

## **50<sup>th</sup> Anniversary Year: *Gideon v. Wainwright***

*Abbreviated Re-Enactment in Courtroom*

### **AGENDA**

- 9:15 a.m.**                    **Attorneys Arrive in the Courtroom.**
- 9:30 – 10:00 a.m.**        **Participants Go Through Security**  
(30 minutes)                First teachers to arrive in the courtroom take the pre-test/opinion poll and read program materials.
- 10:00 – 10:05 a.m.**        **Announcements**  
(5 minutes)
- 10:05 – 10:15 a.m.**        **Monologues by 1) Clarence Gideon; 2) Female Newspaper Reader; 3) Jerry Gault.** For the courtroom program, the other speaking parts have been eliminated. The full script is for use in a classroom.
- 10:15 – 10:25 a.m.**        **Two Public Defenders Present Facts and Case Summaries**  
(10 minutes)                *Gideon v. Wainwright* and *In re Gault*.
- 10:25 – 10:55 a.m.**        **The Public Defenders Speak About their Job and Take Questions**  
(30 minutes)                They explain their role, work, experiences, rewards, frustrations, and public misconceptions. They discuss the importance of *Gideon v. Wainwright*; *In Re Gault*; and the Public Defender System.
- 10:55 – 11:15 a.m.**        **Fictional Scenario**  
(20 minutes)                Using a brief teen-relevant scenario, the Public Defenders walk participants through the process. *This activity may continue into the time for the Q/A session, if necessary.*
- 11:15 – 11:35 a.m.**        **Debriefing Discussion and Q/A**  
(20 minutes)                *At the same time, participants fill out evaluations.*
- 11:35 – 11:45 a.m.**        **Informal Socializing with the Attorneys**  
(10 minutes)                *This time may be eliminated if used for prior sections.*
- 11:45 a.m.**                    **Adjourn**

## DISCUSSION QUESTIONS

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### **Suggested General Questions**

1. What factors that you read in the scenario would bring this case into federal court?
2. If Tim Jones decides to plead guilty, and you are representing him as a Federal Public Defender, list the weaknesses in your case that an Assistant U.S. Attorney might argue before the sentencing Judge.
3. If Tim Jones decides to plead guilty, as his Federal Public Defender, make a list of the strengths of your case that you would argue before the sentencing Judge.

## FACTS AND CASE SUMMARY: IN RE GAULT

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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 *Beets v. Brady*.

**Argued:** January 15, 1963

**Decided:** March 18, 1963

**Unanimous Decision:** Justice Black (who dissented in *Betts*) 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.

## FACTS AND CASE SUMMARY: GIDEON V. WAINWRIGHT

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Facts and Case Summary: *Gideon v. Wainwright* 372 U.S. 335 (1963)

### FACTS:

Clarence Earl Gideon was an unlikely hero. He was a man with an eighth-grade education who ran away from home when he was in middle school. He spent much of his early adult life as a drifter, spending time in and out of prisons for nonviolent crimes.

Gideon was charged with breaking and entering with the intent to commit a misdemeanor, which is a felony under Florida law. At trial, Gideon appeared in court without an attorney. In open court, he asked the judge to appoint counsel for him because he could not afford an attorney. The trial judge denied Gideon's request because Florida law only permitted appointment of counsel for poor defendants charged with capital offenses.

At trial, Gideon represented himself – he made an opening statement to the jury, cross-examined the prosecution's witnesses, presented witnesses in his own defense, declined to testify himself, and made arguments emphasizing his innocence. Despite his efforts, the jury found Gideon guilty and he was sentenced to five years imprisonment.

Gideon sought relief from his conviction by filing a petition for writ of habeas corpus in the Florida Supreme Court. In his petition, Gideon challenged his conviction and sentence on the ground that the trial judge's refusal to appoint counsel violated Gideon's constitutional rights. The Florida Supreme Court denied Gideon's petition.

Gideon next filed a handwritten petition in the Supreme Court of the United States. The Court agreed to hear the case to resolve the question of whether the right to counsel guaranteed under the Sixth Amendment of the Constitution applies to defendants in state court.

### PROCEDURE:

**Lower Courts:** Bay County Circuit Court, Fourteenth Judicial Circuit of Florida

**Lower Court Ruling:** The trial judge denied Gideon's request for a court-appointed attorney because, under Florida law, counsel could only be appointed for a poor defendant charged with a capital offense. The Florida Supreme Court agreed with the trial court and denied all relief.

### ISSUE:

A prior decision of the Court's, *Betts v. Brady*, 316 U.S. 455 (1942), held that the refusal to appoint counsel for an indigent defendant charged with a felony in state court did not necessarily violate the Due Process Clause of the Fourteenth Amendment. The Court granted Gideon's petition for a writ of certiorari – that is, agreed to hear Gideon's case and review the decision of the lower court – in order to determine whether *Betts* should be reconsidered.

### 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 Black (who dissented in *Betts*) wrote the opinion of the court. Justices Douglas, Clark, and Harlan each wrote concurring opinions.

### REASONING:

The Court held that the Sixth Amendment's guarantee of counsel is a fundamental right essential to a fair trial and, as such, applies the states through the Due Process Clause of the Fourteenth Amendment. In overturning *Betts*, Justice Black stated that "reason and reflection require us to recognize that in our adversary system of criminal justice, any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is

provided for him.” He further wrote that the “noble ideal” of “fair trials before impartial tribunals in which ever defendant stands equal before the law . . . cannot be realized if the poor man charged with crime has to face his accusers without a lawyer to assist him.”

## FICTIONAL SCENARIO

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### ***A Story of How Someone Like You Might Need a Public Defender***

Tim Jones is a 17-year-old who just completed his junior year. He has a reputation for hard work in academics and athletics and is widely admired as an inclusive school leader. Tim has been accepted into the early admissions program at his first-choice college. When he is not studying or working out with teammates, he is at his part-time job. Tim has earned his parents' trust as a responsible son who never misses a curfew.

To reward him for his maturity and hard work, Tim's parents allow him to take the family van to go camping with three friends over the Fourth of July weekend at a national park where the family traditionally spends the holiday together. On the way, Tim decides to buy fireworks. He drives his friends across the state line to Evergreen State where they buy fireworks at the same roadside stand that Tim's Uncle John has taken him to every year.

At the entrance to the federal park where they have reserved a campsite, a sign reads: "No Fireworks Allowed." Tim says that, every year after his parents were asleep in their camper, his Uncle John set off fireworks at this campground with no problems.

By the time the boys set up camp and build a fire, darkness has fallen, so they set off a quick series of fireworks. After the first round, the boys notice a small fire in the direction they have been launching the fireworks. They try unsuccessfully to put out the fire, which grows quickly and forces them to leave the campground. As Tim drives the van, his friend Terry calls Tim's dad, who tells them they have to report the fire immediately. Terry calls the nearest fire department and directs the fire chief to the location of the fire.

When the fire fighters, forest ranger, and sheriff arrive, the fire is out of control. As the firefighters battle the blaze, Tim gives consent to the park ranger and the sheriff to search the van. They find the remaining fireworks and a receipt from the fireworks stand across the state line.

By the next morning, three acres of trees in this popular recreation area are destroyed, and a U.S. Forest Service building is burned to the ground. The initial damage assessment includes more than \$200,000 to extinguish the blaze and more than \$300,000 to replace the U.S. Forest Service property.

The United States Attorney's Office for Evergreen is charging Tim with misdemeanor federal crimes of starting a wildfire on federal land and possession of illegal fireworks on federal land. Tim faces penalties of up to six months in jail, probation supervision, and restitution for the property damage as ordered by the Court. The fire attracts widespread media coverage. The nearby community and national environmental groups stage protests, demanding the maximum penalties.

# CLARENCE GIDEON AND GERALD GAULT RE-ENACTMENT

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Use the monologues to facilitate a historic re-enactment of *Gideon v. Wainwright* and *In re Gault* in a readers theater format.

**What is readers theater?** It is a dramatic reading of a prepared script as if it were a stage play, however, there are no costumes, props, or actions. Instead, volunteers use expressive voices and gestures to add interest and meaning to the story line. Participants hold their own copy of the script and read their respective parts so that everyone in the audience can hear. They do not memorize their lines. The emphasis is on comprehension and student-centered learning.

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## Speaking Parts

The speaking parts are listed in order of appearance and males or females can read either part.

1. Clarence Earl Gideon
2. Female Newspaper Reader
3. Narrator for the Abe Fortas Monologue
4. Same or Different Narrator for the Abe Fortas Monologue
5. U.S. Supreme Court Justice Hugo Black
6. Attorney W. Fred Turner
7. Juvenile Gerald "Jerry" Gault
8. Clarence Earl Gideon (different participant)

## Monologues

All scripts are in PDF format.

- [Introduction: Clarence Gideon Monologue](#)
- [Abe Fortas, Attorney Appointed by the Supreme Court Monologue](#)
- [Justice Hugo L. Black Monologue](#)
- [W. Fred Turner, Gideon's Court-Appointed Attorney for the Re-Trial Monologue](#)
- [Gerald Gault Monologue](#)



- [Conclusion of Re-Enactment Clarence Gideon, Ending Monologue](#)

## SIXTH AMENDMENT: THE RIGHT TO COUNSEL

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Using a readers theater format, participants become the historical characters in the stories of two cases about the right to legal counsel: *Gideon v. Wainwright* and *In re Gault*. Federal public defenders lead a discussion and a demonstration of a realistic teen scenario in which all participate. See the [agenda](#) (pdf).

### About these Resources

The resources for a courthouse event or a classroom activity include:

- Facts and case summary for [Gideon v. Wainwright](#) and [In re Gault](#).
- A [scripted re-enactment](#) of the stories of Clarence Gideon (*Gideon v. Wainwright*) and juvenile Jerry Gault (*In re Gault*).
- A [discussion](#) with federal public defenders about the right to counsel and the role of public defenders in fulfilling the promise of the Sixth Amendment.
- A [fictional scenario](#) depicting a real-life situation.
- An [agenda](#) providing a guide to the activity.

### How to Use These Resources

The courtroom program designed for 9th-12th grade students or teachers for professional development programs can be 60 minutes to 90 minutes, depending on how much time is allotted for the three components:

- The [scripted re-enactment](#) done in a readers theater format.
- [Discussion](#) with federal public defenders.
- Demonstration of a realistic [fictional scenario](#) with the defenders in which all participants are involved.

### In Advance

No preparation for students or teachers is needed. Everything is provided in the courtroom and participants are prepared by the federal public defenders.

### In the Classroom or Courtroom

Public defenders facilitate the following activities:

1. Participants read their [scripted parts](#) from *Gideon v. Wainwright* and *In re Gault*.
2. Public defenders summarize [Gideon v. Wainwright](#) and [In re Gault](#).
3. Public defenders engage participants in a discussion about:
  - A day in the life of a defender as it relates to teen issues
  - The role of defenders with their clients; in the courtroom; and protecting the rule of law.
  - How the public defender system has an impact on the program participants and other law-abiding citizens.

- **Program Times:** 50-minute class period; 60-90 minute courtroom program. Timing depends on the length of discussion segments. Each program component can be adjusted to fit the time allotted for the event.
- **Preparation Times:**
  - **Public Defenders:** Reading prepared materials. (*30 min.*) No further research or reading necessary.
  - **Teachers Students:** No preparation.
  - **Courthouse Venue:** To find the nearest local courthouse, use the [court locator](#).