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Legal field and diversity essay

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### Being Indigent In America: Guilty Until Proven Innocent

A short review of history will show that consistently throughout the early to mid-eighties Dallas County, similar to several other counties during this time period, violated several accused or Respondent's fifth and eighth amendment rights. One of the most important and innovated programs that sought to eliminate these injustices was championed by President George W. Bush in his March of 2003 initiative, Advancing Justice Through DNA Technology; an initiative that sought to utilize DNA to solve crimes, protect the innocent and identify missing persons. This initiative set the stage for the Innocence Project, which has been instrumental in regaining "The Dallas Twelve" now The Dallas Seventeen's fifth and eighth amendment rights. On April 28, 2008, the seventeenth exoneree was released from custody after over twenty years of his life was deprived. This information is why my focus in this essay will be on the fifth and eighth amendments and how they fail the people they were drafted to protect. A government that is run by the people, yet a government that fails to protect all of its' people without regards to race, gender, age, sex, sexual orientation or class status is an amazing yet flawed government.

In the beginning of our great nation the Founding Fathers envisioned a nation ordained and maintained by the people that inhabit these grounds. To wit, it can be ensured that during "the colonial period, Americans viewed the right to trial by jury as an important protection against arbitrary decisions by government officials. As a nation we hold the right to due process so near and dear to our heart. Meaning many of us believe that there can be no justice without due process. Everyone views due process a major component of the fifth amendment as a God

given right, to wit, the very idea that it has been violated brings an activist's blood to a boiling point as it should.

We hold the protection against deprivation of life and liberty as a core right, which pains true constitutional constructionists, because our criminal justice system has failed so many innocent people. A failure that has damaged countless lives, cost over two thousand combined years of false incarceration, yet several states are slow to compensate wrongfully convicted Americans. A failure that stains what we hold true in these United States of America.

The eighth amendment by its very definition should have prevented this tragedy, yet in retrospect so should the fifth amendment. The eighth amendment provides further protections for criminal defendants, including but not limited to, protection against abuse of power by federal and state government power.

This protection bears the question of is the death penalty flawed and does it constitute cruel and unusual punishment. Now it would be reading a great deal into the Eighth Amendment to hold that the punishments authorized by legislatures cannot constitutionally reflect a retributive purpose, however, when as of April 2, 2008, 128 people have been exonerated from death row because of wrongful convictions how can the death penalty not be considered cruel and unusual. In the words of St. Augustine, "an unjust law is no law at all" and as a nation we must ensure that all laws and punishments are just for all or we violate the very fabric this nation was built on.

To wit, the development of the Innocence Project a national litigation and public policy organization dedicated to exonerating wrongfully convicted people through DNA testing and reforming the criminal justice system to prevent future injustice. In many cases the Innocence Project has become the new court of last resort for criminal cases, especially cases involving

some form of sexual assault. Innocent people convicted of these sort of crimes turn to the project for assistance. Often times they are indigent, illiterate and/or a minority without other sources of redemption. The most common causes of these wrongful conviction cases are eyewitness misidentification, unreliable or limited science, false confessions, forensic science fraud or misconduct, government misconduct, informants or snitches and bad lawyering. Of course there are several other factors. Such as in the case of the seventeen exonerees that have been released from Dallas County alone. It is interesting to note that all convictions occurred during the 1981 through 1987, a period during District Attorney Henry Wade tenure. Most were African American or Hispanic and indigent. All were convicted without any real evidence that should not have gotten them convicted and several had exculpatory evidence that never made it to the defense attorney.

In layman's terms our criminal system is in desperate need of an overhaul or we need people that ascribe to Disraeli's belief that "Justice is Truth in Action". As it stands now our criminal justice laboratories are overwhelmed with DNA specimens that could hold the freedom of convicted criminals or the fingerprints of free unconvicted criminals. Neither option is acceptable for a nation as great as ours and we must focus during this century on finding a solution that fosters our nation's intent and not trample on it. In the land of the free we should not be a nation that regulates justice to the well-endowed and sacrifices those less fortunate. Time and time again a review of the exonerees revealed a very concerning trend that being indigent in America is a hard cross to bear, because your rights are only protected by as much wealth and connections you can muster. This must change and it requires every American to stand up and say no, because for every innocent convicted and incarcerated the criminal goes free to commit another crime.

In conclusion, our founding fathers envisioned a great nation where ALL MEN were created equal. The brief history of the Innocence Project and the Dallas Integrity Unit proves that our Criminal Justice system universally is the poster child for this belief and an abomination in the face of what this great nation was intended to be. The system can only be as reputable as the people in power.

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