Ten Reasons why Parent Involvement Isn't Enough to Protect Adolescent Suspects during Custodial Police Interrogations

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Legislatures across the country are beginning to pay attention to police interrogation practices. A renewed interest began in the 2000s with the advent of electronic recording policies. After earlier court decisions in Alaska and Minnesota required police departments to electronically record custodial interrogations, state legislatures soon followed suit.[1] Illinois and Maine were the first states to legislatively mandate police to audio- or video-record custodial interrogations in certain circumstances (e.g., felony cases). Over the next decade, a wave of electronic recording mandates swept the nation. Advocates and researchers who study the causes and consequences of wrongful convictions championed these bills as a first step toward much-needed police reform.

Now, a second wave is coming—and it's bringing parents along for the ride. Urged along by attorney advocates, family groups, and child-focused nonprofits, some states have proposed or passed legislation that would permit or require parents to have greater involvement in custodial police interrogations of their children. For example, in 2021 Virginia required that youth who are arrested must have contact with a parent, guardian, or legal custodian prior to interrogation. Maine requires parents to be present or to consent to the youth's interrogation.[2] Although a few states put such laws in the books years ago, there seems to be an uptick in legislative efforts to expand parents' role in the process.

Presumably, the idea behind these policies is to enable parents to advocate for their child's best interests and to buffer them from police coercion. These policies reflect a commonsense notion that parents know what is best for their children. We place great value on parental autonomy in the United States; American courts have protected the sanctity of

parenthood for nearly a century.[3] The "parents know best" ethos permeates virtually every aspect of the American juvenile justice and child welfare systems; courts are loathe to infringe upon parental autonomy, and they terminate parental rights only as a last resort. As the Court noted in *Prince v. Massachusetts*, "It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder."[4]

To be sure, parent involvement policies certainly sound great on paper. Who could argue against the importance of involving parents when their children are interrogated by police? These bills have an unassailable logical appeal. Indeed, they have been heralded by lawmakers, attorney organizations, and civil liberties groups as mechanisms to protect youth against police coercion.[5] So what's the problem? Well, there are a number of problems—at least ten, in fact. Recent research from developmental psychology and interrogation science suggests that parent interrogation bills—while well-intentioned and logically appealing—are grounded in a number of unsupported assumptions and may have serious unintended consequences for interrogated youth. Parent interrogation policies are predicated on the notion that parents *can* and *will* play a protective role in the interrogation room. However, recent social science research cast doubts on parents' ability and/or willingness to perform this critically important legal function.

This article argues that policymakers, attorneys, and advocates should take a hard look at our assumptions about parents' roles when it comes to custodial questioning of young people. It offers ten reasons why parents may be poorly positioned to preserve their children's legal best interests. Through an analysis of empirical findings and case examples—modified to protect confidentiality—this article questions the wisdom of parent involvement policies in their current form.

1. **Parents often don't understand Miranda, custody, or the interrogation process themselves.**

A mother tearfully testified at her fifteen-year-old son's suppression hearing about the events leading up to his detainment and interrogation regarding a murder. Her daughter called her at work to say that detectives were at their house talking to the boy. The mother asked her daughter, "Is he going with the police?" and the daughter said yes. The mother testified that she responded "Well, okay. If he feels like he didn't do anything, then let him go on down to the police station. I had no objections to it at all." The boy was ultimately detained for nine hours and intermittently interrogated throughout that time. Multiple detectives aggressively questioned him and, after being threatened with the death penalty, he eventually confessed to the murder. The youth later recanted the confession.

Dr. Thomas Grisso, a pioneer in the field of children's adjudicative competence, developed a set of tools to assess youths' legal and psychological capacities to understand their legal rights to silence and counsel. Operating from the legal requirement that Miranda waivers must be knowing and intelligent,[6] Dr. Grisso conceptualized "knowing" with a construct called *understanding*, meaning the youth has basic comprehension of the words and phrases used in Miranda language. He conceptualized "intelligent" as *appreciation*, meaning the youth grasps how rights function in context and can apply that knowledge to their own legal situation.[7]

In the decades following Grisso's seminal work, extensive research confirmed that youth have difficulty with both understanding and appreciation of the Miranda warnings. For example, in one study of non-incarcerated youth, 26% of older teens demonstrated impaired Miranda understanding on a global comprehension measure, and as many as 70% of younger teens showed impairment.[8] Across studies and sample types, youth who are younger, have lower IQs

(particularly verbal IQ), lower academic achievement, and higher interrogative suggestibility perform consistently worse on standardized Miranda comprehension measures.[9] Youth fare even worse on measures of Miranda appreciation. They have particular difficulty grasping the right to silence, and they also misunderstand the role of attorneys or conflate attorneys with other legal system actors, such as social workers. Across studies, youth consistently fail to fully grasp the notion of the right to silence as fundamental and irrevocable, instead often conceptualizing it as a conditional privilege that, for example, can be taken away by a judge.[10]

Researchers have used Grisso's instruments with adult respondents and found substantial gaps in adults' knowledge as well. Adult community samples perform well enough under benign testing conditions, but in real-world settings or with system-involved persons, many factors can impede comprehension. One study with a diverse sample of parents found that nearly a quarter scored in the impaired range on at least one Miranda component.[11] This is important because the Miranda warnings comprise conceptually distinct but equally essential rights, and impairment on any single item could have serious legal implications.

Even if parents adequately understand the content of Miranda warnings, emerging research suggests they may not understand how Miranda functions in context or what it means to be in police custody. One recent mock crime study found that most young adults who faced questioning by an authority figure felt as though they were in custody and were not free to leave—despite being *specifically told* they were free to leave. Alarmingly, that included witnesses questioned in a non-accusatory manner, not only suspects accusatorially interrogated about the mock crime.[12] If participants in a psychology lab don't feel free to leave, it's not difficult to imagine how parents in real custodial situations may think or feel about their legal options. Moreover, parents are largely unaware that police can lie to suspects, and they

overestimate the degree to which police must involve them in the process. A recent study with a large multi-state sample reported that overall, parents were only 57% accurate on a measure interrogation knowledge.[13] Parents were particularly likely to misunderstand that police don't have to contact parents prior to a youths' interrogation and to believe, incorrectly, that they can sit in on questioning even if they youth doesn't want them to.[14] Only 62% of the 515 parents in this study knew that police are allowed to use deception during interrogations.

2. Adults are also vulnerable to police coercion and deception.

A group of teenaged boys were implicated in a rape and assault. Police questioned them individually, most with a parent present. Detectives' questioning of one 16-year-old boy became increasingly aggressive as the boy continued to deny involvement. Police said if he told them "the truth," he could go home; otherwise he would go to jail. The boy's father watched with panic and confusion as police cursed at his son and called him a liar. The father decided to instruct his son to lie and tell police what they wanted to hear (i.e., that the boy participated in the crimes). He didn't want his son to endure any more stress, and he couldn't bear the thought of the boy going to jail. When prosecutors cross-examined the father at his son's trial, they asked, incredulously, whether he actually believed his son would go home after confessing to rape and assault. The father replied "yes, because the police promised he would." The father truly believed the officers would let them go, and all he wanted in that moment was to take his son home.

With so much public discourse around protecting youth in custodial interrogations, it's easy to forget that adults can be vulnerable to police coercion, too. Decades of research shows that accusatorial, guilt-presumptive interrogation techniques—the dominant approach in the U.S. today—can lead to involuntary and/or unreliable Miranda waivers, confessions, and plea

agreements in even psychologically healthy adults. In particular, police trickery, misinformation, and outright lies are psychologically manipulative—yet totally legal—interrogation tactics that are scientifically linked to involuntary and unreliable confessions.[15] What's worse, many adults don't know that police are allowed to lie to suspects, so they may take police officer's claims of "incontrovertible evidence" of guilt at face value. That's precisely why most of Europe bars police from using the so-called "false evidence ploy" in criminal interrogations.

Threats of harm and promises of leniency are especially potent forms of coercion in police interrogations. Threats and promises are thought to be among the most powerful inducements because they change suspects' perceptions about the consequences of confessing. And while direct threats certainly do occur (e.g., "You're going to prison for the rest of your life," or threats of physical violence from police), implied threats can be equally pernicious. Psychologists use the term *pragmatic implication* to describe people's tendency to understand implied messages or "read between the lines." Interrogators may hint, for example, that jurors won't look kindly upon a defendant who refused to take responsibility or that a judge might mete out harsher punishment for someone who refused to confess.[16] Similarly, when police imply that leniency will come in exchange for cooperation, stressed and depleted adults will often take the bait. Explicit promises are prohibited, so interrogators may suggest that the district attorney will cut a deal, that the suspect can access "help" (e.g., substance abuse treatment, social services), or simply that "this will all be over" if the suspect confesses. Promises of leniency drive confession decision making in both adults and youth.[17] Of course, you don't get to go home after you confess to rape.

3. Parents could be legal "guardians" in name only.

An elderly couple were robbed and beaten to death outside their home. A woman who lived one street over thought her fourteen-year-old son was involved because he had been "acting funny" ever since the crime occurred. When detectives canvassed the neighbors for information, the woman told them they ought to talk to her son. She could not provide his whereabouts because she had not seen him in several days. This mother suffered from severe mental health problems and was addicted to barbiturates. She temporarily lost custody of her two children several years ago because repeated investigations by Child Protective Services revealed a poorly kept home filled with dangerous objects and inadequate food supply. Her fourteen-year-old son often stayed with friends or family members and would not attend school or return home for days at a time. When police rounded up the boy for questioning, the mother didn't even know he had gone to the police station. He later confessed to the brutal attack.

A parent may have legal custody of their child yet experience severe and/or chronic emotional, physical, or psychological challenges that impede them from reliably supporting their child's basic needs, much less defending them from police coercion. For so many system-involved youth, those challenges come from living in poverty. Poverty—and its far-reaching causes and consequences—affects more than ten million American children each year.[18] That 14% of the nation's youth live in poverty is especially disturbing given the abysmally low bar by which we define poverty—annual household income below about $26,000 for a family of four. Even more appalling is that 71% of children living in poverty are children of color. It is no secret that Black, Indigenous, and other youth of color (BIPOC) are vastly overrepresented in the criminal legal system. Research continues to uncover the pervasive effects of social determinants of health on people's physical and mental health, well-being, and quality of life. Systemic racism both inside and outside our legal institutions is one of many social determinants of health that

create widespread inequities and impede many BIPOC families' ability to live healthy, happy lives.[19]

Let's also consider the experiences of "crossover" or "dual system" youth—those young people who are known to both the juvenile justice system and the child welfare system. Depending on location and study method, research shows as many as 70% of system-involved youth fall into this category.[20] Black youth are again overrepresented in this population. We know that youth in the child welfare system virtually by definition encounter familial difficulties, including parents' own personal difficulties. One statewide study reported that crossover youth were significantly more likely to have parents with mental illness, substance abuse problems, prior incarceration, and ineffective parenting styles compared to non-crossover youth.[21] Thus, the very youth that parent involvement laws are supposed to protect are more likely to have parents with impaired ability to fulfill that role.

The quality or nature of parent-child relationship isn't often discussed in conversations about juvenile interrogations, but some case evidence and interrogation research suggests it should be. Courts have considered the parent-child relationship in a handful of cases involving youths' incriminating admissions. The Supreme Court of Appeals in West Virginia suppressed one 14-year-old's murder confession in part because his biological mother, though present for the interrogation and confession, had not been a part of the youth's life in four years.[22] On the research side, existing studies (though few) question the assumption that all parents even *want* to be involved. In the largest study of electronically recorded juvenile interrogations to date, Professor Barry Feld, who observed several hundred videorecorded juvenile interrogations, reported that even parents who were already physically present at the police station elected not to

participate in questioning.[23] Similarly, a study with Canadian police officers reported that parents were rarely involved at the police station.[24]

4. Parents can have financial conflicts of interest.

A single mother drove to the local police station, fuming, after police informed her that the school resource officer reported her 17-year-old son for selling drugs at school. The boy had gotten into trouble before—a fistfight with another student—and while the juvenile court judge "only" sentenced him to community service, she almost lost her job from having to leave work early to drive him to the service site each week. At the police station, her clearly-scared son told her that the drugs in his confiscated backpack were not his. She wanted to believe him and felt fiercely protective of him; on the other hand, she understood why police were skeptical of his story. Police wanted to speak to her son "to resolve the situation" and told her "this doesn't have to be a big deal." Her thoughts turned to her co-worker's daughter, whose drug prosecution and court-mandated drug treatment nearly bankrupted their family.

Financial conflicts of interest can occur when the youth's interrogation—or, more likely, a resulting conviction or incarceration—causes financial hardship for their family. No doubt this journal's readers have encountered juvenile clients whose parents worried about court fees, transportation costs, or missed work due to mandated court appearances or treatment participation. A recent survey of more than 1,000 parents of justice-involved youth yielded some startling figures: one in five families reported taking out a loan to cover court payments, and one in three reported having to choose between paying for food or other necessities and court costs.[25] Mental health providers and defense attorneys agree that families of legally involved youth face significant economic barriers to meeting court-mandated requirements.[26] Legal fees and treatment costs tax already struggling families. Moreover, mandatory court appearances and

treatment participation give rise to child care challenges, lack of transportation, and lost work hours. In the national survey described above, two in three families had to miss work without pay because of their child's legal involvement.

Thus, a parent whose child is in police custody may not want to call an attorney because they fear they cannot afford one, particularly if they do not fully understand the indigence system. They may logically draw from their own past experiences with the legal system or vicarious experiences in their communities. This could result in a parent encouraging their child to "tell the truth" and "get it over with"—especially if police imply leniency—to avoid an active (yet costly) defense.

5. Parents can have familial or social conflicts of interest.

A visibly angry mother sat in a small, cramped interrogation room with her sixteen-year-old son. Two detectives took turns aggressively questioning the boy about allegations that he sexually assaulted his six-year-old sister while babysitting her. The boy vehemently denied ever touching his sister. His mother said nothing while detectives called the boy a liar and a "monster" and fed him detailed suggestions about how the alleged sexual contact occurred. A forensic clinician's report indicated a significant history of parent-child conflict and the boy's persistent feelings of maternal rejection. He told the psychologist that his mother threw him out of the house several times and clearly preferred her daughter over him, whom she called a "bad kid."

It is painful to imagine being in this parent's situation—one child accused of perpetrating sexual violence against another child. It is even more difficult to imagine how she could be expected to effectively advise or advocate for the accused child. Legal scholars liken such situations to attorneys' professional codes of conduct that prohibit third-party conflicts of interest—i.e., conflicts that arise when representing one client would negatively affect another

client.[27] As the example above illustrates, parental involvement policies can essentially pit two children against one another in a zero-sum game, with parents squarely in the middle. As Dr. Jennifer Woolard and colleagues observed, "If a parent approaches police interrogation with a set of goals and preferred outcomes that is different from her child's, the advice she gives (if any) may not align with the best interests of her child (as the child or defense attorney defines them) regardless of her understanding of Miranda rights and their implications."[28]

Parents with no direct familial conflict of interest may nonetheless be worried about potential downstream effects on their family. Parents of system-involved youth report experiencing humiliation, shame, and social stigma.[29] Social ostracism is especially pronounced for families of youth who sexually or violently offend—crime types more likely to involve an interrogation. For example, research shows that families of young individuals with sexual offense convictions relate experiences of social hostility, such as rejection and harassment. Parents of system-involved youth report feelings of confusion, anger, and mistrust of the system.[30] Moreover, families of color are acutely aware of institutional racism in the criminal legal system, and they may understandably loathe the prospect of deepening their child's involvement.

6. Parents can have legal conflicts of interest.

A young girl is found murdered in her bed one morning. Police found no signs of forced entry, so the other family members in the home—the girl's 13-year-old brother and their mother—become the only suspects. The family lived in a jurisdiction where a parent must consent to police questioning of a 13-year-old. The mother allowed police to question her son alone, even though she herself was a suspect. During the interrogation, police told the boy that either he or his mother must be the murderer. The boy broke down and confessed.

There are times when parents can have a more explicit conflict of interest with an accused child. What happens when the parent is also a suspect or a co-defendant? Parent involvement policies typically do not consider this important contingency, but a handful of courts have. Famously, Justice Marshall called out the possibility of parents' legal conflicts of interest in his dissent in *Little v. Arkansas*. In that case, a 13-year-old girl confessed to, and was convicted of, murdering her father. Earlier in the day, police had questioned the girl's mother (the victim's spouse), and the mother thought she was a suspect. Mother and daughter had a private conversation, and the mother emerged from the room to report that her daughter wanted to confess. Justice Marshall noted this "obvious [conflict] of interest…arising from the possibility that the parent herself is a suspect."[31] We don't know how often this occurs, but for young people who find themselves in this situation, the consequences could be serious.

It is likely that parents are more often the alleged victim or even the complainant. Perhaps the child is accused of stealing from their father. Perhaps the child physically attacked their mother. What "friendly adult" could or should accompany to interrogation a youth accused of assaulting their parent? About half of all juvenile arrests for domestic assault involve a parent as the victim.[32] Taking the argument to the extreme, consider the horrific situation of parricide. It's rare—about 2-4% of all homicides[33]—but nonetheless offers a vivid example of the many problems inherent with assuming parents can and will promote their children's best legal interests. In more "everyday" situations, the juvenile justice system frequently encounters adolescent defendants whose families are simply at the end of their rope. Frustrated parents of repeat offenders may actually invite legal system involvement out of sheer desperation because they just can't handle the child anymore. In these situations, parent notification of, or consent to,

police interrogation of their children does nothing to protect youth from the inherent coercion of custodial questioning.

7. Parents can have moral conflicts of interest.

A mother sat, silent and fuming, while detectives interrogated her fifteen-year old son about a carjacking. The boy admitted to joyriding in the stolen car later that evening but insisted he did not participate in the carjacking. Interrogators rejected the youth's denials and pressed him hard for details, but the boy—slumped in his chair with eyes cast downward—began to emotionally shut down. Instead of pushing back against detectives' insults and accusations, the mother joined in with her own. She began lecturing her son for "hanging out with people I told you to stay away from." She berated him for "smoking dope" all the time and said he was probably high when he committed the carjacking. When the boy continued to deny participation in the crime, she said "I am sick of your lies….you had better tell these officers the truth."

Policies requiring parent notification or involvement in juvenile interrogations do not account for the notion that parents are also expected to steer their children's moral compass. Parents are integral to adolescents' socialization, and parents' attitudes and behaviors shape those of their children in a wide variety of domains including, for example, moral development, emotion regulation, cultural values, and even antisocial behavior.[34] Recent research suggests parents also contribute to adolescents' *legal socialization*—a "normative, socio-cognitive process through which individuals develop their attitudes towards the authorities that create and enforce the law, as well as their attitudes towards the law itself." Essentially, parents who believe that police are honest and that laws are fair, important, and worth following are more likely to have children who feel the same way.[35]

It's not surprising, then, that parents are often quite cooperative with police when their children are custodially questioned. They may feel embarrassed about their child's behavior and/or eager to expedite the uncomfortable custodial situation and get home to address the issue privately. They may also feel obligated to model "doing the right thing" by encouraging their children to take responsibility for their actions. Indeed, case law is replete with examples of parents urging their children to "tell the truth" during custodial interrogations.[36] Research studies with both youth and parents bear this out. In one study with incarcerated youth, only two of 18 youth whose parents were present during the interrogation advised them to deny the offense; the remainder reported their parents wanted them to confess or "tell the truth."[37] Not a single youth in that study reported that their parent advised them to exercise their right to remain silent. In a vignette study with middle class parents, one third of parents thought the youth in the vignette should confess to police. Notably, many parents who recommended remaining silent and/or getting a lawyer appeared to advise silence only in the short-term—i.e., they thought the youth should remain silent only until a lawyer could arrive and help the youth "tell his side of the story."[38]

It's understandable that parents would interpret a custodial interrogation as a "teachable moment" for their children. But socializing youth to obey laws, defer to legal authority figures, and take responsibility for their actions—all noble and important goals—are usually antithetical to protecting youths' legal best interest in a custodial interrogation. Encouraging Miranda waiver and confession also undermines youth suspects' fundamental right against self-incrimination. Thus, policies that require parental notification or involvement place parents in an impossible position. As law professor Hillary Farber noted, "a parent should not be forced to decide between teaching a child a moral lesson and protecting them from grave legal consequences."[39]

8. Police can (and do) exploit the parent-child relationship to extract confessions.

A thirteen-year-old boy was accused of arson when a neighbor reported seeing him with several friends set fire to an alleyway dumpster. Initially, police went to the boy's residence and asked him about the fire in his parents' presence. He denied even knowing about the incident, let alone being involved. Police turned to his parents when they wanted to question him at the police station. Detectives pulled the boy's parents aside and told them police had evidence of his guilt. They told the parents the situation could be handled one of two ways: the "easy way" (which involved questioning the boy, then processing him informally) or the "hard way" (which involved arresting him and taking him to juvenile detention). The family discussed and opted for the "easy way;" however, during the interrogation, the boy confessed and signed a written statement, at which point he was arrested and detained.

Police may also interfere with parents' ability to protect youths' legal interests. Police may (inadvertently or intentionally) exploit the parent-child relationship by using parents as a tool to elicit confession. Police may enlist parents' help in convincing reluctant youth to talk, taking advantage of the trust between parent and child. Attorney Stephen Reba and colleagues described a case in which police detained a fifteen-year-old and then facilitated his mother's arrival at the police station. Police left the mother alone with her son and secretly recorded their conversation. The mother—quite naturally—pressed the son for details as she tried to piece together what happened. The boy obediently answered his mother's questions and admitted that he lied to her about being at home. The covert recording was played during the boy's trial—twice, at the jury's request—and the jury convicted him.[40]

In more extreme cases, parents may even assume an interrogative role and "team up" with police to pressure youth into cooperating.[41] My study of videorecorded juvenile

interrogations revealed parents who demanded answers from their children, implicated their children in the alleged crime, or even "confessed" for the youth by telling police that the youth already divulged guilt to the parent.[42] As detailed in Reason #7 above, parents' emotional responses to their child's alleged criminal activity can lead them to facilitate or even demand cooperation and confession. A perceptive detective would need only let that process unfold and accept the free assistance of a second interrogator.

Police can more intentionally exploit the parent-child relationship even when parents are not physically present during the interrogation. One well-known law enforcement training program offers youth-specific "themes" for interrogators to use with juvenile suspects. Some of these themes are typical adolescent tropes: that adolescents make mistakes when they're bored or restless; that youth face temptation from drugs and alcohol; that children of working parents are unsupervised and lack guidance.[43] The training manual then offers investigators specific suggestions for how to blame parents: "when interrogating a youthful person (provided the parent is not present), the investigator may place the blame for the suspect's conduct on his family life and ensuing difficulties." The manual offers colorful examples of themes to use when "one or both parents were alcoholics, drug addicts, or for some other reason neglected the suspect as a child," offering these parental conditions as excuses or justifications for the youth's alleged criminal conduct because he was "worse off than an orphan." Thus, creative investigators can essentially weaponize the parent-child relationship to elicit incriminating information from young suspects.

9. Parental presence can give confessions an air of legitimacy in court.

As we arrive at our final two "reasons," we turn to the courtroom and policy implications of parents' involvement in their children's interrogations. Experienced trial attorneys know that

suppressing adolescent defendants' confessions to serious crimes is already an uphill battle; if that defendant's parent agrees to the child's Miranda waiver and/or attends their interrogation, that hill becomes a virtually unscalable mountain.

Juvenile Court Judge Kenneth King's analysis of the role of parental presence in totality of the circumstances determinations is worth reproducing verbatim:

> *The presence of a parent during a child's custodial interrogation is a near-universal factor in the totality calculus. Parental presence is considered to produce waivers that are voluntary in fact; that is, are not the product of overbearing police conduct. Parental presence is also intended to promote a juvenile's awareness of his or her rights and the consequences of waiver, thereby ensuring that waivers are knowingly and intelligently made. The presence of a parent serves the additional purpose of easing a court's determination that the waiver was knowing, intelligent, and voluntary by providing a clear "ascertainable basis" by which the waiver can be measured. The importance of parental presence during questioning is reflected by the almost outcome-determinative weight uniformly placed on parental presence when waivers are upheld.*[44]

In other words, parental presence ticks all the boxes for a court-approved Miranda waiver. *Parents in the room* functionally equates to *voluntariness*, as if their mere physical presence creates a forcefield around the child that guarantees children can exercise their fully-formed free will to submit to a police interrogation. *Parents in the room* also gives courts a tangible indicator of *knowingness* and *intelligence* via the convenient assumption that parents can and will fill in the gaps for youth who may be clueless about what's happening now and what might happen next. As argued above, recent social science research questions those assumptions heartily.

The worry, of course, is not just about Miranda waiver—it's about the cascade of vulnerabilities that can follow. Miranda waiver is the lid on a Pandora's box of potentially unjust outcomes stemming from a youth's confession. Chief among them are false confessions—and the false plea agreements, wrongful convictions, and even wrongful executions they can lead to. Tragically, the list of exonerated persons who falsely confessed to a crime—and whose false confessions were not suppressed at trial—continues to grow. It's not just about false confessions, though; even true confessions are unjust if they resulted from an unfair interrogation. A host of developmental factors—experienced by all youth as a healthy, normal part of growing up—can create vulnerabilities to coercion and confusion in the interrogation room.[45] If a parent's mere presence renders confession suppression a foregone conclusion, those youth don't have a shot at a meaningful voluntariness evaluation.

10. Parent involvement bills can lull us into a false sense of complacency.

Finally, from a policy perspective, a big concern is that bills promoting parent involvement will become "good enough" substitutes for effective representation of counsel. I worry that we will collectively pat ourselves on the back for taking steps to protecting our children, then move on to the next shiny thing in juvenile justice policy. I worry that legislators will invest too heavily in the "parents are paramount" narrative and conclude that mandatory assistance of counsel for youth isn't necessary or is going "too far." If you look closely, these roles are often lumped together in commentaries about youth vulnerabilities during police interrogation. Courts and legislatures have (intentionally or inadvertently) conflated the roles of parents, attorneys, and advocates for years, amalgamating them into a generic class of "advisors" for vulnerable youth. For example, in *Gallegos v. Colorado*, the court lamented the fact that police held a teenaged suspect in custody for five days "during which time he saw no *lawyer,*

parent or other friendly adult" (emphasis added).[46] As a legislative example, a Tennessee bill aimed to prohibit "interrogation or interview of a child who has been taken into custody due to suspicion that the child committed a delinquent act or unruly conduct except in the presence of the child's *legal counsel, parent, guardian, or custodian*" (emphasis added).[47] While the intent may be to cast a wide net of stakeholders who can intervene on youths' behalf, this approach implicitly communicates that the stakeholders are all similarly situated. The arguments and data presented in this article suggest otherwise.

Conclusions

This article discusses ten reasons why parent involvement policies, while well intentioned, can have dangerous unintended consequences for the very youth they are designed to protect. To be clear, this article does not blame parents in any way for "failing" to live up to these policies' expectations. Nor does it make blanket assumptions that all parents cannot or will not protect their youth. Are some parents knowledgeable about the legal process and aware of potential outcomes of talking to police? Certainly. Are some parents perfectly capable of navigating interrogation on behalf of their children (or preventing it altogether by securing a lawyer)? Of course. But unfortunately that is not the case across the board, and policies that assume all parents are able and willing to perform these functions are dangerously inadequate. Even worse, they are inequitable—youth whose parents have the resources and flexibility to intervene on their behalf will likely experience better outcomes than youth whose parents who face financial, emotional, intellectual, or logistical challenges.

Let's be clear about the consequences at stake here. The challenges discussed above are not relegated to low-level misdemeanors or minor behavioral problems; youth are often interrogated about serious crimes including homicide, rape, and aggravated robbery.[48] Serious

crimes give rise to serious legal outcomes. Due process demands that all criminal suspects—regardless of age—get a fair shake at a viable defense. State laws that facilitate or require parents' involvement in their child's custodial interrogation when parents cannot or will not protect youths' legal interest unfairly penalize youth, some of our most vulnerable citizens.

Finally, consider the cardinal courtroom sin: wrongful conviction. The wrongful conviction of juveniles has inspired a tidal wave of news media, advocacy efforts, and policy reforms. Lawmakers, judges, and the general public are slowly warming up to the reality that false confessions and wrongful convictions do occur.[49] Podcasts and social media humanize these youth and share their stories as cautionary tales. The youth in all of this article's examples? Definitively or probably innocent. All the excerpts above came from disputed confessions in which the adolescent has already been exonerated or there are serious doubts about their guilt. These ten "reasons" are not merely thought experiments—they are real situations already experienced by real people, often with tragically disastrous consequences.

At this juncture, the only safe bet is mandatory assistance of legal counsel for youth. Social science research will continue to explore "the reality behind the rhetoric of parental involvement"[50] and hopefully shed more light on which parts of the process or its participants are the biggest pain points. As more and better social science research emerges, we may be able to move toward a more surgical policy approach (e.g., different restrictions on Miranda waivers according to youth age).[51] But Miranda is just one decision point—one that opens the door to a cascade of pressures that abundant developmental research shows youth are not able to withstand. Only a trained attorney is educationally prepared and objectively situated to counsel youth and advocate for their best legal interests. No, this is not an unattainable policy goal; California did it in 2020. California Senate Bill 203 stipulate that "prior to a custodial

interrogation, and before the waiver of any Miranda rights, a youth 17 years of age or younger shall consult with legal counsel in person, by telephone, or by video conference. The consultation may not be waived." And while it's too early to judge the bill's impact on California's youth, this policy effort is a giant leap in the right direction. In truth, even mandatory assistance of counsel won't cure all the criminal legal system's ills when it comes to adolescents,[52] but it will at least help stop the bleeding. All in all, parent involvement laws sound great on paper, but an unwaivable right to counsel is currently the best policy mechanism we have to protect youth in the interrogation room.

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[1] Alaska was the first to made electronic recording via court decision in *Stephan v. State* (1985), Minnesota followed in *State v. Scales* (1994). For an overview of electronic recording policy, see Bang, B. L. *et al.* (2018) 'Police recording of custodial interrogations: A state-by-state legal inquiry', *International Journal of Police Science & Management*, 20(1), pp. 3–18. doi: 10.1177/1461355717750172.

[2] Virginia code section (§ 16.1-247.1); Maine code section (5 M.R.S.A. 3203-A(2-A)

[3] E.g., *Meyer v. Nebraska,* 262 U.S. 390 (1923); *Pierce v. Society of Sisters,* 268 US 510 (1925)

[4] *Prince v. Massachusetts*, 321 U.S. 158 (1944), at 321

[5] See, e.g., the 2018 Nebraska bill LB930 supported by state chapters of the ACLU, Voices for Children, and the state criminal defense attorney organization: http://update.legislature.ne.gov/?p=23230

[6] *In re Gault,* 387 U.S. 1 (1967); *Miranda v. Arizona*, 384 U.S. 436 (1966)

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[10] Zelle et al., *supra* note 9. See also 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 N.Y.U. J. Legis. & Pub. Pol'y 1(2018); Viljoen, J. L., Zapf, P. A., & Roesch, R. (2007). Adjudicative competence and comprehension of Miranda rights in adolescent defendants: A comparison of legal standards. *Behavioral Sciences and the Law, 25*, 1–19.

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[52] See, e.g., Drizin & Luloff, supra note 26.