



New York Organizations and Faith Leaders Call for Passage of Legislation Requiring Consultation with Counsel before Police Interrogate Children (S.2800-C - Bailey / A.5891-C - Joyner)

The Netflix series “When They See Us”—a drama based on the prosecution of five innocent teens for a crime they did not commit—demonstrates the many ways in which the law fails to protect the rights of children when police seek to interrogate them. It has now been over three decades since the five teenagers were wrongly prosecuted. **Still, New York law continues to fail to protect children under the age of 18.** California and the state of Washington have enacted laws to protect children in police custody by requiring a consultation with an attorney. New York State should afford children similar procedural safeguards. **A statewide coalition of over 100 organizations, coalitions, and personally impacted individuals have come together to call for passage of New York legislation** (coalition list below).

Under current New York law:

- Police are allowed to interrogate a child without a parent or guardian present.
- Police can lie to a youth in order to induce that youth to waive their right to remain silent.
- Police are not required to allow a child to meet and talk with their parent or guardian before the police read the child their *Miranda* rights.
- Police are not required to explain to the child and the child’s parent or guardian what it is the police want to question the youth about.
- Police do not tell the child, parent and/or guardian that the child can stop answering questions any time the child chooses.
- Even if present, a parent or guardian may be unable to protect their child’s right to remain silent because they do not understand the right either, the stress of their child’s situation renders them unable to think clearly, or they have conflicting interests.

90% of youth waive their *Miranda* rights. Thirty years of research by psychologists, sociologists, and neurologists make it clear that even under controlled circumstances, children lack the capacity to fully appreciate the meaning and significance of the right to remain silent, and to appreciate the almost certain repercussions of waiving that right. Add to that the stress

and tension inherent in a custodial interrogation, and the prospect of an intelligent and voluntary waiver of the right to remain silent becomes a myth.

We know that the children most likely to come into contact with law enforcement and the juvenile legal system are African-American and Latinx children from over-surveilled schools and communities.

While false confessions are just the tip of the iceberg when it comes to *Miranda* waivers, these are the same children who are most likely to say whatever they think will most immediately relieve them from the stress and pressure they are exposed to when being interrogated. The Exonerated Five highlighted in “When They See Us” were not an isolated case, but rather an example of what happens all too often. Empirical research demonstrates that children are significantly more likely than adults to falsely confess to a crime, and that the presence of a parent or guardian does not result in fewer waivers of *Miranda* rights.

This bill is not intended to demonize law enforcement. While abuses may occur on a case by case basis, the greatest risk comes from the limited capacity of young people to adequately appreciate what is at stake *even when the police do everything right*. The research shows that for children, the protections of *Miranda* are illusory.

S.2800-C/A.5891-C would provide the needed protection. When police determine interrogation of a child is necessary, this bill would require that a youth first consult with counsel before any questioning can take place. Consultation with counsel would be a non-waivable requirement that would exclude any statement taken in violation of the rule from being entered into evidence against the youth.

We call on the New York State Legislature to pass this critical piece of legislation to ensure that children’s *Miranda* rights are protected and minimize the risk of harm arising from false confessions.

Take Action: Organizations can fill out [this form](#) to sign on in support of the bill. You must have **authority/ permission** from your organization to sign on the organization.

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The #Right2RemainSilent Coalition:

**Denotes a coalition or federation of multiple organizations or faith institutions.*

1. #LetMyPeopleGoNow!
2. A Little Piece Of Light
3. ALAA
4. Alliance for Quality Education
5. Alliance of Families for Justice
6. American Civil Liberties Union
7. Antioch Baptist Church
8. Antioch Baptist Church of Corona
9. Black Freedom Project
10. Breaking the Chains Of Your Mind
11. BronxConnect
12. The Bronx Defenders
13. Brooklyn Community Bail Fund
14. Brooklyn Defender Services
15. The Brotherhood Sister Sol
16. CASES
17. Catholic Charities of the Archdiocese of New York
18. Center for Appellate Litigation
19. Center for Community Alternatives
20. Center for Disability Rights
21. Center for Family Representation
22. Chautauqua County Public Defender Office
23. Chemung County Public Advocate
24. Chief Defenders Association of New York
25. Children's Defense Fund-New York
26. The Children's Law Center
27. Citizens' Committee for Children
28. Coalition for Homeless Youth
29. Congregation Beth Elohim, Dismantling Racism Team
30. Covenant House New York
31. Daughters4Justice*
32. The Door
33. Drama Club
34. Equality New York
35. Esperanza NY, Inc.
36. Exalt

37. Fair Trials (Americas)
38. Faith @ Work Christian Church
39. Families Together in New York State
40. The Fortune Society
41. Freedom Agenda, Urban Justice Center
42. The Gathering for Justice
43. The Gault Center
44. Genesee County Public Defender office
45. Getting Out and Staying Out
46. Girls for Gender Equity
47. Innocence Project
48. The Interfaith Center of New York*
49. JCCA
50. JMACFORFAMILIES
51. Judah International Christian Center, Inc,
52. Justice For Families
53. Latino Pastoral Action Center, Inc.
54. Lawyers For Children
55. Legal Aid Bureau of Buffalo, Inc.
56. The Legal Aid Society
57. Legal Aid Society of Nassau County
58. The Legal Aid Society of Rochester
59. Legal Aid Society of Westchester County
60. Life Camps Incorporated
61. Livingston County Public Defender
62. Make the Road New York
63. Marsha P. Johnson Institute
64. The Micah Institute*
65. Monroe County Public Defender's Office
66. Mothers of the Nations US
67. Mott Haven Reformed Church
68. Neighborhood Defender Service of Harlem
69. New Hour-Long Island
70. New York Civil Liberties Union
71. New York County Defender Services
72. New York Faith Leaders for Criminal Justice Reform*
73. New York State Association of Criminal Defense Lawyers
74. New York State Defenders Association, Inc.
75. NJJN
76. NNLB United

77. NYC-DSA Religion & Socialism Working Group*
78. NYU Family Defense Clinic
79. Onondaga County Assigned Counsel Program
80. Ontario County Office of the Conflict Defender
81. Ontario County Public Defender
82. Parent Legislative Action Network (PLAN)
83. Park Avenue Christian Church
84. Power Praise and Deliverance, Inc
85. Queens Defenders
86. Recovery House of Worship Brooklyn
87. Safe Horizon
88. Schenectady County Public Defender's Office
89. Scientist Action and Advocacy Network
90. Seneca County Public Defender's Office
91. Social Justice Network
92. St. John's University School of Law Child Advocacy Clinic
93. Tompkins County Assigned Counsel
94. Trellis Community Development
95. United Missionary Baptist church
96. V-Day
97. Wayne County Public Defender
98. WCJA
99. Women's Prison Association
100. Youth Defense Center, Inc.
101. Youth Law & Psychology Lab, John Jay College of Criminal Justice
102. Youth Over Guns
103. Youth Power!
104. Youth Represent

**#RIGHT2REMAIN
SILENT**