



May the Odds Be Ever in Your Favor!



**Objective:**

Students to understand and use the ideas presented in the 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendments. By examining Supreme Court Cases, students will need to apply Constitutional rights to either a prosecuting or defense position and then be able to relate the protected rights of students.

**Lesson:**

John Adams once remarked, “A republic is an empire of laws and not of men.”

According to rule of law, all people are protected by laws, not just individuals that can afford to pay for laws. We take for granted that we live under a known and settle laws that were established in a system. Laws apply to all individuals, including students; therefore, reminding of that laws cannot be for the minority of people, but rather for the majority.

This lesson is designed to have students examine laws and then apply that to their own lives. By using an eighth grade reading book, *The Hunger Games*, students explore rights and the criminal process.

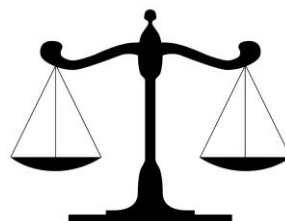
**Pre-Knowledge:** History of Magna Carta and Due Process, *The Hunger Games* and the writing of the Constitution.

**Part I:**

1. Defining Terms & Identifying Constitutional Amendments:

\*Have students work in pairs or groups of four to define each of the following terms. Also give the students a summary of *In re Gault (1967)* to read and margin note.

- a. Due Process—and the history of Due Process
- b. 4<sup>th</sup> Amendment
- c. 5<sup>th</sup> Amendment
- d. 8<sup>th</sup> Amendment
- e. 14<sup>th</sup> Amendment



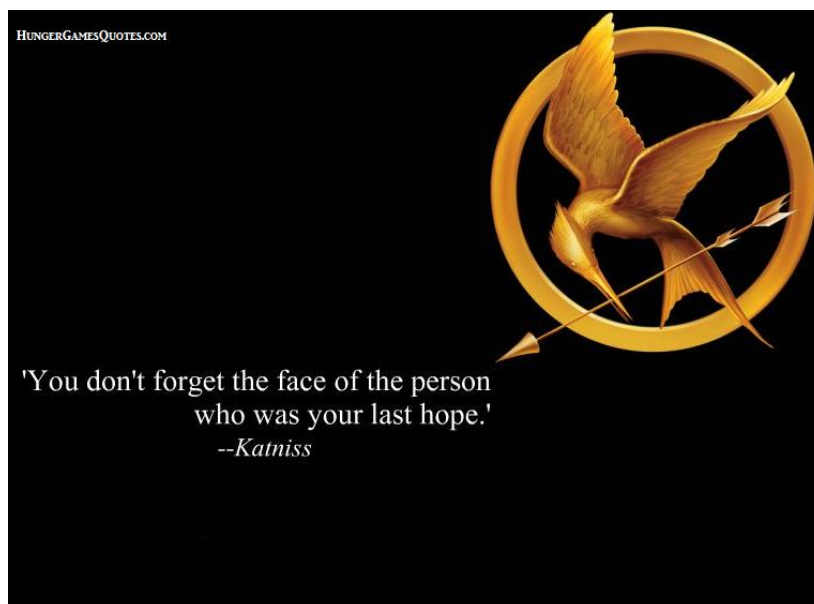
2. Answering Questions
  - a. Once the case summary is read in the groups and the definitions are completed. Have the groups then answer the following questions.
    - i. Make a list of unfair procedures used by government officials in the case.
    - ii. Read the Fifth, Sixth and Eighth Amendments to the Constitution. Identify the parts of each Amendment that apply to this case.
    - iii. Evaluate the facts, then take and defend a position on how the U.S. Supreme Court should have dealt with *In re Gault (1967)*.
  
3. Class Discussion
  - a. Also discuss the other side: Why do you think the officers DID NOT follow current procedures.
  - b. Discuss the importance of the Rights of the Accused and how that now has an impact on students.
    - i. Extension Activity: Have students read Tom Jacobs' *10 Supreme Court Cases Every Teen Should Know*, New York Times September 15, 2008

**Part II:** *Everdeen v. The Capitol (2016)*—You Be the Judge!!!!!!

**Materials Needed:**

- ✓ We The People: The Citizens & The Constitution Textbook
  - ✓ Computers
  - ✓ Websites
  - ✓ *In re Gault (1967)* Summary
  - ✓ Constitution & Amendments
1. After examining *In re Gault (1967)*, Students will then get a chance to be the judge. This activity connects with Book Club for 8<sup>th</sup> Grade. If your students have not read *The Hunger Game* series for class, you can view the movie to help with the activity.
  
  2. Divide Students into groups (3-4 Students) and give them a position—Katniss Everdeen or The Capitol
    - a. Each side must write their position using the Constitution or Amendments to confirm their position.
      - i. Example: Katniss Everdeen feels the Hunger Games violates her Constitutional Amendments: 4, 5, 8. Students must use textual evidence to support their answer.
      - ii. Websites that students may use to help with research
        1. <http://www.uscourts.gov/about-federal-courts/educational-resources/supreme-court-landmarks>
        2. <http://blog.constitutioncenter.org/2015/10/10-important-supreme-court-cases-about-education/>
        3. <https://www3.nd.edu/~rbarger/www7/rights.html>

- b. Each side must also make reference to Due Process and the connection that it has with history.
3. After creating a position have students answer same questions:
  - i. Make a list of unfair procedures used by government officials in the case.
  - ii. Read the Fifth, Sixth and Eighth Amendments to the Constitution. Identify the parts of each Amendment that apply to this case.
  - iii. Evaluate the facts, then take and defend a position on how the U.S. Supreme Court should rule in *Everdeen v. The Capitol* (2016).
4. Divide the room into two camps: *Everdeen v. The Capitol* (2016)
  - a. Groups are to share their research and their information.
  - b. Create a group position that will be presented to the panel of judges—Which can be students or teacher.
  - c. Each side has three minutes to present their position and evidence.
5. *Use Social Media to your advantage and Integrate Literacy Skills within your classroom.* Once a decision is reached there are ways to connect this lesson to history.
  - a. Have students create a headline for the newspaper declaring the court's position
  - b. A Twitter feed that was released by both sides, including three hashtags—one of which is related back to the Magna Carta
  - c. A SnapChat Video for a news feed explaining what happened in 20 seconds or less.
  - d. An Instagram picture and post that explains the court's decision.
  - e. Traditional essay linking the court cases with the outcome of the decision.



*In re Gault*

**THE CASE OF GERALD GAULT**

Gerald Gault was fifteen years old when he found himself in the midst of what became one of the most important legal cases of the 20<sup>th</sup> Century.<sup>i</sup> Gerald and a friend were arrested after a female neighbor complained to police about an obscene phone call. Gerald and his friend were suspected of the call. Police took Gerald into custody without telling his parents or informing any family member. He spent the night in the juvenile detention hall. The next day, Gerald appeared before a juvenile judge. He was not represented by a lawyer.

At the hearing, no witnesses appeared to testify against Gerald. The state did not provide any notice of the facts about why Gerald was arrested. No record was kept of the testimony. The judge asked Gerald some questions about the phone call. Gerald was never informed of his right to counsel, his right against self-incrimination, or any other rights. Based on Gerald's answers, the judge ordered a second hearing a week later. Gerald was sent to juvenile hall. At the second hearing, again the female neighbor did not appear. Despite conflicting evidence about Gerald's role in the phone call, he was found guilty ("delinquent") and sent to the state juvenile reformatory for six years, until he turned twenty-one.

Gerald challenged the constitutionality of these proceedings before the Supreme Court. The Supreme Court agreed that what happened to Gerald was “fundamentally unfair.” The Court held that certain protections needed to be in place in juvenile delinquency hearings. The Court ruled that at a minimum, juveniles are entitled to assistance of counsel, notice of the charges against them, the right to confront witnesses against them, and the protection against self-incrimination.

# Facts and Case Summary - In re Gault

Facts and Case Summary: *In re Gault* 387 U.S. 1 (1967)

## Facts:

Gerald (“Jerry”) Gault was a 15 year-old accused of making an obscene telephone call to a neighbor, Mrs. Cook, on June 8, 1964. After Mrs. Cook filed a complaint, Gault and a friend, Ronald Lewis, were arrested and taken to the Children’s Detention Home. Gault was on probation when he was arrested, after being in the company of another boy who had stolen a wallet from a woman’s purse.

At the time of the arrest related to the phone call, Gault’s parents were at work. The arresting officer left no notice for them and did not make an effort to inform them of their son’s arrest. When Gault’s mother did not find Gault at home, she sent his older brother looking for him. They eventually learned of Gault’s arrest from the family of Ronald Lewis. When Mrs. Gault arrived at the Detention Home, she was told that a hearing was scheduled in juvenile court the following day.

The arresting officer filed a petition with the court on the same day of Gault’s initial court hearing. The petition was not served on Gault or his parents. In fact, they did not see the petition until more than two months later, on August 17, 1964, the day of Gerald’s habeas corpus hearing. The June 9 hearing was informal. Not only was Mrs. Cook not present, but no transcript or recording was made, and no one was sworn in prior to testifying. Gault was questioned by the judge and there are conflicting accounts as to what, if anything, Gault admitted. After the hearing, Gault was taken back to the Detention Home. He was detained for another two or three days before being released. When Gault was released, his parents were notified that another hearing was scheduled for June 15, 1964.

Mrs. Cook was again not present for the June 15th hearing, despite Mrs. Gault’s request that she be there “so she could see which boy that done the talking, the dirty talking over the phone.” Again, no record was made and there were conflicting accounts regarding any admissions by Gault. At this hearing, the probation officers filed a report listing the charge as lewd phone calls. An adult charged with the same crime would have received a maximum sentence of a \$50 fine and two months in jail. The report was not disclosed to Gault or his parents. At the conclusion of the hearing, the judge committed Gault to juvenile detention for six years, until he turned 21.

Gault’s parents filed a petition for a writ of habeas corpus, which was dismissed by both the Superior Court of Arizona and the Arizona Supreme Court. The Gaults next sought relief in the Supreme Court of the

United States. The Court agreed to hear the case to determine the procedural due process rights of a juvenile criminal defendant.

## Procedure:

**Lower Courts:** The proceedings against Gault were conducted by a judge of the Superior Court of Arizona who was designated by his colleagues to serve as a juvenile court judge.

**Lower Court Ruling:** The juvenile court judge committed Gault to juvenile detention until he attained the age of 21. At that time, no appeal was permitted in juvenile cases by Arizona law; therefore, a habeas petition was filed in the Supreme Court of Arizona and referred to the Superior Court for a hearing. The Superior Court dismissed the petition, and the Arizona Supreme Court affirmed.

## Issue:

The Supreme Court agreed to hear the case to determine the procedural rights of a juvenile defendant in delinquency proceedings where there is a possibility of incarceration.

## Ruling:

Reversed and remanded. In its opinion, the Court unanimously overruled *Betts v. Brady*.

**Argued:** January 15, 1963

**Decided:** March 18, 1963

**Unanimous Decision:** Justice Fortas wrote the opinion of the court. Justices Douglas, Clark, and Harlan each wrote concurring opinions.

## Reasoning:

In its opinion, the Court underscored the importance of due process, stating that it “is the primary and indispensable foundation of individual freedom” and that “the procedural rules which have been fashioned from the generality of due process are our best instruments for the distillation and evaluation of essential facts from the conflicting...data that life and our adversary methods present.” *In re Gault*, 387 U.S. 1, 20 (1967). The Court noted that, had Gault been 18 at the time of his arrest, he would have been afforded the procedural safeguards available to adults. The Court closely examined the juvenile court system, ultimately determining that, while there are legitimate reasons for treating juveniles and adults differently, juveniles

facing an adjudication of delinquency and incarceration are entitled to certain procedural safeguards under the Due Process Clause of the Fourteenth Amendment.

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