

# POLICY 4

## Miranda Warnings, Waiver Of Rights, and Youth Interrogations

### PURPOSE

Ensure law enforcement officers follow guidelines for how to issue *Miranda* warnings to and conduct interrogations of youth

in a developmentally appropriate, trauma informed, and equitable manner that protects youths' rights.

### POLICY

This policy provides officers with practices that help youth understand the consequences of their statements, ensuring that procedures involving *Miranda* warnings, waiver of rights and youth interrogations reflect an understanding of the special needs and vulnerabilities of youth and protect youths' rights. It is designed to advise officers in:

1. providing *Miranda* warnings to youth and conducting custodial interrogations in a manner that safeguards the youth's con-

stitutional guarantee against self-incrimination and right to an attorney<sup>1</sup>; and

2. ensuring that any waiver of rights by youth will be knowing, voluntary, and intelligent.<sup>2</sup>

The policy also advises officers how to provide information to a youth's parent, when the youth is taken into custody, and outlines the roles of parents and attorneys in the *Miranda* warning and interrogation processes.

1. *Miranda v. Arizona*, 384 U.S. 436,444 (1966); see also *In re Gault*, 387 U.S. 1 (1967) (youth facing delinquency proceedings must be afforded due process, including the right against self-incrimination and the right to counsel).

2. See *Miranda*, 384 U.S. at 444; see also *Fare v. Michael C.*, 442 U.S. 707, 725 (1979) (as with adults, the "totality of the circumstances" determines whether a youth has waived their rights during interrogation. This approach "permits—indeed, it mandates—inquiry into all the circumstances surrounding the interrogation. This includes evaluation of the juvenile's age, experience, education, background, and intelligence, and into whether he has the capacity to understand the warnings given him, the nature of his Fifth Amendment rights, and the consequences of waiving those rights.")

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# REASONS FOR YOUTH SPECIFIC POLICIES

## Why *Miranda* Warnings, Waiver Of Rights And Interrogations should be different for youth:

- Youth brain development causes them to view and react differently from adults in custodial interviews and interrogations. In these settings, youth are more likely to:
  - Experience difficulty anticipating the consequence of their statements and actions,
  - Be susceptible to the promise of immediate rewards (e.g. the prospect of leaving the interrogation or of an officer's promise of lenient treatment for cooperation) rather than invoke their rights, and
  - Be susceptible to coercion in various forms (e.g. false claims of the existence of evidence against the youth).
- As the U.S. Supreme Court found, a reasonable youth in law enforcement custody will “sometimes feel pressured to submit [to law enforcement questioning] when a reasonable adult would feel free to go.”<sup>3</sup> Youth are more likely than adults to make false confessions,<sup>4</sup> which may lead to wrongful convictions.<sup>5</sup> Interrogation tactics that may not be considered coercive when used with adults may be coercive when used with youth. And, even in situations where officers do not engage in overt physical or verbal coercion, youth of color may be intimidated by the presence of law enforcement given evidence of tension between communities of color and law enforcement.
- Evaluating whether a youth is “in custody,” and thus entitled to a *Miranda* warning, requires officers to consider the youth’s age<sup>6</sup> and other circumstances surrounding the interrogation in deciding whether a reasonable youth would feel free to end the interrogation and leave.
- A youth’s developmental stage, experience, education, background, cognitive functioning, mental health functioning, and any other potential disability may all impact the youth’s capacity to understand *Miranda* warnings.
- The presence of an attorney during the interrogation is the most effective vehicle to protect the youth’s rights.
- Although a parent or other responsible adult can support and advocate for a youth, these adults are not a substitute for an attorney. A parent may not understand the *Miranda* warnings. In some

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3. *J.D.B. v. North Carolina*, 564 U.S. 261, 271-72, 277 (2011).

4. See *J.D.B.*, 564 U.S. at 269 (the risk of false confessions “is all the more troubling – and recent studies suggest, all the more acute – when the subject of custodial interrogation is a juvenile.”)

5. International Association of Chiefs of Police, *Reducing Risks: An Executive’s Guide to Effective Juvenile Interview and Interrogation*, at 1 (2012) [Reducing Risks: An Executive’s Guide to Effective Juvenile Interview and Interrogation \(theiacp.org\)](#) (“False confessions are a leading cause of wrongful convictions of youth.” Moreover, “[w]hen a juvenile is prosecuted on the basis of a false confession, the true perpetrator remains a hazard to the community, denying the victim justice, magnifying the impact of the crime and eroding public confidence in the justice system.”)

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

circumstances, a parent may even have a conflict of interest with the youth.

- Failing to communicate with youth in a developmentally appropriate way increases the risk of false, unreliable, or coerced confessions, and the exclusion of confession evidence obtained in violation of constitutional rights.

Additional source and background information for this policy can be found in the [Appendix to Policy 4](#).

# DEFINITIONS

## **AGENCY**

This law enforcement agency.

## **DEVELOPMENTALLY APPROPRIATE LANGUAGE**

Developmentally appropriate language uses vocabulary, syntax, and speed and complexity of communication that matches an individual's developmental level and capacity for understanding. Developmentally appropriate language is necessary to ensure meaningful communication and increases the likelihood that youth are able to understand and assert their constitutional rights.

## **PARENT**

The youth's biological or adoptive parent, guardian, or legal custodian.

## **RESPONSIBLE ADULT**

Any adult related to the youth by blood, adoption, or marriage, or who has an established familial or mentoring relationship with the youth, who does not exhibit adverse interests to the youth. A responsible adult can include, but not limited to, godparents, clergy, teachers, neighbors, and family friends.

## **TRAUMA**

As defined by the U.S. Department of Health and Human Services, individual trauma results from an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or life threatening and that has lasting adverse effects on the individual's functioning and mental, physical, social, emotional, or spiritual well-being.

## **TRAUMA-INFORMED**

A trauma-informed **officer**: 1) anticipates that exposure to and experience of trauma is widespread, 2) realizes that the impacts of trauma often lead to reactive, survival behaviors; 3) recognizes hallmarks of traumatic responses, which are often shaped by a perspective of powerlessness, and 4) responds by considering the role trauma may play in a person's response while taking steps to avoid re-traumatization. A trauma-informed law enforcement **agency** supports its officers' trauma-informed responses by promoting awareness of and training about trauma, policies that require training for trauma-informed skills with the public and among officers.

## **YOUTH**

Any person under the age of 18.

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# PROCEDURE

## I. When to Provide *Miranda* Warnings to Youth

Officers must provide *Miranda* warnings any time a youth is under arrest or reasonably believes that they are not free to leave an officer's presence and the officer intends to question them.

**A. Officers should assume that a youth would reasonably perceive** themselves not to be free to leave the presence of the officer when the officer has, or has stated an intent to:

- Take action, including using verbal directions, force, restraints, or blocking egress, to discourage or prevent the youth from leaving,
- Issue legal or other consequences for the youth's effort to leave the officer's presence,
- Hold the youth in a law enforcement agency station or vehicle,
- Tell the youth directly or by implication that they are not free to leave,
- Fail to tell the youth that they are free to leave,
- Keep the youth from contacting a parent or attorney,
- Make promises to the youth in exchange for the youth's cooperation.

**B. Should youth make incriminating, spontaneous statements** prior to *Miranda* warnings the officer shall immediately:

1. Notify the youth that they are not free to leave and are in custody,
2. Then provide the youth *Miranda* warnings (using the language set out in Section II, below) before attempting to clarify the youth's statement or asking any questions related to the statement.

## II. How to Provide *Miranda* Warnings to Youth

**A. The following language shall be read out loud by the officer**, and shall be included in written *Miranda* warnings provided to the youth, the youth's parent, and the attorney:

*"You have the right to remain silent. That means you do not have to say anything. Anything you do say can be used against you in court to try and show you committed a crime. I can tell the prosecutor, juvenile court judge or adult court judge and Probation Officer what you told me. You have the right to get help from a lawyer right now. The lawyer will work for you. If you cannot pay for a lawyer, a lawyer will be provid-*

## Policy 4 – Procedure (cont'd)

*ed to you for free. You have the right to talk to a lawyer in private. You do not have to talk to me now, and if you do start to talk to me you can change your mind at any time and stop talking to me. Do you want to talk to me?"*

- B. After reading each right and before any waiver or rights**, to ensure accurate comprehension, the officer must ask the youth to explain in their own words their understanding of the right. Officers must require youth to make clear oral statements; officers shall not accept head nodding or non-verbal responses.
- C. If a youth's explanation demonstrates an incorrect** or incomplete understanding of the warning, or the attorney states that the youth does not understand, the officer will:
  - 1. Re-read the warning,
  - 2. After reading the rights, determine if the youth's understanding is accurate and complete,
  - 3. Not proceed until the youth demonstrates clear understanding,
  - 4. Contact a supervisor before proceeding if a youth continues to demonstrate lack of understanding despite the officer making several attempts to explain.
- D. If the youth asks for an attorney after the officer reads the warnings**, the officer will cease any questioning until an attorney is present.
- E. After reading the warnings, the officer must give the youth** a meaningful opportunity to:
  - 1. Consult outside of the officer's presence with the youth's parent and the attorney to discuss the *Miranda* warnings and the advisability and consequences of waiving them.
- F. Public Safety Exception to Providing Youth with a *Miranda* Warning**
  - 1. Officers may temporarily forgo the *Miranda* warning when necessary if they or the public are in immediate danger.
  - 2. In order for this public safety exception to apply, officers shall first determine that an objectively reasonable need exists to protect the officer or public from an immediate danger.
  - 3. Once an officer has determined that the public safety exception applies, the officer may question a youth without the *Miranda* warning as long as the questions

asked are related to the immediate danger and reasonably necessary to secure public safety.

4. Once the emergency ends, this exception no longer applies.
5. Officers must document the need for the public safety exception, the information obtained from the youth, and the duration of the emergency that required the use of the public safety exception.

### III. Role of Parents During *Miranda* Warnings and Interrogations of Youth

- A. Immediately after taking the youth to a place of confinement** and—except where physically impossible—no later than one hour after the youth has been taken into custody, the officer must permit the youth to make a completed call to a parent, and a second call to a responsible adult if the youth is unable to reach the parent.
- B. The officer shall make efforts to contact the parent** and inform that person of the youth's arrest, and the location of the youth, prior to questioning the youth.
  1. Notification and contact may be in person or electronic, by telephone or video conference, but not by email or text.
  2. If the officer or Agency has reason to believe the youth is in the custody of a state or local child protective agency, the officer must call the social worker assigned to the youth and consult with the social worker about contacting the youth's biological and/or foster parents and/or responsible adults.
  3. Should an attempt to contact a parent (or, when applicable, a social worker for a youth in the custody of a child protective agency) fail, renewed attempts shall be made until a parent or custodian is reached.
  4. If the parent is unable to be physically present with the youth, the Agency will make alternative means (e.g. video conference or phone) available for the parent's participation and will facilitate the youth's ability to speak privately with the parent through alternative means if the youth or parent so desire.
  5. Officers must document all successful and unsuccessful attempts to contact the parent. This documentation must include the name of the parent and the method of contact. Officers must document if the parent participates by alternative means when *Miranda* warnings are given to the youth.

**C. When a parent is contacted, officers shall notify this person of the following:**

1. That the youth is in custody,
2. The youth's location (including any future destination if the youth is to be transported),
3. The reason the youth is in custody unless it would endanger a witness or compromise the investigation,
4. The officer's intention to advise the youth of their *Miranda* rights,
5. That the advisement of *Miranda* rights must take place in the presence of the parent (or a responsible adult who is designated by the parent) and an attorney,
6. The youth has the opportunity to consult with the parent and an attorney prior to and during any questioning by the officers,
7. The youth will not be permitted to waive their *Miranda* rights until the youth has consulted with an attorney.

**D. The following are the only exceptions to the requirement** that officers attempt to contact the youth's parent prior to provision of *Miranda* warnings:

1. The parent is suspected of being an accomplice to the offense,
2. The parent is suspected of a committing crime against the youth,
3. The parent is a complainant or suspected victim in the offense under investigation,
4. The parent cannot reasonably be located, refuses contact, or refuses to participate,
5. If the officer believes the information being sought from the youth is necessary to protect life, limb, or property from an imminent danger and the questions are limited to those that are reasonably necessary to obtain that information,
6. The parent expresses hostility to the youth.

If officers rely on any of these exceptions to not contact the youth's parent, they must document the reasons for doing so. They must also contact another responsible adult to assist the youth. A responsible adult who assists the youth under these circumstances should be treated as a parent for purposes of this policy.

**E. Once an officer has reached the parent, the officer must** determine<sup>7</sup>, by questioning both the youth and parent, whether the youth:

1. Appears to exhibit signs of cognitive, learning, or developmental impairments that may affect:

## Policy 4 – Procedure (cont'd)

- their understanding of the written/spoken word, and/or
  - their ability to read the warning and comprehend it,
2. Is taking medications that may affect the youth's ability to understand,
  3. Appears to be in the midst of a mental health crisis,
  4. Appears to be under the influence of alcohol or drugs,
  5. Appears to have limited English language proficiency that may affect their ability to understand and convey information to the officer,
  6. Appears to have a vision, speech, or hearing impairment that may affect their ability to understand and convey information to the officer,
  7. If the officer concludes that the youth appears to have any of the impairments or conditions described above, the officer will document that conclusion and consult with a supervisor about how to proceed.

**F. The officer must also assess whether the parent appears to be** under the influence of alcohol or drugs, appears to be proficient in English, and appears able to hear, read, and comprehend the warnings.

1. If the parent does not seem to be capable of protecting the youth's interests, due to being under the influence of alcohol or drugs, a language barrier, a comprehension barrier, or any conflict with the youth as described in Section III.D, above, the officer must stop the process.
2. The officer must locate another responsible adult for the youth, if the officer believes the parent cannot represent the youth's interest.
3. The officer must document their actions if the officer concludes that the parent cannot represent the youth's interests.

**G. Officers will give youth the opportunity to consult** with parents in confidence, outside of the hearing of the officers, and officers will not record youth-parent consultations.

**H. Parents may be present during interrogations of youth unless:**

1. The youth states that they do not want the parent present during the interrogation; the youth's wishes prevail over the parent's insistence to be present,

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7. For more guidance on expectations for officers' ability to recognize youth behaviors and indicators that are characteristic of disability, mental health crisis, or impairment from alcohol or drugs, see [Policy 8: Policing Youth with Disabilities, Experiencing Mental Health Crises, or Impaired By Drugs or Alcohol](#).

## Policy 4 – Procedure (cont'd)

2. The parent is a complainant in the offense under investigation,
  3. The parent is suspected of being an accomplice in the offense under investigation,
  4. The parent expresses hostility towards the youth.
- I. If the officer believes the parent is capable of protecting** the youth's interests, and the Agency has followed the requirement of Section IV but has not contacted an attorney for the youth, the officer may read out loud and provide both the parent and the youth with a written copy of the *Miranda* warnings.
- J. If a parent requests an attorney for the youth, officers shall** not question the youth even if the youth states a willingness to answer the officer's questions.

## IV. Role of Attorneys During *Miranda* Warnings and Interrogations of Youth

- A. The Agency must attempt to contact an attorney** for the youth before officers provide *Miranda* warnings to youth.
1. Notification and contact may be in person or electronic, by telephone or by video conference.
  2. Should an initial attempt to contact an attorney fail, renewed attempts shall be made by phone until a parent is contacted.
  3. If the parent identifies an attorney for the youth, the Agency shall contact that attorney. If the youth is eligible for indigent defense, the Agency shall contact the appropriate public defender or other indigent defense agency.
  4. All attempts to contact an attorney for the youth must be documented, and must include the name of the attorney or the attorney's organization and the method of attempted contact.
  5. If the Agency has followed these procedures but has not made any contact with an attorney after 90 minutes, the officer may provide the youth with *Miranda* warnings so long as a parent who is capable of protecting the youth's interest is present with the youth when the warnings are given. Even after the 90 minutes has passed, the Agency will continue to make efforts to contact an attorney for the youth, and will document those efforts.

**B. Officers shall not interrogate a youth until** the youth has had an opportunity to consult with an attorney.<sup>8</sup>

1. Once the attorney is present, the youth must have the opportunity to consult with the attorney in private, outside the presence or hearing of officers.
2. Officers shall not accept a youth's waiver of *Miranda* rights if the youth has not consulted with an attorney.
3. If officers have read the youth their *Miranda* rights before the attorney arrives, once the attorney is present and has had a private consultation with the youth, officers shall re-read the youth their *Miranda* rights in the presence of the attorney.
4. If a youth requests an attorney, the parent may not exclude an attorney from the interrogation.

## V. Process for Youth Who Waive Their *Miranda* Rights

**A. Officers may not accept a youth's waiver of counsel before** the youth has had an opportunity to consult with an attorney.

**B. Officers may not accept a parent's effort to waive** the youth's right to remain silent or to be represented by an attorney.

**C. If the youth states they want to waive *Miranda* rights** after consulting with an attorney and a parent, officers must:

1. Tell the youth that:
  - A waiver means the youth will be interrogated by officers for the purpose of establishing whether and to what extent the youth participated in an offense, and that the youth's statements may be used against them in a court of law.
  - If the youth waives the right to an attorney, no attorney will be present during the interrogation unless the youth later invokes their *Miranda* rights,
  - Having the youth's parent present in the interrogation is not the same as having an attorney present,
  - The youth should not believe that waiving their rights means they will:

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8. California, Hawaii, Maryland and Washington State all require that lawyers must be present before officers interrogate youth. See CAL. WELF. & INST. CODE § 625.6 (West 2024); California Attorney General information Bulletin No. 2023-DLE--02, Mandatory Consultation with Counsel Prior to Custodial Interrogations of Youth Under 18 (2023); Hawaii H.B. 180, §3 (2023); Md. Code § 3-8A-14.2; RCW § 13.40.740. See also Baltimore Police Department Policy 1207, Youth Interrogations, at 6 (2022) (directing implementation of the Maryland law).

## Policy 4 – Procedure (cont'd)

- be released from custody sooner,
  - have their legal penalties reduced,
2. Officers will use a written waiver form, prepared by the law enforcement agency, in language no more advanced than the sixth grade level. This form will set out the implications of the youth's decision to waive their rights and should be presented to them in the presence of their parent and attorney by the officer who has provided the *Miranda* warnings. In light of the importance of communicating *Miranda* rights, depending on the number and proportion of youth with limited English proficiency (LEP) whom the law enforcement agency encounters, the frequency with which the agency interacts with these youth, and the resources available to the agency, the agency may need to provide these youth with written waivers in their primary language.<sup>9</sup>
  3. Officers shall not accept an oral waiver of rights by a youth unless:
    - The youth cannot read or write,
    - The youth has a disability that prevents the youth from reading or signing a written waiver, or
    - The youth has limited English proficiency and the Agency does not have a written waiver in the youth's primary language.
  4. When a youth seeks to orally waive their rights, officers must:
    - Video and audio record the entire *Miranda* warnings process.
    - Using developmentally appropriate language, obtain clear verbal confirmation from the youth that the youth is aware:
      - They are entitled to the presence of an attorney during questioning,
      - They have a right not to self-incriminate,
      - Any statements the youth makes may be used against them in a court of law, and
    - Document in the investigatory file the circumstances that led to accepting an oral waiver in lieu of a written waiver.

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9. See U.S. Department of Justice, [Federal Register: Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons](#), Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 FR 41455 (June 12, 2002) (DOJ LEP Guidance). See also *id.*, at 41459-61 (describing the appropriate analysis to determine the extent of the obligation to provide LEP services, including that “[d]ecisions by a Federal, State, or local entity to make an activity compulsory, such as ... the communication of *Miranda* rights, can serve as strong evidence of the program's importance); at 41466-67 (“Many police and sheriffs’ departments already provide language services in a wide variety of circumstances to obtain information effectively, to build trust and relationships with the community, and to contribute to the safety of law enforcement personnel. For example, many police departments already have available printed *Miranda* rights in languages other than English....”)

5. **When a youth with LEP seeks to orally waive their rights, and no written waiver in the youth's primary language is available**, the agency may need to provide the youth an oral interpreter.<sup>10</sup>

**D. If a youth waives their *Miranda* rights but subsequently states that they do not want to answer questions**, or want an attorney present, officers shall not try to convince the youth otherwise, and shall immediately stop questioning.

## VI. Preparing for the Interrogation

### A. Role of the Supervisor

Whenever feasible, officers conducting an interrogation of a youth should be able to contact a supervisor for consultation with the interrogating officer(s). Where available, the supervisor should also conduct periodic safety checks of the youth being interrogated, ensure officers' adherence to policy, and determine when incidents arise that require ending or prolonging the interrogation.

### B. Considerations Before Commencing Interrogation

Before beginning an interrogation of a youth, officers shall gather and consider the following information from the youth, the parent, and the attorney, in order to assess the appropriate time, location, and conduct of the investigation:

1. The youth's age,
2. The youth's family and home life, including identifying any responsible adults in the youth's life,
3. The youth's education level, including whether they have been identified as having an intellectual, developmental, or mental behavioral health disability, and/or a vision, speech, or hearing impairment. To ascertain this information, the officer shall ask the following questions:
  - Is the youth enrolled in school?
  - What grade is the youth in? (Officers should consider whether the grade is appropriate for the age of the youth.),

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10. See DOJ LEP Guidance, 67 FR at 41466-67 (Noting that many police departments have "interpreters available to inform LEP persons of their rights and to interpret police interviews.")

## Policy 4 – Procedure (cont'd)

- Has the youth ever received special education services or had an IEP (Individualized Education Program) or other educational plan to address the youth's disability (e.g., a 504 Plan)?
  - Has the youth ever been diagnosed with a learning disability, developmental disability, or intellectual disability?
  - Has the youth ever been diagnosed with an emotional, behavioral, or mental health disability?
  - Has the youth ever had a traumatic brain injury?
  - Is the youth able to read and write?
  - Is the youth able to put concepts into their own words?
4. Primary language spoken by the youth as well as the youth's apparent ability to speak and understand English.

### **C. Recording Youth Interrogations**

All proceedings from the advisement of rights, the overview of the process, the conduct of the interrogation, and the breaks in the interrogation shall be video and audio-recorded. The supervisor will check that all interrogations have been properly recorded.

## **VII. Conditions For Interrogation Of Youth**

### **A. Interview/Interrogation Room**

When the interrogation takes place on Agency premises, officers shall conduct custodial interrogations in one of the Agency's authorized interrogation/interview rooms unless an articulable reason requires the interrogation to occur elsewhere. Officers must note the location of the interrogation in the investigative record.

1. Interrogations of youth must occur in a location outside the sight and sound of adult detainees.
2. Officers shall not leave youth in custody unmonitored in an interrogation/interview room. An officer shall remain inside the room with the youth in custody or shall have visual contact with the youth in custody through a window or via electronic monitoring equipment.
3. Officers must never fasten a youth in custody to an immovable object while waiting for the interrogation to begin.

## Policy 4 – Procedure (cont'd)

4. Officers must make the following basic amenities available to youth prior to commencing an interrogation and throughout an interrogation:
  - Reasonable access to toilets and washing facilities,
  - Reasonable access to drinking water or another beverage,
  - Food if the youth has not eaten within three (3) hours,
  - Reasonable access to a phone to contact their responsible adult and lawyer, if requested, if the responsible adult or lawyer is not present in the interrogation room.
5. Once the officer completes the interrogation, the officer will ensure that the youth has been released from the interrogation room and placed in the custody of another adult.
6. Officers must never leave a youth in an interrogation room overnight.

### **B. Timing of Interrogation**

1. Where feasible, and where there is no public safety risk, interrogations should not be conducted between 11 pm and 6 am.
2. If exigent circumstances exist (e.g. information possessed by the youth in custody may be related to the imminent safety of a person), officers may question youth between 11 pm and 6 am solely for the purpose of addressing the imminent safety matter:
  - Such decision must be approved by a supervisor;
  - The reason for conducting an interrogation during those hours must be set forth in the officer's investigative report.

### **C. Duration of Interrogation**

1. After 60 minutes of questioning/interrogating a youth, officers should stop for a 10-minute break. During the break they shall allow youth to use the amenities described above.
2. Officers must notify a supervisor if the interrogation is to continue beyond 60 minutes to obtain permission to continue and note this in the investigative record.

The Supervisor must consider:

- The justification for continuing past 60 minutes,

## Policy 4 – Procedure (cont'd)

- Whether the youth has eaten or had something to drink within the last three (3) hours,
  - The total duration of the interrogation at the time of the request to continue.
3. When an interrogation continues after 60 minutes, the officer should note in the investigative record the reason and duration of its continuation as well as the name of the supervisor who approved its extension.
  4. No interrogation of a youth shall exceed four (4) hours.

### D. Presence of Officers

No more than two (2) officers may be in a room with a youth during an interrogation. Officers may not bring any weapon into the interview room.

## VIII. Conduct of Interrogations

### A. Method of Questioning

In view of the developmental differences of youth—as well as how stress and anxiety can affect a youth’s capacity to understand even simple concepts—officers must approach interrogations of youth with extreme care. Officers should tailor their questions to their knowledge or reasonable assessment of the following characteristics: the youth’s age, maturity, level of education, apparent mental ability, and other information known to the officer at the time of the interrogation. The following guidelines should be followed as appropriate in consideration of those characteristics:

#### **AVOID:**

- Jargon, technical or legal language,
- Leading questions (e.g., “Was the victim standing by the couch or by the door?”),
- Questions with multiple parts,
- Assuming youth’s understanding of adult or law enforcement vocabulary,
- Using rapid-fire questions without giving the youth adequate opportunity to process each question,
- Injecting important facts or circumstances of the crime into the interrogation,
- Completing the youth’s sentences,
- Repeatedly interrupting the youth,

## Policy 4 – Procedure (cont'd)

- Repeatedly confronting youth with accusations of guilt and denying youths' claims of their innocence,
- Telling youth that they are powerless to prove themselves innocent.

### USE:

- Names and places instead of pronouns,
- Short, simple words and sentences,
- Open-ended questions that elicit a narrative response (e.g., "What did you do last night?"),
- Questions beginning with "who," "what," "where," "when," and "how" to get more information about specific parts of the youth's story (e.g., "Where was the victim standing?"),
- Permit youth to fully explain their answers,
- Time events connected to concrete events in the youth's life (e.g., "Did this happen when you were at school or when you got home that day?"),
- Questions that elicit the information in a different way, to double check the consistency of the youth's responses,
- Questions that ask the youth to explain their understanding of the consequences of their statements.

### B. Officers Are Prohibited From Using Restraints, Force, or Intimidation

1. **Restraints:** Officers shall not shackle or otherwise restrain the youth during interrogations unless the youth is engaging in behavior likely to cause injury to themselves or others.
2. **No Touching:** Officers will not touch youth during the interrogation and will not use their size or the room's furniture to intimidate youth or otherwise cause them to perceive that the officer plans to use force.
3. **No Threat or Use of Force/Harm:** Officers must not engage in threats of use of force, including for rhetorical or dramatic purposes or to intimidate and/or prompt youth to make admissions or confessions. This includes a strict prohibition on throwing items (e.g. chairs, papers, books) at, or near, youth.
4. **No Use of Force:** Officers must not use force on youth during interrogations.
5. **No Intimidation through Implied Threats:** Officers shall not engage in physical intimidation through being in close proximity to youth.

### **C. Officers Are Prohibited From Making Threats or Using Deceit and Promises**

1. Officers are prohibited from threatening youth during an interrogation. Such threats may include:
  - Threatening to tell co-defendants or other youth what the interrogated youth has said,
  - Threatening to publicly share the information and/or the youth's cooperation,
  - Threatening to harm youth the next time the officer sees them on the street,
  - Implying that the youth is certain to be found guilty,
  - Describing harm that may occur while incarcerated (e.g. rape, attacks),
  - Threatening the youth's family.
2. Officers are prohibited from using deceit<sup>11</sup> including:
  - Explicit or implicit promises of leniency by the court or prosecutors,
  - Promises of reduction of charges,
  - False claims that co-defendants have made statements during interrogations that implicate youth,
  - False claims that the youth is certain to be found guilty,
  - False claims about length of potential incarceration,
  - False claims of incriminating evidence against the youth.

## **IX. Special Considerations: Disability, Drug or Alcohol Impairment,<sup>12</sup> or Limited English Proficiency**

### **A. Youth With Behavioral Health Disabilities or in Mental Health Crisis**

Officers will stop the interrogation immediately if they observe any indication or learn that the youth has a behavioral health disability, is experiencing a mental health crisis

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11. Some states, including California, Connecticut, Delaware, Illinois, Indiana, Oregon, Pennsylvania and Utah, prohibit or restrict the use of deception in law enforcement interrogations of youth. See CAL. WELF. & INST. CODE § 625.7 (West 2024); CT. PUBLIC ACT. 23-27, sSB1071 (2023); DEL. CODE ANN. tit. 11, § 2021-22 (2021); 705 ILL. COMP. STAT. ANN. 405 / §5-401.6 (2023); IND. ENROLLED ACT 415 (2023); OR. REV. STAT. § 133.401 (2022); PA. 23-27 (2023); UTAH CODE ANN. § 80-6-206 (2023). See also Baltimore Police Department Policy 1207, Youth Interrogations (2022) at 8 ("The use of any form of deception during the Interrogation of any Youth is prohibited."). In addition, Reid & Associates, a leading law enforcement trainer, advises law enforcement officers to "exercise extreme caution" when interrogating juveniles, suspects with a lower intelligence or suspects with mental impairments, as these individuals are "more susceptible to false confessions." See Reid & Associates, Clarifying Misrepresentations About Law Enforcement Interrogation Techniques, at 29 (2019)

12. See Policy 8: Policing Youth with Disabilities, Experiencing Mental Health Crises, or Impaired By Alcohol or Drugs.

## Policy 4 – Procedure (cont'd)

(e.g. suicidal ideation, psychotic symptoms such as apparent delusions or hallucinations), displays bizarre behavior or verbalizations, or demonstrates any other signs of a behavioral health disability that may impair their capacity to knowingly and intelligently participate in the interrogation. Officers will then:

1. Document the reason for terminating the interrogation and consult with a supervisor to determine whether to proceed and, if so, under what conditions they will proceed,
2. In consultation with a supervisor, if emergency mental health services are necessary, contact and request services for the youth from appropriate mental health professionals,
3. Document any emergency mental health services that are provided to the youth,
4. Document any modifications made to the interrogation so that the youth can knowingly and intelligently participate,
5. Ensure, if it is decided that the interrogation will proceed, that a parent and an attorney are present for the entirety of the interrogation,
6. The officer will also follow the procedures described in 1-5 above if the youth is observed to experience a behavioral health crisis while alone in an interrogation room.

### **B. Youth With Intellectual or Developmental Disabilities**

If an officer observes any signs of, or learns that the youth has, an intellectual or developmental disability that impacts their capacity to knowingly and intelligently participate in the interrogation, the officer will stop the interrogation immediately. The officer will then:

1. Document the reason for terminating the interrogation and consult with their supervisor to determine whether to proceed with the interrogation, and, if so, under what conditions.
2. In consultation with their supervisor, determine whether any modifications to the interrogation should be made so that the youth can knowingly and intelligently participate,,
3. Document any modifications made to the interrogation,
4. Ensure, if it is decided that the interrogation will proceed, that a parent and an attorney must be present for the entirety of it.

**C. Youth With Vision, Speech, or Hearing Impairment**

If an officer observes any signs of, or learns that the youth has, a vision, speech, or hearing impairment that impacts their capacity to communicate effectively during the interrogation, the officer will stop the interrogation immediately. The officer will then:

1. Document the reason for terminating the interrogation and consult with their supervisor in order to determine whether to proceed with the interrogation, and, if so, under what conditions,
2. In consultation with their supervisor, determine whether any modifications to the interrogation should be made so that the youth can knowingly and intelligently participate,
3. Document any modifications made to the interrogation,
4. Ensure, if it is decided that the interrogation will proceed, that a parent and an attorney must be present for the entirety of it.

**D. Youth Whose Ability to Participate in the Interrogation Is Impaired by Drugs or Alcohol**

When an officer encounters a youth of any age displaying signs that their ability to understand is impaired by alcohol or drugs, the officer shall stop the interrogation immediately. The officer will:

1. Document the reason for terminating the interrogation and consult with a supervisor to determine whether to proceed with the interrogation, and, if so, under what conditions.
2. Investigate whether medical attention is necessary to ensure the well-being of the youth in custody.
3. Document any modifications made to the interrogation.
4. If it is decided that the interrogation will proceed, a parent and an attorney must be present for the entirety of it.

### **E. Youth With Limited English Language Proficiency<sup>13</sup>**

When an officer encounters a youth of any age who has limited proficiency in English, the officer shall stop the interrogation immediately and use the following procedures:

1. Consult with the officer's supervisor as to whether the interrogation will proceed, and if so, how to provide effective language access for the youth.
2. If the officer and the supervisor agree that a certified/qualified interpreter is necessary to provide the youth with effective language access, the officer will request an interpreter and wait for the interpreter to be present before proceeding with the interrogation.
3. If the officer and the supervisor agree that a certified/qualified interpreter is necessary to provide the youth with effective language access, but no interpreter is available in a timely manner, the officer must not proceed with the interrogation.
4. If it is decided that the interrogation will proceed, the Agency will ensure that a parent and an attorney is present for its entirety.

## **X. Obligations After Conclusion of Interrogation**

### **A. Supervisor's Obligations**

The Supervisor will review:

- Officers' reports of interrogations to ensure compliance with the policy and obtain missing information,
- Explanations provided in the investigative report for deviations from the policy prior to signing/approving them,

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13. For more guidance on communicating with limited English proficient persons during custodial interrogations, see DOJ LEP Guidance, 67 FR at 41469 ("Given the importance of being able to communicate effectively under such circumstances [of custodial interrogation], law enforcement recipients should ensure competent and free language services for LEP individuals in such situations.... [I]n formulating a plan for effectively communicating with LEP individuals, agencies should strongly consider whether qualified independent interpreters would be more appropriate during custodial interrogations than law enforcement personnel themselves.") Law enforcement agencies should also be aware that DOJ has also cautioned that recipients of federal financial assistance "should not plan to rely on an LEP person's family members, friends, or other informal interpreters to provide meaningful access to important programs and activities," although LEP persons "should be permitted to use, at their own expense, an interpreter of their own choosing in place of or as a supplement to the free language services expressly offered by the recipient." DOJ noted that "such informal interpreters may have a personal connection to the LEP person or an undisclosed conflict of interest, such as the desire to protect themselves or another perpetrator in a domestic violence or other criminal matter. For these reasons, when oral language services are necessary, recipients should generally offer competent interpreter services free of cost to the LEP person." DOJ noted that the advisability of free competent interpreter services is "particularly true" in situations "when credibility and accuracy are important to protect an individual's rights...." See *id.*, at 41462. See also, Baltimore Police Department Policy 1735, Language Access Services for Limited English Proficiency Persons (2017), at 8 ("The preferred method for interviewing an LEP suspect is direct communication through an on-site interpreter; Language Line may be used in situations where timely on-site interpreter services are not available.")

## Policy 4 – Procedure (cont'd)

- Reports of interrogations that were not recorded to ensure that the explanations of deviations from policy are sufficient prior to signing/approving them.

The Supervisor will ensure that the youth has been taken from the interrogation/Interview room and released to responsible adults or detention as soon as practical.

### **B. Obligations of Investigating Officers**

Once officers have obtained a statement, they must conduct the following investigative steps to ensure the statement is accurate.

1. Officers shall review the recording to determine whether the youth provided verifiable details about the crime that may have been inadvertently revealed by officers during the interrogation.
2. Officers have a duty to ensure that any statements are corroborated by objective, physical evidence; officers shall not rely solely on statements from other youth.