Slobogin and Fondacaro’s *Juveniles at Risk: A Plea for Preventive Justice* represents an effort to address the issue of treatment and processing of juvenile offenders in what they suggest is a new and innovative manner. Confronting important aspects of the problem of juvenile offending rooted in developments in criminology over the last 40 years, they argue that the juvenile justice system must be responsive to these scientific advances.

The book focuses on the difficulty of treating juveniles as simply young adults, questioning whether adult systems can stem the tide of juvenile crime. The authors incorporate evidence from developmental and criminal career research, along with research from developmental and social psychology, to make an argument that youths remain in need of a system that is more sympathetic to the maturation process.
The first chapters provide an overview of a system that provides protection for troubled youths from the life-course consequences of youthful indiscretions and poor decisions. They describe a system that embedded within it the notion of *parens patriae*, a benevolent philosophy that suggested that all actions taken were specially crafted to address the particular needs of the youths who stood before the court. Underlying this was a belief that all actions were in the best interest of children. The book describes how social forces and social perceptions of youths challenge the initial rehabilitative frame.

**Changing Forces**

The changes that have occurred include granting constitutional protections to youths due to the perception that juvenile court judges often make arbitrary decisions. A series of court cases are discussed that have altered the informal foundation of the court and moved it toward a more adversarial court that has many similarities to the adult criminal courts, seeming to blur the distinctions.

An important aspect of these court decisions seems to be that any American who is subject to processes that will take away his or her freedom of movement, his or her liberty, as it were, should have the benefit of the protection of the Bill of Rights. For example, protection from waiver out of the juvenile and into the adult system was articulated in the case of *Kent v. United States* (1966), in which the justices determined that a youth was guaranteed notification of charges, legal counsel, and a fair hearing with full documentation in order for the decision to occur.

Extending those protections, in the landmark case of *In re Gault* (1967), the decision gave juvenile defendants notification of the charges against them, notice of their right to have an attorney, the right to confront and cross-examine witnesses against them, and the right not to testify against themselves. These cases came some 65 years after the development of a separate and distinct juvenile court.

Since these court decisions over the last 40 years, social attitudes toward juveniles have shifted in many ways. Slobogin and Fondacaro describe changes in attitudes that promoted a shift from an institution that sought to act benevolently in a rehabilitative manner to one that sought greater personal responsibility and accountability from youths. This shift moved the court to a mirror image of the adult system in which society sought its pound of flesh and pursued retributive justice. The authors question the utility of this approach, given the evidence concerning the effectiveness of the adult justice system, but more importantly within the context of 40 years of research on crime in the life course.
Preventive Justice

Slobogin and Fondacaro propose a solution they refer to as preventive justice, justice that is developmentally sensitive and conscious of risk. Most youths would receive treatment in community-based programs that represent the least possible intrusion into their lives. This dimension of the model is similar to diversion programs that currently exist in the juvenile justice system. Diversion initially was intended as an alternative for status offenders, youths who had not violated adult criminal law but rather had been oppositional, were runaways or truants, and displayed other similar age-defined behaviors.

The authors also call for another aspect of preventive justice, an approach to offenders that is vaguely reminiscent of selective incapacitation (Auerhahn, 1999). Selective incapacitation, while holding individuals accountable to their criminal offending, was forward looking, very much like preventive justice is described, assessing future dangerousness on the basis of past behavior and incarcerating for the protection of the community. The book describes how there is no focus here on helping offenders or treating offenders; instead the concern is with preventing future law-violating behavior. How is this accomplished?

The Foundation

Much is known from research into the causes and correlates of delinquency and about the etiology of offending. Criminal career research has provided an understanding of the factors that influence the onset of offending, its duration and escalation, and desistance. Life-course and developmental scholars have provided substantial evidence with regard to offending trajectories that provide insight into the factors that contribute to short- and long-term careers. On the basis of that literature, it is argued that actuarial tables and models for determining the dangerousness of youths should use evidence developed over the last 30 years through rigorous empirical research on the causes and correlates of delinquency. These tables will allow for the determination of future dangerousness of offenders and their suitability for treatment.

It is stressed in the discussion of treatment and case handling that the least punitive response should be used. This model is consistent with the guiding principles of Cesar Beccaria with regard to crime and punishment. In his seminal work On Crimes and Punishments, Beccaria (1774/1986) stressed that any systemic response should be proportional to the crime committed. However, underlying the authors’ argument is the notion that there are those who are beyond intervention, at least in the moment. The solution is to respond to these youths and then leave them subject to the review of the court or its
representatives through time. When the courts deem fit, the individual would be released from care.

The New Approach

Throughout my reading of *Juveniles at Risk*, I sensed that underlying this call for the use of a “new” system of justice for handling juvenile offenders was a frighteningly troublesome and inadequate model. Although social science research has certainly made advances and shown that individual and environmental insults through the life course place children at greater or less risk depending on the extent to which they are present, it has also shown a lack of randomness in the distribution of these predictors.

On page 84, the implications of this “new” approach for racial and ethnic groups finally emerge. Nearly all of the research in the causes and correlates and criminal career literature reflect a skewed distribution of these risk factors. They are not randomly distributed; they tend to be overrepresented in urban centers where poverty and disadvantage thrive. Those most likely to get preventive justice will be children who have been the consistent recipients of “justice” for decades, poor African American or Latino youths. The use of the juvenile justice system to deal with the children of poor racial and ethnic minorities has existed since the day it was conceived. For more than 30 years now, the Justice Department has sought to understand the causes of disproportionate minority confinement.

The basic argument for why the authors’ approach should be utilized is that it is scientific and evidence based. Slobogin and Fondacaro argue that on the basis of the evidence available, we should selectively incapacitate high-risk children. They also argue that we should roll back the constitutional rights that moved the court from what Justice Fortas referred to as a kangaroo court in the *In re Gault* (1967) majority opinion (Manfredi, 1998). These rights were needed to protect children from arbitrary and capricious decision making that occurred without recourse.

In the lone dissent to the *Gault* decision, Justice Stewart argued that punishment is not the intention of the juvenile court (Manfredi, 1998, p. 255). He disagreed with the majority because their actions would make the court proceedings more adversarial, like the adult criminal system, instead of a benevolent, treatment-focused proceeding. Slobogin and Fondacaro argue that these rights forestall true preventive justice. They say, “Juveniles who refuse to talk could be told their silence may be used against them as a way of cajoling information from them that might be useful during adjudication and disposition” (p. 117).

In *Juveniles at Risk*, the argument for the removal of basic rights is based on the same reasoning. Slobogin and Fondacaro see this action as tolerable because it is not to punish that
the rights are being abrogated; rather, ignoring the Bill of Rights and due process protections is acceptable because it is for your own good.

Although troubling, this book provides some important points for opening discussion about the juvenile court and how it should function. I agree with the authors that it is very important to use evidence-based research in the process of trying to understand how to provide quality care and treatment of youths; it is imperative that we examine current functioning and practices of the court as it has moved far from its basic foundation of *parens patriae*. The movement toward treating children as adults, viewing them as adults, and punishing them as adults is harmful to their lives’ trajectories. We need reasoned and clearly vetted program development. I am not sure that preventive justice provides that solution.

*Juveniles at Risk* is a book that is written in a style that makes it accessible to the practitioner and policy maker, the student of juvenile justice, and the interested citizen who seeks to understand juvenile justice. It provides a wonderful starting point for discussion in the classroom and in the policy community regarding the future of juvenile justice.

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**References**


In re Gault. 387 U.S. 1 (1967).
