

# BALTIMORE CITY PUBLIC SCHOOLS

## GENERAL ORDER 13-15 SECTION G-8

### INTERVIEWS AND INTERROGATIONS Revisions Approved: June 12, 2018

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This General Order contains the following numbered sections:

- I. Directive
- II. Purpose
- III. General
- IV. Definitions
- V. Juvenile Questioning
- VI. Effective Date

#### **I. DIRECTIVE**

It is the policy of the Baltimore City School Police Force (“BCSPF”) that all officers understand and follow this General Order to preserve due process rights of suspects and to guard against any charges of police coercion or intimidation. Field interviews of persons and custodial interrogations of suspects, and the statements and confessions that are elicited are vitally important in the preparation of charges for criminal violations and any subsequent prosecution of criminal offenses. However, officers should be aware that statements and confessions must be given freely, voluntarily, without coercion and with due consideration to best ensure admissibility into evidence during a criminal proceeding, as it is well established that a criminal suspect has a right to silence and right to counsel before a police officer can interrogate a criminal suspect in custody.

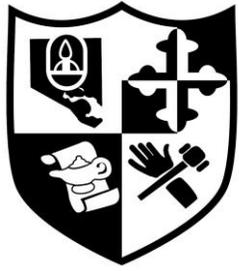
#### **II. PURPOSE**

The purpose of this General Order is to provide officers with legally sound procedures for conducting interviews and custodial interrogations in compliance with all applicable Constitutional and legal requirements.

#### **III. GENERAL**

Sworn members of the BCSPF shall adhere to the provisions of the United States Constitution and the rulings of the courts in conducting interviews and interrogations as well as providing access to counsel prior to or during such interviews.

All testimonial statements and/or information provided by citizens to the police, in whatever



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manner, must be voluntary. Generally, information provided by citizens in non-custodial settings will be considered voluntary due to the consensual nature of the interaction. Information provided by citizens as a result of coercion or during unconstitutional seizures could be considered involuntarily given and could be suppressed from use in any future trial, in addition to the potential for civil liability.

The U.S. Supreme Court has ruled that there are two distinct and separate instances when individuals may have constitutional protections before providing the police with testimonial evidence: one under the Fifth Amendment when an individual is in custody and interrogated for which Miranda warnings are required, and one under the Sixth Amendment for which a waiver of a right to counsel is required for all police initiated conversations.

#### IV. DEFINITIONS

- A. Custodial Interrogation exists when questioning is initiated with a suspect who has been placed under arrest or who has otherwise been deprived of their freedom of action by the authorities in any significant way.
- B. Deprived of freedom of action- can include, but is not limited to, such police actions as not allowing a person to leave the presence of the officer(s) or the immediate area of a field interview.
- C. Field Interview- is a general on-the-scene questioning of a person about a crime or incident; or other general questioning of a witness in the fact finding process. An interview may become an interrogation if the officer begins to consider the person a suspect and asks incriminating questions.
- D. Interrogation- means direct questioning of a suspect about a crime or suspected crime, as well as any words, statements, or actions by the officers that the officers should know are reasonably likely to elicit an incriminating response from the suspect.

#### V. JUVENILE QUESTIONINGS

##### A. **Constitutional Rights**

Baltimore City School Police Officers must recognize that juveniles interviewed or



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interrogated are afforded the same Fifth and Sixth Amendment protections as adults. The physical size of the juvenile, the seriousness of the offense, or whether or not the juvenile is considered a suspect does not change the legal requirements during interviews and interrogations.

Officers should recognize that juveniles are generally more impressionable than adults and may be more susceptible to intimidation caused by the situation and/or presence of police officers. When determining the voluntariness of statements made by juveniles, courts will examine all circumstances surrounding the encounter between the officer and the juvenile.

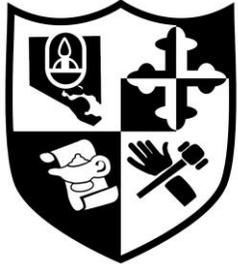
Additionally, in COURTS AND JUDICIAL PROCEEDINGS § 3-814 it states:

“if a law enforcement officer takes a child into custody he shall immediately notify, or cause to be notified, the child’s parent, guardian, or custodian of the action.”

#### **B. Voluntariness of the Juvenile’s Confession**

In determining whether a confession is voluntary, Officers must realize that the courts look to the totality of the circumstances which includes a review of the following factors related to the juvenile defendant:

- a. Age, intelligence, educational background
- b. Mental capacity, maturity level, and physical condition
- c. Prior experience in the criminal justice system
- d. Whether the defendant is suffering from any injury or pain at the time the statement is given
- e. The duration of the questioning
- f. Time of day
- g. Whether the defendant is tired and is desirous of sleep
- h. Length of confinement
- i. Whether Miranda or police caution warnings were given, when, and whether they understood them
- j. Whether the room size was of sufficient size and supplied with appropriate furniture
- k. Whether the defendant was cuffed or threatened
- l. Whether the defendant was refused the use of a bathroom, food, or drink
- m. Whether there was any promise of leniency



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- n. Whether the juvenile understood the interrogation process
- o. Whether a Youth Officer was present during the interview
- p. Whether the parent/guardian/custodian(s) were notified
- q. Whether the juvenile asked for a parent/guardian/custodian to be present
- r. Whether the police prevented a concerned adult from speaking with the juvenile, and
- s. Familiarity with English

#### **C. Conferring with parent/guardian/custodian**

Whenever a law enforcement officer takes a child into custody the officer shall immediately notify the child's parent, guardian, or custodian pursuant to Maryland Code Annotated, Courts and Judicial Proceedings, § 3-814.

The above parent/guardian/custodian should be present, if possible, when the juvenile is read their rights and at any custodial interrogation so the juvenile may confer with this person for guidance.

If a parent/guardian/custodian refuses to respond to the facility where the interrogation will take place, or refuses to be with the juvenile during the interrogation and the juvenile does not appear to understand their rights, the juvenile may be transported to a Court Commissioner's Office to be re-advised of their rights in the presence of a District Court Commissioner.

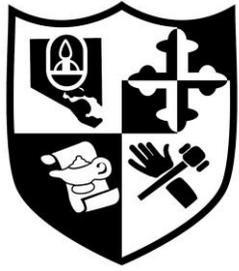
#### **D. Conferring with legal counsel**

If a juvenile requests the presence of a lawyer, interrogating officers will stop the interrogation and will afford the juvenile the same rights as those afforded adults.

A telephone and an appropriate area will be provided to the juvenile so that a lawyer can be contacted, and since the juvenile's communication with a lawyer is privileged, officers will not monitor, eavesdrop, or listen-in on the juvenile's conversation.

#### **E. Special interrogation procedures**

When juveniles are taken into custody, they will be immediately advised of their rights per *Miranda* if they are to be questioned or interrogated concerning their involvement in



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a delinquent act.

1. Utilize form 10-25 Annex B when advising juveniles of their *Miranda* Rights.
2. Particular care must be taken to ensure that the juvenile fully comprehends their *Miranda* Rights. Such factors to be considered, but not limited, the juvenile's age, mental/emotional state, and maturity level.
3. A juvenile's parents or guardian do not have to be present for officers to interrogate a juvenile in custody; however, discretion should be used when weighing the severity of the offense and whether or not to have a parent or guardian present. If a juvenile requests a parent/guardian, questioning should be delayed until the parent/guardian arrives and the parent(s) will be allowed to be present during the interrogation.
4. If a juvenile or their parent(s) requests the presence of an attorney, interrogating officers shall discontinue the interrogation and shall afford the juvenile the same rights as those afforded adults.
5. No more than two officers should be present during an interrogation of a juvenile.
6. Interrogations should be of reasonable duration, with regular breaks for use of facilities or consultation with counsel or parent/guardian.
7. The duration of the interrogation session shall generally be limited to one (1) hour.
8. After a 15 minute break, a second one hour session may be attempted depending upon the severity of the offense committed and/or the significance of the investigation. The time limits may be extended if the juvenile wishes to continue to talk to interrogators.
9. An officer interrogating a juvenile should explain the department's and DJS's procedures regarding custody, detention, release, etc.

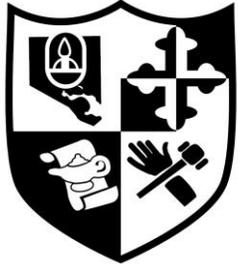
#### **F. Explanation of Procedure**

An officer, prior to any interrogation of a juvenile, should explain our juvenile procedures and the juvenile justice system procedures to the juvenile(s) subject to interrogation

#### **VI. EFFECTIVE DATE**

This Order shall be effective on the date of publication.

I certify that I have read and fully understand this Order.



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Signature \_\_\_\_\_

Date \_\_\_\_\_