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The half-century that has passed since *In Re Gault*[†] began the modern era of American juvenile justice has produced an interesting pattern of discourse among liberal reformers. There is almost universal agreement on the substantive objectives of reform in the institutions that determine the consequences for young persons who violate criminal laws. The central goal of reformers is to minimize the harm that penal criminal liability and confinement generates for adolescent development and thus to rely on the normal process of growing up as the appropriate method to minimize the threat of youth crime to community safety. We all agree that the best cure for youth crime is growing up.

But the consensus about the desired goals of legal policy toward young offenders has contrasted with wild disagreements about the most appropriate doctrinal and institutional strategies to secure a safe path to adulthood. Should we encourage the continued development of separate courts for juvenile offenders or create instead young offender branches of criminal courts? Should the adjustments that legal institutions make when determining the punishment for young offenders be fixed discounts based on immaturity or an entirely separate schedule of sanctions in a separate legal institution? Should the courts stay out of interfering in family conflicts and running away by adolescents or attempt to reduce the dangers of conflict without resorting to secure confinement? Should legislatures specify which criminal charges require criminal courts and extraordinary levels of imprisonment or are individual hearings prior to transfer to criminal courts always the proper function of juvenile courts?

No observer can doubt the consistent passion that Barry Feld has displayed toward the protection of young offenders from the destructive excesses of the penal systems in the United States. And no reader of his essay in this volume can doubt Barry's candor in documenting his twists and turns in choosing procedural and institutional strategies to secure safe passage to adulthood for young offenders. He has come to support a separate and discretion-laden juvenile court for adolescent offenders only after documenting the costs of juvenile court hegemony and showing the dangers of lawlessness that have been the

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[1] *In re* Gault, 387 U.S. 1 (1967).

legacy of open-ended juvenile court powers. What sets Barry Feld apart from other students of American juvenile justice is his rigor in analyzing policies advocated for juvenile courts—including those for which he advocated—and his willingness to openly reconsider his own preferences when the facts warrant reconsideration. When Feld's commitment to youth welfare has clashed with his interests in preserving the consistency of his procedural preferences, he is always ready to revise his opinion. This is by no means a universal characteristic for prominent academic experts. It is, to paraphrase Dr. King, a laudatory aspect of the content of Barry Feld's character.

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Why then must we persist in creating a separate court for adolescent offenders? It is not to provide downward adjustments in criminal penalties because of the diminished responsibility that is characteristic of immaturity. Criminal courts should be able to moderate the retributive demands of penal justice for young persons as well as for offenders who suffer from mental and emotional handicaps. Downward adjustments in the scale of just retributive punishments do not require a separate court for the young.

But downward adjustments in deserved custodial punishments will not allow many offenders to grow up in community settings and outgrow their adolescent criminal propensities. The juvenile courts in progressive nations do *not* dispense penal justice in their dispositions but rather impose less severe disruptions in the lives of young offenders than retributive justice would often demand. We give our youth less disruptive sanctions to subsidize their normal maturation in community settings. This is often a lot less than penal desert might require and that is why a separate court is necessary to support the continual legal discrimination in favor of normal adolescent maturity. In the long run, community safety can be well served by this pro-youth orientation, but the justification for juvenile justice is not merely utilitarian. Juvenile courts can also reinforce the moral value of supporting young persons of all colors and classes. There are measures of justice more important than penal desert in most cases, and that is why the juvenile justice system attracts the attention of so many of the law's most admirable advocates. Mary Berkheiser and Barry Feld are prominent members of that pantheon.