

Introduction to the Legal System

Summary:

The Constitution is the primary ruling authority. The United State's legal system consists of three levels of government: federal, state and local. There are three branches of government: executive, legislative, and judicial within each level. Governmental power and functions in the United States rests in the three branches.

Important Terms

- **Federalism** is the division of powers between the federal or national government and the state governments.
- **Checks and balances** keep any one branch from becoming too powerful and protects the rights of citizens. For example, the President can veto bills approved by Congress, the Supreme Court can declare a law enacted by Congress unconstitutional, and Congress has the power to impeach the President.
- **Constitution of the United States of America**
The foundation of our American Government, its purpose and form and structure are found in the Constitution of the United States. The Constitution, written in 1787, is the "supreme law of the land" because no law may be passed that contradicts its principles. No person or government is exempt from following it. (Taken from: <http://bensguide.gpo.gov/9-12/documents/constitution/index.html> Last updated: January 22, 2001)

Three Levels and Branches of Government

Laws are written by one of the three branches of government that exist within the three levels of government.

- **Federal Government:**
Legislative Branch Congress
Executive Branch President & Federal Administrative Agencies
Judicial Branch U.S. Supreme Court, U.S. Court of Appeal, U.S. District Court and other Federal Courts
- **State Government:**
Legislative Branch State Legislature
Executive Branch Governor & State Administrative Agencies
Judicial Branch State Courts
- **Local Government:**
Legislative Branch City Council or County Commission
Executive Branch Mayor or County Commissioner and the local Administrative Agencies
Judicial Branch Local courts (many local courts, however, are considered part of the state judiciary).

Legislative Branch: law making branch of the government.

Executive Branch: responsible for enforcing the laws of the land.

Judicial Branch: courts decide arguments about the meanings of the laws, how they are applied, and whether they violate the Constitution.

The Supreme Court

The Constitution established the Supreme Court as the highest court in the United States.

One of the Supreme Court's most important responsibilities is to decide cases that raise questions of constitutional interpretation. The Court decides if a law or government action violates the Constitution. This is known as judicial review and enables the Court to invalidate both federal and state laws when they conflict with the Constitution. Since the Supreme Court stands as the ultimate authority in constitutional interpretation, its decisions can be changed only by another Supreme Court decision or by a constitutional amendment. The Supreme Court exercises complete authority over the federal courts, but it has only limited power over state courts. The Supreme Court's interpretations of federal law and the Constitution also apply to the state courts, but the Court cannot interpret state law or issues arising under state constitutions, and it does not supervise state court operations. (Taken from: <http://bensguide.gpo.gov/9-12/government/national/scourt.html> Last updated: March 11, 2002)

Introduction to Juvenile Court

Important Terms

- **Juvenile:** any person under the age of 18. If a person commits offense before the age of 18, the juvenile court can retain jurisdiction until age 21.
- **Delinquent:** a juvenile convicted in juvenile court of committing an illegal act. In juvenile court, juveniles are considered delinquents not criminals.
- **Delinquent act:** an act that would be criminal if done by an adult (ex. burglary, petty larceny, battery, etc.). In juvenile court, it is called a delinquent act not a criminal act.
- **Petition:** lists the charges the juvenile allegedly committed.
- **Disposition:** the sentence a juvenile receives.

Purpose of Juvenile Court

1. Rehabilitation not punishment - Juveniles shall receive care, guidance, and control conducive to minor's welfare and best interest of state
Establishment, supervision and implementation of preventative programs
2. Proceedings not criminal in nature
Delinquent not criminal
Detained not incarcerated
Disposition not conviction

Establishment of Juvenile Rights

In *In Re Gault* (1964), the Supreme Court Ruled that juveniles have the following rights when accused of offenses for which they can be incarcerated:

- Right to notice of charges
- Right to counsel
- Right to confront and cross-examine witnesses
- Privilege against **self-incrimination** (self-incrimination is testimony that a person gives that might connect him or her with a crime)

Handouts:

The Case of Gerry Gault
StreetLaw -for Youth Courts
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HANDOUT 1

The Case Of Gerry Gault

Gerry Gault, age 15, is accused of making an obscene phone call to a neighbor. The police pick up Gerry and take him to the juvenile detention center. His parents are at work. The police do not call to tell them what is happening to their son. His parents are told later that a **hearing** will be held the next day. They are not told what the **charges** are against Gerry. Mrs. Cook complained about the phone call, but does not show up for court. Instead, a police officer **testifies** about what Mrs. Cook said. Gerry blames the call on a friend. He says he did not make the obscene remarks. There are no lawyers present and no **record** is made of the court **testimony**. Juvenile court does not allow juries, so instead a judge decides the punishment. The judge finds that Gerry is **delinquent** and orders him to be sent to a state reform school. He can stay there until he is 21 years old. An adult found guilty of the same crime could be sent to county jail for no longer than 60 days.

Juvenile Court Homework

Read the handout "The Case of Gerry Gault" located in your manual. Identify the fair and unfair things that happened to Gerry Gault during the legal proceedings.

Fair

Unfair

Juvenile Status Crimes

Certification as an Adult

- Murder and attempted murder will automatically bump a juvenile to adult court.
- Juveniles may be certified as an adult if they are 14 and commit a felony
- Juveniles shall be certified as an adult if they are 14 and commit a sexual assault
- Juveniles shall be certified as an adult if they are 14 and commit a crime with a firearm.

Exception: If the sexual assault or crime with a firearm was substantially a result from drug abuse problem, the judge has the discretion to keep the case in juvenile court.

Status Offenses

Acts that would not be considered illegal if done by an adult

CHINS (Child in Need of Supervision) – a minor beyond parental control

- a) Habitually truant
- b) Habitually disobeys reasonable/lawful demands
- c) Habitual runaway

Juvenile Proceedings

Process on how juveniles go through the system:

- a) Commit delinquent act or status offense
- b) Juvenile cited or detained
- c) If given a citation (for most misdemeanors, traffic and status offenses), they are released.
 - i) They must show for an appointment at intake with parent/guardian to meet with a Probation Officer. PO decides how to handle misdemeanors, may divert them. If detained (usually for a felony charge, and some misdemeanors), the juvenile is brought in and booked.
 - ii) May be detained, based on prior record, seriousness of offense, likelihood of appearing for court, community safety, availability of guardian/parent, and supervise ability.
 - iii) If detained, parents notified that juvenile is detained and will appear before a magistrate at the next available hearing time.
- d) Intake refers citations not diverted, gross misdemeanors and felonies to the District Attorney's (DA) office.
- e) The DA's office makes final decision if it will be diverted or go through juvenile court.
- f) If a petition is filed, the juvenile will go to court – called a plea hearing or arraignment where the juvenile admits or denies the charge. 1. If the juvenile admits to the charges, the case will go to a disposition (can be done at the same time). 2. If they deny the charges, a contested hearing (similar to a trial in adult court, but without a jury) is set.
 - i) All juveniles contested hearings are "bench trials" that is they are heard by a hearing master or judge.
 - ii) Juveniles have no right to a jury trial in juvenile court.
 - iii) The State (prosecution) has the burden of proof beyond a reasonable doubt just as in adult court.

Handouts:

- 1. Statement of Rights and Procedures
- 2. Delinquency Case Flow

JUVENILE / STATUS OFFENSES

STATEMENT OF RIGHTS AND PROCEDURES

I. ATTORNEY- RIGHT TO AN ATTORNEY

The Juvenile has the right to an attorney whether he admits or denies the charge. Should you not be able to afford a private attorney, the Court will appoint the Public Defender to represent you.

II. RIGHT TO NOTIFICATION OF CHARGE/S

The Juvenile has the right to be informed of the specific acts alleged in the charges contained in the Petition.

III. RIGHT TO REMAIN SILENT

The Juvenile has the right to remain silent. He need not make any statements or admissions by speaking or writing which would in any way involve or incriminate him.

IV. EXPLANATION OF COURT PROCESS

1) PLEA HEARING

The Plea Hearing is the first phase of the Juvenile Court Process and is designed to allow the Juvenile to admit or deny the allegation in the Petition. At least one parent must attend this hearing with the child. It is the parent(s) responsibility to pick up a copy of the petition from the Information Desk in the Court Building as they arrive for the Plea Hearing.

If the Juvenile admits guilt to the petition and at the recommendation of the Probation Department, the Juvenile and his/ her parent may waive their right to a Dispositional Hearing and proceed immediately to disposition.

2) CONTESTED HEARING

The Contested Hearing occurs when the Juvenile denies the allegation in the Petition. At the time of the hearing the victim, arresting officer and all witnesses will be subpoenaed to appear in Court to testify. The Juvenile Master or District Court Judge will listen to all testimony and determine if the allegation is true or not true. Should the allegation be found not true, the matter will be dismissed. If heard by a Juvenile Master, you have the right to appeal to the District Court Judge, within a period of 5 days.

3) DISPOSITIONAL HEARING

This Hearing occurs when a Juvenile has admitted an allegation or an allegation has been found true during the Contested Hearing. A Probation Officer will interview the Juvenile and his parents before the Dispositional Hearing and write a report for the District Court Judge. Both parents, including step-parents should appear with the Juvenile at the time of the Dispositional Hearing if both are living in the home. Parents have the right to receive a copy of the Dispositional Report submitted to the Juvenile Master or District Court Judge. It is the parent's responsibility to notify the Probation Officer to receive and discuss the report.

V. SEALING OF RECORDS

The Juvenile may petition the Court for the sealing of all records. Three years must have elapsed after closure of the case prior to the sealing. Records are automatically sealed at the age of twenty-four (NRS Chapter 62, Section, 2 and 3, as amended April 21, 1971).

ATTACHMENT 1

Victims Assistance Program

The information for the victim of a crime is contained in the police report. The victim is mailed a packet, which includes a paper to list any damages and a victim impact statement. The victim impact statement allows the victim to express how the incident affected him/her. The Victim Advocate represents the victim in court. In Trial by Peers, the prosecutor represents the victim.

The **Juvenile Victim Assistance Center** for victims affected by delinquent acts committed by juveniles is a program of the Department of Family and Youth Services. The center can provide information, assistance and support for:

1. Questions about the juvenile justice system
2. Victim compensation information
3. Liaison between victim and prosecutor
4. Property return information and processing
5. Information on local support groups

Restitution is when the juvenile has to pay the victim.

State Victims of Crimes – An organization that helps victims recover some of their costs when they cannot receive the full amount of compensation from the defendant.

Example: A 14 year-old kid beats up another 14 year-old kid and breaks his nose and jaw. The surgery is going to cost \$12,000. There is no possible way the defendant can come up \$12,000. The judge sentences him to pay \$1,500 in restitution. Where is the victim going to come up with the rest of the money to pay his surgery? The victim can turn to the State Victims of Crime for some financial help. Also, many of the victims will sue the parents of the defendant in civil court to recover some of the costs as well.