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Did They Ever Stand a Chance? Understanding Police Interrogations of Juveniles

Abstract

The *Miranda v. Arizona* (1966) decision was a pivotal case in the United States. It afforded rights to suspects and defendants against self-incrimination and representation during police interrogations. *Miranda* ensured police read individuals in custody their rights before interrogations. However, what happens when individuals being read their rights do not fully comprehend the significance of what the police are telling them, whether it is because of lack of comprehension due to brain development, or susceptibility to the influence of those questioning them? The courts have examined these direct issues when it comes to “voluntary” confessions made by juveniles. Several cases (*J.D.B. v. North Carolina*, 2011; *Yarborough v. Alvarado*, 2004) have tackled elements of this issue in court, but studies show that a majority of youth do not fully comprehend what they are waiving when police read their *Miranda* warnings. This paper will examine the decision in *Miranda* and other key cases related to the interrogation of juveniles, explore the cognitive development of juveniles, and investigate how police handle interrogation of juveniles.

Keywords

Miranda v. Arizona, police interrogations, juvenile rights

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Abstract

The *Miranda v. Arizona* (1966) decision was a pivotal case in the United States. It afforded rights to suspects and defendants against self-incrimination and representation during police interrogations. *Miranda* ensured police read individuals in custody their rights before interrogations. However, what happens when individuals being read their rights do not fully comprehend the significance of what the police are telling them, whether it is because of lack of comprehension due to brain development, or susceptibility to the influence of those questioning them? The courts have examined these direct issues when it comes to “voluntary” confessions made by juveniles. Several cases (*J.D.B. v. North Carolina*, 2011; *Yarborough v. Alvarado*, 2004) have tackled elements of this issue in court, but studies show that a majority of youth do not fully comprehend what they are waiving when police read their Miranda warnings. This paper will examine the decision in *Miranda* and other key cases related to the interrogation of juveniles, explore the cognitive development of juveniles, and investigate how police handle interrogation of juveniles.

Introduction

After police make an arrest in a popular television show or movie, many know what lines are about to come next: “You have the right to remain silent, anything you say can and will be held against you. You have the right to an attorney, if you cannot afford an attorney, one will be provided at no cost to you by the courts. Do you understand these rights as I have read them to you?” The most important sentence of this statement is the last one. Understanding these rights and the consequences of waiving these rights is difficult. This is especially difficult when the prefrontal cortex is not developed, and the long-term consequences of the decision are not considered. Juveniles do not realize the consequences of waving their *Miranda* rights (Naomi et al., 2003). Not understanding the risks when it comes to police interrogations can lead to devastating side effects, such as providing confessions when police have little to no evidence against a suspect, providing false confessions, and enduring hours of police questioning. Juveniles, as shown in later sections of this paper, lack the abilities to comprehend the significance of their *Miranda* rights during police interrogations.

After waiving their rights, juveniles face near-impossible odds when being interrogated by police. Juveniles stand little chance against the practiced and refined interrogation techniques that police employ when questioning individuals. Research investigating the link between the developmental stage of juveniles and their interaction within the criminal justice system suggests that courts should take the mental capacity of juveniles into consideration when determining culpability for their crimes (Cauffman & Steinberg, 2012; Fried & Dickson, 2001; Scott & Steinberg, 2003). The criminal justice system is beginning to recognize that juveniles require additional

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protection during the trial and sentencing phases, but has the Supreme Court adequately protected the rights of juveniles, and assured that they comprehend their rights in police interrogations? This paper will examine the decision in *Miranda* and other key cases related to the interrogation of juveniles, explore the cognitive development of juveniles, and investigate how police handle the interrogations of juveniles.

Understanding *Miranda* and its Application to Juveniles

When the Supreme Court decided *Miranda* in 1966, the practices of police interrogations shifted dramatically. The five-to-four decision ushered a new era of rights for suspects and defendants during custodial interrogation. In the decision, the Court stated that when in a custodial interrogation, meaning that suspects or defendants were not able to leave of their own free will, police must inform them of their right to an attorney during questioning, as well as their right against making self-incriminating statements. The *Miranda* decision also made it clear that the suspect or defendant understood these rights and voluntarily waived them in order for questioning to continue. There are a few key issues here. First is the very specific way that individuals must ask for an attorney or tell the police they will no longer talk to them. Second is understanding the *Miranda* rights and understanding the consequence if individuals chooses to waive their rights.

Several cases brought before the Court have ruled that the statement the suspect or defendant made was not a clear invocation of their right to remain silent or to an attorney. One such example is *Berghuis v. Thompkins* (2010). In this case, Thompkins was a suspect in a shooting. Police brought Thompkins into custody and read his *Miranda* rights before police questioned him for hours. During the entire questioning,

Thompkins remained silent, not saying a single word. After hours of remaining silent, police asked Thompkins a series of questions concerning his religious beliefs and if he believed God would forgive him for what he did. Thompkins answered in the affirmative and police believed this to be a confession. Thompkins' lawyers appealed, stating that by remaining silent for several hours, Thompkins was invoking his rights. In a five-to-four ruling, the Court ruled that remaining silent does not invoke a suspect's right to remain silent under *Miranda*. In Justice Sotomayor's scolding dissent, she stated that, "[t]he Court concludes today that a criminal suspect waives his right to remain silent if, after sitting tacit and uncommunicative through nearly three hours of police interrogation, he utters a few one-word responses" (*Berghuis v. Thompkins*, 2010, dissenting opinion, p. 1). Justice Sotomayor went on to discuss how, in today's system, individuals who wish to remain silent must do so by stating in clear, precise manner that cannot be interpreted in any other way. The dissent listed several cases and instances where individuals had every intention to invoke their rights, but did not state it in a way that was precise and without ambiguity. For example:

...suspect's statement 'I'm not going to talk about nothin' ' was ambiguous, 'as much a taunt—even a provocation—as it [was] an invocation of the right to remain silent'... 'I just don't think that I should say anything' was not a clear request to remain silent... finding ambiguous 'I don't even like talking about it man... I told you... what happened, man... I mean, I don't even want to, you know what I'm saying, discuss no more about it, man'... '[a]nd since we're not getting anywhere I just ask you guys to go ahead and get

this over with and go ahead and lock me up and let me go and deal with Sedgwick County, I'm ready to go to Sedgwick County, let's go'... 'Then put me in jail. Just get me out of here. I don't want to sit here anymore, alright? I've been through enough today' ambiguous because it could be construed as part of 'thrust-and-parry' between suspect and interrogator... 'Okay, if you're implying that I've done it, I wish to not say any more. I'd like to be done with this. Cause that's just ridiculous. I wish I'd... don't wish to answer any more questions' ambiguous because conditioned on officer's implication that suspect committed specific assault... 'I really don't want to talk about that' only conveyed unwillingness to discuss certain subjects... (p. 22).

If adults in situations involving proven interrogation techniques cannot adequately invoke their rights, how can juveniles? It is clear that police have the upper hand in interrogations. Leo (1996) listed several methods of how police interrogations become a confidence game and how police officers use several techniques to give themselves the upper hand. Police continue to use several methods including qualifying, cultivating, conning, and cooling out the suspect (Leo, 1996). Each one of these phases involve techniques utilized by the police in order to obtain a confession from their suspect. Individuals who have not received any type of legal education would have little idea about how to invoke their rights without conceived ambiguity.

When the Court decided *Miranda*, it did not apply to juveniles. Prior to 1967, juveniles lacked the fundamental due process rights adults had. The United States believed that juveniles required treatment for the crimes they committed, so

the court sent them to reformatories, mental institutions, and rehabilitative centers until the court deemed them suitable for release. Often, juveniles spent several years incarcerated instead of receiving what would have been a few months of community service if the court sentenced them as an adult. The Court applied due process rights to juveniles in criminal proceedings through *In re Gault* (1967).

The Court's decision in *In re Gault* (1967) afforded the same due process rights to juveniles that adults have. The Court understood that due process was an essential part of the justice system, and without it, juveniles lack the procedural safeguards meant to protect themselves. The Court identified that children differ from adults and that the criminal justice system should reflect that difference. However, minors do have an interest in adult due process protections because *In re Gault* (1967) made those protections applicable to them. This was a pivotal first step in understanding the disadvantage that juveniles face when interacting with different aspects of the criminal justice system.

One of the first cases to come before the Court concerning juveniles and their rights during police interrogations was *Yarborough v. Alvarado* (2004). In this case, the parents brought their seventeen year old to the police station for questioning. During questioning, Alvarado admitted to the crime he had allegedly committed. The prosecution used the confessions as evidence in Alvarado's trial where the jury convicted him of second-degree murder. Alvarado's attorney appealed, stating that the court should not have admitted the confession into evidence because police did not read Alvarado his *Miranda* warnings. The prosecution stated that he was not in custody so the *Miranda* warnings were not necessary. However, Alvarado's defense stated that the court should take his age into

consideration because he was not aware that he was able to leave if he wanted to. The court ruled in a five-to-four decision that age could not be used as a factor when determining if an individual is considered to be in police custody, and therefore, the police did not have to read Alvarado his *Miranda* warnings. The Court later reversed this decision in *J.D.B. v. North Carolina* (2011).

Seven years after the decision in *Alvarado, J.D.B. v. North Carolina* (2011) came before the Court. J.D.B. was a 13 year old at school when police questioned him about an alleged crime. An investigator, an uniformed officer, and a school administrator interrogated him for 30 to 45 minutes in the administrator's office. The police questioned him at school because it was a method used for not having to Mirandize individuals, as they were not technically in police custody. J.D.B. was free to leave at any time. The issue that arose in court was whether J.D.B. should have had his *Miranda* warnings read to him. The prosecution said that the interrogation was not a custodial interrogation, so there was no need to Mirandize him. The defense argued that there was no possibility that a 13 year old, whose parents were not aware of what was happening, knew that he was allowed to leave or did not have to speak to the police. In a five-to-four decision, the Court ruled that age is relevant when conducting a custodial analysis.

Cognitive Development of Juveniles

In several court decisions (*J.D.B. v. North Carolina*, 2011; *Roper v. Simmons*, 2005), the Supreme Court already acknowledged that juveniles are a protected class of the population that warrant additional safeguards when interacting with the criminal justice system. The court has acknowledged that interrogators should consider juveniles' development when

they provide confessions (*J.D.B. v. North Carolina*, 2011). Numerous studies have found that juveniles lack development in the prefrontal cortex portion of the brain that controls impulse decisions (Scott & Steinberg, 2008). This becomes problematic in custodial interrogations because police often tell juveniles that, in order to go home, they must tell them what they want to hear (Feld, 2006a).

The research on the development of juveniles and the role it should play in the criminal justice system is a growing field of study. The core issue in this research is that juveniles possess diminished cognitive abilities, so they are not able to comprehend the consequences of their actions. Many theories of crime and punishment exist, one being rational choice theory. Rational choice theory uses the idea that individuals make conscious, rational choices to commit crimes after they weigh the potential consequences of what may happen to them if they are apprehended (Apel, 2013). The issue with juveniles is that they lack the brain development to weigh the potential consequences of committing a crime. Scott and Steinberg (2008) make the argument that juveniles have less culpability when committing crimes because of this diminished capacity. Based on the cognitive ability of juveniles, they should receive leniency when interacting within the criminal justice system.

Neuroscience examines how juveniles differ from adults in terms of maturity, real-world decision making, time perspectives, risky behaviors, impulsivity and pleasure seeking, and peer influence (Kambam & Thompson, 2009). In this article, the authors acknowledged studies showing that juveniles lacked significantly in all of the categories when compared to adults. Juveniles acted faster, more impulsively, with little forethought

to possible consequences, and were more likely to act when being pressured by peers (Kambam & Thompson, 2009).

With the advancement of neuroscience studies on juveniles comes an increase of the application of those studies in court decisions. Two cases (*Graham v. Florida*, 2010; *Roper v. Simmons*, 2005) used neuroscience in arguments in front of the Court. Pope, Luna, and Thomas (2012) discussed how the court used evidence and literature involving neuroscience studies to make their decision. In *Roper v. Simmons* (2005), Justice Kennedy, who wrote the majority opinion, stated, “there is a body of sociologic and scientific research that juveniles have a lack of maturity and sense of responsibility compared with adults” (Pope, Luna, & Thomas, 2012, p. 341). In *Graham v. Florida* (2010), the Court reaffirmed their decision in *Roper* by stating juveniles have less culpability and were more likely to engage in risky behavior than adults were. In both of these cases, the Court examined four elements: impulse control, reward motivation, emotional response, and perception of self and others. In each of these categories, the findings were clear that juveniles’ and adults’ brains differed significantly and that juveniles showed signs of immaturity (Pope, Luna, & Thomas, 2012; Steinberg, 2013). These decisions highlight the courts’ acknowledgment that the maturity levels of juveniles weigh on their interaction with the criminal justice system.

Police Interrogations of Juveniles

When it comes to the custodial interrogation of juveniles, police practices tend to remain consistent when compared to interrogations with adults. Some extra precautions are taken when police interrogate individuals who are extremely young – 13 or younger – but when it comes to juveniles 14 years of age or older, the tactics are similar to adults (Feld, 2006b).

Neuroscience research shows that juveniles' development is not complete until early to mid-20s, yet juveniles older than 14 are treated the same as adults when it comes to police interrogations.

The Supreme Court does not have any rules for interrogating juveniles, besides the decision reached in *J.D.B.* States have different rules when it comes to the interrogation of juveniles. Because it would be impractical to examine every state, this paper will only use California to examine policies surrounding the interrogations of juveniles. In California, there are no rules stating that the police must notify the parents of juveniles when juveniles voluntarily submit to questioning (Shouse California Law Group, 2014). If police arrest juveniles, the officer must read them the *Miranda* warnings at that time. If the officers do not question them for another few hours, they do not need to remind the juveniles of their rights. Police do not necessarily have to inform parents that their juveniles are entitled to *Miranda* rights, except in certain cases – where it is the policy of the county or city to inform parents that their child has been arrested. When police interrogate juveniles at school, the officer must consider the juveniles' age when deciding whether police need to read them their *Miranda* warnings. This leaves wiggle room for police officers because the Court did not state that every interrogation at schools were custodial. When a juvenile asks for a parent, police do not necessarily need to halt interrogations. If the juvenile continues to make incriminating statements, prosecutors and police can use those statements against them. If the juvenile asks for a parent, and police decline the request, the judge can consider this when deciding the voluntariness of the confession. Parents have no constitutional right to be with their child during questioning.

Empirical studies examine the processes and techniques police use when questioning juveniles (Cleary, 2014; Feld, 2006b). Cleary (2014) examined the taped interrogations of 57 juveniles to analyze how they were conducted and what the outcomes were. Cleary (2014) found several important elements to be present in the interrogations of juveniles. First, the median duration of an interrogation was roughly 46 minutes. Second, juveniles were frequently submitted to questioning without contacting a parent or representative. Third, interruptions to the interrogation, whether police planned these by design or not, were frequent. Finally, results of the interrogation ranged from full confessions, partial confessions, and continual denials of guilt. Cleary (2014) concluded her study by stating that it was clear that juveniles tend to “frequently consent to interrogations in the absence of important legal protections” (p. 271). This study highlighted several methods that interrogators used while questioning juveniles. In the majority of interrogations, police used similar methods. The police placed the majority of juveniles in a corner of the room while being questioned, and the officers stood between the juveniles and the door. Many of the interrogators stood just outside of arm’s length or a body’s distance or more away from the juveniles. A majority of the interrogators were armed while questioning the juveniles, and most of the interrogators were dressed in plain clothes.

Feld (2006b) found similar results in his empirical research on techniques used by police in the interrogation of juveniles. The top five techniques used by interrogators are confronting the suspect with evidence, behavioral analysis interview (BAI) questions, accusing the suspect of lying, presenting inconsistencies, and compelling the juvenile to tell the truth (Feld, 2006b). When confronting the juveniles with

evidence, interrogators typically used real or imaginary witnesses who saw them commit the crime: interrogators stated that witnesses saw them commit the crime, so they might as well confess. BAI questions are questions that allow police to gauge the truthfulness of statements made by juveniles by examining the juvenile's body language. Examples of questions used include: "Do you know why I have asked to talk to you here today?" and "Did you commit the crime?" (Feld, 2006b, p. 267). These types of questions allow the interrogators to read the body language and responses of juveniles in order to gauge their innocence or guilt. In about half of the interrogations, interrogators accused the juveniles of lying when the juveniles denied involvement or disputed details of the crime. Interrogators would constantly appeal to the juveniles to tell the truth, stating it would work out better for them to tell the truth now instead of going to trial and getting involved in a long, drawn-out process. The interrogators told the juveniles that they would help themselves by telling the truth, since they had enough evidence to convict them anyway, and that telling the truth would result in a lighter punishment. Interrogators would constantly point out inconsistencies in the explanations juveniles would give. Interrogators would tell juveniles that friends or witnesses contradict what they are saying and that the juvenile's stories did not add up (Feld, 2006b).

Several articles investigate and discuss the implications of juvenile interrogation policies and methods (Bracy, 2005; Feld, 2006a; Meyer & Reppucci, 2007; Owen-Kostelnik, Reppucci, & Meyer, 2006). One of the major issues concerning the interrogations of juveniles is whether they understand what the *Miranda* warnings mean. Bracy (2005) studied a group of 46 juveniles aged 12 to 17 to determine if they fully comprehended

what the *Miranda* warnings mean and how they perceived interactions with interrogators. She discovered that juveniles are not independently capable of understanding the consequences of waiving their *Miranda* warnings, and youth expressed overconfidence in being able to resist police pressure. Bracy (2005) also noted that juveniles believed the police would show leniency due to their age and had a very limited understanding of legal vocabulary. All of these results intensified the younger the juvenile was. Feld (2006a) examined the interrogation of 36 juveniles to determine how many of them waived or invoked their rights during interrogation. In the study, 80% of the juveniles waived their rights when the interrogators brought them in for questioning. Only 15% of the juveniles invoked their rights at the beginning of questioning, with another 5% invoking them at some point during the interrogation. Juveniles who had multiple felonies were more likely to invoke their rights than those who had only one prior felony or no criminal record (Feld, 2006a).

Another important note to make is how police perceive juveniles in an interrogation setting. Understanding how police view juveniles is instrumental in determining what type of policy recommendations to suggest. Meyer and Reppucci (2007) examined police perceptions of juveniles during an interrogation setting. They asked interrogators a series of questions in order to measure their perceptions of juveniles' comprehension, detection of deception, suggestibility and psychosocial immaturity, and false confession rates. Meyer and Reppucci (2007) found that interrogators' perceptions of youth were extremely similar to adults during interrogations, acknowledging that juveniles might lack some understanding of terminology, but ultimately, "police indicated that suspects of all ages understand their rights and

intent of interrogations” (p. 773-774). There are certain body responses that interrogators link to deception (slouching, lack of eye contact, etc.). However, these responses are common childhood behaviors, so it could lead interrogators to judge juvenile suspects as guilty (Meyer & Reppucci, 2007). Police acknowledged that the rate of false confessions occurred approximately 10% of the time. They stated, however, that they would be able to tell when a confession was false; consequently, the juvenile’s false confession would not affect them. Several examples in the media highlight the results of interrogating juveniles.

Two media examples that highlight the susceptibility of juveniles, one factual, one fictional, are *Central Park 5* and *The Wire*. *Central Park 5* is a documentary that tells the story of five juveniles who were falsely convicted after giving false confessions to interrogators. Highlighted in this film were the techniques that interrogators used while the juveniles were in their custody. After numerous hours of interrogation, all five of the juveniles began to make incriminating statements. Police would not allow the juveniles to see their parents during questioning; consequently, the juveniles unknowingly waived their rights. The juveniles were unaware that they did not have to talk to the police, nor did they understand that they could ask for a lawyer during their interrogation. Had they been aware of their rights or the consequences of not invoking their rights, these juveniles would not have spent years of their lives in prison after the courts falsely convicted them based mostly on their false confessions. *The Wire* (2008), a popular television show running from 2002 to 2008, provides an example of how susceptible juveniles are to police influence. In one of the episodes, the detectives question a juvenile about a crime they

believe he committed. They trick the juvenile into confessing by taking him to a copy machine and acting as if it is a lie detector. As the juvenile puts his hand on the scanner and answers questions, the copier produces sheets of paper that say “true” or “false.” By fooling him to believe the answers he provided were lies, the detectives are able to convince the juvenile to confess to the crime. Although the director designed this scene to act as comical relief, it highlights how susceptible juveniles are to the tactics and methods used by police in order to obtain confessions from their suspects.

Conclusion and Policy Implications

Miranda was a victory for due process advocates throughout the United States. However, when the Court ruled on it, there was an entire class of individuals who did not benefit from the decision. It took another year until the court began giving the same due process rights to juveniles. Undoubtedly, it was a victory for juveniles, but the issue of interrogations and juveniles’ understanding of these rights were still not answered. Neuroscience and cognitive research of juveniles highlight the important differences between adults and juveniles. As research shows, juveniles lack the capability to understand the consequences of waiving their *Miranda* warnings in police interrogations. Another issue is that interrogators still treat juveniles similarly to adults in interrogations, even though research shows a significant difference in the understanding and processing of the *Miranda* warnings. A few policy recommendations should be considered when dealing with this topic.

The first policy recommendation concerns the interrogation process of juveniles. Due to the high false confession rate and suggestibility youth have, when police

interrogate juveniles, they should automatically be given an unbiased representative who can help explain their rights and look out for their best interests. Second, interrogators should receive special training to teach them interrogation techniques and policies when dealing with juveniles. Many interrogators believe juveniles are aware and fully comprehend their rights during an interrogation, even though research shows that they do not. Third, all interrogations of juveniles should be video and audio recorded. Many departments already record their interrogations, but by making this a nationwide policy, it will ensure police observe and protect the rights of juvenile suspects (Owen-Kostelnik, Reppucci, & Meyer, 2006). Finally, judges should place more scrutiny on examining whether juveniles who are being questioned by police truly understand their *Miranda* rights, in order to guarantee their ability to adequately defend themselves.

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