

Due process model

Law



I believe that the due process model (which puts emphasis on an individual's rights) is essential and should constantly be our primary focus of this criminal justice system, although under the due process model there is a probability of criminals being set free or acquitted due to some technicality where individual's rights had been violated. As humans, we make mistakes and as we grow, we will learn from such mistakes.

To affirm that those rights would not be violated again, but to allow a person to be wrongfully convicted and sent to prison is a mistake that is unforgivable, one that can not be held to the standard "we live and we learn" and in my opinion, shows our justice system at its weakest. The Fourth Amendment possesses the right against unreasonable search and seizure and probable cause is set forth so that law enforcement cannot conduct searches without proper evidence.

The combination of the due process model and the right against illegal search and seizures will allow for authorities to rightfully obtain the information and evidence required for a conviction without the problem of the direct violation of an individual's rights. The Fifth Amendment declares that, "...nor shall any person... be compelled in any criminal case to be a witness against himself..." "The right to remain silent." The accused should not have to testify or say anything that would incriminate them. Under the due process model the accused is "innocent until proven guilty."

If believed to be "in fact" guilty of a crime, it is law enforcement's duty to collect any evidence that would affirm that belief. No person should be forced to self-incriminate or to the confession of guilt. The Sixth Amendment

allows the right to a speedy trial. Unfortunately, this is not usually the case. The system is often under very heavy workloads and the proper preparation of cases. Therefore the accused is unfairly made to wait weeks sometimes months for their trial. Meanwhile the suffering of that individual and their family member increases by the day.

With the due process model, those individuals would immediately be brought to trial. The Eighth Amendment apposes the use of cruel and unusual punishment. Once again, and individual is innocent until proven guilty. However, once accused of a crime the stigma is imposed and one will be “guilty” in some eyes regardless of what has or has not been proven and sometimes, I fear, one would be treated in a cruel and unusual manner. With the due process model, no persons accused would ever be harmed, physical or otherwise in any way.