

Cruel and Unusual Punishment



8th Amendment

What Does That
Mean??

8th Amendment:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

1) A person is sentenced to death for murder. On the first try, the electric chair shocks the prisoner but does not kill him. They put the prisoner back in his cell, fix the chair, and plan to try again later.



Was the malfunctioning
electric chair “cruel and
unusual punishment” under
the 8th Amendment?



NO!

The Court said the Constitution protects against a cruel method of execution. In this case, nobody intended to cause the prisoner unnecessary pain. Just because an accident happened the first time does not mean the method itself is cruel. (Many state courts have ruled that electrocution is unconstitutional, but the Supreme Court has not.)

Louisiana ex. rel. Francis v. Resweber (1947)

2) A prisoner is exposed to second-hand cigarette smoke while in prison.



Is second-hand smoke
“cruel and unusual
punishment” under the 8th
Amendment?



MAYBE *(But not in this case)*

The Court said prison officials may not ignore a condition that could lead to serious health problems. If a prisoner was locked in his cell with a heavy smoker against his will, that could violate the 8th amendment. In this case, the prisoner was no longer in a cell with a heavy smoker. Also, the prison had a policy to respect the wishes of non-smokers.

Helling v. McKinney (1993)

3) A person in prison hurts his back while working in prison. He is given medical treatment, but doctors do not perform an X-ray.



Was not doing an X-Ray “cruel
and unusual punishment”
under the 8th Amendment?



NO!

The Court said it is cruel and unusual punishment if a prison purposely ignores a prisoner's serious injury or illness, because that would inflict unnecessary suffering and pain. But in this case, the prisoner saw the doctor many times. He was treated for his back injury as well as other medical problems. So...

Estelle v. Gamble (1976)



NO!

The Court said it may have been bad medical judgment for the doctor not to perform an X-ray, but that is not cruel and unusual punishment.

Estelle v. Gamble (1976)

4) A prisoner is beaten by prison guards while he is handcuffed and shackled. The guards do not have a reason to use force on the prisoner. The prisoner suffers only minor injuries, including bruises, swelling, and loose teeth.



Was beating up the prisoner
“cruel and unusual
punishment” under the 8th
Amendment if the injuries
were not serious?



YES!

The Court said that prison guards may have to use force to keep order, but they are not allowed to hurt prisoners on purpose. If prison guards maliciously use force to cause harm, they violate the 8th Amendment. In that case, it doesn't matter whether the prisoner's injuries are serious.

Hudson v. McMillian (1992)

5) A man is convicted of abduction, armed robbery, and murder. At the sentencing hearing, an expert testifies the defendant is mildly mentally retarded. The jury sentences the man to death.



Is it “cruel and unusual punishment” under the 8th Amendment to execute a mentally retarded person?



YES!

The Court said research shows that mentally retarded defendants often have issues that may affect their decision-making. Therefore, the usual reasons for giving the death penalty don't apply as easily to the mentally retarded. Also, the issues they deal with also put them more at risk of being wrongfully sentenced to death. Therefore...

Atkins v. Virginia (2002)



YES!

The Court said that under our modern standards of decency, it violates the 8th Amendment to execute a mentally retarded person.

Atkins v. Virginia (2002)

6) A judge sentences a person to death for committing murder. A state law does not allow the judge to consider any special or individual circumstances when deciding whether to give the prisoner the death penalty.



Was it “cruel and unusual punishment” under the 8th Amendment for the state law to allow the death penalty but prohibit looking at special circumstances?

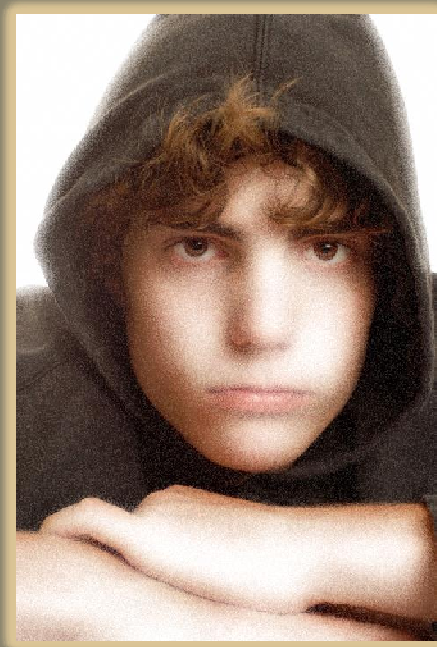


YES!

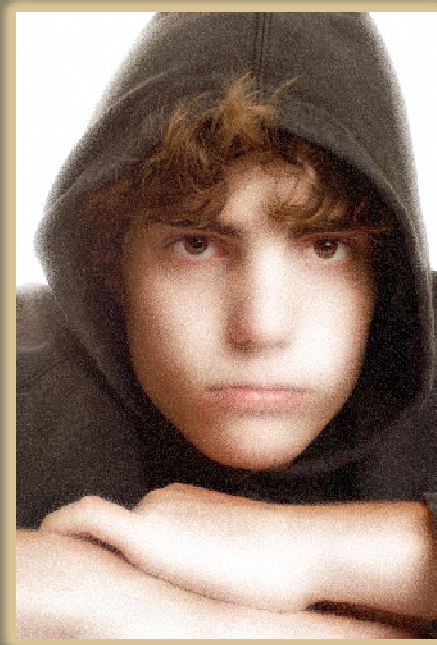
The Court said that before sentencing someone to death for a crime, it is important to make sure that death is the appropriate punishment. There cannot be a law that stops the judge from considering special circumstances that affect whether the death penalty is appropriate for the crime.

Bell v. Ohio (1978)

7) A boy commits murder when he is 17 years old. At age 18, he is tried and sentenced to death.



Was it “cruel and unusual punishment” under the 8th Amendment to give the death penalty to someone under 18?



YES!

The Court said juveniles under age 18 are different from adults. They are less mature and more reckless than adults. They respond more to peer pressure, and their character is not yet fully formed. Therefore...

Roper v. Simmons (2005)

YES!

Juveniles are not among the “worst offenders” that the death penalty is meant for. The Court said it violates the 8th Amendment to give the death penalty to a person under 18.

Roper v. Simmons (2005)

8) A state law allows public school teachers to discipline students with corporal punishment. A middle school teacher hits several students with a wooden paddle. One student can't use his arm for a week.



Was paddling the public
school student “cruel and
unusual” under the
8th Amendment?



NO!

The Court said children in public schools are not like prisoners in prison. Public schools are open to the public. Friends and teachers see what is going on, and kids go home each day to their families. If a school goes too far in punishing a student, it could be sued or the teacher could face criminal charges. Therefore...

Ingraham v. Wright (1977)

NO!

The Court said public school students don't need 8th Amendment protection like prisoners do. They are protected in ways prisoners are not. 8th Amendment protection from cruel and unusual punishment is limited to punishment for crimes.

Ingraham v. Wright (1977)

MINI-QUIZ



8th Amendment

True or False?

True or False?

1) The Court doesn't believe any punishment is "cruel and unusual" if someone is a criminal.

☐ True
☒ False

The whole point of the 8th Amendment is to protect criminals from excessive punishment.

True or False?

2) Whether a punishment is ruled “cruel and unusual” under the Constitution often depends on the details of the situation.

☒ True
☐ False

Different situations call for a different analysis of what is cruel and unusual.

True or False?

3) What the Court says is “cruel and unusual” under the Constitution might be different from your personal idea of cruel.

☒ True
☐ False

Not only that, but the Court has said the definition of “cruel and unusual” will change as society evolves.

True or False?

4) It's easy to figure out whether a situation qualifies as "cruel and unusual" punishment.

☐ True
☒ False

The Court must look at all the details and consider how it has decided cases in the past.

True or False?

5) The 8th Amendment only applies where someone has committed a crime, not in other situations.

☒ True
☐ False

So far, this is what the Court has said. But the Court could decide to interpret the Constitution differently in the future.

True or False?

6) The Court has a list of “cruel and unusual” punishments that it uses to decide the cases.

☐ True
☒ False

Each situation is different.

True or False?

7) The Court sometimes considers whether officials intended to cause pain and suffering.

☒ True
☐ False

The Court cares whether prison officials were trying to hurt people or just trying to do their jobs.

True or False?

8) The death penalty is considered cruel and unusual as applied to some groups of people but not others.

☒ True
☐ False

For example, juveniles and the mentally retarded may not be executed.

COMPELLED TO BE A WITNESS AGAINST HIMSELF



5th Amendment

*What Does That
Mean??*

5th Amendment:

No person ... shall be compelled in any criminal case to be a witness against himself...

1) A prisoner is being threatened by other prisoners because of a rumor that he killed a child. He is befriended by a prisoner who is a paid informant for the FBI. The informant offers to protect the prisoner if the prisoner tells him whether the rumor is true. The prisoner admits to the murder.



Did the “friend’s” offer of protection compel the suspect to be a witness against himself under the 5th Amendment?



YES!

The only reason the prisoner confessed was because he was afraid that, without protection from his friend, other prisoners would hurt him. The Court said a threat of physical violence is enough to cause a statement to be compelled. There does not have to be actual physical violence.

Arizona v. Fulminante (1991)

2) Three police officers drive a robbery suspect to the police station. The officers have not yet found the gun used in the robbery. On the way to the station, one officer mentions to another officer that there is a school for handicapped children nearby. He says it would be terrible if one of the school children finds the gun and hurts themselves. Hearing this, the suspect tells the officers where the gun is.



Did mentioning the danger to
handicapped children compel
the suspect to be a witness
against himself under the 5th
Amendment?



NO!

The Court said the suspect was not compelled to confess. First, the officers were talking to each other, not to the suspect. More importantly, although the officers may have hoped the suspect would react to what they were saying, they had no reason to believe the suspect would care whether children got hurt.

Rhode Island v. Innis (1980)

3) A drug addict is arrested for robbery and murder. After being in police custody for several hours, he begins to have severe withdrawal symptoms. The police call a doctor, who gives the suspect medication. Nobody realizes that one of the medications has the effect of a "truth serum." The police continue to question the suspect. Within a short time, the suspect confesses.



Did the medicine compel the suspect to be a witness against himself under the 5th Amendment even though the police didn't know it was a "truth serum?"



YES (but...)

In this case, the Court said it didn't matter whether the police realized the medication had the effect of a truth serum. If the suspect could not exercise his free will, then his statements were compelled. However...

Townsend v. Sain (1963)

YES (but...)

In a later case, the Court said a confession is only compelled if there is some kind of police wrongdoing. Even so, the later case did not overrule this one. The Court said the officers “knew the suspect had been given drugs,” which was enough.

Colorado v. Connelly (1986)

4) Investigators trying to solve a murder want to know whether a certain shirt belongs to the suspect. They make the suspect try the shirt on despite his objection, and the shirt fits him. This evidence is used in a trial to help convict him.



Did making him try on the shirt compel the suspect to be a witness against himself under the 5th Amendment?



NO!

The Court said being a witness against yourself only applies to communication. When he was forced to put on the shirt, he was not forced to communicate anything. If the 5th Amendment could stop this, then it could also stop the jury from looking at the suspect and comparing him to a photograph of someone.

Holt v. U.S. (1910)

5) Detectives take a suspect into an interrogation room and ask her questions. The detectives do not tell her what her rights are before they ask her questions. She confesses to a crime.



Does interrogating someone without telling them their rights compel them to be a witness against themselves under the 5th Amendment?



SORT OF!

The Court said that when a person is interrogated by police, there is a great danger that the person will be compelled to speak. A person is put into an unfamiliar place away from other people. During an interrogation, police often behave in an intimidating way because they are trying to get information. Because of this...

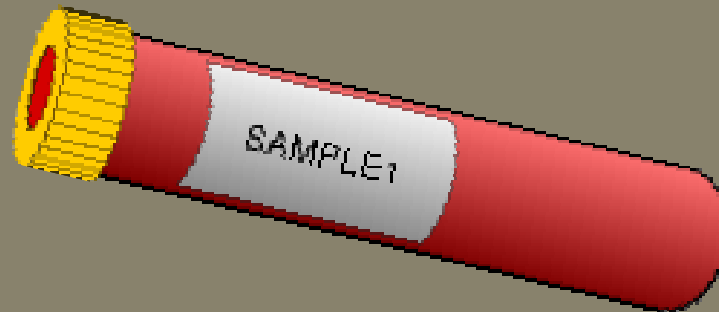
Miranda v. Arizona (1966)

SORT OF!

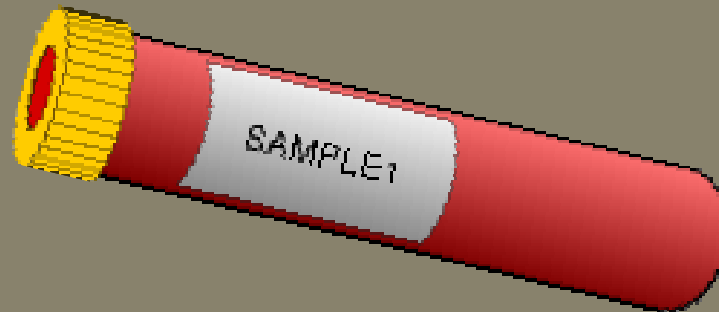
The Court said people's right against self-incrimination must be safeguarded. In order to guard against people being compelled to speak against themselves, police must tell them what their rights are before questioning begins. If they don't, they can't use the person's statements as evidence.

Miranda v. Arizona (1966)

6) A man is arrested at a hospital after a car accident. The officer believes the man has been drinking and driving. He orders a doctor to take a blood sample even though the man protests. The sample shows alcohol in the man's blood.



Did forcing the suspect to
give a blood sample compel
him to be a witness against
himself under the 5th
Amendment?



NO!

When the officer told the doctor to take the blood sample even after the suspect protested, the suspect was compelled to give blood. However, the Court said being a “witness” against yourself only applies to communication. The suspect was compelled to give physical evidence. He was not compelled to communicate anything.

Schmerber v. California (1966)

7) After a drug raid, a suspect ended up in the intensive care unit. The barely conscious suspect was hooked up to all sorts of tubes and equipment. Detectives go to his bedside and interrogate him. Even though the suspect keeps asking them to stop, the detectives continue to ask questions. His statements are used at trial to convict him.



Did questioning the suspect
in the hospital compel him to
be a witness against himself
under the 5th Amendment?



YES!

The suspect was at the detective's mercy. He could not move because of all the equipment he was hooked up to, and he was in a lot of pain. He also said he was confused and could not think clearly. The detective ignored all the suspect's requests to stop the interrogation. The Court said that under these circumstances, the suspect could not exercise his free will.

Mincey v. Arizona (1978)

MINI-QUIZ



5th Amendment

True or False?

True or False?

1) "Compelled" means "forced."

☒ True
☐ False

The 5th Amendment prohibits forcing suspects to communicate evidence against themselves.

True or False?

2) With the 5th Amendment, the Court is worried about police wrongdoing that forces a confession.

☒ True
☐ False

The Court has talked about the intimidating environment and tactics used during police interrogation.

True or False?

3) It's easy to figure out whether someone was compelled.

☐ True
☒ False

The Court must look at the details of each situation.

True or False?

4) Being a “witness” against yourself only applies to communicating information.

☒ True
☐ False

The Court has said trying on a shirt, for example, is not communication.

True or False?

5) Suspects are completely protected because police can't make them be a witness against themselves.

☐ True

☒ False

There are some things police can make suspects do that aren't considered communication.

True or False?

6) The Court doesn't care how police get a confession as long as the criminal is caught.

☐ True

☒ False

That's the whole point of the 5th Amendment!

True or False?

7) The main consequence of violating the 5th Amendment is not being able to use the evidence against the suspect.

☒ True
☐ False

Evidence obtained by compelling someone to be a witness against themselves can't be used to convict the person of the crime.

True or False?

8) People suspected of a crime have the right to remain silent.

☒ True
☐ False

The Court has put protections in place to safeguard this right. Police must read suspects their rights.