

Is our system of criminal justice just?



<https://www.flickr.com/photos/serfs-up/7595931596>

Supporting Questions

1. What are the legal protections guaranteed to those accused and convicted of crimes under the U.S. Constitution?
2. What progress has been made to improve our criminal justice system?
3. How does Stevenson demonstrate the limitations of our criminal justice system in practice?

Is our system of criminal justice just?

Inquiry Standard	D2.Civ.4.9-12. Explain how the U.S. Constitution establishes a system of government that has powers, responsibilities, and limits that have changed over time and that are still contested.
Staging the Compelling Question	Before beginning the inquiry, take a minute to reflect on our criminal justice system. Do you think it is a just system? Why or why not? Jot down a few sentences explaining your thoughts.

Supporting Question 1	Supporting Question 2	Supporting Question 3
What are the legal protections guaranteed to those accused and convicted of crimes under the U.S. Constitution?	What progress has been made to improve our criminal justice system?	How does Stevenson demonstrate the limitations of our criminal justice system in practice?
Formative Performance Task	Formative Performance Task	Formative Performance Task
Make a list of the legal protections guaranteed to those accused and convicted of crimes under the U.S. Constitution.	Begin a T-chart by filling in the left side with examples of improvements to our criminal justice system as a result of Supreme Court rulings.	Complete the T-chart from the second formative performance task by filling in the right side with examples of limitations to our criminal justice system in practice as illustrated by excerpts from Just Mercy.
Featured Sources	Featured Sources	Featured Sources
Source A: Interactive U.S. Constitution	Source A: Landmark Supreme Court Cases on Rights of the Accused (Gideon v. Wainwright; Miranda v. Arizona; Batson v. Kentucky; Atkins v. Virginia; Arizona v. Gant)	Source A: Just Mercy Excerpts on Structural Inequality/Right to Counsel Source B: Just Mercy Excerpt on Self-Incrimination & Miranda Rights Source C: Just Mercy Excerpt on Discrimination & Peremptory Challenges Source D: Just Mercy Excerpts on Cruel & Unusual Punishment Source E: Just Mercy Excerpt on Search & Seizure

Summative Performance Task	<p>ARGUMENT Construct a written argument that either supports or refutes the notion that our criminal justice system is just using specific claims and relevant evidence from the sources provided (i.e., Constitutional amendments, Supreme Court cases, excerpts from <i>Just Mercy</i>), while acknowledging competing views.</p> <p>EXTENSION Create a multimodal representation of the argument about the criminal justice system (e.g, infographic, poster, newspaper article).</p>
Taking Informed Action	<p>UNDERSTAND Research <i>one</i> of the following topics related to our criminal justice system: mandatory minimum sentences, incarceration rates in the U.S. over the last 30 years, juveniles in the criminal justice system, <i>or</i> the death penalty.</p> <p>ASSESS Determine approaches for helping others understand the topic selected in terms of the protections for the accused that are guaranteed in the U.S. Constitution and the limitations of the criminal justice system in practice.</p> <p>ACTION Help others understand the topic selected in terms of the protections for the accused that are guaranteed in the U.S. Constitution and the limitations of the criminal justice system in practice.</p>

Inquiry Description

This inquiry asks the compelling question *Is our system of criminal justice just?* and provides an opportunity to learn more about protections for the accused guaranteed in the U.S. Constitution and the limitations of the criminal justice system in practice. A unique component of the inquiry is an opportunity to take informed action to help others learn how miscarriages of justice can be overcome.

Structure

In addressing the compelling question, *Is our system of criminal justice just?* students will work through a series of supporting questions, performance tasks, and sources in order to construct an argument with evidence and counter-evidence from a variety of sources. Teachers can use the template that is provided in the appendix to support students in their completion of this inquiry.

Staging the Compelling Question

Compelling
Question

Is our system of criminal justice just?

Staging the compelling question

This compelling question draws upon tensions that have long existed in the American system of justice. While the U.S. Constitution provides extensive protections for those accused and convicted of crimes, the implementation of that system of justice has been uneven in U.S. history. From the inhuman injustice of slavery to the denial of justice to some groups even today, the Constitution and our criminal justice system deserve our close scrutiny and attention - as Supreme Court justice Anthony Kennedy argues, "The Constitution needs allegiance and loyalty and renewal and understanding with each generation, or else it's not going to last." This inquiry brings to the surface these notions of allegiance, loyalty, renewal, and understanding.

Supporting Question 1

Supporting Question	What are the legal protections guaranteed to those accused and convicted of crimes under the U.S. Constitution?
Formative Performance Task	Make a list of the legal protections guaranteed to those accused and convicted of crimes under the U.S. Constitution.
Featured Sources	<ul style="list-style-type: none">• Source A: Interactive U.S. Constitution

Now that students have thought about the compelling question, the next task is focused on the first supporting question: *What are the legal protections guaranteed to those accused and convicted of crimes under the U.S. Constitution?* See the directions for this formative performance task below as well as the featured source that can be used to complete the task.

Formative Performance Task

This formative performance task provides students with an opportunity to answer supporting question one: *What are the legal protections guaranteed to those accused and convicted of crimes under the U.S. Constitution?* The task is for students to make a list of the legal protections guaranteed to those accused and convicted of crimes under the U.S. Constitution. To complete this task, students can read the constitutional amendments, determine which ones apply, and then describe what type of protection is provided by each one.

Supporting Question 1

Featured Source A

Interactive U.S. Constitution

Excerpt

Amendments to the U.S. Constitution: <http://constitutioncenter.org/interactive-constitu..> (Click on “Explore It” to access the amendments)

The U.S. Constitution is often referred to as a “living document,” meaning that it was designed to be updated through the proposal and ratification of amendments reflecting important changes as our nation evolves and public opinion shifts. The Interactive Constitution website presented above gives students an opportunity to explore the history of the Constitution, including the amendments that have been added over time, as well as the current and common interpretations of each amendment.

Source:

National Constitution Center. Philadelphia, PA. <http://constitutioncenter.org>

Supporting Question 2

Supporting Question	What progress has been made to improve our criminal justice system?
Formative Performance Task	Begin a T-chart by filling in the left side with examples of improvements to our criminal justice system as a result of Supreme Court rulings.
Featured Sources	<ul style="list-style-type: none">● Source A: Landmark Supreme Court Cases on Rights of the Accused (Gideon v. Wainwright; Miranda v. Arizona; Batson v. Kentucky; Atkins v. Virginia; Arizona v. Gant)

Complete the second formative performance task in response to the second supporting question: *What progress has been made to improve our criminal justice system?* See the directions for this formative performance task below as well as the featured source that can be used to complete the task.

Formative Performance Task

Review the Supreme Court cases provided as sources, summarize the ruling for each case, and briefly discuss the improvement(s) to our criminal justice system that resulted from the ruling. The information provided in the sources section (the hyperlinked websites) on the facts of the case, the central question being addressed, and the conclusion (Court ruling) will help students fill in the "improvements" column of the T-chart. The T-chart is available in the template that is included as an appendix. If students are interested in learning even more about the cases, they can listen to the oral arguments provided on the websites. They are also welcome to research more about the cases using other sources.

Supporting Question 2

Featured Source A

Landmark Supreme Court Cases on Rights of the Accused (*Gideon v. Wainwright*; *Miranda v. Arizona*; *Batson v. Kentucky*; *Atkins v. Virginia*; *Arizona v. Gant*)

Excerpt

Each of the landmark Supreme Court cases presented in the hyperlinks below directly addresses Constitutional amendments that are relevant to the criminal justice system. *Gideon v. Wainwright* (1963) refers to the 14th amendment; *Miranda v. Arizona* (1966) refers to the 5th amendment; *Batson v. Kentucky* (1986) refers to the 6th and 14th amendments; *Atkins v. Virginia* (2002) refers to the 8th amendment; *Arizona v. Gant* (2009) refers to the 4th amendment. Some of these cases reiterated protections provided by particular amendments, while others pointed out violations of amendments.

[Gideon v. Wainwright \(1963\)](#)

[Miranda v. Arizona \(1966\)](#)

[Batson v. Kentucky \(1986\)](#)

[Atkins v. Virginia \(2002\)](#)

[Arizona v. Gant \(2009\)](#)

Source:

The Oyez Project: US Supreme Court Multimedia Database Northwestern University, <https://www.oyez.org/cases/>.

Supporting Question 3

Supporting Question	How does Stevenson demonstrate the limitations of our criminal justice system in practice?
Formative Performance Task	Complete the T-chart from the second formative performance task by filling in the right side with examples of limitations to our criminal justice system in practice as illustrated by excerpts from <i>Just Mercy</i> .
Featured Sources	<ul style="list-style-type: none">● Source A: Just Mercy Excerpts on Structural Inequality/Right to Counsel● Source B: Just Mercy Excerpt on Self-Incrimination & Miranda Rights● Source C: Just Mercy Excerpt on Discrimination & Peremptory Challenges● Source D: Just Mercy Excerpts on Cruel & Unusual Punishment● Source E: Just Mercy Excerpt on Search & Seizure

Complete the third formative performance task in response to the third supporting question: *How does Stevenson demonstrate the limitations of our criminal justice system in practice?* See the directions for this formative performance task below as well as the featured sources that can be used to complete the task.

Formative Performance Task

Read through the excerpts from *Just Mercy* provided as sources, consider how each group of excerpts aligns with Supreme Court cases reviewed in the previous task, and analyze the excerpts to determine how they illustrate limitations of our criminal justice system in practice. Type this information into the T-chart under the "limitations" column.

Supporting Question 3

Featured Source A

Just Mercy Excerpts on Structural Inequality/Right to Counsel

Excerpt

Excerpt 1 - Structural Inequality

"We have created a new caste system that forces thousands of people into homelessness, bans them from living with their families and in their communities, and renders them virtually unemployable...Presumptions of guilt, poverty, racial bias, and a host of other social, structural, and political dynamics have created a system that is defined by error, a system in which thousands of innocent people now suffer in prison" (Stevenson, p. 16).

Excerpt 2 - Right to Counsel

"Bryan," [Steve Bright, director of the SPDC,] said at some point during our short flight, "capital punishment means 'them without the capital get the punishment.' We can't help people on death row without help from people like you" ...After years of prohibition and delay, executions were again taking place in the Deep South, and most of the people crowded on death row had no lawyers and no right to counsel. There was a growing fear that people would soon be killed without ever having their cases reviewed by skilled counsel" (Stevenson, pp. 6-7).

Source:

Stevenson, B. (2015). *Just mercy: A story of justice and redemption* New York: Spiegel & Grau.

Supporting Question 3

Featured Source B

Just Mercy Excerpt on Self-Incrimination & Miranda Rights

Excerpt

Excerpt 3 - Self-Incrimination & Miranda Rights

“[Ralph Myers] told us about being pressured by the sheriff and the ABI and threatened with the death penalty if he didn’t testify against McMillian...He said that he had told lots of people – from the D.A. on down – that he had been coerced to testify falsely against Walter” (Stevenson, p. 136).

Source:

Stevenson, B. (2015). *Just mercy: A story of justice and redemption* New York: Spiegel & Grau.

Supporting Question 3

Featured Source C

Just Mercy Excerpt on Discrimination & Peremptory Challenges

Excerpt

Excerpt 4 - Discrimination & Peremptory Challenges

“In the mid-1960s, the Court held that using peremptory strikes in a racially discriminatory manner was unconstitutional, but the justices created an evidentiary standard for proving racial bias that was so high that no one had successfully challenged peremptory strikes in twenty years. The practice of striking all or almost all African American potential jurors continued virtually unchallenged after the Court’s ruling. So defendants like Walter McMillian, even in counties that were 40 or 50 percent black, frequently found themselves staring at all-white juries, especially in death penalty cases. Then, in 1986, the Supreme Court ruled in *Batson v. Kentucky* that prosecutors could be challenged more directly about using peremptory strikes in a racially discriminatory manner, giving hope to black defendants - and forcing prosecutors to find more creative ways to exclude black jurors” (Stevenson, p. 60).

Source:

Stevenson, B. (2015). *Just mercy: A story of justice and redemption* New York: Spiegel & Grau.

Supporting Question 3

Featured Source D

Just Mercy Excerpts on Cruel & Unusual Punishment

Excerpt

Excerpt 5 - Cruel & Unusual Punishment

“On May 17, 2010, I was sitting in my office waiting anxiously when the U.S. Supreme Court announced its decision: Life imprisonment without parole sentences imposed on children convicted of non-homicide crimes is cruel and unusual punishment and constitutionally impermissible...It was the first time the Court had issued a categorical ban on a punishment other than the death penalty...Two years later, in June 2012, we won a constitutional ban on mandatory life-without-parole sentences imposed on children convicted of homicides...The Court’s decision meant that no child accused of any crime could ever again be automatically sentenced to die in prison” (Stevenson, pp. 295-296).

Excerpt 6 - Cruel & Unusual Punishment

“I believe there should be a total ban on housing children under the age of eighteen with adults in jails or prisons. We filed cases seeking to stop the practice. I am also convinced that very young children should never be tried in adult court. They’re vulnerable to all sorts of problems that increase the risk of a wrongful conviction. No child of twelve, thirteen, or fourteen can defend him- or herself in the adult criminal justice system. Wrongful convictions and illegal trials involving young children are very common” (Stevenson, p. 296).

Excerpt 7 - Cruel & Unusual Punishment

“Today, over 50 percent of prison and jail inmates in the United States have a diagnosed mental illness, a rate nearly five times greater than that of the general adult population...And prison is a terrible place for someone with mental illness or a neurological disorder that prison guards are not trained to understand...Jail and prison became the state’s strategy for dealing with a health crisis created by drug use and dependency. A flood of mentally ill people headed to prison for minor offenses and drug crimes or simply for behaviors their communities were unwilling to tolerate” (Stevenson, p. 188).

Source:

Stevenson, B. (2015). *Just mercy: A story of justice and redemption* New York: Spiegel & Grau.

Supporting Question 3

Featured Source E

Just Mercy Excerpt on Search & Seizure

Excerpt

Excerpt 8 - Search & Seizure

“I was singing along to ‘Stand!’ the soaring Sly anthem with the great gospel-themed ending, when I saw a flashing police light approaching. I was parked a few doors up from our apartment, so I assumed that the officers would drive by in pursuit of some urgent mission...It certainly never occurred to me that getting out of my car was wrong or dangerous. As soon as I opened my car door and got out, the police officer who had started walking toward my vehicle drew his weapon and pointed it at me. I must have looked completely bewildered. My first instinct was to run...‘Move and I’ll blow your head off!’...‘What are you doing out in the street?’ ‘I was just listening to the radio.’ He placed my hands on the car and bent me over the back of the vehicle...The officer holding me asked me for my driver’s license but wouldn’t let me move my arms to retrieve it. I told him it was in my back pocket, and he fished my wallet out from my pants. The other officer was now leaning inside my car and going through my papers. I knew that he had no probable cause to enter my vehicle and that he was conducting an illegal search. I was about to say something when I saw him open the glove compartment. Opening objects in a parked vehicle was so incredibly illegal that I realized he wasn’t paying any attention to the rules, so saying something about it would be pointless...[the officer] went back to his car to run a search on me...Finally the officer returned and spoke to his partner: ‘They don’t have anything on him.’ He sounded disappointed. I found my nerve and took my hands off the car. ‘This is so messed up. I live here. You shouldn’t have done this. Why did you do this? The older officer frowned at me. ‘Someone called about a suspected burglar...We’re going to let you go. You should be happy,’ he said” (Stevenson, pp. 39-42).

Source:

Stevenson, B. (2015). *Just mercy: A story of justice and redemption* New York: Spiegel & Grau.

Summative Performance Task

Compelling Question	Is our system of criminal justice just?
Argument	Construct a written argument that either supports or refutes the notion that our criminal justice system is just using specific claims and relevant evidence from the sources provided (i.e., Constitutional amendments, Supreme Court cases, excerpts from <i>Just Mercy</i>), while acknowledging competing views.
Extension	Create a multimodal representation of the argument about the criminal justice system (e.g., infographic, poster, newspaper article).

Argument

In response to the compelling question, students should include a strong thesis statement with claims supported with evidence from the sources included in this inquiry.

Extension

To extend their understanding of the compelling question, students may create a multimodal representation of their argument. This multimodal representation should include all of the claims presented in the argument for the summative performance task. There are many different approaches to multimodal representation that might be used, including infographic tools; one option would be to use Piktochart (<https://piktochart.com>).

Taking Informed Action

Understand	Research <i>one</i> of the following topics related to our criminal justice system: mandatory minimum sentences, incarceration rates in the U.S. over the last 30 years, juveniles in the criminal justice system, <i>or</i> the death penalty.
Assess	Determine approaches for helping others understand the topic selected in terms of the protections for the accused that are guaranteed in the U.S. Constitution and the limitations of the criminal justice system in practice.
Action	Help others understand the topic selected in terms of the protections for the accused that are guaranteed in the U.S. Constitution and the limitations of the criminal justice system in practice.

This taking informed action task provides students an opportunity to learn about a topic related to the protections for the accused guaranteed in the U.S. Constitution and the limitations of the criminal justice system in practice. To do this, students may choose to focus on mandatory minimum sentences, incarceration rates in the U.S. over the last 30 years, juveniles in the criminal justice system, *or* the death penalty, and create a presentation on the topic that can be shared with others outside the classroom. Students may be encouraged to use their extension infographic to complete this task. For example, students might create an infographic and share it with others in the school, with a student group, post it online or in a community forum, or even use it in a letter to a legislator to defend existing laws or to lobby for changes to existing laws or conditions for those accused and convicted of crimes.

- [JustMercyInquiryTemplate.pdf](https://s3.amazonaws.com/idm-dev/u/5/9/a/d/1990/59ad8927ee2d723999955db1be4f2fd71b6a0a2a.pdf) (https://s3.amazonaws.com/idm-dev/u/5/9/a/d/1990/59ad8927ee2d723999955db1be4f2fd71b6a0a2a.pdf)

