Juvenile False Confessions and Uninformed Plea Deal Acceptances: The Need for Stronger Procedural Safeguards in Contemporary State Legislation

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I. INTRODUCTION

Illinois and Oregon are the first states to enact legislation banning certain police interrogation practices when questioning juveniles.[1] Illinois's law deems juvenile confessions presumptively inadmissible if law enforcement officers knowingly use false evidence ploys or falsely promise leniency.[2] Similarly, Oregon's law deems minors' confessions

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[1] C.J. Ciaramella, *States are Finally Starting to Rein in Deceptive Police Interrogation Techniques that Lead to False Confessions*, REASON (Aug. 16, 2021, 9:15 AM), https://reason.com/2021/08/16/states-are-finally-starting-to-rein-in-deceptive-police-interrogation-techniques-that-lead-to-false-confessions/.

[2] Ciaramella, *supra* note 1.

presumptively involuntary—and hence inadmissible—if law enforcement officers knowingly use false information to elicit a confession.[3]

This wave of legislation arises from the growing consensus that suspects, especially juvenile suspects, are prone to falsely confessing when police utilize deceitful tactics during interrogations.[4] According to Laura Nirider, co-director of the Center of Wrongful Convictions at Northwestern University Pritzker School of Law, juvenile suspects are two to three times more likely than adults to give false confessions.[5] A juvenile's propensity for falsely confession can be attributed to many factors: favoring of short-term over long-term gains, a misunderstanding of their *Miranda* rights, failing to recognize a legal right as something exercisable without attendant costs, acting in accordance with a familial upbringing that emphasized the need to respect authority figures, and so many more.[6]

From a developmental psychology perspective, much of this susceptibility can be attributed to adolescents' underdeveloped brains.[7] Specifically, and conceding this to be a gross oversimplification of a complex neurological phenomenon, the prefrontal cortex, which is responsible for much of a person's behavioral control, does not fully develop until roughly the age of twenty-four.[8] Advocates for this new wave of juvenile based legislation recognize the reality of youths' underdeveloped neurological functions and cite it as one of their main justifications for protecting minors via a blanket prohibition on certain interrogation techniques.[9]

While lawmakers acknowledge that these legislative efforts are not a comprehensive guard against false confessions generally, they assert

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3 *See* Stephen Joyce & Keshia Clukey, *Police Can't Lie to Juveniles in Questioning Under Illinois Law*, BLOOMBERG L. (July 15, 2021, 5:00 AM), https://news.bloomberglaw.com/social-justice/police-cant-lie-to-juveniles-in-questioning-under-illinois-law.

4 Ciaramella, *supra* note 1; Bryan Pietsch, *Illinois is Fist State in U.S. to Ban Police from Lying to Minors During Interrogations*, THE WASHINGTON POST (July 16, 2021, 1:40 AM), https://www.washingtonpost.com/nation/2021/07/16/illinois-police-lying-ban/.

5 Joyce & Clukey, *supra* note 3; Pietsch, *supra* note 4.

6 *See* Joyce & Clukey, *supra* note 3; *see also* Andrew J. Greer, Note, *Oh, the Places You'll Go—Prison: How False Evidence in Juvenile Interrogations Unconstitutionally Coerces False Confessions*, 10 DREXEL L. REV. ONLINE 741, 760–61 (2018).

7 *See* Tamar R. Birckhead, *The Age of the Child: Interrogating Juveniles After Roper v. Simmons*, 65 WASH. & LEE L. REV. 385, 429 (2008).

8 *See* Mariam Arain et al., *Maturation of the Adolescent Brain*, 9 NEUROPSYCHIATRIC DISEASE & TREATMENT 449, 456 (2013).

9 *See* Joyce & Clukey, *supra* note 3.

that these pieces of legislation serve as a strong step forward in the endeavor of protecting children.[10] As stated by Oregon State Senator Gorsek, "for this to be politically viable we want to begin with young people, and then we'll work over time to expand it."[11] More comprehensively, New York, as of June 2022, has a pending bill "that would not only ban deceptive tactics at all ages, but establish a pre-trial assessment of recorded confessions to determine their reliability and admissibility in court."[12]

Although these legislative measures will hopefully help to exclude false confessions from evidence at trial, they do not address the related and persistent due process and evidentiary concerns.[13] Illustrative of these issues is Illinois's new law, which still allows for the admission of juvenile confessions into court despite law enforcement's use of deceptive tactics.[14] The state can admit the evidence by simply proving that "by a preponderance of evidence," the confession was given voluntarily under the totality of the circumstances.[15] Likewise, Oregon's law allows for the admission of juvenile confessions into court despite law enforcement's use of deceptive tactics so long as the state can prove "by clear and convincing evidence" that the confession was given voluntarily and not in response to the officers' use of false information.[16] Unique from Illinois's and Oregon's state statutes, and in an effort to better protect criminal defendants from coercive interrogation practices, New York's pending bill would require "a court review of recorded confessions" to determine their admissibility into evidence at trial.[17]

False confessions are exceedingly damaging to criminal defendants when admitted into evidence at trial; unsurprisingly, a link exists between false confessions and wrongful convictions.[18] Even believing

10 Joyce & Clukey, *supra* note 3.

11 Joyce & Clukey, *supra* note 3.

12 Innocence Staff, *Illinois Becomes the First State to Ban Police from Lying to Juveniles During Interrogations*, INNOCENCE PROJECT (July 15, 2021), https://innocenceproject.org/illinois-first-state-to-ban-police-lying/.

13 *See* Joyce & Clukey, *supra* note 3.

14 Joyce & Clukey, *supra* note 3.

15 Joyce & Clukey, *supra* note 3.

16 S.B. 418, 81st Leg. Assemb., 2021 Reg. Sess. (Or. 2021).

17 Jaclyn Diaz, *Illinois Is the 1st State to Tell Police They Can't Lie to Minors in Interrogations*, NPR (July 16, 2021, 5:12 AM), https://www.npr.org/2021/07/16/1016710927/illinois-is-the-first-state-to-tell-police-they-cant-lie-to-minors-in-interrogat.

18 *See* Fern L. Kletter, Annotation, *Admissibility of Expert Testimony Regarding False Confessions*, 11 A.L.R. 7th 6*, 2 (explaining the relationship between false confessions and convictions and how criminal defendants' have made efforts at trial to aid jurors in

the confession to be coerced, juries often cannot see past the confession and will still render a guilty verdict.[19] This tendency of juries suggests that if a confession's admission into evidence at trial is likely, it may be in the best interests of the defendant to take a plea deal, as this deal will usually consist of a lesser sentence than would be judicially ordered following a jury's finding of guilt at trial.[20] Conversely, if a confession is likely to be excluded from evidence at trial, the defendant is perhaps in a better position to reject the plea deal in hope that the jury will exonerate him based off the evidence that gets admitted at trial.

Altogether, given the weight of a confession, knowledge of its admissibility or exclusion could entirely change the defendant's decision of whether to take a plea deal or what the terms of said deal should be if accepted. Complicating this decision-making process is the reality that, when a judge applies the totality of the circumstances test, as is the standard for the admissibility of confessions in Illinois's new statute, she will basically "throw all of the[] factors into a hat, mix them up . . . reach in and attempt to pull out the answer to a question that can never be answered with confidence by a judge, psychiatrist, or magician."[21] Without a predictable judicial determination of the confession's admissibility, defendants are left uncertain as to whether their confession will be used against them at trial. This results in more circumspect defendants being inclined to accept a plea deal given the unpredictability resulting from the wide discretion a trial judge possesses when ruling under the totality of the circumstances test.[22]

In fact, statistics demonstrate that over ninety-five percent of all federal and state convictions are obtained through plea deals.[23] Only two percent of federal prosecutions go to trial, and state prosecutions

their understanding of the false confession phenomenon through the use of expert testimony).

19 Ariel Spierer, Note, *The Right to Remain a Child: The Impermissibility of the Reid Technique in Juvenile Interrogations*, 92 N.Y.U. L. REV. 1719, 1731 (2017).

20 Shruti Bhatt et al., *Rejecting Plea Deal Means Longer Sentence if Convicted, Data Show*, INJUSTICE WATCH (Dec. 21, 2018), https://www.injusticewatch.org/interactives/trading-away-justice/plea-sentence.html.

21 Mark A. Godsey, *Rethinking the Involuntary Confession Rule: Toward a Workable Test for Identifying Compelled Self-Incrimination*, 93 CAL. L. REV. 465, 469 (2005) (footnote omitted).

22 Barry C. Feld, *Criminalizing Juvenile Justice: Rules of Procedure for the Juvenile Court.*, 69 MINN. L. REV. 141, 173 (1984).

23 Somil Trivedi, *Coercive Plea Bargaining Has Poisoned the Criminal Justice System. It's Time to Suck the Venom Out.*, ACLU (Jan. 13, 2020), https://www.aclu.org/news/criminal-law-reform/coercive-plea-bargaining-has-poisoned-the-criminal-justice-system-its-time-to-suck-the-venom-out/.

go to trial at even lower rates.[24] While these statistics indicate that criminal defendants of all ages highly likely to accept a plea deal, adolescents specifically are even more likely to accept a plea deal than criminal defendants generally.[25]

However, for criminal defendants, suppression motions are not the panacea for such unpredictability. Prosecutors possess a great deal of discretion and can freely revoke a plea deal at any point during the criminal proceedings.[26] Moreover, prosecutors have wide latitude to condition plea deals in a variety of ways.[27] For example, prosecutors may condition the plea deal on the defendant's waiver of his right to appeal.[28] Similarly, prosecutors may condition the plea deal on the defendant's agreement to refrain from filing a suppression motion. At other times, even if such conditionality is not explicit, criminal defendants' counsel will recognize that the filing of a suppression motion may vex prosecutors and will therefore decide to avoid filing such a motion.

Criminal defendants who have confessed, therefore, often find themselves between a rock and a hard place when determining whether to file a suppression motion in hopes of excluding a confession from evidence before trial. With the possible offering of a plea deal lurking in the background, criminal defendants recognize that the filing of a suppression motion may lead the prosecutor to withhold the offering of a plea deal in the future, even if the prosecutor never explicitly tells defense counsel that this would be the consequence of filing a suppression motion. Similarly, if the plea deal is already on the table, criminal defendants might be prevented entirely from filing a suppression motion if the plea deal itself is conditioned on the defendant's waiver of filing suppression motions. Therefore, with respect to the evidentiary legitimacy of false confessions, criminal defendants who have confessed may, and should, recognize that any

24 John Gramlich, *Only 2% of Federal Criminal Defendants Go to Trial, and Most Who Do Are Found Guilty*, PEW RSCH. CTR. (June 11, 2019), https://www.pewresearch.org/fact-tank/2019/06/11/only-2-of-federal-criminal-defendants-go-to-trial-and-most-who-do-are-found-guilty/.

25 Elizabeth Cauffman et al., *How Developmental Science Influences Juvenile Justice Reform*, 8 U.C. IRVINE L. REV. 21, 32 (2018).

26 *See generally* Annotation, *Right of Prosecutor to Withdraw from Plea Bargain Prior to Entry of Plea*, 16 A.L.R.4th 1089.

27 *See, e.g.*, United States v. Williams, 827 F.3d 1134, 1164–65 (D.C. Cir. 2016) (explaining how a prosecutor is permitted to condition offering of plea deal on codefendant pleading guilty).

28 *See* Davies v. Benov, 856 F.3d 1243, 1246 (9th Cir. 2017) (explaining how a prosecutor may include a waiver of the right to appeal in plea deal so long as waiver is "knowingly and voluntarily made").

attempt to determine the admissibility of their confession before trial could result in the denial of a plea offer altogether. The new pieces of state legislation rendering coerced juvenile confessions inadmissible at trial therefore do very little, since prosecutors can maneuver around these new laws by using the power of the plea deal to keep the juvenile criminal defendant in the dark about the admissibility of their confessions.[29]

Thus, while these new legislative efforts seek to remedy the harm of juvenile false confessions, these state legislatures, along with other state legislatures that have not yet acted at all, greatly fail to account for the real threat that juvenile false confessions present: juvenile false plea acceptances. A few inductive steps reveal the remaining harms these new legislative measures fail to address. Because juveniles are already more likely to confess to a crime which they did not commit, and because jurors are quite incapable of discounting a false confession even in light of coercive interrogation techniques, juveniles, understanding this reality of juries and the fact that a plea deal typically results in a lighter sentence than the one judicially ordered following a guilty verdict at trial, are a highly incentivized population for accepting a false plea deal on account of the existence of their false confession.[30]

This Comment will discuss the unaddressed risks of false juvenile plea deal acceptances in light of recent state legislation. Part I of this Comment compares American interrogation methods with United Kingdom interrogation methods. Part II describes juvenile psychology and several of the United States Supreme Court's key decisions regarding juvenile criminal defendants in light of their psychological uniqueness. Part III(a) explains the general harms juvenile suspects still face in the interrogation room despite some of the Court's recent rulings, which in turn increase the false confession rate. Part III(b) explains how false juvenile plea deal acceptances resulting from false confessions account for a significant harm parallel to the harm of false juvenile convictions resulting from false confessions admitted at trial.

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29 *See* Ciaramella, *supra* note 1.

30 *See* Joyce & Clukey, *supra* note 3 (explaining that children are two to three times as likely to confess to a crime which they did not commit); Spierer, *supra* note 19, at 1723 ("Juveniles are more susceptible than are adults to the coercion inherent in custodial interrogations, and so are more likely to falsely confess."); Bhatt et al., *supra* note 20 (explaining that criminal defendants who reject plea deals and lose at trial end up serving more time than was offered in the plea deal); Richard A. Leo et al., *Promoting Accuracy in the Use of Confession Evidence: an Argument for Pretrial Reliability Assessments to Prevent Wrongful Convictions*, 85 TEMP. L. REV. 759, 773 (2013) ("Jurors tend to uncritically accept confessions as reliable even when they are told that the confessor suffered from psychological illness or interrogation-induced stress, or when the confessions are retracted and perceived to be involuntary.").

Part IV explicates how new legislative measures do not account for these harms. Part V argues for the need to amend contemporary state legislation to include a sua sponte judicial review of juvenile confessions before a plea deal can be struck, which will allow juvenile defendants to make more educated decisions during the plea-bargaining process since they will be aware of the admissibility of their confession from the start.

II. INTERROGATION METHODS COMPARED AND CONTRASTED

The Supreme Court of the United States has recognized interrogations as a constitutional police practice that serve legitimate investigatory ends.[31] There is no doubt that conversing with a suspect or witness in order to gather information relating to a serious crime is a sometimes very beneficial practice. At other times, however, interrogations harm those whom the system supposedly seeks to protect most. The juxtaposition of the United States' Reid Technique and the United Kingdom's PEACE approach illustrates the virtues and vices of different interrogation techniques.[32]

A. The Reid Technique

At the heart of the United States' most prominent interrogation method, the Reid Technique, lies the purpose of obtaining a suspect's confession or other inculpatory statements.[33] This guilt-presumptive interrogation method recommends the use of bluffs, false evidence ploys, and other coercive techniques when questioning a suspect.[34] Unsurprisingly, as a result of the use of these tactics, the Reid Technique is credited with increasing the risk of false confessions.[35]

Law enforcement agencies across the nation have used the Reid Technique for more than half a century.[36] John Reid, the architect of the Reid Technique, devised police interrogation strategies that transitioned from the use of physical coercion to psychological coercion.[37] By the mid-1960s, psychological interrogation tactics had

31 *See* Michigan v. Mosley, 423 U.S. 96, 102 (1975) (characterizing custodial interrogations as "legitimate police investigative activity").

32 *See generally* Ciaramella, *supra* note 1; Greer, *supra* note 6.

33 Ciaramella, *supra* note 1.

34 Ciaramella, *supra* note 1.

35 Barry C. Feld, *Criminology: Police Interrogation of Juveniles: An Empirical Study of Police and Practice*, 97 J. CRIM. L. & CRIMINOLOGY 219, 243 (2006).

36 Ciaramella, *supra* note 1.

37 Douglas Starr, *The Interview: Do Police Interrogation Techniques Produce False Confessions?*, THE NEW YORKER (Dec. 1, 2013), https://www.newyorker.com/magazine/2013/12/09/the-interview-7.

supplanted physical interrogation tactics in the United States.[38] The Reid Technique infiltrated American law and society to such an extent that the United States Supreme Court specifically cited to its methods in *Miranda v. Arizona*.[39]

Before the interrogation event begins, the Reid Technique recommends isolating the suspect in custody.[40] Isolation heightens a suspect's distress and helps empower an officer to overcome any of the suspect's resistances or denials, while in turn increasing the odds that a confession will be obtained.[41] This is especially true when the isolation is prolonged for an extended period of time.[42] After the suspect is isolated, interrogators conduct a Behavioral Analysis Interview ("BAI").[43] During this "interview," interrogators form an impression of the suspect.[44] In doing so, they seek to determine whether the suspect is lying.[45] The BAI typically begins with neutral, non-threatening questions to reveal the suspect's baseline behavior.[46] After interrogators get a sense of the suspect's disposition and whether the suspect is being truthful, the questions become more emotionally charged in an effort to provoke the suspect.[47] An example of a loaded, reaction-producing question might be, "[w]hat is a just punishment for someone who committed a heinous crime like this?"[48] Or perhaps, "[d]o you think someone who committed a crime like this could sleep well at night?"[49] Or maybe even, "[y]ou want the person who did this to be caught and punished, right?"[50]

Interestingly, people in general, including law enforcement, have approximately fifty-fifty coin-flipping odds of determining whether an individual is lying.[51] In fact, amongst police officers, those who follow the Reid Technique, focusing heavily on nonverbal cues, are the least

38 Feld, *supra* note 35, at 234.

39 *See* Miranda v. Arizona, 384 U.S. 436, 448–56 (1966).

40 Spierer, *supra* note 19, at 1725.

41 Saul M. Kassin et al., *Police-Induced Confessions: Risk Factors and Recommendations*, 34 L. HUM. BEHAV. 3, 16 (2010); Feld, *supra* note 35, at 236.

42 Kassin et al., *supra* note 41, at 16.

43 Spierer, *supra* note 19, at 1725.

44 Starr, *supra* note 37.

45 Starr, *supra* note 37.

46 Starr, *supra* note 37.

47 *See* Feld, *supra* note 35, at 261.

48 *See* Starr, *supra* note 37.

49 *See* Starr, *supra* note 37 (discussing behavior-provoking questions).

50 *See* Starr, *supra* note 37 ("Such 'behavior-provoking questions' might include 'What kind of punishment should they give to the person who committed this crime?'").

51 Starr, *supra* note 37.

accurate when ascertaining the honesty of a suspect.[52] Nevertheless, if the interrogators subjectively determine, after completing the BAI, that the suspect is lying, they will begin the nine-step interrogation process.[53] Hence, the interrogation is inherently clouded with the interrogators' unreliable assumptions that the suspect is lying and therefore factually guilty of the charged crime(s).[54]

These aforementioned nine-steps incorporate social influence and persuasion techniques, which dwindle down a suspect's ability to resist.[55] First, the suspect is confronted directly about his guilt.[56] He is then provided with justifications or excuses for why he committed the crime.[57] All denials from the suspect are subsequently rejected.[58] Likewise, interrogators refuse any and all of the suspect's claims of innocence.[59] Next, if the suspect becomes detached, the interrogators reengage him.[60] Following reengagement, the interrogators sympathize with the suspect and entice the suspect to speak truthfully.[61] Then, the interrogators offer an incriminating yet explanatory reason for committing the crime.[62] If successful, the interrogators will then procure the suspect's oral statements embodying incriminating details of the crime.[63] Finally, the interrogators will seek the suspect's signed written confession.[64]

Of this nine-step process, two tactics deserve special discussion as they are specifically designed to subdue a suspect's resistance and entice an admission of guilt.[65] First are minimization techniques, which convey to the suspect the lightness of the committed crime.[66] Second are maximization techniques, which convey to the suspect the gravity of the committed crime.[67] Falsely implying leniency, a tactic now explicitly banned through recent state legislation, was a commonly used

52 Starr, *supra* note 37.
53 Spierer, *supra* note 19, at 1727.
54 *See* Greer, *supra* note 6, at 762.
55 Feld, *supra* note 35, at 236.
56 Feld, *supra* note 35, at 236.
57 Feld, *supra* note 35, at 236.
58 Feld, *supra* note 35, at 237.
59 Feld, *supra* note 35, at 237.
60 Feld, *supra* note 35, at 237.
61 Feld, *supra* note 35, at 237.
62 Feld, *supra* note 35, at 237.
63 Feld, *supra* note 35, at 237.
64 Feld, *supra* note 35, at 237.
65 Feld, *supra* note 35, at 261.
66 Rinat Kitai-Sangero, *Extending Miranda: Prohibition on Police Lies Regarding the Incriminating Evidence*, 54 SAN DIEGO L. REV. 611, 614–15 (2017).
67 Kitai-Sangero, *supra* note 66.

minimization technique.[68] Lying about the existence or strength of evidence, a tactic also now explicitly banned through new state legislation, was a commonly used maximization technique.[69]

The Reid Technique's *modus operandi*, with its use of the juxtaposed maximization and minimization techniques, greatly increases the odds of a false confession.[70] It is therefore unsurprising that a growing number of scientists and legal scholars take issue with the technique and its attendant risks of generating false confessions.[71] As will be explained in Part III(a), these risks are even greater when the Reid Technique is used against juvenile suspects.[72]

B. The PEACE Approach

Diametrically opposed to the Reid Technique's formula is the Royal Commission on Criminal Justice's interrogation method known as the PEACE approach.[73] PEACE stands for Preparation and Planning, Engage and Explain, Account, Closure, and Evaluate.[74] Under this method, now widely accepted in the United Kingdom, police are not tasked with the end goal of obtaining a confession.[75] Rather, police are instructed to use the "interview" as a way of gathering information in a journalistic style.[76] With confessions now a decentralized goal, interrogators operate under a non-accusatory framework with objective fact-finding as its aim.[77]

Unlike the Reid Technique, the PEACE method forbids presenting the suspect with false evidence during interrogations.[78] In addition, lying or minimizing of any kind is strictly prohibited.[79] Coercion, in all

68 Ciaramella, *supra* note 1; Caitlyn Wigler, Comment, *Juvenile Due Process: Applying Contract Principles to Ensure Voluntary Criminal Confessions*, 168 U. PA. L. REV. 1425, 1434 (2020).

69 Ciaramella, *supra* note 1; Kitai-Sangero, *supra* note 66, at 615.

70 *See* Starr, *supra* note 37 (detailing the Reid Technique's responsibility in producing false confessions).

71 *See* Starr, *supra* note 37.

72 Wigler, *supra* note 68, at 1440.

73 *See* Kassin et al., *supra* note 41.

74 Christian A. Meissner et al., *Accusatorial and Information-Gathering Interrogation Methods and Their Effects on True and False Confessions: A Meta-Analytic Review*, 10 J. EXPERIMENTAL CRIMINOLOGY 459, 462 (2014).

75 Hayley M. D. Cleary, *Applying the Lessons of Developmental Psychology to the Study of Juvenile Interrogations: New Directions for Research, Policy, and Practice*, 23 PYSCH. PUB. POL'Y & L. 118, 124 (2017); Starr, *supra* note 37.

76 Starr, *supra* note 37.

77 Wigler, *supra* note 68, at 1452; Cleary, *supra* note 75, at 126.

78 *See* Starr, *supra* note 37.

79 Starr, *supra* note 37.

of its forms, is also banned.[80] Another difference from the Reid Technique is that interrogators do not begin the interview assuming that the suspect is lying.[81] Rather, interrogators utilizing the PEACE approach encourage suspects to narratively describe the events under investigation.[82] Once a suspect provides this narrative, the police allow the suspect to explain any inconsistencies present in their story.[83] Lastly, the police compare the suspect's final story with what the police have already determined through analysis of other evidence.[84]

Asking open-ended questions, as the PEACE method prescribes, places the suspect in a position where lying is cognitively exhausting as the suspect must remember the details provided and ensure that their story adds up in the end.[85] It is fair to say this approach mirrors Mark Twain's classic saying, "[i]f you tell the truth you don't have to remember anything."[86] The PEACE method's approach acknowledges the reality that many suspects will unsuccessfully juggle the details of a fictitious account and that the truth will therefore surface in the end.[87]

Since the PEACE approach is a less coercive method than the Reid Technique, one might speculate it is futile in obtaining confessions from those who are truly guilty.[88] However, the PEACE approach has been shown to be just as effective as other interrogation techniques in obtaining confessions.[89] Not only is the PEACE method just as effective, but it also results in fewer false confessions from criminal defendants.[90] It is no surprise, therefore, that many criminal justice experts in the United States have called for the adoption of the PEACE method.[91] It is even less surprising that many of these calls are aimed directly towards replacing the Reid Technique with the PEACE method in the context of

80 Starr, *supra* note 37.

81 *See* Greer, *supra* note 6, at 769.

82 Greer, *supra* note 6, at 769.

83 Greer, *supra* note 6, at 769.

84 Greer, *supra* note 6, at 769.

85 Starr, *supra* note 37.

86 ALBERT PAINE, MARK TWAIN'S NOTEBOOK (1935).

87 Starr, *supra* note 37.

88 Spierer, *supra* note 1918, at 1743.

89 Timothy E. Moore & C. Lindsay Fitzsimmons, *Justice Imperiled: False Confessions and the Reid Technique*, 57 CRIM. L. Q. 509, 541 (2011).

90 Moore & Fitzsimmons, *supra* note 89.

91 *See, e.g.*, Gisli H. Gudjonsson & John Pearse, *Suspect Interviews and False Confessions*, 20 CURRENT DIRECTIONS PSYCH. SCI. 33, 34 (2011) (observing the movement to replace the Reid Technique with the PEACE model).

juvenile police interrogations.[92] Nonetheless, these calls have gone largely unanswered and the United States Supreme Court has yet to rule the use of the Reid Technique unconstitutional for adults or minors.[93]

III. DEVELOPMENTAL PSYCHOLOGY AND THE SUPREME COURT OF THE UNITED STATES' "KIDS ARE JUST DIFFERENT" JURISPRUDENCE

It is a well-accepted fact that "kids are just different" when compared to their adult counterparts.[94] These differences do not exist in a vacuum, but rather follow the youth and influence their decision-making within all types of legal situations, including that of custodial interrogation.[95]

Developmental psychologists question whether children can make "knowing, intelligent, and voluntary" decisions, as is the legal standard in many areas of criminal procedure, including the waiving of *Miranda* rights and the making of a voluntary confession.[96] However, the "knowing, intelligent, and voluntary" standard is still widely used throughout state courts in various contexts when overseeing the prosecution of both juveniles, as well as adults.[97] The Court throughout the decades has tried to manage the fact that children are developmentally different from adults.[98] It is no question that children can commit atrocious crimes and are deserving of prosecution to the fullest extent of the law in many instances.[99] At the same time, their developmental shortcomings perhaps make them less culpable than

92 *See generally* Spierer, *supra* note 1918 (arguing for the replacement of the Reid Technique with the PEACE method or another similar alternative interrogation method).

93 *See generally* Spierer, *supra* note 19, at 1724 (noting the Court has yet to ban the use of the Reid Technique).

94 *See generally*, Elisa Poncz, *Rethinking Child Advocacy After Roper v. Simmons: "Kids Are Just Different" and "Kids Are Just Like Adults" Advocacy Strategies*, 6 CARDOZO PUB. L. POL'Y & ETHICS J. 273 (2008) (discussing the argument put forth in *Roper v. Simmons* that advanced the proposition that children are socially, developmentally, and physically unique from adults).

95 *See* Cleary, *supra* note 75, at 119.

96 Birckhead, *supra* note 7, at 424.

97 Barry C. Feld, *Behind Closed Doors: What Really Happens When Cops Question Kids*, 23 CORNELL J. L. & PUB. POL'Y 395, 402 (2013); *see* Birckhead, *supra* note 7, at 424.

98 *See, e.g.*, Roper v. Simmons, 543 U.S. 551, 569 (2005) (noting how neuroscience and sociology can help to explain adolescent's impulsive actions and decisions).

99 *See, e.g.*, State v. Geyser, 394 Wis. 2d 96, 99 (Wis. Ct. App. 2020) (upholding lower court's decision retaining adult jurisdiction over a criminal defendant who at the age of twelve a prosecutor charged with attempted first-degree intentional homicide for stabbing another child nineteen times with her co-defendant in hopes of impressing the "Slender Man").

adults who commit equivalent crimes.[100] All in all, children are placed in the crosshairs as the criminal justice system attempts to balance its dual tenets of fairness and punishment, by both taking into consideration the age of the defendant and ensuring that individuals are still held accountable and face appropriate repercussions.[101] Such competing interests have indeed proven to be a challenge for the Court.

Serving as a strong example of the Court's attempt to balance these criminal justice tenets, Justice Kennedy in *Roper v. Simmons*[102] relied extensively on adolescent neuroscience and sociology when writing for the majority.[103] In *Roper*, the Court specifically held that the Eighth Amendment, which prohibits the infliction of "cruel and unusual punishment," rendered capital punishment for adult individuals who committed the punishable offense while under the age of eighteen unconstitutional.[104] The *Roper* Court cited key differences between juveniles and adults to support its conclusion that the Eighth Amendment barred the death penalty in these situations.[105] Thus, in this instance, one could argue that the outcome placed the tenet of fairness above the tenant of punishment as the Court maintained that adolescent uniqueness requires a bar on the most extreme form of punishment.

Similarly, in *J.D.B. v. North Carolina*,[106] the Court acknowledged the need to consider the psychological differences between adults and juveniles.[107] The *J.D.B.* Court held that a suspect's age must be factored into a determination of whether the suspect is in custody and whether *Miranda* warnings are therefore required.[108] Again, the *J.D.B.* Court looked to developmental psychology and brain science in concluding that youth specifically are quite vulnerable to coercive interrogation practices.[109] Again, like in *Roper*, the *J.D.B.* Court seemed to emphasize the need of considering the developmental uniqueness of adolescents.[110]

100 Birckhead, *supra* note 7, at 429.

101 *See* Cauffman et al., *supra* note 25, at 22.

102 Roper v. Simmons, 543 U.S. 551 (2005).

103 *See generally id.* (relying on the neuroscience and sociology of youth in reaching a conclusion).

104 *Id.* at 575; U.S. CONST. amend. VIII.

105 *Roper*, 543 U.S. at 569–71, 575.

106 J.D.B. v. North Carolina, 564 U.S. 261 (2011).

107 *Id.* at 280–81.

108 *Id.*

109 *Id.* at 273; Wigler, *supra* note 68, at 1433.

110 *See* Roper, 543 U.S. at 569–71.

Despite there being dissenters in both *Roper* and *J.D.B.*, it is noteworthy that the Court has at least begun to take notice of the differences between adolescents and adults in various legal contexts.[111] As the legislation at the center of this Comment's discussion likewise recognizes, "kids are just different," and are deserving of special procedural and substantive safeguards to account for their developmental differences.[112] Although the Court has observed this reality and has expanded several protections, the Court has yet to fully ban the use of the Reid Technique when police interrogate juvenile suspects.[113]

A. The Dangers of the Reid Technique When Used on Juvenile Suspects

The Reid Technique further increases the risk of eliciting a false confession when the interrogation is of a juvenile.[114] In fact, juveniles often naturally exhibit the very behaviors that the Reid Technique considers to be indications of lying.[115] For example, slouching, failing to make eye contact, and touching one's nose are all nonverbal indicators of lying according to the Reid Technique.[116] Ironically, these are all specific behaviors that adolescents commonly portray in their everyday lives.[117] To make matters worse, interrogators themselves are often unaware that adolescents naturally exhibit these types of behavior and therefore cannot mitigate their own premature assumptions that the juvenile suspect is lying.[118] This in turn leads to interrogators seeking information during the interrogation that confirms their prior beliefs that the juvenile suspect is lying based on their body language instead of seeking information in a more objective and holistic manner.[119] This phenomenon is known as interviewer bias,[120] and it is reported as an exceedingly common psychological phenomenon in juvenile interrogations.[121]

111 *See, e.g.*, *J.D.B.*, 564 U.S. at 280–81.

112 Poncz, *supra* note 94.

113 *See generally* Spierer, *supra* note 19, at 1743 (arguing that the Court should categorically ban the use of the Reid Technique during juvenile interrogations through a new constitutional ruling that has yet occurred).

114 Spierer, *supra* note 19, at 1729–30.

115 Spierer, *supra* note 19, at 1727.

116 Laurel LaMontagne, *Children Under Pressure: The Problem of Juvenile False Confessions and Potential Solutions*, 41 W. ST. U. L. REV. 29, 44 (2013).

117 Spierer, *supra* note 19, at 1727.

118 Birckhead, *supra* note 7, at 417–18.

119 Birckhead, *supra* note 7, at 409.

120 Birckhead, *supra* note 7, at 409.

121 *See* Birckhead, *supra* note 7, at 409.

Within the United States, where the Reid Technique is dominantly employed, a staggering thirty-five percent of proven false confessions are from suspects under the age of eighteen.[122] While most sixteen and seventeen-year-old juveniles exhibit relatively adult-like competence to exercise their *Miranda* rights, individuals below that age range generally lack the competence to properly invoke their rights.[123] Consequently, many juvenile suspects in the interrogation room are therefore ill-equipped to avoid the interrogation altogether, which would prevent the problem of false confessions entirely.[124]

One does not have to look far to see example after example of the Reid Technique's deleterious effects on the youth in the interrogation room after the juvenile suspect has failed to invoke their *Miranda* rights and has instead given a confession.[125] For example, the case of Brendan Dassey is infamously regarded as a quintessential miscarriage of justice that stemmed from the false confession authorities extracted.[126] During a four-hour, videotaped interrogation, sixteen-year-old Brendan Dassey confessed to the rape and murder of a twenty-five-year-old woman.[127] During his interrogation, interrogators implemented many of the Reid Technique's centrally coercive strategies, including presenting the intellectually disabled adolescent with a mountain of false evidence against him.[128]

Like the Brendan Dassey case, the infamous juvenile interrogations of the Central Park Five (now known as the Exonerated Five) and of Michael Crowe serve as high-profile anecdotal examples of the inherent dangers of coercive interrogation techniques when used on minors.[129]

Unfortunately, many other juveniles have experienced similar interrogation techniques leading to their false confessions.[130]

122 Ciaramella, *supra* note 1; Feld, *supra* note 35, at 314.

123 Feld, *supra* note 35, at 314–15.

124 *See* U.S. CONST. amend. V (ensuring the right against self-incrimination in criminal trials); *See generally* Miranda v. Arizona, 384 U.S. 436, 444–45 (1966).

125 *See generally Miranda*, 384 U.S. at 444–45.

126 Cleary, *supra* note 75, at 118.

127 Cleary, *supra* note 75, at 118.

128 *See* Greer, *supra* note 6, at 768.

129 Yusef Salaam et al., *We Are the "Exonerated 5." What Happened to Us Isn't Past, It's Present.*, N.Y. TIMES (Jan. 4, 2021), https://www.nytimes.com/2021/01/04/opinion/exonerated-five-false-confessions.html; *see* Birckhead, *supra* note 7, at 415 (discussing the Michael Crowe case as an example of one of the many cases "involving adolescents who have been induced to give false confessions following aggressive interrogation by police").

130 *See* Megan Crane et al., *The Truth About Juvenile False Confessions*, PRISON POLICY INITIATIVE (Winter, 2016), https://www.prisonpolicy.org/scans/aba/Juvenile_confessions.pdf ("We now know how easily these psychologically coercive techniques can overbear the will of a child. Yet

Acknowledging that most criminal convictions are obtained through plea deals, it is undeniable that at least some, if not most juveniles who falsely confess and are not subsequently absolved end up serving their sentences as a result of accepting a plea deal.[131] This phenomenon is highly problematic and presents a host of due process concerns.

B. False Juvenile Confessions Producing False Plea Deals

While false confessions contributing to false convictions are a serious issue in the American criminal justice system, another criminal justice issue that seemingly receives much less commentary lurks in the background: false confessions leading to defendant acceptance of a plea deal to avoid trial.

As mentioned above, ninety-five percent of all convictions at both the federal and state levels are obtained through plea deals.[132] Not only are plea deal acceptances common amongst all criminal defendants, but juvenile defendants' likelihood of accepting a plea deal and thus waiving their right to a trial is also higher than that of their adult counterparts.[133] Understanding that confessions—whether true or not—are incredibly damaging at trial, juveniles become even more inclined to accept a plea deal if a court admits the false confession into evidence, which diminishes their odds at trial.[134]

The 375 DNA exoneration cases that have come to light truly are only the "tip of an iceberg."[135] This is largely because these recognized exoneration cases do not include the scenarios of false confessions that led to the acceptance of unappealable plea deals.[136] The damage of false confessions thus remains largely unknown, especially on juvenile criminal defendants, as many of these individuals—recognizing the damaging effect of false confessions at trial—likely opted for the plea deal knowing they will receive a lesser sentence than if convicted at trial.[137] This results in the avoidance of trial, and therefore the waiver of the right to appeal altogether.[138] Out in the ether, therefore, are an

current cases and research indicate that most officers still employ these tactics when questioning juvenile suspects.").

131 *See* Trivedi, *supra* note 23.

132 Trivedi, *supra* note 23.

133 Trivedi, *supra* note 23; Cauffman et al., *supra* note 25, at 32.

134 Spierer, *supra* note 19, at 1731; Cauffman et al., *supra* note 25, at 32.

135 Ciaramella, *supra* note 1.

136 Ciaramella, *supra* note 1.

137 *See* Spierer, *supra* note 19, at 173118; *see also* Bhatt et al., *supra* note 20.

138 Spierer, *supra* note 19, at 173118; Bhatt et al., *supra* note 20.

abundance of false juvenile plea acceptances yet to have been discovered.[139]

Such concern is heightened when considering that juvenile criminal defendants are more likely to falsely confess and are additionally more likely to accept a plea deal.[140] It can thus be inferred that several juveniles are currently serving sentences, or have completed sentences, as a result of a false plea deal acceptance stemming from a false confession. From the standpoint of justice, this is just as problematic as the false confessions that lead to wrongful convictions at trial. The false confessions that lead to false plea deals somehow seem to evade much attention, although such occurrences are just as antithetical to the aims of the criminal justice system as are the situations of wrongful convictions resulting from trials.

IV. THE INADEQUACY OF NEW STATE LEGISLATION

As government representatives, Prosecutors have the duty to seek truth and justice.[141] If the courts care about truth, then criminal defendants should not be potentially penalized by prosecutors for simply filing suppression motions that are aimed at excluding false confessions from evidence at trial. A system that allows prosecutors to take plea deals off the table when criminal defendants file such motions is a system that pressures the potentially innocent into taking a plea deal with the hope of receiving a lesser sentence.[142] Yet, this is the current reality, as prosecutors, despite the new pieces of legislation discussed herein, still possess a great deal of prosecutorial discretion in offering, withholding, or withdrawing plea deals.[143]

Acknowledging the ambiguity of the totality of the circumstances test and the clear and convincing evidence standard, prosecutors can entirely sidestep the new legislation by disposing of the criminal charges through the offering of a plea deal before a judicial determination of the confession's admissibly is even made.[144]

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139 Ciaramella, *supra* note 1.

140 Joyce & Clukey, *supra* note 3; Cauffman et al., *supra* note 25, at 32.

141 Thompson v. Calderon, 120 F.3d 1045, 1058 (9th Cir. 1997) (en banc) (noting that a prosecutor "has the unique duty to ensure fundamentally fair trials by seeking not only to convict, but also to vindicate the truth and to administer justice"), *rev'd on other grounds*, 523 U.S. 538 (1998).

142 *See* United States v. Kettering, 861 F.2d 675, 677 (11th Cir. 1988) (holding no constitutional violation occurs when prosecution takes plea deal off the table before the criminal defendant accepts).

143 Annotation, *supra* note 26.

144 Godsey, *supra* note 21, at 469; S.B. 418, 81st Leg. Assemb., 2021 Reg. Sess. (Or. 2021).

Even when defendants confess, aggressive prosecutors can keep defendants in the dark regarding the admissibility of their confession and even punish them for attempting to clarify its admissibility through a suppression motion, making it even easier to obtain a plea deal and a guilty outcome. As mentioned above, keeping criminal defendants, especially juvenile criminal defendants, in the dark about the admissibility of their confessions may lead to an increase in the willingness to accept a plea deal as the risk of having such a confession later admitted into evidence at trial is too high.[145]

Without accounting for the reality of plea deals, the new pieces of state legislation do little to actually protect youth from the real problems that follow a confession. More procedural safeguards are needed.

V. RECOMMENDATIONS FOR AMENDING NEW STATE LEGISLATION TO ACCOUNT FOR THE ISSUE OF FALSE JUVENILE CONFESSIONS GENERATING FALSE PLEA DEAL ACCEPTANCES

To account for the inadequacies of the recent legislation, the new state statutes should be amended to provide for a sua sponte judicial determination on the legitimacy of the juvenile confession before the offering or acceptance of a plea deal is allowed to occur. Not only will this help legitimize the confession early in the criminal proceedings, but it will also remove a prosecutor's ability to withhold or withdraw plea deals based on the criminal defendant's filing of a suppression motion.

Recognizing that such confessions are so damaging at trial, it is in the interest of fairness, one of the tenets of the criminal justice system, to allow juvenile criminal defendants to know the status of the confession's admissibility.[146] This will allow juvenile criminal defendants to better strategize as they will know whether the court admitted what is arguably the most injurious piece of evidence against them. If the judge determines the confession is *admissible* under the respective state statute, then perhaps the juvenile criminal defendant will decide it is in his or her best interest to accept a plea deal if and when it is offered. If the judge determines the confession is *inadmissible* under the respective state statute, then perhaps the juvenile criminal defendant will decide it is in his or her best interest to exercise their right to a jury trial. In either circumstance, the sua sponte judicial determination of the admissibility of the confession will allow the

145 *See* Spierer, *supra* note 1918, at 1731–32.

146 Spierer, *supra* note 19, at 1731–32.

juvenile criminal defendant to make an informed decision about how to proceed.

Reliance on the totality of the circumstances standard, as embedded in Illinois's new law, or even the clear and convincing standard, as embedded in Oregon's new law, for the admission or exclusion of the confession at trial is insufficient.[147] The subjectivity of any judge applying either standard creates a whirlwind of unpredictability whereby juvenile criminal defendants have no way to gauge whether their confession will be admitted and thus whether it is in their best interests to pursue a plea deal.

This sua sponte pre-bargain determination can take many forms and is a minor additional step when considering many of the policies that have been implemented as widespread recognition of the risk of false confessions has increased. Some states, such as Alaska, have long required interrogations to be recorded in an attempt to provide an objective account of police interrogations.[148] In *Stephan v. State,*[149] the Alaska Supreme Court even took it so far as to hold that interrogation recording "is now a reasonable and necessary safeguard, essential to the adequate protection of the accused's right to counsel, his right against self-incrimination, and, ultimately, his right to a fair trial."[150] Beyond the Alaska Supreme Court, many have called for a mandatory interrogation recording in all instances of adolescent interrogation in hopes of holding interrogators accountable if they attempt to use false evidence ploys or other deceitful tactics.[151]

As New York's pending bill requires a pre-trial determination of the recorded confession's admissibility, other states, including New York itself, can shift this procedural guarantee to a pre-bargain determination rather than a pre-trial determination.[152] This means that, before a plea deal is offered or entered into, courts could review the confession in the same manner as the New York bill would require courts to do, and the review be followed by a judicial announcement concerning the admissibility of the confession if a trial were to come.[153]

While there are likely some concerns relating to cost and efficiency when considering the implementation of this pre-bargain

147 Joyce & Clukey, *supra* note 3; S.B. 418, 81st Leg. Assemb., 2021 Reg. Sess. (Or. 2021).

148 Feld, *supra* note 35, at 246.

149 Stephan v. State, 711 P.2d 1156 (Alaska 1985).

150 Feld, *supra* note 35, at 246.

151 Greer, *supra* note 6, at 772–73.

152 Diaz, *supra* note 17.

153 Diaz, *supra* note 17.

determination, the tenet of justice and the protection of youth outweigh the incidental costs associated with this proposed modification.[154] This is also not an unheard of proposition, as sixteen states and the District of Columbia already mandate the electronic recordings of interrogations, making the addition of this modification even simpler.[155] For these states, the only material added costs would be the time it takes to review the confession before the prosecution would be allowed to offer a plea deal. Like with most matters, prosecutors and defense attorneys can brief the court in advance, before a determination on the confession, as to why the confession is either voluntary or involuntary under the standards articulated in the new pieces of state legislation or under other relevant legal standards.

Moreover, a pre-bargain assessment will put the prosecution on notice as to the validity of the confession, allowing prosecutors to assess the case more accurately. Thus, implementing the pre-bargain assessment rule will also promote the truth, help prevent those who have falsely confessed from accepting coerced plea deals, and allow prosecutors to bring a case to trial in instances where the confession is deemed valid. The pre-bargain assessment rule merely allows the "pause" button to be hit before anyone can do anything that could have devastating consequences for a juvenile defendant.

For those states that have not yet required the mandatory recording of interrogations, especially juvenile interrogations, such a move is long overdue. While the mandatory recording of all interrogations is not the ultimate solution to the issue of false confessions, such a policy still serves many positive aims.[156] For example, these recordings capture the interrogators' tones and body language, which help the judge decide during the pre-bargain determination whether an interrogation is coercive in nature.[157]

Even if some states still choose not to record interrogations, they can still use the interrogation's transcript and other relevant evidence to determine whether the confession was given legitimately before beginning the plea bargaining process. Although there is no constitutional right to a plea deal offer, prosecutors will continue

154 *See* Tara O'Neill Hayes, *The Economic Costs of the U.S. Criminal Justice System*, THE AMERICAN ACTION FORUM (July 16, 2020), https://www.americanactionforum.org/research/the-economic-costs-of-the-u-s-criminal-justice-system/ (noting the great costs of the criminal justice system and the balancing of costs and efficiency).

155 Wigler, *supra* note 68, at 1454.

156 *See* Greer, *supra* note 6, at 773 (noting how this single requirement will still fail in many ways to account for key issues within the matter of false confessions).

157 *See* Greer, *supra* note 6, at 773.

offering them as the criminal justice system would come to a halt if every single criminal defendant exercised their right to a jury trial.[158] Thus, to protect juveniles who will inevitably enter into plea bargains, it is imperative to provide procedural safeguards that determine the admissibility of a confession sua sponte before both trial and plea bargaining. This will ensure the prosecutor cannot unfairly condition plea deals and penalize the criminal defendant for simply attempting to determine the admissibility of their confession through a suppression motion.

VI. CONCLUSION

This Comment articulates the issues juvenile criminal defendants face within the criminal justice system. New state legislation banning the use of certain police interrogation techniques is certainly a step in the right direction.[159] However, this legislation fails to account for the fact that many juvenile criminal defendants will take a plea deal before a judicial determination is even made regarding the admissibility of their confession.[160] Recognizing the prevalence of plea deals in the American criminal justice system, states should put forth legislation concerning the plea bargaining process rather than focusing solely on issues relevant to criminal trials.[161]

Prosecutors allegedly wear the white hat in the courtroom. It is their role not only to convict the truly guilty, but to always seek truth in their duties.[162] This duty becomes a mere facade when prosecutors can evade legislative protections and manipulate the plea-bargaining process to purposely keep information from criminal defendants. While many confessions are true, some are not.[163] The existence of false confessions, that due to coercive tactics and a lack of knowledge often result in the acceptance of plea deals, justifies a blanket requirement for a sua sponte pre-bargain determination of a confession's admissibility. This will allow criminal defendants to better perceive their situation when determining whether to accept an offered plea deal. Additionally, it will help to prevent any unfair prosecutorial strategies aimed at

158 *See* Weatherford v. Bursey, 429 U.S. 545, 561 (1977); Trivedi, *supra* note 23.

159 Innocence Staff, *supra* note 12.

160 Cauffman et al., *supra* note 25.

161 Trivedi, *supra* note 23.

162 Bennett L. Gershman, *The Prosecutor's Duty to Truth*, 14 GEO. J. LEGAL ETHICS 309, 313–14 (2001).

163 *See, e.g.*, Sharon L. Davies, *The Reality of False Confessions—Lessons of the Central Park Jogger Case*, 30 N.Y.U. REV. L. & SOC. CHANGE 209 (2006) (detailing the false confessions of the teens from the Central Park jogger case).

intentionally keeping criminal defendants in the dark in an attempt to stifle defendants' plea deal or trial strategies.

The Reid Technique is an abhorrent remnant of irresponsible law enforcement strategy, and its funeral is long overdue. While banning the use the Reid Technique during juvenile interrogations or implementing the far less coercive PEACE method would greatly counteract the prevalence of false confessions, no legislation or Court ruling has taken either action.[164] Rather, state legislatures are facing the issue of false confessions more indirectly, by creating presumptive statutes that place the burden on the state to demonstrate the legitimacy of a confession before allowing its admission into evidence at trial. Although this is helpful, the use of the Reid Technique will continue to produce false juvenile plea acceptances until the new state legislation is amended to include a sua sponte pre-bargain determination.

The states participating in this new wave of legislation barring specific police interrogation practices should amend their legislation to require a sua sponte pre-bargain determination on the admissibility of juvenile confessions. This new wave of legislation current accounts for only around five percent of criminal defendants who have confessed, as the rest have already taken a plea deal.[165] To truly thwart the Reid Technique's production of false confessions, plea bargaining must become the focal point of discussion. Until then, the number of juvenile defendants who were coerced into falsely confessing, proceeded to falsely accept a plea deal, and subsequently served a prison sentence will continue to grow in number.

164 *See generally* Spierer, *supra* note 1918 at 1734 (calling for an outright ban on the use of the Reid Technique when interrogating juveniles); Moore & Fitzsimmons, *supra* note 89.

165 *See* Trivedi, *supra* note 23 (explaining that over 95% of all state and federal convictions occur via plea deals).