues that an individual engages in crime out of frustrations due to the living conditions. In this case, the defendant who lives in an impoverished region may have led him to adopt a 'delinquent boy' title, which assists him to redefine his successes and relieve him from feeling frustrated. Following Cohen theory, it argues that an

individual may engage in criminal acts due to available criminal role models, learning criminal behaviors and an environment supporting criminal acts (Byrne & Hummer, 2016), which is the case of the defendant's environment.

Cultural Sensitivity and Diversity Awareness

One of the systems where the aspect of multiculturalism and social diversity is prevalent is with the Black Americans who have a high likelihood of incarceration (6 times) than whites (Weedmark, 2019). Social awareness is a vital aspect of the judicial system where the legal authority should understand multicultural differences. This is especially when dealing with persons who do not speak English or whose English language is not proficient. For example, in the case study, the defendant's parents do not understand English and they did not understand while commanded in English to retain silence. Weedmark (2019) identifies that awareness of social differences is crucial in maintaining a harmonious environment for legal authorities in the social justice system.

Critical Perspectives

Considering the defendant was answering charges related to drugs, I feel that a juvenile justice system was better than the adult court system. This is because the juvenile court system puts more focus on rehabilitation unlike the adult criminal system (Cruz, 2011). With this, the defendant would have been prosecuted on delinquent acts instead of crime. Such would be in line with the public defender's argument who sought funds for a community treatment center that deals with drug issues. Another aspect is the use of language assistance technology to interpret to the defendant's parents in their native language that they maintain silence.

CASE NO. 2: THE JUDICIARY

Summary of Issues and Processes

The issue, in this case, is juror exclusion based on race. Equal Justice Initiative (2019) argues that the exclusion and underrepresentation of people of color from the juries undermine the reliability and the credibility of the criminal justice system. In this case, the prosecutor used peremptory strikes and illegal racial discrimination by dismissing the juror with a pretextual reason to justify this action. This is similar to *Foster v. Chatman* (2016) where the black jurors were dismissed during juror selection, which led the U.S. Supreme Court to state that it was purposeful discrimination.

This case has two processes; the juror selection and the responsibilities of the jurors in a criminal case. In the first process of juror selection, the prosecutor used peremptory strikes and illegal racial discrimination to dismiss the juror. The defendant and the dismissed juror were from a similar and recognized protected racial group. The second process is the role of the juror in a criminal case, which according to Lee (2010) the jurors are provided with the role to decide whether an individual is guilty or not based on the facts of the case – in this case, the dismissed juror.

Cultural Sensitivity and Diversity Awareness

This case opens the need for approaches to tackle the issue of discrimination based on race during juror selection. According to the Equal Justice Initiative (2019), the people of color require full representation in juries. One strategy that can boost the aspect of cultural sensitivity and diversity awareness is through the enforcement of anti-discrimination laws that will prevent biases during juror selection. Lawyers, judges, and courts involved in civil and criminal trials particularly in the capital and serious criminal cases should follow these laws. In addition, prosecutors like in our case study who excludes the people of color should be liable to suspension, penalties, fines, or other consequences to deter their practice. Training and education

are essential to the criminal defense bar to ensure that state officials do not discriminate people of color from jurors.

Critical Perspectives

To address the issue of juror exclusion based on race, by critically evaluating the *Batson v. Kentucky* in 1986 and *Swain v. Alabama*. Starting with *Batson v. Kentucky*, the black man who was the petitioner was charged with second-degree burglary, as well as stolen goods in Kentucky. The judge involved with the case excluded black jurors from the case, which opened peremptory challenges following the *voir dire* examination of the venire. This led to the exclusion of blacks from the jury leaving white men only. However, the legal authorities had the mandate to exclude or "strike anybody they want to", which led the motion to be denied. Nonetheless, in the present day, courts affirm a principle introduced during *Swain v. Alabama*, which states that "State's purposeful or deliberate denial to Negroes on account of race participation as jurors in the administration of justice violates the Equal Protection Clause" (Equal Justice Initiative, 2019). Based on this principle, I believe the juror should represent the racial group of the defendant because racial discrimination during jury selection is against the Equal Protection Clause.

CASE NO. 3: CORRECTIONS

Issue and Process Summary

The issue, in this case, is cell conditions, which according to the defendant are poor and are against the Eighth Amendment. Chung (2000) explains that the Eighth Amendment prohibits any unusual and cruel conditions. Overcrowding in prisons greatly affects the living condition of the inmates in the allocation of services such as medical care, safety, and sanitation. This calls for processes like monitoring cell condition to ensure they are not unusual and cruel. One

strategy or approach to monitoring cell conditions should not "involve unnecessary and wanton infliction of pain" (Chung, 2000; 2359). The process should commence with assessing if the cell standards are decent before any other approach. The best strategy for the correctional facilities is being in conditions that facilitate the offenders to change their behavior in a just, fair, and rational manner.

Constitutional Principles

Prison overcrowding is caused by slow, steady, and long-term increase of inmates resulting in overcrowding in the facility. Strategies to solve the issue require thorough evaluation and it should be based on sustainability. Federal courts apply different standards to determine the aspect of overcrowding in prisons like the availability of necessities, as well as the sufficiency of staffs in the facility to identify if the condition is in violation to the eighth amendment. Another method is the use of core conditions, which measure overcrowding based on deprivation of personal safety, medical care, sanitation, shelter, clothing, and food to measure the level of unusual or cruel conditions. The last method is the *per se* approach, which views the aspect of overcrowding, as a violation of the constitution.

The United States is obligated by the international laws to apply a totality analysis or the *per se* approach to assess the problem of overcrowding in prisons. This is attained by following the ICCPR, which has gaps in what is the specific standard to define overcrowding in prisons. However, although the U.S. follows article 7 of ICCPR, it fails to enter a reservation on Article 10, which states that, "persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person (Chung, 2000; 2398). Nonetheless, the country is bound to the international standards by the American Declaration, which provides inmates a right against inhuman treatment including unusual, infamous, or cruel treatment.

Critical Perspectives

Ruderman, Wilson, and Reid (2015) explain that there is a direct association between overcrowding in prison and recidivism. The argument is that crowding is related to stress, which is likely to cause impaired executive function and aggression. Ruderman et al. argue that it is related to the fact that overcrowding among children and adolescents results to competitive behavior while in adults it forms negative effect, reactive and competitive behaviors, learned helplessness, and social tension. In prison life, Ruderman et al. argue that overcrowding exacerbates helplessness, which heightens recidivism due to the negative cognitive effect of the condition.

This can be explained using criminology theory like rational choice theory, which argues that an individual decides to break the law based on their personal needs that are comparative to the perceived risk of legal consequences. In overcrowding, this means that cruel condition in prisons increases the perceived risks and in turn reduces the rate of recidivism. Ruderman et al. (2015) argue that harsher environments increase the rate of recidivism. Overcrowding can also be argued using psychological criminal theories, which assert that psychosocial stress linked to cruel prison conditions, may exacerbate decision making like impulsivity, as well as behavioral problems like aggression and drug use.

References

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