

THE LEGAL AID SOCIETY

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Judges, Including Sitting Jurists, and Law Enforcement Call on Albany to Pass Legislation to Prohibit Invasive Police Interrogations of Children

#Right2RemainSilent Legislation Would Ensure that Young New Yorkers Have Access to an Attorney Prior to a Police Interrogation

(NEW YORK, NY) – The Legal Aid Society hailed 17 sitting and former judges, as well as sitting and former law enforcement officials, including Los Angeles County District Attorney George Gascón, for their [support](#) of legislation, [the #Right2RemainSilent Act](#), that would codify young New Yorkers’ right to counsel before a custodial police interrogation.

This bill would modify the Family Court Act and Criminal Procedure Law to ensure that any child under age 18 consult with a lawyer before they may be subjected to custodial interrogation by law enforcement, thereby ensuring any waiver of rights under Miranda is genuinely knowing, voluntary, and intelligent. It also requires the police to notify a parent before transporting the child to the precinct when taking a child into custody.

It is well established that youth falsely confess at higher rates than adults. Indeed, more than 30 years ago, the Exonerated Five were interrogated as youth and coerced into false confessions. That same year in Westchester County, Jeffrey Deskovic was also interrogated without counsel at age 16, resulting in a coerced false confession and wrongful conviction, despite exculpatory DNA evidence. The millions of dollars spent on these wrongful convictions do not compensate for the injustice and lost years of these individuals.

Youth lack the capacity to fully understand Miranda warnings and truly appreciate the long-term consequences of their decisions. That is why any family that can afford an attorney would hire one before their child was interrogated. This bill would even the playing field and ensure that all children under 18, including the predominantly Black and Latinx youth who are too often the targets of police interrogation, have the benefit of an attorney protecting their right to remain silent.

Video of a New York City Police Department officer violating a young New Yorker’s Miranda rights during a police interrogation: <https://www.youtube.com/watch?v=oARbSQaw0uA>.

Earlier this month, New York City Council Member Tiffany Caban introduced [Resolution 0473-2023](#) calling on the Legislature to pass and Governor Kathy Hochul to sign into law #Right2RemainSilent legislation.

Retired and sitting judges' letter of support: <https://tinyurl.com/2p9awr22>.

Retired and current law enforcement officials' letter of support: <https://tinyurl.com/2p93a257>.

“The #Right2RemainSilent Act would provide long overdue protections for our vulnerable Black and Latinx clients,” said **Dawne Mitchell, chief attorney of the Juvenile Rights Practice at The Legal Aid Society**. “Young people are not able to comprehend *Miranda* warnings, or the consequences of waiving their right to remain silent. Due to their developmental stage, they also make false confessions at much higher rates than adults. By requiring consultation with counsel before a child can be interrogated, the bill would ensure youth’s right to remain silent is protected and that those without the means to hire a private attorney will not be disadvantaged. The Legal Aid Society calls on Albany to immediately codify this critical bill.”

“Children are among the most vulnerable populations and we have a duty to protect them from the fallible and predatory practice of interrogating them without an attorney or adult present,” said **Lt. Diane Goldstein (Ret.), current executive director of the Law Enforcement Action Partnership**. “This legislation offers a chance to remedy a problem that we have seen has outsized effects on communities of color, ensuring that we are raising the standard to better protect and serve everyone.”

“There is merit to proposed legislation that seeks to protect children during custodial interrogation, including its principal provision that counsel be made available to fully explain the *Miranda* rights of the accused prior to questioning, and to answer any questions that the accused might have about those rights. Such legislation might reduce the potential for false confessions and wrongful convictions,” wrote **New York State Appellate Court - 2nd Judicial Department Judge Mark C. Dillon**.

“Children need the security of an attorney present who can protect their rights and ensure that their statements are reliable and are not being made only for the purpose of relieving them from a frightening situation,” wrote **New York City Family Court Judge Judith Waksberg**.

“A confession that meets the basic requirements of the current Family Court Act can result in an unjust outcome because it may have been given to law enforcement without a truly knowing and voluntary waiver. Consultation with an attorney will protect the rights of juveniles and will ensure a more just result for all of us,” wrote **Ronald E. Richter, chief executive officer of JCCA and former New York City Family Court judge**.

“I wish I could say that the Criminal Justice system is fair, but I can’t. It is not a fair playing field. It is stacked against the poor and people who don’t fully understand their rights when they are arrested. This is even more pronounced when the person is a juvenile. That is why I support the proposed legislation whereby it would be mandatory for a juvenile to consult with a lawyer before the police are allowed to interrogate them,” wrote **Kevin Barrett, PhD professor of criminal justice at Rockland Community College (SUNY) and former law enforcement officer**.

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The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 145 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. www.legalaidnyc.org