



KEEPING COPS IN LINE: COUNSEL AT INTERROGATION WORKSHOP RESOURCES

DATA Re: Interrogation and waiver statistics:

A bulk of these studies are cited in “Juveniles in the Interrogation Room: Defense attorneys as a protective factor” (2020).

- Viljoen and Roesch (2005) found that juvenile defendants spending time with or meeting their attorney strongly predicted the defendant’s ability legal understanding when it came to police interrogation and adjudication of their case
- The waiver rate for juveniles is high; in some jurisdictions, 80-90% of juveniles waive their right to an attorney because they do not understand the meaning of the word “waive” (OJJDP, 2004).
- Other research has found that 90% of youth waive their right to remain silent (Rogers et al., 2008), and 69% went on to falsely confess (Redlich & Goodman, 2003). In this study (2020 article), 73.7% of defense attorneys reported that by the time they receive the case, the juvenile client has frequently waived their rights and offered an admission or incriminating statement to the police.
- In one study, 90.2% of juveniles were questioned alone, no adult other than the interrogators were present (Feld, 2012). Other studies find that rate to be at around 73.7% (Cleary, 2014).
- If an individual other than the police are present, it is most likely to be a parent of the juvenile. One study reported that 17.6% of juvenile interrogations included a parent in the room (typically the mother); other studies put that rate even lower at either 8.1% (Feld, 2012) or 1.5% of juvenile interrogations (Feld, 2006).

- Most frequently, when the police question a juvenile, there is no other adult present:
 - In one study of 307 youth charged with a felony, 90.2% of those interrogated were done so alone, with parents present in only 8.1% of the interrogations.
 - If other adults were present (rarely), it was school officials or probation officers (Feld, 2012).
- Estimates from the National Registry of Exonerations suggest that 38% of crimes allegedly committed by juveniles involved a false confession during the interrogation (as cited in False Confessions More Prevalent Juveniles in the Interrogation Room: Defense Attorneys as a Protective Factor 3 Among Teens, 2013).
- In one study, when presented with false evidence (a commonplace interrogation tactic), 50% of college students signed a confession statement, in comparison to 73% of those who were 12 to 13 years old, and 88% of those 15 to 16 years old (Redlich & Goodman, 2003). In addition, when shown evidence that they had committed a crime, though they had not, youth 12 to 16 years old were more likely than college students to take responsibility for the act. This research suggests juveniles, particularly younger juveniles, are more susceptible to making potentially false confessions in the interrogation room than adults.
- Roughly 90% of juveniles waive their right to an attorney and to remain silent (Rogers et al., 2008).
- In an evaluation of 328 exoneration cases, 44 percent of juveniles falsely confessed, compared to 13 percent of adults. Among the youngest cases, involving 12- to 15-year-olds, 75 percent falsely confessed (Gross, Jacoby, Matheson, Montgomery, & Patil, 2005). In laboratory experiments with mock crimes (Redlich & Goodman, 2003), self-report studies of confession behavior (Gudjonsson, Sigurdsson, Sigfusdottir, & Young, 2012), and hypothetical vignettes (Goldstein, Condie, Kalbeitzler, Osman, & Geier, 2003), adolescents are consistently more likely to falsely confess than adults.

Research points/conclusions:

- Extensive research suggests that youth do not have the same level of comprehension of their Miranda rights as adults (Viljoen & Roesch, 2005; Viljoen et al., 2005; Feld, 2012).

- Evidence has shown that the presence of a parent or guardian in the interrogation room is not enough to prevent false confessions (Viljoen, Juveniles in the Interrogation Room: Defense Attorneys as a Protective Factor 2 Klaver, & Roesch, 2005).

- Lack of training may explain why evidence suggests police officers interrogate juveniles like adults (Meyer & Reppucci, 2007).
 - For example, there were no significant differences in the frequency of which police reported using tactics such as deceit, presenting false evidence, and minimizing the seriousness of the crime, between adult and juvenile suspects (Meyer & Reppucci, 2007). In this sample, police reported that juveniles under the age of 14 were less able to comprehend their rights and the police officer's intent; however, they noted that older juveniles have comprehension levels more similar to those of adults. Thus, a lack of juvenile-specific training has led police officers to interrogate juveniles similarly to adults, which is problematic, given juveniles' susceptibilities in decision-making (more below)

- In one study, when 11 to 13 years olds were asked the best response to police interrogation, almost 60% responded to "confess." Defendants 15 years and younger were found to be more likely than older defendants to waive their rights to counsel and confess (Viljoen et al., 2005). In this sample, younger defendants' decisions to disclose information, confess, or plead guilty were not associated with the strength of the evidence against them. In comparison, older defendants' decisions were affected by the strength of the evidence. This suggests juveniles are not making intelligent legal decisions (i.e., decisions informed by case-related factors). It is likely that a defense attorney in the interrogation room would protect juveniles from unintelligent waivers, and help advise them on legal factors, which might affect juveniles' subsequent decisions

- The language used in the Miranda rights warning has been shown to require at least a sixth-grade education to comprehend 75% of warnings, and around a ninth-grade education to fully understand all components of the Miranda warnings (Rogers, Hazelwood, Sewell, Shuman, & Blackwood, 2008).

- Research has found juveniles under the age of 16 are more likely than adults to make decisions that reflect a propensity to comply with authority figures, which decreases as juveniles age (Grisso et al., 2003).

- Children are taught early by their parents to be honest, and they want to appear truthful, not guilty, so they may be waiving their right to do so, to tell their side of the story, or reduce their responsibility in the crime (Feld, 2012). That is why often juveniles' waiver of their rights leads to a confession.
- The Reid interrogation manual advises that parents who are present in the interrogation room should be told to sit and proceed as if the investigators were talking to the suspect alone (Inbau et al., 2001). Parents should be advised not to speak, and instead, act as an observer. Due to the instructions or possible ignorance on the parent's part, there are times that a parent's presence in the interrogation room can be detrimental to the juvenile suspect (Redlich, Silverman, Chen, & Steiner, 2004). Despite being in the room next door, only seven of the 64 juveniles asked to speak with their parents before signing a confession statement (Redlich et al., 2004).
- Viljoen et al. (2005) found that in a study of 152 juvenile defendants, none specifically said that they wanted a parent present for the questioning, yet 26.3% had one or both in the room. Of the 30 juveniles in this study who were questioned by the police with their parents present, none were advised by their parents to invoke their rights, and rather, half reported that their parents wanted them to confess (Viljoen et al., 2005).

STATE COMPARISONS:

- States such as Illinois and California recently passed laws that require some level of attorney involvement before/during questioning (these laws are crime-type dependent; Public Act 099-0882, 2017; 395 Welfare and Institutions Code § 625.6)
- Many states do not have such laws.
- California's Senate Bill 395 states that youth 15 years and younger must consult with an attorney in person, by telephone or video conference before an in-custody interrogation can take place and prior to the waiving of one's Miranda rights (395 Welfare and Institutions Code § 625.6).
- Utah and Delaware are also making significant strides in this area; they are a great resource.

LITERACY DATA:

- Literacy project said average American reads at the 7th-8th grade level; half of US adults can't read a book written at an 8th grade level
- Teen Literacy Rate: 60% of teens in the US do not read at grade level and 70% of US inmates cannot read above 4th grade level.
- Studies show that up to 85 percent of youth in juvenile detention facilities have disabilities that make them eligible for special education services, yet only 37 percent receive these services while in school.

ADDITIONAL SOURCES TO CHECK OUT:

- **"False Confessions More Prevalent Among Teens."** (2013, September 9). The Innocence Project. <https://innocenceproject.org/false-confessions-more-prevalent-among-teens/>
- **"Kids, cops, and confessions inside the interrogation room"** (UPCC book collections on Project MUSE). New York: New York University Press; Feld, B., & Project Muse. (2012).
- **"America's Addiction to Juvenile Incarceration: State by State."** (n.d.). American Civil Liberties Union. Retrieved from <https://www.aclu.org/>
- **OJJDP Waiver of Counsel report 2019**
 - As many as 90 percent of those who waive their right to counsel do so because they do not understand what it means to "waive" their right to something (Jones, 2004).
 - Jones, J.B. 2004. Access to Counsel. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.
- **"No Illusions: Developmental Considerations in Adolescent False Confessions"(2014)**
 - In an evaluation of 328 exoneration cases, 44 percent of juveniles falsely confessed, compared to 13 percent of adults. Among the youngest cases, involving 12- to 15-year-olds, 75 percent falsely confessed (Gross, Jacoby,

Matheson, Montgomery, & Patil, 2005). In laboratory experiments with mock crimes (Redlich & Goodman, 2003), self-report studies of confession behavior (Gudjonsson, Sigurdsson, Sigfusdottir, & Young, 2012), and hypothetical vignettes (Goldstein, Condie, Kalbeitzer, Osman, & Geier, 2003), adolescents are consistently more likely to falsely confess than adults.

<https://www.apa.org/pi/families/resources/newsletter/2014/12/adolescent-false-confessions>

- **“Interrogated with Intellectual Disabilities: The Risks of False Confession” 70 Stan.L.Rev.643 (2018)**

- **Literacy Project:**
 - Literacy project said average American reads at the 7th-8th grade level; half of US adults can’t read a book written at an 8th grade level

 - In middle-income neighborhoods, the ratio of age-appropriate books to children is 13 to 1 while in low-income neighborhoods, the ratio is 1 to every 300 children.