Police Interrogation of Juvenile Offenders:
The Legal and Psychological Consequences

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Distinguished Majors Thesis

University of Virginia

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The increased visibility of juvenile crime in the media over the past decade has led to a revival of concern over juvenile offenders, and has prompted many suggestions regarding their culpability and subsequent punishments. When shown the disturbing images of teenagers killing their peers at Columbine High School, a six-year-old boy killing a six-year-old girl in Michigan, and other incidents of school violence across the nation, it is hard to resist the impulse of holding these child murderers accountable just as we would an adult. Indeed, the public perception of the juvenile offender of today seems more angry, violent, and destructive than those of previous generations. It is, however, important to realize that children are presently 100 times more likely to be killed in their own home than at school (N.D. Reppucci, personal communication, April 17, 2000.) Many lawyers, teachers, and researchers have been unable to offer a perfect solution to solve the perceived rampage of school shootings, and other acts of teenage crime. The original juvenile court system does not, at first, seem capable of providing treatment and rehabilitation for those children already indoctrinated into such violence and despair. Thus, several commentators have advocated the abolition of the juvenile justice system altogether, in favor of adult criminal prosecution for these children, some as young as 7 or 8 years old (Dawson, 1990; Feld, 1999).

However, the answer is more complicated than that. To try a juvenile as an adult is to implicitly assume that almost all juveniles meet any standard of maturity an adult would meet (Scott & Grisso, 1997). Can a young child understand the proceedings of the criminal court, let alone contribute to his own defense? And during the first interrogation following arrest, is a child of 13 able to comprehend his Miranda rights, and subsequently be judged competent to waive them? These are some of the issues this paper will address. The legal system has introduced innovative safeguards for alleged child victims of sexual abuse, presumably to protect them from the trauma of testifying in adult court, and yet these same protections (such as testifying behind
screens or via closed-circuit television) are not given to juvenile suspects, though their situation is arguably equally or more stressful. Ultimately, however tempting it may be to try violent juveniles as adults, trials of children within the adult criminal system are wrought with problems and iniquities. From initial confessions gained from children who are neither represented by counsel nor their parents, to subsequent court procedures they do not understand, it is doubtful that these proceedings consistently result in obtaining the truth.

In this paper, we will first examine the history and original intentions of the juvenile justice system, noting how it has evolved to its present state. We then discuss some important cognitive and social differences between adolescents and adults, including adolescents' less developed abilities to perceive long-term consequences of their actions, their perceptions of risk, and the greater ease with which they are susceptible to leading or coercive questioning tactics. Next, research on children's abilities to understand Miranda warnings during interrogation is discussed, followed by an analysis of interrogation practices used by police in their dealings with juveniles. The following section deals with the accuracy of information likely to result from the interrogation of a young suspect. How and to what extent are their "confessions" influenced by repeated questions, coercive tactics, police officers' preconceived theories about the crime, and more. We then analyze issues of adjudicative competence as they pertain to interrogations, and how research on child witnesses provides insight into the types of questioning that should be used during interrogations of juveniles. Finally, some policy recommendations are offered regarding how best to alter the system to make interrogation practices more fair for the child and how to obtain the most reliable and truthful testimony from these interrogations.
Historical Overview of the Juvenile Court

The Origins of the Juvenile Court

Progressive reformers established the beginnings of the juvenile court at the turn of the 20th century. In 1899, the Illinois Juvenile Court Act created the first separate, structured juvenile court in the United States. The general purpose of the court was to rehabilitate and treat young offenders, not to punish them (Kotlowitz, 1999). It operated under the assumption that the goals of the state and the best interests of the juvenile were the same (Small, 1997). The state, as parens patriae, acted on behalf of the children and offered treatment until the children could overcome their prior mistakes and develop the cultural sense of morality at the time (Small, 1997). The original proceedings were conducted quite differently from adult proceedings, with only rare appearances by attorneys, judges with little or no formal training, and closed court dates with sealed records to avoid stigmatizing the child (Scott & Grisso, 1997; Small, 1997). Rather than determining guilt, the court conducted a fact-finding stage called the "adjudication" of delinquency, and a sentencing phase called the "disposition," while most cases were diverted into treatment and outside therapy sometime before the sentencing (Small, 1997). The rehabilitative model of justice assumed the immaturity of juvenile offenders, with different resulting needs and capacities, warranting confidential procedures, separation from the corrupting influences of adult criminals, and different correctional opportunities (Scott & Grisso, 1997). By 1925, virtually every state had enacted some sort of separate judicial system for juveniles and adults (Dawson, 1990).

Reforms of the 1960's and 1970's

Beginning in the 1960's and 1970's, several Supreme Court rulings clarified and restructured the philosophy of the juvenile court. In Kent v. United States (1966), the Supreme
Court mandated due process be given to juveniles in waiver hearings (Feld, 1987). In re Gault (1967) arguably resulted in the most drastic change in the court. In Gault, the Court characterized the juvenile court as arbitrary, ineffective, and founded on questionable assumptions, and resulted in more rights being afforded to juveniles, as they are in adult court (Small, 1997). States were now required to provide children with rights to counsel, to written notice of the charges against them, and the right against self-incrimination. These rights were furthered by a string of subsequent cases, such as In re Winship (1970), which sets the standard of proof as "beyond a reasonable doubt" to find a juvenile guilty, and Breed v. Jones (1975), which held that the Fifth Amendment protection against double jeopardy should be given to a juvenile being tried in criminal court after already being tried in juvenile court. However, in McKeiver v. Pennsylvania (1971), the Court denied juveniles the right to a trial by jury, expressing instead their hopes that the rehabilitative system would work in the treatment of juveniles.

In response to the demands for due process and legal rights and procedures, the juvenile court system became steadily more punitive (Dawson, 1990). This was a time when rising crime rates and changing conceptions of childhood prompted blame for increased juvenile crime to be placed on the juvenile justice system (Fritsch & Hemmens, 1995). Its leniency and discretionary powers in sentencing were incompatible with society's view that children should be held more accountable for their actions, and thus the juvenile court began to focus on longer and more punitive sentences and transfers of older juveniles to adult court (Fritsch & Hemmens, 1995).

In spite of the demands for retribution to be incorporated into the system, the juvenile court continued to retain rehabilitative goals for non-violent, status offenders. The Juvenile Delinquency Prevention and Control Act of 1968 charged that status offenders should be handled outside the formalized legal structure of the court. Likewise, the Juvenile Justice and
Delinquency Prevention Act of 1974 called for the decriminalization of status offenders, supported keeping juveniles in separate detention centers from adult criminals, and the furthering of juvenile treatment centers offering non-punitive alternatives for correction. Even in a time when children were being held more accountable for their actions and punished for their crimes, legislators and court officials maintained the view that children differed from adults in their amenability to treatment and their capacity to understand court procedures, and should be sentenced differently from adults.

**Demands of the Modern Juvenile Court**

In the past few decades, violence by children has been showcased in the media and the juvenile court of old has been targeted for change. Despite the relatively small numbers of violent juveniles, the public perceives them as a major threat to public safety (Rudman, Hartstone, Fagan, & Moore, 1986). By the early 1980’s, urban gangs had developed and used much more violence than mere fistfights and shoplifting, prompting many to reconsider the value of trying juveniles as adults (Kotlowitz, 1999). Alarmed by the viciousness of juvenile offenders, states began to write automatic transfer laws, making offenders over a certain age (usually 15 or 16 years) automatically sent to criminal court to be tried as adults (Kotlowitz, 1999). By 1998, every state had such a law, making it easier, and often routine, to try “violent” youths as adults (Kotlowitz, 1999). In some states, children of any age can be prosecuted, and in others, children can be criminally prosecuted for even non-violent offenses such as shoplifting or fish and game violations (Kotlowitz, 1999). According to government statistics, the majority of transferred cases are those involving drug and property violations (N.D. Reppucci, personal communication, April 17, 2000).

As public opinion has shifted in an outcry over the recent showings of teen violence, the special protections guaranteed by the original juvenile court have been considerably eroded. By
1994, according to one Gallup poll, 68% of Americans believed all violent teen offenders should be tried as adults. Their fears have been based on certain alarming statistics: for instance, from 1965-early 1990's, the number of minors arrested for violent felonies tripled. However, this perception does not reflect the fact that since 1994, violent crime has been decreasing (Kotlowitz, 1999; Reppucci, 1999). In the early 1980's the number of minors sent to prison went up dramatically, by as much as 113% in Chicago, Illinois (Kotlowitz, 1999). This may correspond with the fact that violent crimes, such as homicide, have increased in the past few years only when guns were used, and largely in connection with the proliferation of crack and other illegal drugs in inner city, urban areas (Reppucci, 1999). There is no question that the juvenile court has ceased to provide the protections for teen offenders that it once did. However, is the solution to this problem to remove all youthful offenders to adult court?

Indeed, as Dawson (1990) points out, "the legal differences between the juvenile and criminal systems are now narrower than they have been at any point in our history since the juvenile system was created" (p. 138). However, this very fact in itself should be cause for concern. The juvenile system has never provided specific instructions regarding the handling of children under 18 in the interrogations, detentions, and trial proceedings of the legal system (Dawson, 1990). As such, when a child is tried as an adult, the child is given the exact same Miranda warnings, waivers of rights, and questioning tactics during his interrogation that police would employ in an interrogation with an adult. The question remains: do we now expect children to have the same cognitive capacities, appreciation of consequences, and understandings of the criminal court that adults twice their age have? If our legal system continues to try minors under the rules of the adult court, it must begin to take into account the diminished capacities of children to function in the adult setting and must reform itself to accommodate these differences.
Otherwise, continuing to interrogate children without regard to their age and circumstances will continue to elicit questionable confessions, half-truths, and unjust trials.

Developmental Differences Between Adolescents and Adults

Developmental Maturity

The juvenile court has assumed, historically, that minors are more impulsive, have less self-control, focus more on immediate than long-term consequences for their actions, and engage in more risk-taking behaviors, compared to adults (Grisso, 1996; Scott & Grisso, 1997; Scott, Reppucci, & Woolard, 1995; Steinberg & Cauffman, 1996). However, recent trends show that contrary to popular belief, adolescents tried and sentenced as adults for violent crimes are being convicted at the same rates as adults, and given comparable sentences, rather than lighter ones (Grisso, 1996; Scott & Grisso, 1997). Recent data from Virginia suggests that convicted adolescents’ jail sentences are an average of 2.8 years longer than adults’ sentences for comparable crimes (N.D. Reppucci, personal communication, April 17, 2000). It is therefore relevant to examine whether adolescents should be held to the same culpability standard as adults.

It is first necessary to look at criminal activity during adolescence in a developmental framework. Many studies show that adolescents engage in criminal activity during their teenage years, but then engage in precipitously less criminal activity by the age of 18 (Ainsworth, 1991; Scott & Grisso, 1997, Steinberg & Cauffman, 1996). Indeed, Scott & Grisso (1997) found male involvement in delinquent acts to be so common as to be considered “a normal part of teen life” (p. 154). Although this and other studies make a distinction between “adolescence-limited” delinquency and the more rare “life-course-persistent” delinquency, automatic transfer laws sending teenagers to adult court do not make this distinction, and treat even non-recidivist offenders as adult criminals through their system (Scott & Grisso, 1997). It is argued that
immature judgment may contribute to adolescents' decisions about whether and to what extent to engage in criminal activity at all.

Adolescent Decision-Making

Grisso (1981) concluded that young adolescents and adults differ substantially in their decision-making capacities. This is especially important in terms of adolescent decision-making during police interrogations. Steinberg & Cauffman (1996) report that individuals of any age are influenced in decision-making by stress and mood state. They further acknowledge that people under stress can be hypervigilant, leading them to make faulty and disorganized decisions in situations salient to their lives. Adolescents age 15 and older experience more extreme and volatile mood states, and are less predictable and constant in their decision making, and are more controlled by impulse than either younger children or adults (Steinberg & Cauffman, 1996).

Others argue that a distinction should be made between the decision-making and reasoning capabilities of adolescents 16 years and younger, and those 17 years and older (Reppucci, 1999; Steinberg & Cauffman, 1996). In addition, Steinberg & Cauffman (1996) noted that adolescent judgment often lacks the same appreciation of long-term consequences that adult decision making takes into account. This limited ability to consider long-term consequences may be due to a lack of experience, uncertainty about the future, or even an expectancy among some inner city males that they may not live to reach adulthood (Reppucci, 1999). Thus, when faced with an interrogation, especially without the aid of parents or legal counsel, most adolescents are probably less equipped to make judgments and decisions about waiving their right to silence based on these factors.
The Effects of Perceptions of Risk and Stress on Adolescent Decisions

Adolescents may perceive risk differently than do adults. The fact that adolescents have been shown to engage in more high-risk behaviors, such as drug use and unprotected sex, than adults, is one compelling reason to question the maturity of adolescent judgment (Cauffman, Woolard, & Reppucci, 1998). Furthermore, the fact that their participation in these types of risky behaviors declines with age also supports the notion that an individual’s judgment becomes more mature during the transition to adulthood (Cauffman, et al., 1998). Perhaps this is because adolescents feel more “immortal” than adults, do not perceive risks as being as serious as adults do, or value the probability of a negative outcome differently than adults (Scott & Grisso, 1997). Indeed, adolescents appear to place more emphasis on the negative consequences in the eyes of their peers for not engaging in risky behavior than do adults (Reppucci, 1999).

It is also simply harder for a child or adolescent to comprehend the consequences several years from now of something like engaging in a crime or confessing to the police, given their fewer life experiences (Grisso, 1996; Scott & Grisso, 1997). Adolescents may be less able to control their impulses than adults, leading to a greater willingness to take risks (Reppucci, 1999; Steinberg & Cauffman, 1996). In addition to being more willing to take risks, adolescents may be unaware of the magnitude of the risks they take, or may not be able to calculate the probability of consequences to their behavior (Reppucci, 1999). Even those adolescents who have prior criminal experience or have more adult-like cognitive capacities may not consistently employ skills learned from those experiences in problem-solving situations, especially stressful ones (Janis, 1982). In the realm of health-care decisions, many states have laws requiring parental consent for medical procedures and abortions for minors. Why is it that we do not allow our teenagers to
make health care decisions, participate in research, decide for themselves to get tattoos, buy cigarettes, or vote, but we allow them in many cases to decide (without adult assistance) to waive their legal rights and to be questioned by police as suspects without parental consent?

In addition, virtually no research has been done on the decision-making abilities of adolescents with lower IQ scores, from low socio-economic status backgrounds, or with cultural characteristics typical of juvenile delinquent populations (Grisso, 1996). It is reasonable to assume that such teenagers would be operating with a very distinct world view, and particular stressors that are more likely to affect minors than adults (Grisso, 1996; Reppucci, 1999). For instance, Bell (1991) found that urban youths who murder often believe there is no future to consider, producing a tendency to discount the future when making decisions and dealing with the police. It is unlikely that legislators take this into account when constructing mandatory laws that treat adolescents like adult criminals. And it is equally likely that juvenile offenders bring these types of decision-making biases into a stressful interrogation procedure.

In conclusion, there may be developmental issues with respect to children that are not captured by traditional adult assessments of competence, and are largely unaccounted for in the ways police conduct interrogations (Cauffman, et al., 1998). Given that adolescents’ decision-making abilities are less fully developed than adults’, the reasonableness of using adult court proceedings and sentencing guidelines is questionable (Cauffman, et al., 1998). The juvenile system was designed to reflect these differences in developmental and cognitive capacities, judgment, and decision-making, but the adult system has not come up with guidelines that take these differences into account (Cauffman, et al., 1998).
Juveniles’ Understanding of Miranda Warnings During Interrogations

Before an interrogation can begin, the suspect must first be read his rights. Interrogation practices with respect to juveniles almost always result in a waiver of their rights to silence and to be represented by counsel during interrogation (Grisso, 1986). Grisso (1986) found that the rate of refusal to waive Miranda rights when asked to do so by police was only 9% of juveniles, compared to 42% of adults. Other studies have confirmed that children are up to twice as likely to waive their right to silence as adults (Cauffman, et al., 1998). Evidence does indicate that while parents were present at most of these interrogations, very few parents explained the Miranda warnings to their children or advised them on how to proceed (Grisso, 1981). Thus, the issue of whether juveniles understand their rights, and whether juveniles should be judged competent to waive their rights prior to questioning remains of importance.

Currently, no states have per se rules regarding waivers based on characteristics of the suspect alone, though some states consider all children automatically incompetent to waive rights without assistance (Grisso, 1986). In many jurisdictions, the presence of a parent at interrogation does not automatically make the waiver valid - for instance, a child’s waiver could still be judged invalid if the child did not understand the Miranda warnings. In general, suspects 12 years old and younger are usually considered unable to understand their Miranda warnings; cases for 13-15 year olds are varied; and waivers in the cases of 16 year olds and above are more often considered valid (Grisso, 1986).

There are many reasons why juveniles are more likely to waive their Miranda rights. One possible reason is that juveniles fail to understand the wording or intent of the warning. Grisso (1981) conducted an investigation of juveniles’ understanding of the warnings, using delinquent
juveniles and criminal adults, and found surprising results. He found that minors 15 years old and older of normal intelligence were able to understand their rights as well as adults, but adolescents age 14 and under could not. He also found this result held only for adolescents and adults of average intelligence - those with below average intelligence did not perform as well as adults with below average IQ scores (Grisso, 1981). Furthermore, juveniles with several prior referrals by police showed no greater comprehension of the Miranda rights than juveniles with no prior contact, though they presumably had been read their rights on each prior occasion (Grisso, 1981).

Grisso (1986) asserts that perhaps these juveniles failed to understand the basic definition of a "right" as an "entitlement," and suggested that younger adolescents are not as well-equipped to form abstractions as adults and older adolescents. Or, it is possible that adolescents feel that although they are entitled to remain silent, and perhaps should do so, the presence of the police as an authority figure trumps that entitlement, especially in cases of adolescents with below average IQ scores. (Grisso, 1986)

Studies of adults with below average intelligence have similar findings. Danto (1982) studied Miranda warning comprehension in adults of below average intelligence, and found that simply reading the warning and asking if the suspect understood the rights and wishes to proceed anyway is not enough to ensure the suspect's comprehension. Before accepting a waiver of rights from a suspect, he believes police officers should ask questions to assess education level, literacy, learning disability, medication or alcohol ingested prior to arrest, and prior contact with the police (Danto, 1982). A study by Fulero and Everington (1995) examined Miranda comprehension in slightly mentally retarded adults. They found that those with lower IQ scores and less contact with the justice system had lower scores on Grisso's Miranda Rights and Miranda Vocabulary
Comprehension Scales (designed to measure comprehension of certain words in the Miranda warning and the concepts behind the Miranda warning).

Interestingly, it was decided by a panel of lawyers and psychologists in one Grisso study that knowing and voluntary waiver of Miranda rights would depend not just on comprehension of the wording, but on the juvenile’s “perceptions of the intended functions of the Miranda rights,” and “the perceptions of the probable consequences of decisions” to waive their rights (Grisso, 1981). Although a juvenile may possess an understanding of the warning itself, he/she may be unequipped to consider his/her rights in the context of a police interrogation or in terms of the impact the interrogation will have on later court proceedings (Grisso, 1986). Certainly, retaining the right to have an attorney present requires some understanding of what an attorney does and how he/she can help during an interrogation (Grisso, 1986). The Miranda rights can only be properly understood if one correctly perceives the nature and purpose of an interrogation and trial, which juveniles may not.

In addition, juvenile suspects often waive their rights and then confess to a crime for questionable reasons. Such a confession may be based primarily on a desire to avoid spending the night in jail, due to a lack of understanding of long-term consequences, or solely based on a police officer’s reconstruction of events (Grisso, 1986). Also, as discussed in a later section of this paper, individuals differ in their resistance to suggestions posed by authority figures or social consensus (Crutchfield, 1955). So juveniles’ confessions may, in fact, be prompted by outside circumstances, and may not always be completely truthful, especially if the initial Miranda warnings are not understood. It is important to take great care in assessing an adolescent’s understanding of his rights and the consequences of waiving them before proceeding to take a statement that may be influenced by factors other than simply telling the truth.
Interrogation Practices

Historical Trends in Interrogation Tactics

The purpose of interrogations is to elicit incriminating admissions and statements from criminal suspects (Leo, 1994). However, police interrogation tactics have evolved from brute force and physical coercion (prior to *Miranda v. Arizona*, 1966) to more specialized psychological persuasion tactics (Leo, 1994). In the past 40 years, police forces have come to condemn physical force during interrogations, if only because they have met with greater success eliciting confessions with the new psychological methods (Leo, 1994).

Contemporary Interrogation Strategies

The contemporary strategies are more successful because they rely on subtle, yet complete control of the suspect during the interrogation (Leo, 1994). Interrogators control the environment by leaving the suspect alone in the interrogation room for long stretches of time; controlling the tempo and type of questioning; and manipulating, shaming, or even lying to the suspect to get a confession (Kaci, 1988; Leo, 1994). The interrogator attempts to create a state of mind for the suspect in which he feels emotionally compelled to disclose incriminating information and cooperate with the interrogator’s requests (Aronson, 1992). Interrogation training manuals encourage playing on the suspect’s needs for approval and validation while subtly manipulating the suspect into confessing to the crime (Leo, 1994). Not only is lying accepted in the context of gaining a confession, deception is also used with parents of juvenile suspects in order to get permission to interrogate the child alone (Kaci, 1988; Leo, 1994).

Other interrogation strategies involve maximizing the suspect’s anxiety, complimenting the suspect, and prolonging pressure on their emotions and cognitive capacities (Leo, 1994). To the extent that the suspect cooperates, he is praised and offered food or privileges, but police often
interpret a juvenile's reluctance to talk or refusal to waive Miranda rights as a sign of insubordination that requires a more stern response (Grisso, 1981; Leo, 1994). Interrogators also commonly exaggerate the evidence against a suspect, provide the suspect with false information about his guilt, and even assert that physical evidence such as blood or fingerprints has incriminated the suspect (Leo, 1994). All of this is meant to obtain a confession from an adult, yet studies have shown that this type of suggestive and leading questioning presents particular problems in the interrogation of juveniles, as will be discussed later (Ceci, 1994).

Offenders' Reasons for Confessing

Sigurdsson & Gudjonsson (1994) studied adult prisoners in Iceland, and compiled their reasons for confessing during police interrogations. They found the confession rate among the prisoners to be very high (92%), with many reasons for confessing. The most common reason for confessing was their perception that there was strong evidence against them, and therefore there was no point in denying the offense (Sigurdsson & Gudjonsson, 1994). Other reasons for confession included the desire to protect someone else, and the desire to leave the interrogation sooner (Sigurdsson & Gudjonsson, 1994). These adults confessed in spite of knowing the legal consequences of confessions, were more likely to do so while under the effects of alcohol or drugs, and less likely to do so when represented by counsel at the interrogation (Gudjonsson & Sigurdsson, 1999; Pearse, Gudjonsson, Clare, & Rutter, 1998). Other research has acknowledged that these reasons for confessing and reactions to the inherent pressures of interrogation would be enhanced for juveniles (Grisso, 1981; Ruback & Vardaman, 1997).

Interrogations of Juveniles

Juveniles are questioned at all stages of the adjudication process, from the initial police encounter, to the actual interrogation itself (Grisso, 1981). Questioning often comes from social
workers, parents, police officers, juvenile court judges, and others besides the actual
interrogators, and much of it takes place prior to being read the juvenile’s Miranda rights (Grisso,
1981; Ruback & Vardaman, 1997). The law offers little answer regarding whether and how these
eyear statements should be made admissible, and their admissibility varies by circumstance and
jurisdiction. However, questioning of juveniles remains a controversial issue, as the Supreme
Court’s ruling in Miranda applies only to custodial interrogations. Therefore, juveniles’
confessions are valid when offered freely prior to being read the Miranda warning, a circumstance
rare with adult suspects (who are mirandized immediately upon arrest) (Grisso, 1981). Juvenile
interrogation is not a rare event - in fact, it is a common practice, which affects thousands of
juveniles nationally each year (Ruback & Vardaman, 1997).

The basic tactics of contemporary interrogation, when applied to juveniles, can be
catastrophic for the future of their case. In many jurisdictions, a juvenile can be questioned
without parental consent, if the parents fail to present themselves at the police station after police
make a “reasonable effort” to contact them (Grisso, 1981; Kotlowitz, 1999). It is often claimed
that questioning juveniles in a police station is inherently coercive, due to the stress of the
situation and the authoritative role of police (Grisso, 1981; Ruback & Vardaman, 1997). In
addition, most police manuals encourage police to show juveniles an interest in their welfare, to
courage the juvenile to cooperate, and to make statements and promises to encourage their
cooperation with the questions (Grisso, 1981).

In a publicized case of two young boys, ages 7 and 8, who were charged with murder, one
can see the effects of a police interrogation on their stories. The two boys were brought to the
police station, and their parents were told that they just needed the boys to identify some pictures
and help answer some questions (Kotlowitz, 1999). After obtaining permission to interview the
boys alone, the detectives brought them Happy Meals, held their hands, told them "good boys only tell the truth," and told the boys they could be their friends if they told the truth (Kotlowitz, 1999). They prompted them with information about the case, and after over three hours of questioning, during which the boys changed their story several times, got the boys to change their original denial of involvement to a confession to murdering an 11-year-old girl (Kotlowitz, 1999). When Thomas Grisso read the story in the New Yorker, he thought the interrogation was not likely to produce an undistorted version of the truth (Kotlowitz, 1999). He said this interrogation "heightened their feeling that they need to comply with what it is the authority figure wants to hear or what they think he wants to hear," (p. 48). Stephen Ceci added, "It's not just important to write down what the kid ultimately tells you. It's equally important how many times he was asked it and denied it before he finally assented, and what the emotional atmospherics were," (p.48).

Although children may confess in order to please an adult, or because they feel the adult will be supportive of them, studies show harsh treatment of those juveniles who do confess. Ruback and Vardaman's 1997 study of over 2,000 adjudications in Georgia found that juveniles who admitted committing an offense were treated and sentenced more harshly than those who denied involvement. It is suggested that police often solicit "easy" confessions from juveniles in order to maintain a good arrest:conviction ratio (Ruback & Vardaman, 1997). Other studies have shown that of juveniles tried as adults, the juveniles were found guilty of their offenses just as often as adult offenders, and sentenced to comparable or harsher prison sentences in adult facilities (Grisso, 1986; N.D. Reppucci, personal communication, April 17, 2000).

What, if any safeguards are in place to protect juvenile suspects during interrogations? The most frequent safeguard used by the justice system is the presence of an adult advocate to
supervise waiver decisions. However, once the right to silence has been waived, police may question the juvenile alone, thereby defeating the purpose of having a parent at the police station to provide advice (Grisso, 1981). Though In re Gault (1967) prescribed the need for the presence of an adult advocate during pretrial proceedings, this suggestion has largely not been adopted. At present, only Connecticut requires that an attorney be present at interrogations in order for them to be considered valid (Grisso, 1981).

When present, parents are often misinformed about the nature or purpose of the interrogation, and have even less appreciation of their child’s legal rights, as was the case for the 7 and 8 year old murder suspects. Though Grisso’s (1981) study showed 66-74% of parents believed juveniles should be entitled to the same protections as adult criminals, only 20% said they would advise their child to withhold information from the police when suspected of a crime. The same study also found that, when present, the majority of parents silently observed the interrogation, seeking no clarification from police and offering no suggestions to their child. A maximum of 50% of the parents suggested seeking legal assistance during the interrogation, a figure higher than other studies have shown (Grisso, 1981). There are also loopholes that allow states to question juveniles without parent involvement. For instance, Illinois allows questioning to take place with the permission of a “youth investigator” from the police department rather than with permission from the child’s parents (Kotlowitz, 1999).

The Effects of Suggestive Questioning on Juvenile Interrogations

Just as child witness testimony is affected by leading or repeated questions, children’s statements during an interrogation can be influenced by the interrogator. Children are less likely to be able to separate their original story from the later suggestions of others when they are questioned (Dunn, 1995). In particular, children may be more susceptible to suggestion from
those they perceive as authority figures, such as police officers or other adults, than they are to
suggestion from a less imposing interviewer (Dunn, 1995; Ceci, 1994; Ceci & Bruck, 1995).
Studies of adults with below average intelligence have had the same results - these adult
populations are more susceptible to repeat questioning, often changing their stories over time, and
they are much more likely to answer "yes" to a yes/no question than adults of average intelligence
(Fulero & Everington, 1995). In addition, children's testimony is reported by interrogators to
seem more credible as their questioning continues. Perhaps this is because these interrogators
keep repeating the questions until they get the answer they wanted to hear (Ceci & Bruck, 1995;
Pool and White, 1991). Many children initially begin to answer questions haltingly or deny
involvement in a crime, but as the interviewer continues to ask leading questions about events
consistent with his theory of the crime, more and more children cease arguing and accept the
interviewer's hypothesis as correct (Ceci, 1994; Dunn, 1995). Also, Ceci (1994) noticed in an
analysis of interrogation transcripts, when a child suggests something that is not part of the
interviewer's hypothesis, the interviewer skips over it or omits it from the record.
Ceci (1994) asked preschool children to think about specific events which never occurred,
such as getting a finger caught in a mousetrap, or getting lost in a mall, and then asked the
children whether these events had actually happened. 58% of the children produced highly
coherent, false narratives indicating that they had participated in these events, and 25% of children
produced false narratives for the majority of the scenarios. Ceci described this phenomenon as
cryptomnesia, or the unwitting incorporation of another person's idea as your own. Ceci (1994)
concluded that the children honestly believed these events occurred as the interviewer told the
children they did, and felt they were telling the interviewer the truth. He also concluded, on a
review of children's responses to questioning in child sex abuse cases, that school-age children
can be persuaded to give false narratives of intimate bodily touching if questioned in an intimidating setting by an authority figure (Ceci, 1994).

Even when the courts realize that a child’s admission of guilt was extracted only after extended interviews, or that the confession was obtained by leading questions, it is often admissible as evidence (Ceci, 1994; Ceci & Bruck, 1995; Dunn, 1995). Even though a court would not accept a story from a child witness that changed every time he told it, nor accept information gained from a witness using leading questions, courts often see confessions obtained in these ways from juvenile suspects as admissible evidence, since “admissions against interest” are an exception to the hearsay rule. Most states provide neither special safeguards to protect juveniles from the consequences of their developmental immaturity in adult court nor special training to understand their adult-like protections (Feld, 1993).

The Effects of Interviewer Bias on Interrogations

Many interviewers realize that when children are provided with additional prompting, their accounts of an event become more complete (Sutherland, Gross, & Hayne, 1996). Any police officer investigating a crime has a theory about how the crime occurred, and a bias to want to confirm that theory, and even a conscious effort not to suggest that to the child often falls short (Dunn, 1995). Dent (1982) found that interviewers with a theory about how an event occurred adopted a more suggestive interview style and were less willing to accept responses that contradicted the theory. Even when a child’s testimony is accurate, adults may misinterpret the child’s statement, based on the preconceived notions they have (Sutherland, Gross, & Hayne, 1996).

For instance, Sutherland et al (1996) studied adults’ ability to understand young children’s accounts of an event. Adults were given transcripts of an interview with both a 3 year old and a 6
year old, and asked to determine as much as possible about the event from the transcript. Half of these adults were given a summary of the event the child was describing (informed) and half were not (naïve). Overall, adults were more successful at understanding the narratives of the older children, though naïve adults were more accurate than informed adults. Sutherland et al. (1996) judged that even neutral adults were negatively affected by bringing outside information into a review of the children’s stories. Similarly, Ceci (1994) conducted a study of mothers of preschoolers, to see how accurate they were in recounting their child’s narratives of events. He found that when the mothers interviewed their children about certain events that never occurred, they recorded not only what the children told them, but also unwittingly inserted information from their questions that the child refuted. The bias that even a neutral interrogator brings into the questioning of a child can influence not only what the child ultimately says, but also how the interrogator interprets the child’s statement (Bruck, Ceci, Francoeur, & Barr, 1995).

Issues of Adjudicative Competence

Can Juveniles Effectively Participate in Their Trial Proceedings?

Recent judicial decisions and legislation have granted more independence in decision-making powers to adolescents (Savitsky & Karras, 1984). The Supreme Court has issued decisions entitling adolescents to make their own medical decisions and obtain abortions with or without parental consent, but similar directives have not been issued in the realm of juvenile offenders (Savitsky & Karras, 1984). Along with the “criminalization” of the juvenile court and the automatic transfer laws that allow increasingly younger adolescents to be tried as adults, children are being given a chance to exercise their civil liberties (Savitsky & Karras, 1984). However, these child defendants are expected to measure up to adult standards of adjudicative
competence, expectations that continue to put them at a disadvantage relative to adult defendants (Cruise & Rogers, 1998; Savitsky & Karras, 1984).

Much anecdotal evidence from attorneys who represent juvenile criminal defendants supports the belief that children are not adequately prepared to assist with their own defense. Certainly, police and judges do not provide a crash course for recently arrested juveniles, teaching them about their legal rights, and the meaning of different legal terms (Dunn, 1995). Many child defendants do not understand the consequences of choosing either to continue with a trial or accept a plea bargain, although the majority of criminal cases end in plea bargains (Geraghty, 1997; Rudman, Hartstone, Fagan, & Moore, 1986). This is particularly true of children deciding between making a guilty plea and accepting a harsh jail sentence, and taking a risk by going to trial (Geraghty, 1997). Since over 90% of arrested juveniles waive their rights to silence and ultimately make some sort of confession to police, their available choices often put them between a rock and a hard place (Geraghty, 1997; Grisso, 1981).

There is also evidence that juveniles may not have sufficient basic understanding of the legal system to prepare their own defenses. Cooper (1997) discovered that juveniles in their first institutional placement, having already been through a trial, did not understand the basics of the criminal justice system, nor did they report having participated in preparing their trials. A survey of attorneys who defend juveniles in adult proceedings found that they were concerned about their clients’ abilities to communicate with them and their tendencies to change their stories about the offense after discussing defense strategy (Savitsky & Karras, 1984).

Juvenile defendants also do not understand the long-term consequences of choosing a jury trial, asserts Geraghty (1997). The adult criminal system often gives longer sentences to defendants who go through a jury trial (especially after a confession), something adult defendants
are expected to consider when choosing whether to have a trial (Geraghty, 1997). Similarly, youth transferred to adult court are adjudicated at a high rate for their offenses - their cases almost never result in plea bargains (Rudman et al., 1986). Those considered for transfer who remain in the juvenile court usually receive maximum commitments within the limits of the juvenile system (Rudman et al., 1986). For both of these categories of juvenile offenders, the emphasis is placed on incarceration, rather than rehabilitation (Rudman et al., 1986). In their experience representing juveniles in criminal court, the children do not understand this part of the system, and cannot reasonably be expected to consider it when making legal decisions (Geraghty, 1997; Rudman et al., 1986). If juveniles are less able than adults to take a “self-protecting stance” and to even understand their legal rights, they are at a clear disadvantage in the adult criminal justice system (Ferguson & Douglas, 1970; Savitsky & Karras, 1984).

**Adult Standards of Adjudicative Competence**

The adult standard for competence to stand trial was set by the U.S. Supreme Court in the case *Dusky v. United States* (1960). The standard is “whether (the defendant) has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding - and whether he has a rational as well as factual understanding of the proceedings against him.” *Drope v. Missouri* (1975) expanded this standard, adding that a defendant must also have the capacity to participate in his/her own defense. The courts use the Dusky and Drope standards to judge trial competence, and they are the standards used when juveniles are transferred into adult court (Heilbrun, Hawk, & Tate, 1996; Reppucci, 1999). If a defendant is judged incompetent under either of these standards, the trial cannot proceed (Reppucci, 1999). In a related state case, *In re Causey* (1978) decided that the age of a juvenile defendant may determine competence to stand
trial, concluding that it would be possible for a juvenile to be judged incompetent based on "normal immaturity" alone.

Do Juveniles Meet the Adult Standards of Competence?

The assumption that juveniles tried as adults meet the adult standard of competence is flawed. Cowden & McKee (1995) found that while the majority of adolescents over age 15 met the adult standard of competence, those under 15 did not. And Savitsky & Karras (1984) also found that neither 12 year olds nor 15-17 year olds scored as adults would have on measures of competence and understanding of the criminal justice system. Similarly, Cooper (1997) found that adolescents younger than 13 years did not meet any standard of competence, and neither did adolescents at any age with below average IQ scores or poor educational performance, circumstances common among the juvenile delinquent population.

Grisso (1995) discusses four areas relevant to juvenile trial competence. He found that adolescents under age 15 are deficient in their understandings of the legal system, their belief in how the legal system applied to them, their capacity for communicating with their counsel, and their decision-making processes. Before age 12, young offenders were judged deficient in all areas; while between ages 13-14, there are individual differences in all four areas (Grisso, 1995). Even in juveniles age 15 and older, the development of these capacities may have been hindered by intellectual deficiencies, psychopathology, or learning disabilities, all of which are more common among juvenile delinquents than "normal" adolescents (Grisso, 1995; Heilbrun et al., 1996).
Issues Regarding Child Witnesses

Safeguards for Child Witnesses Testifying in Court

It is virtually universally acknowledged that court appearances are stressful for children, especially when being cross-examined (Carson, 1995). In the British judicial system, after the passage of the Criminal Justice Act of 1991, the principle examinations of children are now presented via closed-circuit television in interviews conducted by social workers or police (Carson, 1995). But in England, there is a sense that these reforms do not go far enough to protect child witnesses from the trauma of a court appearance (Carson, 1995). New legislation proposes special training for attorneys and police to prevent the use of leading questions with juveniles, and to recognize when the situation has become too stressful for the child to continue (Carson, 1995).

In the American judicial system, similar measures have been used to protect children from the stress of testifying in court as witnesses. Many child victims of sexual abuse have testified against their alleged abusers behind screens or through closed-circuit television, with only limited cross-examination being allowed (Geraghty, 1997). One of the reasons for limiting the length and types of cross-examination of children is to protect them from the competitive, combative legal culture that commonly discredits witnesses to “score points” for their client (Geraghty, 1997). Another reason for limiting the types of questions posed to children is that they simply cannot understand legal terminology, and are influenced by both the imposing nature of the courtroom and the challenging way in which the questions are often worded (Perry, McAuliff, Tam, Claycomb, Dostal, & Flanagan, 1995).
Types of Questioning that Confuse Children

Lawyers often walk a fine line in determining which questions are admissible and which are inappropriate, especially when questioning child witnesses. The American Bar Association’s Center on Children and the Law, in 1994, commissioned Anne Graffam Walker to study the types of questions that should not be asked of child witnesses (Walker, 1994). She found the three broad problem areas to be: age-inappropriate vocabulary, complex phrasing, and general ambiguity or leading questions (Walker, 1994). Including such questions in interrogations or courtroom cross-examinations may not elicit reliable testimony from children the way they do from adults (Walker, 1994). Traditionally, defendants, through their counsel, are entitled to challenge a witness’s theory of events, including doing so by challenging testimony with leading and repeated questions (Carson, 1995). Many times, both in interrogations and in trials, cross-examination can be prolonged and involve the use of bullying and intimidating tactics (Carson, 1995). All of these strategies are designed to scare the witness into producing a version of their story consistent with the police or lawyer’s theory (Carson, 1995).

Surveys of adult prisoners have shown that many find the interrogation even more intimidating than the actual trial, since during his trial, the defendant is not compelled to testify (Sigurdsson & Gudjonsson, 1994). This intimidation would be even greater for an adolescent suspect (Leo, 1994). In fact, police interrogation tactics are not controlled by a judge and designed to maximize the intimidation of a suspect, something often considered even more trying for a child than testifying in court (Dunn, 1995; Leo, 1994). It is remarkable that even though the questioning of child witnesses is controlled and limited by the courts, the initial questioning of juvenile suspects is subject to surprisingly few regulations.
Another type of questioning that confuses children is repeated questioning. Many researchers agree that asking children a question a number of times may change their answer over time (Carson, 1995; Ceci, 1994; Dunn, 1995; Grisso, 1996; Leo, 1994). Dunn (1995) found that juveniles rarely give spontaneous confessions, and that their confessions are often elicited after several hours of asking the same questions over and over, until the child begins to believe the interrogator’s story is what actually happened. Ceci (1994) reports that children are susceptible to influence from any authority figure, but when the authority figure seems to disapprove of a child’s answer, and asks the question again, the child is likely to change his answer to please the adult. Any witness whose answers change during the course of his/her testimony appears less credible, something especially true of a child witness (Geraghty, 1997). It is interesting then, that this credibility issue does not seem to be taken into account with juvenile criminal suspects, and their confessions are routinely admitted into evidence even if they changed several times over the course of the interrogation (Ceci, 1994; Dunn, 1995; Geraghty, 1999).

Children’s Understanding of Legal Vocabulary

One problem that affects juveniles when serving as witnesses or as criminal defendants is their ability to understand legal vocabulary words. If children under 14 years old do not reliably understand the vocabulary words in the Miranda warning, how can we expect them to understand the legal terms used in interrogations and court appearances (Grisso, 1981)? It may even be that young adolescents have trouble understanding a simple oath to tell the truth on the witness stand. Many sources on child witness testimony point out that great care is often taken by judges to determine if the child knows the meaning of the word “truth”, or the phrase “promise to tell the truth” (Dunn, 1995; Fulero & Everington, 1995; Geraghty, 1997). Haugaard (1993) investigated preschool through third grade children’s understanding of telling the truth. The children in this
study were shown a videotape in which a boy either makes a false statement to a neighbor about the neighbor's daughter, or corroborates a false statement by his mother to the neighbor. None of the participants classified the boy's corroboration of a false statement as the truth, and only the younger participants classified the boy's false statement as the truth. Though this study emphasizes the cognitive differences between preschoolers and 8 year olds, it is important to note that in some states, such as Vermont, children as young as 8 can be tried as adults (Reppucci, 1999). It may be possible that a child of 8 or 9 with developmental difficulties or below average IQ scores might be more similar to the younger children in Haugeard's (1993) study than to the 8 year olds of average intelligence in his sample. If child witnesses cannot even reliably understand what it means to tell the truth, or the consequences of not telling the truth, how can a child be expected to appreciate the importance of telling the truth to a policeman when arrested for a crime?

In addition, legalese and other complicated vocabulary words confuse children on the witness stand. Certainly, "age appropriate word choice in the examination of child witnesses may be an important factor in eliciting accurate testimony," (Perry et al., 1995, p. 611). Perry et al. (1995) asked kindergartners, fourth and ninth-graders, and college students to watch a videotape and then answer questions about the tape. Half the questions were asked in "legalese," or complex forms, while the other half were phrased in shorter and more straightforward sentences. Lawyerese confused participants of all age groups, especially those which included negatives, double negatives, or difficult/strange vocabulary. When asked for the same information in several ways, children gave a different answer each time (Perry et al., 1995). Some questions included: "Did Sam not say he was not having a good day?" "In the incident depicted, was the perpetrator wearing red?" and "Is it not true that Katie did not make Sam cry?" They found that, regardless
of age, students correctly answered the questions phrased in legalese less than half the time (Perry et al., 1995).

Perry et al. (1995) also point to other situations in which the way the question was posed made a difference in the child's answer. They found that when a list of lawyer's questions from trial transcripts were posed to children of varying ages and language abilities, children did not give reliable answers. In fact, as the questions became more intense and spoken in more combative tones, children were less able to attend to and repeat the language in the question (Perry et al., 1995). They also cite an example of a child who had trouble understanding legal terminology. In this case, "a child asked to "identify" an assailant failed to do so. Her failure damaged her credibility and surprised the adults. Previously, they had asked her to "point to" the person who had hurt her and she had performed the task readily" (Perry et al., 1995, p. 611). Even questions which seem straightforward and easy to an interrogator may not be so easy for a child to understand.

Suggestions for Future Research

Due to ethical and legal constraints, the types of research which can be conducted regarding police interrogations of juvenile offenders are limited. It is difficult, if not impossible, to gain access to view interrogations in progress, or to interact with the juvenile suspects during the adjudication process, due to legal concerns on the part of attorneys and police officials. However, certain elements of this topic should be explored.

For instance, little research has been conducted regarding how adolescents are affected by the use of leading and repeated questions during an interrogation. However, commentators have hypothesized that interrogators who ask a juvenile the same questions several times until they get the answer they are looking for may compromise the truth of the child's statement. This may be
one are where work could be done. Perhaps a study could be conducted with a sample of convicted juveniles who have been tried and convicted as adults, and a matching control group of "normal" juveniles who have not been tried or convicted of a crime. The groups would be matched by age, race, gender, and socioeconomic status, comprising young adolescents age 10-14, and ages 16-20. The participants would read vignettes where a juvenile was being interrogated by a police officer about a crime, and asking the suspect questions about his/her involvement. In one version, the police officer could be asking leading questions, asking them several times, and including specific information about the crime scene or the crime itself, until the suspect changes his/her story. In another version, the officer could be asking simple questions and not offering details about the crime, and the suspect would not change his/her story. After reading the vignette, the participants would answer questions about the juvenile’s original story before the questioning, what they thought actually happened, and why. If this is in line with other studies, the younger adolescents would incorporate elements of the police officer’s questions into their telling of what they thought happened, while older adolescents may not be as influenced by the officer’s questions.

Also, research needs to differentiate further between adults’ and children’s cognitive capacities and test how capable juveniles are to contribute to their own defense. Similar vignette studies could be conducted with legal scenarios such as consulting with an attorney about a plea bargain or deciding whether to ask for an attorney during interrogation, where juveniles and adults would answer questions about what they would do in those situations and why. It is important to compare adolescent and adult functioning in legal situations, as they are expected to have similar understandings of their rights and are held to the same standards in adjudicative competence.
Policy Recommendations

Research has suggested that juveniles have trouble with understanding their Miranda rights, the consequences of waiving these rights, and with making legal judgments in their cases. Also, juveniles have trouble understanding legal vocabulary words, complex sentence structures, and are sometimes unable to resist suggestions from interviewers. Many researchers have pointed out that special care must be taken when questioning child witnesses to make sure they understand the importance of telling the truth, and to make sure they understand the questions they are being asked. Judges often look out for child witnesses by allowing them to testify without confronting the stress of a courtroom or by exerting heavy control over the lawyers' questioning strategies at trial. All of this is done with the cognitive limitations of juveniles in mind, as well as with regard to their suggestibility to the influence of authority figures in stressful circumstances. The fact that juvenile offenders are frequently not so protected by either informed parents or counsel at interrogations is an alarming reality.

Since more juveniles are being tried as adults for both violent and nonviolent crimes, more and more of them will have to face stressful interrogations and court appearances. This systematic transfer of power from the juvenile system to the criminal system places even more authority in the hands of police when deciding who to arrest and charge (Driscoll, 1986). Requiring juveniles to act with the same understanding and maturity as adults in making legal decisions may jeopardize the outcomes of their trials (Geraghty, 1997). The legal culture of the criminal system will be hard-pressed to balance the benefit of rehabilitation on the child’s future with the tendency toward incarceration often found in the adult system (Geraghty, 1997).

If children continue to be tried in adult criminal courts and interrogated about their alleged criminal involvement by police, several accommodations should be made to ensure the fairness of
the interrogations. Currently, the Miranda warnings read to children are in the same wording as those read to adults (Geraghty, 1997). Since juveniles under 14, and older adolescents with low or below average IQ’s, typically do not understand their Miranda rights (Grisso, 1981), this reading should be changed. The Miranda warning should be paraphrased for juveniles, and written in simple sentences with few clauses and complexities of sentence structure (Kotlowitz, 1999). Also, terms such as “attorney,” “can and will be used against you,” and even “right,” should be explained to the children in words they will understand (Perry et al., 1995). Although it would be difficult to enforce this, if a standard warning for children were written and standardized for comprehension of it the same way Grisso (1981) tested the original Miranda warning, perhaps some of the initial difficulties in understanding rights could begin to be resolved.

Some states currently require parental signatures on waiver forms in order for them to be considered, though this is far from standard procedure (Grisso, 1986). States should make it mandatory for parents to be fully informed of the charges against their child when the child is first taken into custody. Since many parents do not know their legal rights during their child’s interrogation, such as their right to stop the interrogation at any time (Grisso, 1986), legislation should be enacted holding police responsible for notifying parents’ of their rights, their child’s rights, and the legal ramifications of waiving the right to silence. Earlier studies have shown that parents did not reliably offer advice to their child or encourage their child to speak with an attorney before or during questioning. This education of parents may make a difference in the way they allow their child to be treated while under suspicion.

One of the most challenging aspects of interviewing a child is knowing what kinds of questions they understand and what kinds they do not. In police manuals, while officers are encouraged to gain the suspect’s trust, cajole and subtly coerce the suspect into confessing, and
probe for changes in the suspect's story, there is no mention that these tactics may produce unreliable confessions from children (Small, 1997). In fact, child witness testimony is affected by leading or repeated questions, as a child often incorporates suggestions from the interviewer into their own story (Ceci, 1994; Dunn, 1995). Since children's statements during an interrogation are likely affected by the same factors as child witness testimony, efforts should be made in police departments to eliminate leading questions and limit the use of friendly coercion in eliciting information from child suspects.

There is also evidence that a child's story changes over time, and that children have a tendency to want to confirm the feelings of authority figures (Ceci, 1994). The use of intimidation by the police to obtain confessions may have harmful psychological effects on the children being interrogated. Typical tactics include prolonging interrogation times by making the suspect wait alone in the room, leaving the room and interrupting the session to let the suspect think about his answers, and asking the suspect to repeat his story several times (Small, 1997). All of these heighten the stress a juvenile is likely to feel during an interrogation, and may heighten his/her desire to cooperate with the suggestions of police officers and other officials in order to be let out of the room. Indeed, police often promise children they can leave as soon as they admit what they've done, and offer other coercive promises to elicit confessions from children who do not understand the consequences of such a confession (Small, 1997). Interrogation times need to be limited, coercive tactics discouraged, and more complete information needs to be given to juveniles to protect them from unknowingly incriminating themselves without an understanding of the long-term costs.

Before we continue with the prosecution of adolescents as adults, more care needs to be taken in assessing their competence to function as criminal defendants. Careful assessments are
usually conducted by social workers, judges, and attorneys to determine whether a child could be a credible witness, but sometimes the same care is not taken with criminal defendants (Geraghty, 1997). Society seems to anticipate and accommodate children’s cognitive deficiencies when they are the victims or witnesses in a trial, but when the child is accused of a crime, the importance and even the existence, of these deficiencies is downplayed. Though many defense attorneys report that their clients cannot understand the consequences of refusing plea agreements or refusing to take the stand, these clients continue to suffer at the hands of an unforgiving criminal justice system that makes few allowances for the special needs of young defendants, partly at the urging of the public (Dawson, 1990; Geraghty, 1997). Before questioning and prosecuting juvenile defendants, efforts should be made to assess the child’s competence to participate as a defendant in the legal system and to understand what is going on around him.

There is little doubt that juvenile crime has become increasingly more violent in the past few years, especially with the use of guns. Though violent crime on average has decreased since 1994, and children are actually statistically safer at school than at home (N.D. Reppucci, personal communication, April 17, 2000) it is hard to ignore the school shootings across the nation, which are inaccurately portrayed in the media as having reached epidemic proportions. However, in our rush to find a solution to curb teen violence, we should be careful in protecting the rights of the juveniles we are prosecuting. Juvenile defendants represent a special situation, one that was recognized by the founding of the juvenile court in 1899. Namely, juveniles’ cognitive capacities are less well developed than adults’, they are prone to more risk-taking and delinquent behavior, and they stand a better chance of being rehabilitated. By virtue of their age and cognitive abilities, adolescents below the age of 14 may be unable to understand the legal process surrounding them during criminal prosecution, beginning with the reading of their Miranda rights before
interrogation (Grisso, 1981). It is relatively easy to gain a confession from a scared child facing a barrage of questioning from an older, more experienced police detective. But we must be careful not to get carried away in our quest to end juvenile violence. We must make every effort to recognize that the long-term effects of interrogating, prosecuting, and incarcerating a teenager may do little more than cause that teenager irreparable psychological and legal harm. In the end, interrogating juveniles, eliciting their confessions (perhaps often false), and incarcerating them with adult career criminals may only produce a new generation of more violent and hardened young adults.
References


