



Expert Summary Brief

Support SB 418: prohibit police use of trickery and deceit when questioning juveniles about a crime

Deception in interrogations:

- Increases the risk of false confessions, especially among youth
- Exploits youths' vulnerabilities that stem from incomplete brain development
- Undermines citizens' faith in the justice system
- Invites costly legal challenges about confession reliability and voluntariness
- Exposes police departments and municipalities to staggering civil liability, if deception contributes to a wrongful conviction

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WHY DECEPTION IS DANGEROUS

- **Deception increases the occurrence of false confessions.** Research using a variety of different methods confirms that police deception—especially lying or bluffing about evidence—increases the likelihood that police will obtain a false confession. False confession is a leading cause of wrongful conviction, which causes extraordinary harm to wrongfully convicted persons, their families, and the justice system.
- **Most people don't know that police can lie to suspects.** Studies show that even adults don't realize that police are legally allowed use deception during interrogations. Common examples include bluffing about evidence (e.g., telling suspects that DNA samples were found at the scene); presenting false evidence (e.g., telling the suspect their DNA matches the evidence), or—commonly used with groups of juveniles—telling a suspect their friends have already “given them up.” Such deception can (at best) unfairly exploit youths' inability to make competent decisions under stress and (at worst) lead an innocent youth to falsely confess to a crime.
- **Virtually all youth are interrogated without attorney representation.** Most youth misunderstand one or more of the Miranda warnings, and the vast majority waive their right to counsel. Thus, youth facing accusatory questioning are making serious legal decisions without the capacity to fully understand or appreciate the long-term consequences of those decisions. Parents are inadequate substitutes for attorneys; as they are often equally misinformed about the parameters of police interrogation practices and may face legal, moral, or financial conflicts of interest with the youth being questioned.

YOUTH ARE ESPECIALLY VULNERABLE TO DECEPTION

- **Youths' incomplete brain development hinders their decision making under stress.** Developmental scientists now know that the human brain isn't fully developed until around the mid-20s. Importantly, the limbic regions of the brain that control reward sensitivity develop faster than the prefrontal regions of the brain that control planning, judgment, and self-regulation. Also, these “emotional” and “executive functioning” brain systems don't fully integrate and optimally function until emerging adulthood. Youth are literally less able to think about future consequences of their actions than adults because the planning and abstract thinking areas of the brain are still developing. This has many implications for youths' interrogation decision making. For example, youth are likely to misunderstand or underestimate the legal implications of confessing to a crime, especially without the assistance of counsel.

- **Youth are more suggestible than adults.** *Interrogative suggestibility* refers to the extent to which suspects come to accept messages communicated to them during police questioning and change their behavioral responses as a result. Interrogations are a social interaction in which authority figures (police) attempt to persuade suspects to admit wrongdoing. Police are trained to use leading questions, interrupt suspects' attempts to resist, and offer excuses or justifications that make the crime seem less serious. Together, these strategies implicitly communicate a desired outcome (confession). Adolescents are more susceptible to interrogative pressure and more likely to change their statements when authority figures implicitly or explicitly communicate dissatisfaction with their answers. Importantly, youth with intellectual limitations, who are overrepresented in the justice system, are especially vulnerable.
- **Youth are more likely to comply with authority figures.** Compliance is different from suggestibility. Whereas suggestibility denotes the person has internalized the suggested information, compliance involves agreeing to propositions or following instructions to achieve some desirable outcome (e.g., pleasing someone else or avoiding confrontation). Youth are socialized to obey adult authority figures every day: teachers at school, parents at home, and adult leaders in the community. When an adult police officer—particularly a uniformed, armed officer or even multiple officers—uses deception or trickery to obtain cooperation or confession, youth are less likely to advocate for themselves and more likely to acquiesce to police pressure.
- **Youth know less about the legal system than adults.** Decades of research shows that many youth do not adequately comprehend their Miranda rights. Newer work suggests youth are also uninformed about justice system actors (such as lawyers and judges) and police interrogation practices (such as deception). Police, by contrast, are well versed in strategies to not only elicit incriminating information but to obtain information that will stand up in court. Allowing police to use deception—especially when youth don't know they can—further perpetuates the imbalance of knowledge and power.
- **Youths' developing brains prime them toward rewards.** Adolescent brains are hardwired to respond to rewards and devalue long-term outcomes of their actions. The idea of escaping a potentially stressful, confusing, or frightening situation has a stronger neurobiological pull on youth than adults. This makes certain forms of deception, such as implied leniency, particularly dangerous. A youth suspect who hears an interrogator imply "this will all be over" if the youth confesses is especially sensitive to the short-term reward of relief from interrogative pressure.

BENEFITS OF PROHIBITING DECEPTION IN JUVENILE INTERROGATIONS

- **Increases cost savings through reduced avenues for wrongful convictions.** Wrongful convictions can be extraordinarily costly to jurisdictions, with rippling effects in the community. A group of wrongfully convicted Nebraskans known as the Beatrice Six received a \$28.1 million jury award in 2016. Saddled with debt, Gage County passed the financial burden to residents by raising property taxes to the maximum amount allowable. Prohibiting deception with juveniles would reduce opportunities for false confessions and, by extension, the financial repercussions of wrongful convictions for police departments, cities, and counties.
- **Promotes due process by "leveling the playing field."** Interrogators are typically experienced, knowledgeable, authority figures who control the entire interrogation interaction—timing, location, duration, and tenor. Adolescent suspects are typically uninformed about their rights, unaided by counsel, and developmentally ill-equipped to withstand interrogative pressures. Permitting deception with adolescent suspects further exploits the legal, social, and informational disadvantages they already face.
- **Promotes transparency, which builds public trust in law enforcement.** Prohibiting deception in juvenile interrogations would better align police practices with the public's expectation about which tactics are permissible.
- **Does not undermine police investigations.** The United Kingdom prohibited deception in any interrogations almost forty years ago. This policy change did not handcuff investigators; on the contrary, it encouraged rigorous, transparent police work. Rigor and transparency ultimately serve the state's dual responsibilities of both public safety and due process.