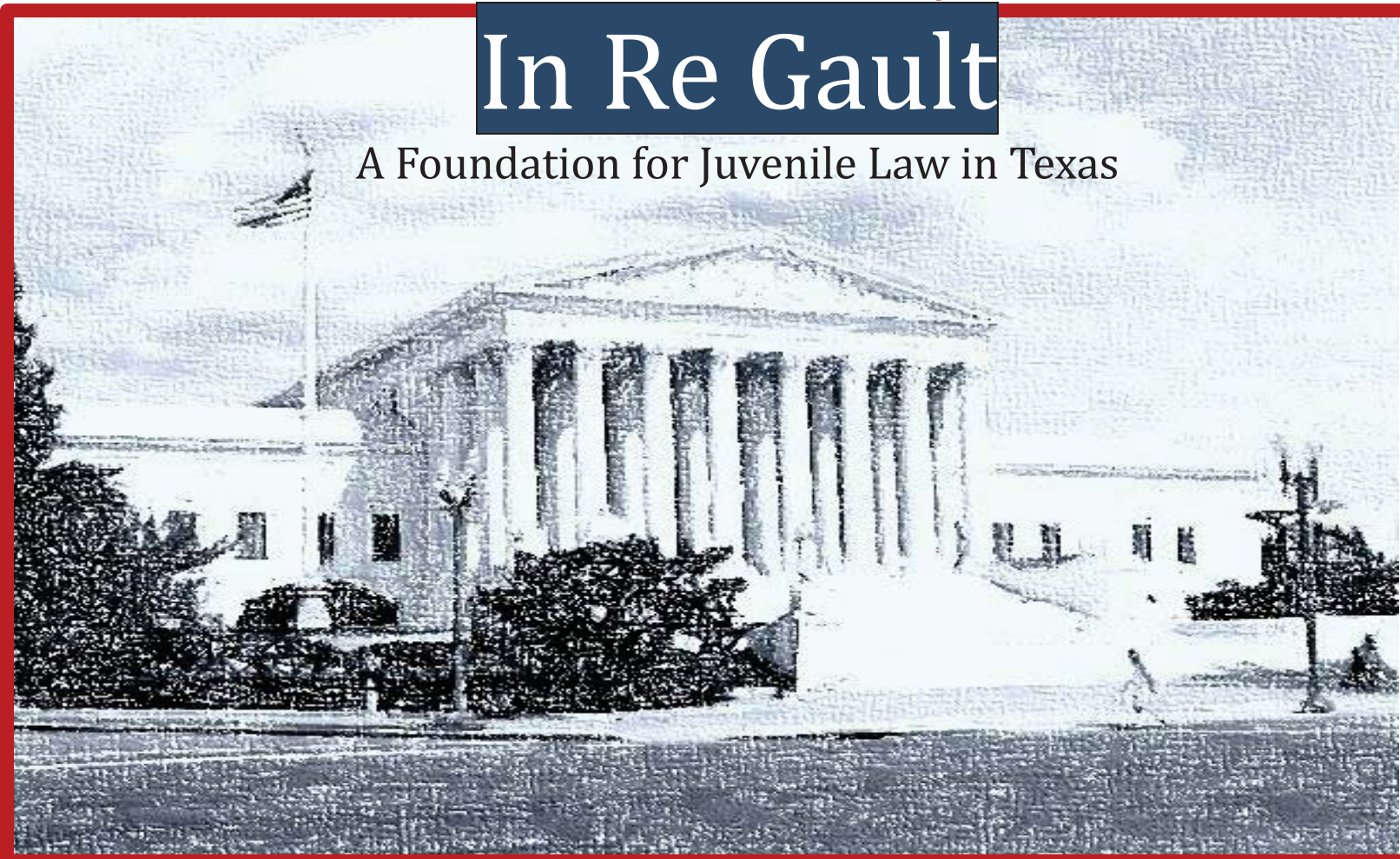


*50th Anniversary*

# In Re Gault

A Foundation for Juvenile Law in Texas



**Nydia D. Thomas, J.D.**

**Special Counsel**

**Office of the General Counsel**

Texas Juvenile Justice Department

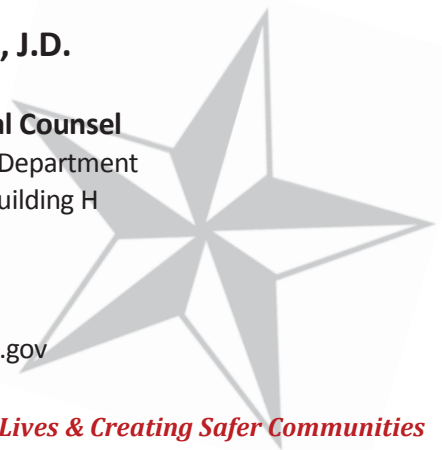
11209 Metric Blvd • Building H

Austin, Texas 78758

P 512.490.7121

W [www.tjjd.texas.gov](http://www.tjjd.texas.gov)

E [legalhelp@tjjd.texas.gov](mailto:legalhelp@tjjd.texas.gov)



*Transforming Young Lives & Creating Safer Communities*



---

---

---

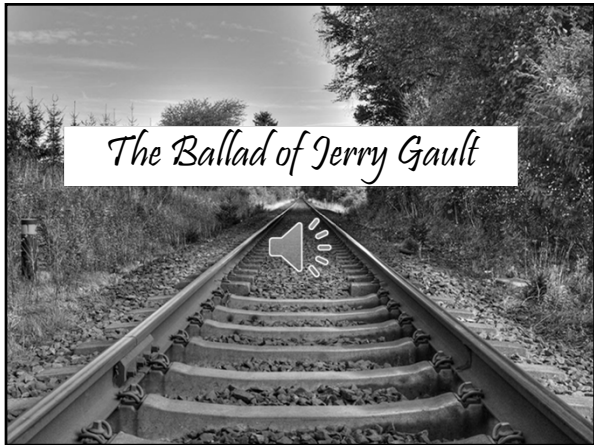
---

---

---

---

---



---

---

---

---

---

---

---

---

At the Crossroads of Juvenile Jurisprudence



---

---

---

---

---

---

---

---




---

---

---

---

---

---

---

---

### *The Phone Call...*

On June 8, 1964, Mrs. Ora Cook received a telephone call. Surprised and offended by the lewd nature of the call, she contacted the Gila County Sheriff stating she thought she recognized the voices of two neighborhood boys- "one was that Gault boy from the trailer court."




---

---

---

---

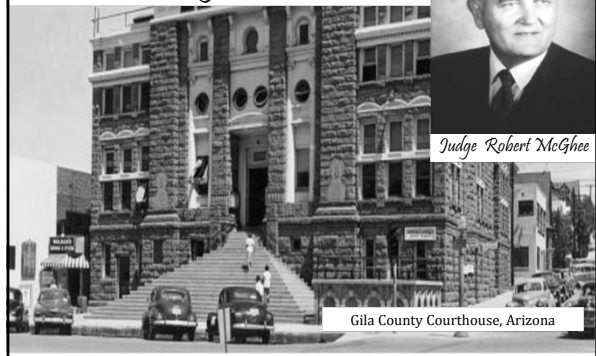
---

---

---

---

### Gila County Superior Court *The "Hearing or Whatnot"*




---

---

---

---

---

---

---

---

## The Road to the Supreme Court

*"A Hat is Never Worn"*



*Attorney Amelia Lewis*

- **Attorney Amelia Lewis:** Is there any set decorum as to what the Court prefers **women lawyers** to wear when they appear?
- **Supreme Court Clerk John Davis:** There is no set fashion as to the attire which women lawyers appear in Court. **However, a hat is never worn.**

Source: In Re Gault Papers - Cahill

---

---

---

---

---

---

---

---



---

---

---

---

---

---

---

---

## *In re Gault*

387 U.S. 1, 87 S.Ct. 1428 (1967)



### *Issue*

Whether Gila County denied Gerald Gault's 14<sup>th</sup> Amendment right to due process and equal protection under the law as a result of his status as a juvenile.

### *Argument*

Gault asserted that he was denied the right to:

- notice of charges;
- counsel;
- confrontation of witnesses;
- protection against self-incrimination;
- a transcript of the proceedings; and
- appellate review

---

---

---

---

---

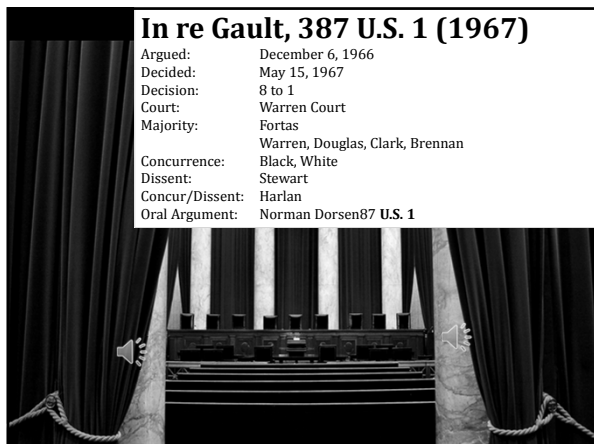
---

---

---

### In re Gault, 387 U.S. 1 (1967)

Argued:	December 6, 1966
Decided:	May 15, 1967
Decision:	8 to 1
Court:	Warren Court
Majority:	Fortas
	Warren, Douglas, Clark, Brennan
Concurrence:	Black, White
Dissent:	Stewart
Concur/Dissent:	Harlan
Oral Argument:	Norman Dorsen



---

---

---

---

---

---

---

---

---


---

### *In re Gault*

387 U.S. 1, 87 S.Ct. 1428 (1967)

*Court Ruling*

U.S. Supreme Court held that a juvenile delinquency adjudication must comply with due process requirements including notice to parents, right to hearing and privilege of self-incrimination just as in adult proceedings.



---

---

---

---

---

---

---

---

---


---

### *In re Gault*

387 U.S. 1, 87 S.Ct. 1428 (1967)

*The Dissent – Potter Stewart*

- The juvenile justice system was created as a result of the efforts of professionals who had the enlightened task of bringing us out of the dark world of Charles Dickens. This case invites a step backwards into the 19<sup>th</sup> century when there were no juvenile proceedings.
- [The goal of the system] is to immunize juveniles from punishment for crimes and to save them from the stigma of their youthful indiscretions.
- Not opposed to due process... The inflexibility of Constitutional restrictions have no place in the proceedings of public social agencies known as juvenile courts and family courts.
- Gault is a near fatal blow to that which is unique about the juvenile courts.



---

---

---

---

---

---

---

---

---

---

## *Individualized Justice*

Individualized justice is a core tenet of the juvenile justice system.

- It contemplates that juveniles are different and the adjudicative process should consider the child's development and capacity to change.



---

---

---

---

---

---

---

---

## *Post-Script*

### Gault's Juvenile Records

- On May 15, 1967, the U.S. Supreme Court overturned Gault's conviction and remanded the case for further proceedings. No state court took up the case.
- At 18, Gault tried to join the Army. The Army rejected his application based on his criminal history. He was forced to wait until his records were destroyed at 21.
- Gila County denied Atty. Amelia Lewis' efforts to purge his record and the conviction stood.
- In 2014, Gila County Judge Peter Cahill was researching the case and worked to have Gault's conviction vacated nearly 50 years later.



*Amelia Lewis and Gerald Gault*  
Photo: National Juvenile Defender Center website

---

---

---

---

---

---

---

---



---

---

---

---

---

---

---

---

14

- In order to comply with **due process**, a juvenile must be provided with adequate notice of the specific allegations; described with particularity and sufficiently in advance of proceedings.

**Texas Family Code – Notice of Hearing**

§53.04(d)(1) Petition  
§ 53.06(b) Summons  
§ 53.07(a) Service of Summons  
§ 56.01, § 56.02, Right to **Appeal**; Transcript

---

---

---

---

---

---

---

---

6

- The **Right to Counsel** is required for children who may be determined delinquent and subject to the loss of liberty. The child and parents must be notified of the right to be represented or appointed counsel.

**Texas Family Code – Notification of Right to Counsel**

§54.01(b) – Detention Hearing  
Also, §54.011, § 54.012  
§54.03(b)(5) – Adjudication Hearing – Court Explanation

---

---

---

---

---

---

---

---

6

- In Texas, the **Right to Counsel** is available at **every stage of juvenile proceedings**, not just at the adjudication hearing. In some instances, the right can be waived, but not in specific proceedings.

**Texas Family Code –Right to Counsel**

§51.10(a) Right to Assistance of Attorney  
§ 51.10(b) Right to Assistance of Attorney -- **No Waiver**  
§ 51.101 Appointment and Continuation of Representation  
§ 51.102 Appointment of Counsel Plan

---

---

---

---

---

---

---

---

6

- The right to **Confront Witnesses** and cross-examine accusers applies to juvenile cases.

**Texas Family Code – Confrontation of Witnesses**

§ 53.04(d)(1), Court Petition; Answer

§ 54.03 (b) (4), Adjudication Hearing

---

---

---

---

---

---

---

---

5

- **Privilege Against Self-incrimination**  
Juveniles cannot be compelled to give testimony that is self-incriminating.

**Texas Family Code – Privilege Against Self-Incrimination**

§ 53.03 (c)– Deferred Prosecution

§ Sec. 54.03 (b) and (e) – Adjudication Hearing

---

---

---

---

---

---

---

---

*In Gault's Own Words*



---

---

---

---

---

---

---

---






---

---

---

---

---

---

---

---

*Gault@50 - Getting Engaged*




**National Juvenile Defender Center**  
[www.gault@50.org](http://www.gault@50.org)

- Blueprint for Reform
- Statement of Purpose
- Resources
- Campaign Toolkit
- Events Around the County

---

---

---

---

---

---

---

---

*Juvenile Justice Reforms*

Around the Country

- Landmark Cases
- Indigent Defense
- Adolescent Brain Development
- Mental Health
- Evidence-Based Practices
- Dual Status
- Community-Based Alternatives
- Solitary Confinement and Shackling Bans
- Court Costs and Fines
- Juvenile Records
- Juvenile Sex Offender Registration

---

---

---

---

---

---

---

---

## Juvenile Justice Initiatives

**ModelsforChange**  
Systems Reform in Juvenile Justice

- [modelsforchange.net](http://modelsforchange.net)



- [www.ncsl.org](http://www.ncsl.org)



THE ANNIE E. CASEY FOUNDATION

- [www.aecf.org](http://www.aecf.org)



- [www.njdc.info](http://www.njdc.info)

---

---

---

---

---

---

---

## The End



### Consulted Works

Texas Juvenile Law, 8<sup>th</sup> Edition (2014), Robert Dawson, et.al.  
Aleshire, P. (2015, May 7). Prank Call Spurred Juvenile Court Reforms, Payson Roundup. Retrieved from [www.paysonroundup.com](http://www.paysonroundup.com), Accessed February 7, 2017.  
Cahill, P., L. Piferdeort, In the Matter of Gerald Gault, 51 Year Later, National Association of Women Judges, Conference Materials, (October 2015). Retrieved from [www.nawj.org](http://www.nawj.org), Accessed February 10, 2017.  
Gault @50 Online Resource Materials, [www.gault@50.org](http://www.gault@50.org) (Accessed February 12, 2017).  
National Juvenile Defender Center, In Re Gault (Photo: Gerald Gault, Amelia Lewis)  
Photographs: Wikimedia.org/Wikipedia: 1967 Images, Warren Court and Abe Fortas  
Public Domain Photos and Clip Art  
Ballad of Jerry Gault, Music & lyrics by Kevin Dudley and Caron Dale (Retrieved from YouTube – Performed by Lester Flatt and Earl Scruggs)  
Gerald Gault Interview (Retrieved from YouTube)

---

---

---

---

---

---

---