

**“PROTECTING THE INNOCENT AND IDENTIFYING
THE GUILTY:” ADOPTING THE CHILDREN’S
ADVOCACY CENTER FORENSIC INTERVIEW MODEL
IN POLICE INTERROGATIONS OF JUVENILES**

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ABSTRACT

Decades of psychological research provide strong evidence that children are different from adults. Nowhere are these differences more apparent than in the interrogation room. Juveniles are easily persuaded into waiving their Miranda rights, lack a full understanding of what their rights are and how they apply to their current situation, and are more susceptible to the coercive interrogation tactics used by police interrogators. A juvenile’s reward sensitivity, limited future orientation, and decreased decision-making capacity when under stress contributes to the increased likelihood of both true and false confessions in juvenile interrogations. Many states recognize these differences and have enacted laws meant to protect juveniles in police interrogations. Unfortunately, these minor protections are not enough. To truly protect juveniles in police interrogations, an interview model focused on obtaining information, not eliciting a confession, is required. The Children’s Advocacy Center (CAC) Forensic Interview Model, whose focus is on obtaining information, is a superior approach compared to current interrogation practices for interrogations of juveniles because it is developmentally appropriate and eliminates the subtly coercive practices inherent in current police interrogations. Adoption of the CAC Forensic Interview Model would protect juveniles from falsely confessing to

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crimes they did not commit and ensure true confessions are obtained ethically and voluntarily.

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INTRODUCTION

In 1996, Lachesha Murray, an 11-year-old girl living in Austin, Texas, became the youngest person in the state to ever be charged with capital murder.¹ Shirley Murray, Lachesha's grandmother, usually provided day care for Jayla Belton, a two-year-old girl.² However, despite Shirley being away on May 24,

1. Maurice Possley, *Lachesha Murray*, NAT'L REGISTRY OF EXONERATIONS, <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=3499> (June 28, 2014).

2. Bob Herbert, *In America; A Child's 'Confession'*, N.Y. TIMES: OP. (Nov. 15, 1998), <https://www.nytimes.com/1998/11/15/opinion/in-america-a-child-s-confession.html?searchResultPosition=1> [hereinafter *In America; A Child's 'Confession'*].

1996, Jayla's parents dropped the baby off at the Murray residence anyway.³ According to the rest of the Murray family, Jayla seemed ill all day as she was "listless, refused to eat, perspired profusely and was vomiting."⁴ Lacrosha eventually noticed that Jayla went into convulsions and was cold, which is when Lacrosha and her grandfather rushed Jayla to the hospital.⁵ Unfortunately, Jayla was pronounced dead.⁶ Jayla had over thirty bruises, four broken ribs, and a ruptured liver, an injury that meant one would die in around fifteen minutes according to the Travis County Medical Examiner.⁷ Given this time frame, the investigators zeroed in on Lacrosha, the last person seen with Jayla.⁸

Lacrosha spent four days in a children's home where she was repeatedly questioned by police without a family member or attorney present.⁹ During the police interrogation, police ran through a reading of Lacrosha's rights, following up by saying, "[y]ou've heard them before, on TV shows probably, huh?"¹⁰ Police intimidated Lacrosha, explaining that "a doctor 'with over 20 years of experience'" said the baby must have died when she was with Lacrosha.¹¹ Despite Lacrosha stating she did not know what happened thirty-nine times,¹² the police told her, "[w]e're going to stay here until you tell us the truth."¹³ Police told Lacrosha, "[w]e won't have to be bothering your family and your grandpa" if she confessed.¹⁴ Getting nowhere, the police switched to asking whether it was possible that

3. *Id.*

4. *Id.*

5. *Id.*; Possley, *supra* note 1.

6. Possley, *supra* note 1.

7. *In America; A Child's 'Confession'*, *supra* note 2; Possley, *supra* note 1; *60 Minutes, Juvenile Injustice?*, COLUMBIA BROAD. SYS. (June 20, 1999), https://search.alexanderstreet.com/preview/work/bibliographic_entity%7Cvideo_work%7C2786371 [hereinafter *60 Minutes*].

8. *In America; A Child's 'Confession'*, *supra* note 2.

9. *60 Minutes*, *supra* note 7.

10. *In America; A Child's 'Confession'*, *supra* note 2.

11. *Id.*

12. *60 Minutes*, *supra* note 7.

13. *In America; A Child's 'Confession'*, *supra* note 2.

14. *60 Minutes*, *supra* note 7.

Lacresha caused Jayla's injuries, instead of asking whether she actually did cause them.¹⁵ Eventually, after being interrogated by police for three hours, Lacresha confessed.¹⁶ Lacresha signed a statement admitting to dropping and accidentally kicking Jayla.¹⁷

Lacresha was convicted by two separate juries of "criminally negligent homicide and injury to a child."¹⁸ Despite having no witnesses or forensic evidence linking Lacresha to Jayla's death, she was sentenced to serve twenty-five years in prison.¹⁹ Three years later, in April 1999, Lacresha's conviction was finally set aside when the Texas Third Court of Appeals ruled that her statement to police "should have been suppressed."²⁰ The District Attorney's office contemplated trying Lacresha for a third time, but defense counsel requested that the medical examiner reexamine the evidence.²¹ The medical examiner concluded that Jayla's injuries were inflicted before she came to Lacresha's house so the charges were finally dismissed.²²

Unfortunately, Lacresha's story is not an anomaly, and juveniles continue to be subject to the harsh interrogation tactics employed by police.²³ Because Lacresha was in custody, a

15. *In America; A Child's 'Confession'*, *supra* note 2.

16. Possley, *supra* note 1; *see also* Bob Herbert, *In America*, N.Y. TIMES: OP. (Nov. 26, 1998), <https://www.nytimes.com/1998/11/26/opinion/in-america.html> [hereinafter Herbert].

17. *60 Minutes*, *supra* note 7.

18. Possley, *supra* note 1; *In America; A Child's 'Confession'*, *supra* note 2.

19. Possley, *supra* note 1; *In America; A Child's 'Confession'*, *supra* note 2.

20. Possley, *supra* note 1.

21. *Id.*

22. *Id.*

23. The "Central Park Five," which includes Kevin Richardson, Raymond Santana, Antron McCray, Yusef Salaam, and Korey Wise, is a well-known example of juveniles who were subject to harsh interrogation tactics by police. *See Central Park Five: The True Story Behind When They See Us*, BBC NEWS (June 12, 2019), <https://www.bbc.com/news/newsbeat-48609693>. Other lesser-known examples include Jonathan Adams, Anthony Harris, Art Tobias, and many more. *See, e.g.,* Maurice Possley, *Jonathan Adams*, NAT'L REGISTRY OF EXONERATIONS, <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=2981> (last visited Nov. 1, 2022); Rob Stafford, *A Killing in Carrollton*, NBC NEWS (May 2, 2007, 1:42 AM), <https://www.nbcnews.com/id/wbna18428335>; Maurice Possley, *Anthony Harris*, NAT'L REGISTRY OF EXONERATIONS, <https://www.law.umich.edu/special/exoneration/Pages/>

magistrate judge was supposed to explain her rights, an added protection meant to ensure Lacesha fully understood her rights.²⁴ But, that protection does little to help Lacesha once she enters the interrogation room where she was questioned by police who were trained to elicit a confession by any means necessary.²⁵ Police waited days to question Lacesha while isolating her from her family, increasing her stress and decreasing her ability to resist.²⁶ They gave her a cursory explanation of her rights, which at eleven-years-old, she was unlikely to understand anyway.²⁷ Through coercion, promises of leniency, and confusion, the police got what they were after: a confession.²⁸

In response to stories like Lacesha's, state legislatures enacted laws to accurately reflect the psychological evidence that juveniles are different than adults.²⁹ Recently, Illinois made the historic decision to ban deceptive practices in police interrogations of juveniles.³⁰ While this is an important step, it is not enough to protect juveniles from the coercive environment of a police interrogation because the unique psychology of juveniles makes them more susceptible to police interrogators' subtly coercive tactics.³¹ This Note argues that the minimal protections afforded to juveniles in interrogations, such as banning deceptive practices by police questioners, are not enough to protect them from the risk of false confessions

casedetail.aspx?caseid=3281 (last visited Nov. 1, 2022); Maurice Possley, *Art Tobias*, NAT'L REGISTRY OF EXONERATIONS (May 7, 2020), <https://www.law.umich.edu/special/exoneration/Pages/casedetail.aspx?caseid=5729>.

24. See Herbert, *supra* note 16; Possley, *supra* note 1.

25. *In America: A Child's 'Confession'*, *supra* note 2; Herbert, *supra* note 16; see *infra* Part II.

26. *In America: A Child's 'Confession'*, *supra* note 2; *60 Minutes*, *supra* note 7.

27. See *In America: A Child's 'Confession'*, *supra* note 2; Herbert, *supra* note 16; *infra* Part II.

28. See *60 Minutes*, *supra* note 7; *In America: A Child's 'Confession'*, *supra* note 2; Herbert, *supra* note 16.

29. See *infra* Part IV.

30. 705 ILL. COMP. STAT. ANN. 405/5-401.6(b) (LexisNexis 2022); Pritzker Signs Law Making Illinois 1st to Ban Lying to Juveniles in Interrogations, WGN9: NEWS, <https://wgntv.com/news/pritzker-signs-law-making-illinois-1st-to-ban-lying-to-juveniles-in-interrogations/> (July 15, 2021, 6:41 PM).

31. See *infra* Part II.

and adequately protect their privilege against self-incrimination. Instead, this Note proposes that the Children's Advocacy Center (CAC) Forensic Interview Model, which focuses on obtaining the truth rather than eliciting a confession, should be adopted in police interrogations of minors.

Part I of this Note discusses the current state of police interrogation practices. Part II explains the developmental and psychological differences between juveniles and adults that make the interrogation room an extremely dangerous place for a juvenile offender. Part III describes the Supreme Court's *Miranda* jurisprudence as it applies to juveniles. Part IV illustrates the different reforms states have adopted when it comes to police interrogations of juveniles and analyzes the shortcomings of Illinois' new law prohibiting deceptive practices in police interrogations of juveniles. Part V introduces two potential alternatives to the Reid Model: the PEACE interview approach, an information-gathering interview style that has measured success abroad, and the CAC Forensic Interview Model. Finally, Part VI explains why adopting the CAC Forensic Interview Model in police interrogations of minors provides a superior method of preventing false confessions and protecting the rights of juveniles compared to current interrogation practices. Part VI also analogizes the CAC Forensic Interview Model to the PEACE interview approach. Part VI ends with the ultimate conclusion that the CAC Forensic Interview Model is the preferred solution despite potential pushback.

I. OVERVIEW OF CURRENT POLICE INTERROGATION TACTICS

Most information regarding law enforcement training for interviews and interrogations comes from training manuals for commercial interrogation training programs.³² The Reid

32. Hayley M.D. Cleary & Todd C. Warner, *Police Training in Interviewing and Interrogation Methods: A Comparison of Techniques Used with Adult and Juvenile Suspects*, 40 L. & HUM. BEHAV. 270, 271 (2016) [hereinafter *Police Training in Interviewing and Interrogation Methods*].

Method is believed to be the leading interrogation technique among law enforcement officers in the United States.³³ Characterized by its creators as a program with the goal of “[p]rotecting the [i]nnocent and [i]dentifying the [g]uilty,”³⁴ the program has nine interrogation steps which, in reality, are designed to achieve the ultimate goal: a confession.³⁵ This method proceeds in three distinct phases: factual analysis, interviewing, and interrogation.³⁶

During factual analysis, investigators “estimat[e] the probability of a suspect’s guilt or innocence based on investigative findings.”³⁷ To determine the probability of guilt, five categories are analyzed: (1) the suspect’s opportunity or access to the crime; (2) their attitude; (3) their motivation; (4) their “biographical information, such as . . . age, race, gender, education, marital status, living situation, and social status”; and (5) the evidence.³⁸ Age is an important factor because investigators using the Reid Method are taught that younger suspects tend to commit more spontaneous crimes than premeditated ones.³⁹ Additionally, investigators are taught that younger suspects are most dishonest; “[t]herefore, when comparing three suspects, ages 18, 30, and 40, suspected of employee theft, the 18-year-old is most likely guilty and the 40-year-old least likely to be guilty (provided all other factors are

33. Kevin Lapp, *Taking Back Juvenile Confessions*, 64 UCLA L. REV. 902, 910 (2017); Caitlin N. August & Kelsey S. Henderson, *Juveniles in the Interrogation Room: Defense Attorneys as a Protective Factor*, 27 PSYCH., PUB. POL’Y, & L. 268, 269 (2021); *Police Training in Interviewing and Interrogation Methods*, *supra* note 32 at 271. *But see* Eli Hager, *The Seismic Change in Police Interrogations*, MARSHALL PROJECT (Mar. 7, 2017, 10:00 PM), <https://www.themarshallproject.org/2017/03/07/the-seismic-change-in-police-interrogations> (explaining that Wicklander-Zulawski & Associates, one of the nation’s largest police consulting firms, said they would no longer be training using the Reid technique).

34. REID, <https://reid.com> (last visited Nov. 1, 2022).

35. Lapp, *supra* note 33, at 910.

36. JAMES ORLANDO, CONN. GEN. ASSEMBLY, INTERROGATION TECHNIQUES 2–3 (2014), <https://www.cga.ct.gov/2014/rpt/pdf/2014-R-0071.pdf>.

37. *Factual Analysis*, REID (Nov. 1, 2017), <https://reid.com/resources/investigator-tips/factual-analysis>.

38. *Id.*

39. *Id.*

equal)."⁴⁰ While the information gathered during the factual analysis phase is important for evaluating guilt or innocence, it is often used in the interrogation phase as well.⁴¹

Once a suspect is identified through the factual analysis stage as being "possibly or probably involved in the crime," investigators proceed to the next phase: the Behavior Analysis Interview.⁴² This interview phase is modeled after the pre-test interview conducted before a polygraph test.⁴³ Before a polygraph test, the examiner conducts an interview with the interviewee to get a feel for the interviewee's baseline physiological arousal.⁴⁴ This baseline is compared to the results during the actual test to determine the interviewee's level of truthfulness.⁴⁵ The Behavioral Analysis Interview does the same thing; it helps interrogators get a baseline for the interviewee.⁴⁶

The interview builds off the initial factual analysis stage by gathering additional information that can be used to determine the suspect's guilt or innocence.⁴⁷ This stage can also help the interviewer build rapport, profile the suspect, and evaluate the suspect's ability to participate in the final interrogation stage.⁴⁸ The interview itself is non-accusatory and involves three types of questions: questions to gather background information, questions to elicit investigative information, and behavior provoking questions.⁴⁹ With investigative information questions, the interviewer is asking about the suspect's alibi, motive, and "propensity to commit the crime," being careful to

40. *Id.* This is because the Reid Method teaches that "[a]s most individuals become older their attitude toward honesty increases as does their level of social responsibility." *Id.*

41. ORLANDO, *supra* note 36, at 2; *Factual Analysis*, *supra* note 37 ("While determining the motive of the crime can be a useful adjunct for factual analysis, it plays a bigger role in the interrogation of the guilty suspect.").

42. *The Reid Behavior Analysis Interview*, REID (July 1, 2014), <https://reid.com/resources/investigator-tips/the-reid-behavior-analysis-interview>.

43. *Id.*

44. *Id.*

45. *Id.*

46. *Id.*

47. *Id.*

48. *Id.*

49. *See id.*

only ask “questions to which the answer is already known.”⁵⁰ If a suspect’s answer does not match the information gathered by the investigator during the factual analysis stage, this is considered evidence of guilt.⁵¹ During the behavior provoking questions, the interviewer observes the suspect’s verbal answer and their nonverbal behavior to questions that are intended to elicit different answers from guilty or innocent suspects.⁵² Examples of behavior provoking questions include: “Do you think (crime) really was committed?” and “Under any circumstance, do you think the person who committed (crime) deserves a second chance?”⁵³

If the suspect’s guilt is still suspected after the behavior analysis interview, the Reid Method proceeds to the final interrogation stage.⁵⁴ There are nine steps to the interrogation stage: (1) positive confrontation; (2) theme development; (3) handling denials; (4) overcoming objections; (5) procurement and retention of the suspect’s attention; (6) handling suspect’s passive mood; (7) presenting the alternative question; (8) having the suspect orally relate the details of the crime; and (9) getting a written statement.⁵⁵ Two of the key tactics used in police interrogations under the Reid Method are known as maximization and minimization techniques.⁵⁶ Maximization techniques involve the interrogators exaggerating the strength of the evidence or the magnitude of the charges.⁵⁷ For example, during the positive confrontation stage, the investigator will unequivocally state that the evidence supports the suspect’s

50. *Id.*

51. *See id.*

52. *Id.*

53. *Id.*

54. *See id.*

55. *See The Reid Technique of Investigative Interviewing and Advanced Interrogation Techniques*, REID, <https://reid.com/programs/program-descriptions/the-reid-technique-of-investigative-interviewing-and-advanced-interrogation-techniques> (last visited Nov. 1, 2022).

56. *See* Barry C. Feld, *Behind Closed Doors: What Really Happens When Cops Question Kids*, 23 CORNELL J.L. & PUB. POL’Y 395, 413 (2013) [hereinafter *Behind Closed Doors*].

57. *See* Saul M. Kassin & Karlyn McNall, *Police Interrogations and Confessions: Communicating Promises and Threats by Pragmatic Implication*, 15 L. & HUM. BEHAV. 233, 234–35 (1991).

guilt,⁵⁸ and may emphasize the seriousness of the crime.⁵⁹ In the handling of denials and overcoming objections stages, investigators will dismiss any of the suspect's objections by declining the suspect's requests to speak and using their objections to further develop the narrative of why the suspect committed the crime.⁶⁰ They may also accuse the suspect of lying.⁶¹ Interrogators will even reveal evidence, real or manufactured, that they have against the suspect.⁶² These tactics work to shift the suspect from feelings of confidence to hopelessness.⁶³

Minimization techniques are used to "play down" the severity of the crime.⁶⁴ With minimization techniques, the officers offer rationales or excuses to the suspect to explain why the suspect committed the crime in question.⁶⁵ This often occurs in the theme development stage where the investigators give the suspect a moral justification for the crime.⁶⁶ Investigators will display a sympathetic demeanor and urge the suspect to tell the truth while supplying this rationale.⁶⁷ This can "neutralize suspects' guilt and minimize their responsibility, making it easier for them to confess."⁶⁸ After running through these techniques, the investigator will present a question with alternative justifications for the crime.⁶⁹ Once the suspect admits guilt by choosing from the two alternative justifications, the interrogation continues with the gathering of basic information about the event and then proceeding with more detailed questions.⁷⁰

58. ORLANDO, *supra* note 36, at 3; *see also Behind Closed Doors*, *supra* note 55, at 413–14.

59. *Behind Closed Doors*, *supra* note 55, at 433.

60. *See* ORLANDO, *supra* note 36, at 3; *see also Behind Closed Doors*, *supra* note 55, at 413–14.

61. *See Behind Closed Doors*, *supra* note 55, at 433.

62. *Id.* at 413–14.

63. *Id.*

64. *See* Kassin & McNall, *supra* note 56, at 235.

65. *See Behind Closed Doors*, *supra* note 55, at 414.

66. *See* ORLANDO, *supra* note 36, at 3.

67. *Id.*

68. *Behind Closed Doors*, *supra* note 55, at 437.

69. *See* ORLANDO, *supra* note 36, at 4.

70. *See id.*

These same tactics are applied whether the suspect is an adult or an adolescent,⁷¹ but given the psychological differences between the two, these tactics may be even more effective on juveniles.⁷² While the Reid Method's website warns investigators that they must consider the person sitting across from them is still a child, not an adult, few alternatives are recommended for the interrogation process.⁷³ The Reid Method cautions against using persuasion techniques during interrogations of children under ten, but says these techniques, including introducing fictitious evidence, may be used with adolescents who have a higher sense of social responsibility.⁷⁴ The creators of the Reid Method imply that these harsh interrogations tactics are necessary because "myths" about children's developmental differences are not 100% true.⁷⁵ However, an ample amount of psychological evidence suggests otherwise.⁷⁶

II. THE PSYCHOLOGICAL DIFFERENCES BETWEEN CHILDREN AND ADULTS THAT IMPERIL JUVENILES

While the creators of the Reid Method minimize the psychological differences between juveniles and adults,⁷⁷ current psychological research suggests that these differences are real and can influence how juveniles make decisions during interrogations. From the very beginning of the interview, starting with the reading of their rights, juveniles are at a disadvantage. *Miranda* warnings are meant to protect the suspect's privilege against self-incrimination when in the coercive environment of a police interrogation.⁷⁸ Suspects are to

71. *Behind Closed Doors*, *supra* note 55, at 414; see *Interrogations of Children*, REID (July 1, 2001), <https://reid.com/resources/investigator-tips/interrogations-of-children>.

72. See *infra* Part II.

73. See *Interrogations of Children*, *supra* note 70.

74. *Id.*

75. See *id.*

76. See *infra* Part II.

77. See *Interrogations of Children*, *supra* note 70.

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

be informed that: (1) “[they have] the right to remain silent,” (2) “anything [they] say[] can be used against [them] in a court of law,” (3) “[they have] the right to the presence of an attorney,” and (4) “if [they] cannot afford an attorney one will be appointed for [them] prior to any questioning.”⁷⁹ For juveniles though, the *Miranda* warning does not adequately protect them in the interrogation room.

Before even explaining the *Miranda* warning to juveniles, police often take time to build rapport with the suspect and minimize the significance of the *Miranda* warning, making it a mere formality.⁸⁰ Lacreasha’s interrogators did just this by reminding her that she probably heard the rights that she was just read on TV shows before.⁸¹ In a study analyzing twenty-nine recorded custodial interrogations, researchers observed interrogators minimizing the *Miranda* warning by describing it as “something we have to do” or explaining that it is “a mere formality,” instead of accurately explaining the significance of the warning.⁸² One interrogator even said, “if we were on the street talking, I wouldn’t have to do this,” furthering the message that the warning is only a formality because of where the interrogation is taking place.⁸³

Even if the importance of the *Miranda* warning is explained, the language of the warning is above the reading comprehension level of many juveniles who will hear it.⁸⁴ In one study, researchers used the Flesch-Kincaid Grade Level test which provides an “estimate of the grade-equivalent reading level needed to achieve at least 75% comprehension of written material” to analyze a five prong *Miranda* warning given to

79. *Id.* at 479.

80. Hayley M.D. Cleary, *Applying the Lessons of Developmental Psychology to the Study of Juvenile Interrogations: New Directions for Research, Policy, and Practice*, 23 PSYCH., PUB. POL’Y, & L. 118, 122 (2017) [hereinafter *Applying the Lessons of Developmental Psychology*].

81. *In America; A Child’s ‘Confession’*, *supra* note 2.

82. Anthony J. Domanico, Michael D. Cicchini & Lawrence T. White, *Overcoming Miranda: A Content Analysis of the Miranda Portion of Police Interrogations*, 49 IDAHO L. REV. 1, 15–16 (2012).

83. *Id.* at 16.

84. *Behind Closed Doors*, *supra* note 55, at 408–09.

suspects.⁸⁵ The first prong, “[y]ou have the right to remain silent,” was given a grade level of 2.3.⁸⁶ The second prong, “[a]nything you say can and will be used against you in a court of law,” had a 4.4 grade level.⁸⁷ While these prongs required only second and fourth grade reading levels, the third and fourth prong required at least a tenth grade reading level.⁸⁸ The third prong, “[y]ou have the right to consult with a lawyer before questioning and to have a lawyer present with you during questioning,” received a 10.0 grade level.⁸⁹ The fourth prong, “[i]f you cannot afford to hire a lawyer, one will be appointed to represent you at public expense before or during any questioning, if you so wish,” received a 13.0 grade level.⁹⁰ The last prong, “[i]f you decide to answer questions now without a lawyer present, you have the right to stop the questioning and remain silent at any time you wish, and the right to ask for and have a lawyer at any time you wish, including during the questioning,” received the highest score of 18.7.⁹¹ This high score means even college-educated suspects may not fully understand the final prong’s meaning.⁹² Thus, many juveniles, especially younger ones, waive their rights without a full understanding of what those rights mean.⁹³

Even those who can comprehend the language of the rights may not be able to grasp the protection that it affords them.⁹⁴ This is because “[j]uveniles do not fully appreciate the function or importance of rights,” and some think their rights are an entitlement provided to them by authorities, which can be unilaterally withdrawn, instead of a privilege that is theirs to

85. Domanico et al., *supra* note 82, at 12.

86. *Id.* at 14.

87. *Id.*

88. *Id.*

89. *Id.*

90. *Id.*

91. *Id.*

92. *Id.* at 15.

93. *Behind Closed Doors*, *supra* note 55, at 408–09.

94. *Id.* at 409–10.

waive.⁹⁵ The conversation surrounding the waiver of their rights is also framed as a request from an adult authority figure, so many juveniles do not believe they truly have a choice on whether to waive the protection.⁹⁶ Additionally, the interrogation process itself makes the juvenile more likely to comply with waiver because the request is coming from someone with far more social and legal power, and the juvenile's main focus may be simply getting out of the situation as quickly as possible.⁹⁷

On top of that, many juveniles do not understand the consequences of waiving their rights.⁹⁸ And without a thorough understanding of the consequences of waiver, a juvenile cannot knowingly and intelligently waive their rights.⁹⁹ Even if a juvenile understands in the abstract what their rights are and what they mean, that knowledge is not helpful if the juvenile cannot "apply that understanding to their own situation."¹⁰⁰ For example, a juvenile may understand that the right to remain silent means they do not have to answer questions posed by the police officer, but if the juvenile does not understand that they can stop answering questions asked of them even after they already started answering, that basic understanding does little for them.¹⁰¹

Other factors also indicate that juveniles may not be making a completely informed decision when waiving their rights.¹⁰² A juvenile's decision-making competence is not yet fully developed, and the stressful environment of a police interrogation further hinders their decision-making ability.¹⁰³

95. *Id.* at 410; see also *Applying the Lessons of Developmental Psychology*, *supra* note 80, at 123.

96. See *Applying the Lessons of Developmental Psychology*, *supra* note 80, at 122.

97. See *id.*

98. Maxwell A. Fabiszewski, *Major Reforms for Minors' Confessions: Rethinking Self-Incrimination Protections for Juveniles*, 61 B.C. L. REV. 2643, 2669–70 (2020).

99. *Id.* at 2670; see discussion *infra* notes 138–40 (explaining what it means for a waiver to be made knowingly and intelligently).

100. *Applying the Lessons of Developmental Psychology*, *supra* note 80, at 123.

101. *Id.* at 123–24.

102. See Lapp, *supra* note 33, at 914–16.

103. *Id.* at 915–16.

Despite these differences, a clear and unambiguous invocation of one's *Miranda* rights is required.¹⁰⁴ Even with these developmental differences in mind, courts have continuously held that juveniles have made valid *Miranda* waivers.¹⁰⁵ For example, Joseph was a ten-year-old boy who waived his rights and confessed to shooting his sleeping father in the head.¹⁰⁶ The court said Joseph's waiver of his rights was voluntary despite only being ten years of age, suffering from ADHD, and explaining that he thought his right to remain silent meant that he had the right to "stay calm."¹⁰⁷ Once a juvenile waives their rights, regardless of whether they have a clear understanding of them or not, there is little to protect them from what happens next.¹⁰⁸

A juvenile's psychological development makes them less likely to understand their rights and more likely to waive their rights compared to adults.¹⁰⁹ Their psychological development also makes them more susceptible to police interrogation practices and more likely to falsely confess.¹¹⁰ Adolescents tend to focus on immediate gains instead of future consequences.¹¹¹ They also have a hypersensitivity to reward.¹¹² For example, when presented with these interrogation tactics and told that a confession will end the immediate discomfort they are feeling, juveniles will confess for the immediate gratification of easing their distress without fully considering the future risks or punishments.¹¹³ This desire to end the interrogation and go home can lead a juvenile to offer a false confession or, in most

104. *Behind Closed Doors*, *supra* note 55, at 412; *Berghuis v. Thompkins*, 560 U.S. 370, 381 (2010).

105. *See Fabiszewski*, *supra* note 98, at 2670.

106. *See id.*; *In re Joseph H.*, 237 Cal. App. 4th 517, 522 (Cal. Ct. App. 2015).

107. *In re Joseph H.*, 237 Cal. App. 4th at 535; *In re Joseph H.*, 367 P.3d 1, 3 (Cal. 2015) (Liu, J., dissenting).

108. *See Lapp*, *supra* note 33, at 950–51.

109. *See id.* at 914.

110. *Id.* at 919–20.

111. *Id.* at 917.

112. *Applying the Lessons of Developmental Psychology*, *supra* note 80, at 120.

113. *Lapp*, *supra* note 33, at 917.

cases, a true confession, solely because of their reward sensitivity, while ignoring their rights afforded to them through the legal system.¹¹⁴ By the time Lacresha confessed, she was already held in a children's home for four days and likely longed to return home to her family.¹¹⁵

While adults are better at perceiving future consequences of current decision-making, juveniles have limited future orientation.¹¹⁶ Future orientation is one's ability to "think and reason about the future or connect current behavior with future events."¹¹⁷ To avoid offering a confession during an interrogation, juveniles need to prioritize their long-term interests over the short-term rewards being offered, such as leniency or an end to the interrogation, which is extremely difficult for an adolescent who cannot connect their current behavior of confessing with the long-term legal consequences.¹¹⁸ Lacresha's interrogators promised that her family and grandpa would be safe if she confessed, a promise of leniency that likely weighed heavily on her decision to admit guilt.¹¹⁹

Further compounding the issue is that juveniles are taught to obey adults, especially authority figures.¹²⁰ Juveniles may feel extra pressure to please their adult interviewer who has spent time building a rapport with them and who has provided justifications for their actions using minimization techniques.¹²¹ Under these stressful conditions, a juvenile's ability to self-regulate their behavior is diminished.¹²² Self-regulation refers to various "capacities such as impulse control, response inhibition, resistance to peer influence, and ability to delay

114. See *Applying the Lessons of Developmental Psychology*, *supra* note 80, at 120.

115. See *60 Minutes*, *supra* note 7.

116. *Applying the Lessons of Developmental Psychology*, *supra* note 80, at 121–22.

117. *Id.* at 121.

118. See *id.*

119. See *60 Minutes*, *supra* note 7.

120. Lapp, *supra* note 33, at 916.

121. *Id.* at 910, 916.

122. *Applying the Lessons of Developmental Psychology*, *supra* note 80, at 120–21.

gratification.”¹²³ Stress during an interrogation may come from worrying about a parent’s reaction, fear of consequences or getting in trouble, wanting to please the interrogator or feeling pressured by them, or just the unfamiliar, uncomfortable environment.¹²⁴ Lengthy interrogations can also lead to fatigue, which will affect any individual’s decision-making capacity, but especially for a child.¹²⁵ “Children are more suggestible than adults,” and the leading and suggestive nature of police interrogations under the Reid Method may influence what children say.¹²⁶ During an interrogation, a child’s own account of what happened may be altered by the types of suggestive and leading questions the interviewer asks.¹²⁷ The type of questioning combined with other factors, such as a child’s eagerness to please, their trust of authority, and their desire to end the interrogation, make for a less than ideal situation for a juvenile under interrogation.¹²⁸ While an interrogation can be a stressful, intimidating experience for an adult, adolescents’ developmental differences mean they face greater challenges to overcoming the stressful environment of a police interrogation.¹²⁹ All of these tendencies make juveniles unique from adults and can make them more likely to confess.¹³⁰

III. HISTORY OF *MIRANDA* AND HOW COURTS HAVE APPLIED *MIRANDA* TO JUVENILES

The Fifth Amendment gives an individual the right against self-incrimination.¹³¹ The right against self-incrimination means

123. *Id.* at 120.

124. *Id.* at 121.

125. *Id.*

126. Jessica R. Meyer & N. Dickon Reppucci, *Police Practices and Perceptions Regarding Juvenile Interrogation and Interrogative Suggestibility*, 25 BEHAV. SCIS. & L. 757, 763 (2007); see ORLANDO, *supra* note 36, at 4–6.

127. See Meyer & Reppucci, *supra* note 126, at 764.

128. *Id.*

129. *Applying the Lessons of Developmental Psychology*, *supra* note 80, at 121–22.

130. See Lapp, *supra* note 33, at 916, 918, 920–22.

131. U.S. CONST. amend. V. (“No person shall be . . . compelled in any criminal case to be a witness against himself . . .”).

an individual does not have to provide information that could make them criminally liable.¹³² The right also serves the purpose of “prevent[ing] the state, whether by force or by psychological domination, from overcoming the mind and will of the person under investigation and depriving him of the freedom to decide whether to assist the state in securing his conviction.”¹³³ Supreme Court jurisprudence makes it clear that the Fifth Amendment applies to juveniles and that age is a relevant factor in Fifth Amendment analyses because of the psychological differences between juveniles and adults.¹³⁴ Nevertheless, these protections alone are not enough to protect a juvenile being interrogated by police.

In *Miranda v. Arizona*, the Supreme Court required police to read the now well-known *Miranda* warnings to suspects before an interrogation.¹³⁵ The Court reasoned “that without proper safeguards the process of in-custody interrogation of persons suspected or accused of crime contains inherently compelling pressures which work to undermine the individual’s will to resist and to compel him to speak where he would not otherwise do so freely.”¹³⁶ Because of this danger, and to protect an individual’s right against self-incrimination, the Court concluded that “the accused must be adequately and effectively apprised of [their] rights and the exercise of those rights must be fully honored.”¹³⁷ Any waiver of the suspect’s rights must be made “voluntarily, knowingly and intelligently.”¹³⁸ To be knowing and intelligent, the individual must be “aware of the rights that they are waiving and understand the consequences

132. Fabiszewski, *supra* note 98, at 2653.

133. *In re Gault*, 387 U.S. 1, 47 (1967).

134. *Id.* at 55; *Fare v. Michael C.*, 442 U.S. 707, 725 (1979); *J.D.B. v. North Carolina*, 564 U.S. 261, 281 (2011).

135. *Miranda v. Arizona*, 384 U.S. 436, 444 (1966).

136. *Id.* at 467.

137. *Id.*

138. *Id.* at 444.

of waiving those rights.”¹³⁹ To be voluntary, there must be an exercise of the suspect’s free will and no unlawful coercion.¹⁴⁰

Just one year after *Miranda*,¹⁴¹ in *In re Gault*, the Supreme Court extended the protections of the Fifth Amendment to juveniles.¹⁴² Gerald Gault, a fifteen-year-old boy, was taken into custody after a neighbor made a verbal complaint that Gault and another boy called her and made “lewd or indecent remarks.”¹⁴³ Gault was “questioned by [a] probation officer after . . . [being] taken into custody” and by the Juvenile Court Judge at two separate hearings.¹⁴⁴ However, Gault was never told “he did not have to testify or make a statement,” or that his statement could be used against him in a delinquency proceeding.¹⁴⁵ The Juvenile Court Justice testified at Gault’s habeas corpus proceeding, a proceeding during which the court makes a determination about whether the person’s imprisonment is lawful,¹⁴⁶ that he admitted to making at least some of the lewd statements, but no record of Gault’s testimony exists to corroborate the Judge’s account.¹⁴⁷ The Court held that “the constitutional privilege against self-incrimination is applicable in the case of juveniles as it is with respect to adults.”¹⁴⁸ This meant that, at least in cases where a juvenile was to be adjudicated delinquent and faced confinement, the juvenile needed to be informed of his or her right to remain silent.¹⁴⁹

Over ten years later, the Court addressed whether the analysis for waiver of one’s *Miranda* rights is the same for

139. Fabiszewski, *supra* note 98, at 2665–66.

140. *Id.* at 2666.

141. See *Miranda v. Arizona*, 384 U.S. 436 (1966); *In re Gault*, 387 U.S. 1 (1967).

142. *In re Gault*, 387 U.S. at 55.

143. *Id.* at 4.

144. *Id.* at 43.

145. *Id.* at 43–44.

146. *Habeas Corpus*, CORNELL L. SCH., https://www.law.cornell.edu/wex/habeas_corpus (Mar. 2022).

147. *In re Gault*, 387 U.S. at 43.

148. *Id.* at 55.

149. See *id.*

juveniles and adults.¹⁵⁰ In *Fare v. Michael C.*, 16-year-old Michael was suspected of murder and taken into custody.¹⁵¹ After arriving at the station, two officers began interrogating Michael.¹⁵² Even after Michael was read his rights, he was hesitant to speak with the officers.¹⁵³ When asked whether he wanted to give up his right to an attorney, Michael requested the presence of his probation officer.¹⁵⁴ The officers explained that they were not calling his probation officer, so Michael agreed to speak to them without an attorney.¹⁵⁵ Michael proceeded to make statements and to draw sketches incriminating himself in the murder.¹⁵⁶ Later, Michael moved to suppress the evidence against him, arguing that the statements were “obtained in violation of *Miranda* in that his request for his probation officer . . . [was] an invocation of his Fifth Amendment right to remain silent.”¹⁵⁷

The Court held that Michael’s request for his probation officer was not the same as a request for an attorney, which would require an immediate cessation of an interrogation.¹⁵⁸ The Court also held that the “totality of the circumstances approach” used in the evaluation of whether an adult waives their *Miranda* rights, is the appropriate approach for the interrogation of juveniles.¹⁵⁹ Under *Miranda*, for a waiver of one’s rights to be valid, the waiver must be made “voluntarily, knowingly and intelligently.”¹⁶⁰ Under the totality of the circumstances approach, one looks to “all the circumstances surrounding the interrogation” to determine if waiver was adequate including “the juvenile’s age, experience, education, background, and

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

151. *Id.* at 709–10.

152. *Id.* at 710.

153. See *id.* at 710–11.

154. *Id.* at 710.

155. *Id.* at 711.

156. *Id.*

157. *Id.* at 711–12.

158. See *id.* at 719–24.

159. *Id.* at 725.

160. *Miranda v. Arizona*, 384 U.S. 436, 444 (1966).

intelligence.”¹⁶¹ Inquiry is also made into whether the juvenile “has the capacity to understand the warnings given [to them], the nature of [their] Fifth Amendment rights, and the consequences of waiving those rights.”¹⁶² Here, the Court found that based on the totality of the circumstances, Michael did “voluntarily and knowingly waive[] his Fifth Amendment rights.”¹⁶³ Michael was over 16 years old, had an extensive record in the juvenile system, was of adequate intelligence to understand his rights, was not worn down by the officers, and the officers took time to explain the meaning of his rights to him.¹⁶⁴ However, the Court believed that the totality of the circumstances approach would allow courts to take a juvenile’s special characteristics into account when conducting a waiver analysis.¹⁶⁵ This method allows courts the flexibility to determine on a case-by-case basis whether based on the juvenile’s age and experience a request for a trusted adult—such as a probation officer or parent—could actually be an invocation of the right to remain silent.¹⁶⁶

More recently, in *J.D.B. v. North Carolina*, the Court addressed the question of “whether the age of a child subjected to police questioning is relevant to the custody analysis of *Miranda v. Arizona*.”¹⁶⁷ In *J.D.B.*, a thirteen-year-old student was suspected of being involved in two home break-ins.¹⁶⁸ Police officers removed J.D.B. from class and brought him to a conference room at the school where he was questioned for the next thirty to forty-five minutes in the presence of two police officers and two school administrators.¹⁶⁹ J.D.B. was not read his rights, not allowed to call his grandmother—his legal guardian—and

161. *Fare*, 442 U.S. at 725.

162. *Id.*

163. *Id.* at 727.

164. *Id.* at 726–27.

165. *See id.* at 725.

166. *Id.*

167. *J.D.B. v. North Carolina*, 564 U.S. 261, 264 (2011).

168. *Id.* at 265.

169. *Id.* at 265–66.

not told that he could leave.¹⁷⁰ J.D.B. was told that even if he returned the stolen items, this case was going to court and that he might be held in juvenile detention before court.¹⁷¹ At that point, J.D.B. confessed to the break-ins and was finally informed of his right to remain silent and his ability to leave.¹⁷²

J.D.B. moved to suppress the confession arguing that he was interrogated in a custodial setting without being given a *Miranda* warning and because his statements were not voluntary.¹⁷³ The Court explained that *Miranda* warnings are only required when a person is in custody because of the “inherently coercive nature of custodial interrogation.”¹⁷⁴ The suspect’s subjective feelings are irrelevant to the custody analysis.¹⁷⁵ Instead, police officers and courts must take an objective approach, examining all the circumstances surrounding the interrogation, to determine whether “a reasonable person in the suspect’s position” would feel free to leave.¹⁷⁶ The Court remanded the question of whether J.D.B. was in custody at the time of the interrogation with the explicit instruction to include age as a relevant factor in the custody analysis.¹⁷⁷ The Court reasoned that “[e]ven for an adult, the physical and psychological isolation of custodial interrogation can ‘undermine the individual’s will to resist and . . . compel him to speak where he would not otherwise do so freely,’” and the risk is more troubling and acute for juveniles.¹⁷⁸ Thus, the age of the suspect is both relevant to the custody analysis¹⁷⁹ and the waiver analysis.¹⁸⁰

170. *Id.*

171. *Id.* at 266–67.

172. *Id.* at 267.

173. *Id.* at 267–68.

174. *Id.* at 269.

175. *Id.* at 271.

176. *Id.* at 270–71.

177. *Id.* at 281.

178. *Id.* at 269 (citing *Corley v. United States*, 556 U.S. 303, 321 (2009)).

179. *Id.* at 281.

180. *Fare v. Michael C.*, 442 U.S. 707, 725 (1979).

Although the Supreme Court's jurisprudence related to a juvenile's *Miranda* rights reflects an understanding of the psychological differences between juveniles and adults, it still fails to adequately protect juveniles from the coercive interrogation practices police use in interrogations. Much of the burden instead falls to state legislatures to enact legislation to protect juveniles in police interrogations.

IV. CURRENT REFORMS: ANALYZING ILLINOIS AS AN EXAMPLE

The Supreme Court has not afforded any protections to juveniles once the interrogation begins and the juvenile waives their *Miranda* rights,¹⁸¹ but some states have started to recognize that juveniles deserve extra protections.¹⁸² For example, states such as Arkansas and California restrict juvenile's ability to waive some or all their *Miranda* rights.¹⁸³ Others, such as Indiana and Montana, require a parent or guardian to consent to a juveniles' waiver of their *Miranda* rights.¹⁸⁴

In July 2021, Illinois became the first state to prohibit police from lying to juveniles during criminal interrogations.¹⁸⁵ Members of the Illinois State Senate and House of Representatives acknowledged the vulnerabilities of juveniles when placed in interrogations.¹⁸⁶ State Senator Robert Peters explained that children "in a stuffy interrogation room being grilled by adults, [are] scared and are more likely to say whatever it is they think the officer wants to hear to get themselves out of that situation, regardless of the truth."¹⁸⁷

181. See *supra* Part III.

182. See Fabiszewski, *supra* note 98, at 2683–86.

183. See ARK. CODE ANN. § 9-27-317 (2010); CAL. WELF. & INST. CODE § 625.6(a) (Deering 2017).

184. See IND. CODE ANN. § 31-32-5-1 (LexisNexis 2010); MONT. CODE ANN. § 41-5-331(2) (1987).

185. 705 ILL. COMP. STAT. ANN. 405/5-401.6(b) (LexisNexis 2021); Pritzker Signs Law Making Illinois 1st to Ban Lying to Juveniles in Interrogations, *supra* note 30.

186. Illinois Bans Police Deception in Juvenile Interrogations, EQUAL JUST. INITIATIVE, <https://eji.org/news/illinois-lawmakers-ban-police-deception-in-juvenile-interrogations/> (July 18, 2021).

187. *Id.*

Specifically, the law presumes that “an oral, written, or sign language confession of a minor” is inadmissible if “a law enforcement officer or juvenile officer knowingly engag[ed] in deception” during the custodial interrogation.¹⁸⁸ The statute defines deception as “the knowing communication of false facts about evidence or unauthorized statements regarding leniency.”¹⁸⁹ Supporters of this legislation believe this is one step toward eliminating false confessions and restoring confidence in the system.¹⁹⁰ This is especially important for juveniles who, according to Representative Justin Slaughter, are “two [to] three times more likely to falsely confess the crimes they didn’t commit.”¹⁹¹

While the new law in Illinois is an important and historical step in protecting juveniles in the interrogation room, it is still an imperfect solution. First, without an additional requirement to record the interrogation, it will be hard to prove police used deceptive practices.¹⁹² While Illinois does have a recording requirement in place for juveniles who committed an act that would be a misdemeanor or felony if committed by an adult,¹⁹³ not every state does.¹⁹⁴ In those states without a recording requirement in place, it would be difficult for a child to argue their statement should be inadmissible due to the use of deceptive practices during the interrogation because it would be difficult or even impossible for the juvenile to prove deceptive practices were used.¹⁹⁵

188. ILL. COMP. STAT. ANN. 405/5-401.6(a)–(b).

189. *Id.* 405/5-401.6(a). Simply, the statute prohibits officers from lying to juveniles about the quantity or quality of the evidence, or promising leniency without authority to make that promise. *Id.*

190. *Illinois Bans Police Deception in Juvenile Interrogations*, *supra* note 186.

191. *Id.*

192. *See False Confessions & Recording of Custodial Interrogations*, INNOCENCE PROJECT, <https://innocenceproject.org/false-confessions-recording-interrogations/> (last visited Oct. 26, 2022).

193. ILL. COMP. STAT. ANN. 405/5-401.6(a)–(b).

194. *See False Confessions & Recording of Custodial Interrogations*, *supra* note 192.

195. *See id.*

Additionally, under the Illinois law, deceptive practices include only “false facts about evidence or unauthorized statements regarding leniency.”¹⁹⁶ Police still have a plethora of other coercive practices at their disposal.¹⁹⁷ For example, a key component of the Reid Method is creating a narrative of why the suspect committed the crime, providing a moral justification which makes the suspect feel more comfortable confessing.¹⁹⁸ The Illinois law does not appear to cover this highly coercive practice at all.¹⁹⁹

Finally, juveniles are still vulnerable due to their unique mental state, even if all deceptive practices are removed from the interrogation.²⁰⁰ A juvenile’s reward sensitivity, lack of future orientation, and diminished decision-making capacity under stress means they are susceptible to even the most subtle coercive practices.²⁰¹

Even though Illinois’ new law banning deceptive practices in police interrogations of juveniles is a historic step that should be commended, it does not solve all the problems of police interrogations.

V. OVERVIEW OF OTHER INTERVIEW MODELS: PEACE AND THE CHILDREN’S ADVOCACY CENTER FORENSIC INTERVIEW

Because of the unique psychology of juveniles, the Reid Method is not an appropriate interrogation technique.²⁰² However, even reforms such as Illinois’ law prohibiting deceptive practices in police interrogations of juveniles do not sufficiently protect juveniles in the interrogation room.²⁰³ Instead, a new method of interrogation is needed. Two alternatives to the Reid Method are the PEACE interview and

196. ILL. COMP. STAT. ANN. 405/5-401.6(a).

197. See *supra* Part I; see also ORLANDO, *supra* note 36, at 1–4.

198. See *Behind Closed Doors*, *supra* note 55, at 414; see also ORLANDO, *supra* note 36, at 3.

199. See ILL. COMP. STAT. ANN. 405/5-401.5.

200. See *supra* Part II.

201. See *supra* Part II.

202. See *supra* Part II.

203. ILL. COMP. STAT. ANN. 405/5-401.6(b); see *supra* Part IV.

the Children's Advocacy Center Forensic Interview.

A. *The PEACE Interview*

The PEACE Interview Model began in the 1990s in England and Wales as a response to an increasing number of involuntary confessions in high-profile cases.²⁰⁴ At the time, investigative interviewing was done in an accusatory style and police generally were unprepared for interviews, assumed the suspect was guilty, and exerted a lot of pressure on the suspect by asking "unduly repetitive, persistent or labored question[s]."²⁰⁵ Law enforcement and psychologists joined forces to create an interview model that was "less confrontational and more transparent."²⁰⁶ Now, the PEACE Interview Model is used by police and other agencies, not just in the United Kingdom, but globally in Canada, Hong Kong, Australia, New Zealand, Singapore, Malaysia, United Arab Emirates and the Republic of Ireland.²⁰⁷

The name PEACE stands for the five stages of the interview: 1) Preparation and Planning, 2) Engage and Explain, 3) Account, Clarification, Challenge, 4) Closure, and 5) Evaluation.²⁰⁸ In the preparation and planning stage, the interviewer prepares themselves and the environment for the interview.²⁰⁹ This includes familiarizing themselves with the case, planning the interview, and preparing to record if necessary.²¹⁰ This stage also covers the beginning of the

204. FORENSIC INTERVIEW SOLS., *THE SCIENCE OF INTERVIEWING: P.E.A.C.E. A DIFFERENT APPROACH TO INVESTIGATIVE INTERVIEWING 3* (2018), <https://www.fis-international.com/assets/Uploads/resources/PEACE-A-Different-Approach.pdf>.

205. *Id.*

206. *Id.*

207. *Id.* at 4.

208. *Id.* at 3.

209. Todd Hutchison, *The PEACE Investigative Interviewing Model*, INT'L INST. OF LEGAL PROJECT MGMT. (Jan. 10, 2020), <https://www.iilpm.com/the-peace-investigative-interviewing-model/>.

210. *Id.*

interview itself, where the parties are introduced and the interviewer starts to develop a rapport with the interviewee.²¹¹

During the engage and explain phase, the interviewer describes the reasons for the interview and what will happen during the interview.²¹² If necessary, during this stage, the interviewee's legal rights will be explained to ensure the interview can be used as evidence in the case.²¹³ The interviewer may also explain that nonverbal answers will need to be explained and clarified for the sake of the recording and "that the investigator may make written notes during the interview."²¹⁴

During the third stage, the bulk of the interview takes place.²¹⁵ One topic at a time is selected to investigate further.²¹⁶ The topic is probed, clarified, and then the interviewee's responses are challenged.²¹⁷ The interviewer may select a topic to start on their own or based on how the interviewee tells their story.²¹⁸ This process can be repeated for each topic that needs to be covered during the interview.²¹⁹

During the closure stage, the interview is wrapped up.²²⁰ If there are multiple investigators involved, the lead investigator ensures questioning is complete.²²¹ If any statement, document, or recording is needed, the interviewer gathers the necessary materials.²²²

Finally, during the evaluation stage, the interviewer reflects on the entire process.²²³ The outcome of the interview and any information obtained during the interview is reviewed and the

211. *Id.*

212. *Id.*

213. *Id.*

214. *Id.*

215. *See id.*

216. *Id.*

217. *Id.*

218. *See id.*

219. *Id.*

220. *See id.*

221. *Id.*

222. *Id.*

223. *Id.*

next steps in the investigation are decided.²²⁴ The interviewer also reflects on their performance to learn from their successes and mistakes to improve for future investigations.²²⁵

B. *Overview of the Children's Advocacy Center Network and the Children's Advocacy Center Forensic Interview*

Children's or Child Advocacy Centers (CACs) started in 1985 as a way to revolutionize the child abuse investigation process.²²⁶ Former Congressman Robert E. Cramer of Alabama recognized the shortcomings of the current system for investigating child abuse.²²⁷ As a District Attorney, Cramer noticed how the social service and criminal justice systems operated independently, creating a difficult experience for the child victims.²²⁸ Before CACs existed, a child who experienced abuse would be forced to relive the trauma over and over as the various professionals involved conducted their own interviews.²²⁹ This meant that children were interviewed several times by child protective services, law enforcement, legal, and medical professionals, often in settings that were not child-friendly, such as hospitals or police stations.²³⁰ The CAC model was introduced to correct the flaws in the current system and prioritize the needs of the child.²³¹

Now, more than one thousand CACs can be found across the country and in other countries throughout the world.²³² The primary job of these centers is to respond to allegations of child

224. *Id.*

225. *Id.*

226. *See, e.g., History*, NAT'L CHILD.'S ADVOC. CTR., <https://www.nationalcac.org/history/> (last visited Oct. 26, 2022) ("[T]he NCAC [National Children's Advocacy Center] has served as a model for . . . Children's Advocacy Centers (CACs) [across] the United States . . .") [hereinafter *History*].

227. *Id.*

228. *Id.*

229. *Id.*

230. *Id.*

231. *See id.*

232. *Id.*; *see CAC Coverage Maps*, NAT'L CHILD.'S ALL., <https://www.nationalchildrensalliance.org/cac-coverage-maps/> (last visited Oct. 26, 2022).

sexual and physical abuse by using a multidisciplinary team approach and a child-friendly location.²³³ The team includes “child welfare caseworkers, police, prosecutors, medical, and mental health professionals,” as well as the CAC staff; all team members work together to “ensure that [the child] receive[s] all the services they may need” and any additional trauma the child may face from reliving their abuse is minimized.²³⁴

Typically, when a child visits a CAC, they are administered a forensic interview.²³⁵ During the interview, a trained interviewer uses a fact-finding approach with non-leading questions to allow the child to disclose any abuse that may have occurred.²³⁶ The goal of the forensic interview is to obtain “a complete and accurate account of the child’s experience(s), while minimizing the introduction of specific information or influence from the interviewer.”²³⁷ Before the interview begins, the interviewer is brought up to speed and given limited information about the child and the case.²³⁸ This may include information about the child’s “age, developmental functioning, . . . and special needs” that can help the interviewer tailor the interview to the child’s specific abilities.²³⁹ The interviewer will also learn some case-specific information which can help the interviewer organize the interview and aid in question formation for reluctant children.²⁴⁰

At the start of the interview, the interviewer will briefly explain the roles of interviewer and interviewee and how the interview will be observed.²⁴¹ Then, the interviewer may

233. *We Support CACs*, CHILD’S ADVOC. CTRS. OF PA., <https://penncac.org/we-support-cacs/> (last visited Oct. 26, 2022).

234. *Id.*

235. *Id.*

236. *Id.*

237. NAT’L CHILD’S ADVOC. CTR., NATIONAL CHILDREN’S ADVOCACY CENTER’S CHILD FORENSIC INTERVIEW STRUCTURE 4 (2019), https://www.nationalcac.org/wp-content/uploads/2019/02/NCAC_CFIS_Feb-2019.pdf [hereinafter NAT’L CHILD’S ADVOC. CTR.].

238. *Id.* at 8.

239. *Id.*

240. *Id.*

241. *Id.* at 8–9.

explain the “instructions” for the interview, which include only providing truthful information, correcting the interviewer if they make a mistake, and that responses such as “I don’t know” or “I don’t understand” are okay.²⁴² Following the instructions, the interviewer will engage in narrative practice with the child to get them comfortable with the unique format of the forensic interview which may involve describing an event in detail from beginning to end.²⁴³ This also helps the interviewer gauge the child’s ability for the rest of the interview.²⁴⁴

The interview then transitions to discussing the allegations of abuse.²⁴⁵ To do this, the forensic interviewer is encouraged to use open-ended or narrative invitation style questions which allows the child to give their account of what occurred without interruption or input from the interviewer.²⁴⁶ Interviewers can use more specific questions, known as focused narrative requests or detail questions, to direct a child toward a specific topic while still allowing them to explain in their own words and admit if they do not know the answer.²⁴⁷ Leading or suggestive questions are the least preferred type of question, but when they are used, interviewers are encouraged to “pose the least information possible in [the] question and follow up on the child’s response” with a more open-ended information request.²⁴⁸ Importantly, when a leading or suggestive question needs to be asked, they should not “direct the child to respond in a specific way or merely ask for affirmation or denial.”²⁴⁹

Finally, the interview should be developmentally and culturally sensitive.²⁵⁰ Throughout the interview, the interviewer should observe the child’s level of functioning and

242. *Id.* at 10.

243. *Id.*

244. *See id.*

245. *See id.* at 11.

246. *Id.* at 4–5.

247. *Id.* at 5–6.

248. *Id.* at 6–7.

249. *Id.* at 7.

250. *Id.* at 9.

adapt the interview to stay within that level.²⁵¹ Additionally, the interviewer should be aware of any cultural differences and how they may impact the interview.²⁵² For example, the interviewer should know the interviewee's primary language and obtain a translator if necessary.²⁵³ Even with all these safeguards in place to protect child victims and ease the traumatic process of reliving their abuse, some interviews still do not result in disclosure.²⁵⁴ Disclosure is a process that typically occurs over a period of time and may be affected by the child's age, relationship with the alleged offender, or fear of consequences following disclosure.²⁵⁵ It is not hard to imagine how much more challenging these difficult conversations would be in the intimidating environment of a police station without these safeguards in place.

During the forensic interview, the other multidisciplinary team members observe via video from another room, which gives multiple agencies access to the information but also ensures the child feels comfortable and prevents the child from needing to relive the trauma by undergoing multiple interviews.²⁵⁶ A method of communication from the interviewer to the other team members will be in place to ensure the other team member's questions are addressed.²⁵⁷ This communication can be achieved through many means as long as it does not

251. *See id.* at 8.

252. *Id.*; V. Barber Rioja & B. Rosenfeld, *Addressing Linguistic and Cultural Differences in the Forensic Interview*, INT'L J. FORENSIC MENTAL HEALTH 1, 2-3 (2018), <https://www.nationalcac.org/wp-content/uploads/2019/01/Addressing-Linguistic-and-Cultural-Differences-in-the-Forensic-Interview.pdf> (describing how "religious and spiritual traditions," cultural norms, "[g]ender roles and social class" and experiences with oppression and discrimination can all affect the interviewee's responses and the interviewer's understanding in a forensic interview).

253. *See* Rioja & Rosenfeld, *supra* note 252, at 2.

254. *See* CHRIS NEWLIN, LINDA CORDISCO STEELE, ANDRA CHAMBERLIN, JENNIFER ANDERSON, JULIE KENNISTON, AMY RUSSELL, HEATHER STEWART & VIOLA VAUGHAN-EDEN, OFF. JUV. JUST. & DELINQ. PREVENTION, CHILD FORENSIC INTERVIEWING: BEST PRACTICES 5 (2015), <https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/pubs/248749.pdf>.

255. *Id.*

256. *We Support CACs*, *supra* note 233.

257. NAT'L CHILD.'S ADVOC. CTR., *supra* note 237, at 3-4.

disturb the child being interviewed.²⁵⁸ These means may include the interviewer either taking a break to check-in with the team or communicating with the team through electronic devices worn by the interviewer or through notes.²⁵⁹ From there, the team members consult with each other about next steps including getting services for the child and preparing the child and family for further investigation and court proceedings.²⁶⁰

The CAC approach has been successful on many fronts.²⁶¹ CACs that use the multidisciplinary team approach are “more likely to be coordinated” and have police involvement.²⁶² This approach also means children are more likely to receive referrals for medical and mental health services.²⁶³ Additionally, the child’s caregivers report higher levels of satisfaction and children report feeling less scared when the CAC approach is utilized.²⁶⁴ Thus, the CAC model has already been successful in accomplishing many of the goals it was created to address.²⁶⁵ Because of the success of the CAC approach to investigations of child abuse and its child centered focus, a similar approach should be used when a child is accused of committing a crime.

258. *See id.* at 4.

259. *Id.*

260. *See We Support CACs, supra* note 233.

261. *E.g.*, THEODORE P. CROSS, LISA M. JONES, WENDY A. WALSH, MONIQUE SIMONE, DAVID J. KOLKO, JOYCE SZCZEPANSKI, TONYA LIPPERT, KAREN DAVISON, ARTHUR CRYNS, POLLY SOSNOWSKI, AMY SHADOIN & SUZANNE MAGNUSON, OFF. JUV. JUST. & DELINQ. PREVENTION, EVALUATING CHILDREN’S ADVOCACY CENTERS’ RESPONSE TO CHILD SEXUAL ABUSE 6 (2008), <https://www.ojp.gov/pdffiles1/ojdp/218530.pdf>.

262. *Id.*

263. *Id.* at 6–8.

264. *Id.* at 6.

265. *See id.* at 3–4, 6–7.

VI. A BETTER APPROACH: WHY A CHILD ADVOCACY CENTER
FORENSIC INTERVIEW MODEL IS PREFERRED OVER POLICE
INTERROGATIONS OF JUVENILES

The Reid Method is a highly accusatory, highly coercive interrogation model that does not account for the psychological differences between juveniles and adults.²⁶⁶ The unique psychology of juveniles makes them even more susceptible to these harsh interrogation practices than adults.²⁶⁷ The combination of harsh interrogation tactics and a juvenile's vulnerability is alarming when the weight of a confession is considered.²⁶⁸ A confession is a highly prejudicial piece of evidence, and "[i]t can cause individuals to view inculpatory evidence as stronger than it is, and discount exculpatory evidence."²⁶⁹ A false confession in court can easily lead to a wrongful conviction and research has shown that "juveniles make up a disproportionate share of . . . false confessions."²⁷⁰ Lacresha's case is a stunning example: the prosecution had no witnesses or forensic evidence, but Lacresha's confession alone was enough for the jury to convict.²⁷¹ Even if the adolescent's confession is true, it was still produced using highly coercive and unethical practices that did not take into account the juvenile's developmental differences.²⁷² Our legal system affords suspects the right to make decisions in their best interest,²⁷³ but a juvenile's reward sensitivity, limited future-orientation, and imperfect decision-making capacity may lead to a true confession when not in the best interest of the

266. See *supra* Parts I, II.

267. See *supra* Part II.

268. Lapp, *supra* note 33, at 919–20.

269. *Id.* at 919.

270. *Id.* at 920.

271. See Possley, *supra* note 1; *In America; A Child's 'Confession'*, *supra* note 2.

272. See *supra* Part II (describing the Reid Method and how few changes are made to interrogation procedures for juveniles); Possley, *supra* note 1; *In America; A Child's 'Confession'*, *supra* note 2.

273. See *supra* Part III (discussing the history of *Miranda* rights and an individual's right against self-incrimination).

juvenile.²⁷⁴ Because of these differences, the police interrogation process needs to be reformed to take these differences into account, prevent false confessions, and protect the rights of juveniles.

A. *How the Children's Advocacy Center Approach May Improve Police Interrogations*

As discussed above, even Illinois' new law does not go far enough to stop police from using coercive interrogation tactics when interrogating juveniles.²⁷⁵ The CAC approach solves the shortcomings of Illinois' law and is the ideal solution. First, the forensic interviews conducted at CACs are done in an "unbiased and fact-finding manner,"²⁷⁶ using questions that are nonleading and age appropriate, thus creating a child-friendly environment.²⁷⁷ Additionally, the room is often child-friendly,²⁷⁸ with comfortable seating which is arranged in a manner that allows for "direct and relaxed communication."²⁷⁹ On the contrary, when a child is accused of a crime, their police interrogation does not occur in the same child-friendly, age appropriate, manner.²⁸⁰ Because of the private nature of police interrogations, there is little data to work with, but in an empirical study by Barry Feld, using data obtained from Ramsey County, Minnesota, 66% of interviews occurred "in detention centers or correctional facilities," 30% occurred "at police or sheriff stations," and "only 5% . . . [occurred] in non-

274. See *Applying the Lessons of Developmental Psychology*, *supra* note 80, at 120.

275. See *supra* Part IV.

276. *Forensic Services*, PHILA. CHILD.'S ALL., <https://www.philachildrensalliance.org/forensic-services> (last visited Oct. 26, 2022).

277. *Id.*

278. Barry C. Feld, *Criminology: Police Interrogation of Juveniles: An Empirical Study of Policy and Practice*, 97 J. CRIM. L. & CRIMINOLOGY 219, 250 (2006) [hereinafter *Police Interrogation of Juveniles*].

279. Amy Russell, *Forensic Interview Room Set-up*, HALF A NATION (Nat'l Child Prot. Training Ctr., Winona, Minn.), Fall 2004, at 1, 3, <https://calio.org/wp-content/uploads/2014/04/forensic-interview-room-set-up.pdf>.

280. See *Police Interrogation of Juveniles*, *supra* note 278, at 254.

custodial settings,” which are not child-friendly atmospheres.²⁸¹ Being forced to do the interrogation in an unfamiliar and intimidating location, such as a correctional facility or police station, can increase the distress a child is already feeling from being interrogated, and heightened feelings of stress can diminish a child’s ability to self-regulate.²⁸²

Additionally, over 75% of police interviews were conducted by juvenile officers or homicide detectives,²⁸³ not individuals specially trained in conducting interviews with children.²⁸⁴ This may make a child more likely to confess because they see the police officer as an authority figure whom they want to obey,²⁸⁵ they may feel worried about getting in trouble, increasing their stress level and decreasing their ability to self-regulate,²⁸⁶ and given how officers are trained under the Reid Method, children may be experiencing pressure from the officers to confess.²⁸⁷

Finally, instead of avoiding nonleading questions, the Reid Method actually encourages fabrication of evidence and promises of leniency as it is designed to elicit a confession, instead of getting at the truth, like in a forensic interview.²⁸⁸ The suggestive nature of this type of interrogation plays on a child’s susceptibility, so when the police fabricate evidence or ask questions while introducing information about the crime in question, a child may alter their account to correspond with what the police are telling them.²⁸⁹ Thus, the questioning style and atmosphere of a CAC forensic interview is a better approach than the current approach used in police interrogations.

281. *Id.* at 247, 254.

282. *See Applying the Lessons of Developmental Psychology*, *supra* note 80, at 120–21.

283. *Police Interrogation of Juveniles*, *supra* note 278, at 254.

284. *See supra* Part V (discussing reasons for adopting the PEACE and CAC interview models).

285. *See Lapp*, *supra* note 33, at 916.

286. *See Applying the Lessons of Developmental Psychology*, *supra* note 80, at 120–21.

287. *See id.* at 121; Lapp, *supra* note 33, at 910.

288. *See Behind Closed Doors*, *supra* note 55, at 413–14; *see also infra* Section V.B.

289. Meyer & Reppucci, *supra* note 126, at 763–64.

B. *Similarities Between the Successful PEACE Interview Model and the CAC Forensic Interview*

The CAC forensic interview is strikingly similar to the PEACE interview approach used in other countries, such as England and Wales.²⁹⁰

First, the preparation and planning stage covers everything from before the interview starts to the very beginning of the interview and includes things such as reviewing the case to prepare for the interview, setting up the interview environment, and building rapport during the beginning of the interview.²⁹¹ This is similar to the time before the CAC forensic interview where the interviewer learns more about the case and the child to help prepare for the types of questions that will be asked.²⁹²

In the second stage, engage and explain, the interviewer has a chance to lay out the interview for the interviewee, explaining the reasons, objectives, and expectations for the interview and providing an opportunity for legal rights to be explained.²⁹³ The CAC forensic interview has a similar stage where the interviewer explains each party's role and how others will be observing.²⁹⁴

During the third stage, the account clarification and challenge stage, the substance of the interview is finally discussed.²⁹⁵ A cycle is started where a topic is selected to discuss in greater detail, the interviewee develops their account of that topic, and then the interviewer can seek greater clarification or challenge the interviewee's responses.²⁹⁶ Like CAC forensic interviews, interviews using the PEACE model are focused on gathering information, not eliciting a confession and the model encourages the use of open-ended and closed probing

290. See *Behind Closed Doors*, *supra* note 55, at 415.

291. Hutchison, *supra* note 209, at 2–3.

292. See NAT'L CHILD.'S ADVOC. CTR., *supra* note 237, at 8.

293. Hutchison, *supra* note 209, at 3.

294. See NAT'L CHILD.'S ADVOC. CTR., *supra* note 237, at 8–9.

295. Hutchison, *supra* note 209, at 3.

296. *Id.*

questions, instead of leading questions or providing false information to the interviewee.²⁹⁷ Both interviewing structures call for a funneling approach where the interviewer starts with open-ended questions, giving the interviewee freedom to explain in their own words, before moving to more focused questions which allow the interviewer to get at more details that the interviewee may have omitted.²⁹⁸

During the closure stage, the interviewer wraps up the interview by confirming all investigators asked all their questions and ensuring any required statement is secured and finalized.²⁹⁹ A similar approach is followed in CAC forensic interviews where the interviewer communicates with the multidisciplinary team members to determine whether they have any lingering questions.³⁰⁰

Finally, in the evaluation stage, the parties involved reflect on the interview and decide on future steps.³⁰¹ Likewise, in CAC forensic interviews, the multidisciplinary team will coordinate about future investigation steps and referrals for the child.³⁰² Thus, the CAC forensic interview approach is very similar to the PEACE interview and given the success of both, it is likely a switch to the CAC model for juvenile police interrogations will lead to less false confessions and better protect juvenile's rights.

Information gathering interview models, including the PEACE interview model and the CAC forensic interview, involve more ethical and humane interviewing methods than accusatory interview models, such as the Reid Method, making them great alternatives for all suspects, especially children.³⁰³

297. See FORENSIC INTERVIEW SOLS., *supra* note 204, at 10; NAT'L CHILD.'S ADVOC. CTR., *supra* note 237, at 11–12; see also *supra* pp. 255–57.

298. NAT'L CHILD.'S ADVOC. CTR., *supra* note 237, at 11; FORENSIC INTERVIEW SOLS., *supra* note 204, at 10.

299. Hutchison, *supra* note 209.

300. NAT'L CHILD.'S ADVOC. CTR., *supra* note 237, at 3–4.

301. Hutchison, *supra* note 209, at 4.

302. *We Support CACs*, *supra* note 233.

303. See *supra* Parts V (discussing PEACE and CAC interview models), I (discussing the Reid Method).

Beyond that, research shows that the PEACE interview model is a more successful alternative to accusatory interview models.³⁰⁴ First, even though accusatory models and information gathering models both increase the likelihood of obtaining a true confession, accusatory models also increase the likelihood of obtaining a false confession.³⁰⁵ This is extremely important for juveniles who are more likely to falsely confess than adults.³⁰⁶ Additionally, the information gathering approach led to interviewees disclosing more critical details and being more talkative throughout the interview than accusatorial models.³⁰⁷ This bodes well for interviewers whose primary goal should be obtaining the truth about the matter under investigation. Given the similarities between the PEACE interview model and the CAC forensic interview, it follows that the successes of information gathering interviewing generally would be applicable to the CAC forensic interview as well.

Academics have called for replacing current police interrogation practices with the PEACE model for years,³⁰⁸ and some states have moved toward adopting the PEACE model in lieu of the Reid model.³⁰⁹ However, there are several reasons why the CAC Forensic Interview Model would better serve the

304. See *infra* notes 305–07 and accompanying text.

305. Christian A. Meissner, Allison D. Redlich, Sujeeta Bhatt & Susan Brandon, *Interview and Interrogation Methods and Their Effects on True and False Confessions*, 13 CAMPBELL SYSTEMATIC REVS. 4, 31 (2012).

306. See Jason Mandelbaum & Angela Crossman, *No Illusions: Developmental Considerations in Adolescent False Confessions*, AM. PSYCH. ASS'N (Dec. 2014), <https://www.apa.org/pi/families/resources/newsletter/2014/12/adolescent-false-confessions> (“Empirical evidence confirms the anecdotal cases. In an evaluation of 328 exoneration cases, 44 percent of juveniles falsely confessed, compared to 13 percent of adults.”).

307. Jacqueline R. Evans, Christian A. Meissner, Amy B. Ross, Kate A. Houston, Melissa B. Russano & Allyson J. Horgan, *Obtaining Guilty Knowledge in Human Intelligence Interrogations: Comparing Accusatorial and Information-Gathering Approaches with a Novel Experimental Paradigm*, 2 J. APPLIED RSCH. MEMORY & COGNITION 83, 87 (2013).

308. See Mary Schollum, *Bringing PEACE to the United States: A Framework for Investigative Interviewing*, POLICE CHIEF MAG., Nov. 2017, at 34–35, <https://www.fis-international.com/assets/Uploads/resources/Schollum-PEACE.pdf>.

309. See, e.g., Laura Fallon, Brent Snook, Todd Barron, Angela Baker, Mike Notte, Jeff Stephenson & Dan Trottier, *Evaluating the Vermont State Police’s PEACE Model Training Program*, 28 PSYCH., CRIME & L. 1 (2022).

needs of the United States. First, CACs are already prevalent across the United States while the PEACE model is still relatively new.³¹⁰ While more CACs would be needed to completely change the system of juvenile interrogations, some already exist.³¹¹ Organizations in the United States already conduct trainings for forensic interviewers,³¹² and in areas where a CAC already exists, law enforcement is accustomed to collaborating with CAC staff for child abuse investigations.³¹³

Additionally, the CAC forensic interview will eliminate both the actively coercive practices prevalent in the Reid Method and the subtle ones as well. The Reid Method's interrogation phase focuses on eliciting a confession,³¹⁴ and uses minimization and maximization techniques to encourage the presentation of misleading or false information.³¹⁵ For a juvenile though, the coercive practices go beyond those embedded in the Reid Method; the new, intimidating environment and children's view of police as authority figures all impact a juvenile's ability to resist.³¹⁶ On the other hand, the goal of a forensic interview is information gathering,³¹⁷ and forensic interviewers are discouraged from asking leading or suggestive questions unless absolutely necessary.³¹⁸ Forensic interviews are also conducted in child-friendly settings,³¹⁹ and by a trained forensic interviewer, not a police officer.³²⁰ The PEACE method does not have these same mechanisms in place to overcome the subtly

310. See *History*, *supra* note 226; *CAC Coverage Maps*, *supra* note 232; *FORENSIC INTERVIEW SOLS.*, *supra* note 204, at 3–4; Fallon et al., *supra* note 309 at 5.

311. See *History*, *supra* note 226; *CAC Coverage Maps*, *supra* note 232.

312. *Forensic Interviewing of Children Training*, NAT'L CHILD.'S ADVOC. CTR., <https://www.nationalcac.org/forensic-interviewing-of-children-training/> (last visited Oct. 26, 2022).

313. See *We Support CACs*, *supra* note 233.

314. See *ORLANDO*, *supra* note 36, at 2.

315. See *supra* text accompanying notes 55–69.

316. See Lapp, *supra* note 33, at 910; see also *Applying the Lessons of Developmental Psychology*, *supra* note 80, at 121–22.

317. See NAT'L CHILD.'S ADVOC. CTR., *supra* note 237, at 2.

318. See *id.* at 6–7.

319. See *id.* at 2.

320. See *id.* at 3.

coercive parts of the Reid interview.³²¹ Thus, because of the similarities between the CAC Forensic Interview Model and the PEACE model and the success of the PEACE model, it is likely that the CAC Forensic Interview Model will be successful as well. However, the CAC model is even better because of its prevalence in the United States and because it goes further in eliminating the subtly coercive practices of the Reid Method.³²²

C. Addressing Concerns with Adopting the CAC Approach

One can foresee several potential criticisms of adopting the CAC model for use in police interrogations of juveniles. First, the original goal of CACs was to serve victims of child abuse.³²³ Because of this, CACs take great pains to make themselves a safe, child-friendly environment for child victims to come and relive their trauma,³²⁴ and some may criticize bringing a suspected juvenile offender into an environment dedicated to child victims.³²⁵ While it is critical that CACs remain a haven for victims of child abuse,³²⁶ there are many reasons child offenders are worthy of similar treatment and solutions exist which can ensure both populations are adequately served.

Initially, similar criticisms of prior interview practices underlie why both victims of child abuse and juvenile offenders need this reformed approach. One problem with the

321. See *supra* Section V.A, Part I.

322. See *History*, *supra* note 226; *CAC Coverage Maps*, *supra* note 232; *ORLANDO*, *supra* note 36, at 1–7.

323. *History*, *supra* note 226.

324. See *What We Do*, MISSION KIDS CHILD ADVOC. CTR., <https://missionkidscac.org/what-we-do> (last visited Oct. 26, 2022); *Who We Are*, MISSION KIDS CHILD ADVOC. CTR., <https://missionkidscac.org/who-we-are> (last visited Oct. 26, 2022); *Our Mission*, LUZERNE CNTY. CHILD ADVOC. CTR., <https://luzernecountycac.org/our-mission> (last visited Oct. 26, 2022); see also RICHANADE, DEBRA SCHILLING WOLFE & JINGRU HAO, FIELD CTR. FOR CHILD.'S POL'Y, PRAC. & RSCH., CHILD ADVOCACY CENTER STATEWIDE PLAN DEVELOPMENT: TECHNICAL ASSISTANCE TO THE COMMONWEALTH OF PENNSYLVANIA 7–8 (2014), <https://www.pccd.pa.gov/AboutUs/Documents/PCCD%20Report%20Statewide%20CAC%20Plan.pdf>.

325. See CHILD.'S ADVOC. CTRS. OF N.D., FORENSIC INTERVIEW 2, <https://www.cacnd.org/wp-content/uploads/2017/10/FORENSIC-INTERVIEW.pdf> (explaining that alleged perpetrators of abuse “are not allowed at the CAC during the forensic interview process”).

326. See *id.*; *We Support CACs*, *supra* note 233.

fragmented interview approach that existed before the CAC network was that victims were often interviewed in non-child-friendly, stressful locations that made it difficult for them to explain what happened to the interviewer.³²⁷ Similarly, juvenile offenders are often interviewed in police stations or detention facilities,³²⁸ environments which are not child-friendly and increase the level of stress the child is feeling, decreasing their ability to self-regulate.³²⁹ This shared criticism is one reason why both populations are deserving of the CAC interview approach.

Additionally, accommodations can be made when it comes to scheduling to ensure the separation of child victims and offenders within the CAC.³³⁰ Some CACs already make such accommodations when a child is both accused of sexually offending and suspected or alleged to be a victim of child abuse.³³¹ In these cases, the CAC schedules the juvenile offender at a time when other child victims will not be at the center.³³² It is also possible that the CAC Forensic Interview Model could simply be adopted in the environments where juvenile offenders are already interviewed, such as a separate area in a police station, instead of using the same physical space that CACs already occupy. Ideally, a CAC will occupy its own space, separate from a police station, with room for a waiting area, interview rooms, conference rooms, treatment offices, and private entrances for the CAC staff and multidisciplinary team.³³³ However, certain communities, such as rural areas,

327. See Theodore P. Cross, Lisa M. Jones, Wendy A. Walsh, Monique Simone & David Kolko, *Child Forensic Interviewing in Children's Advocacy Centers: Empirical Data on a Practice Model*, 31 CHILD ABUSE & NEGLECT 1031, 1032 (2007).

328. See *Police Interrogation of Juveniles*, *supra* note 278, at 254.

329. See *Applying the Lessons of Developmental Psychology*, *supra* note 80, at 120–21.

330. CHILD.'S ADVOC. CTRS. OF N.D., *supra* note 325, at 2.

331. *Id.*

332. *Id.*

333. NAT'L CHILD.'S ALL., BEST PRACTICES FOR ESTABLISHING A CHILDREN'S ADVOCACY CENTER PROGRAM 25–26 (Nancy Chandler ed., National Children's Alliance 3d. 2000), <https://fncac.org/sites/default/files/c3b8f6c8f12d388a623fbd003c18c737.pdf>.

may not have the space for an independent facility.³³⁴ Instead, in these communities, CACs may share space with other organizations or agencies like Child Protective Services, hospitals, or even police stations.³³⁵ Where there are concerns about child victims and child offenders occupying the same physical space, the CAC Forensic Interview Model can be adopted in locations where juvenile offenders are already being interviewed.

A second potential criticism is that forensic interviewers have less knowledge of the law and the requirements of a confession than police. However, that is precisely the point: forensic interviewers are not trained to elicit a confession, but to elicit information.³³⁶ This is vitally important because research suggests that information gathering interview models are just as effective at obtaining true confessions and lead to disclosures of more critical information.³³⁷ Moreover, with the CAC Forensic Interview Model, police and other legal professionals still observe the interview from a separate location.³³⁸ Thus, if the police or prosecutors need more specific information, they can communicate that with the forensic interviewer via electronic devices, notes, or during any breaks the forensic interviewer takes.³³⁹

Finally, there is always pushback when efforts are made to reform harmful criminal justice practices.³⁴⁰ It is likely, given

334. JoAnna Elmquist, Ryan C. Shorey, Jeniimarie Febres, Heather Zapor, Keith Klostermann, Ariane Schratte & Gregory L. Stuart, *A Review of Children's Advocacy Centers' (CACs) Response to Cases of Child Maltreatment in the United States*, 25 *AGGRESSION & VIOLENT BEHAV.* 26, 29 (2015).

335. *Id.*

336. See CHILD WELFARE INFO. GATEWAY, FORENSIC INTERVIEWING: A PRIMER FOR CHILD WELFARE PROFESSIONALS 1–2 (2017), <https://www.childwelfare.gov/pubPDFs/forensicinterviewing.pdf>; *Forensic Interview Services*, NAT'L CHILD.'S ADVOC. CTR., <https://www.nationalcac.org/forensic-interview-services/> (last visited Sept. 15, 2022).

337. See, e.g., Meissner et al., *supra* note 305, at 31; Evans et al., *supra* note 307, at 87.

338. See *We Support CACs*, *supra* note 233; NAT'L CHILD.'S ADVOC. CTR., *supra* note 237, at 3–4.

339. NAT'L CHILD.'S ADVOC. CTR., *supra* note 237, at 3–4.

340. See, e.g., Carroll Bogert & Lynell Hancock, *Superpredator: The Media Myth that Demonized a Generation of Black Youth*, MARSHALL PROJECT, <https://www.themarshallproject.org/>

our country's history of viewing children who commit crime as "superpredators," that the same pushback will be prevalent.³⁴¹ However, juveniles, whether they have committed a crime or not, possess unique vulnerabilities which make them even more susceptible to the pressures of traditional police interrogations.³⁴² Because of these vulnerabilities, juveniles are more likely to misunderstand their *Miranda* rights, more likely to waive their *Miranda* rights, and more likely to falsely confess to a crime they did not commit.³⁴³ The privileges and protections already provided to suspects in the criminal justice system are just not enough to ensure the protection of the rights of juveniles. Adoption of the CAC forensic interview approach is necessary to adequately protect juveniles during police interrogations.

CONCLUSION

The evidence is clear: children are different than adults and current police interrogation practices do not reflect that. Right now, there are minimal differences between the interrogation of an adult and the interrogation of a child, but children's developmental differences make them even more susceptible to the coercive and unethical practices police currently use.³⁴⁴ The Reid Method, the leading interrogation method among law enforcement in the United States, not only allows, but encourages, the maximization and minimization techniques that make a juvenile more likely to succumb to the pressure and confess in an interrogation.³⁴⁵ The Reid Method's goal is to obtain a confession and the coercive practices, both subtle and not, help investigators do just that.³⁴⁶ Adoption of the CAC

2020/11/20/superpredator-the-media-myth-that-demonized-a-generation-of-black-youth (last visited Oct. 26, 2022).

341. *See id.* (explaining the birth of the term "superpredator").

342. *See supra* Part II.

343. *See supra* Part II.

344. *See supra* Part II.

345. *See supra* Part I.

346. *See supra* Part I.

forensic interview approach to interrogations of juvenile offenders would require a complete overhaul of the current police interrogation system.³⁴⁷ However, CACs are already prevalent across the United States.³⁴⁸ In addition, CAC forensic interviews are similar to other forms of information-gathering interviews that have proven themselves to be effective.³⁴⁹ The CAC approach does account for children's differences and eliminates the coercion inherent to the Reid Method.³⁵⁰ Lacresha's story is unfortunately not unique,³⁵¹ but the adoption of the CAC forensic interview approach could change that.

347. See *supra* Part I (discussing current police interrogation tactics using the Reid method); *supra* Sections VI.A (discussing how the CAC approach can improve current police interrogations), V.B (discussing the CAC forensic interview method).

348. See *History*, *supra* note 226; *CAC Coverage Maps*, *supra* note 232.

349. See *supra* Sections V, VI.B.

350. See *supra* Part I (discussing the Reid Method); *supra* Sections VI.A (discussing why the CAC forensic interview method is the better approach), V.B (discussing the CAC forensic interview method).

351. See *supra* note 23 and accompanying text; see also *supra* pp. 228–30 (discussing Lacresha's story).