

Hon. Kathy Hochul
Governor of the State of New York
Executive Chambers
State Capitol
Albany, NY 12224

Alan Levine
President

Zachary W. Carter
Chairperson of the Board

Janet E. Sabel
*Attorney-in-Chief
Chief Executive Officer*

Hon. Andrea Stewart-Cousins
NYS Senate Majority Leader
State Capitol
Albany, NY 12247

Hon. Carl E. Heastie
NYS Assembly Speaker
Legislative Office Building, Room 932
Albany, NY 12248

**Re: A.5891-C (Joyner) / S.2800-C (Bailey)
Protections for Children Under 18 During Custodial Interrogation**

Honorable Governor Hochul, Honorable Senate Majority Leader Stewart-Cousins and Honorable Speaker Heastie:

I am Chair of the Board of Directors of the Legal Aid Society, and previously served as Corporation Counsel of the City of New York, United States Attorney for the Eastern District of New York and Judge of the Criminal Court for the City of New York. I am writing in support of A.5891-C/S.2800-C, which would protect New York children under 18 who are in police custody by making sure they understand their rights before deciding whether to waive them. This bill ensures that police may engage in custodial interrogation only after a youth has consulted with an attorney either by phone, video conferencing, or in person. Failure of law enforcement to comply would mean that any statement made could not be used against the youth in a delinquency or criminal proceeding.

The knowing and intelligent waiver of Miranda rights has long presented a challenge for fully mature adults. Research arising from wrongful conviction cases has established that individuals in custody often consent to interrogation and make statements in the misplaced belief that doing so will result in their immediate release from custody. The risk of an improvident waiver of Miranda rights is compounded when a child still developing neurologically and socially faces the pressures of police custody. Research establishes significantly higher rates of false confessions among children than among adults.

Further, the power differential between youth and police makes it difficult for young people to assert their rights, or knowingly and voluntarily waive them. Without mandatory protections, many adolescents waive their Miranda rights and submit to police questioning without first speaking

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to counsel. And because there is more policing in economically depressed communities of color, teens in those communities are disproportionately deprived of the constitutional right to remain silent. This legislation would address the disparity between youth from low income communities who are disproportionately arrested and prosecuted, and their more affluent counterparts whose families can afford to hire counsel to provide representation before custodial interrogation.

Without appropriately enhanced protections, interrogations of children can have serious negative consequences including coerced, false and unreliable statements and confessions and consequent wrongful convictions, resulting in diminished public confidence in the legal system, and an erosion of public safety.

Requiring consultation with an attorney before the right to remain silent can be waived by children under 18 ensures that any such waiver will meet the constitutional standard of being knowing, intelligent and voluntary. I therefore urge the Legislature to pass A.5891-C/S.2800-C.

Feel free to give me a call on my cell to discuss. My cell is () .

Very truly yours,

A handwritten signature in black ink, appearing to read "Zachary W. Carter". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Zachary W. Carter