

Justice or Murder? Debating the Death Penalty in the United States.

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Overview

Capital punishment, the taking of a convicted felon’s life, has been a part of American judicial history since the founding of the Republic and a tradition in Europe centuries before. Even during the Articles of Confederation, when no Supreme Court existed, individuals petitioned the government to repeal state sanctioned executions as “cruel and unusual punishment”. Early American politicians soon realized many faults in the Articles of Confederation and called for a Second Constitutional Convention in 1787 to revise the “government of the people” to include a chief executive and a judiciary. During the great debate over the ideal government that would become the Constitution, the founding fathers discussed the need for fair trials, protection of people in their homes and papers as well as the sanctity of life and protection from government abuse.

Many philosophers of the late 18th century argued that the role of an ideal representative state was to protect the citizens from the government. These revolutionary philosophers in the United States and France promulgated the discourse on rules and regulations in society. If the government fails to help its citizens, then the people have a right to throw off this obsolete system and create an effective state. Thomas Jefferson and his Anti-Federalist supporters were especially concerned about the tyranny of the state with the concentration of power in one executive. To alleviate these concerns specific civil liberties found to be critical in a democracy were quickly added to the U.S. Constitution in the form of The Bill of Rights. This addendum secures life, liberty, and property of individual citizens from other citizens and government abuses.

The U.S. federal constitution and the Pennsylvania state constitution both protect civil liberties with a Bill of Rights. Pennsylvania was founded as a proprietary colony by William Penn, a Quaker, who took measures to set the tone for a democratic state. He allowed freedom of worship for many religions, the free exercise of speech and press and discouraged slavery within the borders. It is important to bear in mind the Quaker religion is against all forms of capital punishment and killing in general. As Quakers fled persecution in Europe, many settled Pennsylvania during the 17th century and some of the earliest discourse against capital punishment emanated from Pennsylvania.

Concerned citizens in the 17th century, like Benjamin Rush of Pennsylvania, extolled the possibilities of eliminating state sanctioned death for lesser criminals. Since the ratification of the Constitution, individual states have petitioned the federal government to revoke or revamp the terms of the death penalty, despite the fact that there is no mention of capital punishment in the U.S. Constitution. In fact the Bill of Rights protects “life and liberty” of all citizens against the federal or local government. In 1794, as a response to the current debate, the Pennsylvania legislature abolished capital punishment for all crimes except murder "in the first degree," the first time murder had been broken down into "degrees."(White, p.4)

Pennsylvania is currently a major supporter of the death penalty with several high profile people on death row and many more awaiting executions. The history of capital punishment in Pennsylvania has proven this state to be perhaps the most opposed to the founding ideology.

Arguments for and against capital punishment have been raging for decades. Most notably, what constitutes acceptable penalties for egregious crimes? The question “should the punishment fit the crime” has been a dilemma for many democratic governments since their inception.

This unit is an inquiry into state and federal guidelines regarding capital punishment for teachers of high school students. Several strategies are listed for students at any academic level. Resources may be adapted to any reading level and videos are included to promote understanding prior to assigning reading material. Teachers of Civics, Government, American History or other Social Science courses may use all or part of this unit to engage students in a debate about capital punishment in a representative democracy. This unit would fit into a study of the Constitution & Bill of Rights, American laws and rights of the accused. Teachers of Sociology may have time for a detailed analysis of human nature and the criminal mind which would fit with this unit.

Many students of American History question the role of government – what the state can or can not do. Students study in Civics that the role of the state is to protect the individual. A study of the death penalty raises many questions. Which life is more valuable – the victim or the perpetrator? Can the state take a life without violating the Constitution? Is capital punishment awarded fairly by juries across the country?

In this unit, students will explore the controversy surrounding capital punishment by seeking out information, compiling research and presenting their findings. Students should familiarize themselves with the laws and Supreme Court cases before discovering arguments for and against capital punishment. Teachers may want to compile articles for their classes or allow students to research in groups before sharing with the class using charts, graphs and multi media devices. The use of computer labs and other technology is essential to the success of this unit.

Instructors may encourage critical thinking through books designed to make students ponder controversial issues. Publications like “Taking Sides” and “Opposing Viewpoints” are common additions to high school libraries. These works provide information from various sources and show students that there are many sides to an issue. They promote debate skills by prompting students to support their claims with primary sources rather than simply stating an opinion. I highly recommend the Opposing Viewpoints Series by Greenhaven Press. They have a paperback called The Death Penalty Opposing Viewpoints which, though it is concise, includes twenty eight individual views on capital punishment. The opinions span the 18th, 19th and 20th centuries. Questions and other sources are also included.

Rationale

Controversial issues like abortion, the right to life, euthanasia, and the death penalty captured my interest since my first year of college. I will never forget my first philosophy course where the professor asked the class to make judgments – What would you do in this situation? At what point does life begin? I remember taping the class for future review since the professor spoke fast and without notes. I could hear my own voice on the tape, arguing with the professor under my breath. Now that I am in front of the room I have a greater understanding of the need to present information in a stimulating but effective fashion.

Capital punishment lessons have intrigued me since my early days of teaching Civics to ninth grade students in the Pittsburgh Public Schools. My curiosity grew deeper the more I studied circuit court decisions, appeals, and

Supreme Court decisions. Separation of powers and checks and balances are also very interesting when it comes to interpretations of the law and the idea of judicial review. Justice John Marshall set the precedent for the Supreme Court to review acts of Congress and declare legislation constitutional yet the act of reviewing laws in this fashion is not listed in the constitution. So, although the executive branch has the power to enforce the laws that the legislature creates, does this mean that the Supreme Court has the final say?

First year high school students in my district begin with Civics a study of democracy then proceed to a more advanced study of the U.S. Constitution. After careful analysis of the three branches of government, the role of the legislative, executive and judicial branches is explored. By the time students are ready to dissect the Bill of Rights they usually have some understanding of the democratic system that functions in the American Republic. The eighth Amendment states that cruel and unusual punishment is unconstitutional, but most states in the union have reinstated the death penalty over the past thirty years. This juxtaposition sets the stage for debate as there appear to be inconsistencies with state and federal law.

After the Marshall court established judicial review in 1801, the Supreme Court has been the government branch to review and assess the validity of Congressional actions. Most high school students learn the concept of federalism –the division of power between federal government and state government. According to the text of the U.S. Constitution, the federal law is supreme but the judicial branch has the power of judicial review – to take legislation and rule on the constitutionality. Article three of the U.S. Constitution and the supremacy clause establish the federal government as the highest body of law in the country. So, when the highest court in the land issued a decision in 1976 to give state’s broad power with regard to capital punishment for capital crimes they refuted the earlier precedents and gave more power to the state to deprive life and liberty without due process.

I am writing this unit as the Supreme Court battles the state of Florida in the Schiavo case and the death of Pope John Paul II is imminent. The meaning of life is on the minds of many Americans and others around the world. When politicians and high profile people start to question the meaning of life and the ability of the government to intervene in medical issues and possibly take a life, the death penalty debate soon appears. In Pennsylvania, the younger senator supported the right to life of the Florida girl on life support, yet he upheld capital punishment sentencing in his own state. After several television appearances, this Republican incumbent had to admit to the possibility that he might have to rethink his death penalty stance.

In March of 2005 the Supreme Court of the United States ruled in support of the eighth Amendment with the case *Roper v. Simmons*. The verdict denies any state the right to execute a juvenile for a capital crime. The reasoning from the court was that no precedent existed to execute minors. As they are not fully grown, they can not be fully responsibly for their actions; and the killing of a child by the state as punishment for a crime is considered “cruel and unusual.” This only furthers the debate as to who can be executed by the state and for what crime? Many Americans believe in an “eye for an eye”, but the Supreme Court disagrees with this rationale where minors are concerned.

The United States Supreme Court ceded power to the individual states with regard to capital punishment, yet the Constitution declares the federal government the supreme body of law with the Bill of Rights. The Fifth Amendment states that no one can be deprived of life or liberty without due process. Today every right in the Bill of Rights (except grand jury indictment) has been made applicable by the Court against the states just in the federal arena. (p.156 Pizzi) In contrast to Europe, our system of pretrial and trial procedure is based heavily on individual judicial decision. There is no one set code of criminal procedure guiding every moment from the crime through the trial.

Some of the biggest questions raised with the death penalty debate are: Who governs and to what end? What form should justice take in a representative democracy? How fairly is the administration of the death penalty from state to state? These questions are not easily answered even after a semester study of American Government. After considerable research, I have discovered other issues, like the rights of the victims families, trial procedure, DNA testing and the rights of the accused.

There are currently forty-two states that allow the death penalty, but the United States is now the only republic to use death as a punishment for crime. (European constitutions outlawed this in November 2004). China, Iraq and Iran use capital punishment without the trial and appeal process of the United States. Pennsylvania is a unique state as it has some of the earliest public speaking against capital punishment dating back to Revolutionary times but now has the most people incarcerated on death row.

This may be a good time to share some background on capital punishment in the United States. An Italian jurist, Cesare Beccaria published *On Crimes and Punishment*, in 1767 as a response to the proliferation of capital punishment in Europe. He asked the question what if it can be shown

not to be necessary or a useful deterrent? His essay conceded that the only time a death was necessary was when only one's death could insure the security of a nation, which would be rare and only in cases of absolute anarchy or when a nation was on the verge of losing its liberty. Cesare Beccaria, whose exposition on abolishing capital punishment was the most influential of the time, had a strong impact on the death penalty debate.

As I mentioned above, the death penalty has been a part of American history since colonial times. William Bradford thought the death penalty was not an effective deterrent because the hope of acquittal or pardon weakened the terror of death. The death penalty would preserve life if it were to stand out as a certain punishment for the crime of murder, and for no other. Bradford suggests two degrees of murder – first – deliberate intentional murder warrants death penalty – PA and VA adopt in 1794. Several years later PA eliminates capital punishment for all crimes but murder. (Meltsner p. 49) NC still has 21 capital crimes, slaves could be executed for various crimes.

The challenge of rectifying rights and liberties of the individual with the responsibilities and duties of the government can be seen throughout American history. Since the early 1700's Pennsylvania promoted a charter of liberties that provided accused persons with counsel and the right to call witnesses in their defense.

By 1776, most of the colonies had roughly comparable death statutes which covered arson, piracy, treason, murder, sodomy, burglary, robbery, rape, horse-stealing and slave rebellion. Hanging was the usual sentence. As the thirteen original colonies were subject to the rules of the British Empire prior to the American Revolution, the English traditions of executing criminals remained.

During the religious revival of 1830's & 1840's the capital punishment debate continued with Calvinist preachers in favor of executions and abolitionists against the practice. Michigan was the first state to capitulate by eliminating the gallows (except for treason) in 1846. Laws and procedures change as a result of mid 19th century abolitionist movement – juries can set life sentences, “pious perjury” acquitting a guilty man that the jury did not want to condemn to death – was no longer practiced (Meltsner p. 51)

In *Baron v. Baltimore* 1833 the Supreme Court ruled that the Bill of Rights applies only to the federal government leaving individual states to govern their own citizens the way they see fit. Several rulings followed in the late 1800's defining the 14th Amendment and upholding the right of citizens to

exercise due process. These precedents were ignored in the Gilded Age and the industrial era of the early 1900's. The Supreme Court ordered all states to follow the 14th Amendment along with the 5th and 6th Amendments during the 1930's.

In 1972 the US Supreme Court declared in *Furman v. Georgia* (actually three cases) that the imposition of the death penalty constituted cruel and unusual punishment. Five justices voted for abolition of capital punishment in a separate concurring opinion. Justices Brennan and Marshall believed capital punishment in general was prohibited under the 8th Amendment. Other members of the majority opinion addressed the imposition of the death penalty according to current laws. Justices Douglas, Stewart and White agreed that the nation's death penalty statutes resulted in cruel and unusual punishment because of the arbitrary and capricious manner in which it was imposed.

The Speedy Trial Act of 1974 defined a speedy trial and made measures to enforce due process that may have been neglected in the past. The interesting twist in the history of the death penalty in the United States comes in 1976 when South Carolina reinstates capital punishment with the approval of the Supreme Court. The case, *Gregg v. Georgia* set a precedent for thirty-five states to revamp their death penalty laws and increased the demand for death row prisons.

Throughout my investigation of capital punishment, it has become clear that there are complex issues of federalism surrounding each major decision. After President Clinton signed AEPDA in 1998, the states now have the sole responsibility to prosecute capital crimes which in essence allows the state court to interpret the federal constitution. I find the concept of federalism, the division of power between federal and state governments, a perplexing power struggle. I also find a strange irony in the fact that the U.S. Supreme Court outlawed capital punishment in 1972 with *Furman v. Georgia* and then permitted the death penalty on a state by state basis four years later.

Objectives

Throughout this unit students will develop analytical skills by means of a "hands-on" approach. Students will discover the viewpoints of various individuals and groups on both sides of the death penalty issue while gaining an understanding of writing techniques and point of view.

They will comprehend the controversy created by the death penalty over the past two hundred years but especially the growing media coverage in the twentieth century. By researching primary sources and personal accounts students can gain an understanding of the major debates surrounding this hot topic.

Students will research the history of capital punishment in America with Florida, Texas, and Pennsylvania as possible case studies. These three states currently have the most people sitting on death row and the largest number of executions over the past ten years. To complete this task, teachers may need to prepare students with basic research methods. I find it helpful to remind students that all work posted to the internet may be personal opinion, not necessarily fact. Using the resources provided at the end of this unit may eliminate “downtime” at the computer lab and boost student confidence.

Students shall assess changes in federal and state capital punishment laws. Students will trace changes in federal and state constitutions throughout the 1970’s while compiling research in cooperative groups to develop an informative presentation. They will then present oral arguments showing synthesis of knowledge and compare regulations with capital cases from Pennsylvania.

Teachers may organize classroom activities to address the changing nature of the death penalty in their own state and the nation. Charts, graphs and newspaper headlines may be informative yet effective learning tools for adolescent students. Teachers should encourage students to discover viable alternatives to capital punishment if time allows.

Strategies

Since the current Supreme Court issued a decision banning the death penalty for juvenile convicts (March 1, 2005), the issue of capital punishment is once again a hot topic in the media. Often in Social Studies courses, teachers review current events through discussion, or reading of various media then follow up with an essay.

Initially, students should review Supreme Court cases to trace the way the federal courts have handled capital punishment. (Appendix A) By reviewing primary sources, students can draw their own conclusions about the government, the laws and the practice. After they gain some understanding about capital punishment, students can begin to develop their own arguments.

Students can research various views regarding capital punishment then arrange a discussion or debate presenting one side. Several *Viewpoint* and *Taking Sides* books present death penalty issues in a pro-con format. The objective is for students to research an article from one side and present the given viewpoint to the class. Students may then engage the class in discussion and follow up with their own thoughts on the matter.

To further the students' understanding and show mastery of skills, students can write letters to the governor (or teacher). This would best occur after other classmates finished their informational presentations. I would encourage students to take the opposite view from the presentation and support their claims by refuting the other point of view. It is often difficult to get students of one opinion to argue the other position but once they do they may learn to strengthen their own views. Perhaps one-half of the class can present and the other one-half can write a response. In this way students will actively listen and state what they learn from the presentations in their response.

In a Comparative Politics course students can trace the use of capital punishment as it is used in China, Iran, Saudi Arabia, the Democratic Republic of the Congo, and the United States. They may want to search the Amnesty International website for Urgent Action appeals and chart the countries with the most activity. Students could argue for the ideal government to support capital punishment for its citizens.

Classroom Activities:

Students can read the book or watch the movie Dead Man Walking to understand one woman's experience with a prisoner on death row. There was even an Opera version touring the country last year which may be out on video shortly. These are excellent extra credit activities for the older students to gain "the big picture" with regard to the death penalty.

As an introduction to a study of the death penalty, teachers should give students paper and have them define capital punishment in a free write format. Allow students five minutes at the start of class to think and write their thoughts. As students finish, give each one a short case description (Appendix B) or an excerpt from interviews of death row inmates. This will spark their interest as young people enjoy stories.

Another excellent "warm up" activity is to have a popcorn talk. Students are given a quote from which a discussion ensues. A good quote will make two or three kids say "hey, wait a minute" then you have a mini debate. A

good piece to use for this activity is “The obvious conclusion from looking at the statistics ...is that the death penalty does not deter murder.” (Jay Johansen 1998) Teachers should only allow one student to speak at a time. Other students may chime in after the first point is made. If students are limited to two minute arguments before their turn is up they will likely write their words down and deliver them in a swift manner. A grade may be given for participation or bonus points to the one who makes the strongest arguments.

If students are not familiar with the text of the Bill of Rights, copies of the 8th and 14th Amendment should be distributed and explained. Depending on the level of the class, students may need a visual and an example of each Amendment. The cruel and unusual component of the 8th Amendment is critical to any opposing view of the death penalty.

There are enough Supreme Court cases dealing with capital punishment that each student can take one for homework and prepare a brief summary. They should write a paragraph explaining the circumstances of the crime and events that lead to incarceration. What was outstanding in the trial? Did the jury prove malicious intent? If there is a lengthy appeal process they should make mention of these events. The outcome should state the persistence of the death row sentence and the status of the inmate; are they exonerated? Students can also analyze what changes occurred as a result of the Supreme Court decision?

Teachers may decide to have students share their research in a five minute informational talk. As each student presents the rest of the class should take notes in their notebook or on a standard form the teacher creates. The teacher can correct any noticeable errors from the presentations on the spot so the observers write down the correct information. Depending on the intensity of the research, student-led talks may suffice for the background information.

The final project requires students to work in small groups to research either pro death penalty claims or opposition arguments. I often force liberal-minded students to research positions that support the death penalty and make conservatives look up arguments against all capital punishment. Students may fight their assignment but when they finish they will have a greater understanding of both sides of the issue. I recommend [The Death Penalty Opposing Viewpoints](#) (Mary E. Williams, editor) as a student source for all groups. If the teacher can get a copy for the students to use in class, the articles are short enough to read in a few minutes. Students should complete research in a computer lab or on a computer on their own time. If a lab is available, teachers can monitor student research and check sources. The presentation day should be two or three days later to give students time to

prepare.

Introduce the death penalty debate as a learning experience and preface student talks with a caveat to the audience. I have announced a short quiz at the end of each day or elements in the student talks may appear on the next test. Have the students who researched the supporting view of the death penalty present their argument in 10-15 minutes. Then allow all students time to finish note taking before the other side presents. After the students opposed to the death penalty present, each side may have 5 minutes to refute the other side or strengthen their argument.

A final one page essay about the experience may be useful to the teacher and the student in future classes.

Student resources:

Websites:

PRO DEATH PENALTY

The Death Penalty Information Center: Arguments for and Against
<http://deathpenaltyinfo.msu.edu/c/about/arguments/contents.htm>

Capital Punishment (Internet Encyclopedia of Philosophy)
<http://www.utm.edu/research/iep/c/capitalp.htm>

Pro-Death Penalty
<http://www.prodeathpenalty.com/>

AGAINST THE DEATH PENALTY

The New American: Capital Punishment
http://www.thenewamerican.com/focus/cap_punishment/index.htm

ACLU: Death Penalty
<http://aclu.org/death-penalty/>

The National Coalition to Abolish the Death Penalty
<http://www.ncadp.org/>

Philadelphia Bar Association moratorium on the death penalty
<http://www.refuseandresist.org/mumia/1997/120897pbares.html>

Canadian article study on death penalty
<http://www.cpa.ca/ogloff.htm>

Organizations:

Western PA Coalition Against the Death Penalty
PO Box 9125
Pittsburgh, PA 15224

The innocent project
www.innocentproject.org

Amnesty International
www.amnestyusa.org

Annotated Bibliography – Guide for Teachers

Foley, Michael A. Arbitrary and Capricious: The Supreme Court, The Constitution and the Death Penalty.

Good background information and details of many cases. Foley was a Professor and chair of the Philosophy department at Marywood University, Scranton PA, so there is a challenging philosophical slant.

Gottfried, Ted. The Death Penalty: Justice or legalized murder? Brookfield: Connecticut. Twenty-First Century Books. 2002.

A little over one hundred pages, so it is an easy read. The type and style seem simple enough for most first year high school students. Somewhat biased against capital punishment as the author compares eighty-two death row inmates whose convictions were reversed to five hundred and sixty-six who were killed.

Mello, Michael. Against the Death Penalty; The Relentless Dissents of Justices Brennan and Marshall. Boston: Northeastern University Press. 1996.

Mr. Mello investigates the question of whether the Texas death penalty could be applied in cases where capital juries might not have known the defendant committed murder before the age of 18. He delves into issues of whether or not the death penalty process is fair.

Mello, Michael A. Dead Wrong. A Death Row Lawyer Speaks Out Against Capital Punishment. Madison: Wisconsin. University of Wisconsin Press. 1997.

In his second book of this subject, Mello states “capital punishment is here to stay.” He believes the system is unjust, but will never change so he moves to moral advocacy. Mello reminds the reader of Prejan’s *Dead Man Walking* and Jesse Jackson’s *Legal Lynching* as books that drew more attention to death penalty. He advocates storytellers with experience spreading their own words to help change the system. Ultimately, Mello discusses what it will take to get rid of death penalty, “the public will admit that regardless of intent, the system fails... too much money and wasted resources; eventually the system will collapse.” (p. 12)

Meltsner, Michael. Cruel and Unusual The Supreme Court and Capital Punishment. New York: Random House. 1973.

Mr. Meltsner makes a point of trying to “right a historic wrong.” He is biased against all forms of capital punishment as he does not think the administration is fair.

Melusky, Joseph A. and Keith A. Pesto. Cruel and Unusual Punishment. Rights and Liberties under the Law. (America's Freedom series) Santa Barbara, CA: ABC-CLIO. 2003

Introduces the death penalty and covers some history then twentieth century issues. Good student source for resources, cases, key people & events – seems unbiased – good for students to prepare for debate.

Nathanson, Stephen. An Eye for an eye; the morality of Punishing by Death. New Jersey: Rowman & Littlefield. 1987.

Nathanson brings up tradition arguments such as the death penalty is cruel and unusual punishment. He also debates the point of executing all those who deserve to die. He contends that the Supreme Court should appropriately match the punishment to the crime. Nathanson raises questions of fairness and retribution.

O'Shea, Kathleen A. Women and the Death Penalty in the United States, 1900-1998. London: Praeger. 1999.

Loaded with statistics, this work is unique in the approach to the topic. The author point out " no other advanced society has more women on death row...." p.303 Oshea references Robert Dunham, the executive director of the Pennsylvania Post-Conviction defender organization "in PA there is a silent crisis...the death penalty is moving forward like a train moving towards a cliff."

Prejean, Helen C.S.J. Dead Man Walking; an eyewitness account of the death penalty in the United States. New York: Random House. 1993.

Sister Helen Prejean's story of her own life's work as a spiritual advisor on death row. The 1995 film stars Sean Penn, Susan Sarandon and Tim Robbins in a compelling rendition of the death row experience yet there is still a justification for capital punishment. In 2004, an opera version toured the country. I thought the opera was more disturbing than the movie, but there is some violence in both.

Sarat, Austin. When the State Kills: Capital Punishment and the American Condition. Princeton: Princeton University Press.

Ms. Austin examines state killings and the politics of vengeance. p. 31 State killing in the legal process p. 85, Cultural life of capital punishment - television and popular culture (Green Mile, Dead Man Walking, Last Dance)

Turow, Scott. Ultimate Punishment: A Lawyer's Reflections on Dealing With the Death Penalty.

Mr. Turow influenced Governor Ryan of Illinois to commute 167 death row inmates. In this book he tears apart Illinois state's use of death penalty from

trial investigation through trial. This is a personal account, but still very well documented.

Vila, Bryan and Cynthia Morris, ed. Capital Punishment in the United States: A Documentary History. London: Greenwood Press. 1997.

Various documents like cases and government publications. Mostly primary sources.

White, Welsh S. The Death Penalty in the Eighties: An Examination of the Modern System of Capital Punishment. Ann Arbor: The University of Michigan Press. 1987.

White gives an extensive overview of the death penalty up to the modern system of capital punishment. He stresses the tension between even-handed application of the death penalty and a desire for individualized sentencing in capital cases.

Other Sources:

Sentenced to Die: Capital Punishment and the Eighth Amendment. Teacher's Guide. Mary Madden. Arlington, Va. Close Up Foundation. 1995.

Frontline : The Death Penalty Pros and Cons

<http://www.pbs.org/wgbh/pages/frontline/angel/timeline.html>

Newsletters and Periodicals

ACLU Abolitionist, Capital Punishment Project, 122 Maryland Avenue, NE, Washington, DC, 20002, 202/675-2319, 202/546-0738 (fax).

Capital Report, National Legal Aid & Defender Association, Death Penalty Litigation Section, 1625 K Street, NW, Suite 800, Washington, DC, 20006, 202/452-0620.

Capital Update, Center for Death Penalty Litigation, Inc., 200 Meredith Drive, Suite 201, Durham, NC, 27713-2287, 919/544-4650.

D.P. Exchange, National Coalition to Abolish the Death Penalty, 918 F Street, NW, Suite 601, Washington, DC, 20004, 202/347-2411, 202/347-2510 (fax).

Death Penalty Information Center Fact Sheet, Death Penalty Information Center, 1606 20th Street, N.W., 2nd Floor, Washington, DC, 20009, 202/347-2531, 202/332-1915 (fax), dpic@essential.org.

The EJI Legal Quarterly, Equal Justice Initiative of Alabama, 114 North Hull Street, Montgomery, AL, 36104, 334/269-1803.

For the Defense, Office of the Cook County Public Defender, 200 West Adams Street, 4th Floor, Chicago, IL, 60606, 312/609-2040, 312/609-6917 (fax).

Missouri Capital Case Update, The Public Interest Litigation Clinic, 5319 Rockhill, Kansas City, MO, 64110, 816/363-2795, 816/363-2799 (fax).

NCADP National Execution Alert, National Coalition to Abolish the Death Penalty, 918 F Street, NW, Suite 601, Washington, DC, 20004, 202/347-2411, 202/347-2510 (fax).

Recap, California Appellate Project, One Ecker Place, Suite 400, San Francisco, CA, 94105, 415/495-0500, 415/495-5616 (fax).

Articles:

Jonathan Abernethy, *The Methodology of Death: Reexamining the Deterrence Rationale*, 27 Colum. Hum. Rts. L. Rev. 379 (Winter 1996).

Stephen Bright, *The Electric Chair and the Chain Gang: Choices and Challenges for America's Future*, 71 Notre Dame L. Rev. 845 (1996).

Steven Jupiter, *Constitution Notwithstanding: The Political Illegitimacy of the Death Penalty in American Democracy*, 23 Fordham Urb. L.J. 437 (Winter 1996).

Michael Moore, *Tinkering with the Machinery of Death: An Examination and Analysis of State Indigent Defense Systems and Their Application to Death-*

Eligible Defendants, 37 Wm. & Mary L. Rev.1617 (Summer 1996).

Susan Raeker-Jordan, *A Pro-Death, Self-Fulfilling Constitutional Construct: The Supreme Court's Evolving Standard of Decency for the Death Penalty*, 23 Hastings Const. L.Q. 455 (Winter 1996).

Appendix A

Supreme Court Cases

Allen v. State 1984
Atkins v. Virginia 2002
California v. Brown 1987
Baston v. Kentucky 1986
Cooper v. State 1989
Eddings v. Oklahoma 1982
Enmund v. Florida 1982
Fierro v. Gomez 1992
Furman v. Georgia 1972
Gregg v. Georgia 1976
Haney v. Alabama 1991
Harris v. Alabama 1992
Herrera v. Collins 1993
Lackey v. Texas 1995
Lockett v. Ohio 1978
McCleskey v. Kemp 1987
Roper v. Simmons 2005
Tedder v. State 1975
Texas v. Karla Faye Tucker 1998
Thompson v. Oklahoma 1988
White v. Commonwealth 1984
Witherspoon v. Illinois 1968

Appendix B

OTHER INTERESTING CASES – To start discussion.

Wilkerson v. Utah 99 U.S. 130 (1878) -- Court upheld execution by firing squad, but said that other types of torture such as "drawing and quartering, embowelling alive, beheading, public dissection, and burning alive and all other in the same line of...cruelty, are forbidden." (Utah was still a territory so the 14th Amendment did not apply)

Weems v. U.S. 217 U.S. 349 (1910) -- Court held that what constitutes cruel and unusual punishment had not been decided, but that it should not be confined to the "forms of evil" that framers of the Bill of Rights had experienced. Therefore, "cruel and unusual" definitions are subject to changing interpretations

Louisiana ex rel. Francis v. Resweber 329 U.S. 459 (1947) -- On May 3, 1946, convicted seventeen year old felon Willie Francis was placed in the electric chair and the switch was thrown. Due to faulty equipment, he survived (even though he was severely shocked), was removed from the chair and returned to his cell. A new death warrant was issued six days later. The Court ruled 5-4 that it was not "cruel and unusual" to finish carrying out the sentence since the state acted in good faith in the first attempt. "The cruelty against which the Constitution protects a convicted man is cruelty inherent in the method of punishment," said the Court, "not the necessary suffering involved in any method employed to extinguish life humanely." He was then executed.

Appendix C

CITIZENSHIP CONTENT STANDARDS

1. All students demonstrate an understanding of major events, cultures, groups and individuals in the historical development of Pennsylvania, the United States and other nations, and describe the patterns of historical development.
2. All students demonstrate understanding of themes and patterns of geography, know the location of major bodies of water, landmasses and nations, and describe the relationships between geography and historical, economic and cultural development.
3. All students describe the development and operations of economic, political, legal and governmental systems in the United States, assess their own relationships to those systems, and compare them to those in other nations.
4. All students examine and evaluate problems facing citizens in their communities, state, nation and world by incorporating concepts and methods of inquiry of the various social sciences.
5. All students develop and defend a position on current issues, confronting the United States and other nations, conducting research, analyzing alternatives, organizing evidence and arguments, and making oral presentations.
6. All students explain basic economic concepts and the development and operation of economic systems in the United States and other nations, and make informed decisions about economic issues.
7. All students demonstrate their skills of communicating, negotiating and cooperating with others.
8. All students demonstrate that they can work effectively with others.
9. All students demonstrate an understanding of the history and nature of prejudice and relate their knowledge to current issues facing communities, the United States and other nations.
10. All students demonstrate an understanding of the various roles they can play as citizens through participation in a community service project.
11. All students demonstrate the ability to resolve conflicts in peaceful ways, including but not limited to peer mediation, anger management, interpersonal skills, and problem-solving.