

Key Constitutional Concepts: Right to Counsel

Author:

National Constitution Center

A Project of:

The Annenberg Foundation Trust at Sunnylands

About this Lesson

The second section of the film Key Constitutional Concepts presents the landmark Supreme Court case Gideon v. Wainwright (1963) and examines the impact one event can make on the Constitution through the judicial process.

The lesson begins with students considering the need for an attorney in a criminal trial, followed by an examination of the rights contained in the Sixth Amendment. Using the video "Key Constitutional Concepts: Right to Counsel," students examine both the constitutional right to counsel and how this right has been secured by Supreme Court decisions.

Throughout this lesson, students are provided opportunities to form their own opinions regarding Gideon's case while also reviewing the language of the Sixth Amendment as they see this case unfold. The lesson concludes with students writing a historical analysis of the Gideon v. Wainwright decision and understanding how criminal defendants are now informed about their right to counsel.

Grade Level(s)

7-12

Classroom Time

One 45-Minute Class Period

Handouts

Handout #1
The 6th Amendment

Handouts #2
Important Court Cases

Constitutional Connections

Article III

Amendments VI, XIV

Background

Although the Sixth Amendment, which guarantees the right to counsel, makes no reference to providing lawyers for low-income people, the federal government began the practice of appointing lawyers in serious criminal cases in the 19th century. A number of states also provided counsel for indigents in felony trials in the 20th century. But it was not until the 1930s that the Supreme Court began to nationalize the application of this Sixth Amendment guarantee.

In 1932, in a famous case titled *Powell v. Alabama*, the Court held that the right to a lawyer was an essential safeguard of liberty, but it left it to the states to determine just how far this right extended. In *Betts v. Brady* (1942), the justices ruled that whether a lawyer was required would depend upon the circumstances in each case. In some circumstances, the Court held, a lawyer was essential to a fair trial; in others a lawyer might not be needed.

The Supreme Court's decision in *Gideon v. Wainwright* (1963) did away with the case-by-case approach and ruled that defendants in criminal cases must be provided with a lawyer by the government if they were too poor to afford one. Clarence Gideon, charged with burglary, was tried in a Florida state court. Gideon was unable to afford a lawyer and requested free legal counsel, but the state refused his request on the grounds that he was not being tried for a capital offense punishable by death.

Found guilty and imprisoned, Gideon appealed to the Supreme Court. The Court unanimously overturned his conviction and ordered a new trial in which Gideon would be represented by an attorney. In his new trial, Gideon was found not guilty. Justice Hugo Black delivered the opinion of the court, ruling that "due process" guaranteed by the Fourteenth Amendment requires that the state fulfill the Sixth Amendment guarantee of "assistance of counsel."

Three years after *Gideon v. Wainwright* the Court once again visited the issue and ruled in *Miranda v. Arizona* that all persons held in custody must be informed of their right to counsel and that an attorney will be appointed to represent them if they cannot afford one.

Objectives

Students will:

- Investigate the meaning of the Sixth Amendment.
- Identify key Supreme Court Cases preceding and following *Gideon v. Wainwright*.
- Explore the application of the Fourteenth Amendment to the Bill of Rights.
- Understand that *Gideon v. Wainwright* required the appointment of counsel for those who could not afford a lawyer in criminal cases.
- Identify the role attorneys play in the judicial process.

Standards

McREL Compendium

[Content Knowledge: A Compendium of Standards and Benchmarks for K-12 Education: 3rd and 4th Editions](#)

- This lesson meets McREL Standards for Civics
 - Standard 4 Level IV (Grades 9 – 12), Benchmarks 5,6
 - Standard 18 Level IV (Grades 9-12) Benchmarks 5, 9,10
 - Standard 29, Level IV (Grades 9-12) Benchmark 3

Activity

1. Ask students to answer the following question:
 - *If you are accused of a crime, do you need an attorney? Please explain why.*
2. Encourage students to brainstorm both advantages and disadvantages to having a lawyer present.
3. Distribute copies of Handout #1- The Sixth Amendment to students. Using the handout, ask students to read the amendment and then prepare a list of the rights promised in the amendment.

Video Analysis

4. Introduce film and activity to the students:
 - This section of the film examines the story of Earl Gideon, a man who was accused and convicted of stealing from a Florida pool hall and sent to prison.

By asserting his rights under the Constitution, Mr. Gideon secured the right to counsel. With the assistance of the Supreme Court, Mr. Gideon was given a new trial and access to an attorney. In the new trial, he was acquitted of the crime.

- The film will show the process by which Mr. Gideon appealed his case through the Florida court system to the Supreme Court of the United States.
- The film examines the history of “right to counsel cases,” presenting a number of Supreme Court cases that served as precedent before the Gideon decision.
- Mr. Gideon’s story shows that in our constitutional system no one - not even a poor drifter convicted of burglary - is below the law, and that ordinary citizens can assert their rights and make a difference.

5. Key Constitutional Concepts-Chapter 2: One Man Changes the Constitution

- Prior to viewing the video, distribute Handout #2 (Important Court Cases) that will help organize information regarding the right to counsel.
 - Introduce students to the case of *Powell v. Alabama* (1942) as an example of notes to be taken during the film.
 - Instruct students to take notes on the rest of the cases listed as they watch the video clip.
- Ask students to watch the clip and answer the questions below. Be sure to **STOP VIDEO** immediately after the narrator describes the case (your visual marker to stop is the emergence of the television). Allow students time to answer and then discuss:
 - *Do you think Clarence Gideon was guilty based on the evidence presented at his first trial and his past history?*
 - Possible discussion questions to expand on. Use small groups again and then have students share as a class.
 - *Based on his past history, why might Gideon not receive a fair trial?*
 - *What does it mean to be presumed innocent until proven guilty?*
 - *Do you think the evidence is strong enough to convict Gideon? Why or why not?*
 - *What is circumstantial evidence?*

6. CONTINUE WITH THE VIDEO.

- **STOP VIDEO** once Gideon says that he is entitled to counsel. Have students read the wording of the Sixth Amendment and ask the students if they think the language implies that Gideon has the right to counsel even if he cannot afford one.

- *Was Clarence Gideon right in his assertion that the court must provide a lawyer for him? Why or why not?*
 - Discuss student responses and CONTINUE VIDEO
 - Questions for further discussion:
 - *What was an attorney able to do for Gideon in the second trial that he was not able to do for himself in the first?*
 - *If you are charged with a crime, why is it important to have a lawyer?*
 - *What did Supreme Court Justice Hugo Black think about Gideon's appeal?*
 - *How was the Fourteenth Amendment applied in this case?*
7. At the end of the video, ask students the following questions:
- How do those detained by the police or arrested for a crime know about their right to an attorney?
 - What happens if the police do not inform the person of their rights?

Assessment

8. The question below is the final analysis for this lesson. This can either be a verbal discussion or a written assignment.
- Review Handout #2, Important Court Cases Regarding the Right to Counsel. Encourage students to use the Justice Learning website (see Further Resources box below) to complete the handout.
 - Using the information collected about the court cases and the Constitution as supporting evidence, answer the following question:

Was the Florida court justified when it denied Gideon a court-appointed lawyer?

 - If you answered no, then explain why the Supreme Court overturned the Florida court's decision and their reasoning for doing so.
 - If you answered yes, then explain how the *Gideon* case departed from earlier Supreme Court decisions.

Further Resources

- Justice Learning: Historical Timeline on the Right to the Assistance of Counsel
 - http://www.justicelearning.org/justice_timeline/AmendmentsRightsMenu.aspx?AmendmentID=6&RightID=15
- Justice Talking: Are Lawyers Necessary in All Cases?
 - <http://www.justicetalking.org/viewprogram.asp?progID=559>
- National Constitution Center: Interactive Constitution
 - <http://www.constitutioncenter.org/constitution/>
- OYEZ: Summary of *Gideon v. Wainwright*
 - <http://www.oyez.org/oyez/resource/case/139/>
- Cornell Law Right to Counsel overview by case
 - http://supct.law.cornell.edu/supct/cases/topics/tog_right_to_counsel.html

Handout #2

Important Court Cases Regarding Right to Counsel

Case	Notes
<i>Powell v. Alabama</i> (1932)	- The Supreme Court determined that defendants in capital cases are entitled to an attorney.
<i>Betts v. Brady</i> (1942)	
<i>Gideon v. Wainwright</i> (1963)	
<i>Miranda v. Arizona</i> (1966)	

