



TO: Senate Committee On Rules
FROM: Mae Lee Browning, Oregon Criminal Defense Lawyers Association
DATE: May 4, 2021
RE: Support for SB 418 A-Engrossed

Chair Wagner, Vice Chair Girod, and Members of the Committee:

My name is Mae Lee Browning and I am providing testimony on behalf of the Oregon Criminal Defense Lawyers Association in support of SB 418 A-Engrossed.

The Oregon Criminal Defense Lawyers Association (OCDLA) is a nonprofit professional association for experts, private investigators, and attorneys who represent Oregon’s children and parents in juvenile dependency proceedings, youth in juvenile delinquency proceedings, adults in criminal proceedings at the trial and appellate level, as well as civil commitment proceedings throughout the state of Oregon.

Youth are two to three times more likely to falsely confess during interrogations than adults. Studies show that youth exonerated by DNA evidence falsely confessed at a rate of 31.1% compared to exonerated adults at 17.8%.ⁱ Further, 340 exonerations by DNA, 42% of juveniles have falsely confessed compared to 13% of adults.ⁱⁱ

The risk of false confessions among youth is so high because the prefrontal cortex (responsible for judgment, problem solving and decision-making) isn’t fully developed until a person reaches their early twenties. Youth can falsely confess for the same neurological 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.”)

Law enforcement’s use of false information to elicit statements – legal with adults – should not be used with kids. It is commonplace, 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 that 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 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 creating the belief that there is a benefit to confessing. (“We just want to see you get help.”)

The International Association of Chiefs of Police agrees police should avoid using deception or promises of leniency when questioning youth.ⁱⁱⁱ Nationally recognized training programs discourage the use of false evidence during juvenile questioning.^{iv} Despite this national consensus of best practice, inappropriate interrogation tactics continue. A 2015 survey showed that most interviews use these methods for adults and juveniles.^v Case prosecutions reflect this in Oregon.

SB 418 promotes the national consensus of best practice. **OCDLA urges your support for SB 418 A-Engrossed.** Thank you for the opportunity to provide this testimony.

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

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

ⁱⁱⁱ IACP and OJJDP, “Reducing Risks: An Executive’s Guide to Effective Juvenile Interview and Interrogation (2012).

^{iv} Fred Inbau et al, *Criminal Interrogation and Confessions*. Jones & Bartlett Learning, 2013.

^v 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).