Juvenile Law & Procedure

- More decentralized than the adult criminal justice system
- Absolutely no mention of separate juvenile justice system in the US Constitution
- Compared to the CJ system, the JJ system has received little if any specific attention form the US Supreme Court
- The Court has adopted a hands-off approach
The Medical Model

- Prior to the 1960s, the goal of the JJ system was to “cure” wayward children.
- Juvenile proceedings in this sense were more of a civil nature.
- Changes in handling juvenile matters would change significantly after this.
Due Process Revolution

- In the 1960s the Warren Court fundamentally transformed the traditional juvenile justice system.
- Instituted a variety of procedural and substantive rights into the JJ system.
- Involved many landmark cases that serve as the foundation of JJ procedure and law.
Early Juvenile Law

- The freedom of the juvenile court to intervene in the lives of children and family was rooted in two doctrines:
  - *Parens patriae*
  - *In loco parentis*

- Prior to the 1960s juveniles were:
  - Arrested without warrant
  - Interrogated at length without parental notification
  - Not advised of their rights
  - Incarcerated for length periods often on a whim of a judge
Landmark USSC Cases

- **Kent v. United States (1959)** – the first landmark case regarding juvenile justice.
  - Involved a 16-year-old with a history of burglary and robbery offenses.
  - While on probation committed additional charges – rape, robbery, and burglary.
  - Waived to adult court without due process.
In re Gault

• A controversial decision about a disturbing case.
  – The question before the Court was:
    • Does a juvenile have due process rights during the adjudication stage of the delinquency proceeding?
    • Up until this point the answer was, No.
  
• The Court found that the intent of juvenile justice was far from being accomplished
  – Treatment
  – Thoroughness
  – Protection
    • Were exceptions, not the rule.
• As a result of *Gault*, juveniles were granted the following rights:
  – Reasonable notice of charges
  – Counsel, including indigent defendants
  – Confront and cross-examine witnesses
  – Protection against self-incrimination
  – To remain silent

• The Court recognized that many juvenile proceedings concluded with incarceration of the offender, adult as well as juvenile, and therefore the protection afforded through due process was necessary.
In re Winship

• Notwithstanding the newly recognized rights of juveniles as a result of *Gault*, one protection was still not afforded juveniles:
  – The standard of proof required for conviction.
    • Criminal proceedings require *proof beyond a reasonable doubt*.
    • Civil proceedings require a *preponderance of the evidence*.
    • The Court ruled that if the offender faces the possibility of incarceration the proof must beyond a reasonable doubt.
McKeiver v. Pennsylvania

- McKeiver (16) was arrested and charged with several offenses stemming from a robbery.
- He requested a jury trial and was denied.
- The Court, surprisingly, refused to apply the right to a jury trial to juveniles.
  - Felt jury trials were not necessary for juveniles
  - Jury trials would negate the protective nature of JJ proceedings
  - Judges may use juries if they feel it necessary
  - Would end distinction between juvenile and adult systems
Issues in Juvenile Law

- Waiver of rights
- Right to counsel
- Search and seizure
- Interrogation and confessions
- Juvenile proceedings
- Records
- Bail
- Detention
- Corrections
- Right to treatment
- Rights at school
- Victim’s rights
- Curfew
Waiver of rights

- Depends on jurisdiction
- There is no *per se* test or circumstance that dictates waiver.

  - *Fare v. Michael C.* involved a juvenile with a lengthy police/court contact who was implicated in a murder.
  - Given his rights and requested to speak with his probation officer.
  - Court applied the *totality of the circumstances* test.
    - Evaluated several factors: age, experience, education, background.
  - Court determined that the request did not rise to the request for an attorney.
  - States can impose stricter limitations if they desire.
Right to counsel

- *Per se* attorney rules require an attorney be present at all critical stages of the proceedings.
  - Does not apply from a constitutional point.
- *Gault* requires an attorney be allowed and available to indigent defendants.
- The main point is that the attorney is only required after adversarial proceedings have commenced.
Search and Seizure

- Juveniles have fewer rights than adults concerning search and seizure.
  - All appellate courts that considered Fourth Amendment issues have concluded that it does not apply to juveniles.
  - The exclusionary rule’s applicability has not been yet been decided.
  - Status offenses are a clear departure in this regard.
  - A juvenile can be seized if it is determined that the juvenile is delinquent, dependent, abused, neglected, or a status offender.
NJ v. T.L.O.

- Deals with the search of a juveniles belongings.
- Search was conducted by school officials, not police.
- The search was conducted without probable cause.
- The Court ruled that school officials do not need a warrant, nor do they need probable cause.
- Privacy interests are outweighed for need to maintain a secure and healthy environment.
- School officials need only reasonable suspicion.
- Cannot act on behalf of police in this sense.
Interrogation & Confessions

- The Court has ruled that coerced confessions are not admissible in adult proceedings (*Haley v. Ohio*, 1948).
- The Court also visited the voluntariness of a confession in *Fare v. Michael C.*
  - This case set some boundaries for police interrogation of juveniles.
  - Unless specified by state statute, there is no higher standard that the police must adhere to when questioning juveniles.
Factors to consider

• The Court mandated in *Fare* that several factors be considered under the totality of the circumstances when determining whether a confession was voluntarily and knowingly given:
  – Age
  – Education
  – Knowledge of charges
  – Understanding
  – Parental contact
  – Length and method of interrogation
Juvenile Proceedings

• Early concerns in establishing the JJ system was the taint of criminality that would be associated with juveniles.

• Many states established laws to protect the confidentiality and identity of offenders.

• There was an assumption to confidentiality and anonymity.

• Many of the earlier restrictions on fingerprinting and photographing juveniles have become outdated.
Fingerprinting & Photographing

• The taking of prints today is limited at the state level and is generally based on the type of offense.

• As of today, 47 states allow for the fingerprinting of juveniles.
  – The most common age threshold in this regard is 14.

• Federal law requires that if a juvenile is convicted of a violent felony they must be fingerprinted and photographed.
Confidentiality & Anonymity

• The Court has dealt with matters related to the entitlement of privacy and confidentiality.

• Despite confidentiality laws, a juvenile witness could be identified during a cross-examination in a trial.

• A state law prohibiting the publishing of a juveniles name is unconstitutional (*Smith v. Daily Mail*, 1979).
Juvenile records

- The laws realting to the keeping of juvenile records and sharing the information contained within is driven by trends, not law.

- Three current trends in this regard:
  - More juveniles transferred to adult court.
  - Juvenile records information is increasingly available outside the system.
  - Integration of juvenile and adult records is increasing.
• Organizations and agencies with access to court records:
  – Juvenile detention facilities (37 states)
  – Prosecutors (33)
  – Police (26)
  – Probation (26)
  – Criminal courts (24)
  – The juvenile (29)
    • Parents (30)
    • Attorney (36)
    • Victims (24)
  – Schools (20)
Bail

- A qualified right under the Eighth Amendment.

- Juveniles have not been expressly afforded the right to bail.
  - Juveniles can be held in protective custody without violating the Eighth Amendment.

- In those states that have considered the absolute right to bail for juveniles, a total of 12, ten of the states have denied the right.
Detention

• *Schall v. Martin* (1984) involved a juvenile arrested for robbery, weapons, and assault.
  – The judge ruled that Martin was a threat and under state law was held in preventive detention (PD) before trial.
  – The Court ruled that PD is constitutional.
  – This case allowed for detention for reasons other than securing appearance at trial.
Jury Trial

- The Court did note that states are free to enact legislation that extends the right to juveniles if the state so desired.
- Today, close to one-third of the states have enacted legislation allowing for a jury trial during juvenile court proceedings.
Reasons Why: For & Against

• States that do not:
  – Juvenile courts are unique
  – Proceedings would become adversarial
  – The courts are separate and unequal
  – Would introduce delay

• States that do:
  – Proceedings sound criminal
  – Proceedings look criminal
  – Proceedings are more criminal than civil
  – Affords due process
Corrections

- Relatively few USSC cases have dealt with juveniles or juvenile facilities.
- It is often assumed that adult standards related to corrections relate to juveniles.
- The Court has ruled that such conclusions are premature.
- This is an example of an issue that the Court will not address proactively.
- Rarely do juveniles file cases concerning their conditions of confinement.
Right to Treatment

- The Court has ruled that juveniles have a right to treatment.
- However, the form and substance is generally left to the correctional authorities.
Rights at School

- School disciplinary action requires the same due process protections juveniles are afforded in juvenile court.
- School discipline centers on “liberty” interests in the same manner that juvenile proceedings do.
- First Amendment rights in school are not equally applicable.
  - The concern for interference of the rights of other students trumps the freedom of expression.
Corporal Punishment

- Several states allow for corporal punishment in the schools. (p.242)
- The Court dealt with this issue some time ago (1971) and upheld its use as a legitimate disciplinary tool.
Zero Tolerance Rules

- Due to recent incidents related to school safety and school-related violence, many jurisdictions have enacted *zero tolerance* policies.
  - Includes requirements of juvenile courts to report adjudication decisions
  - Notification of arrests
  - Questioning by school authorities absent *Miranda*
Victim’s rights

- Victim's rights have increased in the criminal justice system.
- In the juvenile system, the interests of guilt or a victims rights were not the concern of the court.
- This former stance has been relaxed in several jurisdictions.
- The advent of victim’s rights in criminal proceedings has encroached into the JJ system.
Curfew Laws

- Generally only apply to juveniles.
  - During declared emergencies, general curfew restrictions apply to all citizens.
- This is a status offense.
- Constitutional rights are limited by status offenses such as curfew.
- To be constitutional the curfew must:
  - Must demonstrate a compelling state interest
  - The law must be narrowly tailored to serve that state interest.