- The juvenile court system came into existence in 1899.
- Unlike the criminal justice system, a separate juvenile justice system is not constitutionally guaranteed.
A Historical View

- Prior to the twentieth century juveniles were considered property or *chattel*.
- Juveniles were treated the same as adults and subject to the same penalties, including death.
Juveniles were often given a variety of corporal punishment that included banishment and even death.

In terms of criminal responsibility, children over the age 7 were accountable for their actions.

Age 7 was the age established by the Romans and carried over into English common law, eventually finding brought into the American system of justice.
To deal with unwanted, abandoned, and orphaned children, by the 1600s the English developed a system of:

- Orphanages
- Workhouses
- Training schools, and
- Apprenticeships

Many children were brought into the adult world through involuntary servitude.

The focus of all this was to train juveniles in trades so they could contribute to society.
Early America

- During the colonial era children were treated similarly to the way that the English did.
- The family was viewed as the primary caregiver and supervisor of children.
- The family, community members, and religious officials often served as control mechanisms for colonial youth.
- The Industrial Revolution of the 18th and 19th centuries resulted in new issues in the treatment of children.
- The influx of people into urban areas during this time created new problems for children.
- Wayward children were filling the ranks in the emerging industries.
- Reform groups sought protection vis-à-vis early child labor laws.
- Much of this would be the precursor of the juvenile justice system.
The Start of Juvenile Justice

- The concept of rehabilitation has its roots in 16\textsuperscript{th} and 17\textsuperscript{th} century puritan America.
- The Puritans believed that through hard work and intense prayer a person became closer to God.
- Many of these ideals were reflected in early American penal institutions.
A Traditional Model
1900s – 1960

- The practice of separate trials for children began to change in 1870
  - Suffolk County, MA
  - 1872 – statewide adoption
  - 1892 – New York, Indiana, Rhode Island
  - 1893 – PA
  - 1899 – Illinois Juvenile Court Act
    - Chicago – 1st juvenile court
  - A major point in the early system was that juvenile court was not much different from adult court without the benefit of due process
The Child Savers

- Was the Child Saving movement about the children?
  - Delinquents were restrained and controlled as a means of rehabilitation
    - Child Savers were not as benevolent as it would seem
      - Recommended increased imprisonment in an effort to remove children from poor environments
  - The influence of middle-class and upper-class biases was a factor
  - A blurred distinction between dependant and delinquent children
The *Due Process* Model

- By the 1960s there was a major change of direction in the criminal justice system
  - The Warren Court was responsible for a variety of changes to the CJ system
  - Children were no longer viewed as property
    - Parent’s
    - State’s
  - Reforms were both substantive as well as procedural
  - Juvenile courts now had to provide due process
Due Process & the Bill of Rights

- Due process is found in two Amendments to the US Constitution
  - Fifth
  - 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 offence to be twice put in jeopardy of life or limb; nor shall he 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.
Fourteenth

Section 1.
All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. 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.
The Punitive Model

- Significant criticism of the juvenile justice system is that it is ineffective in dealing with issues of violent crime and repeat offenders.
- A result of this dissatisfaction has been a “get tough” approach.
- Under this model the function of the system has shifted from assessing harm the offender has caused, and moved to prevent future delinquency through deterrence.
Current trend to increase punitive measures reflects societal factors

- The *belief* that there has been an increase in violent juvenile offenses is outweighed by whether or not there is an increase.
- Research that may have prompted this may have focused on serious habitual offenders.
- Increased drug use and gang activity has created a crisis situation in many jurisdictions.
- The due process revolution of the 1960s has been blamed for coddling juvenile offenders that may have slipped through the cracks because of legal technicalities.
Shifting Assumptions

- What assumptions (8) about the juvenile justice system exist?
  - Most basic belief is that juveniles as a group do not possess the same *mens rea* or criminal intent as adults
    - is this true today?
  - Juveniles are not as intellectually, morally, or socially developed as adults
  - The traditional model is based on a positivistic notion that the causes of delinquency comes from a broader social environment
    - Neighborhood
    - Family
    - Child-rearing practices
The legal concept of *parens patriae* meant that the state could and should act *in loco parentis*.
- In place of the parent
- Due process hinders treatment of juveniles
- Due process limits discretion
- Juvenile records must be treated with strict confidentiality
- The goal of the system is treatment and rehabilitation
The Cycle

- The landscape of juvenile justice has changed
- Three distinct periods
  - Traditional
  - Due process
  - Punitive
Some factors have remained constant over time

- Juveniles are in a high-crime group
- They receive less punishment than adults
- The public perceives a juvenile crime wave

Together these three factors have resulted in pressure to increase punishment for juvenile offenders