"Do You Understand These Rights?" A Juvenile Perspective of *Miranda*

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I. INTRODUCTION

A boy's life can change in seconds.[1] Alex is fourteen years old and sits alone at a table with two chairs in a dim, empty room that has only a closed door, and a large horizontal mirror across one wall.[2] He sits anxiously in silence as his heart pumps rapidly and fear begins to settle over him.[3] Seconds turn to minutes;

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1. *Cf.* Erik Ortiz, *Davontae Sanford, Wrongly Convicted of 4 Murders at Age 14, to Be Freed*, NBC NEWS (June 8, 2016, 10:57 AM), http://www.nbcnews.com/news/us-news/davontae-sanford-wrongly-convicted-4-murders-age-14-be-freed-n588206 (on file with *The University of Pacific Law Review*).

2. *Id.*

3. *Id.*

minutes turn to hours.[4] He keeps asking himself, "Why am I here, can't I just go home?"[5]

Just yesterday, Alex was sitting at school in history class searching for the perfect colored pencil to take notes with.[6] It was a normal day until two uniformed police officers rushed into the classroom; their eyes on Alex, Alex's eyes on their holstered guns.[7] They picked Alex up, handcuffed him, and escorted him to the back of their patrol car.[8] Now, he sits alone in this interrogation room.[9] He wants to talk to his mom, but he can't.[10] He wants to go home, but he can't.[11]

The door slams open and the same officers walk towards him.[12] "Do you understand your rights?"[13] He doesn't, but he doesn't want them to think he's not listening to them, so he says, "Yes."[14] For the next hour, the officers explain that he is implicated in a home robbery that occurred near the school last week.[15] He denies it, but they persist.[16] They tell him they have the evidence to prove it even though they don't, and that he should tell them the truth so he can finally go home.[17] But he doesn't go home, Alex sits in jail for ten years until his innocence is proven.[18]

Although hypothetical, Alex's case seems rare—but indeed cases like this happened in 1962, recently in 2016, and can be seen in trending documentaries like the Netflix show *Making a Murderer*.[19] Juveniles are still being questioned without knowing that they hold constitutional rights that protect them from being forced to talk to the police.[20] For example, in 1962, fourteen-year-old Robert Gallegos and a friend robbed and assaulted an older man for thirteen dollars.[21] The police arrested Gallegos twelve days later.[22] At no point did an adult, parent,

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4. *Id*
5. *Id.*
6. *Id.*
7. *Cf.* Ortiz, *supra* note 1.
8. *Id.*
9. *Id.*
10. *Id.*
11. *Id.*
12. *Id.*
13. *Cf.* Ortiz, *supra* note 1.
14. *Id.*
15. *Id.*
16. *Id.*
17. *Id.*
18. *Cf.* Ortiz, *supra* note 1.
19. *Id.*; *see also* Gallegos v. Colorado, 370 U.S. 49 (1962); Steve Almasy, *'Making a Murderer': Brendan Dassey Conviction Overturned*, CNN (August 12, 2016), http://www.cnn.com/ 2016/08/12/us/making-a-murderer-brendan-dassey-conviction-overturned/ (on file with *The University of Pacific Law Review*).
20. *Gallegos*, 370 U.S. at 49; Almasy, *supra* note 19.
21. *Gallegos*, 370 U.S. at 49.
22. *Id.* at 50.

or attorney advise him of his rights or on what to do in this situation.[23] Gallegos's mother attempted to visit him but was not allowed to see him.[24] Finally, after a week of being held in juvenile hall, he signed a formal confession.[25] Using his formal confession against him, the jury found Gallegos guilty and sentenced him to life in prison.[26]

The U.S. Supreme Court held Gallegos's confession was involuntary.[27] The Court reasoned that Gallegos "cannot be compared with an adult in full possession of his sense[s] and knowledgeable of the consequences of his admissions."[28] Without advice about his rights and the benefit of more mature judgment, Gallegos, according to the court, "would have no way of knowing what the consequences of his confession were," or "the steps he should take in the predicament in which he found himself."[29]

Originally, the Supreme Court evaluated confessions under the Due Process Clause of the Fourteen Amendment.[30] The Court evaluated the specific facts of each case under the totality of the circumstances to determine if a confession was given voluntarily.[31] After deciding several cases, the Court found that the relevant factors from these cases did not create an easily-applicable standard to guide law enforcement and decided to create a bright-line rule.[32] The Court in *Miranda v. Arizona* stated that some form of protection is necessary during inherently coercive interrogations to ensure a suspect actually knows his rights and can exercise them.[33] *Miranda* declared that warnings[34] are required before police can conduct a custodial interrogation of a suspect.[35] However, *Miranda*'s broad protections were subsequently narrowed, making it easy to waive these rights, yet difficult to invoke them.[36]

Today, when an officer provides a juvenile these familiar *Miranda* warnings,[37] the law considers the juvenile informed and knowledgeable of his

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23. *Id.*

24. *Id.*

25. *Id.*

26. *Gallegos*, 370 U.S. at 50.

27. *Id.* at 61.

28. *Id.* at 54.

29. *Id.*

30. *Infra* Part II.

31. *Infra* Part II.

32. *Infra* Part II.

33. 384 U.S. 436, 479 (1966).

34. *Id.* ("[H]e must be warned prior to any questioning that he has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires.").

35. *Id.*

36. *Infra* Part III.

37. *Miranda*, 384 U.S. at 479 ("He has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that if he cannot afford an

rights.[38] However, comprehension studies consistently show that juveniles fail to understand the words, meaning, and legal significance of the *Miranda* warnings.[39] Accordingly, juveniles are left defenseless during coercive interrogations.[40] When faced against skilled officers, an uninformed juvenile can falsely confess without understanding the life-altering consequences of succumbing to the pressures of his or her interrogators.[41] For example, Gallegos was "not equal to the police in knowledge and understanding of the consequences," and was "unable to know how to protect his own interests[,] or how to get the benefits of his constitutional rights."[42] Interrogating juveniles, like Gallegos or Alex, without any type of *effective* warning treats them as if they have no constitutional rights.[43]

Miranda is only effective if understood by the listener.[44] Juveniles exist in a pre-*Miranda* era, and fail to understand the rights and privileges they are entitled to, yet, are subjected to an inherently coercive interrogations.[45] As a consequence, almost all juveniles "waive" their *Miranda* rights because court-crafted legal standards make it difficult for juveniles to invoke their rights.[46] *Miranda* fails to recognize juvenile developmental immaturity by treating them as adults.[47] Ignoring their unique characteristics deprives them of these fundamental rights and provides only constitutional words without any real significance.[48]

Miranda must return to its spirit and purpose and be reexamined to adequately protect juveniles whose unique characteristics make them "an easy victim of the law."[49] Either the legislature or the courts must take the initiative to restore *Miranda*.[50] Some states have enacted legislation to do just that, and others have attempted but failed.[51] In 2016, California took this initiative with Senate Bill 1052.[52] Exploring the essential characteristics that adequate legislation must have can assist legislatures in either drafting legislation or attempting to amend

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attorney one will be appointed for him prior to any questioning if he so desires.").

38. *Infra* Part II.
39. *Infra* Part IV.
40. *Infra* Part IV.
41. *Infra* Part IV. B.
42. Gallegos v. Colorado, 370 U.S. 49, 54 (1962).
43. *Id.* at 55.
44. *Infra* Part IV.
45. *Infra* Parts II & III.
46. *Infra* Part IV.
47. *Infra* Parts II & IV.
48. *Compare infra* Part II, *with* III, *and* IV.
49. Haley v. Ohio, 332 U.S. 596, 599 (1948).
50. *Infra* Part V.
51. *Infra* Part V.
52. SB 1052, 2016 Leg., 2015–2016 Sess. (Cal. 2016) (as amended on Mar. 28, 2016, but not enacted).

existing legislation.[53] Additionally, recent Supreme Court cases illustrate the Court's recognition and sympathy for the unique characteristics of juveniles that justify a return to *Miranda's* broad protection.[54] Counsel for juveniles can pressure courts to take the initiative to reexamine *Miranda* and the holdings that transformed it.[55]

Part II of this Comment explains the significance of the Due Process Clause, the right to remain silent, the *Miranda* decision, and subsequent cases that narrowed *Miranda's* broad application.[56] Part III discusses neurological, developmental, and legal differences between juveniles and adults that warrant treating juveniles differently from adults, and also examines the recent Supreme Court trend providing additional protection to juveniles.[57] Part IV illustrates the unfair consequences of treating juveniles the same as adults under *Miranda*.[58] Part V explores two solutions: (1) legislation and its essential characteristics, using California's SB 1052 as a model; and (2) reevaluation by courts of the current *Miranda* framework.[59]

II. *MIRANDA* BACKGROUND

Originally, the Supreme Court regulated the admissibility of confessions through the Due Process Clause of the Fourteenth Amendment.[60] The Court found that physical and psychological coercion resulting in a confession violated the Due Process Clause and was inadmissible because the confession was not given as a free and rational choice.[61] The Court adopted a voluntariness test that evaluated the admissibility of a confession by examining the totality of the circumstances of each individual case.[62] This case-by-case approach requires a fact specific inquiry.[63]

For example, *Brown v. Mississippi* was the first case where the Court struck down a state conviction because of how the confession was obtained.[64] In *Brown*, a mob of white men went to Ed Brown's home and accused him of a crime.[65] After he denied the accusation, the mob hung him from a tree three times, each

53. *Infra* Part V.
54. *Infra* Part III.
55. *Infra* Part V.
56. *Infra* Part II.
57. *Infra* Part III.
58. *Infra* Part IV.
59. *Infra* Part V.
60. Brown v. Mississippi, 297 U.S. 278, 279 (1936).
61. *Id.* at 283; Spano v. New York, 360 U.S. 315, 320–21 (1959).
62. *Brown*, 297 U.S. at 287.
63. *Id.* at 286.
64. *Id.*
65. *Id.* at 287.

time failing to kill him.[66] Brown continued to express his innocence while the mob tied him to the tree and whipped him.[67] Brown continued to declare his innocence.[68] The mob left Brown's home and two days later a deputy came to arrest Brown.[69] Again, Brown was severely whipped.[70] The deputy told Brown the whipping would continue unless he confessed.[71] Brown succumbed and confessed.[72] The Court found that the Due Process Clause of the Fourteen Amendment requires states to act in accordance with the fundamental principles of liberty and justice.[73] The Court determined that the manner the officers obtained the confession was repulsive to justice, and thus, unconstitutional.[74]

In later cases, the Court found confessions involuntary when officers used psychological manipulation or exhaustion, even in the absence of actual torture. In *Spano v. New York*, Vincent Spano shot someone after his money was taken from him and Spano was injured in a fight.[75] After turning himself in, the police questioned Spano through the evening and into the early morning for eight hours straight.[76] Spano consistently refused to answer questions and repeatedly requested for his attorney's presence, but the police rejected these requests and the questioning persisted.[77] The police then had another officer named Bruno, who had been Spano's friend since childhood, attempt to get a confession out of Spano three times, but to no avail.[78] Bruno's fourth attempt lasted an hour, and Spano finally confessed.[79] The Court examined these facts and determined that the confession was involuntarily made, and resulted in Spano's free will being overcome and violated the Fourteenth Amendment.[80]

66. *Id.* at 281.
67. *Id.*
68. *Brown*, 297 U.S. at 281.
69. *Id.*
70. *Id.*
71. *Id.* at 282.
72. *Id.*
73. *Brown*, 297 U.S. at 286.
74. *Id.*
75. *Spano*, 360 U.S. at 316.
76. *Id.* at 319.
77. *Id.* at 317–18.
78. *Id.* at 319.
79. *Id.*
80. *Id*, at 324.

The Court explained the reasoning for excluding the statement:

> The abhorrence of society to the use of involuntary confessions does not turn alone on their inherent untrustworthiness. It also turns on the deep-rooted feeling that the police must obey the law while enforcing the law; that in the end life and liberty can be as much endangered from illegal methods used to convict those thought to be criminals as from the actual criminals themselves.[81]

Thirty years after *Brown*, the Court established several factors to guide this involuntariness inquiry, but they were confusing for lower courts and law enforcement to apply and it was unclear what the general philosophy was.[82] As a result, the Court desired to establish a bright-line rule.[83] This bright-line rule would guide law enforcement and would not require an individual analysis of voluntariness for each confession.[84] In *Escobedo v. Illinois*, the Court attempted to apply the Sixth Amendment's protection of the assistance of counsel to create this bright-line rule.[85] There, the Court held that officer's violated the Sixth Amendment when they denied Escobedo's request to speak to his attorney and did not advise Escobedo of his right to remain silent during an interrogation that took place before charges were filed.[86] However, the Court did not pursue the Sixth Amendment as a means to establish a bright-line rule, but rather shifted its focus to the Fifth Amendment in *Miranda*.[87]

The Fifth Amendment self-incrimination clause was originally understood to apply to statements made in the courtroom.[88] However, in 1966, the Court extended this understanding to interrogations in *Miranda v. Arizona*.[89] In *Miranda*, the Court declared all custodial interrogations to be so inherently coercive that each required a procedural safeguard in place to allow a suspect to truly exercise his or her Fifth Amendment privilege to remain silent.[90] With this purpose in mind, the Court announced that law enforcement must advise a suspect of certain *Miranda* warnings before engaging in a custodial

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81. *Spano*, 360 U.S. at 320-21.

82. Lawrence Herman, *The Supreme Court, the Attorney General, and the Good Old Days of Police Interrogation*, 48 OHIO ST. L.J. 733, 750–751 (1987).

83. *Id.* at 752; JOSHUA DRESSLER, CRIM. PROC.: INVESTIGATING CRIME 580 (4th ed. 2010).

84. Herman, *supra* note 83, at 752; DRESSLER, *supra* note 83, at 580.

85. Escobedo v. Illinois, 378 U.S. 478 (1964).

86. DRESSLER, *supra* note 83, at 580.

87. Miranda v. Arizona, 384 U.S. 436, 467 (1966).

88. Counselman v. Hitchcock, 142 U.S. 547, 563 (1892).

89. Bram v. United States, 168 U.S. 532 (1897) (federal prosecutions); 384 U.S. at 436 (state prosecutions).

90. *Miranda*, 384 U.S. at 467 (stating that the Fifth Amendment provides a suspect with the privilege against compelled self-incrimination and the right to consult with counsel or have counsel present prior to or during police questioning).

interrogation.[91] These warnings include advising a suspect that (1) he or she has the right to remain silent, (2) anything he or she says can be used against them, (3) he or she has the right to counsel, and (4) if they cannot afford counsel, one will be provided to them.[92] The court created a bright-line rule applicable to all suspects, regardless of age, with the purpose of providing law enforcement with an easily enforceable and practical standard.[93] Although briefly mentioned in *Miranda*, subsequent cases clarified the applicable standards for a suspect to either waive or invoke their *Miranda* rights.[94] In doing so, those cases significantly narrowed *Miranda*'s broad protections.[95]

For example, in *Miranda* the Court stated that, once a suspect is advised of the *Miranda* warnings, he or she can waive them if they do so knowing what rights they have, are intelligent of the consequences of waiving those rights, and is done voluntarily.[96] However, a more conservative Court later found that as long as a suspect receives the *Miranda* warnings and then makes a voluntary statement, a court could presume the suspect knowingly and intelligently understood their rights and the consequences associated with waiving them.[97] This essentially narrowed *Miranda*'s original protection by narrowing when a suspect is considered knowledgeable and intelligent of the *Miranda* warnings.[98]

Likewise, the *Miranda* Court originally indicated that, once a suspect invokes either the right to remain silent or the right to the assistance of counsel, all questioning must cease.[99] But, again, the Court narrowed the broad safeguard intended by *Miranda* when it defined the standard for a suspect to adequately invoke their rights.[100] Now, if a suspect decides he or she wishes to exercise their rights, they must do so unambiguously to the degree of clarity that a reasonable officer under the circumstances would understand that the suspect was making such a request.[101] This unambiguous standard provides courts with the arbitrary power to determine what is considered a sufficiently clear request.[102] For

91. *Id.*

92. *Id.* at 479; California v. Prysock, 453 U.S. 355 (1981) (holding that the *Miranda* warnings do not have to state the exact language in *Miranda* but must reasonably convey the rights included in the original four warnings).

93. *Miranda*, 384 U.S. at 479.

94. Davis v. United States, 512 U.S. 452, 459 (1994).

95. *Compare Miranda*, 384 U.S. at 478–79, *with Davis*, 512 U.S. at 459; *see also* Harris v. New York, 401 U.S. 222 (1971) (allowing a confession in violation of *Miranda* to be used to impeach a defendant).

96. *Miranda*, 384 U.S. at 444.

97. *Compare Miranda*, 384 U.S. at 478–79, *with Davis*, 512 U.S. at 461–62.

98. *Compare Miranda*, 384 U.S. at 478–79, *with Davis*, 512 U.S. at 461–62.

99. Edwards v. Arizona, 451 U.S. 477, 484 (1981); Michigan v. Mosley, 423 U.S. 96 (1975).

100. *Davis*, 512 U.S. at 459; People v. Soto, 204 Cal. Rptr. 204, 213 (2nd Dist. 1984).

101. Fare v. Michael C., 442 U.S. 707, 724–25 (1979).

102. People v. Roquemore, 131 Cal. 4th 11, 25 (2005) ("[D]efendant's subsequent statement that he was confused and "[C]an I call a lawyer or my mom to talk to you?" did not constitute an unequivocal request for counsel to be present"); *Fare*, 442 U.S. at 723–24 (declining "to find that the request for the probation officer is

example, the Court held that when a suspect decides to merely sit in silence after being advised that he or she has the right to remain silent, and is subsequently questioned by law enforcement, they fail to unambiguously invoke their right to remain silent.[103] Such a requirement runs contrary to the colloquial meaning of "remaining silent" and has narrowed the originally broad protection in *Miranda*.[104]

Generally, juveniles are unable to understand and comprehend the *Miranda* warnings[105] and this narrowing makes it difficult for them to meet the stringent standards to invoke their rights.[106] Juveniles are essentially defenseless to continuous police badgering, yet capable of easily waiving their rights.[107]

III. JUVENILES: A SPECIAL CATEGORY

As a result of *Miranda*'s bright-line rule, its standards apply to all suspects, and therefore juveniles under custodial interrogation are generally treated as if they were fully developed adults.[108] Juveniles receive the same *Miranda* warnings,[109] and if they wishes to waive these rights, they may do so as easily as an adult by simply making an uncoerced statement after receiving these warnings.[110] Yet, if they chooses to end the questioning and invoke their rights, they are expected to express such a request under the same unambiguous standard as an adult.[111]

However, juveniles hold unique developmental characteristics and vulnerabilities that warrant treating them differently than adults.[112] Treating juveniles differently ensures that they have a meaningful opportunity to exercise the same rights and privileges as adults.[113] Part A illustrates how juveniles are developmentally immature by examining emerging cognitive and developmental

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tantamount to a request for an attorney").

103. *Davis*, 512 U.S. at 459.

104. Miranda v. Arizona, 384 U.S. 436, 478–79 (1966).

105. *Infra* Part IV.

106. *Infra* Part IV.

107. *Infra* Part IV.

108. *See* Berghuis v. Thompkins, 560 U.S. 370, 380 (2010) (failing to differentiate a separate standard for a suspect to waive their rights depending on their age); North Carolina v. Butler, 441 U.S. 369, 374 (1979) (finding a defendant with an 11th grade education is held to the voluntary, knowing, and intelligent standard); People v. Whitson, 949 P.2d 18, 28 (Cal. 1998).

109. *See generally In re* Joseph H., 367 P.3d 1 (Cal. 2015).

110. Davis v. United States, 512 U.S. 452, 459 (1994).

111. Fare v. Michael C., 442 U.S. 707, 724–25 (1979).

112. *Infra* Part A.

113. *Infra* Part V.

science.[114] Part B explains how the Court recognizes this immaturity in other legal contexts and how the *Miranda* framework is behind this trend.[115]

A. Developmental Immaturity

The problem with treating juveniles the same as adult is that juveniles are psychologically and physiologically different than adults.[116] Brain development happens in stages throughout the juvenile's adolescent years, creating different thinking and behavior.[117] His or her frontal lobe, which regulates decision-making, planning, judgment, and impulse control, drastically changes during their adolescent years and is the last part of their brain to fully develop.[118] Because of the under-development of the frontal lobe, the limbic system stands in for the frontal lobe to process their emotions.[119] However, the limbic system also undergoes rapid development during their adolescent years, causing them to engage in more impulsive behavior and experience more mood swings than adults.[120] Additionally, dopamine production, a chemical linking action to pleasure, significantly shifts during their adolescent years causing them to engage in more risky behavior.[121] However, when juveniles make these risky choices, they do not engage the higher thinking areas of the brain, as opposed to adults who do.[122]

Also, juveniles are less future-oriented than adults.[123] Juveniles generally believe planning ahead is a waste of time, are more focused on being happy in the present, and fail to consider the multiple consequences of making a

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114. *Infra* Part A.

115. *Infra* Part B.

116. Jay N. Giedd et al., *Brain Development During Childhood and Adolescence: A Longitudinal MRI Study*, NATURE NEUROSCIENCE Vol. 2, no. 10 (1999).

117. *See, id.* at 861; Jay N. Giedd, *Structural Magnetic Resonance Imaging of the Adolescent Brain*, in ADOLESCENT BRAIN DEVELOPMENT: VULNERABILITIES AND OPPORTUNITIES, ed. Ronald E. Dahl and Linda Patia Spear, Annals of the New York Academy of Sciences, Vol. 1021 (2004); Nitin Gogtay et al., *Dynamic Mapping of Human Cortical Development During Childhood Through Early Adulthood*, PROCEEDINGS OF THE NATIONAL ACADEMY OF SCIENCE 101, 8174 (2004); Arthur W. Toga, Paul M. Thompson, & Elizabeth R. Sowell, *Mapping Brain Maturation*, TRENDS IN NEUROSCIENCES Vol. 29, no. 3, 148–59 (Mar. 2006).

118. *See*, Giedd, *supra* note 861; Giedd, *supra* note 118; Gogtay, *supra* note 118; Toga, *supra* note 118.

119. *Using Adolescent Brain Research to Inform Policy: A Guide for Juvenile Justice Advocates*, NAT'L JUV. JUST. NETWORK, (last visited Apr. 7, 2017), http://www.njjn.org/uploads/digital-library/Brain-Development-Policy-Paper_Updated_FINAL-9-27-12.pdf..

120. *Id.*

121. Linda Patia Spear, *Neurodevelopment During Adolescence*, in 12 MECHANISMS IN PSYCHOPATHOLOGY, ed. Dante Cicchetti and Elaine F. Walker, 62-83 (Cambridge University Press, 2003).

122. Neir Eshel et al., *Neural Substrates of Choice Selection in Adults and Adolescents*, NEUROPSYCHOLOGIA Vol. 45, no. 6, 1270–79 (2007).

123. Laurence Steinberg et al., *Age Differences in Future Orientation and Delay Discounting*, 80 CHILD DEV. 28, 34 (2009).

decision.[124] Similarly, while adults perceive multiple options in a particular situation, juveniles may perceive only one, further limiting their understanding of how to escape a difficult situation.[125] Juveniles are also less capable of responding to stressful situations than adults because they lack the same exposure to these situations.[126] Generally, juveniles are conditioned from childhood to respect and abide by authority figures,[127] while hormonal and psychosocial changes make them put a higher emphasis on acceptance by others.[128] This increases their susceptibility to peer pressure.[129] These cognitive and developmental differences create a uniquely vulnerable suspect during a custodial interrogation.[130] During interrogations, law enforcement agents attempt to overcome the will of a juvenile, and the *Miranda* warnings are the only safeguard in place to mitigate the inherently coercive nature of custodial interrogations.[131]

B. Legally Treated Differently

The Court treats juveniles differently from adults in other aspects of the law due to developmental and cognitive science.[132] The Court reshaped legal principles as applied to juveniles to fully protect their constitutional rights.[133] The following cases illustrate how the *Miranda* framework is currently behind by not treating juveniles differently in the interrogation room.[134]

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124. *Id.*

125. Marty Beyer, *Immaturity, Culpability & Competency in Juveniles: A Study of 17 Cases*, 15 CRIM. JUST. 26 (2000); Marty Beyer, *Recognizing the Child in the Delinquent*, 7 KY. CHILD RTS. J. 16, 17–18 (1999).

126. *See* Laurence Steinberg & Robert G. Schwartz, *Developmental Psychology Goes to Court* in YOUTH ON TRIAL: A DEV. PERSP. ON JUV. JUST 9–3; Thomas Grisso and Robert G. Schwartz eds., (2000) (explaining that even when older adolescents attain raw intellectual abilities comparable to those of adults, their relative lack of experience may impede their ability to make sound decisions).

127. Gerald P. Koocher, *Different Lenses: Psycho-Legal Perspectives on Children's Rights*, 16 NOVA L. REV. 711, 716 (1992) (noting that children are socialized to obey authority figures).

128. *See id.*

129. *See id.* (noting that children are socialized to obey authority figures); Kimberly Larson, *Improving the "Kangaroo Courts": A Proposal for Reform in Evaluating Juveniles' Waiver of Miranda*, 48 VILL. L. REV. 629, 657 (2003) (summarizing psychological research reporting that "children are more compliant and suggestible than adults").

130. Margo Gardner & Laurence Steinberg, *Peer Influence on Risk Taking, Risk Preference, and Risky Decision Making in Adolescence and Adulthood: An Experimental Study*, 41 DEV. PSYCHOL. 625, 629–30 (2005); *See* Beyer, *supra* note 125, at 27.

131. Miranda v. Arizona, 384 U.S. 436, 467 (1966).

132.. Roper v. Simmons, 543 U.S. 551, 568–69 (2005); Graham v. Florida, 130 S. Ct. 2011, 2042 (2010); Miller v. Alabama, 132 S. Ct. 2455, 2457–58 (2012); J.B.D. v. North Carolina, 564 U.S. 261, 277 (2011).

133. *Roper*, 543 U.S. at 568–69; *Graham*, 130 S. Ct. at 2042; *Miller*, 132 S. Ct. at 2457–58; *J.B.D.*, 564 U.S. at 277.

134. *Compare Roper*, 543 U.S. at 568–69; *Graham*, 130 S. Ct. at 2042; *Miller*, 132 S. Ct. at 2457–58; *J.B.D.*, 564 U.S. at 277, *with Miranda*, 384 U.S. at 467.

In *Roper v. Simmons*, seventeen-year-old Christopher Simmons committed murder.[135] When Christopher turned eighteen, a trial judge sentenced him to death.[136] On appeal, the Court recognized that a juvenile is "categorically less culpable than the average [adult] criminal."[137] As a result, the Court found it unconstitutional to sentence a juvenile to death.[138]

The Court indicated developmental reasons why juveniles, when compared to adults, cannot be sentenced to death.[139] First, "[j]uveniles' susceptibility to immature and irresponsible behavior means 'their irresponsible conduct is not as morally reprehensible as that of an adult.'"[140] Second, a juvenile's "own vulnerability and comparative lack of control over their immediate surroundings mean[s] juveniles have a greater claim than adults to be forgiven for failing to escape negative influences in their whole environment."[141] The Court drew the line at the age of eighteen because it "is the point where society draws the line for many purposes between childhood and adulthood."[142]

In *Graham v. Florida*, seventeen-year-old Terrance Graham committed a burglary, and, as part of a plea agreement, the trial court sentenced him to probation.[143] Subsequently, Terrance committed another crime while on probation, and as a result, the trial court sentenced Terrance to life in prison without the possibility of parole.[144] The Court held that sentencing a minor to life in prison without the possibility of parole for committing a non-homicidal offense was unconstitutional.[145] The Court found this punishment to be "especially harsh for a juvenile offender, who will on average serve more years and a greater percentage of his life in prison than an adult offender."[146] The Court also stated that a categorical rule banning this punishment "gives the juvenile offender a chance to demonstrate maturity and reform."[147]

In *Miller v. Alabama*, a jury convicted sixteen-year-old Evan Miller of murder and sentenced him to a mandatory term of life in prison without the possibility of parole.[148] By studying neurology, the Court found the mandatory sentence of life without the possibility of parole, for a juvenile, to be

135. *Roper*, 543 U.S. at 557.
136. *Id.*
137. *Id.* at 567.
138. *Id.* at 570–71.
139. *Id.* at 570.
140. *Id.* (citing *Thompson v. Oklahoma*, 487 U.S. 815, 835 (1988)).
141. *Roper*, 543 U.S. at 570.
142. *Id.* at 574.
143. Graham v. Florida, 130 S. Ct. 2011, 2018 (2010).
144. *Id.* (stating that Florida did not have a parole system in place at the time).
145. *Id.* at 2042.
146. *Id.* at 2016.
147. *Id.* at 2017.
148. Miller v. Alabama, 132 S. Ct. 2455, 2457 (2012).

unconstitutional.[149] The Court explained that "'youth is more than a chronological fact' . . . [i]t is a time of immaturity, irresponsibility, 'impetuousness[,] and recklessness' . . . [i]t is a moment and 'condition of life when a person may be most susceptible to influence and to psychological damage.'"[150]

These cases demonstrate how developmental and cognitive differences between juveniles and adults justify applying different legal standards for the same constitutional right.[151] Recent changes to the custody analysis recognize these differences;[152] yet, other *Miranda* aspects are behind this developmental change.[153] Specifically, in *J.D.B. v. North Carolina*, a uniformed police officer and school personnel took a thirteen-year-old, seventh-grade student from his classroom and placed him in a closed-door conference room to question him.[154] The uniformed officer did not advise J.D.B. of his *Miranda* rights or tell him that he was free to leave.[155] After the officer pressured him to tell the truth, J.D.B. confessed, although initially denying any involvement in the suspected burglary.[156] After J.B.D. confessed, the officer finally read him the *Miranda* warnings.[157] J.D.B. argued that he was in custody during the questioning, and, thus that the officer was required to advise him of the *Miranda* warnings before any questioning took place.[158]

By distinguishing between juveniles and adults, the Court supplemented the in-custody framework of *Miranda*.[159] In doing so, the Court stated that "children cannot be viewed simply as miniature adults[,] . . . [c]hildren 'generally are less mature and responsible than adults,' . . . they 'often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them,' . . . and they 'are more vulnerable or susceptible to . . . outside pressures' than adults."[160] The Court justified modifying the in-custody framework of *Miranda* for juveniles by stating that "events that 'would leave a man cold and unimpressed can overawe and overwhelm a' teen."[161]

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149. *Id.* at 2457–58.

150. *Id.* at 2467.

151. *See* Roper v. Simmons, 543 U.S. 551, 570–71 (2005); *Graham*, 130 S. Ct. at 2042; *Miller*, 132 S. Ct. at 2457–58; *J.B.D.*, 564 U.S. at 277.

152. J.B.D. v. North Carolina, 131 S. Ct. 2394, 2406 (2011).

153. *Roper*, 543 U.S. at 570–71; *Graham*, 130 S. Ct. at 2042; *Miller*, 132 S. Ct. at 2457–58; *J.B.D.*, 564 U.S. at 277, *with* Miranda v. Arizona, 384 U.S. 436, 467 (1966).

154. *J.D.B.*, 131 S. Ct. at 2396.

155. *Id.*

156. *Id.*

157. *Id.*

158. *Id.*

159. *Id.*

160. *J.D.B.*, 131 S. Ct. at 2397.

161. *Id.*

These cases demonstrate how emerging developmental science and research change court application of legal principles to fairly apply them to juveniles.[162] Apart from the criminal context, society also treats juveniles different than adults by imposing several age restrictions on activities.[163] Juveniles cannot drive without a learner's permit until they are eighteen,[164] serve our country without parental permission until eighteen,[165] get married until eighteen,[166] vote until eighteen,[167] drink until twenty-one,[168] buy cigarettes until twenty-one,[169] convey real property, or execute a binding contract until they are eighteen.[170] Yet, according to existing law, as young as ten years old, they can waive fundamental constitutional rights.[171]

Similar to *J.D.B.*, the *Miranda* framework needs to catch up and recognize developmental differences and not simply view juveniles as miniature adults.[172] The *Miranda* framework must be modified when applied to juveniles to prevent the unfairness associated with treating juveniles like adults.[173]

IV. CONSEQUENCES OF APPLYING THE CURRENT *MIRANDA* STANDARD TO JUVENILES

This section explains the grave and irreversible consequences of applying the *Miranda* standard to juveniles.[174] Part A explains how juveniles do not understand and comprehend the *Miranda* warnings.[175] Part B demonstrates how

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162. *See infra* Part III. Part B (referencing *J.D.B.*, *Miller*, and *Miranda*).

163. Department of Motor Vehicles, License and ID, *Age Requirements*, (last visited Apr. 8, 2017), http://www.dmv.org/ca-california/teen-drivers.php (on file with *The University of Pacific Law Review*).

164. *Id.*

165. United States of America, Join the Military, *Requirements for Joining the U.S. Military*, (last visited Apr. 8, 2017), https://www.usa.gov/join-military; https://www.thebalance.com/us-military-enlistment-standards-3354001 (on file with *The University of Pacific Law Review*); Rod Powers, *US Military Enlistment Standards: How Old is Too Old? Each Branch of the Service had Different Upper Age Limits*, (last visited Apr. 8, 2017), https://www.thebalance.com/us-military-enlistment-standards-3354001 (on file with *The University of Pacific Law Review*).

166. *Legal Age of Consent for Marriage and Sex for the 50 United States*, Global Justice Initiative, (last visited Apr. 8, 2017), https://globaljusticeinitiative.files.wordpress.com/2011/12/united-states-age-of-consent-table11.pdf..

167. U.S. CONST. amend. XXVI, § 1.

168. 23 C.F.R. § 1208.4.

169. 175 CAL. BUS. & PROF. CODE § 17537.3 (West 2017).

170. I.C.1971, 32—22—1—1, BURNS s 56—102 (West 2017) (stating a juvenile is unable to convey real property); I.C.1971, 29—1—18—41 (West 2017), BURNS s 8—141 (West 2017) (stating a juvenile is unable to execute a binding contract).

171. In re Joseph H., 367 P.3d 1 (Cal. 2015).

172. J.B.D. v. North Carolina, 131 S. Ct. 2394, 2406 (2011).

173. *Infra* Part IV.

174. *Infra* Part IV.

175. *Infra* Part A.

juveniles lack the capacity to invoke these rights.[176] Part C illustrates juveniles' vulnerability in an interrogation room.[177]

A. Juveniles Fail to Knowingly Understand and Intelligently Appreciate the Miranda *Warnings*

How can you exercise a right you do not know you have?[178] *Miranda*'s procedural safeguard is only effective if understood by the listener.[179] Research consistently shows that juveniles fail to understand the meaning of the words used in *Miranda*, as well as the legal significance of each warning.[180] When juveniles fail to understand the rights and privileges they have during an interrogation, the *Miranda* warnings are meaningless.[181]

For example, in 1980, a published study evaluated juveniles' understanding of their *Miranda* rights.[182] When asked to paraphrase their *Miranda* rights, only 20.9% of juveniles demonstrated an adequate understanding, while 42.3% of adults did.[183] Furthermore, 55.3% of the juveniles demonstrate a lack of understanding of at least one of the *Miranda* warnings, but when assessed on their understanding of the vocabulary used in the *Miranda* warnings, only 33.2% of the juveniles adequately understood the key words used, while 60.1 percent of adults did.[184] Also, 44.8% of the juveniles misunderstood their right to consult with an attorney prior to an interrogation or to have an attorney present during the interrogation, while only 14.6% of adults misunderstood these rights.[185] This study not only indicates that juveniles are twice as likely to misunderstand the vocabulary and the legal significance of the *Miranda* warnings, but that they are also three times as likely to not understand their right to the assistance of counsel.[186]

Another study in 2011 found that age and intelligence predict a juvenile's comprehension of the *Miranda* warnings.[187] Younger juveniles with lower

176. *Infra* Part B.

177. *Infra* Part C.

178. *Infra* Part A.

179. *Infra* Part IV.

180. Thomas Grisso, *Juveniles' Capacities to Waive Miranda Rights: An Empirical Analysis*, 68 CAL. L. REV. 1134, 1137 (1980); Kaitlyn McLachlan, Ronald Roesch & Kevin S. Douglas, *Examining the Role of Interrogative Suggestibility in Miranda Rights Comprehension in Adolescents*, 35 L. & HUM. BEHAV. 165, 170–71 (2011).

181. *Infra* Part IV.

182. Grisso, *supra* note 180, at 1134.

183. *Id.* at 1153.

184. *Id.* at 1153–54.

185. *Id.* at 1154.

186. *Id.* at 1153–54.

187. McLachlan, *supra* note 180, at 175.

intelligence were the least likely to comprehend their *Miranda* rights and the most likely to be overcome by law enforcement using negative feedback and pressure.[188] This study found that 42.5% of juveniles[189] did not comprehend one of the *Miranda* warnings, and 44.7% failed to understand some of the vocabulary used in the *Miranda* warnings.[190]

These findings are consistent with other comprehension studies, showing not only that juveniles fail to understand the *Miranda* warnings but do so at an alarmingly high rate when compared to adults.[191] However, most of these studies were conducted in a controlled setting and not in a highly stressful police-dominated interrogation room that could further influence a juvenile's ability to understand.[192] Thus, during real, as opposed to staged settings, these findings may be exacerbated.[193]

This lack of understanding may explain why juveniles are more likely to "waive" their rights since they completely fail to understand the vocabulary used in the *Miranda* warnings and its significance.[194] For example, a 2006 study found that 80% of juveniles waive their *Miranda* rights.[195] Other studies have found that as high as 90% of juveniles waive their rights.[196] These studies indicate that an alarming percentage of juveniles waive their rights,[197] yet comprehension studies demonstrate that half of juveniles fail to *knowingly and intelligently*

188. *Id.*

189. This study consisted of 12-19 year olds.

190. McLachlan, *supra* note 180, at 170–71.

191. Beyer, *supra* note 125, at 28 (reporting that more than half of juveniles did not understand the words of the Miranda warning); A. Bruce Ferguson & Alan Charles Douglas, *A Study of Juvenile Waiver*, 7 SAN DIEGO L. REV. 39, 53 (1970) (reporting that over 90% of the juveniles whom police interrogated waived their rights, that a similar percentage did not understand the rights they waived, and that even a simplified version of the language in the Miranda warning failed to cure these defects).

192. Grisso, *supra* note 180, at 1152; McLachlan, *supra* note 180, at 170–71.

193. Miranda v. Arizona, 384 U.S. 436, 467 (1966), *with* Grisso, *supra* note 180, at 1152 *and* McLachlan, *supra* note 180, at 170–71.

194. *Compare* McLachlan, *supra* note 180, at 170–71, *with* Barry Feld, *Juveniles' Competence to Exercise Miranda Rights: An Empirical Study of Policy*, 91 MINN. L. REV. 26 (2006).

195. Barry Feld, Real Interrogation: What Actually Happens When Cops Question Kids, 47 LAW & SOC'Y REV. 1, 26 (2013).

196. Ferguson, *supra* note 191, at 53 (reporting that over 90% of the juveniles whom police interrogated waived their rights); THOMAS GRISSO, JUVENILES' WAIVER OF RIGHTS: LEGAL AND PSYCHOLOGICAL COMPETENCE 202 (1981) (reporting that about ninety-one percent of juveniles waived their Miranda rights and agreed to talk with police); Feld, *supra* note 195 (indicating that 92.8 percent of the juveniles waived their rights).

197. *See* Paul G. Cassell & Bret S. Hayman, *Police Interrogation in the 1990s: An Empirical Study of the Effects of Miranda*, 43 UCLA L. REV. 839, 844 (1996) (reporting that "of suspects given their Miranda rights, 83.7% waived them"); Richard A. Leo, *Inside the Interrogation Room*, 86 J. CRIM. L.& CRIMINOLOGY 266, 293 (1996) (reporting that almost two-thirds of all suspects questioned).

understand what they have "waived."[198] Juveniles are, therefore, at a distinct disadvantage because waivers must be made knowingly and intelligently.[199]

B. Juveniles Lack the Capacity to Invoke Their Rights

Even when juveniles do not understand and comprehend the *Miranda* warnings, they can stop continuous police badgering by invoking the right to remain silent or the right to the assistance of counsel.[200] However, how can you protect yourself if you do not know how?[201] Courts require that an invocation be unambiguous, such that a reasonable officer would understand the request to be an invocation.[202] This requirement is difficult for most juveniles to satisfy because they do not possess the same communication skills as adults.[203] While almost all juveniles are found to "waive" their rights, rarely do juveniles unambiguously invoke their rights properly.[204]

For example, a 1977 study found that only 10% of juveniles invoke their rights, while 40% of adults do.[205] Additionally, another study found that randomly-selected juveniles arrested for alleged felonies invoked their rights 10% of the time.[206] The requirement for an unambiguous invocation of their rights is even harder to satisfy for younger juvenile suspects.[207] For juveniles under the age of fourteen, only 5 percent invoked their rights.[208] Some juveniles may fear an invocation could be used against them to demonstrate culpability.[209] A 1980 study found that 61.8% of juveniles failed to recognize that a judge cannot punish them for invoking their right to remain silent, while 21.7% of

198. McLachlan, *supra* note 180, at 170–71.

199. Davis v. United States, 512 U.S. 452, 459 (1994).

200. Michigan v. Mosley, 423 U.S. 96 (1975).

201. *Infra* Part B.

202. Fare v. Michael C., 442 U.S. 707, 724–25 (1979).

203. *See id.*; *see also* Janet E. Ainsworth, *In a Different Register: The Pragmatics of Powerlessness in Police Interrogation*, 103 YALE L. J. 259, 262–64 (1993) (focusing on the disadvantage of the unambiguous standard for female defendants).

204. *Compare* Ferguson, *supra* note 191, at 53 (reporting that over 90% of the juveniles whom police interrogated waived their rights), *and* GRISSO, *supra* note 196, at 202 (reporting that about ninety-one percent of juveniles waived their Miranda rights and agreed to talk with police), *and* Feld, *supra* note 198 (indicating that 92.8 percent of the juveniles waived their rights), *with* Thomas Grisso & Carolyn Pomicter, *Interrogation of Juveniles: An Empirical Study of Procedures, Safeguards, and Rights Waiver*, 1 L. & HUM. BEHAV. 321, 339 (1977) (reporting that about 10% of juveniles invoked their rights during interrogation).

205. Pomicter, *supra* note 204, at 339 (reporting that about 10% of juveniles invoked their rights during interrogation, compared to 40% of adults); *see also* Grisso, *supra* note 180, at 1152.

206. Pomicter, *supra* note 204, at 339.

207. *Id.*

208. *Id.*

209. Grisso, *supra* note 180, at 1152.

adults recognized this.[210] On the other hand, juveniles may wish to invoke their rights, but may lack adult-like communication skills to meet the standard for an unambiguous invocation of these rights.[211]

Juvenile that fail to meet this standard allow law enforcement to continue to question them even when they wish to end the interrogation and be released from custody.[212] These studies demonstrate that juveniles lack the communication skills to end police badgering.[213]

C. Juveniles are Easy Victims in a Police-Dominated Environment

2.1 million juveniles are arrest in the United States each year.[214] In 2014, California reported that law enforcement arrested 87,000 juveniles.[215] Interrogations naturally create a coercive environment and can produce false confessions.[216] Law enforcement is required to read suspects the *Miranda* warnings before an interrogation begins to protect against police coercion.[217] Although the *Miranda* warnings are meant to act as a procedural safeguard, interrogations still produce false confessions when *Miranda* is administered.[218] Significantly, juveniles account for 35% of these false confessions.[219]

Juvenile are particularly vulnerable to producing false confessions.[220] Generally, they are more compliant and obedient to police officers and may provide false information simply to end a stressful conversation.[221] Cognitive and developmental research indicates that juveniles are short-term oriented and fail to perceive long-term consequences.[222] On the other hand, officers are trained to

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210. Grisso, *supra* note 180, at 1152.

211. Fare v. Michael C., 442 U.S. 707, 724–25 (1979).

212. *See id.*

213. *Compare* Pomicter, *supra* note 204, at 339, *with Fare*, 442 U.S. at 724–25.

214. Puzzanchera and Adams, *Juvenile Arrests*, U.S. DEPT. OF JUSTICE (2009).

215. Kamala D. Harris, *Juvenile Justice in California*, CAL. DEPT. OF JUST. REP. 56, 2 (2014), https://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/misc/jj11/preface.pdf (on file with *The University of the Pacific Law Review*).

216. Miranda v. Arizona, 384 U.S. 436, 467 (1966).

217. *Id.*

218. Steven A. Drizin & Richard A. Leo, *The Problem of False Confessions in the Post-DNA World*, 82 N. C. L. REV. 891, 907–08 (2004).

219. *Id.* at 945.

220. *Id.* at 919 (stating that "some individuals—particularly. . . juveniles—are more vulnerable to the pressures of interrogation and therefore less likely to possess or be able to muster the physiological resources or perspective necessary to withstand accusatorial police questioning").

221. *See* Koocher, *supra* note 127, at 716 (noting that children are socialized to obey authority figures); Larson, *supra* note 129, at 645–46 (summarizing psychological research reporting that "children are more compliant and suggestible than adults").

222. Steinberg, *supra* note 123, at 34.

aggressively elicit all important information.[223] In reality, a false confession can irreversibly taint a juvenile's subsequent trial, leading to a conviction for a crime they did not commit.[224] Courts should view such confession with "special caution" because juveniles' developmental immaturity, coupled with the lack of an effective safeguard advising them of their rights and persistent officer questioning, creates a distasteful recipe to produce unreliable information.[225] Juvenile left alone in an interrogation room without any meaningful protection are therefore an "easy victim of the law."[226]

V. RESTORING THE SPIRIT AND PURPOSE OF *MIRANDA*

Miranda's original broad protection needs to be restored and returned to its spirit and purpose.[227] This is especially true for juveniles whose unique developmental and cognitive characteristics leave them vulnerable to police manipulation because they lack the capacity to knowingly and intelligently understand the *Miranda* warnings.[228] This can be achieved one of two ways.[229] First, federal or state legislatures can pass laws.[230] Although this option is unlikely due to the current political landscape, it still provides value by providing essential characteristics of such legislation to guide future legislatures or to amend currently inadequate legislation.[231] Second, courts themselves can reevaluate the holdings that transformed *Miranda*.[232] The current trend in Supreme Court jurisprudence is to recognize the unique vulnerabilities and characteristics specific to juvenile suspects that justify a return to *Miranda*'s broad protection.[233]

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223. Miranda v. Arizona, 384 U.S. 436, 467 (1966).

224. *See* Drizin, *supra* note 218, at 1005; Richard A. Leo & Richard J. Leo, *The Consequences of False Confessions: Deprivations of Liberty and Miscarriages of Justice in the Age of Psychological Interrogation*, 88 J. CRIM. L. & CRIMINOLOGY 429, 429 (1998) ("Because a confession is universally treated as damning and compelling evidence of guilt, it is likely to dominate all other case evidence and lead a trier of fact to convict the defendant. A false confession is therefore an exceptionally dangerous piece of evidence to put before anyone adjudicating a case. In a criminal justice system . . . police induced false confession ranks amongst the most fateful of all official errors").

225. In re Gault, 387 U.S. 1, 45 (1967).

226. Haley v. Ohio, 332 U.S. 596, 599 (1948).

227. *Infra* Part V.

228. *Infra* Part IV.

229. *Infra* Part V.

230. *Infra* Part V.

231. *Infra* Part V.

232. *Infra* Part V.

233. *Infra* Part IV.

A. A Legislative Solution

Although the Supreme Court generally requires law enforcement to provide *Miranda* warnings to a suspect,[234] the Court sets only the minimum requirements.[235] Each individual state or the federal government may choose to require additional requirements or safeguards so long as they provide the baseline notice mandated by the Court.[236] State or federal legislation needs to be enacted to protect juveniles from inherently coercive interrogations[237] and help recognize that they are not adults and cannot be treated as such.[238] Several states currently recognize the unfairness of the current *Miranda* framework.[239] This Comment analyzes California Senate Bill 1052 ("SB 1052") to determine the essential characteristics needed for adequate legislation.[240] After having passed both

234. Miranda v. Arizona, 384 U.S. 436, 467 (1966).

235. *Id.* ("We encourage congress and the States to continue their laudable search for increasingly effective ways of protecting the rights of the individual while promoting efficient enforcement of our criminal laws."); In re Patrick W., 104 Cal. App. 3d 615, 618 (2nd Dist. 1980) ("[A]lthough a California court must give to a defendant at least as full rights as the Constitution of the United States . . . a California court may, in applying our own state constitutional requirements, afford to a defendant rights greater than those required by the federal Constitution.").

236. *Miranda*, 384 U.S. at 467; *In re* Patrick W., 104 Cal. App. 3d at 618.

237. *Infra* Part IV.

238. *Infra* Part III.

239. 705 ILL. COMP. STAT. ANN. 405/5-170 (West 2016) (stating that a minor under 13 years old suspected of serious crimes must be read their *Miranda* rights and represented by an attorney throughout the entire custodial process); IOWA CODE ANN. § 232.11 (West 2016) (stating that a minor under 16 years old cannot waive their right to an attorney "without the written consent" of a parent); MONT. CODE ANN. § 41-5-331 (West 2016) (stating that a minor under 16 years old can waive their rights only with the agreement of their parents and if their parent does not agree, the minor must consult with an attorney before they can waive their rights); N.M. STAT. ANN. § 32A-2-14(F) (West 2016) (prohibiting the admission of a statement by a minor under 13 years old and presumes that a 13 or 14 year old minor is incapable of making a valid *Miranda* waiver); WASH. REV. CODE ANN. § 13.40.140(11) (West 2016) (stating that a minor 12 years old or younger must have their parent waive their rights); REV. STAT. ANN. § 19-2-511 (West 2016) (stating that a minor's parent or attorney must be present and informed of the minor's rights for any custodial statement to be admissible but the minor and parent may waive parental presence in writing); CONN. GEN. STAT. ANN. § 46b-137 (West 2016) (stating that a minor's statement made during custodial interrogation is inadmissible in juvenile court unless a parent is present and advised of the minor's rights); IND. CODE ANN. § 31-32-5-1 (West 2016) (stating that a minor's rights can be waived only by a parent or counsel unless the minor has been emancipated); N.C. GEN. STAT. ANN. § 7B-2101(West 2016) (stating that a minor under 16 years old cannot waive their *Miranda* rights unless a parent or attorney is present); OKLA. STAT. ANN. tit. 10A, § 2-2-301 (West 2016) (stating that the advisement of rights to a minor of 16 years or younger during a custodial interrogation must occur in the presence of a parent, guardian, or an attorney).

240. SB 1052, 2016 Leg., 2015–2016 Sess. (Cal. 2016) (as amended on Mar. 28, 2016, but not enacted) (SB 1052 required law enforcement to provide a juvenile with a consultation with an attorney before conducting a custodial interrogation and before a juvenile could waive their rights. SB 1052 rejected the notion that a juvenile could waive this consultation requirement and made it mandatory. However, SB 1052 allowed the law enforcement to ignore this requirement when it reasonably believed information sought from the juvenile was necessary to either protect life or property from a substantial threat. If law enforcement completely violated the mandatory consultation requirement, a court would have taken the violation into consideration when determining if a juvenile's waiver was knowingly, intelligently, and voluntarily made, rather than automatically

legislative bodies of California, California's governor vetoed SB 1052.[241] SB 1052 provided a strong starting point, but only some of its components are useful for future legislation.[242]

For this legislation to be effective, it must begin by requiring the presence of an attorney when a juvenile is interrogated.[243] Under SB 1052, it was generally mandatory for law enforcement to provide a juvenile consultation with an attorney prior to questioning.[244] The problem with leaving juveniles alone in an interrogation room is twofold. First, officers question juveniles in the same manner as adults.[245] Second, as mentioned, juveniles are developmentally different than adults because they fail to understand the *Miranda* warnings, the consequences of their statements, often "waive" their rights unknowingly, and will almost never invoke these rights.[246] Combining these ingredients creates a dangerous result.[247] The police may receive unreliable information and terminate alternative explanations,[248] while juveniles are left to explain in court why they confessed to something they did not do.[249] Juveniles do not understand the *Miranda* warnings and legislation must presume that statements made by a juvenile are per se unknowingly and unintelligently made.[250] Only after consulting with an attorney should this presumption be overcome.[251] Like *Miranda*, legislation must create a bright-line rule applying this requirement to juveniles under a certain age.[252] An appropriate age for this requirement would be eighteen because society has determined that eighteen is the age that it "draws the line for many purposes between childhood and adulthood."[253]

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excluding any subsequent statements).

241. *Infra* Part V.

242. *Infra* Part V.

243. SB 1052, 2016.

244. SB 1052, 2016.

245. N. Dickon Reppucci, Jessica Meyer, and Jessica Kostelnik, *Police Interrogations and False Confessions: Current Research, Practice, and Policy Recommendations*, CUSTODIAL INTERROGATION OF JUV.: RESULTS OF A NAT'L SURV. OF POLICE (2010).

246. *Infra* Part IV.

247. *Cf.* Ortiz, *supra* note 1.

248. *Id.*

249. Almasy, *supra* note 19.

250. *Compare infra* Part IV, *with* Davis v. United States, 512 U.S. 452, 459 (1994).

251. *See* SB 1052, 2016 Leg., 2015–2016 Sess. (Cal. 2016) (as amended on Mar. 28, 2016, but not enacted).

252. *Compare* WASH. REV. CODE ANN. § 13.40.140(11) (West 2016) (stating that a minor 12 years old or younger must have their parent waive their rights); N.C. GEN. STAT. ANN. § 7B-2101 (West 2016) (stating that a minor under 16 years old cannot waive their *Miranda* rights unless a parent or attorney is present); OKLA. STAT. ANN. tit. 10A, § 2-2-301 (West 2016) (stating that the advisement of rights to a minor of 16 years or younger during a custodial interrogation must occur in the presence of a parent, guardian, or an attorney), *with Miranda*, 384 U.S. at 467.

253. Roper v. Simmons, 543 U.S. 551, 568–69 (2005); *see* SB 1052, 2016 Leg., 2015–2016 Sess. (Cal. 2016) (as amended on Mar. 28, 2016, but not enacted).

Currently, state legislation conflicts on whether the presence of an attorney is required or if an adult can act as an adequate alternative.[254] For example, California's SB 1052 required an attorney consultation, while Washington, Colorado, and North Carolina find the assistance of a juvenile's parent as an adequate alternative to an attorney.[255] The main purpose behind having either an attorney or an adult present is to reduce the coercive nature of an interrogation, but also to effectively convey to a juvenile the rights he or she has, their legal significance, and the consequences associated with waiving them.[256] A criminal investigation requires a degree of sophistication and understanding of legal principles that a parent lacks.[257] A parent cannot substitute the assistance of an attorney—who is the "one person to whom society as a whole looks as the protector of the [juvenile's] legal rights."[258] Unlike a parent, an attorney is better suited to explain the constitutional rights that juveniles are entitled to, the legal consequences associated with waiving them, and can assist juveniles with the invocation of these rights.[259]

Significantly, research indicates that parents either fail to assist juveniles, or, instead, help law enforcement by offering additional information.[260] For example, in one study, nearly three-quarters of parents disagreed with the idea that a juvenile should be allowed to withhold information from the police.[261] In another study, more than two-thirds of the parents present during actual pre-interrogation waiver proceedings offered no comments or advice to their children.[262] An

254. § 13.40.140(11) (stating that a minor 12 years old or younger must have their parent waive their rights); COLO. REV. STAT. ANN. § 19-2-511 (West 2016) (stating that a minor's parent or attorney must be present and informed of the minor's rights for any custodial statement to be admissible but the minor and parent may waive parental presence in writing); CONN. GEN. STAT. ANN. § 46b-137 (West 2016) (stating that a minor's statement made during custodial interrogation is inadmissible in juvenile court unless a parent is present and advised of the minor's rights); IND. CODE ANN. § 31-32-5-1 (West 2016) (stating that a minor's rights can be waived only by a parent or counsel unless the minor has been emancipated); § 7B-2101 (stating that a minor under 16 years old cannot waive their *Miranda* rights unless a parent or attorney is present); tit. 10A, § 2-2-301 (stating that the advisement of rights to a minor of 16 years or younger during a custodial interrogation must occur in the presence of a parent, guardian, or an attorney).

255. SB 1052, 2016; § 13.40.140(11) (stating that a minor 12 years old or younger must have their parent waive their rights); § 19-2-511 (stating that a minor's parent or attorney must be present and informed of the minor's rights for any custodial statement to be admissible but the minor and parent may waive parental presence in writing); § 7B-2101 (stating that a minor under 16 years old cannot waive their *Miranda* rights unless a parent or attorney is present).

256. *Compare infra* Part IV, *with* SB 1052, 2016.

257. See Fare v. Michael C., 442 U.S. 707, 719 (1979) (finding that a probation officer is not an adequate substitute for an attorney).

258. *Id.*

259. *See id.* (finding that a probation officer is not an adequate substitute for an attorney).

260. Grisso & Ring, *Parents' Attitudes Toward Juveniles' Rights in Interrogation*, 6 CRIM. JUST. & BEHAVIOR 211 (1979).

261. *Id.*

262. THOMAS GRISSO, JUV. WAIVER OF RIGHTS: LEGAL AND PSYCH. COMPETENCE (1981).

attorney is not expected to have a financial or emotional interest in a case and can act objectively.[263] Legislation must exclude parents as an adequate alternative and expressly require that juveniles consult with only the unmatched assistance of counsel.[264]

State legislation also conflicts on whether such a mandatory consultation requirement can be waived, and, additionally, if juveniles or parents can waive this requirement.[265] For example, North Carolina allows a sixteen-year-old juvenile to waive his or her rights only if a parent is present, while in Washington the parent of a twelve-year-old can waive rights on behalf of the child.[266] SB 1052 explicitly rejected the notion that juveniles can waive this requirement.[267] Like SB 1052, legislation must reject juveniles' ability to waive the consultation requirement.[268] First, juveniles fail to understand the significance of having or waiving this consultation.[269] Second, allowing juveniles to potentially waive this requirement provides law enforcement with an incentive to manipulate juveniles that are unintelligent and unknowing of their Miranda rights.[270] Third, giving juveniles the responsibility to exercise sacred constitutional rights runs in contradiction with society restricting their engagement in significant decisions and activities.[271] Thus, lawmakers must recognize that juveniles fail to understand the significance of waiving a consultation with an attorney and neither juveniles or parents can waive the consultation requirement.[272]

Legislation must also prevent two negative characteristics of SB 1052.[273] Legislation must expressly include a provision that deems juvenile statements inadmissible when made without an attorney consultation.[274] Just like *Miranda*, when the incentive to circumvent the law is removed, law enforcement is more

263. Edwards v. Arizona, 451 U.S. 477, 484 (1981).

264. *Compare* SB 1052, 2016 Leg., 2015–2016 Sess. (Cal. 2016) (as amended on Mar. 28, 2016, but not enacted), *with* WASH. REV. CODE ANN. § 13.40.140(11) (West 2016) (stating that a minor 12 years old or younger must have their parent waive their rights).

265. § 13.40.140(11) (West 2016) (stating that a minor 12 years old or younger must have their parent waive their rights); N.C. GEN. STAT. ANN. § 7B-2101 (West 2016) (stating that a minor under 16 years old cannot waive their *Miranda* rights unless a parent or attorney is present).

266. § 13.40.140(11) (stating that a minor 12 years old or younger must have their parent waive their rights); § 7B-2101(West 2016) (stating that a minor under 16 years old cannot waive their *Miranda* rights unless a parent or attorney is present).

267. SB 1052, 2016.

268. *Compare infra* Part IV, *with* SB 1052, 2016.

269. *Infra* Part IV.

270. Davis v. United States, 512 U.S. 452, 460–61 (1994).

271. *Infra* Part III.

272. *Compare* SB 1052, 2016 Leg., 2015–2016 Sess. (Cal. 2016) (as amended on Mar. 28, 2016, but not enacted), *with infra* Part IV.

273. Albert Mendoza, *SB 1052: Miranda Warnings for Minors*, Review of Selected 2016 California Legislation, 48 U. PAC. L. REV. 475, 801 (2017).

274. *Compare* Miranda v. Arizona, 384 U.S. 436, 467 (1966), *with* SB 1052, 2016.

likely to abide by its conditions.[275] To illustrate, SB 1052 only required a court to consider the effect of law enforcement violating its consultation requirement.[276] In contrast, the *Miranda* warnings require all statements made in violation of *Miranda* to be excluded under the exclusionary rule.[277] By not requiring the exclusion of these statements, SB 1052 essentially provided a solution that lacked any real substance.[278] Under SB 1052, law enforcement could completely disregard the mandatory consultation requirement and still succeed in having a juvenile's statement admitted in court.[279] Legislation must avoid a similar invitation for abuse and expressly render statements as inadmissible when given in violation of the consultation requirement.[280]

Lastly, legislation must also exclude exceptions and respect a juvenile's constitutional rights under all circumstances.[281] Under *Miranda* and its progeny, the Supreme Court created exceptions under the public safety exception that reduced the effectiveness of the *Miranda* warnings.[282] SB 1052 also included an exception where law enforcement could ignore the consultation requirement if it reasonably believed a person or property to be in danger.[283] Such exceptions unfairly place conditions on a juvenile's constitutional rights.[284] However, a juveniles protection should not be conditional and must be absolute.[285] Unlike SB 1052, future legislation must exclude exceptions and respect a juvenile's constitutional rights under all circumstances.[286]

In sum, legislation must: (1) require the presence of an attorney when juveniles are interrogated and create a presumption that juvenile statements are not knowingly and intelligently made when an attorney is not present, (2) provide that the presumption can be overcome only after they consult with an attorney, (3) explicitly prohibit them the ability to waive this requirement, (4) exclude exceptions, and (5) deem statements inadmissible when received in violation of the consultation requirement.[287]

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275. *Compare Miranda*, 384 U.S. at 467, *with* SB 1052, 2016.
276. SB 1052, 2016 Leg., 2015–2016 Sess. (Cal. 2016) (as amended on Mar. 28, 2016, but not enacted).
277. *Miranda*, 384 U.S. at 467.
278. Mendoza, *supra* note 273, at 801; SB 1052, 2016.
279. Mendoza, *supra* note 273, at 801; SB 1052, 2016.
280. Mendoza, *supra* note 273, at 801; SB 1052, 2016.
281. *Compare Miranda*, 384 U.S. at 467, *with* SB 1052, 2016.
282. *Miranda*, 384 U.S. at 467.
283. SB 1052, 2016 Leg., 2015–2016 Sess. (Cal. 2016) (as amended on Mar. 28, 2016, but not enacted).
284. *Compare Miranda*, 384 U.S. at 467, *with* New York v. Quarles, 467 U.S. 649, 655–56 (1984).
285. *See* Gallegos v. Colorado, 370 U.S. 49 (1962).
286. *Compare Miranda*, 384 U.S. at 467, *with* SB 1052, 2016.
287. *Infra* Part V.

B. Judicial Reevaluation

The current political tensions in both federal and state legislatures make it unlikely that the above legislative solution will be enacted in states, like California, that have not already taken the initiative.[288] However, courts themselves can take the initiative to reevaluate the current *Miranda* framework and restore *Miranda's* spirit and purpose.[289] Lawyers in every level of the court system, both state and federal, can pressure courts to reexamine *Miranda* and argue that the unique and vulnerable characteristics of juveniles require a modified *Miranda* framework.[290] Recent Supreme Court cases reflect a willingness by the Court to recognize juvenile developmental immaturity and modify legal standards to account for this immaturity.[291] Attorneys can pressure courts to either retract previous cases that substantially changed *Miranda* or to create a separate legal framework for juveniles—"*Miranda II*" for example.[292] This pressure can take several forms.[293]

Courts can require that juveniles consult with an attorney prior to questioning.[294] For example, in *Lewis v. State*, the Supreme Court of Indiana required that juveniles consult with either an adult, guardian, or attorney before deciding to waive their rights if their statements were to be used against them at a trial or at a hearing.[295] There, seventeen-year-old Douglas Lewis was handed a copy of the police department's *Miranda* rights and waiver form, while an officer read it out loud to him.[296] After signing this form, Douglas confessed to an assault and robbery that resulted in a death.[297]

The Court determined that clear rules were needed for efficient police procedure and to protect important constitutional rights and found that the age of a suspect could clearly define these standards.[298] In terms of law enforcement, the court reasoned that police officers should not decide in the heat of an investigation the complex question of whether a waiver is legally sufficient when made by a juvenile.[299] On the juvenile side, the court reasoned that when a juvenile is interrogated it is perhaps the most serious event of his or her young

288. SB 1052, 2016.
289. *Infra* Part V.
290. Lewis v. State, 259 Ind. 431, 439 (1972).
291. *Infra* Part IV.
292. *Infra* Part V.
293. *Infra* Part V.
294. Lewis v. State, 259 Ind. 431, 439 (1972).
295. *Id.*
296. *Id.*
297. *Id.*
298. *Id.*
299. *Id.*

life.[300] Ultimately, the Supreme Court of Indiana concluded that treating juveniles the same as an adult when they waive their constitutional rights would not only be inconsistent with social norms, but also unjust.[301] The court stating the following:

> The concept of establishing different standards for a juvenile is an accepted legal principle since minors generally hold a subordinate and protected status in our legal system. There are legally and socially recognized differences between the presumed responsibility of adults and minors. . . . As a result of this recognition minors are unable to execute a binding contract, unable to convey real property, and unable to marry of their own free will. It would indeed be inconsistent and unjust to hold that one whom the State deems incapable of being able to marry, purchase alcoholic beverages, or even donate their own blood, should be compelled to stand on the same footing as an adult when asked to waive important Fifth and Sixth Amendment rights at a time most critical to him and in an atmosphere most foreign and unfamiliar.[302]

Counsel for a juvenile can use the reasoning of the Indiana Supreme Court to argue that a juvenile's privilege against self-incrimination is violated when they are only given the *Miranda* warnings.[303] This direct pressure can force courts, which are less vulnerable to political influence, to objectively determine if a juvenile's constitutional rights are truly being respected by considering *Miranda*-related comprehension studies.[304]

Although the United States Supreme Court has limited *Miranda* to the federal constitution, state courts may interpret their own constitutions and require a higher standard.[305] For example, the Supreme Court of Vermont, in *In re E. T. C.*, held that under the Vermont State Constitution juveniles can only voluntarily and intelligently waive their right against self-incrimination and the assistance of counsel after they are given an opportunity to consult in private with an informed and genuinely interested adult who is completely independent and disassociated from the prosecution, e.g., a parent or an attorney.[306] In *E. T. C.*, a fourteen-year-old was suspected of breaking into two condominiums with two friends located

300. *Lewis*, 259 Ind. at 439 (questioning "whether any child falling under the legally defined age of a juvenile and confronted in such a setting can be said to be able to voluntarily, and willingly waive those most important rights").

301. *Id.*, *superseded and modified by* the Indiana Legislature under Ind. Code Ann. § 31-32-5-1.

302. *Id.*, *superseded and modified by* the Indiana Legislature under IND. CODE ANN. § 31-32-5-1.

303. *Id.*

304. *Id.*

305. In re E. T. C., 141 Vt. 375, 378 (1982).

306. *Id.*

across the highway from their group home.[307] Two officers questioned the juvenile in the group home director's office and read the *Miranda* warnings.[308] The director claimed he acted as the juvenile's guardian even though he arranged the interrogation.[309]

The court recognized that a juvenile cannot choose among the several options of legal action without the advice of an adult and adopted the same reasoning as the Supreme Court of Indiana.[310] The court strictly applied the "genuinely interested adult" requirement and found that the director did not satisfy this standard even though he was present because "he was not paying attention . . . [n]or did the director independently consult with the juvenile or ascertain if the juvenile understood the alternatives open to him[,] . . . [and] the director coerced the juvenile by implying it was best to 'come clean'. . . ."[311] Counsel for a juvenile defendant can argue that their own state constitution requires more than what the current *Miranda* framework requires.[312] Using the same reasoning as the Vermont Supreme Court, counsel can argue that under their state constitution juveniles can only intelligently and voluntarily waive their rights when they are assisted by an adult or an attorney.[313] The "genuinely interested adult" model can provide a foundation for the court to determine if such a requirement is necessary given that juveniles fail to generally understand the *Miranda* warnings.[314]

Also, courts may create a per se rule of exclusion for juvenile statements and only allow for this per se rule to be overcome after the prosecution has satisfied strict requirements.[315] For example, the Supreme Court of Kansas, in the *Matter of B.M.B.*, created a per se rule of exclusion for statements made by juveniles under the age of fourteen.[316] There, an officer questioned ten-year-old B.M.B. about an alleged rape and persisted until he confessed.[317] This per se rule can only be overcome if the prosecution can show that the juvenile was given an opportunity to consult with his parent, guardian, or attorney and both were advised of the juvenile's right to an attorney and to remain silent.[318] Similarly, the Supreme Court of Pennsylvania,[319] and district and appellate courts in Georgia

307. *Id.*
308. *Id.*
309. *Id.*
310. *Id.*
311. *In re* E. T. C., 141 Vt. at 378.
312. *Id.*
313. *Id.*
314. *Id.*
315. In re B.M.B., 264 Kan. 417 (1998).
316. *Id.*
317. *Id.*
318. *Id.*
319. Commonwealth v. Smith, 472 Pa. 492 (1977).

and Florida,[320] have taken this same initiative. The court in the *Matter of B.M.B.* reasoned that the trial court applied a superficial application of the totality of the circumstances approach when it treated the defendant like an adult and found that approach insufficient to ensure that a juvenile truly made an intelligent and knowing waiver of his or her rights.[321] Counsel for a juvenile can argue that a per se rule should be adopted in their state courts because the application of the totality of the circumstances standard to juveniles has been superficially applied by the courts and a true evaluation of the unique characteristics of juveniles has been neglected.[322]

Additionally, courts may mix a per se rule and a general requirement depending on the age of the juvenile.[323] The Supreme Judicial Court of Massachusetts, in *Commonwealth v. Smith*, created a mixed approach to a per se rule, placing certain requirements depending on the juvenile's age.[324] There, a juvenile's waiver is considered per se inadmissible if they are under the age of fourteen unless a parent or an interested adult was present, understood the juveniles rights, and had the opportunity to explain them to the juvenile.[325] Alternatively, juveniles ages 14 to 17 must also be given this opportunity but a waiver may still be valid without it if "the circumstances . . . demonstrate a high degree of intelligence, experience, knowledge, or sophistication on the part of the juvenile."[326] Such an approach creates a spectrum of standards that changes as the juvenile's ability to comprehend their *Miranda* rights increases.[327] Counsel for a juvenile can argue for this middle-ground approach to establish a per se rule for younger juveniles and only a strict requirement for further developed juveniles.[328]

Pressuring courts to determine if juveniles can meaningfully waive their *Miranda* rights in light of developmental and cognitive studies, can encourage

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320. Freeman v. Wilcox, 119 Ga.App. 325 (1969), *overruled by* Riley v. State, 237 Ga. 124 (1976); J.E.S. v. State, 366 So.2d 538 (Fla.Dist.Ct.App.1979).

321. *In re* B.M.B., 264 Kan. at 417; *see also* In re K.W.B., 500 S.W.2d 275, 281–82 (Mo.Ct.App.1973) (rejecting the application of the totality of the circumstances test); *In re* Joshua David C., 116 Md. App. 580 (1997); *In re* Michael B., 149 Cal. App. 3d 1073 (Ct.Ct.App. 1983); Commonwealth v. Nga Truong, 28 Mass. L. Rep. 223 (2011).

322. *In re* B.M.B., 264 Kan. at 417.

323. *Smith*, 471 Mass. at 161.

324. *Id.*

325. *Id.*

326. Commonwealth v. A Juvenile (No. 1), 389 Mass. 128 (1983):

> This procedure reflects our assumption that an informed parent, or person standing in loco parentis, will be better able to understand the child's rights, rights which a child of such tender years is unlikely to comprehend fully without the assistance of such a person. For cases involving a juvenile who has reached the age of fourteen, there should ordinarily be a meaningful consultation with the parent, interested adult, or attorney to ensure that the waiver is knowing and intelligent.

327. *Infra* Part IV.

328. *Smith*, 471 Mass. at 161.

courts to take the initiative to truly protect juveniles during inherently coercive interrogations.[329] *Miranda* is a court-created doctrine, thus courts can modify *Miranda* and restore its purpose and spirit.[330]

VI. CONCLUSION

Constitutional rights are fundamental to our freedom.[331] Each person, whether young or old, must be entitled to exercise these rights when they matter most to them.[332] The Supreme Court in *Miranda* attempted to ensure a suspect could exercise these rights by crafting a bright-line rule that applies to all suspects.[333] However, the *Miranda* warnings and the framework currently in place fail juveniles.[334] Generally, juveniles do not understand what these warnings guarantee.[335] They do not have the communication skills required to invoke these rights, and officers take advantage of this disparity to secure a juvenile's waiver and a confession.[336]

All people deserve the rights guaranteed in our Constitution.[337] The unique characteristics of a juvenile demands that a change be made today.[338] Police can no longer provide ritualistic *Miranda* warnings that mean nothing to a juvenile.[339] Either legislative or judicial action is needed to ensure that juveniles enjoy the same rights we all enjoy under the Constitution.[340]

329. *Infra* Part V.
330. *Infra* Part V.
331. U.S. CONST. pmbl.
332. *Id.*
333. Miranda v. Arizona, 384 U.S. 436, 467 (1966).
334. *Infra* Part III.
335. *Infra* Part II.
336. *Infra* Part III.
337. U.S. CONST. pmbl.
338. *Infra* Part IV.
339. *Infra* Part IV.
340. *Infra* Part V.