



National Center for Youth Law

December 20, 2018

Supervisor Hillary Ronen
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, Ca 94102-4689

BOARD OF DIRECTORS

President

Peter B. Edelman

Georgetown University Law Center

Vice President

Christopher Wu

Casey Family Programs

Secretary

Brian Rocca

Morgan, Lewis & Bockius LLP

Treasurer

James D. Weill

Food Research & Action Center (FRAC)

Mary Bissell

ChildFocus

Alexander L. Brainerd

Judicial Arbitration and Mediation
Services, Inc. (JAMS)

David E. Brown

The Annie E Casey Foundation

Thomas Ehrlich

Stanford University School of Education

Laura K. Lin

Munger Tolles & Olson LLP

Jack Londen

Morrison & Foerster LLP

Walter Patrick Loughlin

K&L Gates LLP

Mary E. McCutcheon

Farella, Braun + Martel LLP

Ryan J. Smith

The Education Trust-West

Jory C. Steele

Stanford Law School

Executive Director

Jesse Hahnel

RE: Strong Support for City Ordinance File No. 181217 - Protecting the constitutional rights of children

Dear Supervisor Ronen:

The National Center for Youth Law co-sponsored Senate Bill 395 (S.B. 395), a bill that safeguards young people's rights under the United States and California Constitutions. Law, science, and common experience all conclude that, as compared to adults, youth have less capacity to understand their rights and are significantly more vulnerable to giving false statements in response to routine interrogation. S.B. 395 requires youth under 16 to consult with counsel prior to waiving their rights. NCYL strongly supports city ordinance File No. 181217 to raise the age to 17 in San Francisco. This will preserve more youth's constitutional rights and protect the integrity of our criminal justice system.

The National Center for Youth Law (NCYL) creates lasting change for children in need. We are a non-profit organization that uses the law to ensure that low-income children have the resources, support, and opportunities they need for a fair start in life. We work to ensure that public agencies created to protect and care for children do so effectively.

Currently, youth 16 and older in California can waive their *Miranda* rights on their own, as long as the waiver was made in a voluntary, knowing, and intelligent manner. However, research demonstrates that young people often fail to comprehend the meaning of *Miranda* rights. Even more troubling is the fact that young people are unlikely to appreciate the consequences of giving up those rights. They are also more likely than adults to waive their rights and confess to crimes they did not commit.

Widely accepted research concludes that young people have less capacity to exercise mature judgment and are more likely than adults to disregard the long-term consequences of their behavior. Over the last 10 years, a new jurisprudence grounded in this research has been enunciated by the United States and California Supreme Courts, recognizing that developmental abilities of youth are relevant to criminal culpability and the capacity to understand procedures of the criminal justice system. Moreover, courts have noted that young people are more vulnerable than adults to interrogation and have a limited understanding of the criminal justice system. These problems are amplified for youth who are very young, or who have developmental disabilities, cognitive delays, or mental health challenges. A recent study of exonerations found that 42 percent of juveniles had falsely confessed as compared to just 13 percent of adults. The ramifications for both the individual and society of soliciting unreliable evidence and false confessions are far-reaching.

In 2013 the American Academy of Child and Adolescent Psychiatry issued a policy statement, *Interviewing and Interrogating Juvenile Suspects*, recommending that

juveniles should have an attorney present during all questioning by police or other law enforcement agencies. The Academy's recommendation goes beyond what was enacted by S.B. 395, which only requires a consultation with counsel *prior* to any waiver, and only for youth 15 and younger. We hope that the Board will consider the recommendations of the Academy in the city ordinance.

People who work closely with youth and help them navigate legal decision-making know that a young person can understand the literal meanings of *Miranda* rights, but fail to appreciate the implications of giving up those rights. Some youth are persuaded to give a statement because they believe doing so will reduce the likelihood of "getting into trouble." They are left feeling betrayed by interrogation tactics permitted and perhaps appropriate for adult suspects, but overwhelming for youth. These experiences can leave youth traumatized for years, and harm youths' trust in law enforcement and the justice system.

By ensuring youth understand their rights, we can ensure the outcome of interrogations are just and lawful, and create greater trust, accountability, and due process for all. For these reasons, the National Center for Youth Law strongly supports city ordinance File No. 181217 and respectfully requests that you vote yes on this important effort.

Sincerely,



Jesse Hahnel, Executive Director



Frankie Guzman, Director California Youth Justice Initiative

Cc:

Mayor London Breed
District 1 Supervisor Sandra Lee Fewer
District 2 Supervisor Catherine Stefani
District 3 Supervisor Aaron Peskin
District 4 Supervisor Katy Tang
District 5 Supervisor Vallie Brown
District 6 Supervisor Jane Kim
District 7 Supervisor Norman Yee
District 8 Supervisor Rafael Mandelman