



February 4, 2021

Honorable Senator William C. Smith, Jr.
Chair, Senate Judicial Proceedings Committee
Miller Senate Office Building, 2 East
Annapolis, MD 21401

Re: Testimony in SUPPORT of SB136 – Juvenile Law – Juvenile Interrogation Protection Act

Dear Chair William C. Smith, Jr. and Senate Judicial Proceedings Committee Members:

On behalf of the Council on American-Islamic Relations, I thank you for this opportunity to testify in support of Senate Bill 136 entitled Juvenile Law - Juvenile Interrogation Protection Act. CAIR is America's largest Muslim civil rights and advocacy organization.

When police take a person into custody, they are required by law to advise them of their Miranda rights – the right to remain silent and that anything they say can be used against them in court. However, Miranda rights do not apply to individuals who are questioned without being officially taken into custody, and the circumstances are drastically different when minors are taken into custody versus adults. Children are less likely than adults to be able to understand the complex legalities involved with submitting to questioning by police.

Studies show that children are also far more likely than adults to make false confessions. A study of exonerations found that 42 percent of exonerated juveniles had falsely confessed, compared with 13 percent of adults.¹ As proven by the Central Park Five case, uncertainty, intimidation tactics and coercion in the absence of a parent or attorney, as well as environmental and personal factors, can induce fear and compel a child to misspeak – thereby compromising due process, leading to serious consequences and hindering justice.

Children of color are disproportionately over-policed, and are far more likely to suffer adverse consequences and become entangled in the criminal justice system. Loopholes and tactics in policing practices further erode trust. It's a known fact that some police departments use questioning techniques designed to elicit confessions.²

CAIR was alerted of one case in Maryland where a minor was told by an officer that he was "free to leave" and nothing he said would result in an arrest "that day." He did not have an attorney present, and his guardian had not been notified. Police proceeded to charge with him with a crime and take him into custody the subsequent day.

In *J.D.B. v. North Carolina*, the Supreme Court was asked to decide whether the age of a child subjected to police questioning is relevant to determination of being in police custody.³ In that case, a 13-year-old 7th grader was escorted from his classroom by a uniformed police officer and questioned about his knowledge and involvement in a string of neighborhood burglaries. The boy's parents or attorney were not notified or present. He confessed and was released by the officer, then later charged by the State of North Carolina with breaking and entering and larceny.

In a 5-4 decision, the U.S. Supreme Court held that Miranda custody analysis includes consideration of a juvenile suspect's age, specifically, whether a child's age would have affected how a reasonable person in their position would perceive their freedom to leave.

This Supreme Court ruling that a child's age is relevant in the determination of their being in police custody because of a perceived power imbalance preventing them from walking away on their own free will, is all the more reason why parents/guardians and attorneys should be notified before the questioning of minors. This bill would require that, while also mandating that the notice include the child's location, the reason for their being taken into custody, and instructions on how to make immediate in-person contact.

CAIR strongly supports protecting due process for Maryland children, and we respectfully urge a favorable report. **Thank you for your consideration.**

Sincerely,

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References:

1. Gross, S. and Shaffer, M. *Exonerations in the United States, 1989-2012: Report by the National Registry of Exonerations*. **University of Michigan Law School Publication**. <https://repository.law.umich.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1091&context=other>. Accessed February 1, 2021
2. Starr, D. This psychologist explains why people confess to crimes they didn't commit. Science Magazine. <https://www.sciencemag.org/news/2019/06/psychologist-explains-why-people-confess-crimes-they-didn-t-commit>. Accessed February 1, 2021.
3. <https://www.uscourts.gov/educational-resources/educational-activities/facts-and-case-summary-jdb-v-north-carolina>