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To: Senate Committee On Judiciary and Ballot Measure 110 Implementation
From: Amy Miller, Executive Director

Re: Support for SB 418: Prohibiting use of deceit, trickery, or artifice during law enforcement interviews of youth

Dear Chair Prozanski, Vice-Chair Thatcher, and Members of the Committee,

Youth, Rights & Justice is Oregon's only non-profit juvenile public defense firm. Every year, YRJ represents over 1200 children and parents in Oregon's juvenile court system. All of our clients come from low-income families. Most have suffered significant trauma and many have physical, mental health and/or substance abuse issues. Approximately 45% are children of color. Because of our unique position handling court-appointed juvenile cases, we often see the same systemic problems and we work to change the policies that contribute to these problems.

We are writing to encourage your support of SB 418, prohibiting the use of deceit, trickery, or artifice during law enforcement interviews of youth.

Research shows that young people are particularly susceptible to manipulation during interrogation. Due to an undeveloped prefrontal cortex, youth have particularly weak judgment, problem-solving, and decision-making abilities as compared to adults.¹ Youth are more likely to falsely confess for the same reasons that they are at risk for dangerous behavior: impulsivity and difficulties in weighing risks and rewards, vulnerability to pressure and suggestion, and motivation from short term rewards. This developmental timeline is linked to vulnerabilities in interrogation, increasing the likelihood that youth falsely confess to criminal acts that they did not commit. **Juveniles are 2 to 3 times more likely than adults to confess to criminal acts they did not commit.**²

¹ Crane, Nirider, Drizin, *The Truth About False Juvenile Confessions*, American Bar Association Insights on Law and Society 16.2 (2016).

² *Id.*

Furthermore, interrogation techniques that promote the use of deception in obtaining confessions are fundamentally flawed: they are principally designed to elicit a confession, rather than to figure out how the crime was committed and by whom.³ Even proponents of manipulative investigation techniques such as the Reid Technique, urge caution in applying these tactics to youth. Investigators must “modify their approach” to account for age, cognitive ability, and other personal risk factors that may result in the suspect providing officers with false or unreliable information.⁴ **In short, these tactics should not be used with youth.**

Our experience in defending youth in juvenile court is consistent with the research above:

- Officers regularly induce youth to write “apology letters” before the youth is appointed an attorney;
- Officers induce confessions from youth by withholding access to family, promising the youth they can see their parents after they tell the “truth” about what happened;
- Officers maintain their role is one of assistance, suggesting that the youth is deficient and will only get the help they need by assisting law enforcement by confessing.

Its also noteworthy that in other instances of child interviews, such as interviewing a child victim of abuse, the investigators go to great lengths to avoid suggestibility by using open ended questions and allowing the child to initiate a narrative conversation. Conversely, interviews of alleged suspects are often pressure-filled, leading, and suggestive.

We encourage Oregon to promote best practices regarding law enforcement interviews of youth and limit the use of trickery, deceit, and artifice.

Thank you for your consideration of this important issue.

Sincerely,

Amy Miller
Executive Director

³ Kozinski, *The Reid Interrogation Technique and False Confessions: A Time for Change*, Seattle Journal for Social Justice 16(2) (2018).

⁴ *Dassey v. Dittmann*, US Supreme Court *Amici Curiae* Brief of Independent Law Enforcement Instructors and Consultants in support of Petitioner (March 26, 2018).