

## The U.S. Constitution

# The Bill of Rights and *Juvenile Justice*

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## Due Process and Juvenile Justice

### 1. Overview

The U.S. Supreme Court has concluded only adults charged with a crime are entitled to all the due process rights guaranteed by the Constitution. In this lesson, students will discover due process rights afforded to juveniles by examining several landmark U.S. Supreme Court decisions.

### 2. Grade

Standards & Honors  
 American Government  
 Intro to Law Studies

### 3. Length

Two 55 minute periods

### 4. Materials

- Overhead projector
- Prezi
- Teacher Prezi script
- Copies of handouts A, B, C, D, E, F
- Flip-chart paper
- Colored markers

### 5. Standards

V. Individuals, Groups, and Institutions  
 f. Show how groups and institutions work to meet individual needs and promote the common good, and identify examples of where they fail to do so.

VI. Power, Authority, and Governance  
 h. Recognize and give examples of the tensions between the wants and needs of individuals and groups, and concepts such as fairness, equity, and justice.

### 6. Prior Knowledge

Student will have an understanding of Article 3, Sec. 2 (Trial by Jury), Article 1, Sec. 9 (*Habeas Corpus*), and due process as well as the 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup> and 14<sup>th</sup> Amendments.

### Lesson: Day 1

### 7. Bell

-Project image and questions to elicit student responses and short discussion.

### 8. Essential Question

Should juvenile offenders be guaranteed the same constitutional due process rights as adults?

Ask students to keep this EQ in their minds.

### 9. Prezi Presentation

-(Handouts A, B, C, D)

### 10. Activity

Divide students into seven groups.

Instruct students:

It is now their turn to brief and present a case to the class regarding juvenile due process.

Hand out:

- A different Supreme Court case to each group (Handout E)
- Worksheet (Handout F)
- A sheet of flip-chart paper and colored markers

Task:

-Student groups should read

and “brief” the case on the worksheet. This will be their “draft.”

-On the flip-chart paper, students are to create the case as an illustration with minimal text. They should include the facts of the case, the constitutional issue, how the Court decided, and why the Court decided the way it did.

To help students get started, have them think about ways to illustrate the case (cartoon panels, newspaper, billboard...)

Creativity is important but this is not Art Class.

## **Day 2**

Student groups will present the cases in chronological order. Allow classmates to ask questions.

Check for understanding by asking clarifying questions, and whether the group agrees or disagrees with the Court’s decision. Why or why not?

### **11. Enrichment ideas**

- TedX, Why are we trying kids as adults? Michele Deitch, Amherst College, 16:51 minutes
- Have students research the due process rights of juveniles in their state.
- Have students examine a recent or current case involving a juvenile tried as an adult.
- Organize a field study for students to meet and speak

with a Juvenile Court judge.

### **12. Wrap-up**

-Project Exit Question and collect student responses at dismissal bell.

### **13. Assessment suggestions**

- Score presentations with a rubric.
- Have students create a Venn diagram to differentiate between adult and juvenile due process rights.
- Have students use a T-chart to list the pros and cons of juveniles tried as adults.
- Have students sequence the steps in the Juvenile Court Process.  
[web.stanford.edu/group/streetlaw/cgi-bin/wordpress/wp-content/uploads/2012/10/Hearing-Plea-Bargains.pdf](http://web.stanford.edu/group/streetlaw/cgi-bin/wordpress/wp-content/uploads/2012/10/Hearing-Plea-Bargains.pdf)

### **14. Resources**

- www.oyez.org
- www.ncjrs.gov
- www.findlaw.com
- www.nolo.com
- www.streetlaw.org
- www.getlegal.com
- www.njdc.info
- www.thesentencingproject.org
- The Bill of Rights: A User’s Guide



**Examine the image and jot your responses on a sheet of notebook paper.**

- 1. Where was the photo taken?"**
- 2. Who is in the photo?"**
- 3. By focusing on the photo's details, what can you infer?"**
- 4. If this photo was going to be on the front page of the local newspaper, what caption would you attach to it?"**

# TEACHER: PREZI SCRIPT

## *A note from me:*

Like many of you, my 20 years of teaching have been in schools where students have had encounters with law enforcement and the justice system. Many students have strong opinions about the police and what they perceive as their rights. It is important not to dismiss complaints about the system. Acknowledge that the system is not perfect, but ever evolving. Some students may want to share their experiences – indeed, they may know quite a bit about the system! You may want to remind students that you are not a lawyer and that laws often differ from one state to another.

- *Glenna*

[http://prezi.com/napywgao06uu/?utm\\_campaign=share&utm\\_medium=copy&rc=ex0share](http://prezi.com/napywgao06uu/?utm_campaign=share&utm_medium=copy&rc=ex0share)

### Frame 1

Explain to students they will be learning about the U.S. Constitution, Bill of Rights, and several Supreme Court landmark decisions that have impacted juvenile justice. **Handout A and B:** Constitution and Vocabulary “cheat sheets” for students to use as a reference.

### Frame 2

Do a “quick zip” around the classroom and ask students to guess the age of the boy in the photo.

Explain that the picture is of 12-year-old Herbert Nicolls, sentenced to life in prison for shooting and killing a sheriff while stealing gum and cigarettes from a store in 1931. He was incarcerated in the state penitentiary in Walla-Walla, Washington.

Ask students if they think this was a just punishment for Herbert Nicolls. Why or why not?

For most of U.S. History juveniles have been treated as “miniature adults” when they commit an offense. In a few states children as young as seven years of age were considered mature enough to know the difference between right and wrong. As a general rule, juveniles accused of breaking the law are handled by the state juvenile justice systems (for juveniles who commit a federal offense that is a lesson for another day.)

### Frame 3

Explain that during the Gilded Age/Progressive Era – 1870 to 1920 – immigration and urbanization occurred at a dramatic pace. Indigent children often lived on the streets and were influenced by and became involved in criminal activity. If caught, they were arrested, tried, convicted, and incarcerated with little due process, alongside adult criminals.

Realizing children institutionalized with adults were learning adult criminal behaviors and being “educated” for a life of criminal activity, social activists, state lawmakers and officials worked to create a separate state justice system for juveniles. The first juvenile justice court was in Chicago. Several states followed, but it took three decades for the rest to do likewise.

#### **Frame 4**

Juveniles found to be delinquent were sent to trade schools, apprenticeships, workhouses, foster homes, and reformatories. These early juvenile correctional institutions emphasized religious training, re-education, and developing skills so the children would be able to make meaningful contributions to society upon their release.

**Handout C:** Idaho Statesman newspaper article. Have students read (aloud or silently.)

**Ask** students if they still believe Niccolls was treated justly. Should he have received different due process rights than adult offenders? Why or why not?

#### **Frame 5**

***Prince v. Massachusetts, 1944*** upheld ***parens patriae***; the state could act “as a parent.”

A woman named Sarah Prince was convicted of violating child labor laws. She was the guardian of a nine-year-old girl, Betty M. Simmons, whom she had brought into a downtown area to preach and sell religious brochures on the streets.

She was charged with violating child labor laws that stipulated no boys under 12 and no girls under 18 were permitted to sell literature or other goods on public thoroughfares. The case was appealed to the U.S. Supreme Court.

In a 5–4 decision, the Supreme Court upheld Massachusetts' laws restricting the abilities of children to sell religious literature. The decision asserted that the government has broad authority to regulate the actions and treatment of children. Parental authority is not absolute and can be permissibly restricted if doing so is in the interests of a child's welfare. While children share many of the rights of adults, they face different potential harms from similar activities.

Ask students, “Do you agree with the Court’s decision?” Why or why not?

#### **Frame 6**

**Handout D:** *Kent v. United States*. Instruct students to read and respond to the questions.

Check for understanding with a follow-up class discussion based on student responses.

#### **Frame 7 and 8**

Repeat the process for *In re Gault* and *In re Winship*.

## Constitution “Cheat Sheet”

**U.S. Constitution, Art. I, Sec. 9:** The privilege of the writ of **habeas corpus** shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it

**U.S. Constitution, Art III, Sec. 2:** The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed.

**Bill of Rights, Amendment IV:** The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

**Bill of Rights, Amendment V:** No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

**Bill of Rights, Amendment VI:** 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 wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

**Bill of Rights, Amendment VIII:** Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

**Fourteenth Amendment:** No state shall make or enforce any law, which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

## Vocabulary “Cheat Sheet”

### **Adjudicate (v.)**

- To make a decision (in a legal case or proceeding), as where a judge makes a ruling

### **Compensatory benefit**

- Something provided as a counterbalance

### **Disposition**

- A court’s final determination of a case

### **Diversion**

- An attempt to channel out youthful offenders from the juvenile justice system

### **Preponderance of Evidence**

- Convincing evidence and its probable truth or accuracy

### **Reasonable Doubt**

- A standard of proof in criminal trials; the highest standard of proof used in a court

December 26, 2015

## A lesson from the past about juvenile justice

### Highlights –

- Shooting killed during a gum and cigarette theft
- Boy's father was in the state mental hospital for killing a woman.
- Boy was in foster care system and a home for orphans and runaways



Herbert Niccolls' mugs hot at Walla Walla State Penitentiary. Letizia;Nella – WSP photo via WSU

BY WILLIAM L. SPENCE

*Lewiston Tribune*

PULLMAN, WASH. – When 12-year-old Herbert Niccolls was sentenced to life in prison for shooting Asotin County Sheriff John Wormell in 1931, it prompted outcries from across the nation.

One writer described the sentence as “an ungodly, rotten stain” on the intelligence of American jurists and a “rank and foul miscarriage of justice.”

Another suggested the jury should be punished instead, for being “uncivilized barbarians,” while members of the St. Cecilia musical society of Oakland, Calif., prayed that “every possible bad fortune” be visited upon the judge and his family and that his life “be filled with pain, ill-health, bereavement and worry.”

Washington State University exhibit raises thoughtful questions about the case and highlights evolving social standards on how juvenile crime should be handled.

Would Niccolls, for example, be treated the same way for a similar crime today? Would he be tried as an adult and, if convicted, sentenced to life in prison?

The exhibit, which runs through March 26, includes information about Niccolls’ early life in Idaho. His father was sent to the state mental hospital in Orofino for killing a woman. His mother, living in poverty, was unable to feed the remaining family, so she gave up custody of the four oldest kids, including Niccolls. He entered the state foster care system and subsequently had a series of run-ins with the law, including spending 15 months for theft at the Idaho Industrial Training School, a home for orphans, runaways and other juveniles.

“He was well on his way to becoming proper criminal,” said Cheryl Gunselman, the WSU manuscripts librarian who created the Niccolls exhibit. “Then he crossed an unforgivable line.”

After being discharged from the Idaho training school, Niccolls came to live with his grandmother in Asotin. Three months later, while stealing gum and cigarettes from a store, he shot and killed 73-year-old Sheriff Wormell.

Had it been almost any other crime, the case would have been handled by the juvenile court system. However, state law at the time mandated that youth 12 and older be tried as adults if they were accused of murder or manslaughter.

During the trial, Niccolls’ grandmother testified that he was “possessed by the devil.” His attorney tried to show he wasn’t mentally competent, but the jury rejected that defense; after deliberating for just three hours, they found him guilty of



murder. He was sentenced to life in prison — the youngest person ever to receive a life sentence in Washington and the youngest convict ever sent to the state penitentiary in Walla Walla.

Transferring a 12-year-old to adult court today would be ‘incredibly hard’

Local prosecutors say it’s unlikely the Niccolls case would be handled the same way today.

“The idea of trying a 12-year-old as an adult would be difficult in every sense — legally, morally, scientifically,” said Whitman County Prosecutor Denis Tracy. “I’d really want to look at all the circumstances. I wouldn’t automatically pursue it in adult court.”

State law no longer mandates that juveniles be remanded to adult court in murder cases. It does give prosecutors an opportunity to request such a move, but Asotin County Prosecutor Ben Nichols said it would be difficult to convince a judge to agree.

“You’d have to make an incredible showing to transfer a juvenile of that age into adult court,” he said.

The bar may be lower, say, for a 16-year-old with a long criminal history who’s accused of a violent crime.

“It would be incredibly hard to transfer them to adult court in this day and age,” Nichols said of a 12-year-old with limited criminal history.

Another major difference, he said, is that a 12-year-old today would never be sent straight to the state penitentiary, regardless of whether he was convicted in adult or juvenile court. Instead, he’d be held in a juvenile detention facility until he was 18, and then transferred to the adult penitentiary.

Nichols also questioned whether a young offender would receive such a harsh sentence today.

“In the state of Washington, the criminal justice system has abandoned rehabilitation as a goal for adult offenders,” he said. “But in the juvenile system, it’s the exact opposite: Rehabilitation is the central goal.”

Consequently, Nichols thinks it’s unlikely any judge would sentence a 12-year-old to life in prison today.

Sending Niccolls to the state penitentiary, where he would be surrounded by adult offenders, was a significant concern in 1931 as well — not only for the public, but also for Judge Elgin V. Kuykendall, who presided over the murder trial.

Kuykendall ordered that Niccolls be separated from the adult prisoners at Walla Walla, and that a private tutor be provided so he could continue his education. Niccolls also took his meals with the prison warden and staff.

The special attention ultimately paid off. After 10 years in prison, Niccolls was given a conditional pardon by Gov. Clarence Martin. He was eventually released from parole, moved to California and never again had any trouble with the law.

“If he’d been three or four years older, who knows what would have happened,” Gunselman said. “But it worked because he got special treatment.”

Justice system as early as 1899 recognized juveniles aren’t the same as adult offenders

Yet despite this apparently favorable outcome and the public outcry that helped prompt Niccolls’ release, society as a whole hasn’t been willing to extend such special treatment to all juvenile offenders. If anything, things have become more difficult.

“If the same crime happened today, I think the results would be pretty similar,” said Craig Hemmens, chairman of the Department of Criminal Justice and Criminology at WSU. “A juvenile might well spend more time in the system today than in 1931.”

States began creating separate systems for juvenile offenders around the turn of the 20th century, he said. The first juvenile court was created in 1899. By 1931, it was unusual for juveniles to be tried as adults, except for particularly heinous crimes.

“The Niccolls case was something of an outlier,” Hemmens said. “This was during the Progressive Era, when states tried to use more scientific, evidence-based practices — evidence of how best to deal with people.”

There was also recognition that juveniles aren’t the same as adult offenders, he said. Their brains aren’t fully developed and they lack awareness of consequences. The thinking was that they’re kids, so society should cut them a break.

That began to change in the 1980s and ’90s, Hemmens said, with the war on drugs and get-tough-on-crime attitude. There was a sense that the juvenile justice system wasn’t effective, in part because the court jurisdiction ended when they turned 18.

“So states began toughening the juvenile court rules,” he said. They once again mandated that certain crimes be tried in adult court, and adopted mandatory sentences that kept kids in jail after they turned 18.

“For most of the 20th century, the focus was on what’s best for the juvenile,” Hemmens said. “By the late 20th century, the focus was on what’s best for society. The first consideration was public safety. My guess is, if someone shot a law enforcement officer today, they may well spend

more time in the juvenile and adult system than Niccolls did in 1931. I don’t see a governor today pardoning them after 10 years.”

Although there were some mitigating circumstances in the Niccolls case, given his negative family situation, Pullman Police Chief Gary Jenkins said that wouldn’t be much of a consideration if a similar crime occurred today.

“Looking at the past can maybe help us understand why something happened,” he said. “But for me, I’m looking at it from the event moving forward.”

There’s a difference between a 12-year-old murderer and a 21-year-old murderer, Jenkins said, because the 12-year-old is still developing. They’re

still learning how to act, how to fit in society — even the difference between right and wrong.

“You can still change their life significantly,” he said.

So if a 12-year-old were to shoot a law enforcement officer today, deciding on an appropriate course of action and prison sentence would likely be just as difficult as it was in 1931.

“I’d struggle, too,” Jenkins said. “It gets down to what is justice. How much of it is punitive and how much is about rehabilitation?”

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Directions: Read the following U.S. Supreme Court case and answer the accompanying questions. Be prepared to share your responses.

***Kent v. United States***  
**383 U.S.541, 86 S. Ct. 1045 (1966)**

In 1961, while on probation for committing house break-ins and attempted theft, Morris Kent, age 16, was detained and interrogated by police in connection with several incidents involving robbery and rape. After Kent admitted some involvement, the Juvenile Court waived its jurisdiction and allowed Kent to be tried. A jury found Kent guilty and sentenced him to 30-90 years in prison.

Kent’s attorney tried to get the indictment dismissed because the juvenile court did not conduct a “full investigation” before waiving jurisdiction as required by the Juvenile Court Act.

On appeal to the U.S. Supreme Court, Kent’s attorney claimed the judge had not made a complete investigation and Kent was denied constitutional rights just because he was a minor.

The Court ruled the waiver invalid, stating Kent was entitled to a hearing that measured up to “the essentials of due process and fair treatment.”

**Juvenile Court Act** – If a child sixteen years of age or older is charged with an offense which would amount to a felony in the case of an adult, or any child charged with an offense which if committed by an adult is punishable by death or life imprisonment, the judge may, **after full investigation**, waive jurisdiction and order such child held for trial under the regular procedure of the court which would have jurisdiction of such offense if committed by an adult.

1. Briefly summarize the facts of the case.

2. What constitutional rights are at issue?

3. How does the Court rule? \_\_\_\_\_

4. Why did the Court decide the way it did?

5. Do you agree or disagree with the Court’s decision? Why or why not?

Directions: Read the following U.S. Supreme Court case and answer the accompanying questions. Be prepared to share you responses.

***In re Gault***  
**387 U.S. 1, 87 S. Ct. 1428 (1967)**

On probation in Arizona in 1964 for a minor property offense, Gerald Gault, age 15, and a friend made a crank telephone call to an adult neighbor. The neighbor identified the youths and they were arrested and detained.

The neighbor did not appear at the adjudication hearing, thus the court never concluded whether Gault had made "obscene" remarks. Gault was sent to a training school for three years. The maximum sentence for an adult would have been a \$50 fine and two months in jail.

Gault's attorney filed a *writ of habeas corpus*. The U.S. Supreme Court heard the case. The attorney claimed Gault's rights (notice of charges, counsel, questioning of witnesses, protection against self-incrimination, a transcript of the proceedings, and appellate review) were denied.

The Supreme Court ruled that hearings that could result in commitment to an institution, juveniles have the right to notice and counsel, to question witnesses, and to protection against self-incrimination.

The Court based its ruling on the fact that Gault was punished rather than helped by the juvenile court.

1. Briefly summarize the facts of the case.

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2. What constitutional rights are at issue?

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3. How does the Court rule? \_\_\_\_\_

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4. Why did the Court decide the way it did?

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5. Do you agree or disagree with the Court's decision? Why or why not?

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**Directions: Read the following U.S. Supreme Court case and answer the accompanying questions. Be prepared to share you responses.**

***In re Winship***  
**397 U.S. 358, 90 S. Ct. 1068 (1970)**

Samuel Winship, age 12, was caught stealing \$112 from a woman’s purse in a store. A store employee claimed to have seen Winship running from the scene just before the woman noticed the money was missing. Others in the store said the employee was not in a position to see the money being taken.

The New York court said there was “reasonable doubt” of Winship’s guilt. However, the juvenile courts operated under the civil court standard of a “preponderance of evidence.”

The case went up on appeal and reached the U.S. Supreme Court. The central question was whether “proof beyond a reasonable doubt” should be among the “essential of due process and fair treatment” required during the adjudicatory state of the juvenile court process.

The argument that juvenile courts did not have to operate under the same standards as adult courts because they are designed to “save” children was rejected. The Court ruled that the “reasonable doubt” standard should be required in all delinquency adjudications.

1. Briefly summarize the facts of the case.

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2. What constitutional rights are at issue?

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3. How does the Court rule? \_\_\_\_\_

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4. Why did the Court decide the way it did?

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5. Do you agree or disagree with the Court’s decision? Why or why not?

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***McKeiver v. Pennsylvania (1971)***

Joseph McKeiver, age 16, was charged with robbery, larceny, and receiving stolen goods. He and 20 - 30 other youth allegedly chased three youths and took 25 cents from them. McKeiver met with his attorney for only a few minutes before his adjudicatory hearing. At the hearing, his attorney's request for a jury trial was denied by the court. He was subsequently adjudicated and placed on probation.

The Pennsylvania state supreme court cited recent decisions of the U.S. Supreme Court that had attempted to include more due process in juvenile court proceedings without eroding the essential benefits of the juvenile court. The State supreme court affirmed the lower court, arguing that of all due process rights, trial by jury is most likely to "destroy the traditional character of juvenile proceedings."

The U.S. Supreme Court found that the due process clause of the 14<sup>th</sup> Amendment did not require jury trials in juvenile court. The impact of the Court's *Gault* and *Winship* decisions was to enhance the accuracy of the juvenile court process in the fact-finding state. In *McKeiver*, the Court argued that juries are not known to be more accurate than judges in the adjudication state and could be disruptive to the informal atmosphere of the juvenile court, tending to make it more adversarial.

***Breed v. Jones (1975)***

In 1970, Gary Jones, age 17, was charged with armed robbery. Jones appeared in Los Angeles juvenile court and was adjudicated delinquent on the original charge and two other robberies.

At the dispositional hearing, the judge waived jurisdiction over the case to criminal court. Counsel for Jones filed a *writ of habeas corpus*, arguing that the waiver to criminal court violated the double jeopardy clause of the 5<sup>th</sup> Amendment. The court denied this petition, saying Jones had not been tried twice because juvenile adjudication is not a "trial" and does not place a youth in jeopardy.

Upon appeal, the U.S. Supreme Court ruled that adjudication in juvenile court, in which a juvenile is found to have violated a criminal statute, is equivalent to a trial in criminal court. Thus, Jones *had* been placed in double jeopardy. The Court also specified that jeopardy applies at the adjudication hearing when evidence is first presented. Waiver cannot occur after jeopardy attaches.

## ***Schall v. Martin (1984)***

Gregory Martin, age 14, was arrested in 1977 and charged with robbery, assault, and possession of a weapon. He and two other youth allegedly hit a boy on the head with a loaded gun and stole his jacket and sneakers.

Martin was held pending adjudication because the court found there was a “serious risk” that he would commit another crime if released. Martin’s attorney filed a *habeas corpus* action challenging the fundamental fairness of preventive detention. The lower appellate courts reversed the juvenile court’s detention order, arguing in part that pretrial detention is essentially punishment because many juveniles detained before trial are released before, or immediately after, adjudication.

The U.S. Supreme Court upheld the constitutionality of the preventive detention statute. The Court stated that preventive detention serves a legitimate State objective in protecting both the juvenile and society from pretrial crime and is not intended to punish the juvenile. The Court found there were enough procedures in place to protect juveniles from wrongful deprivation of liberty. The protections were provided by notice, a statement of the facts and reasons for detention, and a probable cause hearing within a short time. The Court also reasserted the *parens patriae* interests of the State in promoting the welfare of children.



## ***Roper v. Simmons (2005)***

Christopher Simmons was sentenced to death in 1993, at the age of 17, for the murder of Shirley Crook. Simmons and a friend had broken into Mrs. Crook’s home, bound her hands and covered her eyes, and drove her to a state park where they tossed her off the bridge. In 2002, the Missouri supreme court stayed Simmons's execution while the U.S. Supreme Court decided *Atkins v. Virginia*, a case that dealt with the execution of the mentally disabled. After the U.S. Supreme Court ruled that executing the mentally disabled violated the 8th and 14th Amendment prohibitions on cruel and unusual punishment because a majority of Americans found it cruel and unusual, the Missouri Supreme Court decided to reconsider Simmons' case.

Using the reasoning from the *Atkins* case, the Missouri court decided that as numerous laws passed since 1989 limited the scope of the death penalty, held that national opinion had changed. Finding that a majority of Americans were now opposed to the execution of minors, the court held that such executions were now unconstitutional.

On appeal to the U.S. Supreme Court, the U.S. government argued that allowing a state court to overturn a Supreme Court decision by looking at "evolving standards" would be dangerous, because state courts could just as easily decide that executions prohibited by the Supreme Court (such as the execution of the mentally ill in *Atkins v. Virginia*) were now permissible due to a change in the beliefs of the American people.

The U.S. Supreme Court ruled that standards of decency had evolved so that executing minors is "cruel and unusual punishment" prohibited by the 8th Amendment. The majority cited a consensus against the juvenile death penalty among state legislatures, and its own determination that the death penalty is a disproportionate punishment for minors. Finally the Court pointed to "overwhelming" international opinion against the juvenile death penalty.

## ***Graham v. Florida (2010)***

Terrance J. Graham, age 16, along with two accomplices, attempted to rob a [barbecue](#) restaurant in [Jacksonville, Florida](#) in July 2003. Graham was arrested for the robbery attempt and was charged as an adult for armed burglary with assault and battery, as well as attempted armed robbery. The first charge was a first-degree felony that is punishable by life. He pleaded guilty and his plea was accepted. He served 12 months and was released.

Six months later, on December 2, 2003, Graham was arrested again for home invasion robbery. Though Graham denied involvement, he acknowledged that he was in violation of his plea agreement. In 2006, the presiding judge sentenced Graham to life in prison. Because Florida abolished [parole](#), it became a sentence without parole.

On appeal, he argued that the imposition of a life sentence without parole on a juvenile constituted cruel and unusual punishment, and thus violated the 8<sup>th</sup> Amendment. The District Court of Appeal of Florida disagreed.

On appeal to the U.S. Supreme Court, the Court held that the 8<sup>th</sup> Amendment's Cruel and Unusual Punishments Clause does not permit a juvenile offender to be sentenced to life in prison without parole for a non-homicidal crime. The Court reasoned that because this case implicates a particular type of sentence as it applies to an entire class of offenders (juveniles), the punishment in question for the class in question was unconstitutional. The Court made a point to note that life sentences for juveniles for non-homicidal crimes has been "rejected the world over."



## ***Miller v. Alabama (2012)***

This case involves not only *Miller v. Alabama*, but *Jackson v. Hobbs* and was heard as a consolidation case.

According to the *Los Angeles Times* newspaper, "In one case that came before the court, Kuntrell Jackson was 14 when he and two other teenagers went to a video store in Arkansas planning to rob it. He stayed outside, and one of the youths pulled a gun and killed the store clerk. Jackson waited outside the store for a time, but entered shortly before Derrick Shields shot the store clerk. There is debate as to whether he told the clerk, "We ain't playin'" or whether he said to his accomplices, "I thought you all was playin'." Jackson was not the shooter. Kuntrell Jackson was charged as an adult and given a life term with no parole.

In the second case, Evan Miller, age 14, committed homicide in the act of robbing his neighbor, Cole Cannon. Cannon had fallen asleep after he, Miller, and Colby Smith had indulged in alcohol and marijuana. Cannon awoke as Miller was replacing Cannon's wallet, and Smith hit Cannon with a baseball bat. Miller took the bat and severely beat Cannon. Smith and Miller later returned to destroy the evidence of what they had done by setting fire to Cannon's trailer. Cannon died of severe injuries and smoke inhalation. Miller was convicted of murder and given a life term with no parole.



The U.S. Supreme Court accepted the case on appeal and ruled that children are constitutionally different from adults for sentencing purposes. While a mandatory life sentence for adults does not violate the 8<sup>th</sup> Amendment, such a sentence would be an unconstitutionally disproportionate punishment for children. The Court explained, “Mandatory life without parole for a juvenile precludes consideration of his chronological age and its hallmark features — among them, immaturity, impetuosity, and failure to appreciate risks and consequences. It prevents taking into account the family and home environment that surrounds him — and from which he cannot usually extricate himself — no matter how brutal or dysfunctional.”



### ***Montgomery v. Louisiana (2016)***

In 1963, Henry Montgomery was found guilty and received the death penalty for the murder of Charles Hunt, a Baton Rouge sheriff, which Montgomery committed less than two weeks after he turned 17. He was convicted of the crime, but at the time Louisiana did not permit mitigating evidence to be presented before the sentence was handed down. Henry Montgomery was sentenced to life without parole.

In 2012, the U.S. Supreme Court decided *Miller v. Alabama*, in which the Court held that mandatory sentencing schemes requiring children convicted of homicide to be sentenced to life imprisonment without parole violate the 8th Amendment. In light of that decision, Montgomery, now age 65, filed an appeal claiming the U.S. Supreme Court’s decision was retroactive.

The U.S. Supreme Court held that, when the Court establishes a substantive constitutional rule, that rule must apply retroactively because such a rule provides for constitutional rights that go beyond procedural guarantees. When a state court fails to give effect to a substantive rule, that decision is reviewable because failure to apply a substantive rule always results in the violation of a constitutional right, while failure to apply a procedural rule might or might not result in an illegitimate verdict.

The Court declined to forbid **all** juvenile life-without-parole sentences for homicide, saying the system must distinguish between “unfortunate yet transient immaturity and irreparable corruption.” The Court’s decision made over 2,000 inmates nationwide eligible for resentencing or the possibility of eventual freedom.



**U.S. SUPREME COURT CASE  
CASE WORKSHEET**

**Directions:** As a group, read and discuss the case. Complete the questions below in your own words. This will serve as a “draft” to prepare your presentation to the class.

**1. Briefly, what are the facts of the case?** \_\_\_\_\_

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**2. What is the constitutional issue? (What rights are in question?)**

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**3. How did the U.S. Supreme Court decide? (Were rights violated? Whom did the Court’s decision support?)**

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**4. Why did the U.S. Supreme Court decide the case the way they did? What was the rationale?**

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**5. Be creative! How could you present this case in an illustration? Use the back of the paper to sketch out a few ideas. Next, use the flip chart paper and colored markers to design your presentation. Be sure the case name and date are at the top of the flip chart paper. Remember to keep text to a minimum. You should be able to present the case without reading to your audience.**



Respond on a sheet of notebook paper.

**Should juvenile offenders be guaranteed the same constitutional due process rights as adults? Explain!**