

Lesson 3

Thursday 2/1/24

## Mid-1900's Concerns (Cont'd)

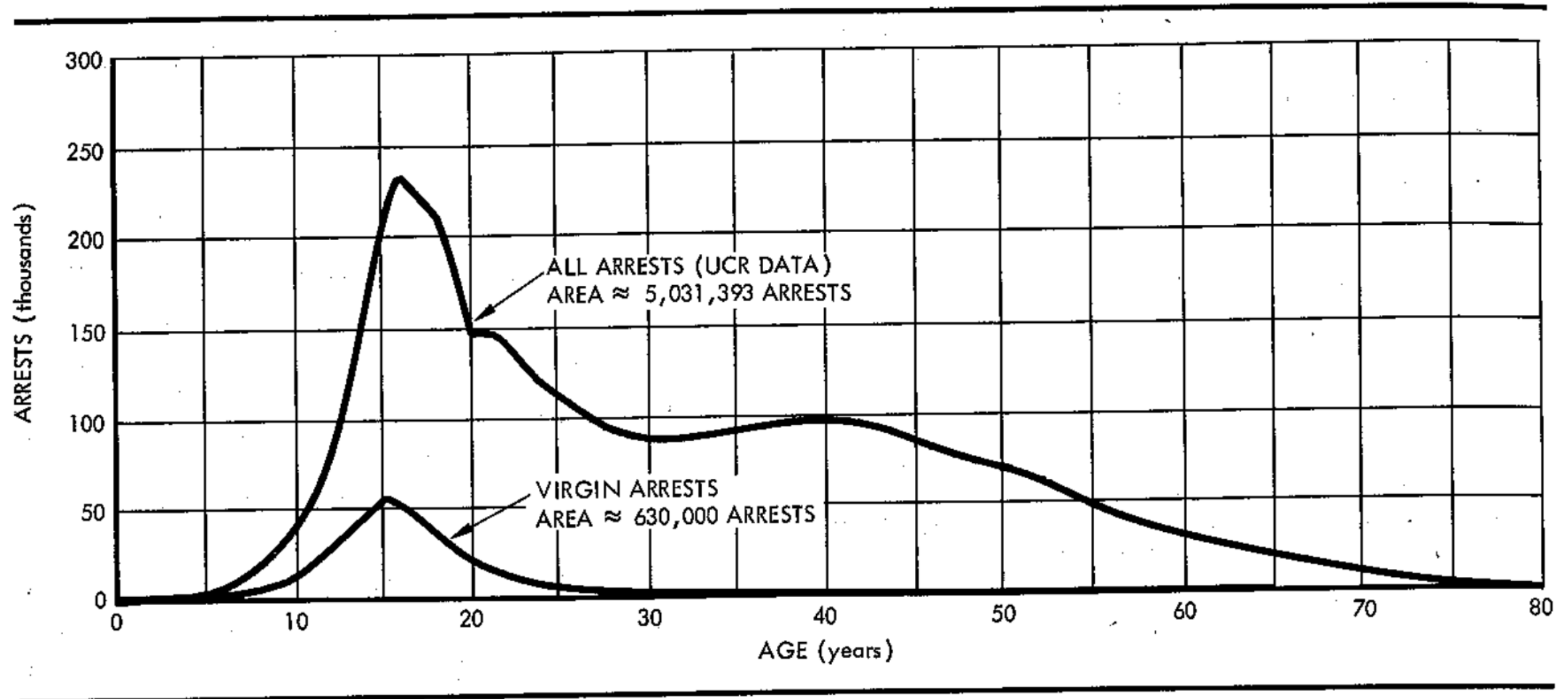
Mr. J. Edgar Hoover, Director of the Federal Bureau of Investigation, said on May 19, 1950:

The United States is sadly neglecting its most precious assets, the citizens of tomorrow. There is a rapidly rising rate of crime in youth. Fifty per cent of the crimes against property are committed by people under 20 years of age.... Perhaps the disappearance of the woodshed of my generation has had its effect.... There is no satisfactory substitute for discipline in developing character.... Any city in the country would strike a telling blow against crime within 24 hours if the people had the will and determination to eradicate the breeding places of crime.

Source: J. Edgar Hoover (1950). Juvenile Delinquency, Chairman's Address. Journal of the American Medical Association, 144:1538-1540.

# Arrest Patterns by Age, mid-1960's

FIGURE J-2. 1965 ARRESTS BY AGE FOR ALL NONTRAFFIC OFFENSES



Source: Ronald Christensen (1967). Projected percentage of U.S. population with criminal arrest and conviction records. In Science and Technology Task Force Report, Appendix J, pp. 216-228 at 218.

# Key Quote from In re Gault (1967)

It is claimed that juveniles obtain benefits from the special procedures applicable to them which more than offset the disadvantages of denial of the substance of normal due process. As we shall discuss, the observance of due process standards, intelligently and not ruthlessly administered, will not compel the States to abandon or displace any of the substantive benefits of the juvenile process.<sup>[29]</sup> But it is important, we think, that the claimed benefits of the juvenile process should be candidly appraised. Neither sentiment nor folklore should cause us to shut our eyes, for example, to such startling findings as that reported in an exceptionally reliable study of repeaters or recidivism conducted by the Stanford Research Institute for the President's Commission on Crime in the District of Columbia. This Commission's Report states:

"In fiscal 1966 approximately 66 percent of the 16- and 17-year-old juveniles referred to the court by the Youth Aid Division had been before the court previously. In 1965, 56 percent of those in the Receiving Home were repeaters. The SRI study revealed that 61 percent of the sample Juvenile Court referrals in 1965 had been previously referred at least once and that 42 percent had been referred at least twice before." *Id.*, at 773.

Certainly, these figures and the high crime rates among juveniles to which we have referred (*supra*, n. 26), could not lead us to conclude that the absence of constitutional protections reduces crime, or that the juvenile system, functioning free of constitutional inhibitions as it has largely done, is effective to reduce crime or rehabilitate offenders.

Source: *In re Gault* (1967), 387 U.S. 1 at 21-22.

# Key Due Process Cases

- Haley v. Ohio (1948); not discussed in reading; link to the Supreme Court case.
- Kent v. United States (1966)
- In re Gault (1967)
- In re Winship (1970)
- McKeiver v. Pennsylvania (1971)
- Breed v. Jones (1975)
- Schall v. Martin (1984)
- Stinney v. South Carolina; also not discussed in reading but should have been (1944; 2014; link to opinion; link to NYTimes article; link to USAToday video summary of case); not a U.S. Supreme Court case.

# Key 8th Amendment Cases

- Aspects of the SC v. Stinney case are relevant.
- Eddings v. Oklahoma (1982)
- Thompson v. Oklahoma (1988)
- Stanford v. Kentucky (1989; and closely related case, Penry v. Lynaugh also in 1989).
- Roper v. Simmons (2005; and closely related case, Atkins v. Virginia, 2002).
- Graham v. Florida (2010)
- Miller v. Alabama (2012; social scientists amicus curiae brief).
- Montgomery v. Louisiana (2016).

## HALEY v. OHIO.

## CERTIORARI TO THE SUPREME COURT OF OHIO.

No. 51. Argued November 17, 1947.—Decided January 12, 1948.

1. A 15-year-old boy was arrested about midnight on a charge of murder and questioned by relays of police from shortly after midnight until about 5 a. m., without benefit of counsel or any friend to advise him. When confronted with alleged confessions of his alleged accomplices around 5 a. m., he signed a confession typed by the police. This confession was admitted in evidence over his protest and he was convicted. *Held*: The methods used in obtaining this confession violated the Due Process Clause of the Fourteenth Amendment and the conviction cannot be sustained. Pp. 597–601.
2. The ruling of the trial court admitting the confession in evidence and the finding of the jury that the confession was voluntary did not foreclose the independent examination which it is the duty of this Court to make in such a case. P. 599..
3. The fact that this 15-year-old boy was formally advised of his constitutional rights just before he signed the confession does not alter the result. Formulas of respect for constitutional safeguards may not become a cloak for inquisitorial practices and make an empty form of due process of law. P. 601.

147 Ohio St. 340, 70 N. E. 2d 905, reversed.

# Haley v. Ohio (599-600)

Opinion of DOUGLAS, J.

332 U.S.

We do not think the methods used in obtaining this confession can be squared with that due process of law which the Fourteenth Amendment commands.

What transpired would make us pause for careful inquiry if a mature man were involved. And when, as here, a mere child—an easy victim of the law—is before us, special care in scrutinizing the record must be used. Age 15 is a tender and difficult age for a boy of any race. He cannot be judged by the more exacting standards of maturity. That which would leave a man cold and unimpressed can overawe and overwhelm a lad in his early teens. This is the period of great instability which the crisis of adolescence produces. A 15-year-old lad, questioned through the dead of night by relays of police, is a ready victim of the inquisition. Mature men possibly might stand the ordeal from midnight to 5 a. m. But we cannot believe that a lad of tender years is

a match for the police in such a contest. He needs counsel and support if he is not to become the victim first of fear, then of panic. He needs someone on whom to lean lest the overpowering presence of the law, as he knows it, crush him. No friend stood at the side of this 15-year-old boy as the police, working in relays, questioned him hour after hour, from midnight until dawn. No lawyer stood guard to make sure that the police went so far and no farther, to see to it that they stopped short of the point where he became the victim of coercion. No counsel or friend was called during the critical hours of questioning. A photographer was admitted once this lad broke and confessed. But not even a gesture towards getting a lawyer for him was ever made.