

# Respect

SPRING 2021 VOL 20 NO. 3

A DIVERSITY NEWSLETTER PUBLISHED BY NEW JERSEY STATE BAR FOUNDATION

## Promises Made and Finally Kept in Oklahoma *by Phyllis Raybin Emert*

The treatment of Native Americans since America's founding has been riddled with betrayal and broken promises. In July 2020, with a 5-4 vote, the U.S. Supreme Court held the U.S. to at least one of the promises it made to Native American tribes.

In *McGirt v. Oklahoma*, which was combined with another case, *Sharp v. Murphy*, the Court decided the fate of Jimcy McGirt and Patrick Dwayne Murphy, both Native Americans who committed brutal, vicious acts, and were **convicted** and imprisoned after Oklahoma state court trials. The cases are about McGirt and Murphy, but the U.S. Supreme Court decision is more about **jurisdiction**, and whether past Indian treaties signed by the federal government are still in effect and should be honored.

Both McGirt and Murphy argued that their crimes were committed on Native American land, specifically Muscogee (Creek) Nation land, and therefore their cases should have been tried in either federal court or in a Creek tribal court, since the state did not have jurisdiction over them. For Murphy, convicted of murder and sentenced to the death penalty, a win at the U.S. Supreme Court means that he escapes a death sentence, as a federal court would not be able to sentence a Native American to death if the crime was committed on tribal land.

In the Supreme Court's **majority opinion**, Justice Neil Gorsuch wrote, "Today we are asked whether the land these treaties promised remains an Indian reservation for purposes of federal criminal law. Because Congress has not said otherwise, we hold the government to its word."

CONTINUED ON PAGE SIX

**BROKEN PROMISES**

## More Than Meets the Eye in Cross-Racial IDs *by Michael Barbella*

Eyewitness testimony was often thought of as the best evidence in a criminal trial. Today, experts are learning it's not so reliable, especially when the witness and the suspect are of different races.

The concept is called cross-race effect, and it was first mentioned in research published in the *Journal of Criminal Law and Police Science* in 1914. It is defined as the tendency for individuals to better recognize members of their own race or ethnicity and be worse at recognizing people of another race. Cross-race effect has contributed to numerous eyewitness misidentifications.

Take the case of Otis Boone, for example. Boone served seven years in jail for a crime he didn't commit, convicted on the basis of eyewitness testimony. Boone is African American, while the witnesses in the case were white. In February 2011, Brooklyn police arrested Boone and charged him with two counts of armed robbery. A jury convicted Boone on both counts despite a lack



CONTINUED ON PAGE TWO

## Cross-Racial IDs CONTINUED FROM PAGE ONE

of physical evidence. He received a 25-year prison sentence, which was later reduced by 10 years. In 2017, Boone **appealed** to the New York State Court of Appeals, the state's highest court, which **overturned** Boone's conviction and ordered a new trial after finding fault with the trial court's jury instructions.

Boone's attorney had asked the judge in the case to instruct the jury on the unreliability of cross-racial identification. The judge denied the request because no expert testimony had been provided during the trial on that issue.

The Appeals Court judges ruled the lower court mistakenly declined to inform jurors about eyewitness credibility in cross-racial cases.

New York's highest court also required that all Empire State jurors, upon request of the defense, be told about the reliability of cross-racial eyewitness identification.

In his 37-page decision, Judge Eugene M. Fahey wrote, "In light of the near consensus among cognitive and social psychologists that people have significantly greater difficulty in accurately identifying members of a different race than in accurately identifying members of their own race, the risk of wrongful convictions involving cross-racial identifications demands a new approach."

The Appeals Court held, "In a case in which a witness's identification of the defendant is at issue, and the identifying witness and **defendant** appear to be of different races, a trial court is required to give, upon request, during final instructions, a **jury charge** on the cross-race effect."

### Believing your eyes

Eyewitness testimony, according to psychological studies, has historically been one of the most convincing forms of criminal trial evidence. Decades of research, however, suggest that eyewitness testimony is prone to error, often resulting from flawed visual perception or memory. Poor vision or viewing conditions can affect eyewitness identification in criminal cases, along with the duration of an offense and the extent of violence involved. Recollection is also a factor, as psychologists have found that memories are reconstructed rather than replayed like a video.

In a *Scientific American* article, Elizabeth F. Loftus, a cognitive psychologist and expert on human memory, likened the act of recall as "more akin to putting puzzle pieces together than retrieving a video recording."

Thea Johnson, a professor at Rutgers Law School—Camden whose scholarship concerns the fairness of the criminal justice system, says there is plenty of evidence confirming that humans don't remember everything that happens when it happens quickly or when it's the result of a traumatic event.

"If you are held up at gunpoint, you might be more focused on the gun and not necessarily on the person holding it," Professor Johnson says.

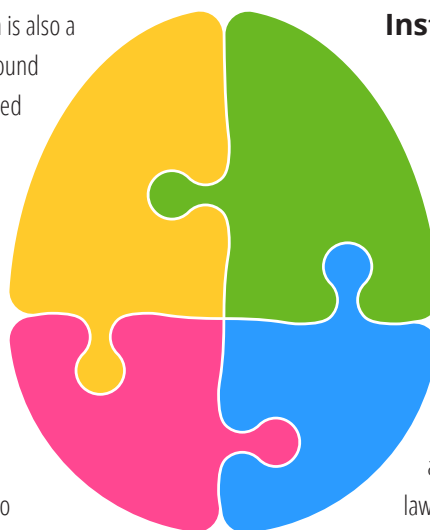
According to the Innocence Project, a nonprofit legal organization committed to exonerating the wrongly accused and reforming the criminal justice system, 70 percent of the 364 convictions overturned by DNA evidence since 1992 involved mistaken eyewitness identification. Nearly half of those erroneous recognitions involved a witness and suspect of different races.

"In studying this issue, we have learned that people tend to be less accurate when making cross-race identifications," Alexis Agathocleous, a staff attorney with the Innocence Project's Strategic Litigation Unit, said in a Q&A appearing on the organization's website.

Agathocleous, who focuses on law reform efforts around eyewitness identifications, also noted, "Cases involving cross-racial identifications must be treated with particular care and police must be especially vigilant about using proper identification procedures."

### Instructing the jury

Recognizing that eyewitness identifications can be unreliable, the U.S. legal system has addressed the issue in several ways, most directly, as with the New York case, through jury instructions. A handful of states, including Hawaii, Massachusetts and New Jersey, already had laws similar to the one New York now has where juries are instructed



This publication was made possible through funding from the IOLTA Fund of the Bar of New Jersey.

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## Cross-Racial IDs CONTINUED FROM PAGE TWO

on cross-race effect. Such instructions are allowed by the judge's discretion, but not required in a six states (Georgia, Idaho, Iowa, Kansas, Maine and Washington), as well as federal courts in Detroit, Indianapolis and the District of Columbia.

Professor Johnson recognizes the power of eyewitness identifications for a prosecutor, which is why she says issues like cross-race effect are important for juries to understand.

"I think a jury instruction is an important tool that a defense attorney can use to challenge the credibility of eyewitness identifications. It's a big step that courts have opened the door to these types of jury instructions," Professor Johnson says. "Does it mean that juries won't think that eyewitness accounts are powerful pieces of evidence, or not listen to the judge's instructions? Jurors are human beings and they're going to follow their sense of the case. Jurors try hard to listen to the judge and apply the law."

The Innocence Project has endorsed reforms that would improve the accuracy of eyewitness IDs. These reforms begin with the lineup, including requiring a double-blind lineup. That means that neither the administrator of the lineup, nor the eyewitness knows who the suspect is, preventing unintentional cues that may influence the eyewitness. In addition, the Innocence Project advocates for reforms on the composition of the lineup. Whether photographs or live lineup fillers

are used, the Innocence Project says they should be selected "based on their resemblance to the description provided by the eyewitness," not the resemblance to the suspect. Another proposed reform is that the administrator of the lineup should inform the eyewitness that the suspect may or

argue that safeguards already exist to protect against convictions achieved through mistaken identity.

Professor Johnson contends that racial bias is not the issue.

"You're not saying that someone out of bad motivation is trying to pin a crime on someone of

a different race. If that's the argument, that's a totally different argument," Professor Johnson says. "Cross-race effect is merely saying there's good evidence that people better recognize the faces of someone of their own race than of people who are not of their own race."

She says that people are not necessarily biased; it's just how human beings take in information.

"It's not that the person has a bias and that's why they are identifying someone of a different race. It's just that they may not have identified the

person correctly, not for bad or malicious reasons," Professor Johnson says. "The human experience is that many things are unclear but a criminal trial does not always reflect that. The realities of the human experience and criminal trials are often in conflict in ways we don't always acknowledge."

So, what happened to Otis Boone? He was given a new trial in 2019 where the prosecution again presented their eyewitnesses. This time Boone was represented by attorneys from the Legal Aid Society who presented evidence that Boone was a mile away when the second robbery was committed, something the attorney in his first trial did not do. The jury was advised about cross-race effect, as well.



may not be present in the lineup, preventing the eyewitness from feeling pressure to make an ID.

The National Institute of Justice, the International Association of Chiefs of Police, the NAACP and the American Bar Association have endorsed these reforms, which also includes a requirement that the lineup be recorded either with video or audio, and the eyewitness provide a confidence statement.

While groups like the Innocence Project have lauded cross-race effect jury instruction rules, prosecutors consider these mandates unfair. They argue the instruction implies racial bias, without proof, on the part of an eyewitness. Opponents also

**CONTINUED ON PAGE SIX**

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## Teaching Social Studies Without Bias *by Maria Wood*

**The material being taught in social studies class and how educators go about teaching it is currently a hot debate. Many scholars believe students aren't getting a full and accurate picture of our nation's history and fear that slavery in particular is being misrepresented.**

For example, in 2018 a parent complained about an assignment for fifth-graders in *Studies Weekly*, a national social studies publication, which is used in eight states, representing 13,000 schools and approximately 4.3 million students. The assignment asked students to write a paragraph in support of slavery.

After the complaint, *Studies Weekly* launched an internal review of its social studies curriculum, looking for other instances of inaccurate, insensitive or biased content. The review found 400 examples of racial or ethnic bias, historical inaccuracies and age-inappropriate content. In addition to the slavery assignment, one lesson characterized Native Americans as "troublemakers" and reported that tribes agreed to give away their land to white colonists. The company prioritized approximately 100 of the examples for immediate revision, which were made for the 2019-2020 school year.

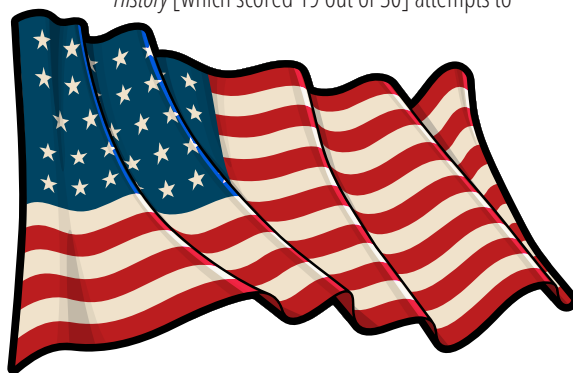
*Studies Weekly* isn't an isolated case. In 2019, Pearson Education, a textbook publisher, removed one of its textbooks, *Prentice Hall Classics: A History of the United States*, from circulation. The textbook stated that "slave owners were kind and generous," and many slaves were not "terribly unhappy."

In 2018, the Southern Poverty Law Center's Teaching Tolerance, now called Learning for Justice, reviewed 12 commonly used high school and middle school history textbooks and released its finding in a report titled *Teaching Hard History: American Slavery*. Its panel of experts, which included historians, teachers and museum educators, focused on whether the material taught 10 key concepts around the history of slavery in the United States.

The textbooks were graded on whether the content clearly stated slavery was the central cause of the Civil War, as well as the fact that the federal

government protected slavery from 1787 to 1860, among other factors. Out of a possible 30 points, the highest score was 21, with the lowest scoring textbook receiving six out of 30.

"Most textbooks do a poor job of teaching about the relationship between slavery and racism," the *Teaching Hard History* report stated. "Only *American History* [which scored 19 out of 30] attempts to



present racism as the result of slavery, and even then the discussion presents this conceptual relationship as undecided."

An SPLC survey of 1,700 teachers revealed that 58 percent classified their textbooks as "inadequate" in the teaching of slavery and 40 percent said they believed their state offered insufficient support regarding the teaching of slavery. A separate SPLC survey of more than 1,000 high school seniors revealed that only eight percent of students identified slavery as the main cause of the Civil War, and 68 percent didn't know the 13th Amendment officially ended slavery.

### Curriculum violence

Some history assignments have also come under fire for what is known as "curriculum violence." Stephanie P. Jones, PhD, a professor at Grinnell College in Iowa, coined the term. Dr. Jones is the founder of *Mapping Racial Trauma in Schools*, a database that keeps a current account of instances of curriculum violence. Curriculum violence occurs,

Dr. Jones says, "when educators and curriculum writers construct a set of lessons that damage or otherwise adversely affect students intellectually and emotionally."

For example, in 2019, a fifth-grade history teacher at a private school in Westchester, NY was fired for conducting a mock slave auction in her classroom. The teacher brought three Black students into the hallway and pretended to put them in handcuffs. She then brought them back into the classroom where their white classmates bid on them. The Office of the New York State Attorney General investigated the incident.

Dr. Jones, who is an advisor to SPLC's Learning for Justice, documented 30 incidents of curriculum violence in the 2018-2019 school year, according to *Education Week*. In an article for Learning for Justice, Dr. Jones wrote, "Curriculum violence is indeed detrimental, but it does not have to be deliberate or purposeful."

While attempting to convey the horrors of slavery, lessons may cross the line to be psychologically harmful to students, especially African American students.

"You cannot actually replicate this experience," Maureen Costello, the director of SPLC's Teaching Tolerance, told *Education Week*. "What you've basically done is 'gamify' it, and by gamifying it, you're actually reducing the horror. Yes, you could work harder to make it more real, then you're potentially introducing horror."

### Consistent curriculum

While scholars don't see the benefit of re-enactments like the mock slave auction, they also don't like the potential misrepresentation of the institution of slavery in curriculum.

"There has been a long history of telling stories to soften slavery," says Harry Lawson, Director of Human and Civil Rights with the National Education

**CONTINUED ON PAGE FIVE**

## Social Studies CONTINUED FROM PAGE FOUR

Association. “But we have to confront the real horrors of what slavery was and what it has meant to this country.”

Stephanie James Harris, PhD is the executive director of the New Jersey Department of Education’s Amistad Commission, which was established in 2002 to ensure African American history was taught in New Jersey schools. Dr. Harris says bias in social studies education stems from the political nature of how curriculum is created and selected.

“We have to move away from the idea that any curriculum is objective,” Dr. Harris says. “The reality is everything is done from a social and political positioning and is going to be reflective of those particular points of view and bias structure.”

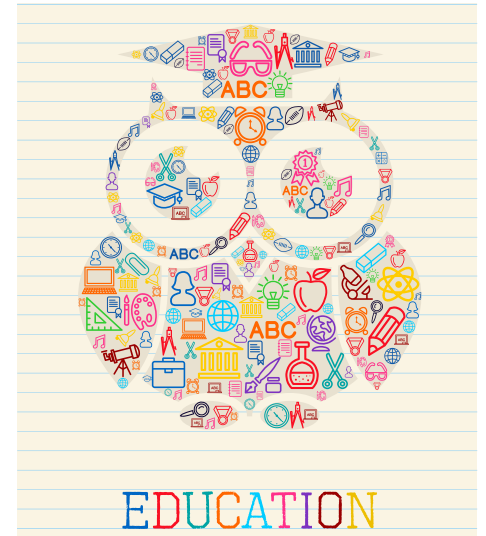
Although New Jersey mandates that African American history be taught, it’s up to the individual school districts to integrate the materials offered by

the commission into the curriculum.

“We don’t have a universal curriculum in New Jersey,” Dr. Harris says. “The model I’ve created for schools is a benchmark on how to infuse [African American] history in the social studies classroom.”

Lawson says inaccuracies and incomplete information similar to what was uncovered in the *Studies Weekly* review is common. Part of the problem, he notes, is that there is no federal standard for social studies and that leads to different standards in each district. “There is no consistency around it,” Lawson says.

According to Lawson, several states and local communities have passed resolutions to improve ethnic studies in the classroom, including the Washington, DC Board of Education, which formed a Social Studies Standards Advisory Committee in 2020. Its mission is to update resources to reflect



“culturally inclusive and anti-racist [content], impart important social studies content in the early grades, strengthen student knowledge of democratic principles and values, and promote civic engagement.”

CONTINUED ON PAGE EIGHT

## Attention Teachers! Check Out NJSBF Curriculum—*Breaking Bias: Lessons from the Amistad*

In 2020, the New Jersey State Bar Foundation (NJSBF) launched curriculum as well as an online training that teaches African American history from an anti-bias perspective. The curriculum, which is for grades 3–12, is titled *Breaking Bias: Lessons from the Amistad*. It highlights the contribution African Americans have made to the United States, as well as the lessons our country has learned from African American history.

*Breaking Bias* is intended to complement curriculum created by New Jersey’s Amistad Commission, which was established by law in 2002. New Jersey’s Amistad law requires African American history to be taught as an integral part of American history throughout the school year, not just during Black History Month. The law takes its title from the *Amistad*, a ship where 53 enslaved people revolted against the ship’s captain and crew in 1839.

Where the Commission’s curriculum is focused on the history of African Americans from the times of ancient Africa to the present, the Foundation’s curriculum serves as a tool that ties the law to the lessons of the Amistad. By taking a deeper look at the overt and covert impact of racism and empathy, equity and equality, class and

justice, educators and students will come to understand the systemic themes that arise from African American history in this country.

The curriculum focuses on African Americans as active participants in their history, not simply as victims. It also examines how racial oppression transformed over time in the U.S. and asks what our responsibilities, both individually and collectively, are to respond to racism.

*Breaking Bias* poses numerous questions throughout its six units, including what is race, and what have been the consequences of social constructs about race in our country? In a unit on Jim Crow and the Great Migration, for example, students examine why African American art and culture flourished during the period of the Great Migration, and how this was a form of resistance.

The first three units, as well as a half unit on African Civilizations, are currently available on the NJSBF’s website ([njsbf.org](http://njsbf.org)). Educators can also attend the Foundation’s online training to learn the tools needed to effectively teach the material. Check the Events page on our website for upcoming trainings.





## Promises Made CONTINUED FROM PAGE ONE

### First, some history

In the 19th century, there was an intense effort by federal and state governments to make tribal land available to white settlers who wanted to grow cotton in the Southeastern part of the United States. This resulted in a series of forced relocations of Indian tribes, starting in 1830 when President Andrew Jackson signed the Indian Removal Act into law. The government signed treaties with what were called The Five Nations (the Creek, the Cherokee, the Choctaw, the Chickasaw and the Seminole Nations). In exchange for land west of the Mississippi River in what was then the Oklahoma territory, the members of these nations would leave their homes in the Southeast.

These forced resettlements, which started in the winter of 1831, were known as the Trail of Tears and often took place with little notice, supplies or protective clothing for the Native Americans. Food was not provided and towns and villages generally ignored the travelers along the way. The Trail of Tears stretched for more than 5,000 miles and included portions of nine states (Alabama, Arkansas, Georgia, Illinois, Kentucky, Missouri, North Carolina, Oklahoma and Tennessee). According to military records, more than 100,000 indigenous people were forced from their homes and marched the Trail of Tears. More than 15,000 did not survive the journey, succumbing to exposure, starvation and disease.

Native Americans did not sit idly by while the government tried to take their land. They fought in the courts, making it all the way to the U.S. Supreme Court. With *Worcester v. Georgia*, the U.S. Supreme Court ruled in 1832 that the state of Georgia did not have the right to impose regulations on Native American land, affirming that they are sovereign nations “in which the laws of Georgia [and other states] can have no force.” The opinion, written by Chief Justice John

Marshall, stated: “...treaties and laws of the United States contemplate the Indian territory as completely separated from that of the states; and provide that all intercourse with them shall be carried on exclusively by the government of the union.” In other words, because they are considered nations, only the federal government, not states, could govern them.

President Jackson refused to enforce the Supreme Court’s decision and the states ignored it. Despite the fact that it was not enforced, *Worcester v. Georgia* is credited with establishing the foundation of tribal sovereignty.



### Back to the 21st Century

Matthew L.M. Fletcher is a professor at Michigan State University College of Law and director of its Indigenous Law and Policy Center. The key question in *McGirt v. Oklahoma* and *Sharp v. Murphy*, Professor Fletcher says, was whether the two men’s crimes were committed on Indian land or on land under the jurisdiction of the state of Oklahoma.

The U.S. Supreme Court decision in favor of Native Americans was “surprising” to Professor Fletcher, who sits as the chief justice of the Poarch Band of Creek Indians Supreme Court, but “correctly decided,” in his opinion.

“The rule is that only Congress can terminate an Indian reservation,” Professor Fletcher explained. “Congress never terminated the Creek reservation. Still, Oklahoma has been acting as if the reservation no longer existed for more than a century. Many non-Creek citizens live there and own land there. But the law is the law.”

CONTINUED ON PAGE SEVEN

## Cross-Racial IDs CONTINUED FROM PAGE THREE

In March 2019, Boone was acquitted.

“To be serving someone else’s time is a hardship,” Boone told *The New York Times*. “It was many times that I wanted to give up.”

In 2019, Boone filed a civil lawsuit against the police officers involved in his case, as well as the City of New York.

“I want things to change,” Boone told *The New York Times*. “I want justice.” •



1. How do you feel about cross-race effect? In what ways would this concept create problems in a criminal trial? In what ways could this concept create problems in real life?
2. In the article, Otis Boone says, “To be serving someone else’s time is a hardship.” How would you feel if you were convicted of a crime you didn’t commit?
3. The psychologist quoted in the article said recalling memories is more like “putting puzzle pieces together than retrieving a video recording.” Think of a memory from your past. Write it down with as much detail as possible. Consult someone who would have knowledge of the same memory. Did you both remember it in the same way? What were the differences/similarities?

## Promises Made CONTINUED FROM PAGE SIX

### The dissent

Chief Justice John Roberts wrote in his **dissenting opinion** that the Court's decision would "wreak havoc and confusion on Oklahoma's criminal justice system." According to the Chief Justice, "the state's ability to prosecute serious crimes will be hobbled and decades of past convictions could well be thrown out."

In response, Professor Fletcher says, "It is true that the tribal and federal criminal cases have doubled or tripled. But the Chief Justice's belief that the decision will impact the state's ability to prosecute cases is just false."

Professor Fletcher says that the tribe and the state of Oklahoma have been cooperating on reservation law enforcement matters for decades, and the impact of the Court's decision should be minimal.

In the Court's opinion, Justice Gorsuch wrote, "We do not pretend to foretell the future and we proceed well aware of the potential for cost and conflict around jurisdictional boundaries, especially ones that have gone unappreciated for so long. But it is unclear why pessimism should rule the day. With the passage of time, Oklahoma and its Tribes have proven they can work successfully together as partners."

In fact, after the Court's decision was announced, Oklahoma's Attorney General released a joint statement with the Five Tribal Nations saying that they had "made substantial progress toward an agreement to present to Congress and the U.S. Department of Justice addressing and resolving any significant jurisdictional issues raised by [McGirt]."

Professor Fletcher admits that a few state prisoners will be let go, assuming they bring a suit against Oklahoma seeking release, but most of them "will be quickly charged by the federal government."

In the podcast, *This Land*, Professor Fletcher addressed this issue. "If you don't raise your jurisdictional claim early on in your criminal case, you lose it forever," Professor Fletcher stated in the podcast. "Even if it means that you spend 50 years in jail from a court that didn't have jurisdiction over you, you lose that right to make that claim."

After the Supreme Court's decision, Jimmy McGirt and Patrick Dwayne Murphy were both **indicted** in federal court for their crimes. Both are being held without bail. Professor Fletcher points out, "there is no parole from federal prisons, so neither man would likely ever see freedom in their lifetimes."

### The implications

While the landmark decision focused on the Creek nation, Professor Fletcher says it was expected that it would affect the other four tribes as well, since they are

"similarly situated." This means that a little over 40 percent of Oklahoma, nearly 19 million acres, is now officially considered Indian Country.

Nearly two million people live on that land and estimates are that only 10 to 15 percent of them are Native Americans. So, how will the Court's decision affect the non-Native Americans living in Eastern Oklahoma's Indian Country?

"Not much," Professor Fletcher says. "Tribes generally do not possess powers over non-Indians. The biggest impact is on criminal jurisdiction over Indian persons, which shifts from the state to the federal government and the tribes."

Concerns were also raised about what the decision would mean for education in the state. Shawn Hime, the executive director of the Oklahoma State School Boards Association, told *EdWeek*, "In Oklahoma, our tribes have great relationships with our local school districts. I don't anticipate anything changing with those relationships."

In the end, as Justice Gorsuch wrote in the opinion, the Court's decision boiled down to a promise that was made and should be kept.

"On the far end of the Trail of Tears was a promise," Justice Gorsuch wrote in the Court's decision. "Forced to leave their ancestral lands in Georgia and Alabama, the Creek Nation received assurances that their new lands in the West would be secure forever....Both parties settled on boundary lines for a new and 'permanent home to the whole Creek nation,' located in what is now Oklahoma. The government further promised that '[no] State or Territory [shall] ever have a right to pass laws for the government of such Indians, but they shall be allowed to govern themselves.'" •



1. How do you feel about the Court's decision in the case? Was it correctly decided in your opinion? Explain your answer.
2. Native Americans were forced to leave their homes on orders of the U.S. government. During World War II, the U.S. government forced Japanese Americans to leave their homes as well. Compare and contrast the experience of both ethnic groups. What are the similarities? What are the differences?
3. How would you feel if your government forced you and your family out of your home?
4. How do you feel about the way Native Americans have been treated in this country?

## Social Studies CONTINUED FROM PAGE FIVE

### Dealing with bias in social studies

According to educators and experts, school districts can employ several strategies to ensure an unbiased account of U.S. history. James Grossman, Executive Director of the American Historical Association, emphasizes that when school districts and teachers vet textbooks, they should reach out to local historians to vouch for the book's accuracy. Although there can be reasoned disagreement on interpreting history, books should not misstate facts, Grossman stresses.

"People will argue about interpretive differences," Grossman says. "But there is absolutely no excuse for textbooks to have incorrect facts, such as whether the Civil War was fought over slavery."

Leaning on historians, Grossman adds, would de-politicize history teaching. He also advocates for ongoing professional education for social studies teachers.

"The question is if you're teaching social studies," Grossman says, "how much of that professional development is actually working with professional historians to make sure you have the opportunity to keep up to date on historical scholarship."

Moving away from using a single text and bringing in other resources and viewpoints could

erase much of the bias, Dr. Harris contends. She recommends bringing in resources that diverge from the textbook to provide students with a more well-rounded and inclusive view of history.

"We seem to be stuck in K-12 with a single narrative or single resource for teaching," Dr. Harris says. "That's not to say we should move away from it completely, but it should not be the totality of a viewpoint. Students must have access to primary sources, to be able to hear other voices, to hear contrary views that will give them a broader sense of history."

Lawson says better vetting of textbooks is, of course, key to rooting out any biased content, and that needs to happen on the district level. But decision-makers must be made aware of the biases they may bring to the process.

"One side is policy and process, but the other part is the institution and the people in it," Lawson explains. "You have to work with people who are responsible for guiding policy decisions. They have their own blind spots they bring to it. So we have to work with the people as well, not just simply reform policy."

In many cases, students have brought the instances of biased or insensitive content to light. Lawson believes they should be empowered to ask questions when they feel something is not right.

"We want young people to be critical thinkers," Lawson says, "and part of thinking critically is when you hear something that raises a flag to investigate it and raise a question in the classroom." •



1. How do you feel about the example of curriculum violence given in the article? How do you think the Black students participating in the mock slave auction felt? How do you think the white students felt during the exercise?
2. In what ways do you think critically about the information you learn in school? Describe a time when you looked something up to verify a piece of information, done further reading on your own or questioned your teacher in class?
3. In the article, James Grossman says "leaning on historians would de-politicize history teaching." What do you think of that strategy?
4. What factors contribute to the politicization of teaching history? Explain your answer.

## Glossary

**appealed**—when a decision from a lower court is reviewed by a higher court. **convicted**—to be found guilty of a criminal offense either by the verdict of a jury or the decision of a judge. **defendant**—in a legal case, the person accused of civil wrongdoing or a criminal act. **dissenting opinion**—a statement written by a judge or justice that disagrees with the opinion reached by the majority of their colleagues. **indict**—to charge someone with a criminal act. **indigenous**—native to the land. **jurisdiction**—authority to interpret or apply the law. **jury charge**—legal rules or instructions given by a judge to a jury that jurors should follow when deciding a case. **majority opinion**—a statement written by a judge or justice that reflects the opinion reached by the majority of their colleagues. **overturned**—in the law, to void a prior legal precedent. **sovereign**—indisputable power or authority. **sovereignty**—supremacy of authority over a defined area or population.