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**The Colt 45 AC**

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Because 12 old white men are better than 1, I affirm.

All unspecified definitions are from Black's Law[[1]](#footnote--1) dictionary. Prefer these definitions because this topic deals with legal issues, and thus law dictionaries are most relevant.

The resolution compares two systems. In the aff world, juveniles are treated in the criminal justice system. In the neg world, juveniles are treated in the juvenile justice system. The juvenile court, despite what it may claim, is punitive. Feld[[2]](#footnote-0) writes:

**The public and political pressures to transfer serious young offenders to criminal courts** also **provide the impetus to get tough and punish more severely the delinquents who remain in juvenile court,** the residue of the triage process**. Several** legal and criminological **indicators--[such as] legislative purpose clauses, court opinions, sentencing statues, empirical evaluations of sentencing practices,** assessments of conditions of confinement of institutions, **and evaluations of treatment effectiveness--demonstrate that juvenile courts punish young offenders for their crimes rather than treat them based on their real needs.**

End quote. The juvenile system, just like the adult system, focuses on punishing offenders. Kropf[[3]](#footnote-1) provides the empirical warrant:

Sentencing provides concrete evidence of the changes in legislative purpose clauses. **By 1997, nearly twenty-five states used determinate or mandatory minimum sentencing.** [FN207] **This type of sentencing is based on the offense committed and not on the juvenile offender.** [FN208] Empirical studies support the idea that juvenile court judges focus more on the offense and less on the offender; the studies strongly suggest that the offender's crime and past criminal record determine the sentenced received. [FN209] **At least nine states allow juvenile judges to impose the same maximum sentences on juveniles as are allowed for adults. [**FN210] **Finally, at least twenty states allow for the same sort of calculation as the Sentencing Guidelines: the use of juvenile adjudications to enhance adult criminal sentences. [**FN211] **The focus on the offense, and not on the offender, suggests that courts have abandoned a rehabilitative, individualistic focus. Instead**, by looking at the seriousness of the offense, **juvenile court sentencing mirrors adult, punitive sentencing procedures.**

End quote. My argument is that the nature of both courts is identical, not that they are exactly the same. Thus, both debaters must defend a punitive trial process.

Charge is defined as to accuse. Thus, the juvenile in question has only been accused, not convicted. Accusation doesn't imply guilt. This is most in line with common usage: if we say -- she has been charged with murder -- that would imply that she has been accused, not yet convicted. Prefer commonly used definitions because words only derive meaning from how they are used. Thus, the resolution is not a question of efficacy of punishment. The juveniles in question are those being tried for violent felonies.

Next, the affirmative and negative should be bound by status quo interpretations of what it means to treat someone as a juvenile or adult. In the aff world, this means trials involve the adult courts and in the neg world, this means trials involve juvenile courts. This is best for predictability because there are hundreds of alternatives for how we should treat adults and juveniles, and there is no way the neg OR the aff can be ready to debate or even know about all of them. This is uniquely unfair because one side of the debate is well prepared on the new system they propose, but the other is not. Furthermore, predictability is key to fairness because it forms the basis for what we research before a tournament, giving one side an advantage if the round is unpredictable. I reserve the right to clarify.

According to Merriam-Webster, ought is used to express obligation. Prefer this definition because:

1) Any discussion about governmental policies necessitates a discussion about governmental obligations since the reason governments have the ability to act is because of their obligations to their citizens.

2) This is the first definition on Merriam-Webster, and thus the most commonly used definition. The Online Etymology Dictionary[[4]](#footnote-2) furthers:

**[The main modern use of ought is] As an auxiliary verb expressing duty or obligation** (c.1175, the main modern use), it represents the past subjunctive.

End quote.

Since the affirmative must defend the treatment of all juveniles charged with violent felonies as adults, reciprocity, which is key to fairness because it ensures both debaters have an equal shot at winning the round, dictates that the negative should defend treating all juveniles charged with violent felonies as juveniles. Otherwise, the negative has to defend much less than I do while garnering access to much greater and more variable ground.

Obligations are agent specific. The obligations of a farmer are different than that of lawyer, whose obligation is different from that of the government. In terms of the resolution, the actor in the resolution is the US government because a) the resolution is questioning action in the United States criminal justice system AND b) the government is the only actor capable of changing how juveniles are treated.

However, obligations also differ between contexts. Abstract rules, which seek to apply to all action, can never account for the vast number of exceptions to every rule in the governmental context. An abstract appeal to an obligation to not kill, for instance, cannot be appealed to in times of war or in questions of the death penalty since the state operates with an entirely different purpose in different contexts. Any theory that does not make these specific contextual analyses will always be lacking insofar as it will attempt to simplify and reduce events that can only be explained through context. Thus, prefer any standard that has justifications rooted in the trial process rather than the government in general.

Since we must look specifically to the government’s obligations in the trial phase of the criminal justice system, the value is Justice, defined as giving proper due. The standard is properly determining guilt for 3 reasons:

1) Justice in punishment entails ensuring that the guilty are punished and the innocent go free. Specifically in the criminal justice system, the worst injustice is punishing an innocent person for a crime because the system is designed to ensure that only the guilty are punished. No innocent person is ever due punishment, simply by virtue of their innocence.

2) The legal system is the government’s monopoly over force and requires limits. Citizens give up certain rights and, in exchange, grant the government power; but that power only exists if the law states that the exertion of force is legitimate. In the context of legality, the government is only responsible for determining guilt since it has contractual limits. For example, even if a government could stop crime by locking up every person suspected of a crime, the government could not do that because it is not within its functional powers as established via a legal contract. Thus, the only concern is adequately determining guilt.

AND, the trial process itself has no net benefits to people outside the courtroom. Net benefits to protecting society come in sentencing and punishment, which the AC does not defend. Therefore, if the government is obligated to protect its citizens, those it’s obligated to protect in the trial process are those who are on trial. The way they protect those citizens is by determining guilt properly.

3) The resolution is asking us to choose which trial system is preferable. Regardless of the ends in each system, the sole purpose of trials is to determine guilt. Not only is this intuitively true, but also definitionally, as the word trial[[5]](#footnote-3) means

**a formal examination of evidence** by a judge, typically before a jury, **in order to decide guilt** in a case of criminal or civil proceedings

I contend that the adult court trials better determine guilt than juvenile court trials:

Drizin and Luloff[[6]](#footnote-4) 1 explain why juvenile case proceedings are often biased:

ability to compartmentalize the information they hear, the empirical evidence demonstrates that this is not the case-exposure to confidential, prejudicial information affects a judge's impartiality. In addition, **in juvenile courts there is a tremendous problem of judges hearing repeated testimony from similar faces or similar stories**. This danger is particularly heightened when judges hear testimony from the same police officers. **There are numerous, documented cases of judges crediting police testimony that was so blatantly false that the prosecution could not have possibly met its burden of presenting a credible witness**. n393 Judges who sit in one courtroom get to know the jurisdiction's police officers, and if a judge forms an opinion that an officer is a "good cop," it creates a natural tendency to believe that police officer is always telling the truth. **In addition to police officers, a judge might have a child in front of her on several occasions, thus giving the judge access to a prior history about the child or the child's family that could taint her ability to be impartial.** Even if the child is in front of the judge for the first time, a judge's experience of hearing years of juvenile cases might make the judge unduly skeptical of the youth's testimony. n395

End quote. Additionally, juvenile judges may render wrongful convictions because their fact-finding sensibilities have been blunted. Feld[[7]](#footnote-5) 2 explains:

A variety of institutional and organizational reasons contribute to juvenile court judges' greater propensity than that of juries to convict young offenders. **Fact-finding by judges and juries differs intrinsically because the former preside over hundreds of cases every year whereas the latter may hear only one or two cases in a lifetime. The experience of routinely hearing many cases dulls many judges' fact-finding sensibilities and causes them to consider evidence less meticulously, to evaluate facts more casually, and to apply less stringently than do jurors the concepts of reasonable doubt and presumption of innocence.** Although judges occasionally agonize over decisions, as **professionals who function in a bureaucracy they necessarily routinize their activities** and develop rational detachment and self-confidence in their decision-making ability.

End quote. Furthermore, juries ensure a fair interpretation of the facts. Segadelli[[8]](#footnote-6) argues:

A jury trial is necessary in juvenile delinquency proceedings in order to ensure accurate and fair fact finding. **Studies have shown that judges and juries can reach opposing verdicts, even when presented with the same evidence.** [**128**](http://web.lexis-nexis.com.shs-13.scarsdaleschools.k12.ny.us:2048/scholastic/document?_m=4b06f6a3aaa1a81dcf4f61577aa5c1f1&_docnum=6&wchp=dGLzVtz-zSkVk&_md5=180c078a0add80e6afa4716ff4d945ba#n128) **Fact finding by a jury is necessarily a more reasoned process than fact finding by an individual, because the defendant, case, evidence, and facts are viewed by multiple people who must reach a consensus of guilt in order to convict, ensuring that very few evidentiary questions and facts go unanswered or unaddressed.**

End quote. Therefore, juries are necessary to ensure that the facts are properly interpreted and the judge doesn’t come to an improper, incorrect verdict based on misinterpretation of the facts. And, prefer juries to judges because the very nature of a judge’s job invites bias. Kropf 2 writes:

**Juvenile court judges have great potential to become biased** (and bias potentially has severe ramifications) **because the very system relies on a relationship between the judge and the offender, in order that the judge may apply individualized treatment. A judge may become familiar with a certain defendant and therefore may be less fair than a jury drawn from an impartial venire.** [Also,] There is no evidence that judges are better factfinders and, in fact, in Duncan, the [Supreme] Court took pains to explain that juries do understand the evidence and come to sound conclusions in most of the cases presented to them and that when juries differ with the result at which the judge would have arrived, it is usually because they are serving some of the very purposes for which they were created and for which they are now employed. There is no difference between the types of facts found by juries in juvenile cases and those found in adult criminal cases; therefore, if juries are adequate factfinders for adult criminal trials, in which the potential sentence is death or life in prison, then there is little reason to deny a jury to a juvenile offender.

End quote. This bias is supercharged by the fact that judges are overworked and undertrained. Kropf 3 explains:

**Like many judicial officials, juvenile court judges are overworked.** [FN184] However, **they are also frequently undertrained. Juvenile court is often the first stopping point for new, inexperienced judges. Thus, the very area in which judges currently have the most discretion and greatest factfinding mission has the least experienced judges.** [FN185] In Duncan, the Court stated that juries would protect not only against biased judges but against the "overzealous prosecutor." [FN186] This need is no less pressing in juvenile courts. Prosecutors, like judges, are often assigned solely to juvenile court. The possibility exists that such prosecutors will become biased, especially if they deal with repeat juvenile offenders. Additionally, if they are elected, prosecutors may face political pressure to harshly charge a juvenile. [FN187] The McKeiver Court was willing to leave juvenile adjudication solely to judges, [FN188] but, given the concerns expressed in Duncan about bench trials for nonpetty criminal trials, this assumption is ill-founded-at least in cases of juveniles accused of serious crimes.

End quote. Even if juries are biased towards juveniles, my argument is that judges are even more biased, so juries are still preferable. And, judge bias is worse than jury bias since there are checks on juries (such as the pretrial selection processes, the fact that the decision has to be unanimous etc.) but there are no checks on judges.

Furthermore, juries will always be better than judges because they actually employ the guilt beyond reasonable doubt standard. Drizin and Luloff 2 explain:

For a jury, guilt beyond a reasonable doubt involves both accurate factfinding and a complex determination of moral culpability and providing a nexus between the government's decision to criminalize an act and the community's sense of justice in the law's application. Numerous studies have shown "that juries are more likely to acquit than are judges." This sentiment was echoed in the ABA state studies with defense lawyers readily acknowledging that judges do not apply a proof beyond a reasonable doubt standard. n376 Judges and juries evaluate evidence, sentiments about the law, and defendant sympathy differently, with juries more likely to demand heightened proof of facts and be more sympathetic to the defendant's youthfulness. n377 While in the majority of jurisdictions that allow juvenile court trials, juveniles rarely invoke the right, n378 a jury can enforce the standard of proof of guilt beyond a reasonable doubt in marginal fact cases. n379 In addition, a jury can reduce prosecutorial over-charging, a result which can reduce the incentive for juveniles to enter a false guilty plea. n380 McKeiver was premised on the idea that judges can be just as accurate in their factfinding ability as juries. n381

End quote. All these problems are compounded by the fact that juveniles in the negative world have less effective appeals processes. Ainsworth 2 argues:

In addition to this greater likelihood of acquittal, **those who have jury receive more meaningful appellate review than those who are tried in bench trials. Judges presiding trials over jury trials must articulate the law governing the case in jury instructions, which are later subject to appellate review** to correct errors of law that have worked to the defendant's detriment. **In the bench trials that most juveniles must receive,** on the other hand, **prejudicial errors of law can easily go undetected because they are not articulated. Thus: "Juveniles denied a jury trial lose out twice. They are more likely to be convicted in the first place, and are less likely to be able to prove an error of law** which would allow them to prevail on appeal." n73

End quote. This is emprically proven. Feld 3 concludes:

**The only empirical study that compared rates of appeals by criminal defendants and juvenile delinquents** in cases involving adult and juvenile institutional confinement **reported that convicted adults appealed more than ten times as often as did juveniles** (Harris 1994). **The study controlled for the differences in the types of potential procedural errors in adult and juvenile** proceedings, such as those involving jury selection or instructions, and attributed the differences in rates of appeals to the persistence of a *parens patriae* rehabilitative culture even among lawyers in public defender offices (Harris 1994). Many juveniles’ lawyers regarded “appeals as an obstacle to getting the child back on track…[They] view the attorney’s role as a combination of advocate and guardian, with a goal of salvaging the children” (Harris 1994:223).

Lastly, presume affirmative absent a clear negative ballot because the negative starts out the round with all the advantages like longer rebuttal times and the ability to adapt to the AC, so if we come out even I've done the better debating.

AT Jury Trials also exist in the neg world

1) Juries are an option in the neg world but the decision is made at the discretion of states. The only way to ensure that juveniles get the right to juries is by affirming because when they are treated as adults, they all get juries. Thus, the affirmative world will always better determine guilt since it is the only world that guarantees trial by jury.

2) In the status quo only 16 states actually give juveniles a trial by jury. The vast majority of kids are still subject to judicial decision-making. The only way to give everyone juries is by affirming.

AT Juries have 12 people so they’re more likely to be biased

1) This is simply not true. In order for a biased jury to negatively affect a defendant, all 12 jury members must be biased because a unanimous decision is necessary for a conviction. One biased juror is checked by the other eleven. Also, if one juror is biased to acquit a defendant, that defendant isn’t let go. A mistrial is declared when the jury can’t reach a consensus and the defendant is retried.

2) The selection process checks. The attorneys of defendants can select members of the jury to ensure that there will not be a bias.

3) The appeals process checks juror abuse. Extend and cross apply Ainsworth 2. A jury’s decision is easy to overturn on appeal if bias is shown; whereas, a judge’s bias is not easy to overturn.

4) Extend and cross apply Walker and Woody. Juries are empirically not biased against young defendants; whereas, judges have many reasons of being biased. The fact that a biased juror would exist is a warrantless assertion, while judges are biased because of blunted fact-finding sensibilities and presumption of guilt.

AT False confessions

1) Interrogations are non-unique. In the juvenile court, there are no restrictions on waiver or Miranda either. **Feld[[9]](#footnote-7):**

**In Fare v. Michael C., 16 the Court** ignored its earlier concerns about youths' vulnerability and **endorsed the adult waiver standard** - "knowing, intelligent, and voluntary under the totality of the circumstances" - **to evaluate juveniles' waivers of Miranda rights. 17 The Court denied that developmental and psychological differences between children and adults required different procedures for youths. 18 Fare asserted that the adult waiver standard provided judges with the flexibility needed to assess juveniles' invocations or waivers of Miranda rights.** **19**

2) [If their evidence is from before 2006 (especially that Woodhouse card or the Redlich and Goodman study which is what she cites)]

The impact is overstated. The vast majority of false confessions occur in extremely long interrogations, and the vast majority of juvenile interrogations are very short. **Feld[[10]](#footnote-8):**

Based on the limited empirical evidence available, **police conclude most interrogations very quickly, even those involving serious crimes. Police in this study concluded three-quarters of interrogations in thirty minutes or less,** and none exceeded one and one-half hours. **These findings are consistent with every other study of routine interrogation.** Conversely, other studies have shown that police extract most false confessions at the end of lengthy and grueling questioning. **Police elicited 85% of proven false confessions only after interrogations conducted for six hours or longer.**

Until Feld’s study there was no actually account of interrogations of juveniles. The study the aff cites is just a simulation of interrogation situations. Thus, prefer my evidence because it is specific to what actually happens when juveniles are interrogated.

Therefore, I greatly outweigh the negative’s claims on a scope level. There is a very low probability, given actual interrogation techniques, that a juvenile will wrongfully confess. A very large majority of juveniles go through to the trial process. Far more kids are subject to a judge or jury than wrongfully confess. Even if the chance of wrongful confession is high, I still outweigh the negative because most offenders don’t actually confess.

AT Juries will nullify

1) There is no problem with jury nullification. If twelve people reach a consensus that a law is unjust, the law is probably unjust.

2) Juries won’t nullify in the case of a violent felony. Twelve people won’t agree that a law against something like rape and murder is unjust because twelve evil people won’t be placed on the jury. Therefore, if a jury does nullify in a case of violent felony, it is because the law has been applied improperly, in which case the person is not actually guilty of anything.

3) Jury nullification is so infrequent that even if a violent felon is allowed to go free unfairly, my impacts greatly outweigh on scope. Nearly 100% of juries decide the case based solely on the facts so will not acquit to nullify. Judges’ inherent bias outweighs because all defendants are subject to it whereas a very small portion have charges nullified.

AT Util/government is obligated to protect citizens

1) Extend the number 2 justification for the standard. The government is contractually limited in what it can do to decrease crime because it only has power to act that the law gives it. Therefore, although the government has a general obligation to protect its citizens, there are side constraints on what the government can do. For instance, even though locking up everyone accused of a crime would protect society, the government cannot do that but is obligated to properly determine guilt. So my standard is a prerequisite.

2) Even if my standard is not a prerequisite, if the government is not accurately determining guilt, it is not protecting it's citizens because some of them might be punished for something they did not do. This means my standard links into util.

3) Extend and cross apply the argument about how obligations differ in contexts, since contexts account for the specificity of the situation. I agree that the government is obligated to protect its citizens, however, my argument is that that obligation exists when taking into account how we ought to punish juveniles. The trial process is meant to accurately determine guilt, while the sentencing and punishment process is meant to protect society.

4) I don’t defend any policy. I’m just defending the status quo interpretation of what it means to treat a juvenile as an adult. Therefore, net benefits is nonsensical because it assumes that each side is implementing some policy that can have consequences. I’m just saying the system of adult trial is better than the system of juvenile trial.

AT Juries biased towards juveniles

1) it is empirically proven that juries are not biased against juveniles and fairly interpret facts. Age has nothing to do with juries assigning a verdict. Walker and Woody explain the results of their study[[11]](#footnote-9):

**Age was not found to interact with participants’ biases.** This suggests that although jurors may be sensitive to the different ages of defendants in some situations (Rudebeck & Woody, 2002; Tang & Nunez, 2003), they may not rely upon a categorical division between juveniles and adults for all decisions.**Age did not affect verdicts, and,** in contrast with the findings of Ghetti and Redlich (2001), defendant age did not affect **the perceived responsibility of the defendant for the physical injury** or property loss **of the victim,** a supplementary measure of verdict.

Prefer this study over Tang because

a) it's sample size is twice as large. Tang used 153 mock jurors, and my study used 306. Larger sample sizes are preferable since it minimizes the possibility of external factors affecting the results.

b) our study better accounts for the distinction between juveniles and adults, since it uses a juvenile aged 14 and an adult aged 24. Walker and Woody 2 explain the rational:

**The present research depicted the adult defendant as youthful but past teen years; it was hoped that jurors’ perceptions of a distinctly adult defendant would provide a clearer picture of differences in jurors’ perceptions of juvenile and adult defendants.**

c) our study is more recent. All else being equal, prefer recent studies because by definition they are a more accurate representation of the status quo.

2) Extend and cross apply the analytic between Woody and Walker and Drizin and Lulloff 2. Even if juries are biased towards juveniles, my argument is that judges are even more biased, so juries are still preferable. And, judge bias is worse than jury bias since there are checks on juries (such as the pretrial selection processes, the fact that the decision has to be unanimous etc.) but there are no checks on judges.

AT bad lawyers/counsel

1) Turn: juveniles in the neg world usually don't even get counsel. Federle[[12]](#footnote-10) writes:

The current weight of academic and professional opinion now clearly indicates that the attorney for the child is a zealous advocate for her client's express preferences. 83 Every state has a statute providing counsel for children in delinquency cases. 84 Nevertheless, in practice there is considerable resistance to the notion that children are entitled to zealous, client-directed advocates. **Children routinely are unrepresented in delinquency proceedings: many waive their right to counsel, based on either a lack of understanding** about the significance of the charges and the consequences of proceeding without legal assistance, **or as a result of pressure** - subtle or otherwise - **from the judge, court personnel, or their parents. 85 When**[\*106]**children do assert their right to counsel, they nevertheless may be ineligible to receive free legal assistance because of extremely narrow definitions of indigency** that exclude many families who fall well below the poverty line. 86 **This may leave parents in the untenable position of having to choose between retaining legal counsel and providing basic necessities; but even once the decision to secure legal assistance is made, the process of obtaining court-appointed counsel may be so confusing and time-consuming that children still appear in court without representation. 87 On the other hand, many parents, regardless of t**heir **socioeconomic status, may simply be unwilling to hire private lawyers because they are angry, confused** about the need for counsel, **or do not understand the consequences** of a juvenile delinquency adjudication. 88

End quote. Even if lawyers are bad in the aff world, a bad lawyer is better than no lawyer since at least there is a risk of the lawyer helping the juvenile.

2) Turn: Even if juveniles do get counsel, the counsel is usually terrible because of working conditions. Feld argues:

Apart from the methods of delivering legal services, **the conditions of employment in juvenile courts seldom contribute to quality representation. Long hours, low pay, inadequate support and social service resources,** and a depressing sense of futility **combine with heavy caseloads and difficult clients to discourage all but the most dedicated lawyers from devoting their professional careers to advocacy on behalf of children. These organizational impediments had a devastating impact on the quality of representation in juvenile court.**

End quote. At worst, this non-uniques the neg’s argument about bad lawyers because they exist in both worlds. However, bad counsel in the negative world is uniquely bad because it increases bias since prosecutors are more likely to increase the sentence. Feld explains:

Juvenile court judges' ideology and practice may place juveniles who appear with lawyers at a disadvantage when compared with similarly situated unrepresented youths. **Procedural formality and presence of an attorney aggravate the sentence a youth receives, [regardless of the type of offense with which they are charged with].** While similar factors may affect judges' decisions both to appoint counsel initially and later to impose a harsher disposition, **the presence of an attorney** apparently **exerts an independent effect on the severity of the sentences. Judges incarcerated more juveniles represented by lawyers than juvenile without counsel even after controlling for the effect of other variables.** Regardless of the types of offenses with which they were charged, juveniles represented by attorneys receive more severe dispositions (35.8% vs. 9.6%).

AT Juries can't assess statistical evidence

1) At best, this is non-unique. Extend and cross apply Kropf 3. Judges don't have the time or knowledge to assess statistical evidence either, which means that either way statistical evidence is foregone.

2) Since the issue is that juries are laymen who are not experts in science, this argument is non-unique as judges also are not experts in science, hence they didn't become scientists.

at judges know law better

1) Turn: Extend and cross apply Ainsworth 2. Judges still preside over the trials in the aff world, which means I capture 100% of the advantage of judges knowing the law. I also get the added net benefit of judges having to articulate the law, meaning that a) judges actually verify they know the law in the aff world whereas that doesn't happen in the neg world and b) there is an additional check in the appeals process in the aff world that doesn't exist in the neg world.

2) Turn: Even if the judges do know the law better, extend and cross apply Kropf 3 who explains that these judges are overworked yet undertrained, which means they are not in a situation to properly apply the law. Also, the judges in the aff world are more experienced as Kropf indicates that the juvenile system is a stepping-stone for judges, meaning the judges in my world know the law better.

AT Kids don't understand rights

1) This is at best defensive. There's no reason why not knowing the additional rights you have in the adult system makes the trial less likely to accurately determine guilt.

2) It doesn't matter if kids don't know the advantages of a trial by jury, they still get one and the net benefit is the same.

3) This is non-unique because if a juvenile doesn't understand her rights, she doesn't understand it in the negative world either.

*[Specific to waiving Miranda rights]*

4) Harms to waiving Miranda rights are non-unique. Juveniles and adults are held to the same standard when it comes to waiving Miranda rights. **Feld[[13]](#footnote-11):**

**In Fare v. Michael C., 16 the Court** ignored its earlier concerns about youths' vulnerability and **endorsed the adult waiver standard** - "knowing, intelligent, and voluntary under the totality of the circumstances" - **to evaluate juveniles' waivers of Miranda rights. 17 The Court denied that developmental and psychological differences between children and adults required different procedures for youths. 18 Fare asserted that the adult waiver standard provided judges with the flexibility needed to assess juveniles' invocations or waivers of Miranda rights.** **19**

weighing--substantive

**False confessions**

1) scope and probability: likelihood of false confession really low. Cross apply feld. Also, kids aren’t dumbasses. The amount of false confessions are low, whereas every juvenile is negatively impacted by not having a jury and having a judge instead

2) reversibility: appeals and things like dna check back false confessions, but no one checks a biased judge. they are the sole deciders of the case, meaning we can solve for false confessions but cant solve for no trial by jury

**Bad counsel**

1) This isn't offense unless they show that the counsel actually *hurts* the juvenile. At best, the counsel is just useless.

2) magnitude: bad counsel doesn't hurt the fairness of a trial process as much as a bad judge because judges have more influence on the outcome of the trial than counsel. we have checks for bad counsel, but none for biased judges

3) scope: not everyone gets bad counsel, but everyone gets screwed over by not having a jury. my argument is that juries are ALWAYS better than adults, whereas sometimes counsel may or may not be good.

**Jury Bias/Judge Bias**

1) Reversibility – we can check back in appeal but judges can’t be checked Ainsworth 2.

2) Probability- on a jury you need 12 biased people to actually result in a wrongful conviction whereas with a judge one person who is already likely for the reasons in the AC to mess up just has to mess up. Also, the selection process and other checks make it extremely less likely that a jury will be biased.

3) Magnitude – in the juvenile system a judge controls guilt and sentencing so if they mess up the juvenile gets screwed over twice whereas a judge can check a jury with sentencing.

weighing--constitution

**Overview**

As an overview, denying trial by jury outweighs all other constitutional violations because jury trials in criminal cases are a right guaranteed specifically by the sixth amendment; whereas, their violations are based on supreme court interpretation which can change.  Thus, our impact will always be unconstitutional, but there’s may not be at some time in the future.

**TBJ > Death Penalty**

1) Probability – very low probability that juveniles get DP but very high probability judges (most states) also means we o/w on scope b/c more people affected by the lack of a jury.

2) Reversibility – overturn DP cases (esp. because appeals process are so long) but can’t overturn judge bias Ainsworth

**TBJ > Competency to Stand Trial**

1) Probability- only about a third of the people are incompetent to stand trial.  Further, not all of those get screwed over.

2) Magnitude – We can solve for competency by testing in the aff world (retards) but they can’t solve for juries. Also, if you are incompetent, you aren't tried, meaning there is no harm to the neg violation but there is a harm to the aff violation.

**TBJ > LWOP**

1) Probability – very low probability that juveniles get LWOP but very high probability judges (most states) also means we o/w on scope b/c more people affected by the lack of a jury.

2) Reversibility – overturn LWOP cases can’t overturn judge bias Ainsworth

reject recidivism empirics

Reject any empirics that they claim pertain to recidivism as based on the trial process because

1) The existence of such empirics is literally impossible.  In the status quo there is no system that simply tries juveniles in the adult system and punishes them in some other system.  Such a thing hasn’t been done so can’t be the basis of a study.

2) Prefer analytics to empirics because the existence of a winning study on the empirics debate just means you cut the better study.  The fact that there are conflicting studies just proves that empirics are non-verifiable and change over time.  Analytics are based on truth and logic and explain what actually happens.

3) Focusing the debate on analytics encourages much more thinking because a) you have to think in round more to compare analytics rather than cutting more cards b) you have to come up with analytics before the round and actually think about them c) the better debater is the one who comes up with the better arguments if we base debate on empirics it becomes a reading contest but in analytic debates we have to come up with arguments d) basing rounds on empirics fosters exclusion and an uneven playing field because debaters with more resources can come up with better evidence but everyone can think of arguments.

1ar constitution add ons

The McKiever decision was based on the assertion that juries and judges were equal fact finders. **Feld:**

**The Supreme Court in *McKiever v. Pennsylvania* denied to juveniles a constitutional right to a jury trial because it found that “due process” and “fundamental fairness” in delinquency proceedings required only “accurate fact finding,” which a judge could provide as well as a jury** (403 U.S. 528, at 543 [1971]). **Without citing any empirical evidence, *McKiever* simply posited parity between the factual accuracy of juvenile delinquency bench trials and adult criminal jury trials.**

Thus, if I prove that judges are not adequate fact-finders, denying juveniles the right to trial by jury is a blatant violation of the sixth amendment which guarantees all defendants trial by an impartial jury.

The constitution guarantees juveniles to have proof beyond a reasonable doubt of their guilt to be convicted. **Feld:**

*McKiever’s* assertion that accurate fact-finding in delinquency proceedings does not require juries contradicts the Court’s logic and rationale in ***In re Winshi****p***(**397 U.S. 358 [1970]). *Winship***required “proof beyond a reasonable doubt” to convict both delinquents and criminals because of the seriousness of the proceedings and the potential consequences for both juvenile and adult defendants.**

Thus, if juvenile court judges do not apply the standard of proof beyond a reasonable doubt, that is another violation of the constitution. Extend and cross apply Drizin and Luloff 2.

1. http://www.blackslawdictionary.com/Home/Default.aspx [↑](#footnote-ref--1)
2. Barry. C. Feld, *Bad Kids; Race and the Transformation of the Juvenile Court*, 1999, Pg. 15 [↑](#footnote-ref-0)
3. Sara E. Kropf. "OVERTURNING MCKEIVER V. PENNSYLVANIA: THE UNCONSTITUTIONALITY OF USING PRIOR CONVICTIONS TO ENHANCE ADULT SENTENCES UNDER THE SENTENCING GUIDELINES." Georgetown Law Journal, June, 1999 [↑](#footnote-ref-1)
4. [↑](#footnote-ref-2)
5. on ma macbook, savvy? [↑](#footnote-ref-3)
6. Steven A. Drizin and Greg Luloff; Are Juvenile Courts A Breeding Ground for Wrongful Convictions?; Northern Kentucky Law Review; \*Clinical Professor of Law. Northwestern University School of Law; Legal Director, Bluhm Legal Clinic's Center on Wrongful Convictions. \*\*Law clerk to the Honorable J. Robin Hunt, Court of Appeals, Washington; J.D. Northwestern University School of Law (2005); 2007. [Kumar]. [↑](#footnote-ref-4)
7. Bad Kids: Race and the Transformation of the Juvenile Court; Barry Feld; 1997 [↑](#footnote-ref-5)
8. Jennifer M. Segadelli [2010 JD Candidate Seattle University School of Law], “Access to Justice: Minding the Gap: Extending Adult Jury Trial Rights to Adolescents While Maintaining a Childhood Commitment to Rehabilitation,” Seattle Journal for Social Justice, Spring/Summer 2010, Accessed on LexisNexis [↑](#footnote-ref-6)
9. Journal of Criminal Law & Criminology Fall, 2006 CRIMINOLOGY: **POLICE INTERROGATION OF JUVENILES: AN EMPIRICAL STUDY OF POLICY AND PRACTICE NAME:** BARRY C. FELD\* [↑](#footnote-ref-7)
10. Id. Methodology: He picked 66 cases from Minnesota and Alaska. These are the only states that allow recording of police interrogation of juveniles. The court offices gave Feld all available transcripts from interrogations. They were not handpicked, but rather all available interrogation tapes. All were felonies. [↑](#footnote-ref-8)
11. Walker, Charity M. and Woody, William D.(2011) 'Juror decision making for juveniles tried as adults: the effects of defendant age, crime type, and crime outcome', Psychology, Crime & Law,, First published on: 25 January 2011 [↑](#footnote-ref-9)
12. [[1]](https://mail.google.com/mail/?ui=2&view=bsp&ver=ohhl4rw8mbn4" \l "12f94458a7658c88__ftnref) Katherine Hunt **Federle, “**LAWYERING IN JUVENILE COURT: LESSONS FROM A CIVIL GIDEON EXPERIMENT,” Fordham Urban Law Journal (February, 2010)-- Professor of Law & Director, Center for Interdisciplinary Law & Policy Studies and the Justice for Children Project, The Ohio State University Michael E. Moritz College of Law. [↑](#footnote-ref-10)
13. Journal of Criminal Law & Criminology Fall, 2006 CRIMINOLOGY: **POLICE INTERROGATION OF JUVENILES: AN EMPIRICAL STUDY OF POLICY AND PRACTICE NAME:** BARRY C. FELD\* [↑](#footnote-ref-11)