



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

**Senate Bill 53-Juvenile Law-Juvenile Interrogation Protection Act
Judicial Proceedings Committee – January 27, 2022
SUPPORT**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2022 legislative session, as it was in the last session. WDC is one of the largest and most active Democratic Clubs in our County with hundreds of politically active women and men, including many elected officials.

WDC urges the passage of SB 53. This bill will increase protections for children facing interrogation by law enforcement, and we commend Senator Carter for her leadership in proposing this legislation.

From a young age, we are taught to respect elders and to respect authority. Unfortunately, this age-old emphasis on such respect is undermined by practices in our criminal system, specifically when law enforcement officers interrogate those accused of crimes. Law enforcement officers can and do lie as a coercive tactic to compel information from the accused.¹ This tool of deception is entirely legal and can lead even the most poised of adults to provide false and incriminating information. When used with children, deception and manipulation is even more troubling.

In *J.D.B. v. North Carolina*, the Supreme Court held that age must be considered when analyzing the details surrounding one's detention. The Court underscored that "it is beyond dispute that children will often feel bound to submit to police questioning when an adult in the same circumstances would feel free to leave," noting that children feel an inherent obligation to obey authority figures.² In *Miller v. Alabama* the Court described children as "constitutionally different from adults."³ The Court has further equated "a mere child" to "an easy victim of the law."⁴

The Court has repeatedly and clearly spoken: the U.S. Constitution mandates unique protections for children in the criminal justice system. However, failure to meet that mandate persists. According to the National Registry of Exonerations, 38% of exonerations for crimes allegedly committed by youth involved false confessions, triple the

¹ *Frazier v. Cupp*, 394 U.S. 731 (1969) (holding defendant's confession voluntary even though induced by law enforcement's dishonesty during interrogation).

² *J. D. B. v. North Carolina*, 564 U.S. 261, 264 (2011) (highlighting that law enforcement and courts may not "blind themselves to the commonsense reality" that children are different from adults). See also Abigail Kay Kohlman, *Kids Waive the Damdest Constitutional Rights: The Impact of J.D.B. v. North Carolina on Juvenile Interrogation*, 49 AM. CRIM. L. REV. 1623, 1643 (2012) (concluding that "[W]hen the *J.D.B.* Court included age into the custody analysis, it ignored the futility of *Miranda* warnings on juveniles younger than fifteen, or the particularly coercive pressures that still exist for juveniles older than sixteen.")

³ *Miller v. Alabama*, 567 U.S. 460, 471 (2012).

⁴ *Haley v. Ohio*, 332 U.S. 596, 599 (1948) ("[W]hen, as here, a mere child – an easy victim of the law – is before us, special care in scrutinizing the record must be used. That which would leave a man cold and unimpressed can overawe and overwhelm a lad in his early teens.").



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estimated rate of false confessions generally.⁵ Fixated on their desire to return home, children are willing to say whatever they can to free themselves from the four walls of an interrogation room.

Maryland does not treat its children any better than the nation at large. Law enforcement can question a child taken into custody in Maryland without an attorney present, and often, the child's parent or guardian is not notified of the child's detention or adequately informed of the circumstances surrounding the detention. Interrogating a child without allowing the child to consult with an attorney and benefit from the protection of his parents or guardians *and* without the attorney's continued presence during questioning does nothing to further the quest for justice.⁶

Children are vulnerable—they lack the developmental maturity, experience, and perspective necessary to withstand interrogation by authorities when faced with criminal accusation. Subjecting children to interrogation that is legally infiltrated by deception and coercion transforms the constitutionally protected presumption of innocence to one of coerced guilt. Seeking justice for all those affected by crime should be the goal, therefore we ask you to pass SB 53, which will simultaneously inform law enforcement's search for the truth and adequately protect accused children from assumptions of guilt, as the Constitution instructs.

We ask for your support for SB53 and strongly urge a favorable Committee report.

Respectfully,

Leslie Milano
President

⁵ Zusha Elinson, *False Confessions Dog Teens*, THE WALL STREET JOURNAL (Sept. 8, 2013), <https://www.wsj.com/articles/SB10001424127887324906304579036901493013302>. See also, Yusef Salaam, Kevin Richardson and Raymond Santana, *Opinion: We are the 'Exonerated 5'. What Happened to Us Isn't Past, It's Present*, THE NEW YORK TIMES (Jan. 4, 2021) (“At the time of our arrests in 1989, we were just boys — Kevin and Raymond, the youngest among us, were only 14 — and we came to be known as the “Central Park Five.” ...But what people may not realize is that what happened to us isn't just the past — it's the present. The methods that the police used to coerce us, five terrified young boys, into falsely confessing are still commonly used today... These psychologically coercive tactics presume guilt rather than innocence and, as a result, they taint law enforcement's efforts to find facts.”). <https://www.nytimes.com/2021/01/04/opinion/exonerated-five-false-confessions.html>

⁶ See, Laurel LaMontagne, *Children Under Pressure: The Problem of Juvenile False Confessions and Potential Solutions*, 41 W. St. U. L. Rev. 29 (2013) and Jessica R. Meyer & N. Dickon Reppucci, *Police Practices and Perceptions Regarding Juvenile Interrogation and Interrogative Suggestibility*, 25 BEHAVE. SCI. & LAW 757 (2007) (discussing coercive police interrogation practices as applied to minors and a study of police investigators and officers in Baltimore County, Maryland).