

LESSON OVERVIEW



INTERPRETING THE CONSTITUTION: WHAT DOES THAT MEAN?

GOAL	Students learn there is no concrete definition for the rights in the Bill of Rights—specifically, the 8th and 5th amendments. They learn that the language in the Bill of Rights is subject to interpretation, and that the Supreme Court is the one that does the interpreting.
TIME	One to two class periods
NUTSHELL	Using a series of yes/no checklists, you'll let students decide how they think a series of Supreme Court cases should be decided. (Warning: The cases in this lesson may generate debate!) Create suspense by polling the class, then revealing the real answers one by one using our Power Point presentation (complete with drum roll and cymbal crash). If you don't want to use Power Point, distribute our handy answer cards and let students reveal the answers themselves. This lesson is best used for a participation grade. Collect the checklists as evidence of participation. If you only have one class period, you may only be able to get through one amendment.
CONCEPTS	Bill of Rights; constitutional interpretation; role of Supreme Court
OBJECTIVES	<ul style="list-style-type: none">• The student will assess the meaning of a vague rule by choosing possible items that would be covered by the rule.• The student will evaluate the meaning of the 5th and 8th Amendments by deciding how a series of cases should come out.• The student will learn the role of the Supreme Court in interpreting the Bill of Rights by comparing the student's decisions in a series of cases to the Supreme Court's decisions in those cases.

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Time: One to two class periods



DISTRIBUTE	one "What Does That Mean?" packet to each student.	<p style="text-align: center;"><u>Easy Prep</u></p> <p><u>Copy:</u></p> <ul style="list-style-type: none"> • "What Does That Mean?" packet, including all three worksheets. (class set) (2-sided is OK) • Answer Cards (optional) (front to back so you have 1 page of each type of card) <p><u>Preview:</u></p> <ul style="list-style-type: none"> • Power Point presentation for revealing answers (optional). <p><u>Cut:</u></p> <ul style="list-style-type: none"> • Answer Cards apart so you have 1 set of each (optional) <p><u>Print:</u></p> <ul style="list-style-type: none"> • PagePlan for yourself
INTRODUCE	the "What Does That Mean?" introductory activity and have students complete the worksheet by circling all the "supplies" they personally think would be covered by the rule. You may choose to have students complete this with a partner.	
POLL	students to get an idea what items they chose. Emphasize the differences among students' choices.	
TURN	to the "Hey—That's Cruel and Unusual" checklist. Tell students they will be looking at eight real-life Supreme Court cases. Read the directions with the class, then let students answer. You may choose to have students work in pairs or to discuss each case as a class.	
POLL	students on each case. Write a tally on the board to keep track of how many students chose "yes" and "no" for each case.	
REVEAL	the answers! <u>Power Point Option:</u> Use our ready-made Power Point presentation to reveal each answer. Turn up the volume so students can hear the drum roll and cymbal crash with each question and answer. <u>Answer Card Option:</u> While students are working, cut out and distribute the answer cards to 8 students. Reveal the answers by having students read what is on their cards.	
REPEAT	the activity for the "I Take the Fifth" scenario checklist. The cases are a bit longer with this one and the ideas are a bit more complex. You may choose to do only one of these during the class period.	
COMPARE	the poll to the actual answers. Were there any cases where the class came up with a different answer than the Supreme Court? Are there any cases where students disagree with the Court after knowing how the case came out?	
RETURN	to the introductory activity and tell students that "necessary and useful" now means "items a student cannot do his or her assignments without." Have students cross out all circled items they think no longer meet the definition	
CLOZE	by discussing their choices and whether the new rule made it easier. Explain that the courts help make rules easier to follow by clarifying what they mean in individual cases.	

What Does That Mean?

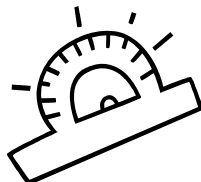
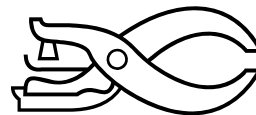
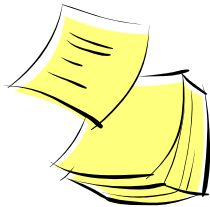
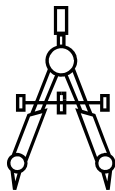
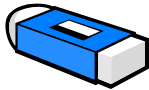
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Defining Your Rights

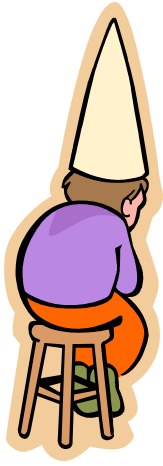


They do? Great! But hang on... What does that mean? Pencils? Paper? Crayons? How can you tell which school supplies are "necessary" and "useful?"

Look at the pictures below. Circle everything *you* think is a "necessary and useful" school supply.



Hey—That’s Cruel and Unusual! (Or is it...)



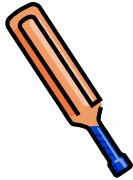
The 8th Amendment prevents the government from giving people “cruel and unusual punishments.” But what does that mean? How do you know when a punishment is “cruel” and “unusual”? Read each of the following *real-life cases*. Circle YES if you think it describes a cruel and unusual punishment. Circle NO if you think it does not.

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.



YES NO

A state law allows 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.



YES NO

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



YES NO

A boy commits murder and is tried as an adult. During the trial, his lawyers prove the boy had a very troubled childhood and also had mental and emotional problems. The judge refuses to consider any evidence of the boy’s troubled childhood or his mental problems and sentences the boy to death.

YES NO



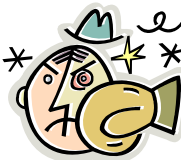
A judge sentences a person to death for committing murder. A state law does not allow the judge to consider any special or individual circumstances when deciding whether to give the prisoner the death penalty.

YES NO

A boy commits murder when he is 17 years old. He is tried as an adult and given the death penalty.

YES NO

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.



YES NO

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



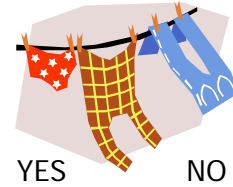
YES NO

I Take the Fifth!



The 5th Amendment says the government cannot “compel” (force) a person “to be a witness against himself.” But what does that mean? How do you know when someone is being “compelled”? When are you being a “witness” against yourself? Read each of the following *real-life cases*. Circle YES if you think the person has been compelled to be a witness against himself. Circle NO if you think he has not.

After an armed robbery, detectives search a suspect’s house. They find clothing that matches a description of what the suspect was wearing at the time of the robbery. They take the clothing and use it as evidence against him in a trial.



YES NO

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.



YES NO

A prisoner is being threatened by other prisoners because of a rumor that he killed a child. He is befriended by another 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.

YES NO

Investigators trying to solve a murder want to find out 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 the suspect.



YES NO

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 after he takes the medication. Within a short time, the suspect confesses.



YES NO

A man is arrested at hospital while being treated for injuries from a car accident. The police officer believes the man has been drinking and driving, and asks a doctor to take a blood sample from the man. The man protests, but the officer orders the doctor to draw the man’s blood anyway. The sample shows alcohol in the man’s blood.

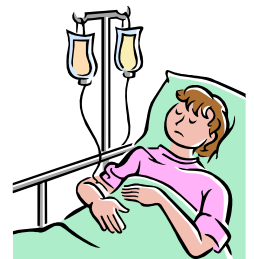
YES NO



Detectives take a suspect into an interrogation room and ask her questions. Even though the suspect has the right to remain silent, the detectives do not tell her what her rights are before they ask her questions. She confesses to a crime.

YES NO

After a drug raid where an undercover officer was killed, a suspect involved in the raid was in the hospital in the intensive care unit. The suspect is barely conscious and is 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. The suspect’s statements are used at a trial to convict him.



YES NO

The Constitution protects against a cruel *method* of execution. Just because an accident happened the first time does not make the method cruel. Nobody intended to cause the prisoner to suffer unnecessary pain.

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. In this case, the prisoner saw the doctor many times. He was treated for his back injury as well as other medical problems. It may have been bad medical judgment for the doctor not to perform an X-ray, but that is not cruel and unusual.

The 8th Amendment protection from cruel and unusual punishment is limited to criminal punishment. Unlike prisons, schools are open to the public. Unlike prisoners, students have friends and teachers who see what is going on, and they 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. There is no need for 8th Amendment protection in schools.

Before sentencing someone to death for a crime, it is important to make sure that death is an 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 that was committed.

Before sentencing someone to death for a crime, it is important to make sure that death is an appropriate punishment. A judge cannot refuse to consider special circumstances that would affect whether the death penalty is an appropriate punishment for the crime.

A person under the age of 18 deserves less punishment than an adult. Younger teenagers are less experienced, less disciplined, and more vulnerable than adults. They respond more to peer pressure, and they have more potential to grow and change. It is cruel and unusual punishment to give the death penalty to a person under 18.

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. It doesn’t matter whether the prisoner’s injuries are serious or not.

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.

Was not doing an X-ray cruel and unusual?

Was the malfunctioning electric chair cruel and unusual?

Was it cruel and unusual for state law to allow the death penalty but prohibit looking at special circumstances?

Was the wooden paddle cruel and unusual?

Was it cruel and unusual to give the death penalty to someone under 18?

Was it cruel and unusual to give the death penalty without looking at the boy's troubled past?

Is second-hand smoke cruel and unusual?

Was beating up the prisoner cruel and unusual if the injuries were not serious?

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

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.

The suspect was at the complete mercy of the detective. 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. Under these circumstances, the suspect was not able to exercise his free will.

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. In order to guard against people being compelled to speak against themselves, police must tell them what their rights are before questioning begins.

The clothing was not "testimonial." It did not communicate anything. Therefore, the clothes did not compel the suspect to be a "witness" against himself.

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

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.

If the medication had the effect of a "truth serum," then the suspect could not exercise his free will. It doesn't matter whether the police realized the medication had that effect on the suspect. If the suspect could not exercise his free will, then his statements were compelled.

Did mentioning the danger to handicapped children compel the suspect to be a witness against himself?

Did the "friend's" offer of protection compel the suspect to be a witness against himself?

Did interrogating someone without telling them their rights compel that person to be a witness against herself?

Did questioning the guy in the hospital compel him to be a witness against himself?

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

Did using the suspect's clothing force him to be a witness against himself?

Did the medication compel the suspect to be a witness against himself even though the police didn't know it was a truth serum?

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