

San Diego Police Department

TRAINING BULLETIN

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JUVENILE PRE-MIRANDA COUNSELING PROCEDURES

I. PURPOSE

The purpose of this bulletin is to provide Department members with information on changes to pre-Miranda counseling for juveniles.

II. BACKGROUND

Senate Bill 203, effective January 1, 2021, changed the age requirement for the pre-Miranda counseling procedures for juveniles. Welfare and Institutions Code section 625, **requires** a peace officer to advise a juvenile of their Miranda rights upon being taken into custody. The timing of the admonishment is contingent upon the following:

- Determining when a juvenile is in police custody.
 - a. Custody is determined by whether an **objective** person of the **juvenile's age** would have understood his/her situation as being in custody.
 - b. Objective factors to consider in light of juvenile sensitivities:
 1. Handcuffs/in the back seat of a patrol vehicle.
 2. Heightened police presence and pressure.
 3. Length of the detention.
- Age of the juvenile.
 - a. Effective January 1, 2021, Welfare and Institutions Code section 625.6, requires that **PRIOR** to a custodial interrogation, and **BEFORE** the waiver of Miranda rights, a youth **17 years of age or younger** shall consult with legal counsel in person, by phone or video conference. **The consultation cannot be waived.**

The following portions of this training bulletin will discuss the proper procedures for pre-Miranda counseling for juveniles.

III. PROCEDURES

- A. Pursuant to SB 203 (WIC 625.6), juveniles **17 years of age or younger** are entitled to pre-Miranda counseling.
- Welfare and Institutions Code § 625.6(a) states: “Prior to a custodial interrogation, and before the waiver of any Miranda rights, a youth **17 years of age or younger** shall consult with legal counsel in person, by telephone, or by video conference. **“The consultation may not be waived.”**”
1. For juveniles age **17 and younger** who are **in custody**, and the officer intends to question the juvenile:
 - a. Prior to asking Miranda Admonishment questions #1 and #2 from a PD-145, contact the Public Defender’s Office at (619) 681-2923, 24 hours a day, 7 days a week.
 - b. The attorney representative will make the decision on whether to handle the incident by telephone or to respond to a mutually agreed on location to speak with the juvenile.
 - c. Allow the juvenile and attorney to have a private conversation regarding the juvenile’s rights to answer questions about the incident.
 - d. Once this initial conversation between the juvenile and the attorney is complete, officers shall read the Miranda admonishment to the juvenile again and ask the juvenile questions #1 and #2. During this time, the attorney shall be present in person, by telephone, or by video conference. Once the juvenile answers the two questions, the attorney consultation is considered complete and the officer shall proceed based on the answers to the questions.
 - e. Officers shall document the attorney name and bar number in their report.
 2. If the officer **DOES NOT** intend to question a juvenile in custody, the officer will **ONLY** read the juvenile the Miranda Admonishment statement, as required by Welfare and Institutions

Code section 625, and Department Procedure 3.08. The Miranda questions #1 and #2 from the PD-145, should not be asked.

B. Exceptions to Pre-Miranda Counseling

- a. Under the imminent public safety exception, Department members may bypass the pre-Miranda counseling only if **BOTH** of the following criteria are met:
 - 1) The officer who questioned the juvenile reasonably believed the information he or she sought was necessary to protect life or property from an imminent threat.
 - 2) The officer's questions were limited to those questions that were reasonably necessary to obtain that information.

C. Privacy

- a. Conversations between a juvenile and an attorney from the Public Defender's Office, or any attorney, for the purposes of meeting the SB 203 requirements, are attorney-client privileged, and, as such, are considered confidential communication. **These conversations, whether in person, by telephone, or by video conference, shall not be audibly monitored or recorded in any manner.**
- b. All efforts should be made to provide the juvenile and his/her attorney as much privacy as possible while still taking into account any potential safety concerns. As such, it is recommended that these conversations take place at a police facility (HQ, substation, etc.) where a detention room provides both privacy and the ability for the officer to visually monitor the juvenile.

***NOTE:** Department Procedures 3.08 and 4.03 will be updated to include segments of this Training Bulletin.