

Book Review: Barry C. Feld, *The Evolution of the Juvenile Court: Race, Politics, and the Criminalizing of Juvenile Justice*. New York University Press, 2017. ISBN: 978-1-4798-9569-4 (Hardcover). 392 Pages. \$35.

Reviewed by David L. Myers¹

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In the mid-1990s, when I was a developing doctoral student and chose to specialize in juvenile justice and delinquency, I started reading the work of Professor Barry C. Feld. At the time, it was the height of the youth violence epidemic, with a variety of juvenile justice reforms being proposed and implemented. These reforms typically had a “get tough” orientation, focusing on such policies and procedures as fingerprinting juveniles, opening juvenile courts to the public, mandatory sentencing, and transferring larger numbers of adolescent offenders to adult court. Professor Feld researched and critiqued many of these topics, and he generated a great deal of discussion and debate with his views on the “criminalization” of juvenile justice, “justice by geography,” the right to effective defense counsel, race effects in juvenile justice, and even abolishing the juvenile court altogether (see, e.g., Feld 1991, 1993, 1997, 1998, 1999).

Professor Feld wrote (and continues to write) in a unique way, integrating legal and social science research, with an underlying passion for doing right by children and youth in our society. During the past 45

¹ **David L. Myers**, Ph.D. (University of Maryland), is a Professor and Director of the Criminal Justice PhD Program at the University of New Haven. He currently serves as Editor of *ACJS Today*, Chair of the ACJS Public Policy Committee, Board Member of the Crime & Justice Research Alliance, Editor of *Routledge Studies in Juvenile Justice and Delinquency*, and Vice-President of the Association of Doctoral Programs in Criminology and Criminal Justice. His teaching and research interests include juvenile justice and delinquency, reentry and recidivism, and criminal justice policy, planning, and evaluation. Address correspondence to: David L. Myers, 300 Boston Post Road, West Haven, CT 06516; e-mail: DMyers@newhaven.edu.

years, he has produced an impressive number of publications, including several award-winning books (see, e.g., Feld 1999, 2013). Most recently, *The Evolution of the Juvenile Court: Race, Politics, and the Criminalizing of Juvenile Justice* provides an up-to-date, thorough, critical, and evidence-based assessment of past and current juvenile justice philosophy and system operations in our country. It is a book that should be read and considered by policy-makers, researchers, practitioners, and students, and it concludes with an epilogue that should make all of us with an interest in juvenile justice think about the importance of our work in this field.

The book is divided into four parts, corresponding with four distinct eras of juvenile justice, as identified by Feld: the Progressive Era, the Due Process Era, the Get Tough Era, and the Kids Are Different Era. In covering these stages of evolution, Feld examines the relationship between social structural factors and changes in juvenile justice policy, particularly those occurring during the past 50 years. He discusses how the social structural factors of economy, urbanization, family, race/ethnicity, and politics shape society's views about juvenile justice and delinquency. In doing so, Feld focuses primarily on the experience of African American children and adolescents, as these youth have experienced a distinct history of inequality and injustice, revealed through decades of research.

The Progressive Era of juvenile justice is covered in Chapter 1. Feld first examines the movement to control and administer social change, which included efforts to distinguish "our children" from "other people's children." Moreover, although progressive reformers recognized social structural features as contributing to delinquency, they focused on changing individuals through focusing on their character. Feld concludes that early juvenile courts seldom achieved their rehabilitative goals, but they did keep the vast majority of youths out of the more damaging criminal justice system, which the later Get Tough Era sought to reverse.

Part II, the Due Process Era, is presented in Chapter 2. Here, Feld traces the social and legal context within which the due process revolution occurred, including African American migration from the rural South to the North and West in the decades surrounding World War II. Later in the chapter, Feld asserts that in the *Gault* and *Winship* cases, the Supreme Court transformed juvenile courts from welfare agencies into scaled-down criminal courts, endorsing a more adversarial model with at least some procedural protections. In *McKeiver*, however, in denying the right to a jury trial, the Court continued to view youths as immature and unable to benefit from all the rights granted to adults.

Gault and *Winship* also produced use of formal prosecutors in juvenile courts (to offset the presence of defense attorneys), but the constitutional right to appellate review was not provided. This set the stage for the “criminalization” of juvenile justice, with reduced rehabilitative goals, harsher sanctions, and a disproportionate emphasis on minority youths.

The Get Tough Era of juvenile justice is covered in Chapters 3 through 7. Chapter 3 examines the structural, economic, and demographic changes in American cities during the 1970s and 1980s that contributed to escalating Black youth homicide rates and provided the context for various get tough policies. Chapter 4 follows-up by considering how the politics of race, class, and crime fostered realignment of the Democratic and Republican parties, and how the Republican party embraced a “Southern strategy” to attract white suburban voters. This latter approach, Feld argues, includes the use of coded language to convey a message with racial appeal, while allowing discussants to deny its racist content.

Chapter 5, “The Kid Is a Criminal,” thoroughly examines the various get tough reforms in late 20th century juvenile justice policy, programs, and practices. Specifically, Feld assesses the topics of juvenile transfer to adult criminal court, use of pretrial detention in juvenile court, and the shift from treatment to punishment in juvenile sanctions. In doing so, he documents how politicians assaulted the idea that children are different from adults and rejected the premise of keeping youths out of prisons. Consequently, incarceration of both adolescents and young adults increased rapidly, while sanctioning philosophy shifted from rehabilitation to deterrence and incapacitation. The weight of these changes fell most heavily on Black male youths, who (as research shows) receive more punitive sanctions at virtually every stage of juvenile court decision-making.

Chapters 6 and 7 discuss the impact of get tough policies on girls and schools, respectively. Feld argues that perceived increases in female juvenile violence during the Get Tough Era were an artifact of changes in police practices and other juvenile reforms, and that the narrowing of the gender gap was due mainly to criminalizing family conflict and confining girls more frequently for minor offenses. Concerning schools, Feld discusses their social control functions, the purpose of compulsory attendance laws, formal and informal segregation, and zero-tolerance policies that have impacted disproportionately on Black male students. In school, youth also have fewer due process rights, with increasingly greater police presence and punitive policies. This allows for an

educational environment characterized by disparities in funding, social inequality, and limited opportunities in high-poverty urban districts.

Part IV, containing Chapters 8 and 9, assesses the contemporary “Kids are Different” era. In Chapter 8, Feld discusses how research on adolescent development and corresponding views on culpability helped shape Supreme Court decisions on the death penalty for juveniles and life sentences without the possibility of parole. These decisions essentially recognize youthfulness as a mitigating factor in sentencing, which Feld extends to propose that a more general “Youth Discount” should be enacted in state sentencing statutes. Chapter 9 then examines modern juvenile court procedures and a typical youth’s ability to exercise due process rights. Topics here include conflicting views on juveniles’ competence to exercise rights, *Miranda* warnings and interrogation, competence to stand trial and waive counsel, and the right to a jury trial. Feld concludes that in many cases, get tough laws designed to punish delinquents simultaneously eroded the already diminished protections of juvenile courts, and legislators need to address existing procedural deficiencies impacting disproportionately on minority youths.

At various points in the book, Feld asserts that regardless of how we feel about adults and their behavior, children are innocent bystanders and victims of their parents’ circumstances, with limited ability to escape the criminogenic environments to which our larger society often consigns them. In an Epilogue, Feld returns to this theme and offers his current views on appropriate juvenile justice reform, reflecting a detailed understanding of economic inequality, concentrated poverty, and racial isolation. Central to his proposed reforms is the Youth Discount in adult court sentencing, but other recommendations include extending the age of juvenile court jurisdiction to 18 in every state, with further legal protections up to age 21; greater use of diversion to community resources, risk and needs assessment, data-driven decision-making, and evidence-based delinquency prevention programs; stronger procedural safeguards, including mandatory and effective counsel in court proceedings; and the right to a jury trial and appellate review.

The final pages of Feld’s book review the history and research on child poverty in the United States, with a reminder that while poverty is a leading risk factor for positive childhood development, it does not affect all children equally or as intensely. African American children, in particular, experience much higher poverty rates, limited educational opportunities, and are more likely to live with an unmarried single parent, in racially segregated neighborhoods, and to experience various forms of trauma. In addition, parental education and income affect family

formation, childrearing practices, and childhood brain development, along with cognitive abilities, socio-emotional skills, and behavior. As a result, children of poor and less educated parents are disadvantaged at the start and have fewer resources with which to overcome life's obstacles.

In the end, Feld concludes that persistent child poverty is current American public policy, which should be changed through tax reform, income support programs, paid paternal leave, and subsidized childcare. However, he is pessimistic this will happen, due to institutional and individual racism, political views on the deserving versus undeserving poor, and a culture that attributes crime, poverty, and unemployment to individual deficiencies. The final paragraph of the book conveys Feld's sadness and despair over the enormous problems faced by children and the unwillingness of political leaders to address them, with a hope that future generations of Americans will look back with shame on "contemporary child abuse inflicted by the state." Personally, I hope this book helps facilitate the type of change proposed by Feld and motivates those (like me) with a strong interest in juvenile justice to do more to speak for the most disadvantaged in our society, while advocating for policies that treat children and youth as both cherished and worthy of our time and financial investment.

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