

## 10.6: Due Process in the Juvenile Court

As discussed, the juvenile court was created with rehabilitation and individualized treatment in mind. However, between 1966 and 1975, the court became more formalized and started “adultifying” the process. Landmark cases for establishing due process rights in the juvenile justice system include.

### ***Kent v. United States*** (1966) <sup>[1]</sup>

Morris Kent was a 16-year-old boy living in Washington DC who was on probation for burglary and theft. He was arrested again and charged with three burglaries, three robberies, and two counts of rape. Due to the seriousness of the charges and Kent’s previous criminal history, the prosecutors moved to try Kent in adult court. However, because of his age, he was under the exclusive jurisdiction of the juvenile court. Kent’s lawyers wanted his case to be heard in juvenile court. Without a hearing or a full investigation, the judge sided with the prosecutors and Kent was tried in adult court. He was found guilty and sentenced to 30 to 90 years in prison. On appeal, Kent lawyers argued that the case should have to stay in juvenile court and it was unfairly moved to adult court without a proper hearing.

The Supreme that while minors can be tried in adult court, the original judge needed to conduct a full investigation and an official waiver hearing where the merits of the case were weighed, such as the juvenile’s age, prior charges, and mental state. Essentially, Kent was entitled to a hearing that provided “the essentials of due process and fair treatment.” This standard includes the right to a formal hearing on the motion of waiver and a written statement of the reasons for a waiver, the right to counsel, and the defense’s access to all records involved in the waiver decision. It also ruled that “The *parens patriae* philosophy of the Juvenile Court ‘is not an invitation to procedural arbitrariness.’” <sup>[2]</sup>

### ***In re Gault*** (1967). <sup>[3]</sup>

Gerald “Jerry” Gault, a 15-year-old Arizona boy, was taken into custody for making obscene calls to a neighbor’s house. After the neighbor, Mrs. Cook filed charges, Gault and his friend were taken to the Juvenile Detention Home. At the time he was taken into custody, his parents were at work and the arresting officers made no effort to contact them nor did they leave a note about the arrest or where they were taking their son. They finally learned of his whereabouts from the family of the friend who arrested with him.

When the habeas corpus hearing was held two months later, Mrs. Cook was not present, no one was sworn in prior to testifying, and no notes were taken. He was released and scheduled to reappear a few months later for an adjudication hearing. In the following hearing, again, Mrs. Cook was not present and again, no official transcripts of the proceeding were taken.

The official charge was “making lewd phone calls.” The maximum penalty for an adult charge with this was a \$50 fine or not more than two months in jail. Gault was found guilty and sentenced to 6 years in juvenile detention.

Gault’s parents filed a writ of habeas corpus which was eventually heard by the Supreme Court. The Supreme Court ruled that juveniles are entitled to due process rights when the court proceedings may result in confinement to a secure facility. The specific due process rights highlighted in this case include (1) fair notice of charges; (2) right to counsel; (3) right to confront and cross-examine witnesses; and (4) privilege against self-incrimination.

The Court held that the Due Process Clause of the Fourteenth Amendment applies to juvenile defendants as well as adult defendants. “Juvenile court history has again demonstrated that unbridled discretion, however benevolently motivated, is frequently a poor substitute for principle and procedure.”

### ***In re Winship*** (1970) <sup>[4]</sup>

Samuel Winship, a 12-year old boy living in New York, was charged with stealing \$112 from a woman’s purse in a store, a charge that “if done by an adult would constitute the crime or crimes of Larceny.” Since he committed a crime, the charges of juvenile delinquency were justified. Winship was found delinquent in a New York juvenile court, using the civil law standard of proof, “preponderance of the evidence.” Winship was committed to a state training school for an initial period of 18 months with the annual extension of no more than six years.

Upon appeal, the U.S. Supreme Court ruled that the Due Process Clause of the Fourteenth Amendment requires “proof beyond a reasonable doubt.” The court acknowledged that juvenile proceeding is designed to be more informal than adult proceedings,

but if charged with a crime, the juvenile is granted protections of proof beyond a reasonable doubt. Winship expanded the constitutional protections established in Gault.

***Breed v. Jones*** (1975) <sup>[5]</sup>

A 17-year-old boy named Gary Jones was charged with armed robbery and found guilty in a California juvenile court. At the dispositional hearing, the probation officer assigned to the case testified that Jones was not amenable to treatment. After the hearing, the court determined that Jones should subsequently be tried as an adult. Jones' lawyers filed a writ of habeas corpus and argued that waiving the case to adult court after it was already adjudicated in juvenile court violated the double jeopardy clause in the Fifth Amendment. The Supreme Court ruled that, yes, Jones had been placed in double jeopardy. This further formalized the juvenile court, however, The Court moved, "Giving respondent the constitutional protection against multiple trials in this context will not, as petitioner claims, diminish the flexibility and informality of juvenile-court proceedings." <sup>[6]</sup>

1. *Kent v. United States*, 383 U.S. 541, 86 S.Ct. 1045 (1966). [↩](#)
2. *Kent v. United States*, 383 U.S. 541, 86 S.Ct. 1045, pp. 554-556 (1966) [↩](#)
3. *In re Gault*, 387 U.S. 1, 87 S.Ct. 1428 (1967) [↩](#)
4. *In re Winship*, 397 U.S. 358, 90 S.Ct. 1068 (1970) [↩](#)
5. *Breed v. Jones*, 421 U.S. 519, 95 S.Ct. 1779 (1975) [↩](#)
6. 27 Raley, Gordon. 1995. "The JJDP Act: A Second Look." *Juvenile Justice Journal*, 2:11-18. [↩](#)

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