

What Constitutes “Cruel and Unusual” Punishment?

Most people have a personal sense of what they would consider to be cruel and unusual punishment. The phrase, first used in the English Bill of Rights in 1689, became part of the United States Constitution in 1791 with the ratification of the Bill of Rights. The Eighth Amendment states “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.” We’ll leave issues of bail and fines for later, and focus on how the Supreme Court has made determinations about what constitutes “cruel and unusual punishments.”

Over time, several means of legal evaluation of what constitutes cruel and unusual punishment have evolved. In *Furman v. Georgia* in 1972, Justice William Brennan established four criteria for determining if a punishment is cruel and unusual: is the punishment degrading to human dignity, is it inflicted in an arbitrary fashion, does it “offend society’s sense of justice,” does it fail to be more effective than a less severe penalty.

Much of the Bureau of Prisons’ concerns are with keeping inmates under control, and keeping the prison environment safe. It is interesting, then, to ask what role punishment plays if an inmate is already physically restrained, and of no threat to himself or anyone else. If an inmate is fully restrained, is it even possible to conceive of a “more effective” punishment, or is anything further inherently cruel? At what point does inflicting pain become torture?

LPP Mission Statement

LPP is dedicated to the principle that prisoners are persons with indisputable rights to justice. We strive to provide safeguards for their constitutional human rights. We are, then, concerned with conditions of confinement. We counsel, assist, and visit prisoners when they encounter problems they perceive as illegal or unfair. On appropriate occasions we litigate. We are also dedicated to educating both prisoners and the general public on prisoner rights and conditions in federal, state, and county prisons.

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All information in this pamphlet is from first hand reports from inmates, witness accounts, and legal and governmental documents in the public domain.

Cruel and Unusual?

**Double Celling,
Hard Restraints,
and Four-Pointing at
Lewisburg SMU**

Hard Restraints

Hard restraints are a form of punishment used to force people to accept hostile or potentially life-threatening cell mates. When an inmate refuses to “cuff up” to accept a proposed cell mate, they may be put in hard restraints until they agree to the proposed cell mate.

This process consists of a “sort team,” five well-padded officers in helmets each responsible for a single body part of the inmate, arriving at the cell. The prisoner is cuffed and moved, usually walking backwards and bent over with an officer pressing on his head, to another location. The prisoner is then stripped, put in paper clothes, and put in hard restraints.

A Martin chain is placed around his chest. This chain is designed to be put around the waist, and is sometimes called a belly chain. In countless reports from Lewisburg, however, the use of this chain has been modified, ostensibly to inflict greater pain, to what is referred to as a T-rex formation. The chain is placed high, and often extremely tight, around the inmate’s torso, in many reported instances tight enough to make breathing difficult. The inmate’s hands are then cuffed to this chain, in front of the body. The cuffs are often placed so tightly that they cause open wounds and scarring, sometimes still visible months or years later, at the wrists. The prisoner is also shackled at the ankles, sometimes also equally tightly. In addition to scarring, permanent nerve damage has been reported.

These restraints make it difficult and sometimes impossible for the inmate to perform basic functions. He often cannot operate the available push-button sink, and cases have been reported in which inmates have drunk out of the toilet in

order to get water. It is difficult to eat, it is difficult to use the toilet. Instances of inmates soiling themselves are common. Though, according to policy, inmates are checked on hourly and afforded medical attention, in practice, medical staff often won’t intervene if the corrections officer present doesn’t give an ok.

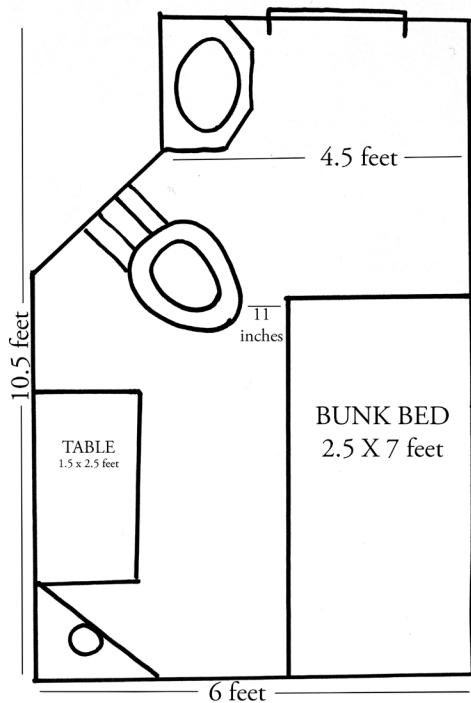
People are often held in these conditions until they accept hostile cell mates. Even if the prisoner relents after an hour or two in hard restraints, it is common practice to keep them like this for 8 to 24 hours.

Four-Pointing

If the prisoner remains unwilling to accept a hostile or dangerous cell mate, the next level of coercion is called four-pointing. Already in paper clothes from his experience in hard restraints, an inmate is placed on a hard surface. The inmate’s limbs are then attached by metal shackles to the four points of the bed frame or the wall. The inmate’s limbs are stretched out, and his ability to move is completely restricted.

A prisoner is never returned from four-pointing to his cell, but spends time in hard restraints both before and after four-pointing.

It has often been reported that officers do what they can to make the experience more painful, such as opening cell windows in winter or overtightening metal restraints. It’s also been said that when T-rexing was being tested, no staff member lasted more than an hour under the circumstances, they were so painful. Prisoners are regularly left for 8 to 24 hours, and in some cases, days on end, in these painful conditions.



Double Ceiling

Though originally designed as solitary cells, the tiny 6 by 10 foot cells at Lewisburg now house 2 people for 23 or 24 hours a day. Inmates are moved regularly every 21 days, and cellmates are changed at the prison’s discretion. When inmates arrive at Lewisburg, their intake interview includes a potential threat assessment for cellmates-- for instance, if there are past attacks, gang conflicts, or mental health issues that need to be kept in mind to reduce the possibilities of inmate on inmate violence. Some men get reputations as particularly bad cell mates, because they are physically violent, emotionally unstable, or have personal issues that are dangerous to the health of others.

One of the main complaints the Lewisburg Prison Project receives involves what happens if an inmate refuses a proposed cell mate in an attempt to preserve his own life or safety.