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## At a Tender Age: Violent Youth and Juvenile Justice

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AT A TENDER AGE: VIOLENT YOUTH AND JUVENILE JUSTICE. By Rita Kramer. New York: Henry Holt & Co. 1988. Pp. viii, 309. \$18.95.

Rita Kramer<sup>1</sup> thinks violent youth need less due process and more swift and certain punishment. Her view of juvenile justice is shared by many adults who are increasingly appalled by the brutality of adolescent criminals. The extreme reaction of one Detroit judge was described by a news reporter:

The presiding judge . . . Michael Talbot of Detroit Recorder's Court, was so exasperated by the case that in sentencing the teen-ager to life in prison in solitary confinement, he said, "My only regret is that this state does not have capital punishment and that the state will have to provide room and board for life."

The case changed the judge's view of justice, he said later. "I'm at the point where I don't care if this person goes to community college in prison and tries to make a little something of himself," Judge Talbot said. "I'm thinking of the victims these days."<sup>2</sup>

Much of *At A Tender Age* consists of anecdotal material gleaned from interviews with juvenile criminals and professionals working in the juvenile justice system. The many uncensored conversations recounted regularly induce a skipped heartbeat. Kramer relies heavily on gory detail to provoke a sense of outrage at the incompetence of the existing system. The book opens with a vivid description of a brutal beating and gang rape committed by three teens in New York's Central Park in August of 1984 (pp. 1-2). Many similar accounts of inhuman crimes are interspersed throughout the book, as if the author is attempting by repetition to persuade the reader of how horrible violent youth really are.

In many instances the teenagers described had recently escaped from minimum security detention or had been released to their homes prior to committing violent crimes. To illustrate the problem of violent-youth-at-large, Kramer tells the story of fifteen-year-old Shavod Jones (pp. 21-24). Jones was arrested for and pled guilty to armed robbery. He had been arrested several times previously for violent crimes, but the presiding judge had no access to the prior records, as they were sealed by law.<sup>3</sup> The judge released Jones after being assured

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1. A writer focusing on family issues, Rita Kramer's other books include: *IN DEFENSE OF THE FAMILY: RAISING CHILDREN IN AMERICA TODAY* (1983) and *MARIA MONTESSORI: A BIOGRAPHY* (1978).

2. Wilkerson, *Urban Homicide Rates in U.S. Up Sharply in 1986*, N.Y. Times, Jan. 15, 1987, at A14, col. 3.

3. New York law mandates that juvenile records be kept confidential to avoid stigmatizing the young. See pp. 221-25.

the boy would soon enter a residential treatment facility. Shortly thereafter Jones shot and paralyzed a police officer who confronted Jones during an attempted bicycle theft. Kramer insists that Jones didn't "fall through the cracks" of the juvenile system, but in fact was a typical result of an obsolete system designed for truants and pranksters, not vicious criminals. As Kramer describes it, "When the Family Court Act was written in 1962, delinquents were for the most part petty thieves, troublemakers, disobedient truants whom their parents complained they couldn't control" (p. 64).

In 1967, the Supreme Court decided *In re Gault*,<sup>4</sup> a watershed opinion governing juvenile proceedings. The Court held that several components of criminal due process must be made available to juveniles; a central holding made appointment of counsel constitutionally mandatory.<sup>5</sup> Kramer believes that *Gault's* provision for minimum safeguards has been carried to extremes, to the point where "[the juvenile's] due process rights as an accused in danger of being deprived of his liberty have taken precedence over the idea of his need to be retrained, rehabilitated, salvaged, returned whole to the community" (p. 73). She decries the "liberty" obtained for young criminals by their counsel, arguing that liberty for these youths means simply returning to the violent streets which engendered their problems.

Kramer and many of her interviewees castigate the Legal Aid Society<sup>6</sup> for perverting the *Gault* decision. Kramer concludes, "[T]he original intent of legal representation for . . . young lawbreakers [has] been corrupted . . . [T]heir real interests [are] often sacrificed to their legalistic entitlements" (p. 86). "[T]he Legal Aid philosophy," she claims, ". . . has pushed for granting juveniles all of the rights of adults with none of the sanctions" (p. 237). Another critic, James Payne, Chief of Family Court Corporation Counsel in New York City in 1984,<sup>7</sup> calls Legal Aid "a bunch of ideologues" who practice "objection law" (p. 102). Another attorney with the Corporation Counsel remarks, "If all these kids are here because they're victims of their backgrounds, because the homes they come from are neglectful or abusive — then why does Legal Aid fight to put them back in those homes by paroling them to their families?" (p. 93).

Given her victim's-rights perspective, Kramer's critique of Legal Aid comes as no surprise: She thinks procedure needlessly allows juveniles to escape accountability. James Payne, who, Kramer care-

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4. 387 U.S. 1 (1967). One year earlier the Court had applied due process standards to juvenile proceedings for the first time, in *Kent v. United States*, 383 U.S. 541 (1966).

5. 387 U.S. at 33, 41, 55, 56-57 (requiring adequate notice of charges, right to counsel, privilege against self-incrimination, and rights to confrontation and cross-examination).

6. The Legal Aid Society, a private agency, provides representation to most juveniles in New York's Family Court. P. 85.

7. P. 98. "Corporation Counsel" are New York City's "presentment" (prosecuting) attorneys in Family Court. Pp. 85-86.

fully notes, "[a]s a black man, . . . can say things no white would be comfortable saying . . ." (p. 99), shares her concern: "There are too many people around here bleeding over these kids, encouraging them to believe they got a raw deal . . . . [Y]ou can't say it's poverty that causes crime. . . . [O]nly a fraction of [poor youth] ever commit a crime" (pp. 99-100).

Unfortunately, Kramer barely pauses to consider how procedural protections might be preserved for innocent youth who would get crushed without them. Such abuse was what spawned the *Gault* decision in the first place.<sup>8</sup> And the type of reasoning indulged in by James Payne, in which crime appears remediable just by cracking the whip on incorrigibles, really diverts attention from the miserable, violent realities suffered by most juvenile offenders from birth; it attacks symptoms and ignores causes. Though tougher juvenile procedure may put more guilty offenders in jail, it will not stop juvenile crime.

Kramer's retributive theme results also from the fact that her study focuses on the most violent subpopulation of juvenile offenders. An earlier study of New York's juvenile system done by Peter Prescott<sup>9</sup> expressed much more sympathy for the majority of juvenile offenders, characterizing them as misguided children suffering under the weight of the system. Prescott's study is similar to Kramer's in many respects, including the perception of New York's Family Court as a bleak, ineffective institution. But as one reviewer put it: "[Prescott's] concern is for abused, innocent children who receive no help from the court or institutions created for their benefit. They are the majority among the young in trouble with the law, not the violent minority widely publicized."<sup>10</sup>

Kramer, however, largely ignores the nondangerous majority; she concerns herself with the rapists and murderers. She repeatedly stresses how studies conducted in Philadelphia, Pennsylvania,<sup>11</sup> and

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8. For example, the *Gault* petitioner, a fifteen-year-old boy, was committed to an industrial training school until age 21 for making an obscene telephone call. The juvenile proceedings, as described by the Supreme Court, were muddled at best. See *Gault*, 387 U.S. at 1-2, 5-9. See also Comment, In Re *Gault: Children are People*, 55 CALIF. L. REV. 1204 (1967), which describes some unjust outcomes resulting from the pre-*Gault* lack of procedural protections, such as the seven-year commitment of one boy for telephoning a bomb scare to the police. *Id.* at 1208 (citing *State ex rel Toney v. Mills*, 144 W. Va. 257, 107 S.E.2d 772 (1959)). As Justice Fortas remarked in the *Gault* opinion: "Juvenile Court history has again demonstrated that unbridled discretion, however benevolently motivated, is frequently a poor substitute for principle and procedure. . . . Failure to observe the fundamental requirements of due process has resulted in . . . unfairness to individuals and inadequate or inaccurate findings of fact and unfortunate prescriptions of remedy." 387 U.S. at 18-20.

9. P. PRESCOTT, *THE CHILD SAVERS: JUVENILE JUSTICE OBSERVED* (1981).

10. Book Review, PUBLISHERS WEEKLY, Apr. 10, 1981, at 64 (reviewing P. PRESCOTT, *THE CHILD SAVERS*, *supra* note 9).

11. M. WOLFGANG, R. FIGLIO & T. SELLIN, *DELINQUENCY IN A BIRTH COHORT* (1972).

Columbus, Ohio,<sup>12</sup> have revealed that a small, concentrated subgroup of repeat juvenile criminals carry out the majority of violent juvenile crime.<sup>13</sup> These chronic, violent offenders are viewed by many experts as beyond rehabilitation. As one counselor put it: "Forget right and wrong; it's too late for developing a conscience" (p. 189). So, in one sense, Kramer's belief in punishment is espoused not so much as a morally appropriate response, but as a last-resort method of behavior modification.

Despite the harsh, often retributive attitude she displays toward violent youth throughout her book, Kramer does recognize and describe the main underlying cause of violence: the disintegration of family.<sup>14</sup> The home life of one fifteen-year-old involved in a brutal gang rape exemplifies the tragedy:

The history is depressingly predictable. Mother, sixteen at time of his birth. Father unknown. Shunted around among various relatives. Mother in a series of relationships with sometimes brutal men, treated for heroin addiction. . . . A life lived mostly on the streets, occasionally turning up at some relative's for a night or two, sometimes returning to the apartment mother shares with current man, sometimes being kicked out. [p. 79]

Several psychological experts interviewed late in the book describe how shallow or nonexistent emotional bonding during childhood creates the randomly violent behavior found in juvenile criminals. When children are neither nurtured nor trained in character, unusual, sometimes horrible behavior results. As Dr. Richard Garmise, clinic director of Mental Health Services in New York County, put it, "[A] lot of the violence is adaptive for the kid. They weren't brought up not to be violent" (pp. 197-98, 213).

At the end of her book, Kramer offers a range of reform proposals she believes will protect society from violent youth. To her credit, she briefly discusses the need for community-based solutions to the underlying causes of violence. Yet her predominant concern lies with changing juvenile justice institutions and procedures. She wants juvenile court proceedings opened to public scrutiny, believing that "[p]ublic awareness is what drives legislation, and an informed community is in a better position to protect the interests of the many as well as the few" (p. 249). She wants juvenile arrest and court records,

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12. D. HAMPARIAN, R. SHUSTER, S. DINITZ & J. CONRAD, *THE VIOLENT FEW: A STUDY OF DANGEROUS JUVENILE OFFENDERS* (1978).

13. *See, e.g.*, pp. 196, 250, 287. The Wolfgang study found that as few as 6% of the juveniles studied committed over 70% of the violent juvenile crimes; the Hamparian study found that 33% of juveniles with at least one arrest for a major violent crime were involved in 68% of the violent juvenile crime arrests. *See* pp. 280-81 (construing *DELINQUENCY IN A BIRTH COHORT*, *supra* note 11, and *THE VIOLENT FEW*, *supra* note 12).

14. A recent study by the U.S. Department of Justice found that nearly 75% of juvenile criminals currently in detention come from broken homes. *See* N.Y. Times, Sept. 19, 1988, at A15, col 1.

now sealed against disclosure, opened so that hard-core offenders can be more easily identified and isolated (pp. 248-50, 265). For similar reasons she wants the juvenile and adult criminal systems unified, so that one system can be held accountable for tracking and treating chronic offenders (p. 251). The core of her reform package, however, focuses on providing the immediate deterrence she believes is the only way to control violent repeat offenders. Her main suggestions here are to reduce the bureaucratic time lag between arrest and disposition (p. 264), to allow "less obsessive focus on procedural technicalities at the expense of factfinding" (p. 264), and to base penalties on fully accessible prior records as well as on the severity of the crime (pp. 264-65).

Kramer obviously wrote her book with a wide audience in mind. She wants social reform; she wants violent youth punished, and she describes gruesome victimization to arouse a following. The book warrants reading because it provides colorful and candid insider perspectives on a fearsome problem. Because the book lacks legal sophistication, however, it may leave the reader dissatisfied. Without even a moderately thorough exploration of constitutional issues, Kramer leaves us wondering how pre-*Gault* abuses might be avoided in her world of swift and certain punishment.

— Patrick Gallagher