

Youth are two to three times more likely to *falsely* confess during interrogations than adults. Studies have shown that youth exonerated by DNA evidence falsely confessed at a rate of 31.1% compared to exonerated adults at 17.8%.¹ Other studies have shown that of 340 exonerations by DNA, 42% of juveniles has falsely confessed compared to only 13% of adults.²

Why is the risk of false confessions among youth so high? The prefrontal cortex is responsible for judgment, problem-solving and decision-making, yet isn't fully developed until a person reaches their early twenties. Youth are at risk to falsely confess for the same reasons they are at risk for dangerous or illegal behavior:

- ✓ **Impulsivity:** Youth have difficulty weighing and assessing risks (*"This can't be that big of a deal."*)
- ✓ **Vulnerability to pressure and suggestibility:** Youth are vulnerable to external pressure, which can result in suggestibility and negative decision-making when surrounded by pressured interrogation.
- ✓ **Motivated by short-term rewards:** Youth place emphasis on immediate rewards rather than long-term consequences (*"I'll just say what they obviously want me to say so I can get out of here and go home."*)

Use of deception and trickery – legal when interrogating adults – should not be used when interrogating youth. It is common place, and lawful, for police to lie and use deception when interrogating adults. Police are trained in methods to make it falsely appear to a suspect they possess irrefutable evidence of guilt. (*"The crime lab says they found your prints inside the house."*) Police are also trained to minimize the gravity of the offense and to suggest alternative, less culpable explanations for the offense. (*"You didn't mean to steal it but it was just lying there, right?"*) Police are also trained in creating a false time-urgency in confessing. (*"This is your last chance to tell us what really happened"*) and in believing there is a benefit to confessing. (*"We just want to see you get help."*) These tactics should not be used with youth.

- ✓ **International Association of Chiefs of Police** agrees police should avoid using deception or promises of leniency when questioning youth³
- ✓ **Nationally recognized interrogation training programs** discourage the use of false evidence during juvenile interrogations.⁴

Inappropriate interrogation tactics continue: Despite this national consensus of best practice, a 2015 survey showed that most interrogators continue to use the same interrogation methods for adult and juvenile suspects alike.⁵ Case prosecutions show this is true in Oregon.

A better way: HB 3242 and HB 3244 promote the national consensus of best practice:

- ✓ **Juvenile interrogations should be recorded.** HB 3242 expands Oregon's current recording statute in ORS 133.400 to require recordation of youth when interrogated for person felony crimes.
- ✓ **Open-ended questions without content or deception.** Police should ask open-ended questions (either free-recall or targeted) that invite a narrative. Questions should begin with "who," "what" "where," "when" and "how."
- ✓ **Use of trickery and express/implied promises of leniency should be avoided.** HB 3244 prohibits the use of deception or trickery or implied assurances of leniency or benefit in exchange for making an incriminating statement.

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¹ Joshua Tepfer, Laura Nirider & Lynda Tricarico, "Arresting Development: Convictions of Innocent Youth," *Rutgers Law Review* 62, no. 4 (2010): 904.

² Samuel Gross, et al, "Exonerations in the United States 1989 through 2003," *Journal of Criminal Law and Criminology*, 95 no. 2 (2005): page 545.

³ IACP and OJJDP, "Reducing Risks: An Executive's Guide to Effective Juvenile Interview and Interrogation (2012)

⁴ Fred Inbau et al, *Criminal Interrogation and Confessions*. Jones & Bartlett Learning, 2013.

⁵ Hayley Cleary and Todd Warner, "Police Training in Interviewing and Interrogation Methods: A Comparison of Techniques Used with Adult and Juvenile Suspects," *Law and Human Behavior* 40, no. 3 (2016)