

ANSWER KEY

that sentencing someone to death for intentionally causing the death of another is neither cruel nor unusual.

2. Answers will vary, but students may suggest: the process, if not followed exactly, can lead to prolonged suffering and death; the actual execution, while set up by medical personnel, is conducted by the warden, who is not himself trained in medicine and the administration of drugs. Some may also suggest that sentencing someone to death is always cruel and unusual, no matter how it is carried out.
3. Answers will vary as to each group's ruling; accept all reasoned answers. The U.S. Supreme Court, in *Baze and Bowling v. Rees* (2008), ruled that Kentucky's lethal injection process and procedures similar to it in other states, did not amount to cruel and unusual punishment. The Court noted a lack of evidence supporting the claim that even an incorrect administration of drugs would lead to unconstitutional pain and/or suffering. The Court did suggest, however, that a state may violate the Eighth Amendment if it continued to use method(s) that have been shown to produce needless pain or suffering and/or an unnecessarily prolonged process of death.
4. Answers will vary, but students may state the following factual changes might have made their ruling different: if it can be shown that the lethal injection process does indeed cause pain and suffering, and/or needlessly prolongs the execution if not carried out in an exact medical manner; if there have been a number of "botched" lethal injection procedures, as has been the case for the electric chair throughout history; if there is no doctor/medical personnel willing to oversee the execution.

LESSON 2: WHAT IS A REASONABLE EXPECTATION OF PRIVACY?

Handout A: Background Essay - How Have the Protections of the Fourth Amendment Been Interpreted, Applied, and Enforced?

1. The Fourth Amendment's warrant requirement provides for one of the most important individual protections: freedom from unreasonable searches and seizures.
2. The Exclusionary Rule means that government is not allowed to use evidence against a suspect at trial that was gained as a result of an illegal search.
3. Accept reasoned answers. The Court has held that school officials need only "reasonable suspicion" to search students. The Court has upheld policies of drug-testing public school students who play sports or participate in extracurricular activities because the tests "reasonably serve the School District's important interest in preventing drug use among students."
4. Due process ensures that our government establishes justice and secures the blessings of liberty for future generations.
5. Accept reasoned answers. Some students may say that the numerous and varied exceptions the Supreme Court has carved out - or that citizens allow by passively accepting them - violate the letter and spirit of the Fourth Amendment, and that the promise of greater security is not worth the threat to liberty. Others may say that the exceptions, while numerous, strike a good balance between the requirements of the Fourth Amendment and the need for effective law enforcement to maintain a safe and orderly society. Still others may say that

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the variety of exceptions are appropriate in a large, diverse society, and that the need to identify criminals or terrorists before they do harm is sometimes more important than individual liberty and freedom from searches, even if they are unreasonable.

Handout B: Attitude Inventory

Answers will vary.

Handout C: Interpreting the Fourth Amendment

Students may suggest:

1. "Persons": one's body, clothing, blood/ bodily fluid, etc.
2. "Houses": one's home; apartment, residence, mobile home, dwelling place, etc.
3. "Papers": personal documents (whether paper or electronic) such as contracts, letters, receipts, financial statements, bills, notes, diaries, books, hard drives, emails, etc.
4. "Effects": one's property contained in one's home, one's belongings outside the home, all other property, etc.
5. "Unreasonable": having no just or reasoned cause, not fair or acceptable, irrational, etc.
6. Characteristics of "seizure": something is taken from you, something is closely examined with or without your presence, you are not free to leave or walk away, you are not able to take your property back from whomever has seized it, etc.
7. Facts that might convince someone of a crime: actually witnessing a crime; seeing/ smelling evidence of a crime; receiving information/evidence about a crime from someone else; etc.

Handout D: Should You Expect Privacy?

1. Yes, schools retain ownership of the locker and can search it. Police officers do need a warrant to search a specific locker.
2. Accept reasoned answers. This type of information can go into privately-owned databases. While these databases are not owned or maintained by government, telecommunication companies who have been asked by government to provide the information have at times handed it over. Courts have upheld a U.S. law granting telecoms immunity from lawsuits by citizens whose information was given over to government without a warrant.
3. Accept reasoned answers. In *U.S. v. Warshak* (2010), the Sixth Circuit Court of Appeals ruled that there is a "reasonable expectation of privacy" in emails both sent by an individual and stored on third party servers (e.g. Google's Gmail servers). The issue has not been addressed by the U.S. Supreme Court.
4. Yes, regardless of steps one may feel one has taken (such as limiting the visibility of activities to "friends").
5. Accept reasoned answers. In *U.S. v. Jones* (2012), the Court ruled that one's daily travel on public thoroughfares possesses a "reasonable expectation of privacy." (In this case, police put a GPS unit on Jones' car to trace his movements – without a warrant – for 28 days.)
6. Accept reasoned answers. While the issue has yet to be addressed by the Supreme Court, some lower courts have ruled that a cell phone is the equivalent of a "closed, non-see-through container," and therefore its physical contents are private, absent additional probable cause to conduct a search of it. Other lower courts have disagreed.
7. No, police need a warrant to tap land-line phones.

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8. Yes. In *California v. Greenwood* (1988), the Court ruled that a trash bag at the curb is “readily accessible to animals, children, scavengers, snoops, and other members of the public,” so there was no expectation of privacy.

9. Yes. In *California v. Ciraolo* (1986), the Court held that a police fly-over was “nonintrusive” and “took place within public navigable airspace,” therefore there was no reasonable expectation of privacy.

LESSON 1: HOW DOES THE CONSTITUTION PROTECT LIBERTY?

Handout A: Background Essay - How Does the Constitution Protect Liberty?

1. The First Amendment guarantees that you can associate with whomever you like. The Third and Fourth Amendments promise that the government cannot intrude into your home arbitrarily and without legal cause. The Fifth Amendment assures that you can keep silent if accused of a crime. The Founders believed that these rights should be protected so they decided to list them in the Bill of Rights.
2. Due process rights protect personal liberty in that they check government power, and it entitles all citizens to fair treatment by the government. Due process rights that are protected include: the right to a speedy, public trial by a jury; no person shall be tried for the same crime twice; no person should be forced to testify against himself; no person shall be deprived of life, liberty, or property; and all persons should be equally protected under the law.
3. Answers will vary. Accept reasoned responses.

Handout B: *Pierce v. Society of Sisters* (1925)

1. The Act required that all students attend public school through eighth grade. Private and parochial schools were concerned that they would lose students, their jobs, and their businesses because of this law. They also believed that it was a parent’s right to choose where the student went to school.
2. The First Amendment could have been discussed in this case, too. It could have been argued that the state of Oregon was infringing upon the freedom of religion.

Handout C: *Pierce v. Society of Sisters* (1925) Unanimous Opinion

Answers will vary. Accept reasoned answers

Handout D: Newspaper Story Guideline

Answers will vary. Accept reasoned answers.

LESSON 2: WHAT IS THE SCOPE OF THE BILL OF RIGHTS?

Handout A: Background Essay – What Is the Scope of the Bill of Rights?

1. The Ninth Amendment ensures that the rights actually listed in the Bill of