

### Memorandum in Support of A.6982/S.4980A

I am writing to express my strong support for A.6982/S.4980A, which would amend the Family Court Act and Criminal Procedure Law consistent with a large body of scientific research on adolescent development and juvenile understanding of *Miranda* rights.

I am an Assistant Professor of Psychology at John Jay College of Criminal Justice and am both a psychologist and an attorney. My expertise is on adolescent development as it relates to youths' functioning within the justice system, and I conduct research and scholarship on juvenile interrogations and confessions. I write in support of this bill in my capacity as a researcher, because this bill recognizes what scientists in this area have long known: Adolescents are not capable of functioning like adults in interrogations, and special protections are needed to protect youths' rights and to prevent false confessions.

Forty years of research makes clear that children and adolescents are at profound risk of waiving their *Miranda* rights without understanding what those rights mean.<sup>1</sup> This is because adolescent brains are not yet fully developed—impacting youths' abilities to engage in abstract reasoning, manage stressful situations or intense emotions, and inhibit impulses.<sup>2</sup> Adolescents' neurological developmental immaturity makes it difficult for them to understand the import of the *Miranda* warnings, understand the risk of waiving their rights, and undergo a sound decision-making process about whether to talk with police.<sup>3</sup> As a result, almost all youth waive their *Miranda* rights and have to deal with the dire personal and legal consequences. Notably, youth involved in the justice system are more likely to be vulnerable than youth generally, in myriad ways—including facing higher rates of mental health problems and cognitive deficits.<sup>4</sup>

Once youth unknowingly, unintelligently or involuntarily waive their rights and are interrogated, they are at much higher risk than adults of giving a confession—and, alarmingly, at higher risk for

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<sup>1</sup> Thomas Grisso, *Juveniles' Capacities to Waive Miranda Rights: An Empirical Analysis*, 68 CALIF. L. REV. 1134, 1155 (1980); Naomi E. Sevin Goldstein et al., *Juvenile Offenders' Miranda Rights Comprehension and Self-Reported Likelihood of Offering False Confessions*, 10 ASSESSMENT 359, 365–66 (2003).

<sup>2</sup> Laurence Steinberg, *The Science of Adolescent Brain Development and Its Implication for Adolescent Rights and Responsibilities*, in HUMAN RIGHTS AND ADOLESCENCE 59, 64 (Jacqueline Bhabha ed., 2014).

<sup>3</sup> Naomi E.S. Goldstein, Emily Haney-Caron, Marsha Levick, & Danielle Whiteman, *Waving Good-Bye to Waiver: A Developmental Argument against Youths' Waiver of Miranda Rights*, 21 LEGIS. & PUB. POL'Y 1, 24-28 (2018).

<sup>4</sup> *Id.*

giving a *false* confession.<sup>5</sup> The same deficits in decision making and emotion regulation that contribute to high rates of youth *Miranda* waiver also makes youth vulnerable to police pressure to confess, such that even a youth who did not commit a crime may come to confess to having done so.<sup>6</sup> This has profound consequences for youth, including wrongful conviction, but also harms society's interest in bringing the true offender to justice.

For these reasons, leading scientists and legal advocates have called for legal reforms to protect youth during interrogation and protect children and adolescents from the very serious consequences of waiving rights they do not fully comprehend.<sup>7</sup> The proposed legislation is consistent with the available science in taking meaningful steps to protect children and adolescents from high-pressure police interrogation. It does this by recognizing that youth should only be interrogated in cases in which it is absolutely necessary, and by acknowledging that many youth will not be able to make a reasoned decision about waiving their rights without consultation with counsel. When police do not take these reasonable steps to protect youth's constitutional rights and protect against false confessions, this legislation provides the only appropriate remedy: precluding the use of these statements from being used against the youth a trial.

This bill is consistent with science on adolescent development, consistent with a large body of research on adolescent interrogation and confession, and in line with best practices. I urge the New York State Legislature to pass this important legislation and bring New York law in line with available scientific knowledge.



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<sup>5</sup> See generally Emily Haney-Caron, Naomi E.S. Goldstein, & Constance Mesiarik, *Self-Perceived Likelihood of False Confession: A Comparison of Justice-Involved Juveniles and Adults*, 45 CRIM. JUST. & BEHAV. 1955 (2018).

<sup>6</sup> Feld, *supra* note 4.

<sup>7</sup> See, e.g., Goldstein et al., *supra* note 3, at 61-67.