

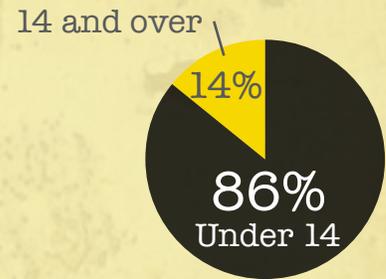
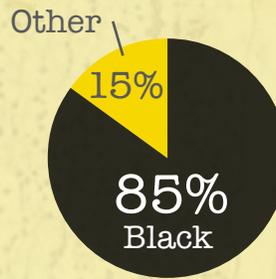
SPECIAL CAUTION REQUIRED

The Realities of Youth Interrogation

“Admissions and confessions of juveniles require special caution.”¹

According to the National Registry of Exonerations:

Of All Exonerees Under 18^{3,4}



The right to counsel at interrogation is critical.

Developmental research suggests that youth may be more susceptible than adults to interrogation pressures because they:

Are less likely to understand the legal process or their rights⁵

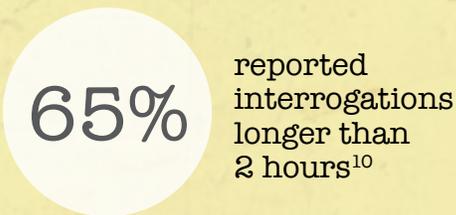
Have less impulse control and are more prone to risky decision-making⁶

Are more susceptible to immediate rewards and have more difficulty in anticipating the consequences of their actions⁷

Are more likely to comply with authority⁸

Are more susceptible to peer influence⁹

In a study of youth who self-reported confessing, 35% reported falsely confessing. Of those youth who reported falsely confessing:



youth who were refused breaks or were in the presence of friends during questioning were 4 times more likely to report falsely confessing¹²

Of all youth in the study: ¹³



- ¹ *In re Gault*, 387 U.S. 1, 45 (1967).
- ² THE NAT'L REGISTRY OF EXONERATIONS, *Table: Age and Mental Status of Exonerated Defendants Who Falsely Confessed* (2019), <http://www.law.umich.edu/special/exoneration/Pages/False-Confessions.aspx>.
- ³ *Id.* See also Steven A. Drizin & Richard A. Leo, *The Problem of False Confessions in the Post-DNA World*, 82 N.C. L. REV. 891, 944 (2004) (reporting that 1/3 of proven false confessions were under 18 years old at the time of the crime).
- ⁴ Samuel R. Gross et al., *Exonerations in the United States 1989 through 2003*, 95 J. CRIM. L. & CRIMINOLOGY 523, 550 (2005).
- ⁵ See generally, Jodi Viljoen & Ronald Roesch, *Competence to Waive Interrogation Rights and Adjudicative Competence in Adolescent Defendants: Cognitive Development, Attorney Contact, and Psychological Symptoms*, 29 L. & HUM. BEHAV. 723 (2005) (exploring the relationship of youth's cognitive development, psychological symptoms and attorney-client contact to capacities related to adjudicative competency and Miranda waiver).
- ⁶ See generally, Laurence Steinberg et al., *Age Differences in Sensation-Seeking and Impulsivity as Indexed by Behavior and Self-Report: Evidence for a Dual Systems Model*, 44 DEVELOPMENTAL PSYCHOL. 1764 (2008) (finding that sensation-seeking behaviors increased between the ages of 12-15 and then steadily declined while impulsivity declined from age 10 through adolescence); Elizabeth P. Shulman & Elizabeth Cauffman, *Reward-Biased Risk Appraisal and Its Relation to Juvenile Versus Adult Crime*, 37 L. & HUM. BEHAV. 412 (2013) (demonstrating that adolescents, more so than adults, tend to focus on the reward rather than the risk consistent with the dual system theory that the risk and reward system of the adolescent brain is stronger than the cognitive control system); Michael Dreyfuss et al., *Teens Impulsively React rather than Retreat from Threat*, 36 DEVELOPMENTAL NEUROSCIENCE 220 (2014) (showing that adolescents, compared to adults, are more likely to act impulsively when they are faced with threatening stimuli).
- ⁷ See generally Laurence Steinberg et al., *Age Differences in Future Orientation and Delay Discounting*, 80 CHILD DEVELOPMENT 28 (2009) (suggesting that adolescents' preference for the immediate versus delayed rewards is more closely linked to adolescents' ability to think about the future and anticipate future consequences); Thomas Grisso et al., *Juveniles' Competence to Stand Trial: A Comparison of Adolescents' and Adults' Capacities as Trial Defendants*, 27 L. & HUM. BEHAV. 333 (2003) (finding that youth's lack of future orientation may impede their ability to fully understand the implications of waiving their right to silence when being interrogated by the police).
- ⁸ Grisso, *supra* note 7 (finding that youth tendencies to be more compliant with authorities may increase their vulnerability to police coercion).
- ⁹ See generally, Margo Gardner & Laurence Steinberg, *Peer Influence on Risk Taking, Risk Preference, and Risky Decision Making in Adolescence and Adulthood: An experimental Study*, 41 DEVELOPMENTAL PSYCHOL. 625 (2005) (demonstrating that youth are more susceptible to the influence of their peers than adults, particularly when engaging in risky decision-making); Jason Chein et al., *Peers Increase Adolescent Risk Taking by Enhancing Activity in the Brain's Reward Circuitry*, 14 DEVELOPMENTAL SCI. F1 (2011) (suggesting that the presence of peers increases the salience of immediate rewards and activates the incentive processing/socio-emotional system of the brain, which subsequently increases risky decision-making).
- ¹⁰ Lindsay C. Malloy et al., *Interrogations, Confessions, and Guilty Pleas Among Serious Adolescent Offenders*, 38 L. & HUM. BEHAV. 181, 188 (2014).
- ¹¹ *Id.* at 190.
- ¹² *Id.* at 188 - 189.
- ¹³ *Id.* at 188.

ACKNOWLEDGMENT: Thank you to Yolanda Long, 2019-2020 Gault Fellow, for her work developing this piece.