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Overview of the Law: Excessive Force (updated May 2025)

The Eighth Amendment prohibits “cruel and unusual punishments.” Excessive force by prison officials is cruel and unusual. Guards do *not* have the right to beat you without a legitimate safety or disciplinary reason. This protection extends to all prison staff, including medical staff.

Prison staff violate the Eighth Amendment when they cause “unnecessary and wanton infliction of pain.” *Rhodes v. Chapman*, 452 U.S. 337, 346 (1981). Wanton means intentional and unprovoked.

When Does a Guard’s Use of Force Violate the Constitution?

The key question is “**whether force was applied in a good faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm.**” *Hudson v. McMillan*, 503 U.S. 1 (1992). “Maliciously and sadistically to cause harm” means that the guard had no good reason to use force. Instead, they were just trying to hurt someone.

For example, in *Hudson v. McMillan*, prison guards violated the Eighth Amendment. The guards punched and kicked a prisoner when there was no need to do so. This caused minor bruises, swelling in his face and mouth, and loose teeth.

Courts will not find an Eighth Amendment violation when prison officials have a good reason to use force. These reasons may include discipline, safety, and security. For example, a court may allow prison staff to use pepper spray to break up a fight.

Excessive force cases are usually about physical force. However, severe verbal threats can sometimes violate the Constitution. In one case, the Seventh Circuit found that a prisoner had a valid claim against a nurse. The nurse had

taunted the prisoner for three failed suicide attempts. The nurse also encouraged him to try harming himself again while he was on suicide watch. *Lisle v. Welborne*, 933 F.3d 705, 710 (7th Cir. 2019).

What will the court consider?

Judges cannot read people's minds. They cannot know what prison staff intended. To help that problem, courts usually look to several factors:

1. **How badly you were hurt.** Judges look more closely at cases where the person in custody was seriously injured. Medical records can be useful to show your injuries. You do not need to suffer a serious injury for the force to be excessive. A beating for no reason can still be excessive force even if you do not need medical attention afterwards.
2. **The need for force.** Why did the guards use force? What was happening before they stepped in? Was anyone in danger? If there was a real need for a guard to step in, courts will find that the force was not excessive.
3. **The relationship between the need for force and the amount of force used.** If the guards needed to use force for safety purposes, did they use more force than they needed to?
4. **Whether the safety threat was reasonable.** Did the prison staff see a reasonable threat to safety? Would other prison staff in their position see a similar threat?
5. **Any efforts made to de-escalate or reduce the amount of force used.** Did the prison officials try to take other steps to solve the problem before using force?

Key cases to read about excessive force:

Hudson v. McMillan, 503 U.S. 1 (1992)

Wilkins v. Gaddy, 559 U.S. 34 (2010)

McCottrell v. White, 933 F.3d 651, 656 (7th Cir. 2019)

Fillmore v. Page, 358 F.3d 496 (7th Cir. 2004)

Note that you do not need to cite any cases when you file a lawsuit on your own. However these cases may help you figure out how best to explain to the court what happened to you.