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TESTIMONY IN SUPPORT OF SB136/HB315
Juvenile Law - Juvenile Interrogation Protection Act

TO: Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

FROM: Toby Ditz

My name is Toby Ditz and I live in Baltimore City in District 40. This testimony is in support of SB136/HB315, Juvenile Law - Juvenile Interrogation Protection Act.

Children's rights deserve special protection. No child should be interrogated by the police without consulting with a lawyer. Nor should a child be interrogated by the police before reasonable notice has been given to a parent or guardian.

I first became interested in this issue when working with neighborhood organizations in West Baltimore that were monitoring our progress on police reform under the terms of the Consent Decree. In the summer of 2019, I participated in a people's town hall attended by around 50 of my neighbors and fellow Baltimoreans who gathered at the Douglas Memorial Community Church to comment on the Baltimore Police Department's new draft policy on "youth interrogation," then being revised to meet the standards of constitutional policing mandated by the Consent Decree. The draft policy we considered protected younger children, but allowed 16 and 17-year olds to waive their rights to silence without a lawyer or guardian present.

The people at the Douglas Memorial Church split up into five or six worktables for about thirty minutes to talk about the draft. Then the spokesperson for each group stood up one after the other to summarize. We were unanimous: no minor of any age should ever be interrogated without a parent and lawyer present. Parents were especially adamant; they pointed out that the law held them responsible for their children's welfare and that law enforcement officers could not be properly asked to waive their rights without a guardian and lawyer present. We also

emphasized that our youth, despite their superficial bravado, are typically afraid of the police. Many have also experienced trauma. We also knew from experience how easily children can be made to tell the story that their questioners want to hear. Above all, the law, we said, should not treat our Black youths, especially, as if they were adults for any purpose. That is how Black childhood gets criminalized. The Baltimore Police Department has now strengthened its protections for all minors. (#1207 Draft Youth Interrogations, approved by Consent Decree Monitoring Team, January 6, 2020, p. 5)

The views of my neighbors and I echo those of experts on childhood cognitive and emotional development. They tell us that children cannot be expected to comprehend fully even the most careful enumeration of their rights, let alone to evaluate when it is in their interest to waive them. As the Baltimore Police Department's final policy puts it, even older minors cannot be expected to fully comprehend or evaluate their rights yet.

"Youth have a lower capacity for self-regulation in emotionally charged contexts . . . and are more susceptible than adults to Custodial Interrogation pressures." (#1207 "Draft Youth Interrogations," approved by Consent Decree Monitoring Team, p.3.) Simultaneously eager to please and fearful of those who have authority over them, children in these situations can make involuntary and even false confessions. The miscarriage of justice in the Central Park Five case teaches us as much: the rush to judgement by police, prosecutors, and self-proclaimed pundits was, we now know, based on the false confessions extracted from Black and Latinx youths when they were picked up and interrogated at the police station without the presence of their lawyers.

This is the right bill, with the right answer: no child or youth should be subject to custodial interrogations without the guaranteed opportunity to first speak with a lawyer. Unbiased policing requires this answer. Respect for the rights of vulnerable populations requires this answer. **Therefore, I respectfully urge a favorable report on SBI36/HB315.** Thank you.