

# INTERROGATING YOUTH MIRANDA WAIVERS AND CONFESSIONS: A DEVELOPMENTAL PERSPECTIVE

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## Notes

- <sup>1</sup> *In re Joseph H.*, 188 Cal. Rptr. 3d 171 (Cal. Ct. App.), *review denied*, 367 P.3d 1 (Cal. 2015), *cert. denied*, 137 S. Ct. 34 (2016).
- <sup>2</sup> *Petition for Writ of Certiorari, J.H. v. California*, 2016 WL 792197, at \*8-9 (U.S. Jan. 4, 2016) (No. 15-1086).
- <sup>3</sup> *Id.*
- <sup>4</sup> *Id.*
- <sup>5</sup> *In re Joseph H.*, *supra* note 1.
- <sup>6</sup> *Miranda v. Arizona*, 384 U.S. 436 (1966).
- <sup>7</sup> *See, e.g., Haley v. Ohio*, 332 U.S. 596, 601 (1948).
- <sup>8</sup> *In re Gault*, 387 U.S. 1 (1967).
- <sup>9</sup> *Fare v. Michael C.*, 442 U.S. 707, 725 (1979).
- <sup>10</sup> *J.D.B. v. North Carolina*, 564 U.S. 261, 272-274 (2011).
- <sup>11</sup> *Roper v. Simmons*, 543 U.S. 551, 569 (2005).
- <sup>12</sup> Elizabeth Cauffman & Laurence Steinberg, *Emerging Findings from Research on Adolescent Development and Juvenile Justice*, 7 VICTIMS & OFFENDERS 428, 433 (2012).
- <sup>13</sup> Laurence Steinberg, *Adolescent Development and Juvenile Justice*, 5 ANN. REV. CLINICAL PSYCHOL. 459, 465–71 (2009).
- <sup>14</sup> Steinberg, *supra* note 13.
- <sup>15</sup> Sarah-Jayne Blakemore & Trevor W. Robbins, *Decision-Making in the Adolescent Brain*, 15 NATURE NEUROSCIENCE 1184, 1186 (2012).
- <sup>16</sup> Laurence Steinberg, *The Influence of Neuroscience on US Supreme Court Decisions About Adolescents' Criminal Culpability*, 14 NATURE REVIEWS NEUROSCIENCE 513, 513 (2013).
- <sup>17</sup> Blakemore & Robbins, *supra* note 15.
- <sup>18</sup> *See* Naomi E. S. Goldstein, Emily Haney-Caron, Marsha Levick, & Danielle Whiteman, *Waiving Good-Bye to Waiver: A Developmental Argument Against Youths' Waiver of Miranda Rights*, 21 LEGIS. & PUB. POL'Y 1, 24-47 (2018)
- <sup>19</sup> *Id.* at 29.
- <sup>20</sup> Richard Rogers et al., *Mired in Miranda Misconceptions: A Study of Legally Involved Juveniles at Different Levels of Psychosocial Maturity*, 32 BEHAV. SCI. & L. 104, 111 (2014).
- <sup>21</sup> *See* Richard Rogers et al., *An Analysis of Miranda Warnings and Waivers: Comprehension and Coverage*, 31 LAW & HUM. BEHAV. 177, 182–86 (2007); Rachel Kahn, Patricia A. Zapf & Virginia G. Cooper, *Readability of Miranda Warnings and Waivers: Implications for Evaluating Miranda Comprehension*, 30 LAW & PSYCHOL. REV. 119, 132 (2006).
- <sup>22</sup> Goldstein et al., *supra* note 18, at 30-35.
- <sup>23</sup> Naomi E. S. Goldstein, Heather Zelle, & Thomas Grisso, MIRANDA RIGHTS COMPREHENSION INSTRUMENTS 93 (2014).
- <sup>24</sup> *See generally id.*
- <sup>25</sup> *Id.* at 104.
- <sup>26</sup> *See, e.g.,* Allison D. Redlich, Melissa Silverman, & Hans Steiner, *Pre-Adjudicative and Adjudicative Competence in Juveniles and Young Adults*, 21 BEHAV. SCI. & L. 393, 400–04 (2003).
- <sup>27</sup> *See* Cauffman & Steinberg, *supra* note 12.
- <sup>28</sup> *See* Kyle C. Scherr & Stephanie Madon, *You Have the Right to Understand: The Deleterious Effect of Stress on Suspects' Ability to Comprehend Miranda*, 36 LAW & HUM. BEHAV. 275, 278–79 (2012).
- <sup>29</sup> Barry C. Feld, *Behind Closed Doors: What Really Happens When Cops Question Kids*, 23 CORNELL J.L. & PUB. POL'Y 395, 429 (2013).
- <sup>30</sup> *See, e.g.,* FRED E. INBAU, JOHN E. REID, JOSEPH P. BUCKLEY, & BRIAN C. JAYNE, CRIMINAL INTERROGATION AND CONFESSIONS 99 (4th ed. 2001).
- <sup>31</sup> *See generally id.*
- <sup>32</sup> Feld, *supra* note 29.

- <sup>33</sup> Richard A. Leo & Welsh S. White, *Adapting to Miranda: Modern Interrogators' Strategies for Dealing with the Obstacles Posed by Miranda*, 84 MINN. L. REV. 397, 432 (1999).
- <sup>34</sup> See BARRY C. FELD, *KIDS, COPS, AND CONFESSIONS: INSIDE THE INTERROGATION ROOM* 72 (2013).
- <sup>35</sup> Jennifer L. Woolard, Hayley M. D. Cleary, Samantha A. S. Harvell, & Rusan Chen, *Examining Adolescents' and their Parents' Conceptual & Practical Knowledge of Police Interrogation: A Family Dyad Approach*, 37 J. YOUTH & ADOLESCENCE 685, 690–94 (2008).
- <sup>36</sup> Allison D. Redlich & Gail S. Goodman, *Taking Responsibility for an Act Not Committed: The Influence of Age and Suggestibility*, 27 LAW & HUM. BEHAV. 141, 148–49 (2003).
- <sup>37</sup> Feld, *supra* note 29, at 438–40.
- <sup>38</sup> [42 PA. C.S.A. § 6326\(a\)](#) (West 2018).
- <sup>39</sup> See, e.g., [Commonwealth v. Harvey](#), 812 A.2d 1190, 1198–1199 (Pa. 2002).
- <sup>40</sup> Woolard et al., *supra* note 35, at 692.
- <sup>41</sup> Thomas Grisso, *Juveniles' Capacities to Waive Miranda Rights: An Empirical Analysis*, 68 CALIF. L. REV. 1134, 1155 (1980).
- <sup>42</sup> Jodi L. Viljoen, Jessica Klaver, & Ronald Roesch, *Legal Decisions of Preadolescent and Adolescent Defendants: Predictors of Confessions, Pleas, Communication with Attorneys, and Appeals*, 29 LAW & HUM. BEHAV. 253, 261 (2005).
- <sup>43</sup> Woolard et al., *supra* note 35, at 695–96.
- <sup>44</sup> See FELD, *supra* note 34.
- <sup>45</sup> See GRISSE, *supra* note 41.
- <sup>46</sup> See INBAU ET AL., *supra* note 30.
- <sup>47</sup> See Goldstein et al., *supra* note 18.
- <sup>48</sup> *Id.*
- <sup>49</sup> Kenneth J. King, *Waiving Childhood Goodbye: How Juvenile Courts Fail to Protect Children from Unknowing, Unintelligent, and Involuntary Waivers of Miranda Rights*, 2006 WIS. L. REV. 431, 431–432 (2006).
- <sup>50</sup> GOLDSTEIN ET AL., *supra* note 23.
- <sup>51</sup> For a comprehensive overview of the scientific literature on youth *Miranda* waivers and confessions, see generally Goldstein et al., *supra* note 18.
- <sup>52</sup> Steven A. Drizin & Richard A. Leo, *The Problem of False Confessions in the Post-DNA World*, 82 N.C. L. REV. 891, 944 (2004).