

WHAT IS THE 6TH AMENDMENT?

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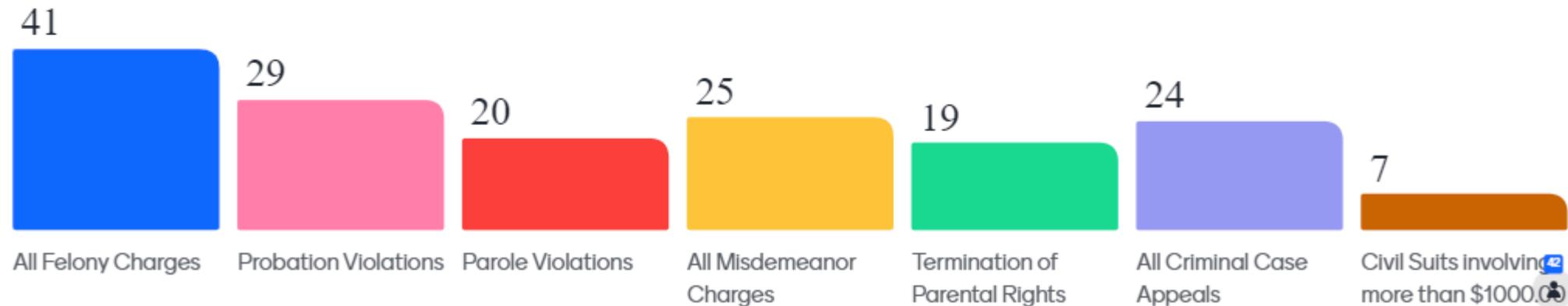
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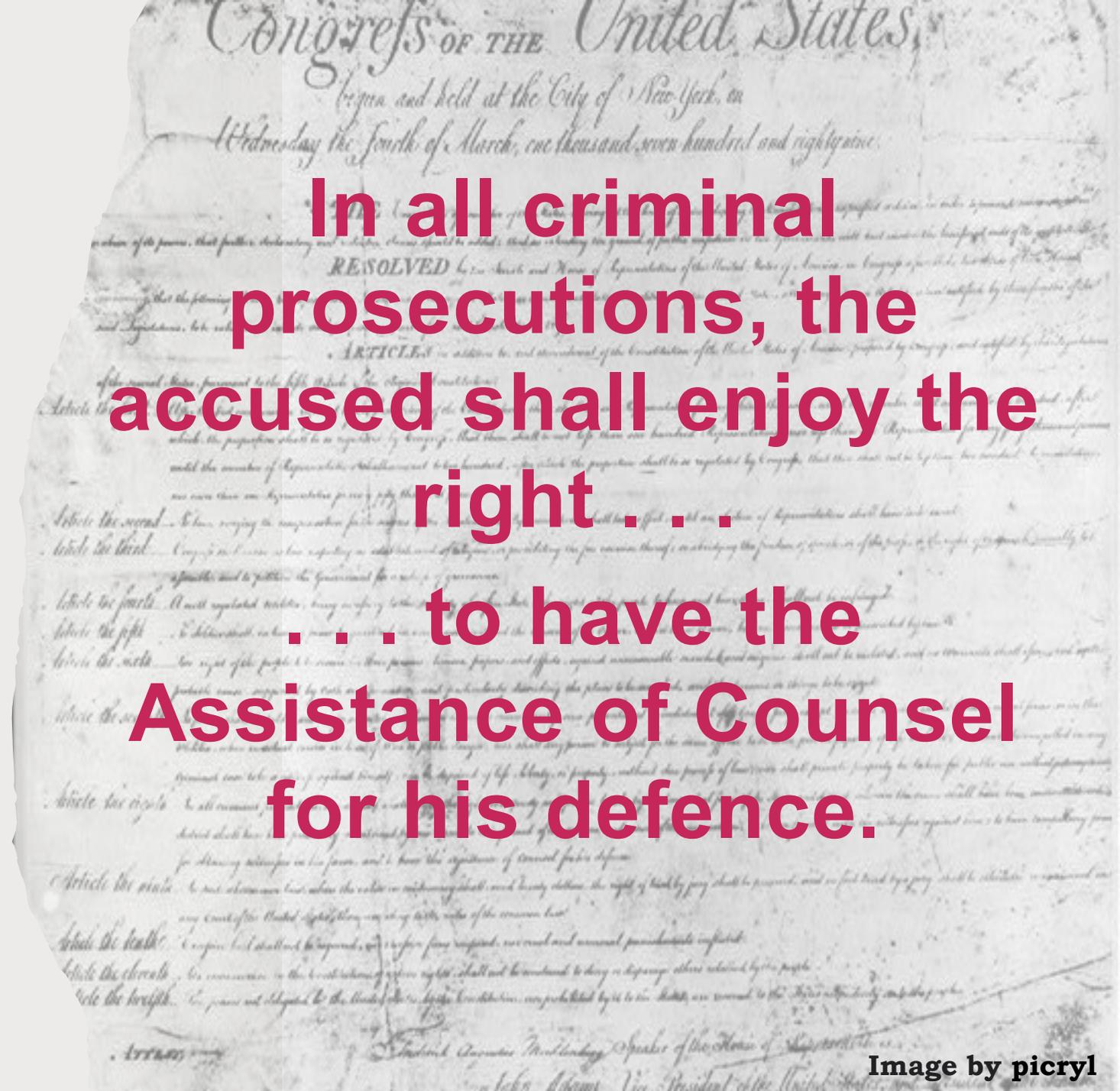
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In which types of cases does a person have a 6th Amendment right to counsel? (select all that apply)



6TH AMENDMENT TO THE U.S. CONSTITUTION

In all criminal
prosecutions, the
accused shall enjoy the
right . . .
. . . to have the
Assistance of Counsel
for his defence.



BRIEF HISTORY OF THE 6TH AMENDMENT:

POWELL V. ALABAMA (1932)

BETTS V. BRADY (1942)

GIDEON V. WAINWRIGHT (1963)

DOUGLAS V. CALIFORNIA (1963)

IN RE GAULT (1967)

ARGERSINGER V. HAMLIN (1972)



POWELL V. ALABAMA (1932)(7-2):

“[W]e think the failure of the trial court to give them reasonable time and opportunity to secure counsel was a clear denial of due process.”



“Scottsboro Boys” with Attorney Leibowitz: 1933

***BETTS V. BRADY* (1942) (6-3)**

“As we have said, the fourteenth amendment prohibits the conviction and incarceration of one whose trial is offensive to the common and fundamental ideas of fairness and right, and, while want of counsel in a particular case may result in a conviction lacking in such fundamental fairness, we cannot say that the amendment embodies an inexorable command that no trial for any offense, or in any court, can be fairly conducted and justice accorded a defendant who is not represented by counsel.”



Justice Hugo Black

Gideon v. Wainwright (1963) (9-0)

“The fact is that, in deciding as it did – the ‘appointment of counsel is not a fundamental right, essential to a fair trial’ – the court in Betts v. Brady made an abrupt break with its own well considered precedents. . . . In our adversary system of criminal justice, any person haled into court, who is too poor to hire a lawyer, cannot be assured a fair trial unless counsel is provided for him. This seems to us to be an obvious truth.”



Bay County Courthouse, Panama City, FL

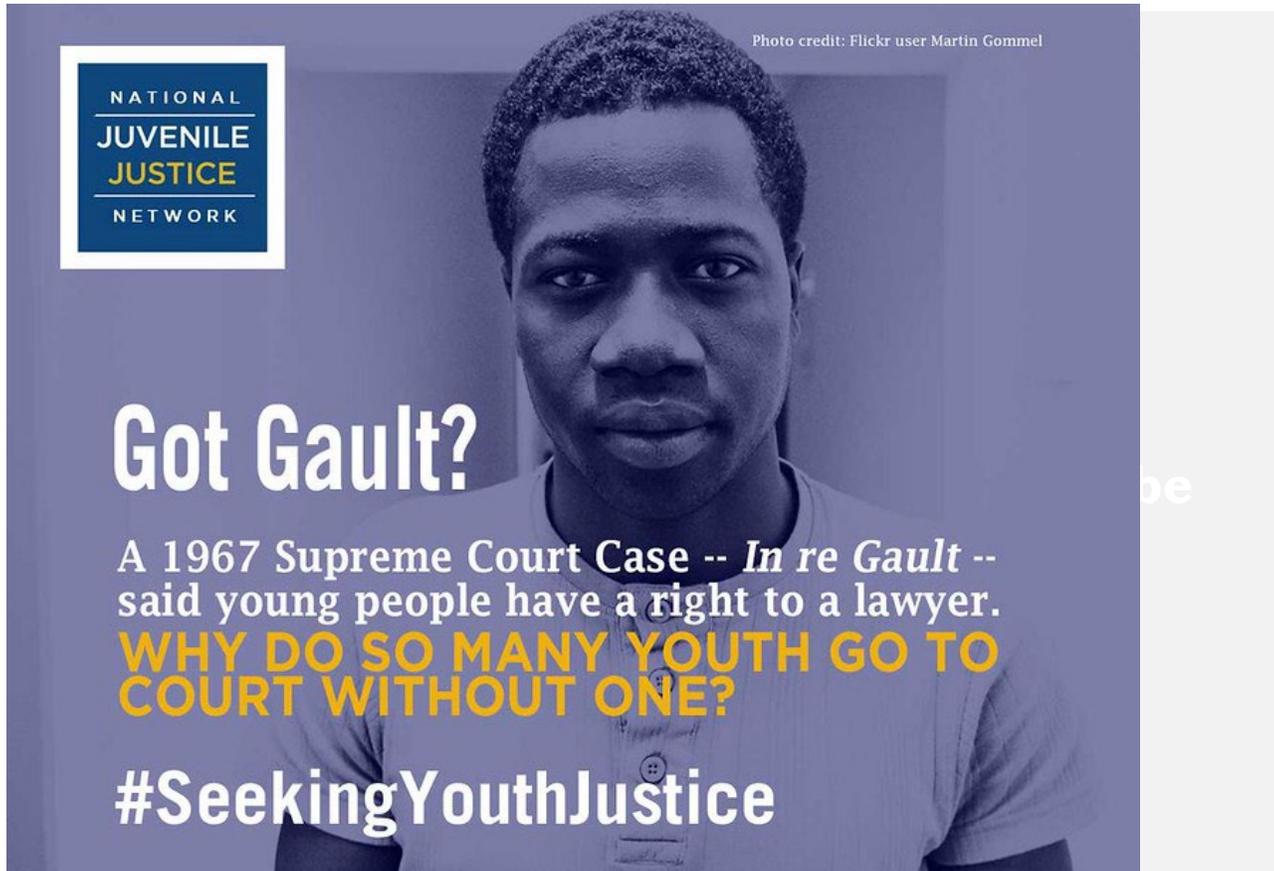


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**NATIONAL
JUVENILE
JUSTICE
NETWORK**

Got Gault?

A 1967 Supreme Court Case -- *In re Gault* -- said young people have a right to a lawyer.

WHY DO SO MANY YOUTH GO TO COURT WITHOUT ONE?

#SeekingYouthJustice

***IN RE GAULT* (1967) (8-1)**

“Under our constitution, the condition of being a boy does not justify a kangaroo court.”

Image by flickr

ARGERSINGER V. HAMLIN (1972)(9-0)

“The run of misdemeanors will not be affected by today's ruling. But, in those that end up in the actual deprivation of a person's liberty, the accused will receive the benefit of “the guiding hand of counsel” so necessary when one's liberty is in jeopardy.”

Case No. 145-239A

**COMMITMENT
To Serve Sentence**

STATE OF FLORIDA
vs.

IN COUNTY JUDGE'S COURT
LEON COUNTY

“... a fine in the sum of \$500.00... You are commanded to forthwith convey the said DEFENDANT to the County Jail and safely keep him until the judgment of this Court is satisfied...”

Jon A. Hamlin
In the Name of the State of Florida, to the Sheriff or any Constable of said County, Leon County, Florida, was, upon the 13 day of January, 1970, and convicted of the crime of carrying a concealed weapon and, DEFENDANT, he, the said DEFENDANT, was sentenced by this Court as follows, to-wit: to pay and for the use of Leon County, a fine in the sum of \$500.00, to include costs of Court, and in default of the payment of such fine and costs to be imprisoned in the County Jail of Leon County, Florida, for a period of (3) months, to begin and run from the date of this sentence. I commanded forthwith to convey the said DEFENDANT to the County Jail of said County and deliver him to the keeper thereof, who is hereby required to receive the said DEFENDANT into said Jail and safely keep him until the judgment of this Court is satisfied or he be thence discharged by due course of law.

Given under my hand and seal this 19 day of January, A. D. 19670.

Form CR-15

James S. Argersinger (Seal)
County Judge.

WHAT DOES THE RIGHT TO EFFECTIVE COUNSEL INCLUDE?

- **Ineffective Assistance**
 - Representing below standards AND
 - Prejudice
- **Many scholars and lawyers are critical of the standard**
- **Typical Standards**
 - Confidentiality
 - Candor to the Court
 - Communicating with Client
 - Calling Witnesses, etc.



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ABA 10 PRINCIPLES OF A PUBLIC DEFENSE DELIVERY SYSTEM

- Independence
- Parity: Funding, Structure & Oversight
- Control of Workloads
- Data Collection & Transparency
- No Cost!
- Early and Confidential Access
- Experience, Training, & Supervision
- Vertical Representation
- Essential Components of Effective Representation
- PD as Legal System Partners



“... a critically important roadmap for providing effective indigent defense as required by the Sixth Amendment.”



COMMON ISSUES IMPEDING EFFECTIVE ASSISTANCE OF COUNSEL

- **Caseloads**
- **Inadequate Funding**
- **Lack of Access**

ARE COURT-
APPOINTED LAWYERS
FREE?

NO!



WHEN DOES THE RIGHT TO COUNSEL BEGIN?

- **FORMAL PROCEEDINGS**
 - *Rothgery v. Gillespie County, TX (2008)*
- **LIVE LINEUPS & SHOWUPS**
 - *US v. Wade (1967)*
- **INTERROGATIONS AFTER CHARGES ARE FILED**
 - *Massiah v. US (1964)*
- **CUSTODIAL INTERROGATIONS**
 - *Miranda v. Arizona (1966)*



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RIGHTS WAIVERS: *JOHNSON V. ZERBST* (1938)



“ . . . and, if he has no counsel, to determine whether he has intelligently and competently waived the right.”

STATES & THE RIGHT TO COUNSEL

- **6th Amendment Center**
6ac.org/state-of-the-sixth/
- **States can provide greater right – No universal rules**
- **Variation**
 - Access to Counsel
 - Costs of Counsel
 - CAFA: First Appearance



THANK YOU . . . PANEL DISCUSSION & Q/A NEXT



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