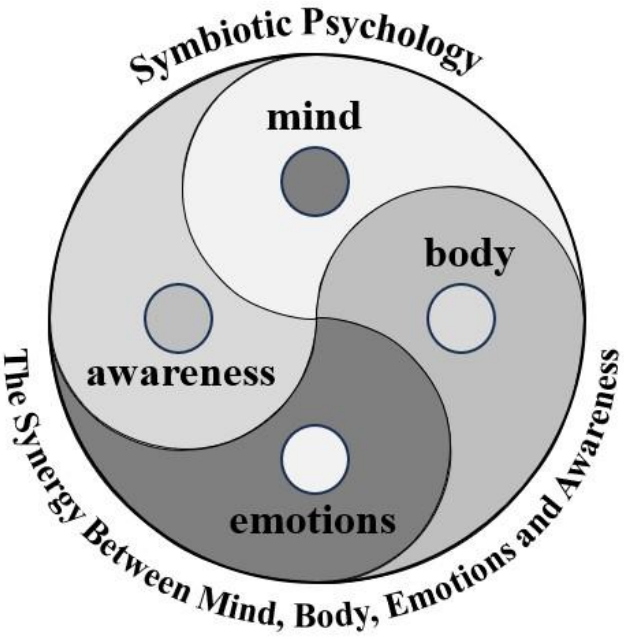
Criminal Law and Justice: A Constitutional Challenge

Amendment I: Freedom from Cruel and Unusual Punishment

Amendment VIII: Prohibiting the Free Exercise of Religion

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If law is ignorant of what drives human behavior, critical analysis, and decision-making, how can there be but laws of ignorance and injustice (and disorder, conflict, and crisis)?

Justice based on falsehood is itself false and unjust.

Criminal Law and Justice: A Constitutional Challenge

Amendment I: Freedom from Cruel and Unusual Punishment

Amendment VIII: Prohibiting the Free Exercise of Religion

Law and justice within our society are founded upon a false psychology of emotionally driven behavior. Punishment guidelines are erroneous because the current comprehension of punishment is based upon an erroneous understanding of cognitive-emotional behavior within human psychology. Also, the statistics of recidivism that exist only exist because of this ill-founded knowledge of human behavior. Punitive requirements cannot be based upon current statistics because punishment and recidivism based upon a different psychology – one that more accurately portrays the cognitive-emotional neurological, biochemical, and physiological foundation of human behavior – will create different statistics. Current statistics now based within a mistaken psychology of human behavior cannot reflect behavior grounded within another, more accurate psychology.

Finally, what is the philosophical intent, objective, and foundation of justice? Is the intent of law to punish or to reform and prevent future criminal endeavors? Why is law and justice disregarding the brain's neuroplastic capacity for change? The neurology that supported and made the circumstances, events, and criminal behavior real yesterday, can change such that with new and different biological neural networks, those circumstances, events, and behavior no longer have a supporting neurological foundation for existence tomorrow. At the very least, an America based on life, liberty, and the pursuit of happiness must decide: should laws of justice reinforce a person's capacity for criminal behavior or diminish this capacity?

1.0 Current Justice, Punishment, and Recidivism

The neuroplastic networks in the brain that supported a reality and the cause of violent behavior yesterday,

those same neural networks have the physical plasticity to change today and will no longer have the capacity to support that violent reality and behavior

tomorrow

if a person's cognitive-emotional re-construction skills, abilities, and understandings are developed to do so.

Current justice, punishment, and recidivism are based on a psychology of behavior where emotions drive changes and states of human physiology and subsequent behavior. This is a false premise (Jackson, 2026a). Emotions perceive neurological, biochemical, and physiological changes and states of being precipitated by cognitive activities. The foundation of human behavior is not emotional, but cognitive. The power of consciousness lies within its choice of cognitive activities (perceiving, conceiving, remembering, reasoning, judging, imagining, and problem-solving (APA, cognition)). Should justice support or hinder or even negate the structure of an individual's power and capacity to wisely choose its cognitive activities from which outward acts of behavior germinate and sprout?

Laws of punitive justice for a crime are inhumane because they lack the intent to change an individual's cognitive-emotional dynamic behavior towards health, well-being, and successful decision-making prowess. Or is that not the intent of our Constitutional justice? Does our

Constitution define justice as punishment with an intent to inflict pain, suffering, or hardship upon an individual? Or should Constitutional justice be understood and defined with the intent to empower cognitive-emotional behavior for the health, well-being, and success of the individual and society in which we live? Should our Constitutional criminal justice system be an extension of religious "an eye for an eye" or is justice served by entrusting individuals with the training, skills, and understandings necessary to make better choices for themselves throughout their lives?

Current human behavior modification is based on the erroneous psychology of cognitive-emotional behavior. Also, punishment as "justice" for a crime denies the science of neuroplasticity. Neuroplasticity is a concept where the brain rewires itself reinforcing habitually used neural networks and weakening those less used (APA, neuroplasticity; Costandi, 2016, Doidge, 2015). This rewiring results in new interpretations of old awareness. Thus, a reality that once manifested criminal behavior may no longer exist it an individual is given the skills, abilities, and understandings to make it so. Where is justice within a design and intent that reinforces the psychology of the mind that encourages, and leads to continual criminal behavior and diminishes acts within God's favor? Current justice in The United States is based on Judeo-Christianity. Is this reasonable when these religions have an illogical and false comprehension of human cognitive-emotional dynamics and the human cognitive-emotional re-processing control mechanics? Justice under God is one that creates the conditions that will honor the psychology of a neuroplastic mind where neural networks that supported a reality and the cause of violent behavior yesterday can change and no longer have the capacity to support that violent reality and behavior tomorrow.

The text, "*Cognitive-Emotional Re-Processing Control, Cultivation, and Education: The Linguistic Semantics of Cognitive vs. Emotional Dysregulation"* (Jackson, 2026a) provides a basic understanding and awareness of the necessary theory for a prisoner to forge a new identity and to recreate a new life. "*Cognitive-Emotional Health Education: A Primary and Secondary School Overview"* (Jackson, 2024b) provides a basic understanding of the tools that are a necessary part of prisons if we, as a society honor our Constitutional freedom from cruelty and laws respecting the establishment of religion or prohibiting the free exercise thereof. (These texts are freely available as PDF downloads at: https://symbioticpsychology.com/)

The scalpel to dissect and to lay aside the flaws within contemporary justice lies within the scientific concept of neuroplasticity. Neuroplasticity is a scientifically proven concept which outlines how the brain can rewire itself and form new realities. Every "criminal" has the physical attribute of neuroplasticity and has the capacity to change and to be a different person than the being who committed a crime. A criminal justice system that does not recognize this possibility but actually creates conditions to inhibit and retard any possibility of individual neuroplastic transformation is not justice. And can such justice not be defined as "cruel and unusual punishment" from which the Constitution protects us all?

Law based upon an illusionary forensic psychology is delusionary and denies an individual's Constitutional protection to be free from cruel punishment.

To use the concept of neuroplasticity to repeal inhumane justice, the erroneous beliefs within emotionally driven behavior must be dispelled. Emotions are an evolved sensory system, akin to the sense of pain, designed to be used by consciousness to guide the internal cognitive behavior which leads to external physical action. This new paradigm – where emotions are an evolved biological sensory system that perceives physiological states and changes precipitated by cognitive activities – is developed in *Cognitive-Emotional Re-processing Control, Cultivation, and Education: The Linguistic Semantics of Cognitive vs. Emotional Dysregulation* (Jackson, 2026a).

Should laws of criminal justice not cultivate the conditions that reinforce a life and culture of health, well-being, and success? Criminal justice based upon punishment and hardship without an educational path for cognitive-emotional awareness, understanding, and realignment is constitutionally cruel and unjust punishment.

Criminal law operates within an archaic knowledge and understanding of humanness. This knowledge must be updated in educational institutions of law and incorporated into any proper and scholarly discussion of criminal sanctions. New advances in psychology provide new understandings of the actual harmful effects of incarceration presently deemed appropriate justice for a crime. Justice designed to reinforce, maintain, and structure a neuroplastic mind of violence and crime is not justice, but an abomination.

2.0 The Constitutional Challenge

Current understandings in the physiology of cognitive-emotional psychology have not been integrated into the fundamental laws of criminal sanctions and the understanding of justice. Although those who condone current practices of incarceration may defend them as proper and constitutionally acceptable, I will argue that in the absence of programs and a culture to teach, educate, and train an incarcerated population towards a cognitive-emotional psychology of health, well-being, and success, that these practices without cognitive-emotional reformation education (1) should be understood as laws of cruel punishment and (2) should be understood as laws limiting and even prohibiting the free exercise of religion under the Constitution of The United States of America.

3.0 ARGUMENT 1: Punishment and The Neuroplastic Brain

Neuroplasticity is the concept that the brain has the capacity to rewire functional areas of itself because of new experiences thus providing for a capacity within a human being to cognitively reinterpret life experience and to reform a previous self-destructive existence (APA, neuroplasticity; Costandi, 2016, Doidge, 2015).

3.1 **A Culture of Punishment and Incarceration:** The current culture of punishment and incarceration, that is, one without a cognitive-emotional reformation agenda, will reinforce and maintain a cognitive neural circuitry of criminal behavior. That is, the learning experience within this environment tends to accentuate the existing neural circuitry of the brain that has led to an existing

criminal interpretation of life experience. This reinforced criminal interpretation of reality diminishes and even prevents an individual's religious freedom to exercise behavior within God's favor. (Reference: Constitution Amendments I – free exercise of religion)

3.2 **Reinforcing a Criminal Reality**: Current criminal laws of crime and punishment that reinforce a person's criminal interpretation of reality and tend to further convolute their intent, rational capacity, and self-control are cruel. These laws may be common, but this does not differ their cruelty and brutality to deconstruct a human's capacity to re-process cognitive-emotional behavior for successful living in our society (Reference: Constitution Amendment VIII – cruel and unusual punishment shall not be inflicted)

4.0 ARGUMENT 2: Emotions as Effect and Cognitive Control Theory

Symbiotic psychology (Jackson, 2026a) redefines an evolved emotional neural circuitry as a circuitry of perception of the body's neurological and biochemical physiology precipitated by the mind's cognitive activities. This means that the neural circuitry of emotional behavior has an evolved function to guide cognitive behavior and physical activity towards the desirable aspects of life, such as health, well-being, and success. Emotions have naturally evolved to lead physical and cognitive behavior towards life, liberty, and the pursuit of happiness.

4.1 **Reinforcing Criminal Behavior:** Within the current lawful culture of punishment and incarceration without a psychology of cognitive-emotional reformation agenda, the neuroplastic attribute of cognitive-emotional behavior will reinforce and maintain an emotional neural circuitry of existing criminal behavior. That is, the learning experience within an incarcerating environment tends to accentuate the existing emotional neural circuitry of the brain that has led to existing criminal life.

4.2 **Prohibiting the Free Exercise of Religion:** Laws of crime and punishment that reinforce a cognitive-emotional reality of criminal behavior diminishes and even prevents an individual's religious freedom to exercise behavior within God's favor. (Reference: Constitution Amendments I – free exercise of religion)

4.3 **Convoluting Intent, Reasoning, and Self-Control:** Laws of crime and punishment that deny an evolved cognitive-emotional reprocessing mechanism reinforces an emotional reality of criminal behavior and further convolutes an individual's intent, rational capacity, and self-control and therefore is cruel. (Reference: Constitution Amendment VIII – cruel and unusual punishment shall not be inflicted)

5.0 CONCLUSION:

Neuroplasticity and an evolved emotional bio-feedback mechanism redefine humanness and reconceptualize what it means to be a human being (Benko, 2015). These

new neurological, biochemical, and physiological understandings in psychology must be incorporated to understand the true nature of law and the actual punishment being inflicted upon an individual. Any laws of incarceration as punishment that preclude a psychology of cognitive-emotional reformation are cruel and prevent the exercise of religion and are not supported by The Constitution of The United States of America.

I am arguing that a system of incarceration as punishment for a crime without any reformative processes cannot be just and is cruel because it exacerbates and reinforces the criminal element of behavior by convoluting intent, rational capacity, and self-control. This usual practice of criminal justice is a process of dehumanization and therefore is cruel. Also, a system that reinforces criminal behavior by convoluting intent, rational capacity, and self-control diminishes an individual's religious freedom to live in God's favor, thus limiting and even prohibiting the free exercise of religion. Capital Punishment is the ultimate prohibition of the free exercise of religion guaranteed by the Constitution of The United States of America.

6.0 References-Background Reading:

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This work is dedicated to

Nick Reiner

may Lady Justice be served and honored.



Andrew O. Jackson has an MS in Technology Education and an MS in Management Technology from the University of Wisconsin – Stout. He was a high school shop teacher, wrestling coach and professional alpine ski instructor; a college CAD (computer-aided design) instructor; a guest instructor in China teaching quality and inventory management; and a quality manager at an OEM (original equipment manufacturer). He is happily married and retired from mechanical engineering and twenty-five years of sailboat racing and coaching on the Melges E-Scow and is now spending his summers sailing and winters alpine skiing with his wife Barbie and their two cats. He is currently campaigning for academic and athletic coaching understanding and awareness of our natural cognitive-emotional reprocessing mechanisms that have evolved to attain and maintain our health, well-being, and successful decision-making prowess.

Andrew O. Jackson suffered from psychotic mania, suicidal depression, and schizophrenic tendencies. He was in and out of mental hospitals from 1979 to 1996. Once after another "blackout" period, he "awoke" in a mental ward and wondered how he got there this time. The nurse said he went up to a police car and told them that his friend needed help. His "friend" was a trash can. Another time he "awoke" with a rope in his hand ready to put an end to this torturous life when a voice asked him, "Can you go on?" "They" wanted him to continue his painful and torturous existence a while longer. He replied, "Yes" and got himself to a hospital…again.

"I like to say I have a PhD in Psychology from the School of Hard Knocks. The difference being that an accredited school requires classes, exams, and a successful defense of one's own dissertation. I, on the other hand, either realize, develop, and self-prescribe a new psychology of cognitive-emotional behavior more in line with natural evolution and live, or fail and die."

Around 1993, in a moment of inspiration that led him away from academia's 3000-year-old literary linguistics of emotionally driven behavior and control, he began a self-directed healing program using his good-feeling emotions, moods, attitudes, and feelings as indicators of, and a progression towards a healthy biochemical, neurological, and physiological state of being. After a couple more psychotic episodes (one that landed him in the El Paso County jail and led to a divorce from his first wife) and after seventeen years of therapists, psychologists, and psychiatrists, he no longer needed the benefits of their assistance. He has been medication-free and without disassociation, depression, or mania episodes since 1996.

Since 2005, he has been writing to academics around the world advancing a new emotional paradigm that defines cognition as causal and emotions as a perceived effect of biochemical, neurological, and physiological changes and states of being in the brain and body. Emotions, instead of being regulated by cognitive behavior as current psychological academia prescribes, have evolved into a cognitive-emotional operant conditioning mechanism to guide cognitive behavior towards the health, well-being, and prosperity of the individual.