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SHERIFF

ISSUE: 24-25

TRAINING BULLETIN

DATE: June 7, 2024

Assembly Bill 2644 (2022) Custodial Interrogation of Minors

The purpose of this training bulletin is to provide an update to peace officers regarding the custodial interrogation of minors. As current law stands, a peace officer may make an arrest or take a minor into custody when that officer has reasonable cause to believe that the minor has committed a crime or violated an order of the court. During this detention, if the officer wishes to interview the minor, the minor must be read their Miranda rights, and all minors 17 years of age or younger must consult with an attorney either on the phone, in person, or video conference prior to waiving their Miranda rights and speaking with an officer.

Assembly Bill 2644 (2022), **which goes into effect on July 1, 2024**, was passed by California Legislature and approved by Governor Newsom on September 13, 2022. This assembly bill added section 625.7 to the Welfare and Institutions Code and reads in part:

W&I 625.7. (a) during a custodial Interrogation of a person 17 years of age or younger relating to the commission of a misdemeanor or felony, a law enforcement officer shall not employ threats, physical harm, deception, psychologically manipulative interrogation tactics.

If an officer does use these tactics during an interrogation of a minor, it could result in the dismissal of the case by the Kern County District Attorney's office. It should be noted that **under subdivision (c) of W&I 625.7, officers are exempt** from the provisions of subdivision (a) when the following criteria are met:

- (1) The law enforcement officer who questioned the person reasonably believed the information the officer sought was necessary to protect life or property from an imminent threat.**
- (2) The questions by law enforcement officers were limited to those questions that were reasonably necessary to obtain information related to the imminent threat.**

A memorandum authored by Kern County District Attorney Cynthia Zimmer which further details the changes made by AB 2644, the complete section of W&I 625.7, and the District Attorney's policies on the matter is also attached to this training bulletin.

By acknowledging this training bulletin, you are indicating you have read and understand both **this training bulletin and the attached memorandum** from DA Zimmer.



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May 24, 2024

Sheriff Donny Youngblood
Kern County Sheriff's Office
1350 Norris Road
Bakersfield, CA 93308

Re: AB 2644 (2022) – Custodial Interrogation

Dear Chief Youngblood:

Existing law authorizes a peace officer to take a minor into temporary custody when that officer has reasonable cause to believe that the minor has committed a crime or violated an order of the juvenile court. In these circumstances, existing law requires the peace officer to advise that the minor has the right to remain silent, that anything the minor says can be used against the minor, that the minor has the right to have counsel present during any interrogation, and that the minor has the right to have counsel appointed if the minor is unable to afford counsel. Existing law requires that a youth 17 years of age or younger consult with legal counsel in person, by telephone, or by video conference prior to a custodial interrogation and before waiving any of the above-specified rights.

Assembly Bill 2644, involving the custodial interrogation of juveniles, was passed by the California Legislature and approved by Governor Newsom on September 13, 2022. A delay in implementation occurred to allow sufficient time for law enforcement to receive training regarding the changes in the law. This bill will become effective on July 1, 2024, and will prohibit law enforcement officers from employing threats, physical harm, deception, or psychologically manipulative interrogation tactics, as specified, during a custodial interrogation of a person 17 years of age or younger.

Section 625.7 is added to the Welfare and Institutions Code, to read:

625.7. (a) During a custodial interrogation of a person 17 years of age or younger relating to the commission of a misdemeanor or felony, a law enforcement officer shall not employ threats, physical harm, deception, or psychologically manipulative interrogation tactics.

(b) As used in this section, the following terms have the following meanings:

(1) “Deception,” includes, but is not limited to, the knowing communication of false facts about evidence, misrepresenting the accuracy of the facts, or false statements regarding leniency.

(2) “Psychologically manipulative interrogation tactics” include, but are not limited to the following:

(A) Maximization and minimization and other interrogation practices that rely on a presumption of guilt or deceit.

(i) Under this section, maximization includes techniques to scare or intimidate the person by repetitively asserting the person is guilty despite their denials, or exaggerating the magnitude of the charges or the strength of the evidence, including suggesting the existence of evidence that does not exist.

(ii) Under this section, minimization involves minimizing the moral seriousness of the offense, a tactic that falsely communicates that the conduct is justified, excusable, or accidental.

(B) Making direct or indirect promises of leniency, such as indicating the person will be released if the person cooperates.

(C) Employing the “false” or “forced” choice strategy, where the person is encouraged to select one of two options, both incriminatory, but one is characterized as morally or legally justified or excusable.

(c) Subdivision (a) does not apply to interrogations of a person 17 years of age or younger if both of the following criteria are met:

(1) The law enforcement officer who questioned the person reasonably believed the information the officer sought was necessary to protect life or property from an imminent threat.

(2) The questions by law enforcement officers were limited to those questions that were reasonably necessary to obtain information related to the imminent threat.

(d) This section does not prevent an officer from using a lie detector test as long as it is voluntary and was not obtained through the use of threats, physical harm, deception, or psychologically manipulative interrogation tactics as defined herein, and the officer does not suggest that the lie detector results are admissible in court or misrepresent the lie detector results to the person.

(e) This section shall become operative on July 1, 2024

(f) For the purposes of this section, “custodial interrogation” shall have the same meaning as defined in Section 859.5 of the Penal Code.

As District Attorney, I am entrusted with the duty to hold accountable those who commit crimes by the introduction of evidence that was obtained by the use of fair and ethical investigative techniques. Over the past 15 years, the Reid Interrogation Technique has come under increasing scrutiny. This bill was introduced because the proponents were able to demonstrate to the Legislature that juveniles were particularly vulnerable to deceptive or psychological manipulations during interrogations and those types of tactics led to false confessions and wrongful convictions.

Therefore, it is the policy of the Kern County District Attorney's Office that prosecutors shall reject any case submitted by law enforcement against a minor where the primary evidence consists of an admission or confession obtained by the employment of threats, deception, or psychologically manipulative interrogation tactics in violation of Welfare and Institutions Code 625.7. "Primary evidence" means that, but for the admission or confession, no reasonable trier of fact would determine that the minor is guilty beyond a reasonable doubt.

The statute does not address undercover operations or pretext communications. If the case involves an undercover operation or pretext communication regarding a minor, prosecutors may seek an exception from this policy with the express written approval of the District Attorney or Assistant District Attorney.

Sincerely,

A handwritten signature in black ink that reads "Cynthia Zimmer". The signature is written in a cursive style with a large, prominent "Z".

Cynthia Zimmer
Kern County District Attorney