



*2016 Teachers Guide:
“With Liberty and Justice for All”*

Written for the National Student/Parent Mock Election

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Teachers Guide To “With Liberty and Justice for All”

Where did these words in the Pledge of Allegiance come from?

“Johnny Small was just 15 when police came to arrest him in 1988 – so young he assumed he was in trouble for a curfew violation,” the Associated Press reported from Wilmington, N.C. on August 8, 2016. “Instead, police charged him with first-degree murder of a woman who owned a tropical-fish store – a place Small says he’d never even visited.”

“He was convicted and sentenced to life behind bars, mainly on the testimony of co-defendant – a friend who once lived with Small’s family. That man, David Bollinger, has since recanted. Bollinger says he testified only because prosecutors promised his charges would be dropped in exchange, and threatened the death penalty if he didn’t cooperate.”

“A record number of people falsely convicted of crimes – 149 – were exonerated in 2015, according to the National Registry of Exonerations. The registry is a project of the University of Michigan Law School and has documented more than 1,850 such cases in the U.S.”

What is wrong with our system of justice if a 15-year-old boy can be jailed for life for a crime he did not commit? How do you believe it should be fixed?

Read the list below of “Fast Facts” prepared by The Innocence Project.

“DNA Exonerations in the United States”

“Fast facts:

- **1989:** The first DNA exoneration took place
- **37:** States where exonerations have been won
- **20 of 344** people exonerated served time on death row

- **14:** Average length of time (years?) served by exonerees
- **4,685:** Total number of years served
- **26.5:** Average age of exonerees at the time of their wrongful conviction
- **42:** Average age at exoneration
- **36 of 344:** Pled guilty to crimes they did not commit
- **71%:** Involved eyewitness misidentification
- **46%:** Involved misapplication of forensic science
- **28%:** Involved false confessions
- **17%:** Involved informants
- **253:** DNA exonerees compensated
- **180:** DNA exonerations worked on by the Innocence Project
- **148:** True suspects and/or perpetrators identified. Those actual perpetrators went on to be convicted of 146 additional violent crimes, including 77 sexual assaults, 34 murders, and 35 other violent crimes while the innocent sat behind bars for their earlier offenses.”

Would it have been possible to exonerate these people in the days before DNA?

According to their study of the first 70 cases reversed:

- Over 30 of them involved prosecutorial misconduct.
- Over 30 of them involved police misconduct which led to wrongful convictions.
- Approximately 15 of them involved false witness testimony.
- 34% of the police misconduct cases involved suppression of exculpatory evidence. 11% involved evidence fabrication.
- 37% of the prosecutorial misconduct cases involved suppression of exculpatory evidence. 25% involved knowing use of false testimony.”

Check the “Comparison of United States incarceration rate with other countries” on Wikipedia (go to https://en.wikipedia.org/wiki/Comparison_of_United_States_incarceration_rate_with_other_countries .)

Why does the U.S., which has less than 5 percent of the world’s population, have almost a quarter of the world’s prisoners?

Why is the rate of wrongful convictions thought to be close to 10%?

Alex de Tocqueville, who toured American penitentiaries in 1831, wrote in "Democracy in America":

"In no country is criminal justice administered with more mildness than in the United States."

What is happening to democracy in America? Why is the United States now the only advanced country that incarcerates people for minor property crimes like passing bad checks?

In 1980, there were about 40,000 people in American jails and prisons for drug arrest. Today there are about 500,000.

Can you find any reason to explain this discrepancy?

What, if anything, do you believe our relatively high rate of violent crime has to do with the easier availability of guns in America?

Why did Nicholas Turner, President and Director of the Vera Institute of Justice, write he was "jolted by the extent to which unconvicted people were held in jail simply because they are too poor to pay what it costs to get out?"

Why was he "startled by the numbers of people detained for behaviors that stem primarily from mental illness, homelessness, or addiction?"

Why does he point to single parents, who may lose custody of their children or be the sole wage earners in families who may lose their job, while the taxpayers pay for them to stay in jail?

On September 1, 2016, the New York Times reported:

"When Dequan Jackson had his only brush with the law, at 13, he tried to do everything right.

"Charged with battery for banging into a teacher while horsing around in a hallway, he pleaded guilty with the promise that after one year of successful probation, the conviction would be reduced to a misdemeanor.

“He worked 40 hours in a food bank. He met with an anger management counselor. He kept to an 8 p.m. curfew except when he returned from football practice or church.

“And he kept out of trouble.

“But Dequan and his mother, who is struggling to raise two sons here on wisps of income, were unable to meet one final condition: payment of \$200 in the court and public defender fees. For that reason alone, his probation was extended for what turned out to be 14 months, until they pulled together the money at a time when they had trouble finding quarters for the Laundromat...”

“Dequan dreams of getting a football scholarship to college and has already received strong interest from two schools.”

“It would cost \$125 for his family to have his record expunged or sealed. They have not yet been able to look into the procedure.”

What are the hazards for Dequan’s future if they don’t?

How can we provide “liberty and justice” for all our children?

How do the citizens of democracy deal with their democracy’s problems?

What does your generation need to do to make “liberty and Justice for all” a reality in our democracy?

How do the citizens of democracy deal with their democracy’s problems?

“I think our messy mixture of democratic traditions, respect for the individual and economic dynamism commands a unique place in human history,” Robert J. Samuelson wrote in *The Washington Post*. “In most societies, people are marked by where they were born, their ethnic heritage or religious conviction. In the United States, these are secondary. Americans’ self identity springs from the beliefs on which this country was founded, including the belief that no one is automatically better than anyone else simply by virtue of birth. Our reverence for these ideals remains a touchstone.”

“This intense love of country defines Americans,” Samuelson states.

A 2004 study of 33 countries by the National Opinion Research Center at the University of Chicago ranked the United States first in national pride.

“In a democracy, de Tocqueville argued,” Americans would ultimately favor equality over freedom, because its material benefits are more immediate and tangible.”

“Not so,” countered the late political scientist James Q. Wilson. “Americans strongly value freedom, far more than do citizens of any other democratic country.”

A Pew poll asked people to pick between “freedom to pursue life’s goals without state interference” and the “state guarantees nobody is in need.” Americans selected freedom 58% to 35%. European responses were reversed: Germany’s 36% to 62% was typical. By wide margins compared with Europeans, Americans believe that “success in life” is determined by individual effort and not by outside forces.

What is “The personal responsibility by which democracy lives?”

What do you believe led David Bollinger to call the N.C. Center for Innocence and say his testimony had been false?

What do you see as the relationship between freedom and personal responsibility?

Divide your class into separate committees to create a book for your school library on “Liberty and Justice for All.”

Have each committee choose one of the topics below and expand on the questions raised under each topic. Add any additional topics you wish. Omit any you wish.

- 1. How well has the America of today succeeded in making the dreams of the founding fathers about “life, liberty and the pursuit of happiness” come true?*
- 2. What remains to be done?*
- 3. What do you believe your generation should take responsibility for achieving?*
- 4. Why did Jefferson say, “Moral duties are as obligatory on nations as individuals?” What did he mean? What moral duties face America today?*
- 5. What relationship, if any, do you see between America’s economy and America’s morality?*
- 6. What are some of the areas you believe are urgently in need of attention if America is to offer “liberty and justice for all?”*

For example:

Robert E. Morris, MD, writing in the American Medical Association Journal of Ethics (March 2005, Volume 7, No.3), pointed out, “In 1999 an estimated 717,036 juveniles were incarcerated in the United States. Many youth remain in detention a short time while others convicted of serious crimes spend years incarcerated. The Juvenile Justice and Delinquency Prevention Act of 1974 mandated that youth not be housed with adults. Nonetheless, on June 30, 2000, an estimated 7600 youths were incarcerated in adult facilities.”

“Many health problems afflict detained youth. Communicable diseases, especially sexually transmitted infections, hepatitis, and positive tuberculosis testing are commonly encountered.”

“Approximately 10 percent of incarcerated girls are pregnant and 40 percent have been pregnant in the past. This presents a dilemma for practitioner’s moral beliefs. Menstrual disorders, along with injuries and other medical problems afflict these youth.”

“The federal government and court rulings have set minimal standards of care. Each state, however, regulates the local facilities and may conduct inspections with variable oversight. The American Academy of Pediatrics and the Society for Adolescent Medicine have published position papers on care of juveniles in correctional facilities. Voluntary accreditation by several national bodies such as the National Commission on Correctional Health Care and the American Correctional Association assures minimal standards but cannot access actual day-to-day practices. In 2004 the NCCHC published an updated version of *Standards for Health Services in Juvenile Detention and Confinement Facilities*. For the first time they contain 7 performance measures meant to determine the actual outcomes of health services. Despite these advances there is no universal accrediting body, nor is there universal standardization of care for incarcerated juveniles in the U.S.”

Why does Dr. Morris argue that:

“States and local jurisdictions need to enact legislation that will give the press and appropriate citizen groups access to their detention facilities?”

Has anything changed since March 2005?

Would you consider this a topic for a chapter in your class book? If so:

How can you start the process of contacting legislators in your state to ask if the 7 performance measures have been met?

If the press and appropriate citizen groups have had access to juvenile detention facilities?

How can you involve your state and local legislators, if necessary, in correcting the policies and problems the Journal of Ethics depicts?

Do you believe with the Journal of Ethics that “Physicians employed in corrections should be trained and board certified in a primary care specialty; pediatrics, adolescent medicine, family practice, or possibly emergency medicine?”

Why? Why not?

“Practitioners in correctional systems provide care to a vulnerable and needy population. This is a career that, though rewarding, can be filled with many ethical dilemmas and professional challenges,” Dr. Morris states.

Are you interested?

Can a democracy legitimately deny adequate health care to incarcerated adolescents?

What is the “moral authority of citizenship”? How does it empower you to ask questions and seek remedies?

Can your research easily find what has/ has not been happening to provide adequate health care in your state’s juvenile detention centers?

If not, why not?

Make a list with your fellow classmates about the steps you might take to help, “right the wrong.” (How can you be certain there is a wrong? What are the hazards of false accusations?)

Contact your state medical association and ask for their help and suggestions once you have defined the problem you wish to tackle.

Is there a medical facility nearby that might like to work with you? A local journalist? A local doctor? A local lawyer? A state professional or civic organization? An internet site that could help?

What reward will there be if you have even a small amount of success?

What happens if you decide to pass?

For example:

According to the Coalition for Juvenile Justice, “the number of youth held in pre-trial detention has increased 72% since the early 1990s.”

Youth crime rates have dropped steadily since the 1990s. *Why have rates of incarcerating youth increased?*

Over 200,000 youth under 18 are removed from the juvenile justice system and tried as adults each year. *What are the consequences for youth who are transferred to the adult criminal justice system?*

Young people become eligible for mandatory sentencing and life without the possibility of parole when they are tried in adult courts. In addition, they are placed at a higher risk of assault, abuse, and death in the adult court system. *Why do federal protections for young people not apply to youth sentenced as adults?”*

Which, if either, of the situations above would you like to research for your class book? Which others would you prefer to work on? How can you determine the authenticity of the “facts” that you find or the accuracy of your sources of information and suggestions?

Who can you interview to get a fuller picture of the problem and the possible solutions? Report on the interviews in your class book.

Can you print out and include some of your research? Are there law school students who would like to help you? (Can they help you decide whether or not you would like to go to law school?)

What other ideas for possible future careers has your research given you and/or members of your class?

David J. Collins, Associate Professor of History at Georgetown University and chairman of the University's working group on slavery, memory and reconciliation, wrote:

“American history is replete with such cruelty and degradation, so much that the figures can feel too large to fathom – like the one million slaves forcibly relocated to the Deep South in the 19th century. And exactly herein lies the value of the Jesuit history: The story of the sale that saved Georgetown draws our attention to 272 specific people, and meticulous Jesuit record keeping unwittingly spares these victims the final indignity of forced anonymity. We know the people's names: when they were born, married and buried; whom they were sold with and whom they were separated from. We can trace their family connections, sometimes even to the present.”

Why does Professor Collins believe the Jesuit case is compelling and cries out its injustice against our tendency to distance ourselves from the “ugly realities” in our history?

Why does he insist that “Slavery is our history, and we are its heirs. America would not be America except for its deplorable history of slavery. There will be no ‘liberty and justice for all’ until we understand that, not just Georgetown University and the Roman Catholic Church, but we as a nation.”

Do you agree with him? Why? Why not?

What will future generations of American believe about how your generation has protected “liberty and justice for all?”



What do you think you should do, as a citizen, or citizen-to-be, of the world's longest lasting democracy to help solve some of the problems of your democracy? (Check as many as you wish)

- A) Nothing?
- B) Write a letter to the editor of your local newspaper?
- C) Contact your local radio or TV station?
- D) Contact the authorities responsible for the area of your concern and ask what they are doing and what help they need?
- E) Use social media and the internet to find others who are concerned?
- F) Put together a group who share your views to work for change?