



# VCU L. Douglas Wilder School of Government and Public Affairs

Office of Public Policy Outreach

Translational Research Fellows Issue Brief

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## Juvenile Interrogations

Police interrogation is an essential investigative tool and core component of the criminal justice process. However, insights from developmental science should play a larger role in state policy conversations about police interrogation of juveniles. Interrogation law and policy should be responsive to the extensive body of research that demonstrates how youth differ from adults in exhibiting immature judgment, poor impulse control, limited decision making abilities, and susceptibility to coercion. This research confirms that human brain development remains incomplete until the mid-20s; the Supreme Court in *J.D.B. v. North Carolina* (2011)<sup>1</sup> acknowledged these deficits and recognized that they disadvantage youth in the interrogation room.

### Key Findings

1) Juveniles are often vulnerable subjects during interrogations due to their incomplete development. Police often question youth without a parent or lawyer, and in the absence of trained legal counsel, youth are susceptible to police coercion (intentional or unintentional) which increases the risk of false confessions and compromises due process.

2) Most juvenile suspects waive their legal rights to silence and counsel and consent to police interrogation<sup>2</sup>, even though research shows youth often don't understand those rights. Once interrogation commences, many youth confess or provide incriminating information,<sup>3</sup> which is unfair if youth weren't properly informed of the potential consequences of confession.

### Recommendations and Considerations

1) **Recommendation 1:** Require police agencies to video or at least audio record interrogations of juvenile suspects.<sup>4</sup>

a) **Advantages:** Almost certainly it would reduce instances of overt coercion and provide documented evidence of known false confession risk factors such as lengthy interrogations and coercive interrogation techniques. Recording would also provide evidence that interrogators are following proper protocols and respecting youths' rights.

b) **Considerations:** The tendencies that render juvenile suspects in need of additional



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**Research interests:** Police interrogation of juveniles, juvenile justice, forensic psychology, juvenile law and policy

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*(Views are those of individual faculty member and not lobbying positions of VCU as a public university.)*

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protections—compliance with authority, self-regulation difficulties, limited future orientation, poor rights comprehension—are not always readily observable on camera. If youths’ (even guilty youths’) developmental immaturity alters their perceptions of the interrogation process or unduly influences their decision making, then potential miscarriages of justice may be far more commonplace than false confessions.

- 2) **Recommendation 2:** Require youth under age 15 to consult with legal counsel (in person, by telephone, or by video conference).<sup>4</sup> Youth should not be permitted to waive this requirement.
  - a) **Advantages:** An attorney can assist youth in understanding their legal rights and the potential consequences of waiving those rights. Youth may have never experienced police questioning, yet interrogators are trained, experienced professionals; this creates an unfair power dynamic. An attorney can explain the interrogation process to the youth.
  - b) **Considerations:** The consultation requirement should not apply to a parent or guardian. Current research, though still emerging, casts serious doubt on the notion that parents can effectively advocate for their children. Until new research indicates otherwise we should proceed on the assumption that in general, parents are ineffective and inappropriate substitutes for trained legal defense counsel.
  
- 3) **Recommendation 3:** Require police to receive training on adolescent development<sup>5</sup> in order to improve the approaches and techniques they choose to implement in the interrogation room.<sup>6</sup>
  - a) **Advantages:** Many police agencies have already adopted policies and practices that recognize youths’ vulnerabilities, and the International Association of Chiefs of Police (IACP) disseminates a juvenile interrogation training curriculum to law enforcement officers across the United States. Training could help police question youth in ways that support their investigative goals and promote public safety while simultaneously recognizing youths’ unique—and transitory—vulnerabilities.
  - b) **Considerations:** Virtually no research has explored the use of known interrogation techniques with juvenile suspects, a legally and developmentally unique class of suspects. In addition, training may come with high costs, and there may be potential challenges implementing this training statewide.

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<sup>1</sup> J.D.B. v. North Carolina (2011) 131 S.Ct. 2394, 2397

<sup>2</sup> Cleary, H.M.D., & Vidal, S. (2016). Miranda in actual juvenile interrogations: Delivery, waiver, and readability. *Criminal Justice Review*, 41, 98-115. DOI: [10.1177/0734016814538650](https://doi.org/10.1177/0734016814538650)

<sup>3</sup> Cleary, H.M.D. (2014). Police interviewing and interrogation of juvenile suspects: A descriptive examination of actual cases. *Law and Human Behavior*, 38, 271-282. DOI: [10.1037/lhb0000070](https://doi.org/10.1037/lhb0000070)

<sup>4</sup> Cleary, H.M.D (2017). Applying the lessons of developmental psychology to the study of juvenile interrogations: New directions for research, policy, and practice. *Psychology, Public Policy, and Law*, 23, 118-130. DOI: [10.1037/law0000120](https://doi.org/10.1037/law0000120)

<sup>5</sup> Cleary, H.M.D (2017).

<sup>6</sup> Cleary, H.M.D, & Warner, T.C. (2016). Police training in interviewing and interrogation methods: A comparison of techniques used with adult and juvenile suspects. *Law and Human Behavior*, 40, 270-284. DOI: [10.1037/lhb0000175](https://doi.org/10.1037/lhb0000175)