

The Whipping Post

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Content Area: U.S. History

Grade Level Options: 11

Summary of Lesson

In this lesson students will examine the State of Delaware's official use of the whipping post as a form of punishment until the mid-20th century. Students will analyze the use of the whipping post through correspondence between a Delaware Governor and a resident of Smyrna. Students will determine if the interpretation of "cruel and unusual punishment" in the Constitution has changed over time.

Resources Needed:

- Internet Access
- [Document A: Whipping Post Photographs \(Image Gallery\)](#)
- [Document B: Liehr Letter to Governor Terry](#)
- [Document C: Governor Terry Reply Letter to Liehr](#)
- [Document D: How many lashes for each offense? \(Code of 1915\) Worksheet](#)

Desired Results

What students will know, do, and understand

Delaware Content Standards:

- **History One 9-12a:** Students will analyze historical materials to trace the development of an idea or trend across space or over a prolonged period of time in order to explain patterns of historical continuity and change. Essential for Grade 11
- **Civics 9-12b:** Students will understand that the functioning of the government is a dynamic process which combines the formal balances of power incorporated in the Constitution with traditions, precedents, and interpretations which have evolved over the past 200 years. Essential for Grades 9 and 11

Lesson Essential Question: How has the legal interpretation of the Eighth Amendment and “cruel and unusual punishment” changed over time in Delaware and the United States?

Instructional Strategies

- **Strategy One: Gathering Information**

Have Students watch this Youtube Video: The Whipping Post and Pillory in Delaware

<https://www.youtube.com/watch?v=yB6A6FaPLIM>

After viewing the video, instruct the students to recall what stood out to them in watching the video. Students will complete video primary source analysis tool using the primary source documents and photographs found in the video to complete the graphic organizer.

Use this primary source analysis tool for the Graphic Organizer :

https://www.archives.gov/files/education/lessons/worksheets/motion_picture_analysis_worksheet.pdf

There are numerous photographs related to the whipping post at the Delaware Public Archives. Several of which were used in the film above. These images, located in the resources section on first page of the lesson, can be used at this point of the lesson in conjunction with the video.

- **Strategy Two: Gathering Information**

Have students look up the Eighth Amendment. Have them put into their own words what is cruel and unusual punishment. Record in a Google Doc that is open to the entire class.

Setting Criteria:

- Distribute the included list of offenses from the [Revised Code of 1915](#). Ask students to highlight the worst crimes and fill in the number of lashes they believe each crime should warrant.
- Ask students to consider:
 - Is corporal punishment ever appropriate for any of these offenses. Why or why not?
 - Why do you believe Delaware's State Legislature would pass laws that required certain numbers of lashes for different offenses?
- **Strategy Three: Extending and Refining Document Analysis**
 - Ask students to analyze the two letters by completing the Document Analysis Chart (below).
 - Why did Mrs. Liehr condemn the use of the whipping post?
 - Why did the Governor want to continue its use?
- **Strategy Four: Application**
 - Ask students to review the Eighth Amendment of the Constitution.

- Ask students to consider what “cruel and unusual punishment” means.
- What punishments do they believe would actually be cruel and unusual punishment?

Ask students to read the following documents concerning the use of corporal punishment:

- Ingraham vs. Wright (1977) Supreme Court Case on corporal punishment in schools:

<http://supreme.justia.com/us/430/651/>

<https://www.oyez.org/cases/1976/75-6527>

- Current articles on corporal punishment, such as “Corporal Punishment in U.S. Schools” In Time Magazine, August 12, 2009:

<http://www.time.com/time/nation/article/0,8599,1915820,00.html>

Have Students complete a case brief for Ingraham v. Wright. After briefing case, have students screencastify or google slides a summary of the findings of the Supreme Court. They should include a position on the issue of corporal punishment in schools. Did the Supreme Court decision protect students from corporal punishment? They should include information from the Time magazine article as well.

Assessment Evidence

Evidence that will be collected to determine whether or not the desired results are achieved

Closure/Assessment:

- To what extent has the interpretation of “cruel and unusual punishment” in the Constitution changed over time? Use specific historical evidence to support your answer.