

Lesson 6

Tuesday February 13, 2024

Supreme Court Considers the Necessity of Due Process of Law (p. 14)

- Differences between juvenile and adult systems (pp. 15-16).
- Concept of parens patriae (pp. 16-17).
- “A peculiar system” (pp. 17-19).
- Due process of law (pp. 19-21).
- The “offset argument” (pp. 21-27).
- The actual practice of juvenile justice as evidenced by the Gault case (pp. 27-30): “Under our Constitution, the condition of being a boy does not justify a kangaroo court” (p. 28).
- The due process clause of the Fourteenth Amendment makes certain fundamental procedural requirements in the Bill of Rights binding on states’ treatment of juvenile cases (pp. 30-31).

Notice of Charges (pp. 31-34)

- Failure to provide adequate notice of the hearings.
- Failure to provide specific information in the petition (remember Officer Flagg used only very general terminology in his petition request).
- AzSC concluded that in light of the juvenile court's traditional function, adequate notice was provided.
- The Court's ruling: "We cannot agree with the [AzSC]court's conclusion that adequate notice was given in this case" (p. 33).

Right to Counsel (pp. 34-42)

- Gault argues that Juvenile Court proceedings were unconstitutional because the court did not tell him he had the right to an attorney (p. 34).
- AzSC says there is disagreement about whether a juvenile must be advised of right to counsel. They maintained that “The parent and the probation officer may be relied upon to protect the [juvenile’s] interests.” Advice about counsel should be left to the discretion of the juvenile court (pp. 34-35).
- Supreme Court Holding: “We do not agree. Probation officers ... are also arresting officers. They initiate proceedings and file petitions...The probation officer cannot act as counsel for the child... Nor can the judge represent the child...The juvenile needs the assistance of counsel to cope with problems of law, to insist upon regularity of the proceedings, and to ascertain whether he has a defense and to prepare and submit it. The child requires the guiding hand of counsel at every step in the proceedings against him... we hold now that [the assistance of counsel] is ...essential for the determination of delinquency” (p. 35).
- “We conclude that the Due Process Clause of the Fourteenth Amendment requires that [in cases] which may result in commitment to an institution... the child and his parents must be notified of the right to be represented by counsel, retained by them, or if they are unable to afford counsel, that counsel will be appointed to represent the child.” (p. 41).

Confrontation, Self-Incrimination, and Cross-Examination (pp. 42-57)

- Gault argues that proceedings were flawed because the rights of confrontation and cross-examination were denied and the privilege against self-incrimination was not observed (p. 42).
- AzSC's position: "We think the necessary flexibility for individualized treatment will be enhanced by a rule which does not require the judge to advise the infant of a privilege against self-incrimination" (p. 44).
- The Court disagrees: "It would indeed be surprising if the privilege against self-incrimination were available to hardened criminals but not to children. The language of the Fifth Amendment, applicable to the States by operation of the Fourteenth Amendment, is unequivocal and without exception" (p. 47).
- U.S. Supreme Court holding: "We conclude that the constitutional privilege against self-incrimination is applicable in the case of juveniles as it is with respect to adults." (p. 55).
- At a minimum, Gault's confession did not have "the certainty and order which are required of proceedings of such formidable consequences." (p. 56).
- In addition, "confrontation and sworn testimony by witnesses available for cross-examination were essential for a finding of "delinquency" and an order committing Gerald to a state institution for a maximum of six years" (p. 56).

Appellate Review and Transcript of Proceedings (pp. 57-59)

- Gault claims that Arizona law is unconstitutional because no right of appeal of a juvenile court order and no right to a transcript of the proceedings are available (pp. 57-58).
- The U.S. Supreme Court did not rule on this issue for technical reasons: “In view of the fact that we must reverse the [Arizona courts’] dismissal of the writ of habeas corpus for other reasons,, we need not rule on this question in the present case” (p. 58).
- The Court ventures a prediction: “the consequences of failure to provide an appeal, to record the proceedings, or to make findings or state the grounds for the juvenile court’s conclusion may be to throw a burden upon the machinery for habeas corpus” (p. 58).
- And, that’s just bad policy: The failure to provide appellate review and record the proceedings will “saddle the reviewing process with the burden of attempting to reconstruct a record, and to impose upon the Juvenile Judge the unseemly duty of testifying under cross-examination as to the events that transpired in the hearings before him” (p. 58).

Justice Black's Concurring Opinion (p. 59)

- States have tended to view juvenile proceedings as “civil” rather than “criminal.” According to Black, “This, in part, was to prevent the full application to juvenile court cases of the Bill of Rights safeguards, including notice as provided in the Sixth Amendment, the right to counsel guaranteed by the Sixth, the right against self-incrimination guaranteed by the Fifth, and the right to confrontation guaranteed by the Sixth” (pp. 59-60).
- Black believes that the Gault decision eliminates a good deal of what makes the juvenile courts different from adult courts (p. 60).
- The “exalted ideal” of the juvenile court has “failed of achievement since the beginning of the system” (p. 60).
- Logic: if the juvenile court is going to play hardball with kids then it has to play by grown-up rules (i.e., the Bill of Rights should apply to juveniles in judicial proceedings) (p. 61): “Where a person, infant or adult, can be seized by the State, charged, and convicted for violating a state criminal law, and then ordered by the State to be confined for six years, I think the Constitution requires that he be tried in accordance with the guarantees of all the provisions of the Bill of Rights made applicable to the states by the Fourteenth Amendment.”

In re Winship (1970)

- Case originates with a theft charge (12-year old Samuel Winship stealing money from a woman's purse at a store).
- Evidence in the case was not conclusive (witness reported him running away just before money was reported missing but he did not confess and no one said they actually saw him steal the money).
- New York law allowed for Winship to be adjudicated delinquent by a "preponderance of the evidence" rather than requiring "proof beyond a reasonable doubt."
- U.S. Supreme Court held that when there is a question of criminal guilt, the 14th Amendment's Due Process Clause requires that "proof beyond a reasonable doubt" be the evidentiary standard in state courts and that this ruling applies to juveniles charged with a crime.

McKeiver v. Pennsylvania (1971)

- 6th Amendment: “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district where in the crime shall have been committed...”
- 16-year old Joseph McKeiver charged with robbery and larceny.
- McKeiver requested a jury trial and this request was denied by the juvenile court judge.
- McKeiver appealed to the U.S. Supreme Court.
- The Court held that juveniles *do not* enjoy the 6th Amendment’s right to a jury trial.
- Court’s reasoning was somewhat unclear because of different opinions by the justices but three themes emerged: (1) juries do not enhance the child’s best interest mission of the juvenile court; (2) there are other aspects to consider besides guilt and innocence in juvenile cases; and (3) concerns about confidentiality of the juvenile justice process.

Breed v. Jones (1975)

- 5th Amendment: “nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb.”
- 17-year old Gary Jones was adjudicated delinquent for armed robbery in Los Angeles.
- Judge decided to waive the case to the criminal court after adjudication had already occurred.
- Jones filed petition for a writ of habeas corpus on the theory that the 5th Amendment’s prohibition against double jeopardy had been violated. Criminal court denied the writ ruling that juvenile adjudication is not equivalent to adult criminal trial.
- U.S. Supreme Court overruled, holding that jeopardy attaches when evidence is presented in a case where a juvenile is charged with violating a criminal statute. Waiver hearings must, therefore, be conducted before adjudication hearings.