

# AN OVERVIEW OF THE JUVENILE JUSTICE SYSTEM

## OUTCOMES

As a result of this lesson, students will be able to:

- Summarize juvenile court process and procedures
- Define legal terms used in the juvenile justice process
- Explain the term “due process of law”
- Describe the due process rights of juveniles
- Describe the protections provided to citizens by the 5<sup>th</sup>, 6<sup>th</sup>, and 14<sup>th</sup> Amendments to the United States Constitution
- Compare juvenile court to youth court

## MATERIALS NEEDED

- Chalkboard/ flip chart
- Chalk/markers
- Overhead transparency machine, sheets, and markers, if possible.
- A podium (optional)

## HANDOUTS

- 1 The Case of Gerry Gault
- 2 Important Terms for the Juvenile Justice System
- 3 Our Key Arguments for Gerry Gault’s Appeal
- 4 Juvenile Justice Process

## TRANSPARENCY OR POSTER

(Optional) Transparency of Handout 4: Juvenile Justice Process

## PREPARING TO TEACH THIS LESSON

- Write up and post the lesson objectives.
- Copy handouts and prepare all materials.

- If you do not already know, find out how the term “juvenile” is defined in your community. Is someone considered a juvenile until the age of 16? 18? 21?
- Know the local procedures for intake, detention hearings, initial hearings, adjudicatory hearings, and disposition hearings.
- Students may ask you what circumstances would allow a juvenile to be tried in an adult court. If you do not already know, find out how your local courts handle this and in what circumstances.
- Find out if your local or state juvenile court system is an “open court.” Is the public allowed to observe cases involving delinquency? If so, under what circumstances?
- Check with court personnel or your State Bar Association to find out about your state’s procedures for expunging juvenile records. Are records literally destroyed? Are they annulled? Are serious crimes expunged, too? At what age are records expunged? Are arrest records expunged, too?
- Find out the requirements for when a juvenile’s parents must be contacted.
- Write up the definition for the word “juvenile.” The definition appears later in the lesson, but you should check your local jurisdiction. (See note above.)  
Alternative: If you have access to an overhead transparency machine, make a transparency of the definitions. This will allow you to use the transparency again for another class.

## COMMUNITY RESOURCE PEOPLE

A Community Resource Person would add credibility and interest to this lesson. Invite a member of the court staff or a lawyer who specializes in juvenile court to assist with this lesson. It is particularly helpful if this person is also familiar with youth court. Send a copy of the lesson when confirming the date and location of the class. After he or she has received the lesson, discuss how you will work together to teach it.

## SUMMARY

At the end of each lesson is a summary section. It is very important to time the lesson carefully to allow sufficient time to complete the debrief (summary) with the students. During this reflection time the students can discuss the information learned, clarify any concerns and analyze the skills that they have practiced. This is a critical step in the learning process and must not be neglected.

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## PART ONE: THE CASE OF GERRY GAULT (25 minutes)

### 1

Share lesson outcomes with the students and introduce the community resource person, if one is present.

Explain that the resource person is very familiar with the juvenile justice process and will help to explain the United States Supreme Court's decision in this case and its impact on the local juvenile justice system.

### 2

Ask the students:

- Have you ever made an obscene phone call?
- If so, did you get caught?
- What happened as a result?
- What would you think if you heard someone got caught and ended up in a juvenile detention hall (the juvenile's version of prison) for six years?

### 3

Pass out "**Handout 1: The Case of Gerry Gault**" and "**Handout 2: Important Terms for the Juvenile Justice System.**" Copies of both handouts can be found at the end of this lesson plan.

Ask a student to volunteer to read the directions for "Handout 1" aloud as other students read them silently. Confirm that all students understand the directions.

Then ask various students to volunteer reading each paragraph of Gerry's story aloud while other students read it silently.

**NOTE:** As students read the story, they will notice certain key words are marked in bold. These terms are defined on Handout 2. As students read the terms, you may want to ask other students to help define the word and then you can check their definitions against the terms on Handout 2.

Clarify all of the facts of the case with students by asking the following questions:

- Who was involved?
- What happened?

**4**

Make two columns on the board with the headings “Fair” and “Unfair.” Ask the class what they think of the case. Have students think briefly about what they would list in each column. Write some of their reactions on the board in the correct columns.

**5**

Assign the students to groups of three. (Refer to the “Teaching Strategies” section in the front of this manual for tips on small group work.)

Each group should select a recorder who will divide a sheet of paper into two columns, labeled “Fair” and “Unfair,” to record the group’s answers.

Each group should identify and discuss the fair and unfair things that happened to Gerry Gault during the legal proceedings.

**6**

In a discussion, have the groups contribute their ideas on what was fair and unfair. List all contributions on the chalkboard/flip chart. Discuss their reasons for the events being fair or unfair.

You should let students generate their own lists, but you can use the italicized notes below to help them if they need it.

<i>Fair</i>	<i>Unfair</i>
<ul style="list-style-type: none"> <li>▪ <i>A juvenile court judge heard Gerry’s case</i></li> <li>▪ <i>Mrs. Cook made a complaint before Gerry was arrested</i></li> <li>▪ <i>Gerry went to court</i></li> <li>▪ <i>There was a hearing before he was sentenced</i></li> <li>▪ <i>He was not held in an adult jail</i></li> </ul>	<ul style="list-style-type: none"> <li>▪ <i>The police did not call Gerry’s parents first</i></li> <li>▪ <i>Mrs. Cook did not show up to court to testify</i></li> <li>▪ <i>The punishment is too harsh for the offense</i></li> <li>▪ <i>The sentence Gerry got is more harsh than the sentence would be for an adult who committed the same offense</i></li> <li>▪ <i>Gerry did not have a lawyer at the hearing</i></li> </ul>

**7**

Ask students:

- Do you think the overall result of this case was fair?
- Why or why not?
- What were the most unfair things that happened to Gerry?

**8**

Tell the students that Gerry's parents also thought the case was handled unfairly based on many of the reasons you identified. They appealed the case. To appeal a case means to take a case to a higher court for a rehearing. Gerry's parents thought that Gerry had been denied his due process rights, so they appealed it. Eventually the case went to the U.S. Supreme Court. Explain to students that they will learn more about this in a few minutes, after the class has a chance to define some terms.

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## **PART TWO: WHAT IS A JUVENILE? (5 minutes)**

**1**

Return students' attention back to **“Handout 2: Important Terms for Juvenile Justice System”**.

**2**

Write the term “juvenile” on the chalkboard/flip chart and review the definition. Then tell students how the term is defined in your state and ask them to add that to their handout.

*A juvenile is any person who is not an adult. State laws decide the age limit for juveniles. In most states, a juvenile is anyone under the age of 18. In our state a juvenile is anyone who is under the age of:*

*Write the local law here:* \_\_\_\_\_

**3**

Write the term “delinquent” on the chalkboard/flip chart. Define the term with students or ask a volunteer to read the definition from “Handout 2”. Then explain the local laws defining “delinquent” and ask students to add that to their handout.

*A delinquent is a juvenile convicted in juvenile court of committing an illegal act. Juvenile court is a special court system designed especially for juveniles.*

*In some states, a juvenile who is 16 years old or older and charged with a serious crime can be tried as an adult. If convicted, he is a criminal, not a delinquent.*

*Write the local law here:* \_\_\_\_\_

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## **PART THREE: DUE PROCESS (40 minutes)**

### **1**

Remind students that Gerry's parents did not think that Gerry's case was handled very fairly for many of the same reasons that they have identified. The legal reason that they used to appeal the case was a denial of due process.

Write the words "due process" on the chalkboard or flip chart to begin a discussion of due process of law with the students. Refer students to "Handout 2" for a definition.

*Due process is a legal term that means providing fair procedures in court. The Constitution of the United States requires that the government provide a citizen with due process before taking action that affects a citizen's life, liberty, or property.*

*The concept of due process is elastic. It stretches or shrinks (like a rubber band) depending on specific situations. For example, capital punishment requires much greater due process protection than suspending a student from public school for a few days.*

*The idea of due process is often linked to the Fourteenth Amendment of the Constitution that says: The Fourteenth Amendment says that **". . . nor shall any State deprive any person of life, liberty, or property, without due process of law . . ."***

*The Gault case examined whether Gerry had been denied his due process rights.*

Ask students:

- Do you think the proceedings in Gerry's case were carried out fairly and according to established rules and principles?
- Do you think Gerry Gault received due process of law?

### **2**

Tell students that Gerry Gault's case was a real case.

Briefly discuss with students the role of the U.S. Supreme Court. The Court rules on constitutional issues and issues of federal law. It makes its rulings on cases that are important to many people in the country. It is the "highest court in the land," which means that all other courts must follow its rulings.

The Supreme Court heard the appeal of Gerry Gault and made its decision in 1967. At the time of Gerry's case, there were no nationally established rules and procedures that had to be followed in juvenile court.

### 3

Refer the students back to their list of fair and unfair actions in the Gerry Gault case.

Tell students they are going to serve as lawyers for Gerry and that they will prepare arguments that could help Gerry once his case goes to the Supreme Court. Their job will be to look at the procedures followed in Gerry's case and argue that Gerry's due process rights were violated.

Explain that at the end of the activity, they will present their arguments to Gerry and his parents.

- NOTE: They are presenting their arguments to Gerry and his parents instead of to the Supreme Court because that would require students to argue the alternative point of view and there is not sufficient time to do so.

Break students into two groups. Each group should select a recorder and a presenter.

- Distribute "**Handout 3: Our Key Arguments for Gerry Gault's Appeal**" which can be found at the end of this lesson plan.
- Assign one group to focus on the 5th Amendment and the other group to focus on the 6th Amendment. Ask students to circle which one they are working on at the top of their handouts. (Later in the activity, both groups will also work with the Fourteenth Amendment.)
- Read the "preparation notes" and "directions" together as a class. Clarify any procedural questions the students may have. Write the ending time on the board. Tell students to begin working.
- As students are working, you and the Community Resource Person should each monitor one group to help them stay focused and to answer their questions. Give a three-minute warning, when time is nearly up.

- When time is up, ask students to face forward for presentation. You and the Community Resource Person can play the part of Gerry and his parents. Tell each group's presenters they have three minutes to make their most effective case. Assign a student to be the timer. Have the presenters make their arguments.

#### 4

After students present their arguments, tell them that everything changed for juveniles accused of crimes because of the real case of *In Re Gault*. With this case, The Supreme Court established many of the rights juveniles have in court today.

Review each of the rights now accorded juveniles based on the 1968 U.S. Supreme Court case *In Re Gault* (the official name of Gerry's case).

*NOTE: "In re" means "in the matter of" in Latin.*

*The U.S. Supreme Court decided that Gerry Gault did not receive due process of law. The Court said that the Fourteenth Amendment of the U.S. Constitution guarantees that no one, including juveniles, can be deprived of life, liberty, or property without due process of law. This decision ensures that juveniles are given due process rights in juvenile court, and it lists the rights that juveniles must have when they are in juvenile court.*

*In this case, the Supreme Court ruled that juveniles have the following rights when accused of offenses for which they can be incarcerated:*

- *Right to notice of charges: Juveniles and their families must be told exactly what they are accused of far enough in advance of their hearings to be able to prepare their case.*
- *Right to counsel: Juveniles must be told they have a right to a lawyer. If a juvenile does not have enough money to pay the lawyer, the court must appoint one.*
- *Right to confront and cross-examine witnesses: Juveniles are entitled to hear the testimony of any witnesses and their accusers.*
- *Testimony is the information a witness gives under oath. Cross-examination provides the accused juvenile or a lawyer for the accused juvenile the chance to ask the witness questions that challenge the reliability of the witness' testimony.*
- *Privilege against self-incrimination (self-incrimination is testimony that a person gives that might connect him or her with a crime) and the right to remain silent: Juveniles must be told they have a right to refuse to answer a question or give testimony against themselves. Juveniles also must be told they have a right to remain silent and that anything they say may be used against them.*

*NOTE: In a few states, juveniles have the right to a jury. The Supreme Court did not grant this*



*right, because the justices thought confidentiality in juvenile court was more important. Today, there is a movement to change many of the confidentiality rules and "open" up the juvenile court.*

Write the local law here: \_\_\_\_\_

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## PART FOUR: TODAY'S JUVENILE COURT (30 minutes)

### 1

After discussing these rights and procedures, refer back to The Case of Gerry Gault. Ask the students the following questions and have the resource person comment on each reply:

- Would the procedure the police used to take Gerry into custody be legal today? Would the way that the police handled contacting Gerry's parents be legal today? Why or why not?

*In Gerry Gault's case, the answer is no. The arresting officer and courts must notify parents within a reasonable amount of time. The definition of reasonable will vary depending on the situation and the circumstances. Most officers try to reach the parents/guardians before doing anything with a juvenile. This is policy in many police departments.*

- What information should the police officer or court give Gerry's parents?

*Gerry has the right to notice of charges. If he is detained, then a detention hearing must be held in a reasonable amount of time. His parents must be notified of when the hearing will be held. His parents must also be given a written notice of explicit charges against him.*

- Who else would be present at Gerry's hearing today?

*Gerry is entitled to an attorney to represent him (right to counsel) at the detention hearing and at all other hearings. Gerry's parents would also be allowed to attend the hearing.*

*The courts are required to hold a detention hearing within a day or two after a juvenile is detained. The purpose of the detention hearing is to decide if the juvenile should be released while waiting for the next court date or if the community would be more safe if the juvenile is held in detention between hearings.*

- Why should there be a reasonable amount of time before other hearings?

*Gerry's family and his lawyer must have adequate time to prepare a case to defend Gerry against the charges. In Gerry's case, he had to go to court the very next day. This would not be enough time for his lawyer to prepare for the hearing. Note that Gerry did not have a detention hearing.*

- What is “testimony?” What is the “record?” Who would testify at Gerry’s hearing today?

***Testimony** is the witness’ answers under oath to questions from the lawyers. The testimony of all of the witnesses makes up the record of the hearing.*

*The **record** is a recording or a written transcript of everything that is said during a hearing. There must be a record made of all court proceedings. Often the record is used when cases are appealed, like Gerry’s was. The complaining witness must testify at the adjudicatory hearing. There may also be other witnesses who testify at the hearing. The respondent (juvenile who is accused of committing the delinquent act) chooses whether or not to testify. In Gerry’s case, Ms. Cook would have had to testify. Gerry could have testified if he had wanted to, but he was not required to. Either side could also have called other witnesses.*

- Would Gerry have to tell the officers of the court anything that he said or did regarding the phone call?

*No, Gerry has the privilege against self-incrimination. He has the right to remain silent because anything he says could be used against him.*

- How would Gerry’s case have been different if it had been referred to youth court?

*If Gerry’s case involving the prank phone call had been referred to youth court instead of juvenile court, there would have been many differences in how it was handled. First, since youth courts are not official, legal proceedings, he would not end up with a juvenile record, (although he may still have a record of his arrest.)*

*Also, since youth courts cannot “sentence” a young person to detention, the outcome would have been quite different. And since the due process protects people who may be sent to an institution, Gerry may not have some of the rights he would otherwise have in a juvenile court. For example, he does not have the right to a (real) attorney or to cross examine witnesses against him.*

*Finally, there would have been teens fulfilling many of the courtroom roles. In some youth courts, young people would serve as jurors, some as attorneys, and some as judges.*

## 2

Distribute “**Handout 4: Juvenile Court Process**” which can be found at the end of this lesson plan.

It might also be helpful to make this handout into a poster or a transparency so that students may follow along during the discussion.

**NOTE:** The due process procedures described above apply to juvenile cases anywhere in the United States. However, juvenile cases are handled

differently depending on the locale. It is necessary to have a lawyer or court staff person help with this lesson. The names and types of hearings and other terms referred to in this section may differ slightly according to state rules and procedures. It might also be informative to have the resource person identify and describe the local juvenile detention centers.

If your local procedures are different, write them here and explain them to students. \_\_\_\_\_

### 3

Using the Gerry Gault case as an example, have the resource person trace the rest of Gerry's experience with the local juvenile court system. The chart shows the general procedures that occur after a juvenile is taken into custody.

- If Gerry were arrested today, what procedure would the police use to take him into custody and notify his parents or guardians?

*The police fill out a report about their contact with Gerry Gault and call his parents or guardians. Gerry does not have to answer questions about the offense. The officer may let Gerry go or may place him in a youth **detention facility** or **receiving home**. A detention facility or receiving home is where juveniles stay (or are detained) until their first hearing. This is not part of a juvenile's punishment, although he or she would be locked in and unable to leave.*

If your local procedures are different, write them here and explain them to students.

\_\_\_\_\_

- If Gerry were taken into custody today, what information would the police officer or court official give to Gerry and his parents or guardians?

*Gerry now has the right to be notified of the charges against him. His parents must be given a written notice of the exact charges against him.*

- Is Gerry likely to be kept in a detention center right away?

*Gerry would probably not be held in a detention center because he would probably be released to his parents with the agreement that they would return him for his preliminary or initial hearing. However, if the police thought he was a danger to the community or that he might now return for the hearing, they may detain him instead of releasing him to his parents.*

- If this situation happened today, could the court set the hearing for the next day?

*Gerry and his family must be given adequate time to prepare a case to defend Gerry against the charges.*

- Since Gerry says he did not make the obscene phone calls, the courts and

lawyers must plan for the adjudicatory hearing.

*An **adjudicatory hearing** is a fact-finding hearing. This is where all the facts and evidence are presented by both sides. The judge will decide if the juvenile is delinquent (guilty) or not delinquent (not guilty).*

*At this time, the juvenile court prosecutor and Gerry's lawyers present the evidence. They may ask witnesses to testify. Gerry has the right to confront and cross-examine all witnesses. The person who accused Gerry should also be present at the hearing. The judge will then decide if Gerry made the obscene phone call.*

If your local procedures are different, write them here and explain them to students.

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- Does the prosecutor have to prove the case by a preponderance of evidence or beyond a reasonable doubt to have the judge find a youth delinquent?

*The prosecutor does not have to meet either burden of proof. Since the responsibility of the court is to do what is best for the youth and protect the community, the prosecutor only has to show the judge reasonable evidence of delinquency. If the judge thinks the youth committed the act that he is charged with, the judge finds the youth delinquent.*

**NOTE:** *The terms "preponderance of evidence" and "beyond a reasonable doubt" refer to the "weight of the evidence." A preponderance of the evidence means that more than 50% of the evidence supports finding the juvenile delinquent. Beyond a reasonable doubt means that a reasonable person would have no doubt that this juvenile is delinquent based on the evidence presented.*

*In adult criminal trials, defendants must be found guilty beyond a reasonable doubt. In the 1970 case of In re Winship, the Supreme Court ruled that juveniles charged with a criminal act must be found "delinquent by proof beyond a reasonable doubt."*

If your local procedures are different, write them here and explain them to students.

What happens after the judge announces the decision?

*If Gerry is found not delinquent, he will be released. If he is found delinquent, he will have a disposition hearing. Disposition will often take place on the same day as the adjudicatory hearing. Before the disposition hearing, the judge will read the reports produced by social workers. The judge will make the final decision about what happens to Gerry.*

If your local procedures are different, write them here and explain them to students.

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*A **disposition** hearing determines what punishment will be given to the delinquent juvenile; it is called sentencing in adult court. There are a variety of options open to the judge,*

*including probation, suspended sentence, restitution, referral to community treatment programs or services, and sentencing to a community residential program. Occasionally, youths may be sent out of state to participate in a special program.*

*Upon recommendation of the probation staff, or completion of restitution, a community treatment program, or the correctional school, the juvenile returns to the court for the last hearing. This hearing is for release of custody. The judge reviews the juvenile's progress and determines whether the juvenile will get into more trouble. The juvenile is then released to the custody of parents or guardians. In some cases, when the person is finally released, he/she is an adult.*

If time permits and a Community Resource Person is present, ask him or her to lead a discussion about “sealed” and “expunged” records and to clarify how the procedures work in your community. Specific questions to discuss include:

- What are the differences between sealed and expunged records?
- Under what circumstances might a sealed record be opened?
- Does our state allow for juvenile records to be expunged? At what age could this happen?
- Is it possible in our state to expunge records of police contact?
- What is the difference between an arrest record and a court record? Can both be expunged?
- Can records of being referred and involved in youth courts or other diversion programs be expunged?

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## **PART FIVE: SUMMARY (5 minutes)**

### **1**

Ask the students:

- What is the role of the juvenile court? What is the role of youth court? Are they different? Why or why not?
- What new information will be the most helpful to you? What will be the least helpful?
- Is there anything else that you still do not understand?
- What other questions do you have?
- Is there anything else you would like to know about the juvenile court?

Youth court?

- If you think of a question later about juvenile court, where could you get the answer? If you think of a question later about youth court, where could you get the answer?

## 2

Have each student a neighbor one thing that he or she learned during the class.

Thank students and the Community Resource Person for their participation.

## RESOURCES

The case of Gerry Gault can be found at: [www.oyez.org/resource/case/181](http://www.oyez.org/resource/case/181) and at <http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol+387&involv=1>

The National Council of Juvenile and Family Court Judges published an excellent publication in 2005. It is called *Juvenile Delinquency Guidelines: Improving Court Practice in Juvenile Delinquency Cases* and can be found at: [www.ncjfcj.org/content/view/448/347](http://www.ncjfcj.org/content/view/448/347)

## HANDOUT 1

### THE CASE OF GERRY GAULT

#### Directions:

Read this true story about what happened to Gerry Gault. As you read it, mark it up. Circle words you do not understand. Underline or highlight the parts you want to talk about or that make you mad.

#### The story:

Gerry Gault, aged 15, was picked up by police and taken from his home to a **juvenile detention center**. He was not sure what he was in trouble for. His parents were at work. The police did not call to tell them what was happening to their son. After they finally tracked him down and rushed to take him home, his parents were told he would not be released. He would have to spend the night in a juvenile detention home (much like a jail for kids). Gerry and his parents were still not told what the **charges** were against Gerry. They were told that a **hearing** would be held the next day.

At the hearing, the Gaults learned that their neighbor, Mrs. Cook, had called the police and complained that Gerry had made an obscene phone call to her home. Mrs. Cook did not show up for the hearing. Instead, a police officer **testified** about what Mrs. Cook had said. Gerry blamed the call on a friend and said he did not make the obscene remark. There were no lawyers present and no **record** was made of the court testimony.

Gerry and his family attended a second hearing six days later. Again, no records were kept of the proceedings and the neighbor who accused him did not attend the hearing. At a third meeting with the judge, the hearing officer said that Gerry had admitted making the call at the previous two hearings. Gerry and his parents denied this, but there was no record to prove that either side was right.

The juvenile court did not allow juries. Instead, a judge decided the punishment. The judge found that Gerry was **delinquent** and ordered him to a state reform school where he would have to stay until he was a legal adult, which would be when he turned 21 years old. If an adult in that same state had been found guilty of making an obscene phone call, he would have been either fined \$50.00 or sent to a county jail for no longer than 60 days.

## HANDOUT 2

### IMPORTANT TERMS FOR THE JUVENILE JUSTICE SYSTEM

- Detention center:** This is a facility where juveniles are held before a hearing (trial). It is similar to jail facilities for adults.
- Hearing:** Any appearance in court before a judge by a juvenile. There are many types of hearings. Several important ones will be discussed later in this lesson.
- Charges:** The formal accusation that the juvenile has committed an offense.
- Testify:** To give evidence under oath at a hearing. "Testimony" is evidence given under oath at a hearing.
- Record:** A transcript or recording made of all testimony given.
- Juvenile:** \_\_\_\_\_
- Delinquent:** (noun) A juvenile who has been adjudicated (convicted) in a juvenile court of committing an illegal act.  
(adjective) legally involved in an illegal act --- the same as "guilty" in an adult criminal setting.
- Due Process:** This legal term means providing fair procedures in court. According to the United States Constitution, legal proceedings must be carried out according to established rules and principles in order to be fair.
- Detention hearing:** At this meeting, the judge or hearing commissioner must decide if it is appropriate to keep the juvenile detained. The judge attempts to balance the need to keep the community with the right of the juvenile to be as unrestricted as legally appropriate.
- Initial hearing:** At this initial meeting with the judge, a juvenile hears the charges against him or her. The juvenile should have a lawyer present for this meeting. The juvenile will speak with probation officers and social workers and be given a date to return to court. Some states do not have initial hearings; in these states there is often an intake meeting.
- Adjudicatory hearing:** This is a fact-finding hearing. This is where all the facts and evidence are presented by both sides. The judge will decide if the juvenile is delinquent, (guilty) or not delinquent, (not guilty).
- Disposition hearing:** This type of hearing determines what punishment will be given to the delinquent juvenile; it is called sentencing in adult court.



## HANDOUT 3

### OUR KEY ARGUMENTS FOR GERRY GAULT'S APPEAL

Name:

You are making arguments for Gerry that relate to his rights according to the 14<sup>th</sup> Amendment. You are also going to use rights contained in the Fifth or Sixth (circle one) Amendments to the United States Constitution. (Your instructor will assign you to the Fifth or Sixth Amendment.)

#### Preparation Notes:

In most cases, when people appeal their cases to the United States Supreme Court, they focus their argument on the parts of the Constitution that relate to situations. The Court does not decide whether someone is guilty or innocent, rather whether that person or group of people was treated fairly according to the law and Constitution.

As you and your classmates prepare to help Gerry win his appeal, you should focus on the 14th amendment, the 5th amendment, and the 6th amendment.

#### Directions:

Read the Amendments below with your group. Discuss how each amendment might help Gerry. Record your notes in the space provided. After you have discussed your amendments, select two people to present your group's best arguments to the Supreme Court. You have fifteen minutes to accomplish these tasks.

#### RIGHTS STATED IN THE FIFTH AMENDMENT: (abridged interpretation)

- *A grand jury determines whether there is enough evidence to bring the accused person to trial.*
- *A person may not be tried more than once for the same crime. This is called double jeopardy.*
- *No person's life, liberty, or property may be taken away except by lawful means, called the due process of law.*
- *Persons may not be forced in any criminal case to give evidence or testimony against themselves in court. In other words, an accused person may refuse to answer questions on the grounds that answers might tend to incriminate himself or herself.*

How can the 5th amendment help Gerry? Which right(s) might have been violated?

### **HANDOUT 3, continued**

#### RIGHTS CONTAINED IN THE SIXTH AMENDMENT: (abridged interpretation)

*An accused person has the right know the charges against him or her.*

*An accused person has the right to a speedy in the state where the crime allegedly took place. This ensures that an accused person will not be held in jail for a lengthy period as a means of punishing the accused without a trial.*

*An accused person is entitled to a public trial*

*Accused people have the right to have a lawyer present. (In 1963, the Supreme Court ruled in Gideon v. Wainwright, that if a defendant who is charged with a serious criminal offense cannot afford a lawyer, the court will provide one.)*

*Accused people have the right to question those who testify against them. Also, accused people have the right to call witnesses to speak in their favor at the trial. This enables a jury to hear both sides before deciding the guilt or innocence of the person accused.*

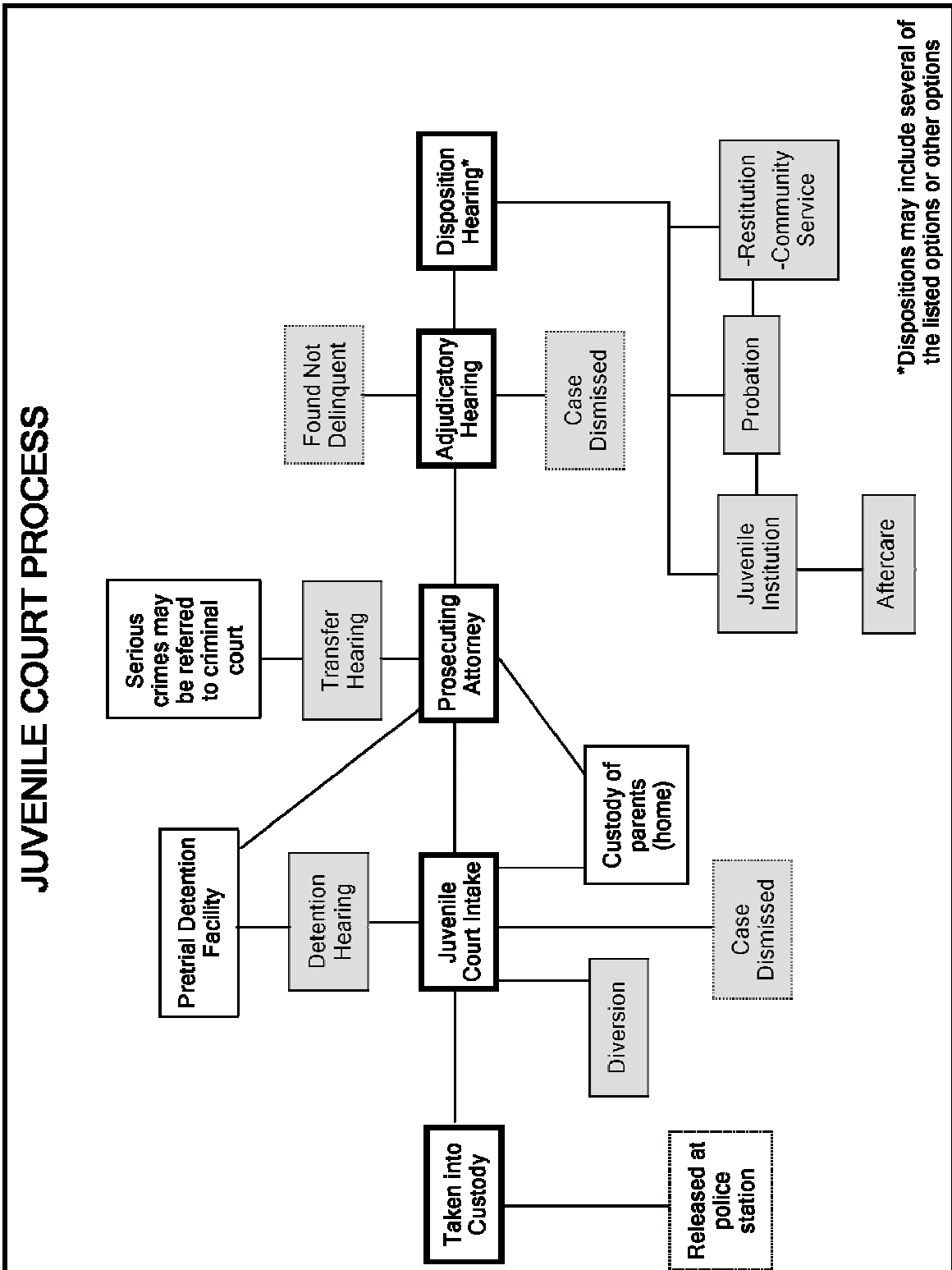
How can the 6th amendment help Gerry? Which right(s) might have been violated?

#### RIGHTS INCLUDED IN THE FOURTEENTH AMENDMENT: (abridged and interpreted)

*States cannot make or enforce laws that take away rights given to all citizens by the federal government.*

*States cannot act unfairly or arbitrarily toward, or discriminate against, any person.*

How can the 14th amendment help Gerry? Which right(s) might have been violated?



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