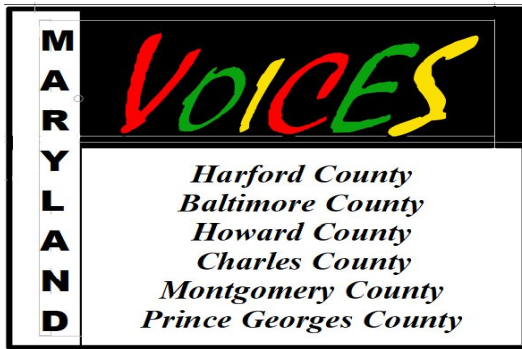


# **SB0136-Fav Testimony Voices Maryland-Juvenile Inte**

Uploaded by: Benn, Sarahia

Position: FAV



## Voices Maryland

### **Committee: Judicial Proceedings**

**Testimony on: SB0136-- “Juvenile Law – Juvenile Interrogation Protection Act”**

**Organization: Voices Maryland**

**Person Submitting: Sarahia Benn, Legislative Executive**

**Position: Favorable**

**Hearing Date: February 4, 2021**

Mr. Chairman and Members of the Committee,

Thank you for allowing testimony today in support of SB0136. Voices Maryland is a grassroots organization focused on State and County level legislation and policies that impacts marginalized communities and veterans affairs. Judicial and criminal justice reform legislation is of massive importance to these communities particularly due to how impacted these communities have been historical and currently.

**A child was allowed to give up important constitutional rights:** Juvenile Justice laws in America have remained relatively archaic. A child has been allowed for far too long to waive their constitutional rights without understanding what those rights mean or the consequences of waiving them. This has been an asset to helping assist in the school to prison pipeline which has continued to marginalize the multiply marginalized further. Children in custody whether they are being charged or not who are under the age of 18 must have the opportunity to understand their rights and that can only happen with the help of a qualified professional attorney.

**False Confessions:** [A study of exonerations](#) found that 42% of exonerated juveniles had falsely confessed to crimes they did not commit in comparison to 13% of adults. Below are some reasons Children falsely confess.

- a. Children’s brain development, specifically the area related to reasoning, continues

to mature well into early adulthood.

- b. Children and adolescents differ from adults in the way they behave, solve problems, and make decisions which is why all experts have advised that an attorney should be present with anyone under 18 during any police questioning.
- c. Excessively long interrogations include repeated requests for information, continuous pressure, disinformation/confusion, fear inducement, the possibility of bullying, intensity, befriending and a litany of other methods of eliciting confessions.
- d. “There are no laws protecting juveniles from interrogation tactics that are legal with adults, and studies indeed suggest that police tend to use the same types of questioning strategies with youths and adults alike ([Redlich, Silverman, Chen, & Steiner](#), 2004).” (Update some states have changed California & New York to name a few)
- e. “Adolescents are more likely to base their decisions on immediate, rather than longer range consequences (Grisso et al., 2003) and young adolescents are less likely than older adolescents to consider the seriousness of the charges or the amount of evidence against them when making Miranda waiver decisions ([Abramovitch, Peterson-Badali, & Rohan](#), 1995).”

**Juvenile Justice in Maryland:** Recent remote facility was shut down with a price tag of almost 6 million dollars. Maryland has no future if we keep wasting money on warehousing our juveniles instead of finding ways to reach them. With unimpeachable evidence that children make false confessions from the Central Park five to numerous other incidents in Maryland wherein there is the ability to [prosecute a child 7 years or older](#), we have to protect children’s constitutional rights to not be interrogated without professional representation. It’s the right thing to do to ensure that our system is not negatively impacting marginalized communities which stifles progress in these communities, which stifles progress in our greater Maryland community.

“None of us are free until we are all free.” Dr. Martin Luther King

(Dedicated to Black History month)

Preserve our youth.

For these reasons we urge you to vote favorably for SB0136.

# **Testimony\_JPC\_SB0136.pdf**

Uploaded by: Carter, Jill

Position: FAV





THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

**Testimony of Senator Jill P. Carter  
In Favor of SB0136 - Juvenile Law - Juvenile Interrogation  
Protection Act  
Before the Judicial Proceedings Committee  
on February 4, 2021**

**Mr. Chairman, Mr. Vice chair, and Members of the Committee:**

**Senate Bill 136 recognizes that, under current law, that children are not afforded any additional protections during police interrogations and as a result, because children are impressionable, they are more likely to give false confessions or statements to police. Therefore, this bill provides safeguards against false confessions from frightened children. It requires that a child's parent or guardian be given the chance to make in-person contact with their child prior to questioning. It requires that the child consult in private with an attorney prior to questioning. Telling the youth that they have the right to an attorney is not good enough. This bill requires that they actually speak with an attorney prior to interrogation. This provision can only be waived in an emergency.**

**Senate Bill 136 acknowledges what we already know - children are different. Scared kids will say anything. Furthermore, this bill protects children and it protects the community at large. These simple steps help assure that the police are getting the most**

accurate information the child can provide. False confessions send innocent people to prison. They also send investigators down blind alleys and let the real bad guy go free.

Here are just two situations where scared children told the police what they thought they wanted to hear:

In Michigan, 14 year old Devontae Sanford admitted to a quadruple homicide that he did not commit after being arrested in his pajamas and interrogated for over 24 hours without either a parent or attorney present. He confessed because the police told him if he did, he could go home.

In Wisconsin, 16 year old Brendan Dassey, confessed to a murder his uncle actually committed because the investigators, in his words, “got into my head. They got me to say whatever they wanted”.

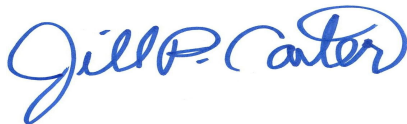
Senate Bill 136 is vital and necessary for multiple reasons. First, 36% of exonerees who were under the age of 18 at the time of the alleged offense had falsely confessed, which is triple the estimated rate of false confessions for all ages. Second, youth lack the experience, developmental maturity, and judgment to appreciate the long-term consequences or implications of their actions. Third, as they stand, standard Miranda warnings require a tenth-grade level of reading comprehension. Lastly, 33 other states have adopted similar legislation to remedy this issue, which includes Virginia who enacted their legislation without any objections.

**There are ample studies detailing how suggestible children are - especially when being interrogated by police. I will leave a full review of the academic literature to other witnesses on the panel.**

**This bill gives the parent, the child, and the investigators clear directions to ensure the well-being of the child and the integrity of the investigation.**

**For these reasons, I urge a favorable report on Senate Bill 136 from this committee.**

**Respectfully,**

A handwritten signature in blue ink that reads "Jill P. Carter". The signature is written in a cursive, flowing style.

**Jill P. Carter**

## **SB136\_LatinoCaucus\_FAV.pdf**

Uploaded by: Caucus, MD Latino

Position: FAV



## MARYLAND LEGISLATIVE LATINO CAUCUS

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TO: Senator William C. Smith Jr, Chair  
Senator Jeff Waldstreicher, Vice Chair  
Judicial Proceedings Committee Members

FROM: Maryland Legislative Latino Caucus (MLLC)

DATE: February 4, 2021

RE: SB136 Juvenile Law – Juvenile Interrogation Protection Act.

### **The MLLC supports SB136 Juvenile Law – Juvenile Interrogation Protection Act.**

The MLLC is a bipartisan group of Senators and Delegates committed to supporting legislation that improves the lives of Latinos throughout our state. The MLLC is a crucial voice in the development of public policy that uplifts the Latino community and benefits the state of Maryland. Thank you for allowing us the opportunity to express our support of SB136.

Children are uniquely susceptible to coercive psychological interrogation techniques designed for adults because of their social status compared to their adult interrogators, beliefs on their obligation to obey authority, dependence on adults, and vulnerability to intimidation. These circumstances lead to false confessions and undermining the reliability of the fact-finding process. *Everyone*, including children, have the right to counsel during a custodial interrogation.

Minors are liable to be arrested and interrogated by law enforcement without their parents or legal guardians being notified, and without legal counsel present. According to [The Sentencing Project](#), youth of color remain far more likely to be arrested than white youth. Black and Brown children are disproportionately prosecuted and convicted based on questionable confessions. Between 2003 and 2013, the racial gap between Black and white youth in secure commitment increased by 15%. Latino juveniles were 61% more likely to be committed to detention than Whites. Our children receive harsher punishments and are put at a higher risk to enter the adult criminal system. Our justice system continues to oppress our young people of color by taking advantage of minors' underdeveloped decision-making abilities and not properly informing them about their rights.

SB136 requires parents or guardians to be given notice of arrested or detained juveniles by the arresting law enforcement officers. With the recommendation by the American Bar Association, this bill also creates a Miranda warning for juveniles, and will require all juveniles access to an attorney prior to being interrogated in a custodial interrogation. We demand a voice and protection for our children.

The MLLC supports this bill and urges a favorable report on SB136.

# **testimony.SB136 .pdf**

Uploaded by: Chaudry, Zainab

Position: FAV



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.<sup>1</sup> 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.<sup>2</sup>

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.<sup>3</sup> In that case, a 13-year-old 7<sup>th</sup> 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,

Zainab Chaudry, Pharm.D.  
Director, CAIR Office in Maryland  
Council on American-Islamic Relations  
Email: [zchaudry@cair.com](mailto:zchaudry@cair.com)  
Phone: 410-971-6062

#### 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>



# **SB 136 Testimony Interrogation.pdf**

Uploaded by: DeV Vaughn, Ashley

Position: FAV



To: Committee Chair, Judicial Proceedings Committee

From: Maryland Youth Justice Coalition – MYJC

Re: SB136, Child Interrogation Protection Act

Date: February 4<sup>th</sup> , 2021

Position: Support

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Thank you for the opportunity to provide testimony on Senate Bill 136 the Child Interrogation Protection. The Maryland Youth Justice Coalition (MYJC) SUPPORTS this bill.

**The Maryland Youth Justice Coalition (MYJC)** is a group of passionate advocates and policy experts dedicated to **creating a more fair and equitable youth criminal legal system** where not only are **youth given opportunities and options**, but **public safety is uplifted**. MYJC aims to **improve the lives of all system-impacted youth** through legislative and policy advocacy. MYJC is made up of organizations, including representation from directly impacted and youthful individuals, who share an **equitable vision for the future of the youth criminal legal system**. We are dedicated to supporting **evidence-based, culturally competent, and gender-responsive solutions** that are vetted by **directly impacted individuals** and promote **positive youth development** and **public safety**.

Everyday in Maryland, children entangled in the criminal legal system are questioned without a parent being notified or attorney present. Although youth of all races commit offenses at roughly the same rates, African American youth are arrested at much higher rates than any other racial group in this state, and therefore are at particularly high risk of facing police interrogations and coercion. As a result, Black children face criminal charges, prosecution, and incarceration without the basic due process rights that adults are entitled to. We believe any young person facing a police interrogation has the legal right to ask for a lawyer before answering questions and have their guardian notified, SB 136 the Child Interrogation Protection Act will protect those rights.

It's hard to imagine why anyone would confess to a crime they didn't commit however, Ava Duvernay's Netflix miniseries, When They See Us, depicts the devastating impact of coercive interrogations of youth by sharing the story of the Central Park Five. The story of a group of youth wrongfully convicted following illegal interrogations is not an isolated





occurrence. Youth have faced coercive police interrogation tactics for decades and despite some legal progress, the problem of coerced, wrongful confessions of youth persists. Research on adolescent brain development states that while the frontal lobe, which governs measured decision-making, is still developing, the reward-seeking part of the brain is highly active, causing teenagers to prioritize short-term benefits over long-term consequences. Yusef Salaam, Kevin Richardson and Raymond Santana wrote in the New York Times article titled “We Are the ‘Exonerated 5.’ What Happened to Us Isn’t Past, It’s Present.” “During the hours of relentless questioning that we each endured, detectives lied to us repeatedly. They said that if we just admitted to participating in the attack, we could go home. They hoped to make us so fearful of never seeing our loved ones again that we’d say anything to protect ourselves and our families. Ultimately, that’s what nearly all of us did.”

Adolescent brain development coupled with behavior psychology and sociological literature on coercive persuasion and interrogation-induced false confessions explains why youth are prone to comply with the requests of authority figures like police or school resource officers (SRO’s), making them uniquely vulnerable to coercive interrogation tactics. It is imperative to keep a continued understanding of adolescent brain development and behavior psychology at the forefront of this discourse to ensure we are adequately discussing the dangers of youth interrogations. Further, it is critical to recognize that the goal of interrogations is to elicit incriminating statements, admissions and/or confessions through the use of psychological methods that are explicitly confrontational, manipulative, and suggestive.

The purpose of interrogations as stated by Steven Drizin and Richard Leo “is not to determine whether a suspect is guilty; rather, police are trained to interrogate only those suspects whose guilt they presume or believe they have already established. The purpose of interrogation, therefore, is not to investigate or evaluate a suspect’s alibi or denials. Nor is the purpose of interrogation necessarily to elicit or determine the truth. Rather, the singular purpose of American police interrogation is to elicit incriminating statements and admissions—ideally a full confession—in order to assist the State in its prosecution of the defendant. Because it is designed to break the anticipated resistance of an individual who is presumed guilty, police interrogation is stress inducing by design; it is intentionally structured to promote isolation, anxiety, fear, powerlessness, and hopelessness.” Also, Drizin and Leo make clear distinctions of the difference between interviewing and interrogation. Stating “the goal of interviewing is to obtain the truth through non-





accusatorial, open-ended questioning in order to gather general information in the early stages of a criminal investigation."

Adolescents waive their Miranda rights at an astounding national rate of 90% and make false confessions at exponentially higher rates than adults. A child's decision to confess in order to end an interrogation can have devastating consequences, at times leading to a conviction and incarceration. Most people are ignorant of the psychologically manipulative methods and strategies of police interrogators or the specialized training to learn the techniques of interrogation or how and why they are designed to manipulate the perceptions, reasoning, and decision-making of a custodial suspect and thus lead to the decision to confess. Most people appear to believe in what social psychologists Richard Ofshe and Richard Leo have labeled "the myth of psychological interrogation": that an innocent person will not falsely confess to a serious crime unless he is physically tortured or mentally ill. This discourse is easily dispelled by the story of the Central Park Five, highlighting the devastating impact of coercive and illegal interrogations of youth, leading to wrongfully convictions. Most recently, three Maryland men were exonerated in November 2019 after spending 36 years in prison for a crime they did not commit. Social scientists have documented that contemporary methods of psychological interrogation can lead innocent individuals to confess falsely to serious felony crimes.

Building not only on the theoretical research in rational choice and game theory, but also on earlier applied research by Hilgendorf, Irving, and others, Ofshe and Leo write:

Psychologically-based interrogation works effectively by controlling the alternatives a person considers and by influencing how those alternatives are understood. The techniques interrogators use have been selected to limit a person's attention to certain issues, to manipulate his perceptions of his present situation and to bias his evaluation of the choices before him. The techniques used to accomplish these manipulations are so effective that if misused they can result in decisions to confess from the guilty and innocent alike. Police elicit the decision to confess from the guilty by leading them to believe that the evidence against them is overwhelming, that their fate is certain (whether or not they confess), and that there are advantages that follow if they confess. Investigators elicit the decision to confess from the innocent in one of two ways: either by leading them to believe that their situation, though unjust, is hopeless and will only be improved by confessing; or by persuading them that they probably committed a crime about which they have no memory and that confessing is the proper and optimal course of action.





Ofshe and Leo go on to argue that modern police interrogation is a two-step process of psychological manipulation. The first step is designed to reduce a suspect's subjective self-confidence that he will survive the interrogation without being arrested by persuading him that he has been caught because the evidence incontrovertibly establishes his guilt, that no reasonable person could come to any other conclusion, and thus that there is no way out of his predicament. Once the investigator has convinced the suspect that he is powerless to change his situation, the investigator offers the suspect inducements (i.e., reasons to confess) that are designed to persuade him that he is psychologically, materially and/or legally better off by cooperating with police and confessing than he is by continuing to deny any role in the crime. Ofshe and Leo point out that in the first step of interrogation, suspects shift from confident to hopeless. Interestingly enough, Cornell West in the book *Race Matters*, observes that the major enemy of Black survival in America is neither oppression nor exploitation but rather the nihilistic Threat – that is, loss of hope and absence of meaning. West further explains, “Nihilism, is to be understood here not as a philosophic doctrine it is, far more, the lived experience of coping with a life of horrifying meaningless, hopelessness, and lovelessness.”

When all of these factors- Adolescent brain development, behavioral psychology, the purpose of interrogations, and the two-step process of psychological manipulation involved in interrogations- are collectively evaluated only then are we able to acknowledge the impact on children as well as youth. The overrepresentation of African American youth as well as the national data suggesting some 90% of youth in the Youth Justice System have experienced some form of Adverse Childhood Experiences (ACES) forces this Committee to grapple with the reality that not passing this legislation is expanding the impact of the Nihilistic Treat and creating hopelessness amongst youth.

**We urge this committee to issue a favorable report on SB 136.**

For more information, please contact:

Ashley Devaughn, [adevaughn@acy.org](mailto:adevaughn@acy.org)

Hannah Breakstone, [hbreakstone@acy.org](mailto:hbreakstone@acy.org)





**Our members include:**

- Advocates for Children and Youth
- Annie E. Casey Foundation
- Bridge Maryland, Inc.
- Campaign for Youth Justice
- The Choice Program at UMBC
- Community Law in Action
- Human Rights for Kids
- Maryland Office of the Public Defender
- NARAL Pro-Choice Maryland

**Our allies include:**

- R Street
- Maryland Catholic Conference





# **HRFK Senate Judicial Proceedings Testimony - SB 13**

Uploaded by: Dold, James

Position: FAV





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**TESTIMONY IN SUPPORT OF SB 136 BEFORE  
THE MARYLAND SENATE JUDICIAL PROCEEDINGS  
COMMITTEE**

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*February 4, 2021*

Dear Chairman Smith and Members of the Maryland Senate Judicial Proceedings Committee:

Human Rights for Kids respectfully submits this testimony for the official record to express our support for SB 136. We are grateful to Senator Carter for her leadership in introducing this bill and appreciate the Maryland Legislature's willingness to address the important issue of protecting children's Constitutional and human rights when they come into contact with the criminal justice system.

Over the years too little attention has been paid to the most vulnerable casualties of mass incarceration in America — children. From the point of entry and arrest to sentencing and incarceration our treatment of children in the justice system is long overdue for re-examination and reform.

Human Rights for Kids is a Washington, D.C.-based non-profit organization dedicated to the promotion and protection of the human rights of children. We work to inform the way the nation understands Adverse Childhood Experiences (ACEs) from a human rights perspective, to better educate the public and policymaker's understanding of the relationship between early childhood trauma and negative life outcomes. We use an integrated, multi-faceted approach which consists of research & public education, coalition building & grassroots mobilization, and policy advocacy & strategic litigation to advance critical human rights on behalf of children in the United States.

Human Rights for Kids supports SB 136 because, if it is signed into law, it will ensure that children consult with legal counsel before they are able to waive their Miranda Rights or are interrogated by law enforcement. Protecting these children's rights will reduce incidents of false confessions by youth and better align Maryland's policies with juvenile brain and behavioral development science.

### **High Rates of False Confessions**

Children are particularly susceptible to giving false confessions because they are not as sophisticated as adults when interacting with the criminal justice system and being interrogated by law enforcement.

Children rarely have an understanding of the consequences and implications of law enforcement interrogations on their due process rights and the impact they may have during trial. The chart below, from the National Registry of Exonerations at the University of Michigan, highlights the incredibly high rates of false confessions that children gave during police interrogations.

**AGE AND MENTAL STATUS OF EXONERATED  
DEFENDANTS WHO CONFESSED**  
NATIONAL REGISTRY OF EXONERATIONS  
3/17/2020; N = 2,400

<b>AGE AND MENTAL STATUS OF THE EXONERATED DEFENDANTS</b>	<b>PROPORTION WHO FALSELY CONFESSED</b>
<b>Under 18 Years Old at Time of Crime (76/211)</b>	<b>36%</b>
<i>16 and 17 year olds (46/162)</i>	<i>28%</i>
<i>14 and 15 years old (24/42)</i>	<i>57%</i>
<i>Under 14 years old (6/7)</i>	<i>86%</i>
<b>18 Years or Older at time of Crime (216/2,189)</b>	<b>10%</b>

As you can see, nearly all children under 14 who were later exonerated of having committed a crime had falsely confessed. Similarly, nearly 60 percent of 14 and 15-year-old children in the same situation gave a false confession.

One important aspect of SB 136 is safe-guarding children's rights to ensure that no child in Maryland falsely confesses to a crime he or she did not commit because they don't fully understand how the justice system works or their Constitutional Rights.

### **Juvenile Brain & Behavioral Development Science**

Studies have shown that children's brains are not fully developed. The pre-frontal cortex, which is responsible for temporal organization of behavior, speech, and reasoning continues to develop into early adulthood. As a result, children rely on a more primitive part of the brain known as the amygdala when making decisions. The amygdala is responsible for immediate reactions including fear and aggressive behavior. This makes children less capable than adults to regulate their emotions, control their impulses, evaluate risk and reward, and engage in long-term planning. This is also what makes children more vulnerable, more susceptible to peer pressure, being heavily influenced by their surrounding environment, and being more easily manipulated, brainwashed, or deceived.

Children’s underdeveloped brains, proclivity for irrational decision-making, and inability to understand the gravity of their decisions is why society does not allow children to vote, enter into contracts, work in certain industries, get married, join the military, or use alcohol or tobacco products. These policies recognize that children are impulsive, immature, and lack solid decision-making abilities until they’ve reach adulthood. It is for these same reasons that we also have policies in place to protect children everywhere – except in the criminal justice system. SB 136 will put in place greater protections for young children at the point of entry, to ensure they speak with legal counsel before they waive their Miranda Rights or are subject to interrogation.

### **National Perspective**

As new evidence surrounding child brain development has emerged, American society has begun to recognize the need to enhance due process protections for children to safeguard their rights and ensure they do not falsely confess to crimes.

In 2013, the American Academy of Child and Adolescent Psychiatry adopted the recommendation that children have an attorney present during questioning by police or other law enforcement agencies. The Academy also recommended that children should have a right to consult with parents prior to and during questioning.<sup>1</sup> The following year, the American Psychological Association adopted a resolution on criminal interrogations, recommending that “vulnerable suspect populations, including youth, be provided special and professional protection during interrogations such as being accompanied and advised by an attorney or professional advocate.”<sup>2</sup>

Legislatures around the country have also acted. California has enacted legislation nearly identical to SB 136 to ensure that child status is accounted for in the context of custodial interrogation and that children’s constitutional rights are safeguarded. That legislation passed with wide bi-partisan support in both chambers.<sup>3</sup> Illinois, North Dakota, Oklahoma, Iowa, North Carolina, and Virginia have also created statutory protections to safeguard children’s constitutional rights prior to a custodial interrogation.

Maryland remains a national outlier in its protection of the human rights of children in the justice system. In 2020, we designated Maryland as one of the worst human rights offenders when it comes to the treatment of justice-system involved youth. Maryland was tied for last in the nation, alongside Alabama, Georgia, Tennessee, Mississippi, and Wyoming. Maryland’s lack of due process protections for youth upon arrest is one of the reasons for Maryland’s poor rating.

### **Human Rights Law**

In 2019, the U.N. Committee on the Rights of the Child (CRC) affirmed that the assistance available to children involved in the justice system under the Convention on the Rights of the Child should be provided throughout the entire process, “beginning with the interviewing (interrogation) of the child by the police . . .” Articles 37 and 40 of the CRC specifically state that children should have prompt access to legal assistance once their liberty has been deprived and that they should not be “compelled to give testimony or confess guilt.”

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<sup>1</sup> [https://www.aacap.org/aacap/policy\\_statements/2013/Interviewing\\_and\\_Interrogating\\_Juvenile\\_Suspects.aspx](https://www.aacap.org/aacap/policy_statements/2013/Interviewing_and_Interrogating_Juvenile_Suspects.aspx)

<sup>2</sup> <https://www.apa.org/about/policy/interrogations>

<sup>3</sup> <https://www.hrw.org/news/2020/09/30/california-new-law-protects-children-police-custody>

These human rights principles are also reflected in the recent policy recommendations by both the APA and the AACAP.

Nelson Mandela once said, *“There is no keener revelation of a society’s soul than the way in which it treats its children.”* It is our responsibility as a society to safeguard and protect the rights of our children. Nowhere is that more evident or needed than in the criminal justice system where the consequences of failing to do so can have a profound, life-altering impact. Children are not as sophisticated as adults when it comes to interacting with the justice system. They can easily be manipulated into confessing to crimes they did not commit. It is for these reasons, that SB 136 is critical. Under the bill, children will be required to consult with counsel before being interrogated or waiving their Miranda Rights. The bill provides exceptions in the case of imminent threats to public safety and only applies once a child is in custody, thereby minimizing disruption to law enforcement investigations.

We would also note that the safeguards in SB 136 also serve law enforcement by helping to prevent unsubstantiated claims of coerced or involuntary confessions for instance, and protecting the integrity of law enforcement investigations. This bill is also good for victims, who are severely harmed when false confessions are obtained by innocent people and the person who actually harmed them goes free.

This is a common-sense, reasonable bill to protect the rights of our most vulnerable citizens – our children. We strongly urge this committee to vote favorably upon SB 136 to ensure that we do everything we can to protect both the Constitutional and Human Rights of Maryland’s children. Thank you for your consideration.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'James L. Dold', with a long horizontal flourish extending to the right.

James. L. Dold  
CEO & Founder  
Human Rights for Kids

# **SB 136 - Juvenile Interrogation Protection Act.pdf**

Uploaded by: Dwyer, Maura

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of white folks working as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District **40**. I am testifying **in support of Senate Bill 136**



Senate Bill 136 will require a law enforcement officer to contact a parent/guardian with reasonable notice and provide consultation with an attorney for any child they plan to interrogate. I request that you support this legislation to protect children from the manipulation and fear they can experience during a police interrogation.

Both the United States and Maryland Constitution provide the right to be free from self-incrimination and the right to effective assistance of legal counsel. Although these rights are important for adults, they are even more important for minors, who are often under added pressure to please adult figures of authority and may not understand the motivations a law enforcement official may have for misleading or intimidating them. Minors may also not understand the long-term implications of agreeing to something an adult figure of authority may pressure them to say, which in the case of interrogation by law enforcement can have life-long negative repercussions. These concerns were recognized by the legal community in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court, which stated that minors had “diminished capacity” and were not able to fully understand the risks and consequences of their actions.

A well-known historical example of the consequences of children testifying without the presence of their parents or without having the opportunity to consult with legal counsel is the Central Park Five. In this case, police used intimidation and their role of the authority figure to coerce a group of minors into guilty pleas, even though no evidence for the guilt of the minors existed. As a result, six Black young men were imprisoned for years, only to have their convictions vacated years later. This is a situation that could easily be replayed in Maryland due to our current gap in ensuring minors are provided with the guaranteed legal support they are supposed to be guaranteed.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 136** to ensure children get the help they need before being interrogated by police.

I appreciate your time, service, and consideration.

Sincerely,  
**Maura Dwyer**  
**3908 Falls Rd**  
**Baltimore MD 21211**  
Showing Up for Racial Justice Baltimore

## **2021.02.04 MOPD SB136 Favorable.pdf**

Uploaded by: Egan, Jenny

Position: FAV



## POSITION ON PROPOSED LEGISLATION

BILL: SB 0136 - Juvenile Law - Child Interrogation Protection Act  
POSITION: SUPPORT  
DATE: February 4, 2021

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**[E]vidence is accumulating that confessions by juveniles do not aid in individualized treatment...and that compelling the child to answer questions, without warning or advice as to his right to remain silent, does not serve this or any other good purpose.**

*– Justice Abe Fortas, United States Supreme Court, In re Gault, 387 U.S. 1, 51 (1967)*

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When it comes to protecting the human rights of children in the legal system, last year Human Rights for Kids ranked Maryland one of the worst states in the nation. This bill provides critically important due process protections for children, who research has demonstrated are uniquely vulnerable to coercive police interrogation tactics. Protecting children's due process rights and preventing false confessions doesn't just protect kids charged with the most serious crimes, it also protects law enforcement and victims by ensuring that false confessions don't allow the real perpetrators of crime to go undetected for decades like in the recent case of the Harlem Park 3.

The U.S. Supreme Court has recognized that police interrogation "can induce a frighteningly high percentage" of false confessions, and that this risk is multiplied when a child is the subject of an interrogation. Children are 2 to 3 times more likely to falsely confess than adults and account for approximately one-third of all false confessions.

Research on adolescent development and neuroscience developments over the last half century have demonstrated unequivocally that teenagers are *uniquely* vulnerable to coercive interrogation tactics because teenagers prioritize short-term benefits over long-term consequences and are especially prone to comply with the requests of authority figures like police. During adolescence, the reward-seeking part of the brain is highly active, while the frontal lobe, which governs measured decision-making, is still developing. This is why they waive their *Miranda* rights almost 90% of the time and why juveniles falsely confess at rates that are exponentially rates compared to adults.

Juvenile public defenders across Maryland witness firsthand the harmful impact of police interrogation techniques and practices on juveniles, most of whom routinely waive *Miranda* without any real understanding of what they have given up. MOPD's young clients have told their lawyers they believed the "right to remain silent" meant they were expected to be quiet



unless they were directly asked a question, that they believed waiving their rights was related to moving your hand back and forth (“waving hello”), and that “a right to an attorney” meant that they would have to “write a letter” to get help. Many of my clients cannot define the word attorney or lawyer, but when asked by police if they “understand they have a right to a lawyer” happily answer in the affirmative.

***Maryland should explicitly require that all children consult with an attorney before any interrogation takes place.*** Requiring an attorney consultation is not the creation of a new Constitutional right. The U.S. Constitution already guarantees children the right to remain silent. The U.S. Constitution already guarantees every child the right to speak to an attorney before answering questions. This bill simply makes that Constitutional guarantee real instead of abstract.

The only way to ensure that the waiver of a youth’s constitutional rights; a knowing, intelligent and voluntary waiver are protected is to have an attorney consultation before any interrogation. With this notion, the element of coerciveness by police officers in interrogation will never be a factor. In all actuality, this consultation ensures the reliability of juvenile statements and should be viewed as protection not just for children, but protects law enforcement and the reliability of possible convictions.

The U.S. Supreme Court recognizes that a lawyer is uniquely positioned in the context of an interrogation to protect the Fifth Amendment rights of the accused. “[T]he lawyer occupies a critical position in our legal system because of his unique ability to protect the Fifth Amendment rights of a client undergoing custodial interrogation. Because of this special ability of the lawyer to help the client preserve his Fifth Amendment rights once the client becomes enmeshed in the adversary process, the Court found that ‘the right to have counsel present as the interrogation is indispensable to the protection of the Fifth Amendment privilege under the system’ established by the Court.”

Even before the Miranda rights were formally established, the U.S. Supreme Court made clear that, in the context of police interrogation, events that “would leave a man cold and unimpressed can overawe and overwhelm a lad ...” The Supreme Court has since stressed what “any parent knows”—indeed, what any person knows—that “children characteristically lack the capacity to exercise mature judgment and possess only an incomplete ability to understand the world around them.” Adolescents lack the experience, perspective, developmental maturity, and judgment to recognize and avoid choices that could be detrimental to them.

Current research demonstrates that all children, as old as 16 and 17 year-olds, are highly susceptible to pressure, have poor impulse control, incomplete brain development, and limited understanding of long-term consequences. The American Bar Association (ABA) resolved more than 17 years ago that, “youth should not be permitted to waive the right to counsel without consultation with a lawyer and without a full inquiry into the youth's comprehension of the right and their capacity to make the choice intelligently, voluntarily and understandingly.” Maryland should make the same resolution via passage of SB 0136.

***Parents or guardians should be notified expeditiously that their child was taken into police custody, why they were taken into custody and where their child is located.*** While current law states that a parent should be notified, this language must be strengthened to ensure that parents are actually informed of their child's whereabouts. Since not every arrest will result in an interrogation, and a child needs a parent or guardian to be released from police custody, these measures are not far reaching and will help secure the presence of a parent or guardian.

However, a parent or guardian's presence is insufficient for purposes of interrogation. Parents generally lack the competency about police interrogation techniques and the risks of providing a statement, even a truthful one, to properly advise their child and ensure that any statement is knowing, intelligent and voluntary. The American Academy of Child and Adolescent Psychiatry (AACAP) has declared "that juveniles should have an attorney present during questioning by police or other law enforcement agencies." While noting that youth should also be able to consult with a parent, the AACAP recognized that "parental presence alone may not be sufficient to protect juvenile suspects."

Consequently, because there is no legally recognized confidentiality of communications between a parent and their child, a parent could be compelled to testify against their child if they are present or partake in the child's interrogation.

***Maryland should establish a youth-specific, developmentally appropriate Miranda warning.*** The standard Miranda warning requires a tenth-grade level of reading comprehension. Adolescents are more likely than their adults to assert they understand material to avoid embarrassment and to appear intelligent. When a law enforcement officer simply asks "do you understand" many children will respond in the affirmative even though they do not actually understand. To ensure that a waiver is knowing, intelligent, and voluntary, Miranda warnings for children must be provided at a third-grade reading level, police officers must read each warning slowly, and the interrogator must stop after each one to ask the child to explain the warning back in his or her own words.

Studies show that of the Miranda policies in 122 police departments across the country, "[e]ven under the best circumstance, preteen suspects are likely to find Miranda vocabulary and reading levels are far beyond their understanding."

The International Association of Chiefs of Police (IACP) has recognized that "juveniles are more vulnerable than adults during interrogation – a vulnerability that is categorically shared by every juvenile, no matter how intelligent or mature." In recognition of the research establishing the heightened risks of youth interrogations, in 2006, the IACP in conjunction with the U.S. Department of Justice Office of Juvenile Justice Delinquency Prevention (OJJDP) developed a training curriculum for law enforcement and a set of model policies for juvenile interrogation. In their extensive report *Reducing Risks: The Executives Guide to Effective Juvenile Interview and Interrogation*, the IACP acknowledged that standard law enforcement interrogation techniques

are unreliable when used with children. SB 0136 would codify the requirement for an age-appropriate Miranda warning for youth in custody.

Lastly, as to implementation, OPD is committed to provide representation related to interrogations of youth in person, by phone or by video conference.

For all these reasons, and those outlined in our oral testimony, OPD would ask for a favorable report on SB 0136.

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# **Legislative Testimony 136.pdf**

Uploaded by: Elliott, Richard DeShay

Position: FAV

Legislative Testimony:  
SB136

I strongly support Senator Jill P. Carter's Senate Bill 136 to protect juveniles from unlawful interrogation.



By Authority: Rich Elliott For Maryland Keanuu Smith-Brown, Campaign Chair Christian Hillian, Treasurer

# **SB 136 - Juvenile Interrogation Protection Act Esp**

Uploaded by: Esposito, Lindsay

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of white folks working as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 45. I'm proud to have been a resident of Baltimore City since 2008 and a homeowner and voter in the Greenmount West neighborhood for the last 8 years. I am testifying **in support of Senate Bill 136**



Senate Bill 136 will require a law enforcement officer to contact a parent/guardian with reasonable notice and provide consultation with an attorney for any child they plan to interrogate. I request that you support this legislation to protect children from the manipulation and fear they can experience during a police interrogation.

Both the United States and Maryland Constitution provide the right to be free from self-incrimination and the right to effective assistance of legal counsel. Although these rights are important for adults, they are even more important for minors, who are often under added pressure to please adult figures of authority and may not understand the motivations a law enforcement official may have for misleading or intimidating them. Minors may also not understand the long-term implications of agreeing to something an adult figure of authority may pressure them to say, which in the case of interrogation by law enforcement can have life-long negative repercussions. These concerns were recognized by the legal community in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court, which stated that minors had “diminished capacity” and were not able to fully understand the risks and consequences of their actions.

A well-known historical example of the consequences of children testifying without the presence of their parents or without having the opportunity to consult with legal counsel is the Central Park Five. In this case, police used intimidation and their role of the authority figure to coerce a group of minors into guilty pleas, even though no evidence for the guilt of the minors existed. As a result, six Black young men were imprisoned for years, only to have their convictions vacated years later. This is a situation that could easily be replayed in Maryland due to our current gap in ensuring minors are provided with the guaranteed legal support they are supposed to be guaranteed.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 136** to ensure children get the help they need before being interrogated by police.

I appreciate your time, service, and consideration.

Sincerely,  
Lindsay Esposito  
434 E Oliver, Baltimore, MD 21202  
Showing Up for Racial Justice Baltimore

# **SB 136 - Juvenile Interrogation Protection Act.pdf**

Uploaded by: Fertig, Benjamin

Position: FAV



Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of white folks working as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 11 and a member of Congregation Beth Am Social Action Committee. I am testifying **in support of Senate Bill 136**



Senate Bill 136 will require a law enforcement officer to contact a parent/guardian with reasonable notice and provide consultation with an attorney for any child they plan to interrogate. I request that you support this legislation to protect children from the manipulation and fear they can experience during a police interrogation.

Both the United States and Maryland Constitution provide the right to be free from self-incrimination and the right to effective assistance of legal counsel. Although these rights are important for adults, they are even more important for minors, who are often under added pressure to please adult figures of authority and may not understand the motivations a law enforcement official may have for misleading or intimidating them. Minors may also not understand the long-term implications of agreeing to something an adult figure of authority may pressure them to say, which in the case of interrogation by law enforcement can have life-long negative repercussions. These concerns were recognized by the legal community in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court, which stated that minors had “diminished capacity” and were not able to fully understand the risks and consequences of their actions.

A well-known historical example of the consequences of children testifying without the presence of their parents or without having the opportunity to consult with legal counsel is the Central Park Five. In this case, police used intimidation and their role of the authority figure to coerce a group of minors into guilty pleas, even though no evidence for the guilt of the minors existed. As a result, six Black young men were imprisoned for years, only to have their convictions vacated years later. This is a situation that could easily be replayed in Maryland due to our current gap in ensuring minors are provided with the guaranteed legal support they are supposed to be guaranteed.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 136** to ensure children get the help they need before being interrogated by police.

I appreciate your time, service, and consideration.

Sincerely,  
Benjamin Fertig  
2722 Quarry Heights Way, Baltimore, MD 21209  
Showing Up for Racial Justice Baltimore

# **Testimony - SB136 - Juvenile Interrogation Protect**

Uploaded by: Glickman, Ilene

Position: FAV

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**To:** Members of The Senate Judicial Proceedings Committee

**From:** Family & Juvenile Law Section Council (FJLSC)  
by Ilene Glickman, Esquire and Daniel Renart, Esquire

**Date:** February 4, 2021

**Subject:** **Senate Bill 136:**  
Juvenile Law – Juvenile Interrogation Protection Act

**Position:** **SUPPORT**

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The Maryland State Bar Association (MSBA) FJLSC **supports Senate Bill 136 – Juvenile Law – Juvenile Interrogation Protection Act.**

This testimony is submitted on behalf of the Family and Juvenile Law Section Council (“FJLSC”) of the Maryland State Bar Association (“MSBA”). The FJLSC is the formal representative of the Family and Juvenile Law Section of the MSBA, which promotes the objectives of the MSBA by improving the administration of justice in the field of family and juvenile law and, at the same time, tries to bring together the members of the MSBA who are concerned with family and juvenile laws and in reforms and improvements in such laws through legislation or otherwise. The FJLSC is charged with the general supervision and control of the affairs of the Section and authorized to act for the Section in any way in which the Section itself could act. The Section has over 1,200 attorney members.

The U.S. Supreme Court has long recognized that as a result of their youthfulness, young people are more susceptible to police coercion than adults, and more in need of legal counsel while facing police interrogation. Research on adolescent development and neuroscience explains why youth are uniquely vulnerable to coercive interrogation tactics and why they waive their Miranda rights at an astounding rate of 90%. As noted in the International Association of Chiefs of Police Training Key #652, “[T]he landmark study on juveniles and Miranda rights found that well over half of those juveniles surveyed did not understand at least one of the Miranda rights, compared to less than a quarter of adults. And even if a juvenile is able to build some understanding of his rights, he may have difficulty applying those rights to his own situation. While some children understand that they are allowed to consult with an attorney, for example, they may not understand how an attorney could be helpful to them during an interview or

interrogation. Because of these problems, youths may not fully understand the significance of their rights or what it really means to waive them.” “Even intelligent children and teenagers often do not fully understand their Miranda rights, which can require a tenth-grade level of understanding.”<sup>1</sup>

Adolescents as a class prioritize short-term benefits over long-term consequences. They have a tendency to comply with requests of authority figures and their ability to make measured decisions is still developing. It is also widely acknowledged and recognized that commonly-employed police interrogation tactics can produce involuntary confessions as a result of these neurobiological deficits. The standardized set of procedures taught by the Reid Technique and used by police agencies across the country, involve separating the suspect from his family and isolating that individual in a small interrogation room specially designed to increase anxiety. Police officers begin by asking background questions and engaging in small talk creating the illusion of a non-threatening, non-adversarial encounter. Miranda warnings are then delivered without preamble and in a neutral tone. Police refer to the warnings as “paperwork” to emphasize its bureaucratic quality and that these warnings are a mere formality. Another common tactic is referring to the dissemination of Miranda rights in popular media, trivializing the warning’s legal significance lulling the suspect into falsely believing that cultural exposure to Miranda translates into understanding of its meaning and consequence.<sup>2</sup> Such tactics are much more likely to be coercive when used with young people because of their immaturity and relative susceptibility to persuasion.

Passage of SB 136 ensures that adolescents have access to an attorney to ensure that youth fully understand their constitutional right to remain silent during any custodial interrogation.

For the reason(s) stated above, the MSBA FJLSC **supports Senate Bill 136 and urges a favorable committee report.**

Should you have any questions, please contact Eleni v. Bickley, Esquire by e-mail at [eleni@vanrodenlaw.com](mailto:eleni@vanrodenlaw.com) or by telephone at (410) 838-9060 or Ilene Glickman by e-mail at [ilene@lawhj.com](mailto:ilene@lawhj.com) or by telephone at (410) 821-8718.

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<sup>1</sup> International Association of Chiefs of Police, *Reducing Risks: An Executive’s Guide to Effective Juvenile Interview and Interrogation*.

<sup>2</sup> See Saul M. Kassin, “Police-Induced Confessions: Risk Factors and Recommendations,” 34 L. & Hum. Behav. (2010) Barry C. Feld, “Kids, Cops, and Confessions Inside the Interrogation Room.” New York University Press, 2013

# **SB 136 - Juvenile Interrogation Protection Act BH.**

Uploaded by: Hauck, Barbara

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of white folks working as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 43. I am also a longtime member of Baltimore's vibrant theatre community, and the Artistic Director at the Fells Point Corner Theatre. I am testifying **in support of Senate Bill 136**



Senate Bill 136 will require a law enforcement officer to contact a parent/guardian with reasonable notice and provide consultation with an attorney for any child they plan to interrogate. I request that you support this legislation to protect children from the manipulation and fear they can experience during a police interrogation.

Both the United States and Maryland Constitution provide the right to be free from self-incrimination and the right to effective assistance of legal counsel. Although these rights are important for adults, they are even more important for minors, who are often under added pressure to please adult figures of authority and may not understand the motivations a law enforcement official may have for misleading or intimidating them.

Minors may also not understand the long-term implications of agreeing to something an adult figure of authority may pressure them to say, which in the case of interrogation by law enforcement can have lifelong negative repercussions. These concerns were recognized by the legal community in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court, which stated that minors had "diminished capacity" and were not able to fully understand the risks and consequences of their actions.

A well-known historical example of the consequences of children testifying without the presence of their parents or without having the opportunity to consult with legal counsel is the Central Park Five. In this case, police used intimidation and their role of the authority figure to coerce a group of minors into guilty pleas, even though no evidence for the guilt of the minors existed. As a result, six young Black men were imprisoned for years, only to have their convictions vacated years later. This is a situation that could easily be replayed in Maryland due to our current gap in ensuring minors are provided with the guaranteed legal support they are supposed to be guaranteed.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 136** to ensure children get the help they are entitled to before being interrogated by police.

I appreciate your time, service, and consideration.

Sincerely,  
Barbara Hauck (she/her)  
3420 Harford Road  
Baltimore, MD 21218  
Showing Up for Racial Justice Baltimore

# **MD SB 0136 Juvenile Interrogation Protection Act -**

Uploaded by: Henning, Kristin

Position: FAV

**Testimony of Kristin Henning**  
**Director, Georgetown Juvenile Justice Initiative\***  
**Blume Professor of Law, Georgetown Juvenile Justice Clinic\***  
**Director, Mid-Atlantic Juvenile Defender Center\***  
**600 New Jersey Ave NW**  
**Washington, DC 20001**

**\*Titles and organizational affiliation for identification purposes only.**

**Offered in support of**  
**Senate Bill 0136—Juvenile Interrogation Protection Act**

**February 2, 2021**

My name is Kristin Henning. I am a resident of Takoma Park, Maryland, a Professor of Law and the Director of the Juvenile Justice Clinic & Initiative at Georgetown Law, and the Director of the Mid-Atlantic Juvenile Defender Center. The views expressed are based on my research and experience and not given on behalf of Georgetown University or the Mid-Atlantic Juvenile Defender Center. Thank you for the opportunity to testify today in support of Senate Bill 0136. By ensuring all children consult with an attorney prior to custodial interrogation, Maryland will protect and honor the rights of young people. The need for this safeguard is especially urgent for youth of color, who are even more vulnerable to coercion during custodial interrogation.

**The Need for Young People to Consult with Attorneys Prior to Custodial Interrogation**

Maryland must ensure children have access to attorneys prior to custodial interrogation. The current approach to youth interrogations is out of step with adolescent development, social science, and fundamental fairness. Although most people probably could not describe any of the facts of the Supreme Court case *Miranda v. Arizona*, many people would recognize the warnings that police are supposed to give a person before they start interrogating them from TV shows and movies.<sup>1</sup> The point of these now-familiar warnings is to inform everyone that they have certain rights before they talk to the police.<sup>2</sup> However, merely informing someone of their rights does not mean they actually understand those rights, understand the implications of waiving those rights, or believe they can actually avail themselves of those rights. This is particularly true when it comes to young people being interrogated by police. It is here where current law fails to protect the youth of Maryland, and why it is time to enact the proposed law requiring law enforcement to ensure a child consults with a qualified attorney before custodial interrogation.

The *Miranda* framework of reading a suspect his or her *Miranda* rights and asking for a waiver was designed with *adults* in mind. To understand standard *Miranda* warnings, an individual must have a working memory that allows them to hold all the warnings in their mind

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<sup>1</sup> See *Miranda v. Arizona*, 384 U.S. 436, 444 (1966).

<sup>2</sup> See *id.* at 445.



at once, process their meaning, and formulate a response.<sup>3</sup> They have to understand what an attorney is, what kinds of questions the police will be expected to ask, and what it means to have their responses “used” against them (which requires general knowledge of the criminal legal system).<sup>4</sup> Studies have found that some warnings, such as the right to be appointed an attorney and the right to silence, require a post-high school reading ability in order to comprehend.<sup>5</sup> In order to make a knowing, intelligent, and voluntary waiver, an individual has to possess the requisite cognitive ability (if they are under 16 years old), an adequate basis of knowledge, and psycho-social maturity. Even if simpler language is used to convey the *Miranda* warnings, many young people may still be incapable of fully understanding the complex legal concepts and applying them to their particular situation, which requires abstract reasoning, cost-benefit analysis, and the weighing of short and long-term goals.<sup>6</sup> This understanding and analysis is necessary for a child to make a valid waiver of their rights. Adapting the language of *Miranda* warnings to be more child-friendly is insufficient if not paired with access to an attorney for the child.

Merely requiring police to read a *Miranda* script before interrogating a child ignores advancements in our understanding of adolescent development, which demonstrates that young people as a class cannot effectively waive their *Miranda* rights just by being informed of them by the police. In the decades since 1965, when *Miranda* was decided, study after study has confirmed what we have long intuitively understood about children: they are different than adults. The research shows that youth undergo dramatic changes during adolescence. Indeed, we now know that adolescence is the second-most important period of brain development, after the first three years of life.<sup>7</sup> For instance, in adolescence, the limbic system – the part of the brain that controls emotions – develops during the earlier part of adolescence, whereas the prefrontal cortex – which is situated at the front of the brain and controls reasoning, decision-making, and impulse control – does not fully develop until the end of adolescence.<sup>8</sup>

As a result of this differential in the timing of development of the different parts of the brain, youth as a class lack the psycho-social maturity that adults possess. Specifically, adolescents are not as capable of making well-reasoned decisions, especially under intense stress or fear such as in an interrogation setting.<sup>9</sup> Moreover, adolescents tend to focus on short-term rewards rather than long-term risks, which makes them especially vulnerable to waiving their *Miranda* rights without considering the long-term consequences.<sup>10</sup> For example, if an officer tells an adolescent during interrogation that if they waive their rights they can go home, the short-term

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<sup>3</sup> See Kenneth J. King, *Waiving Childhood Goodbye: How Juvenile Courts Fail to Protect Children from Unknowing, Unintelligent, and Involuntary Waivers of Miranda Rights*, 2006 WIS. L. REV. 431, 432 (2006).

<sup>4</sup> See *id.* at 432–33.

<sup>5</sup> Anthony J. Domanico, Michael D. Cicchini & Lawrence T. White, *Overcoming Miranda: A Content Analysis of the Miranda Portion of Police Interrogations*, 49 IDAHO L. REV. 1, 14 (2012).

<sup>6</sup> Naomi Goldstein, et al., *Waving Goodbye to Waiver: A Developmental Argument Against Youths’ Waiver of Miranda Rights*, 21 N.Y.U. J. LEGIS. & PUB. POL’Y 1, 49 (2017).

<sup>7</sup> See Kerstin Konrad, et al., *Brain Development During Adolescence*, 110(25) DEUTSCHES ARZTEBLATT INT’L 425, 426–27.

<sup>8</sup> See Jennifer Woolard, *Adolescent Development*, 19.

<sup>9</sup> Thomas Grisso, *Adolescents’ Decision Making: A Developmental Perspective on Constitutional Provisions in Delinquency Cases*, 32 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 3, 9 (2006).

<sup>10</sup> *Id.* at 8–9.

reward of going home can induce an adolescent to waive their *Miranda* rights no matter what the long-term consequences may be.<sup>11</sup> Youth still lack the tools to truly evaluate the impact of that choice on the rest of their life.<sup>12</sup> Thus, the current *Miranda* framework is ineffectual for youth as it is less likely that they can execute a truly knowing, intelligent, and voluntary waiver under the circumstances typical to most custodial interrogation situations.

In addition to adolescents' psycho-social immaturity, there is also the fact that adolescents may lack the cognitive ability to even understand the *Miranda* warnings. In one study, a researcher asked 400 delinquent youth and 200 criminally and non-criminally involved adults a series of questions designed to gauge the participant's understanding of *Miranda* rights. Controlling for age, IQ, and other variables, he found that 55% of youths clearly misunderstood one or more of the *Miranda* warnings, compared to just 23% of adults.<sup>13</sup> Youth in this study misunderstood that the right to remain silent meant they could choose to not speak with the police officer, which was at odds with their experience that they need to talk to adults if asked.<sup>14</sup> Some youth understood that if they have an attorney the attorney is supposed to be "on their side," but also believed that the attorney would help them only if they are innocent.<sup>15</sup> Although adolescents generally have the same cognitive abilities as adults after age 15,<sup>16</sup> because of their lack of familiarity with the *Miranda* rights and psycho-social maturity they still "often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them."<sup>17</sup>

Ensuring a child has access to an attorney prior to custodial interrogation is also critical as a matter of racial justice. Black youth have their views of police officers and law enforcement shaped by historical police violence and contemporary coverage of police brutality against Black people.<sup>18</sup> Their views are also shaped by their own experiences of police harassment with police officers, as well as those of their friends and families.<sup>19</sup> Too often, Black youth feel compelled to be deferential to police officers to avoid risking more severe harassment, injury, or death.<sup>20</sup> Youth of color experience interactions with police as traumatizing. A study on the effects of police interactions on adolescents found that youth with more exposure to law enforcement officials report more emotional distress during and after each interaction.<sup>21</sup> African American

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<sup>11</sup> Steven A. Drizin & Beth A. Colgan, *Interrogation Tactics Can Product Coerced and False Confessions from Juvenile Suspects*, in INTERROGATIONS, CONFESSIONS, AND ENTRAPMENT 127, 136 (G. Daniel Lassiter ed., 2004).

<sup>12</sup> *J.D.B. v. North Carolina*, 564 U.S. 261, 269 (2011).

<sup>13</sup> Thomas Grisso, *Adolescents' Decision Making: A Developmental Perspective on Constitutional Provisions in Delinquency Cases*, 32 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 3, 10 (2006).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 11.

<sup>16</sup> *Id.* at 11–12.

<sup>17</sup> *Bellotti v. Baird*, 443 U.S. 622, 635 (1979).

<sup>18</sup> Kristin Henning & Rebba Omer, *Vulnerable and Valued: Protecting Youth from the Perils of Custodial Interrogation*, 52 ARIZ. STATE L. J. 883, 901 (2020).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> See Dylan B. Jackson et. al, *Police Stops Among At-Risk Youth: Repercussions for Mental Health*, 65 Journal of Adolescent Health 627, 629,

and Latino/a youth experience even greater levels of trauma.<sup>22</sup> Similarly, African American youth who live in neighborhoods with a greater police presence report more trauma and anxiety symptoms.<sup>23</sup> The severity of these symptoms is associated with the number and intrusiveness of their interactions with police.<sup>24</sup> Young Black males living in highly-policed areas who have watched friends, family members, or even complete strangers get searched by police officers report symptoms consistent with secondary trauma.<sup>25</sup> Exposure to these incidents on social media had a similar effect.<sup>26</sup> Further studies have found that these feelings of fear, embarrassment, and helplessness affect how young people develop into young adulthood; injuring their self-concept and permanently damaging their trust in law enforcement.<sup>27</sup>

Black youth also live with the pervasive fear that they are being stereotyped by police, and this fear impacts their ability to understand and assert their rights in custodial interrogation without the assistance of counsel.<sup>28</sup> Researchers found that Black people are significantly more likely than White people to anticipate feeling anxious in police encounters and fear that they will be perceived as guilty when they are actually innocent. Researchers call this phenomenon called “stereotype threat.”<sup>29</sup> Black people are more likely to engage in self-regulatory efforts (such as making eye contact and being hyper-aware of their body language and word choice) to try to counteract police stereotypes about their guilt.<sup>30</sup> Ironically, these self-regulatory efforts are interpreted as suspicious by police.<sup>31</sup> The anxiety, fear, and self-regulatory efforts are mentally taxing and reduce the individual’s cognitive capacity and the ability to think clearly.<sup>32</sup> This creates an additional impediment for youth of color seeking to understand their *Miranda* rights and make knowing, intelligent, and voluntary waiver without consulting with qualified attorneys outside the presence of police.<sup>33</sup>

The backdrop of police violence against Black people, their own experiences of police harassment, the symptoms of trauma and anxiety they feel during these interactions, the fear that they are being stereotyped by police, and the developmental immaturity of youth previously

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<sup>22</sup> Dylan B. Jackson et. al, *Low self-control and the adolescent police stop: Intrusiveness, emotional response, and psychological well-being*, 66 *Journal of Criminal Justice*, 2020, at 1, 8.

<sup>23</sup> Amanda Geller et al., *Aggressive Policing and the Mental Health of Young Urban Men*, 104 *Am. Journal of Pub. Health* 2321, 2324 (2014).

<sup>24</sup> *Id.*

<sup>25</sup> Nikki Jones, “The Regular Routine”: Proactive Policing and Adolescent Development Among Young, Poor Black Men, in *Pathways to Adulthood for disconnected young men in low-income communities*. *New Directions in Child and Adolescent Development*, 33, 45 (K. Roy & N. Jones 2014).

<sup>26</sup> B.M. Tynes et al., *Race-Related Traumatic Events Online and Mental Health Among Adolescents of Color*, 65 *Journal of Adolescent Health* 371, 376 (2019).

<sup>27</sup> Jones, *supra* at 52.

<sup>28</sup> Henning and Omer, *supra* at 903-904.

<sup>29</sup> *Id.*

<sup>30</sup> Cynthia J. Najdowski, Bette L. Bottoms & Phillip Atiba Goff, *Stereotype Threat and Racial Differences in Citizens’ Experiences of Police Encounters*, 39 *LAW & HUM. BEHAV.* 463, 464 (2015); *see also* Cynthia J. Najdowski, *Stereotype Threat in Criminal Interrogations: Why Innocent Black Suspects Are at Risk for Confessing Falsely*, 17 *PSYCH. PUB. POL’Y & L.* 562, 566-67 (2011).

<sup>31</sup> Najdowski et al., *supra* at 464; *see also* Najdowski, *supra* at 569-576.

<sup>32</sup> Deborah Davis & Richard A. Leo, *Interrogation-Related Regulatory Decline: Ego Depletion, Failures of Self-Regulation, and the Decision To Confess*, 18 *PSYCH. PUB. POL’Y & L.* 673, 689-90 (2012).

<sup>33</sup> Henning and Omer, *supra* at 904.

described create a powerful force undermining the voluntariness of any *Miranda* waiver Black youths may make. These factors create the perfect storm for children, particularly youth of color, “consenting” to custodial interrogation due to implicit coercion. They may waive their *Miranda* rights just so they could get out of the interrogation room. In this respect, for Black youth *Miranda* warnings do not serve as an effective safeguard against the coerciveness of police interrogation.

A child’s age and race tint every experience they have with police, and youth need additional protections in custodial interrogation. To illustrate the futility of the current *Miranda* practice as it applies to youth, consider the following recent case. A Black teenage boy was taken into the police station and read his *Miranda* rights. When asked if he wanted an attorney, he said that he already had an attorney and that he would like to talk to her. The police told him that this meant they would have to leave, which was true. They then remained in the room, staring at him, until he said he would talk to them. The police continued reading him his rights, and he again said he wanted an attorney. They stopped again and waited again until he had agreed to talk to them. Then, upon being read his *Miranda* rights and invoking his right to silence, he was told by the detective that he marked the wrong box. While on paper, this whole charade may have observed the niceties of the *Miranda* warning and waiver system, in no way could this be a model of justice. This is not just a fault of the police officers that day, but of the system that did not take into consideration the developmental stage of the youth being interrogated and how that affected any waiver he could give.

Maryland must use the advances in adolescent development research over the last 30 years to create a legal framework that is developmentally appropriate for adolescents being interrogated by police officers. The way to do this is to change the law to ensure youth have a meaningful opportunity to confidentially consult with counsel before custodial interrogation. Parents, although they must be informed, are not a substitute for access to an attorney. Parents of youth of color are likely to experience the same fear of police as their children. Studies show that having the opportunity to consult with counsel before making any decision about waiving *Miranda* rights helps adolescents make a more informed choice.<sup>34</sup> Changing Maryland law to ensure youth have access to counsel before they make a waiver decision preserves the rights of children, reduces coerced confessions, and protects the purpose that animated *Miranda* in the first place.

## **Conclusion**

It is critical that Maryland law accounts for the differences between youth and adults in custodial interrogation. Youth must be read their *Miranda* rights by a law enforcement officer in a developmentally appropriate manner, and their parents must be notified when they are taken into custody. Most importantly, youth must have the opportunity to consult with counsel before custodial interrogation.

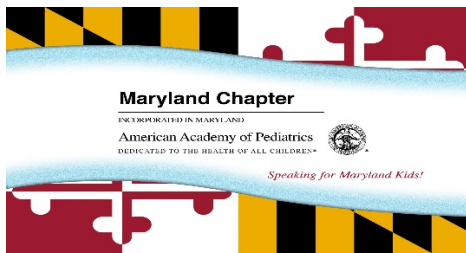
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<sup>34</sup> Jodi L. Viljoen & Ronald Roesch, *Competence to Waive Interrogation Rights and Adjudicative Competence in Adolescent Defendants: Cognitive Development, Attorney Contact, and Psychological Symptoms*, 29(6) LAW AND HUMAN BEHAVIOR 723, 737 (2005).

# **SB0136\_FAV\_MDAAP\_Juvenile Interrogation Protection**

Uploaded by: Kasemeyer, Pam

Position: FAV



TO: The Honorable William C. Smith, Jr., Chair  
Members, Senate Judicial Proceedings Committee  
The Honorable Jill P. Carter

FROM: Pamela Metz Kasemeyer  
J. Steven Wise  
Danna L. Kauffman

DATE: February 4, 2021

RE: **SUPPORT** – Senate Bill 136 – *Juvenile Law – Juvenile Interrogation Protection Act*

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The Maryland Chapter of the American Academy of Pediatrics (MDAAP) is a statewide association representing more than 1,100 pediatricians and allied pediatric and adolescent healthcare practitioners in the State and is a strong and established advocate promoting the health and safety of all the children we serve. On behalf of MDAAP, we submit this letter of **support** for Senate Bill 136.

Senate Bill 136 strengthens the requirements for notification of a child's parent, guardian, or custodian when a child is taken into custody. It also requires the Police Training and Standards Commission to adopt rules concerning age-appropriate language to be used to advise a child of their rights when taken into custody. Further, Senate Bill 136 provides children in legal custody to have a consultation with an attorney and further clarifies what is permissible with respect to interrogation of a child.

Years of research on brain development has demonstrated that the frontal lobes, which are the seat of reasoned judgment and higher order cognitive decision making, develop late and continue to develop in late adolescence into early adulthood, rendering the adolescent brain consequentially distinct from the adult brain, with implications related to the adolescent's ability to weigh the consequences of a decision to waive counsel. Based on these undisputed findings, the American Academy of Child and Adolescent Psychiatry, in a 2013 policy statement, expressed its belief juveniles should always have counsel present when interrogated by law enforcement (see attached).

The United States Supreme Court has recognized these biological and developmental differences in their recent decisions on the juvenile death penalty, juvenile life without parole, and the interrogations of juvenile suspects. In particular, the Supreme Court has recognized that there is a heightened risk that juvenile suspects will falsely confess when pressured by police during the interrogation process. Research also demonstrates that when in police custody, many juveniles do not fully understand or appreciate their rights, options, or alternatives.

Passage of Senate Bill 136 will help ensure that minors have the appropriate legal counsel and advice to assist them in responding to a custodial interrogation. MDAAP strongly urges a favorable report.

**For more information call:**

Pamela Metz Kasemeyer  
J. Steven Wise  
Danna L. Kauffman  
410-244-7000

# Interviewing and Interrogating Juvenile Suspects

**Approved by Council, March 7, 2013**

Research has demonstrated that brain development continues throughout adolescence and into early adulthood. The frontal lobes, responsible for mature thought, reasoning and judgment, develop last. Adolescents use their brains in a fundamentally different manner than adults. They are more likely to act on impulse, without fully considering the consequences of their decisions or actions.

The Supreme Court has recognized these biological and developmental differences in their recent decisions on the juvenile death penalty, juvenile life without parole and the interrogations of juvenile suspects. In particular, the Supreme Court has recognized that there is a heightened risk that juvenile suspects will falsely confess when pressured by police during the interrogation process. Research also demonstrates that when in police custody, many juveniles do not fully understand or appreciate their rights, options or alternatives.<sup>1,2,3,4</sup>

Accordingly, the American Academy of Child and Adolescent Psychiatry believes that juveniles should have an attorney present during questioning by police or other law enforcement agencies. While the Academy believes that juveniles should have a right to consult with parents prior to and during questioning, parental presence alone may not be sufficient to protect juvenile suspects. Moreover, many parents may not be competent to advise their children on whether to speak to the police and may also be persuaded that cooperation with the police will bring leniency. There are numerous cases of juveniles who have falsely confessed with their parents present during questioning.

Furthermore, the Academy recommends that when interviewing juvenile suspects, police should use terms and concepts appropriate to the individual's developmental level. Any written material should also be geared to the person's grade level and cognitive capacity. In general, it is not sufficient to simply read or recite information to a juvenile. Ensuring meaningful understanding will usually require asking the individual to explain the information conveyed in his or her own words.

When administering Miranda warnings, many jurisdictions use the version and forms developed for adult suspects. Research demonstrates that these warnings are often too complex and advanced for most juveniles. For this reason, the Academy recommends that police and other law enforcement authorities should utilize simplified Miranda warnings developed specifically for use with juvenile suspects.<sup>5</sup> Ideally, an attorney should be present when Miranda Warnings are administered to juvenile suspects.

Finally, the Academy recommends that all interviews of juvenile suspects should be video recorded. The ability to review such a permanent record is integral to the subsequent assessment of the juvenile, his or her comprehension of the Miranda warnings, and the nature, setting and circumstances of the interrogation.

#### References

1. Grisso, T. "Juveniles' Capacities to Waive Miranda Rights - An Empirical Analysis." California Law Review, 68:6, 1980.
2. Rogers, R., Hazelwood, L., Sewell, K., Shuman, T., and H. Blackwood. "The Comprehensibility and Content of Juvenile Miranda Warnings." Psychology, Public Policy and Law, 14:1, 2008.
3. Grisso, T. "The Competence of Adolescents as Trial Defendants." Psychology, Public Policy and Law, 3:1, 1997.
4. Viljoen, J.L., Zapf, P.A. and R. Roesch. "Adjudicative Competence and Comprehension of Miranda Rights in Adolescent Defendants: A Comparison of Legal Standards." Behav. Sci. Law, 25:1-19.
5. Report 102B of the Criminal Justice Section of the American Bar Association, February 2010.

Example of a simplified Miranda Warning: (5)

1. *You have the right to remain silent. That means you do not have to say anything.*
2. *Anything you say can be used against you in court.*
3. *You have the right to get help from a lawyer.*
4. *If you cannot pay a lawyer, the court will get you one for free.*
5. *You have the right to stop this interview at any time.*
6. *Do you want to have a lawyer?*
7. *Do you want to talk to me?*



# **SURJ Minor access to counsel 2021 2 1.pdf**

Uploaded by: Kleinman, Jan

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of white folks working as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District **43**. As an elementary and middle school teacher, I try to view the world through children's eyes. Any ways we adults can reduce exposure to trauma in our kids' lives is worth our time. For the sake of our children, the future of our society, I am testifying **in support of Senate Bill 136**.



Senate Bill 136 will require a law enforcement officer to contact a parent/guardian with reasonable notice and provide consultation with an attorney for any child they plan to interrogate. I request that you support this legislation to protect children from the manipulation and fear they can experience during a police interrogation.

Both the United States and Maryland Constitution provide the right to be free from self-incrimination and the right to effective assistance of legal counsel. Although these rights are important for adults, they are even more important for minors, who are often under added pressure to please adult figures of authority and may not understand the motivations a law enforcement official may have for misleading or intimidating them. Minors may also not understand the long-term implications of agreeing to something an adult figure of authority may pressure them to say, which in the case of interrogation by law enforcement can have life-long negative repercussions. These concerns were recognized by the legal community in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court, which stated that minors had "diminished capacity" and were not able to fully understand the risks and consequences of their actions.

A well-known historical example of the consequences of children testifying without the presence of their parents or without having the opportunity to consult with legal counsel is the Central Park Five. In this case, police used intimidation and their role of the authority figure to coerce a group of minors into guilty pleas, even though no evidence for the guilt of the minors existed. As a result, six Black young men were imprisoned for years, only to have their convictions vacated years later. This is a situation that could easily be replayed in Maryland due to the gap in our current law. Minors deserve legal support.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 136** to ensure children get the help they need before being interrogated by police.

I appreciate your time, service, and consideration.

Sincerely,  
Jan Kleinman  
2700 Remington Avenue, Apt 504  
Baltimore, MD 21211  
Showing Up for Racial Justice Baltimore

# **SB136 HB315 Support The Arc Maryland.pdf**

Uploaded by: Kolp, Ande

Position: FAV

**SB136/HB315: Juvenile Law - Juvenile Interrogation Protection Act**  
Assigned to House Judiciary Committee and Senate Judicial Proceedings Committee  
February 4, 2021

**Position: Support**

The Arc Maryland is the largest statewide advocacy organization dedicated to the rights and quality of life of children and adults with intellectual and developmental disabilities. We support SB 136/HB315.

Often, children who become entangled in the legal justice system are questioned by law enforcement without a parent or attorney present. As a result, they face criminal charges, prosecution, and incarceration often without the basic due process rights to which adults are entitled.

Without consideration for the due process rights of children, and supports to ensure these rights are upheld, our current system presents dangers for all children and particularly children with intellectual and developmental disabilities who may lack awareness of the severity of their situation. Some children with disabilities may experience dysregulation of their emotions or have adverse reactions to their environment, causing them to become disruptive or even aggressive. In these situations, trauma-informed and restorative practices/positive behavioral interventions are the keys to safe and effective incident resolution, but we have only just begun to see these practices used in our schools. Students with disabilities, therefore, remain vulnerable to disciplinary responses from schools, and police involvement in incidents.

According to the Maryland Public Schools Arrest Data School Year 2018-2019<sup>i</sup>, students with disabilities were referred to law enforcement 16% more often than students without disabilities.

Also, in 2018-2019, Maryland students with disabilities made up 12% of the student population, but received 23% of school-related arrests.<sup>ii</sup>

We urge the committee to return a favorable report on SB136/HB315 to protect juveniles from interrogation in the absence of their parents or legal representation.

Sincerely,

Ande Kolp  
Executive Director  
email: [akolp@thearcmd.org](mailto:akolp@thearcmd.org)

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<sup>i</sup><http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/StudentArrest/MarylandPublicSchoolsArrestDataSY20182019.pdf>

<sup>ii</sup><http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/StudentArrest/MarylandPublicSchoolsArrestDataSY20182019.pdf>

## **FJP Comments on Maryland Senate Bill 136 - Juvenil**

Uploaded by: Krinsky , Miriam

Position: FAV



**Testimony in Support of Maryland Senate Bill 136:  
An Act Concerning Juvenile Law – Juvenile Interrogation Protection Act**

*Submitted by Fair and Just Prosecution Executive Director Miriam Krinsky  
February 2, 2021*

Fair and Just Prosecution (FJP) is a national non-partisan, nonprofit organization that works with elected prosecutors around the nation promoting a vision for the justice system grounded in fairness, equity, fiscal responsibility, and compassion. FJP assists these leaders in implementing smart evidence-based strategies that advance the safety and well being of our communities.

I offer the comments below based on the work of our organization, as well as my decades in the criminal justice arena. Prior to serving as FJP's Executive Director, I spent 15 years as a federal prosecutor and over a decade working on juvenile justice and law enforcement issues, including as the Special Advisor to the Los Angeles County Sheriff, as an advisor to the California Supreme Court during its creation of the Statewide Child Welfare Council, and five years as the Executive Director of the Children's Law Center of Los Angeles – a 200-plus person legal services organization representing over 20,000 abused and neglected foster children. I am also a member-advisor on the American Law Institute's project on the Restatement of Children and the Law.

What has become abundantly clear to me throughout my years working on issues involving law enforcement, prosecution, juvenile justice reform, and children's welfare, is that children are different and their unique needs and vulnerabilities must be considered when we craft policies and practices that serve these young people as well as our community. The way young people perceive rewards and are influenced by peers is distinct from older individuals and young people are not fully aware of the consequences of the choices they make. As a result, the Supreme Court has recognized that young people must be treated differently from adults by the criminal legal system.

With this starting point in mind, I would like to offer my support, on behalf of FJP, for Senate Bill 136. The testimony below explains in greater detail the basis for our support for these proposed reforms. And it also proposes areas for potential policy build out that go beyond the bill.

**1. Protections are Needed for Children Subjected to Law Enforcement Interrogations**

Without proper protections, interrogations of children can have serious and harmful ramifications and result in adverse consequences including *Miranda* waivers that are not truly knowing and voluntary, false confessions, wrongful convictions, trauma to young people, evidence obtained

through improper interrogations being deemed inadmissible, expensive lawsuits, and, ultimately, diminished public confidence in the justice system.<sup>1</sup>

The brains of young people are still developing in ways that make them think and behave differently from adults,<sup>2</sup> including during an interrogation.<sup>3</sup> Of particular concern, 90% of children, often without any parents or an attorney present, waive *Miranda* rights<sup>4</sup> – a decision that can have severe, lasting repercussions – but most do not understand the meaning or import of these protections.<sup>5</sup> *Miranda* rights are intended to safeguard against false confessions, which the Supreme Court has found to be “frighteningly” common even among adults.<sup>6</sup> Yet children are especially likely to falsely confess.<sup>7</sup> False confessions can also contribute to ongoing racial disparities that have included the arrest and charging of a disproportionate number of Black children; indeed, a disproportionate percentage of those exonerated after falsely confessing are Black.<sup>8</sup>

Children are also particularly vulnerable to pressures inherent in an interrogation setting.<sup>9</sup> The prefrontal cortex, the portion of the brain responsible for judgment and decision-making, is not fully developed until the mid-twenties. As a result, in the context of an interrogation young

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<sup>1</sup> International Association of Chiefs of Police (IACP) (2012), *Reducing Risks: An Executive’s Guide to Effective Juvenile Interview and Interrogation*, <https://www.theiacp.org/sites/default/files/all/p-r/ReducingRisksAnExecutiveGuidetoEffectiveJuvenileInterviewandInterrogation.pdf>.

<sup>2</sup> The Center for Law, Brain & Behavior, *Juvenile Justice & the Adolescent Brain*, Massachusetts General Hospital and Harvard Medical School, <https://clbb.mgh.harvard.edu/juvenilejustice/>.

<sup>3</sup> *J.D.B v. North Carolina*, 564 U.S. 261 (2011), <https://www.supremecourt.gov/opinions/10pdf/09-11121.pdf>.

<sup>4</sup> Laird, L. (2016), *Police Routinely Read Juveniles their Miranda Rights, But Do Kids Really Understand Them?*, American Bar Association, [https://www.americanbar.org/groups/public\\_interest/child\\_law/resources/child\\_law\\_practiceonline/child\\_law\\_practice/vol-35/august-2016/police-routinely-read-juveniles-their-miranda-rights--but-do-kid/](https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-35/august-2016/police-routinely-read-juveniles-their-miranda-rights--but-do-kid/).

<sup>5</sup> 58% of 11 to 13 year-olds, one-third of 14 and 15 year-olds, and 8% of 16 and 17 year-olds do not understand what the *Miranda* warning means. Even more alarmingly, 78% of 11-13 year-olds, 63% of 14 and 15 year-olds, and 35% of 16-17 year-olds do not understand why these rights matter. Viljoen, J.L., Zapf, P.A., and Roesch, R. (2006), *Adjudicative competence and comprehension of Miranda Rights in adolescent defendants: A comparison of legal standards*, *Behavioral Sciences and the Law*, 25(1), 1-19, [https://www.researchgate.net/publication/6518371\\_Adjudicative\\_competence\\_and\\_comprehension\\_of\\_Miranda\\_Rights\\_in\\_adolescent\\_defendants\\_A\\_comparison\\_of\\_legal\\_standards](https://www.researchgate.net/publication/6518371_Adjudicative_competence_and_comprehension_of_Miranda_Rights_in_adolescent_defendants_A_comparison_of_legal_standards).

<sup>6</sup> *J.D.B v. North Carolina*, 564 U.S. 261 (2011), <https://www.supremecourt.gov/opinions/10pdf/09-11121.pdf>. This is in part due to coercive interrogation practices. Starr, D. (2019), *This psychologist explains why people confess to crimes they didn’t commit*, *Science*, <https://www.sciencemag.org/news/2019/06/psychologist-explains-why-people-confess-crimes-they-didn-t-commit>.

<sup>7</sup> 36% of individuals who were exonerated for crimes committed while they were children, and 86% exonerated for crimes that occurred before they turned 14, had falsely confessed, compared to only 10% of exonerated adults. National Registry of Exonerations (2020), *Age and Mental Status of Exonerated Defendants Who Confessed*, <https://www.law.umich.edu/special/exoneration/Documents/Age%20and%20Mental%20Status%20of%20Exonerated%20Defendants%20Who%20Falsely%20Confess%20Table.pdf>.

<sup>8</sup> Najdowski, C. (2018), *Stereotype Threat in Criminal Interrogations: Why Innocent Black Suspects are at Risk for Confessing Falsely*, *Psychology, Public Policy, and Law*, 2011, Vol. 17, No. 4, 562–591, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3198878](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3198878).

<sup>9</sup> Gately, G. (2013), *Why Do So Many Juvenile Suspects Confess to Crimes They Didn’t Commit?*, *Juvenile Justice Information Exchange*, <https://jjie.org/2013/09/23/why-do-so-many-juvenile-suspects-confess-to-crimes-they-didnt-commit/>.

people are less likely to fully consider long-term implications of confessing to something they did not do, and more likely to prioritize their desire to go home and extricate themselves from the interrogation setting. They are also especially likely to be influenced by external pressure, have typically been taught to comply with authority figures, and are more likely to be intimidated by police officers. Even when interrogations do not result in a false confession, they may still cause or exacerbate trauma.<sup>10</sup>

Parental involvement offers limited, but important, protection from coerced and uninformed waiver of rights and false confessions. As the Supreme Court recognized, parents have a fundamental constitutional right to make decisions about the care and custody of their children.<sup>11</sup> Minors are regularly prohibited from making a range of decisions without parental consent. *Miranda* waivers and interrogations are among the most impactful choices that children can face – parents should be entitled to a voice in those decisions.

Parents alone, however, are not a sufficient safeguard given the complexity and stakes involved in interrogations, and are no substitute for legal counsel.<sup>12</sup> Parents may themselves not fully comprehend the ramifications of a *Miranda* waiver, and may encourage a child to cooperate with the police based on a false expectation that this cooperation will be rewarded and result in a better outcome for the child. They also may want to know more about their child's involvement in the incident at issue and may view an interrogation as a route to gaining this insight, or may be upset with the child and want the child to "learn a lesson," but fail to appreciate how serious the situation is and the level of consequences that the child could face. It is therefore imperative that children receive the support of legal counsel to ensure that any decisions they make are truly knowing, voluntary, and intelligent.

As such, *both* a parent or legal guardian and an attorney should be present for the entire *Miranda* and interrogation process, and the child should be able to consult with them in private. In rare situations in which the parent/guardian is either a complainant or is suspected of being an accomplice in the offense under investigation, or is actively hostile towards the youth, the youth should be given the opportunity to have another supportive adult present. The presence of legal counsel should be nonwaivable.

Senate Bill 136 is an important step towards furthering these objectives and protecting children in interrogation settings. Providing meaningful notice to parents will help ensure that children have parental support in navigating this stressful and impactful situation, while a non-waivable right to counsel will ensure that young people's rights are protected. Moreover, lawyers will be

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<sup>10</sup> While little scholarship has focused on the trauma of interrogations, interrogations can cause children to feel frightened and helpless, which can lead to trauma responses. See The National Child Traumatic Stress Network, *About Childhood Trauma*, <https://www.nctsn.org/what-is-child-trauma/about-child-trauma>.

<sup>11</sup> *Troxel v. Granville* (2000), 530 U.S. 57.

<sup>12</sup> American Academy of Child and Adolescent Psychiatry (AACAP) (2013), *Policy Statement: Interviewing and Interrogating Juvenile Suspects*, [https://www.aacap.org/AACAP/Policy\\_Statements/2013/Interviewing\\_and\\_Interrogating\\_Juvenile\\_Suspects.aspx](https://www.aacap.org/AACAP/Policy_Statements/2013/Interviewing_and_Interrogating_Juvenile_Suspects.aspx); Farber, H.B. (2004), *The Role of the Parent/Guardian in Juvenile Custodial Interrogations: Friend or Foe?*, *American Criminal Law Review*, 41, 1277-1312, [https://scholarship.law.umassd.edu/cgi/viewcontent.cgi?article=1060&context=fac\\_pubs](https://scholarship.law.umassd.edu/cgi/viewcontent.cgi?article=1060&context=fac_pubs).



able to advocate for the children they represent throughout the interrogation, which also has the potential to mitigate some of the other harms discussed above. And the bill's requirement that the Police Training and Standards Commission adopt rules to require age-appropriate language to be used in advising children of their rights is also vitally important.

For all of these reasons, I support and urge the Maryland Legislature to promptly pass this essential measure.

## 2. Further Best Practices for Interrogating Children<sup>13</sup>

Beyond the protections and requirements set forth in this legislation, including the essential involvement of both parents and counsel in any interrogation, other practices can protect children, justice, and the community by preventing false confessions. Some of these elements and best practices are noted below (and we would urge policy makers and criminal justice leaders in Maryland to advocate for their implementation):

- The entire *Miranda* and interrogation process should be video and audio recorded;<sup>14</sup>
- Interrogators should administer *Miranda* warnings to youth using developmentally-appropriate language;
- Deception by law enforcement during the interrogation process should be prohibited;
- Interrogations should occur at a time when the young person would normally be awake and alert;
- Interrogation sessions should be limited to two hours (with breaks every hour), and should not be allowed to go longer without approval by the prosecutor's office, and in no instance should they go longer than 4 hours;
- Interrogators should not make statements suggesting benefits to the young person if they confess or suggest negative consequences if the young person does not confess;
- Interrogators should use open-ended, rather than leading questions, and should avoid providing the youth with information about the crime, crime scene, or other evidence;

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<sup>13</sup> This guidance incorporates recommendations from numerous experts and organizations, including the American Academy of Child and Adolescent Psychiatry, the International Association of Chiefs of Police, the American Bar Association, and the American Law Institute. American Academy of Child and Adolescent Psychiatry (AACAP) (2013), *Policy Statement: Interviewing and Interrogating Juvenile Suspects*, [https://www.aacap.org/AACAP/Policy\\_Statements/2013/Interviewing\\_and\\_Interrogating\\_Juvenile\\_Suspects.aspx](https://www.aacap.org/AACAP/Policy_Statements/2013/Interviewing_and_Interrogating_Juvenile_Suspects.aspx); International Association of Chiefs of Police (IACP) (2012), *Reducing Risks: An Executive's Guide to Effective Juvenile Interview and Interrogation*, <https://www.theiacp.org/sites/default/files/all/p-r/ReducingRisksAnExecutiveGuidetoEffectiveJuvenileInterviewandInterrogation.pdf>; American Bar Association (ABA) (2019), *Index of Criminal Justice Policies: 102B: Juvenile Miranda rights*, Midyear Meeting 2010; 8A, Midyear 2004; American Law Institute (2018), *Section 14-2. Interrogation and the Admissibility of Statements*, in *Restatement of the Law: Children and the Law, Tentative Draft No. 1*, <https://texasscorecard.com/wp-content/uploads/2019/07/ALI-Restatement.pdf>. The draft was approved by the membership at the 2018 Annual Meeting, subject to the discussion at the Meeting and to the usual editorial prerogative. This material may be cited as representing the Institute's position until the official text of the entire project is published, <https://www.ali.org/publications/show/children-and-law/>.

<sup>14</sup> Kassir, S. and Thompson, D. (2019), *Videotape All Police Interrogations*, The New York Times, <https://www.nytimes.com/2019/08/01/opinion/police-interrogations-confessions-record.html>.

- Interrogators should not make determinations about whether a young person is lying based on non-verbal information or body language; and
- If a young person provides a confession, follow-up steps should be taken to ensure the reliability of the confession.<sup>15</sup>

While Senate Bill 136 does not include these elements, I hope the Maryland Legislature and local law enforcement and prosecution leaders will consider separately implementing these well-advised practices.

Meanwhile, Senate Bill 136 is a critical first step towards protecting children, justice, and public safety, and I urge the Legislature to ensure its prompt passage.

Thank you for considering my views. If I can provide further insights that might be useful, please feel free to contact me at the address noted below or, via email, at [mkrinsky@fairandjustprosecution.org](mailto:mkrinsky@fairandjustprosecution.org).

Respectfully,



Miriam Aroni Krinsky  
Executive Director, [Fair and Just Prosecution](http://fairandjustprosecution.org)  
c/o Tides Center  
1012 Torney Ave  
San Francisco, California 94129

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<sup>15</sup> International Association of Chiefs of Police (IACP) (2012), *Reducing Risks: An Executive's Guide to Effective Juvenile Interview and Interrogation*, 13, <https://www.theiacp.org/sites/default/files/all/p-r/ReducingRisksAnExecutiveGuidetoEffectiveJuvenileInterviewandInterrogation.pdf>

# **SB136 - FAV - Anita Lampel - JUFJ.pdf**

Uploaded by: Lloyd, Rianna

Position: FAV

February 4, 2021

Anita Lampel  
Bethesda, MD 20817



**TESTIMONY IN SUPPORT OF SBI36/HB315**  
**Juvenile Law - Juvenile Interrogation Protection Act**

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

**FROM:** Anita Lampel, on behalf of Jews United for Justice (JUF)

My name is Anita Lampel. I live in Bethesda, in District 16. I offer my written testimony on behalf of Jews United for Justice, in favor of SBI36/HB315, Juvenile Law - Juvenile Interrogation Protection Act. JUF organizes more than 5,500 Jewish Marylanders and allies in support of local and state campaigns for social, racial, and economic justice.

Jewish text teaches us that in all we do, we must work towards justice: “Tzedek, tzedek tirdof - Justice, justice shall you pursue.” As we work to reform our prison system, we must actively strive for justice and equity. SBI36/HB315 brings us a step closer towards that pursuit.

My background and training is in child and adolescent mental health issues, and I have a Ph.D. from Stanford University. I’ve headed a department of child and adolescent mental health, served on commissions and committees addressing the needs of juvenile offenders, and given expert testimony in juvenile courts. I can state unequivocally that children and youth do not think in the same way as adults.

Children and youth are protected groups in society because they do not have the reasoning skills or behavioral controls that come with adulthood. As research shows definitively, their vulnerabilities are worse if they live in poverty, are exposed to violence, have learning disabilities, and/or are members of historically marginalized communities. Studies also show that Black children are routinely viewed as somehow more “mature” at a young age than white children, putting them at even greater risk of harsh treatment when interacting with the justice system. Children and youth are far more likely to give false confessions, to not understand the

consequences of their statements, and to conform to what the pressure of the moment is. Therefore, it is critical that we provide added protection for minors being interrogated by law enforcement.

Children and youth whose freedom -- whose ability to live with family and in their communities -- is at risk whenever they are questioned by law enforcement, must have legal counsel before being questioned and their parents must be notified that they are being questioned. This is the standard in many countries. This is the standard supported by every major advocacy group for children, including the American Psychiatric Association and the American Psychological Association.

Right now, Maryland maintains that children as young as seven-years-old can be held to answer in Juvenile Court for their action, and this state has a higher percentage of youth in the juvenile justice system than almost any other state in the U.S. The school to prison pipeline must stop. Adequate legal protection for juveniles being interrogated by police is one important step in that direction.

**JUFJ respectfully urges a favorable report on SB136/HB315.**

# **SB136 - FAV - Carol Stern.pdf**

Uploaded by: Lloyd, Rianna

Position: FAV

February 4, 2021

Carol Stern

Chevy Chase, MD 20815

**TESTIMONY IN SUPPORT OF SBI36/HB315**  
**Juvenile Law - Juvenile Interrogation Protection Act**

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

**FROM:** Carol Stern

My name is Carol Stern. I live in Chevy Chase, in state district 16. I am providing testimony in favor of SBI36/HB315, Juvenile Law - Juvenile Interrogation Protection Act. I provide this testimony as a mother and grandmother.

The Jewish text that shapes my religious and moral conviction that juveniles must have a right to counsel is the directive issued in Deuteronomy 16:20, "Tzedek, tzedek tirdof - Justice, justice shall you pursue." The Jewish sages explain that the word tzedek is repeated not only for emphasis but to teach us that in our pursuit of justice, our means must be as just as our ends. Rabbi Mordecai Kaplan wrote "teach us to respect the integrity of every human soul be it that of a friend or stranger, child or adult." When we are working to reform our criminal justice system, we must demand that it operates in accordance with these deeply held Jewish beliefs.

As a mother of two children and a grandmother of three, I cannot imagine allowing my children or grandchildren to be interrogated by police without prior legal consultation and parental/guardian notification. This lack of justice should no longer be allowed in our state. A minor may not understand their rights or the warnings given to them. Many may not have the education, experience, background and capacity to even know that they can stay silent, ask for an attorney or call their parents. SBI36/HB315 adds much needed reforms for treating minors in the justice system with equality and the respect that all people deserve.

**I respectfully urge a favorable report on SBI36/HB315.**

# **SB136 - FAV - Heidi Rhodes.pdf**

Uploaded by: Lloyd, Rianna

Position: FAV



February 4, 2021

Heidi Rhodes  
Silver Spring, MD 20904

**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:** Heidi Rhodes

My name is Heidi Rhodes and I live in Colesville, District 14. I am providing this testimony in support of SB136/HB315, Juvenile Law - Juvenile Interrogation Protection Act.

The Jewish text that shapes my religious and moral conviction that juveniles must have a right to counsel is the directive issued in Deuteronomy 16:20, "Tzedek, tzedek tirdof - Justice, justice shall you pursue." When we are working to reform our criminal justice system, we must demand that it operates in accordance with these deeply held Jewish beliefs.

When I first read this bill, I could not see any situation in which anyone could be against it. In what situation would it be justice to not provide legal counsel and notice to parents or guardians when a minor is interrogated by police? In the ten commandments we are taught to honor our mother and father. Under this construct I taught my daughter to respect adults in authority, whether it is her teachers or police.

Because of this teaching, I believe that if she was interrogated by police without legal counsel and parental notification, she would not have the discernment to know that those interrogating her did not have her best interests at heart. I would be horrified to hear of any child being questioned without these rights.

I respectfully urge a favorable report on SB136/HB315.

# **SB136 - FAV - Mark Paster.pdf**

Uploaded by: Lloyd, Rianna

Position: FAV

February 4, 2021

Mark Paster  
Silver Spring, MD 20910

**TESTIMONY IN SUPPORT OF SBI36/HB315**  
**Juvenile Law - Juvenile Interrogation Protection Act**

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

**FROM:** Mark Paster

My name is Mark Paster and I am a resident of Silver Spring, District 20. I am writing in support of SBI36/HB315, Juvenile Law - Juvenile Interrogation Protection Act.

Children are treated differently and given more protections by our society because we know most children lack the knowledge, experience, and maturity to make most major life decisions on their own. I can certainly recall my own childhood when I thought I knew better than anyone else, was more knowledgeable than most adults, and could easily outsmart the grownups around me. I expect that most of us, when being honest with ourselves, recall similar feelings from our younger days. Maturity, in part, is the recognition that maybe we're not quite as superior to those around us as we once thought.

I clearly remember several times from my much younger days when I did things that I can now recognize as stupid acts of immaturity. In a few of those, it would have been possible that law enforcement might have become involved. Luckily for me, that didn't happen but had it happened, my life would have been very different, and probably more limited. I was lucky, not smart or mature.

Many children act inappropriately because they're immature. That's not news. But when children act inappropriately at the wrong time or place, or in a significant way, that means law enforcement gets involved. It does not mean that the child suddenly gains the maturity to know what is really in their own best interest. They probably do not realize that what they say might exacerbate the difficulty they're facing. They probably do not realize that the police officer's role in the situation is not to help them get out of trouble. They may not realize that the police officer is a trained investigator and questioner and they may be trying to outsmart a professional who isn't required to tell the truth to them.

This legislation requires that parents or adults responsible for a child be notified promptly when their child is in custody. It is hard for me, as a parent, to fathom how anyone could oppose such a requirement. One of the most terrifying times of parenthood were those moments when my child was late and we had no idea where they were, or who they were with. Those happen for a lot of innocent reasons, but I cannot imagine the horrible feeling of a parent not being able to locate their child, only to find out they were in police custody. Our society should never do that to any parent.

A more just society includes treating our children more justly and showing them that not only are there consequences for their actions, but they have rights and protections as well. Ensuring that the children also have access to a lawyer, a knowledgeable adult advocate, before police can question them, is that critical protection they need and deserve. When they are alleged to have seriously misbehaved, they and their parents have not forfeited their right to be treated fairly and decently.

**I respectfully urge a favorable report on SBI36/HB315.** Thank you.

# **SB136 - FAV - Samantha Blau.pdf**

Uploaded by: Lloyd, Rianna

Position: FAV

February 4, 2021

Samantha Blau  
Baltimore, MD 21224

**TESTIMONY IN SUPPORT OF SBI36/HB315**  
**Juvenile Law - Juvenile Interrogation Protection Act**

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

**FROM:** Samantha Blau

My name is Samantha Blau, I am a resident of Baltimore's Patterson Place neighborhood, in District 46. I am also a former educator with over ten year's experience working with students and teachers in Baltimore City and across the state of Maryland. As a teacher, an organizer, and a resident of Baltimore I submit this testimony in favor of SBI36/HB315, Juvenile Law - Juvenile Interrogation Protection Act.

Children are regarded as the hope of the future in every society, yet among the Jewish people this concept is enhanced by the view that children are a Divine trust and guarantors of the future. The Book of Psalms (127 v.3) declares "children are an inheritance from the Lord."

It is our sacred duty to treat children lovingly and humanely. Yet children do not have many rights in our society. In past sessions, this committee has heard testimony on behalf of Maryland Dreamers, young people brought to this country by their parents and not of their own volition. I am happy that they are here, but their initial residency was not their choice. The Economic Matters committee has heard testimony on behalf of paid sick leave, without which sick kids whose parents could not afford to stay home would be forced to go to school with strep throat and fevers. Right now, a police officer in the state of Maryland can pick a child up for questioning, decide that the child has waived their right to counsel, and go about questioning them.

Before I can pick up my nieces and nephews from summer camp, the camp facility needs prior authorization from their parents and I need to produce a state issued photo ID. I wonder how, in a society that claims to value children, their futures, and their safety, we can currently allow a stranger to take possession of a child and not notify their parent or guardian. How can we allow a person not known to a child to make a potentially life-altering decision for them, like the decision as to whether they understand the implications of the right to counsel? The right to counsel is so fundamental that it is guaranteed by a Supreme Court case. I am disgusted to think that our state touts our children's high test scores, but denies them access to their parent/guardian and legal representation because we assume an adult with a badge knows what the right decision is for a child they don't know.

I urge this committee to **issue a favorable report on SBI36/HB315 as swiftly as possible.** I care about our children and they need this law.

# **SB136 - FAV - Toby Ditz.pdf**

Uploaded by: Lloyd, Rianna

Position: FAV

February 4, 2021

Toby Ditz  
Baltimore, MD 21217

**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.



# **Luft SB 136 SUPPORT.pdf**

Uploaded by: Luft, Emily

Position: FAV

**Testimony Concerning SB 136**  
**“Juvenile Law – Juvenile Interrogation Protection Act”**  
**Submitted to the Senate Judicial Proceedings Committee**  
**February 4, 2021**

**Position: SUPPORT**

Dear Senator Carter,

I, Emily Luft, strongly support SB 136. I am a graduate student at the University of Maryland, Baltimore, where I am getting my master’s degree in social work focusing on children and families. I also currently intern at the Office of the Public Defender in Baltimore with the social work team, working with juveniles involved in the system. This testimony represents my own views based on a review of the available research and does not necessarily represent the views of the University of Maryland, Baltimore or the Office of the Public Defender.

Miranda warnings give individuals protection who are in custody and are suspected of a crime, allowing those individuals the choice to remain silent and wait for an attorney to be assigned to them in order to not potentially incriminate themselves. Though Miranda warnings are now a hallmark of the criminal justice system and read to individuals in custody or about to be interrogated, there are concerns that juveniles waive their Miranda rights without fully understanding the consequences of that waiver.

SB 136 builds on the precedents of cases such as *In re Gault*, *Roper v. Simmons*, *Graham v. Florida*, and *J.D.B v. North Carolina*. *In re Gault* grants juveniles the same protections as adults in the criminal justice system, and the other three cases define and expand on how juveniles are fundamentally different from adults due to their immaturity, underdeveloped sense of responsibility, and a greater susceptibility to influence by peers and other factors. Given these stated differences stemming from these cases, it is necessary to take these factors into consideration when giving Miranda warnings to juveniles, as well as taking the steps to protect juveniles through the means SB 136 offers with notification of the juvenile’s guardian(s) as well as making sure the juvenile has access to an attorney. An analysis of Miranda comprehension among juveniles done in 2015 by Zelle, et al. suggests that the vast majority of youth struggled with various words in the Miranda warnings, and youth are generally at risk for misunderstanding Miranda warnings. The right to remain silent is a common misunderstanding with youth, believing that being silent will hurt them in the long run. The study also found that youth misunderstand the role of a defense attorney and their role played for a youth’s defense. Overall, this study found that there are various aspects of Miranda warnings that youth do not fully understand or comprehend, in line with other studies done on the topic. A national survey published in 2005 explored the issue of juveniles incarcerated with a disability and found that on average the prevalence rate of youth with a disabling condition was around 33.4%. The top two disabilities in youth at these facilities were emotional disturbance and specific learning disabilities. The prevalence of disabilities in incarcerated youth should raise concerns about the ability of juveniles to fully comprehend the proceedings of the justice system, given the high rates of learning disabilities along with emotional disturbance in youth, which contributes to their lack of understanding of the legal system. 22% of school related arrests involve students with

disabilities despite only making up 11% of the student population, and students with disabilities are referred to law enforcement 16% more often compared to students without disabilities.

The US criminal justice systems already make the distinction between juveniles and adults, giving juveniles extra protections due to their developing brains. Juvenile's developmental trajectory make them more vulnerable to coercive interrogation practices and less likely to understand the consequences of waiving their Miranda rights. Additionally, justice-involved youth tend to be more vulnerable and often have higher rates of disabilities when entering the system compared to the general public. SB 136 would afford greater protection to juveniles when taken into law enforcement custody. These protections not only shield the Constitutional rights of the juvenile but uphold the integrity of the justice system.

For these reasons, I urge your favorable consideration of SB 136.

Respectfully,

Emily Luft

# **SB 136 - Juvenile Interrogation Protection Act.pdf**

Uploaded by: McDonald, Ericka

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of white folks working as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 12. I am also on the Board of Directors of the League of Women Voters, Baltimore County. I am testifying **in support of Senate Bill 136**



Senate Bill 136 will require a law enforcement officer to contact a parent/guardian with reasonable notice and provide consultation with an attorney for any child they plan to interrogate. I request that you support this legislation to protect children from the manipulation and fear they can experience during a police interrogation.

Both the United States and Maryland Constitution provide the right to be free from self-incrimination and the right to effective assistance of legal counsel. Although these rights are important for adults, they are even more important for minors, who are often under added pressure to please adult figures of authority and may not understand the motivations a law enforcement official may have for misleading or intimidating them. Minors may also not understand the long-term implications of agreeing to something an adult figure of authority may pressure them to say, which in the case of interrogation by law enforcement can have life-long negative repercussions. These concerns were recognized by the legal community in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court, which stated that minors had “diminished capacity” and were not able to fully understand the risks and consequences of their actions.

A well-known historical example of the consequences of children testifying without the presence of their parents or without having the opportunity to consult with legal counsel is the Central Park Five. In this case, police used intimidation and their role of the authority figure to coerce a group of minors into guilty pleas, even though no evidence for the guilt of the minors existed. As a result, six Black young men were imprisoned for years, only to have their convictions vacated years later. This is a situation that could easily be replayed in Maryland due to our current gap in ensuring minors are provided with the guaranteed legal support they are supposed to be guaranteed.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 136** to ensure children get the help they need before being interrogated by police.

I appreciate your time, service, and consideration.

Sincerely,

Ericka McDonald

418 Harwood Rd.  
Catonsville, MD 21228  
Showing Up for Racial Justice Baltimore

# **SB136 Juvenile Interrogation 2021 BCSAO LOS.pdf**

Uploaded by: Mosby, Marilyn

Position: FAV



## **SB136 Support**

February 4, 2021

Senator Will Smith  
Chair, Judicial Proceedings  
Miller Senate Building  
11 Bladen Street  
Annapolis, MD 21401

### **Re: Support for Senate Bill 136 – Juvenile Law – Juvenile Interrogation Protection Act**

Dear Chairman Smith and Committee Members:

As the State's Attorney for Baltimore City, I stand in strong support of Senate Bill (SB) 136, which, if passed, would prohibit a law enforcement officer from conducting a custodial interrogation of a child until the child has consulted with an attorney and the law enforcement officer has notified the parent, guardian, or a custodian of the child that the child will be interrogated. A statement or evidence obtained as a result of a violation of these provisions is inadmissible as evidence in any legal action involving the child.

SB136 is an important piece of legislation that can protect our children while at the same time promoting public safety. The need for this reform became clear when we exonerated three African American individuals who were sentenced to life in the early 1980s at the age of sixteen for a murder they were ultimately found to not having committed. Through our investigations, my Conviction Integrity Unit discovered that the witnesses in this case, who were all under eighteen years of age at the time of interrogation, were interrogated repeatedly by the officers without any adults present. This led to them falsely identifying the three wrongfully convicted children as the perpetrators. Their resulting convictions were largely based on this false testimony.

Current policy on this issue – followed by my office – stems from *Moore v. State*, a case heard before the Maryland Court of Appeals. Of note, the Court stated that "Great care must be taken to assure that statements made to the police by juveniles are voluntary before being permitted in evidence. The absence of a parent or guardian at the juvenile's interrogation is an important factor in determining voluntariness, although the lack of access to parents prior to interrogation does not automatically make a juvenile's statement inadmissible." We also ask police to make every effort to contact the parent or legal guardian, and explain the Miranda process to youth. However this policy is just policy. It is not a substitute for law. We need to codify reforms that strengthen the juvenile interrogation process. SB136 would provide reforms and safeguards to prevent future miscarriages of justice.

For these reason, I urge you to consider a favorable report for SB136.

STATE'S ATTORNEY  
Marilyn J. Mosby



OFFICE *of the* STATE'S ATTORNEY *for* BALTIMORE CITY  
120 East Baltimore Street | Baltimore, Maryland 21202

Sincerely,

A handwritten signature in blue ink, reading "Marilyn J. Mosby". The signature is fluid and cursive, with the first name "Marilyn" and last name "Mosby" clearly legible.

Marilyn J. Mosby  
State's Attorney for Baltimore City



# **SB 136\_FAV\_ACLUMD\_Nalley.pdf**

Uploaded by: Nalley, Justin

Position: FAV



## Testimony for the Senate Judicial Proceedings Committee

February 4, 2021

### SB 136 – Juvenile Law – Child Interrogation Protection Act

#### FAVORABLE

JUSTIN NALLEY  
POLICY ANALYST,  
EDUCATION

AMERICAN CIVIL  
LIBERTIES UNION  
OF MARYLAND

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GENERAL COUNSEL

The ACLU of Maryland supports SB 136, which would require a law enforcement officer who takes a child into custody to provide notice to the child's parents, guardian, or custodian and prohibit the custodial interrogation of the child by a law enforcement officer until the child has consulted with an attorney.

Every day in Maryland, children entangled in the criminal legal system are questioned without a parent or attorney present. As a result, they face criminal charges, prosecution, and incarceration without the basic due process rights that adults are entitled to.

The right to counsel for children was established in 1967 with the landmark case *In re Gault*, 387 U.S. 1, 87 S. Ct. 1428 (1967). The Supreme Court held in *Gault* that children have the right to remain silent and that no child can be convicted unless compelling evidence is presented in court, under the due process clause of the 14th amendment. Yet, in Maryland, law enforcement is not required to call parents or attorneys before a child is interrogated.

#### **Black children are particularly harmed in the criminal legal system**

This lack of protection for children is on full display, due to the various touchpoints and interactions that children, especially Black children, have with law enforcement. 90% of all complaints against Black children are filed by the police (including school police and school resource officers).<sup>1</sup> In addition, Black students are more likely to be arrested in school than all other racial or ethnic groups combined.<sup>2</sup>

#### **Children make better decisions with legal support**

Studies show that children waive their Miranda rights at a rate of 90% and make false confessions at a higher rate than adults.<sup>3</sup> Although arrests of youth

---

<sup>1</sup> <https://djs.maryland.gov/Documents/DRG/Youth-of-Color.pdf>

<sup>2</sup> <http://www.marylandpublicschools.org/about/Documents/DSFSS/SSSP/StudentArrest/MarylandPublicSchoolsArrestDataSY20172018.pdf>, p. 125

<sup>3</sup> <https://abcnews.go.com/US/30000-children-age-10-arrested-us-2013-fbi/sto-ry?id=65798787>

have declined, there are still over 30,000 children under the age of 10 that have been arrested in the U.S. from 2014 to 2018.<sup>4</sup> In Maryland, children as young as seven years old can be ensnared in the criminal legal system.<sup>5</sup>

Children are our most vulnerable population and must be provided the necessary protections under the law and the right to due process. This includes putting the proper mechanisms in place, so that when law enforcement must interrogate a child, the child has consulted with an attorney and their parents or guardians are notified. This bill will begin to safeguard against the lack of experience, judgement, and developmental maturity that youth have, and protect them from entanglement in the criminal legal system.

For the foregoing reasons ACLU of Maryland urges a favorable report for SB 136.

---

<sup>4</sup> [https://www.ojjdp.gov/ojstatbb/structure\\_process/qa04102.asp?qaDate=2016](https://www.ojjdp.gov/ojstatbb/structure_process/qa04102.asp?qaDate=2016)

<sup>5</sup> <https://njdc.info/wp-content/uploads/2013/11/Final-Maryland-Assessment-Report.pdf>



# **MD Catholic Conference\_SB 136\_FAV.pdf**

Uploaded by: O'Day, Garrett

Position: FAV



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

**February 4, 2021**

**SB 136**

**Juvenile Law – Juvenile Interrogation Protection Act**

**Senate Judicial Proceedings Committee**

**Position: Support**

The Maryland Catholic Conference offers this testimony in SUPPORT of Senate Bill 136. The Catholic Conference represents the public-policy interests of the three (arch)dioceses serving Maryland, including the Archdioceses of Baltimore and Washington and the Diocese of Wilmington, which together encompass over one million Marylanders.

Senate Bill 136 safeguards against custodial interrogation of a child without the assistance of counsel. This legislation would help ensure that youth held in custody would be afforded the opportunity to at least consult with an attorney, and if they so choose, have one present during custodial interrogation. Moreover, this bill would require parental notification that the child will be interrogated.

Our United States and Maryland Constitutions guarantee numerous rights to its citizens, but particularly to those involved with our systems of criminal justice. These are included but not limited to the right to be free from self-incrimination and the right to the effective assistance of counsel. Both of these rights are further safeguarded by this legislation.

Our society rightfully makes numerous efforts to protect constitutional rights, but there should be heightened scrutiny around ensuring that those rights are even further safeguarded for youth. In *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court specifically noted that youthful offenders possessed “diminished capacity” and the inability to fully appreciate the risks and consequences of their actions. Moreover, the United States Conference of Catholic Bishops has cautioned that system-involved youth should never be treated as if they are “fully formed in conscience and fully aware of their actions.” *Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice* (2000),

This bill helps to protect youth who are subject to custodial interrogation from incriminating themselves, whether truthfully against their constitutional rights, or in a false manner in perceived or actual duress. If the State of Maryland truly values the rights and protections afforded by our Constitution, we owe it to youth subject to custodial interrogation to see that the rights afforded by the document are upheld.

It is for these reasons that we urge a favorable report on Senate Bill 136

# **MAYSB - SB 136 FAV - Juvenile Interrogation.pdf**

Uploaded by: Park, Liz

Position: FAV



*"Being here for Maryland's Children, Youth, and Families"*

**Testimony submitted to Senate Judicial Proceedings Committee**

**February 4, 2021**

**Senate Bill 136 – Juvenile Law – Juvenile Interrogation Protection Act  
Support**

The Maryland Association of Youth Service Bureaus, which represents a network of Bureaus throughout the State of Maryland, Supports SB 136 –Juveniles Law – Juvenile Interrogation Protection Act. Youth Service Bureaus are Community Based programs that work with youth and their families to decrease the likelihood of youth involvement or re-involvement with the Department of Juvenile Services. This bill will ensure that youth are fully informed of their rights during interrogation and that parents and caregivers are given full and accurate notice of the youth's detainment. We believe that this action corresponds with the State's movement toward a juvenile system that is developmentally informed.

A developmentally informed approach to juvenile justice recognizes the need to hold youth accountable for their actions while also offering them the resources and opportunities to divert them from future involvement with the juvenile justice system. It recognizes that youth are still maturing and that their brains are not fully developed until after age 24. Youth in custody should be afforded the right to counsel or parental guidance before speaking with law enforcement or waiving their rights. The Supreme Court held in *Gault* that that children have the right to remain silent and that no child can be convicted unless compelling evidence is presented in court, under the due process clause of the 14th amendment. Yet, in Maryland, law enforcement is not required to call parents or attorneys before a child is interrogated. A child or adolescent does not have the maturity to decide to waive their rights and need the advice of an adult in making this decision. This bill also requires law enforcement to accurately inform parents of the child's location, the reason the child is in custody and how the parent or guardian can make immediate contact with the child.

Parents and caregivers need to not only know where the child is but also how to access legal representation for the child. Maryland has no uniform process to appoint public defenders and no eligibility criteria for indigency. Parents with low income who need public defender services for a child face confusing procedures that vary from county to county. For example, parents may not have the required financial documentation or \$25 intake fee to apply for services immediately, or may not be aware that they must apply within a certain time period. This bill ensures that he child has legal representation before interrogation and thus allows parents and caregivers the opportunity to understand these systems and navigate them appropriately.



A developmentally informed system is also fair and works to ensure that all youth receive fair and equal treatment. This bill will assist the State of Maryland in addressing racial and ethnic disparities (RED) found in the juvenile justice system. Data in Maryland shows that youth of color are disproportionately impacted at each decision point in the juvenile justice system. Maryland data shows that of the total complaints received by DJS in 2020 (14,913) 71% were youth of color (10,691). For Youth whose cases were formalized, (5806) 78% were youth of color (4528). When one looks at youth committed to DJS care 74% (371) were youth of color (Data Resource Guide 2020 for the Department of Juvenile Services). This bill will help ensure fair treatment for youth of color as currently they are more likely to move further into the juvenile system.

MAYSB believes that following a developmental informed approach to juvenile justice is important as it works to establish a fair and equal system for all youth and allows youth the opportunity to be held accountable for their actions while also offering them the resources to develop into to productive and responsible adults.

We ask that you give this legislation a favorable finding.

Respectfully Submitted:

Liz Park, PhD  
MAYSB Chair  
[lpark@greenbeltmd.gov](mailto:lpark@greenbeltmd.gov)

# **SB 136 - Juvenile Interrogation Protection Act.pdf**

Uploaded by: Powell, Holly

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of white folks working as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 46. I am testifying **in support of Senate Bill 136**



Senate Bill 136 will require a law enforcement officer to contact a parent/guardian with reasonable notice and provide consultation with an attorney for any child they plan to interrogate. I request that you support this legislation to protect children from the manipulation and fear they can experience during a police interrogation.

Both the United States and Maryland Constitution provide the right to be free from self-incrimination and the right to effective assistance of legal counsel. Although these rights are important for adults, they are even more important for minors, who are often under added pressure to please adult figures of authority and may not understand the motivations a law enforcement official may have for misleading or intimidating them. Minors may also not understand the long-term implications of agreeing to something an adult figure of authority may pressure them to say, which in the case of interrogation by law enforcement can have life-long negative repercussions. These concerns were recognized by the legal community in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court, which stated that minors had “diminished capacity” and were not able to fully understand the risks and consequences of their actions.

A well-known historical example of the consequences of children testifying without the presence of their parents or without having the opportunity to consult with legal counsel is the Central Park Five. In this case, police used intimidation and their role of the authority figure to coerce a group of minors into guilty pleas, even though no evidence for the guilt of the minors existed. As a result, six Black young men were imprisoned for years, only to have their convictions vacated years later. This is a situation that could easily be replayed in Maryland due to our current gap in ensuring minors are provided with the guaranteed legal support they are supposed to be guaranteed.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 136** to ensure children get the help they need before being interrogated by police.

I appreciate your time, service, and consideration.

Sincerely,

**Holly Powell**

**2308 Cambridge Street**

**Baltimore, Maryland 21224**

Showing Up for Racial Justice Baltimore

# **Ramsey Juvenile Interrogation MD 2021 Testimony SB**

Uploaded by: Ramsey, Debbie

Position: FAV



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Detective Sergeant Neil Woods, Ret.  
Derbyshire, England, LEAP UK

Date: February 4, 2021

Re: SB 136 - Maryland Juvenile Interrogation Protection Act

Position: SUPPORT

To: The Maryland Senate Judicial Proceedings Committee

Distinguished Committee Members,

Thank you for the opportunity to testify in support of SB 136 today. I am here to represent my own views as a retired detective from the Baltimore Police Department and as a speaker for the Law Enforcement Action Partnership (LEAP). LEAP is a nonprofit group of police, prosecutors, judges, and other criminal justice professionals who speak from firsthand experience. Our mission is to make communities safer by focusing law enforcement resources on the greatest threats to public safety and working toward healing police-community relations.

This legislation is important to me because of my experience working with community members and children. In addition to my public safety career, I am the founder and executive director of Unified Efforts Inc. Our "Out of School Time" violence prevention program provides in-school activities and programs to children for no cost to their parents. So juvenile justice is an issue that is near and dear to my heart.

I am speaking in support of SB 136 because it will positively impact police-community trust. If we interrogate children without giving them access to proper protection such as having an attorney present, the families of the children and the community will feel that the police are taking advantage of them. Juveniles are impressionable and they are known to confess to crimes they did not commit under interrogation. A single instance of incarcerating an innocent child can turn an entire community against the police.

As a detective, I quickly learned that police-community trust is essential to public safety. We are only as strong as our relationships with the public,

**LawEnforcementActionPartnership.org**

*Formerly known as Law Enforcement Against Prohibition*

because we prevent and solve crime based on information from witnesses and victims. When our officers come knocking, nobody will open the door and talk if they're angry because police are interrogating children without an attorney present. Victims won't even report crime -- a recent report found that more than half of all violent crimes went unreported between 2006 and 2010.<sup>1</sup> To increase crime reporting and information sharing, we need to take action to improve police-community trust.

Unnecessary incarceration resulting from juvenile interrogation will also have long-term effects on involvement in the justice system. Children who are incarcerated are more likely to reoffend than those who are kept in the community. [A Council of State Governments report](#) found that up to 80 percent of incarcerated juveniles are rearrested within 3 years of release. Upon release, most juveniles do not complete high school, which greatly decreases their chances of finding stable employment and staying out of the justice system.

Instead of increasing the snowball effect of involving children in the justice system, our legislature should fund early intervention programs that have a proven record of success in preventing root causes of violence and reducing recidivism.

In sum, due to my experience with juveniles and public safety, I believe that the proposed bill, SB 136, will strengthen police relationships with the community. Juvenile interrogations fuel distrust in the communities we need to protect and serve. It is time to invest in prevention instead of punishment.

Thank you for the opportunity to share my experience in support of this bill.

Detective Debbie Ramsey (Ret.)  
Baltimore Police Department, Maryland  
Speaker, Law Enforcement Action Partnership

# **SB 136 - Juvenile Interrogation Protection Act.pdf**

Uploaded by: Rehr, Nathan

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of white folks working as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District **45**. I am an active member of my community association and a health professional who is interested in eliminating the health disparities that occur with racial discrimination in our society. I am testifying **in support of Senate Bill 136**



Senate Bill 136 will require a law enforcement officer to contact a parent/guardian with reasonable notice and provide consultation with an attorney for any child they plan to interrogate. I request that you support this legislation to protect children from the manipulation and fear they can experience during a police interrogation.

Both the United States and Maryland Constitution provide the right to be free from self-incrimination and the right to effective assistance of legal counsel. Although these rights are important for adults, they are even more important for minors, who are often under added pressure to please adult figures of authority and may not understand the motivations a law enforcement official may have for misleading or intimidating them. Minors may also not understand the long-term implications of agreeing to something an adult figure of authority may pressure them to say, which in the case of interrogation by law enforcement can have life-long negative repercussions. These concerns were recognized by the legal community in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court, which stated that minors had “diminished capacity” and were not able to fully understand the risks and consequences of their actions.

A well-known historical example of the consequences of children testifying without the presence of their parents or without having the opportunity to consult with legal counsel is the Central Park Five. In this case, police used intimidation and their role of the authority figure to coerce a group of minors into guilty pleas, even though no evidence for the guilt of the minors existed. As a result, six Black young men were imprisoned for years, only to have their convictions vacated years later. This is a situation that could easily be replayed in Maryland due to our current gap in ensuring minors are provided with the guaranteed legal support they are supposed to be guaranteed.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 136** to ensure children get the help they need before being interrogated by police.

I appreciate your time, service, and consideration.

Sincerely,  
**Nathan Rehr**  
**450 E. Federal Street Baltimore, MD 21202**  
Showing Up for Racial Justice Baltimore



# **Richards SB 136 - SUPPORT.pdf**

Uploaded by: Richards, Elizabeth

Position: FAV

**Testimony Concerning SB 136**  
**“Juvenile Law – Juvenile Interrogation Protection Act”**  
**Submitted to the House Judicial Proceedings Committee**  
**February 4, 2021**

**Position: SUPPORT**

Dear Senator Carter,

I, Elizabeth Richards, strongly support SB 136. I am a graduate student in Towson University's Clinical Psychology program, where I am completing an internship with Maryland's Office of the Public Defender, Social Work Division. This testimony represents my own views based on a review of the available research and does not necessarily represent the views of Towson University or Maryland's Office of the Public Defender.

In cases such as *Roper v. Simmons*, *J.D.B. v. North Carolina*, and *Graham v. Florida*, the US Supreme Court recognizes that juveniles are profoundly different than adults and in need of extra protections. SB 136 builds on that tradition, adding safeguards to the interrogation process. Our society does not allow anyone under the age of 18 years to enlist in the military without parental consent or vote, so it does not follow that we should allow anyone under the age of 18 years to be taken into law enforcement custody and waive their Miranda rights without notifying the juvenile's parents or guardians. Due to the complexities of the criminal justice system, research suggests the mere presence of a parent or guardian is not enough to ensure a juvenile's rights are upheld. A defense attorney can provide better insight into all the available options and likely outcomes for a juvenile being questioned by law enforcement. Additionally, ensuring the language used when issuing the Miranda warning is age-appropriate is consistent with the Supreme Court's ruling in *Miranda v. Arizona* that one must knowingly and intelligently waive their Constitutionally protected rights.

Juveniles waive their Miranda rights up to 90% of the time, a much greater rate than found among adults. Due to their developing brains, juveniles are primed to focus more on the immediate reward (i.e., the prospect of being allowed to leave and escape the immediate threat) and not on the long-term consequences of their actions (i.e., involvement in the justice system, incarceration). This makes juveniles extremely vulnerable to making a false confession as a way to end the current distress (i.e., the interrogation) they are experiencing. In interviews with 193 justice-involved youths, researchers found that 35% reported they made at least one false confession when questioned by law enforcement.

In addition, research suggests that justice-involved youth may be especially vulnerable to coercive interrogation practices given the high rate of trauma experiences and mental health issues within this population. A 2014 study of 350 justice-involved youth by the Geisel School of Medicine at Dartmouth found that 45.7% of their sample screened positive for posttraumatic stress disorder, 49.4% screened positive for depression, and 26.3% of the sample endorsed multiple psychiatric disorders. These results are similar to a review of 100 cases involving Baltimore City justice-involved youth from 2009-2011. In that review, a mental health evaluation was conducted for only 43 of the juveniles following their involvement with the

justice system, however, every evaluation resulted in at least one psychiatric disorder diagnosis. This highlights the high rate of trauma and psychiatric disorders found within populations of justice-involved youth, which increases their susceptibility to waive their Miranda rights without a full understanding of what that means.

The US criminal justice systems already perceive juveniles as unique from adults requiring extra protections due to their developing brains. Juvenile's developmental trajectory make them more vulnerable to coercive interrogation practices and more likely to waive their Miranda rights and/or make a false confession compared to adults. Additionally, justice-involved youth tend to be more vulnerable, with greater rates of trauma exposure and mental illness compared to the general public. SB 136 would afford greater protection to juveniles when taken into law enforcement custody. These protections not only shield the Constitutional rights of the juvenile but uphold the integrity of the justice system.

For these reasons, I urge your favorable consideration of SB 136.

Respectfully,

Elizabeth Richards

# **SB 136 - Juvenile Interrogation Protection Act.pdf**

Uploaded by: Rochkind, Jonathan

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of white folks working as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 43. I am testifying **in support of Senate Bill 136**



Senate Bill 136 will require a law enforcement officer to contact a parent/guardian with reasonable notice and provide consultation with an attorney for any child they plan to interrogate. I request that you support this legislation to protect children from the manipulation and fear they can experience during a police interrogation.

Both the United States and Maryland Constitution provide the right to be free from self-incrimination and the right to effective assistance of legal counsel. Although these rights are important for adults, they are even more important for minors, who are often under added pressure to please adult figures of authority and may not understand the motivations a law enforcement official may have for misleading or intimidating them. Minors may also not understand the long-term implications of agreeing to something an adult figure of authority may pressure them to say, which in the case of interrogation by law enforcement can have life-long negative repercussions. These concerns were recognized by the legal community in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court, which stated that minors had “diminished capacity” and were not able to fully understand the risks and consequences of their actions.

A well-known historical example of the consequences of children testifying without the presence of their parents or without having the opportunity to consult with legal counsel is the Central Park Five. In this case, police used intimidation and their role of the authority figure to coerce a group of minors into guilty pleas, even though no evidence for the guilt of the minors existed. As a result, six Black young men were imprisoned for years, only to have their convictions vacated years later. This is a situation that could easily be replayed in Maryland due to our current gap in ensuring minors are provided with the guaranteed legal support they are supposed to be guaranteed.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 136** to ensure children get the help they need before being interrogated by police.

I appreciate your time, service, and consideration.

Sincerely,

Jonathan Rochkind  
755 Melville Ave  
Baltimore MD 21218

Showing Up for Racial Justice Baltimore

# **SB 136 - Juvenile Interrogation Protection Act.pdf**

Uploaded by: Rosenthal, Anne

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of white folks working as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 40. I am testifying **in support of Senate Bill 136**.



Senate Bill 136 will require a law enforcement officer to contact a parent/guardian with reasonable notice and provide consultation with an attorney for any child they plan to interrogate. I request that you support this legislation to protect children from the manipulation and fear they can experience during a police interrogation.

Both the United States and Maryland Constitution provide the right to be free from self-incrimination and the right to effective assistance of legal counsel. Although these rights are important for adults, they are even more important for minors, who are often under added pressure to please adult figures of authority and may not understand the motivations a law enforcement official may have for misleading or intimidating them. Minors may also not understand the long-term implications of agreeing to something an adult figure of authority may pressure them to say, which in the case of interrogation by law enforcement can have life-long negative repercussions. These concerns were recognized by the legal community in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court, which stated that minors had “diminished capacity” and were not able to fully understand the risks and consequences of their actions.

A well-known historical example of the consequences of children testifying without the presence of their parents or without having the opportunity to consult with legal counsel is the Central Park Five. In this case, police used intimidation and their role of the authority figure to coerce a group of minors into guilty pleas, even though no evidence for the guilt of the minors existed. As a result, six Black young men were imprisoned for years, only to have their convictions vacated years later. This is a situation that could easily be replayed in Maryland due to our current gap in ensuring minors are provided with the guaranteed legal support they are supposed to be guaranteed.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 136** to ensure children get the help they need before being interrogated by police.

I appreciate your time, service, and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "AR", with a long horizontal line extending to the right.

Anne Rosenthal

810 Cathedral St. Baltimore, MD 21201

Showing Up for Racial Justice Baltimore

# **SB136- Testimony- Support- JS.pdf**

Uploaded by: Sell, Jennifer

Position: FAV



Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Annapolis and Anne Arundel County, a group of white folks working as part of a multi-racial movement for equity and racial justice in Annapolis and Anne Arundel County. I am a resident of MD District 33. I am testifying **in support of Senate Bill 136**.

Senate Bill 136 will require a law enforcement officer to contact a parent/guardian with reasonable notice and provide consultation with an attorney for any child they plan to interrogate. I request that you support this legislation to protect children from the manipulation and fear they can experience during a police interrogation.

Both the United States and Maryland Constitution provide the right to be free from self-incrimination and the right to effective assistance of legal counsel. Although these rights are important for adults, they are even more important for minors, who are often under added pressure to please adult figures of authority and may not understand the motivations a law enforcement official may have for misleading or intimidating them. Minors may also not understand the long-term implications of agreeing to something an adult figure of authority may pressure them to say, which in the case of interrogation by law enforcement can have life-long negative repercussions. These concerns were recognized by the legal community in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court, which stated that minors had “diminished capacity” and were not able to fully understand the risks and consequences of their actions.

A well-known historical example of the consequences of children testifying without the presence of their parents or without having the opportunity to consult with legal counsel is the Central Park Five. In this case, police used intimidation and their role of the authority figure to coerce a group of minors into guilty pleas, even though no evidence for the guilt of the minors existed. As a result, six Black young men were imprisoned for years, only to have their convictions vacated years later. This is a situation that could easily be replayed in Maryland due to our current gap in ensuring minors are provided with the guaranteed legal support they are supposed to be guaranteed.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 136** to ensure children get the help they need before being interrogated by police.

I appreciate your time, service, and consideration.

Sincerely,  
Jennifer Sell  
444 Lynwood Dr  
Severna Park, MD 21146  
Showing Up for Racial Justice Annapolis and Anne Arundel County

# **SB 136 - Juvenile Interrogation Protection Act.doc**

Uploaded by: Simmons, Christina

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of white folks working as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 42B, a recent Towson University grad, an aunt, and a nanny for two kids that feel like my own. For the little ones in my life, and little ones everywhere, I am testifying **in support of Senate Bill 136**.



Senate Bill 136 will require a law enforcement officer to contact a parent/guardian with reasonable notice and provide consultation with an attorney for any child they plan to interrogate. I request that you support this legislation to protect children from the manipulation and fear they can experience during a police interrogation.

Both the United States and Maryland Constitution provide the right to be free from self-incrimination and the right to effective assistance of legal counsel. Although these rights are important for adults, they are even more important for minors, who are often under added pressure to please adult figures of authority and may not understand the motivations a law enforcement official may have for misleading or intimidating them. Minors may also not understand the long-term implications of agreeing to something an adult figure of authority may pressure them to say, which in the case of interrogation by law enforcement can have life-long negative repercussions. These concerns were recognized by the legal community in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court, which stated that minors had “diminished capacity” and were not able to fully understand the risks and consequences of their actions.

A well-known historical example of the consequences of children testifying without the presence of their parents or without having the opportunity to consult with legal counsel is the Central Park Five. In this case, police used intimidation and their role of the authority figure to coerce a group of minors into guilty pleas, even though no evidence for the guilt of the minors existed. As a result, six Black young men were imprisoned for years, only to have their convictions vacated years later. This is a situation that could easily be replayed in Maryland due to our current gap in ensuring minors are provided with the guaranteed legal support they are supposed to be guaranteed.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 136** to ensure children get the help they need before being interrogated by police.

I appreciate your time, service, and consideration.

Sincerely,  
Christina Simmons  
304 Stevenson Lane, APT B8  
Towson, MD 21204  
Showing Up for Racial Justice Baltimore

# **SB 136 - Juvenile Interrogation Protection Act.pdf**

Uploaded by: Smeton, Jonathan

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of white folks working as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 43. **[Optional – outline any personal details or community connections you have].** I am testifying **in support of Senate Bill 136**



Senate Bill 136 will require a law enforcement officer to contact a parent/guardian with reasonable notice and provide consultation with an attorney for any child they plan to interrogate. I request that you support this legislation to protect children from the manipulation and fear they can experience during a police interrogation.

Both the United States and Maryland Constitution provide the right to be free from self-incrimination and the right to effective assistance of legal counsel. Although these rights are important for adults, they are even more important for minors, who are often under added pressure to please adult figures of authority and may not understand the motivations a law enforcement official may have for misleading or intimidating them. Minors may also not understand the long-term implications of agreeing to something an adult figure of authority may pressure them to say, which in the case of interrogation by law enforcement can have life-long negative repercussions. These concerns were recognized by the legal community in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court, which stated that minors had “diminished capacity” and were not able to fully understand the risks and consequences of their actions.

A well-known historical example of the consequences of children testifying without the presence of their parents or without having the opportunity to consult with legal counsel is the Central Park Five. In this case, police used intimidation and their role of the authority figure to coerce a group of minors into guilty pleas, even though no evidence for the guilt of the minors existed. As a result, six Black young men were imprisoned for years, only to have their convictions vacated years later. This is a situation that could easily be replayed in Maryland due to our current gap in ensuring minors are provided with the guaranteed legal support they are supposed to be guaranteed.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 136** to ensure children get the help they need before being interrogated by police.

I appreciate your time, service, and consideration.

Sincerely,  
Jonathan Smeton  
3140 Ellerslie Avenue, Baltimore, MD 21218  
Showing Up for Racial Justice Baltimore

# **SB136Child InterrogationFeb21SPICYN.pdf**

Uploaded by: Spicyn, Natalie

Position: FAV

Natalie Spicyn MD, MHS, FAAP  
3933 Keswick Road  
Baltimore, MD 21211  
District 41

February 2, 2021

**TESTIMONY IN SUPPORT OF SB0136**  
**Juvenile Law - Child Interrogation Protection Act**

**TO:** Hon. Chairman Smith and the members of the Judicial Proceedings Committee  
**FROM:** Natalie Spicyn MD, MHS, FAAP

I am a primary care physician at a community health center in the Park Heights neighborhood of Baltimore, where, as a board-certified pediatrician and adult internal medicine specialist, I care for children, adolescents and adults across the life span. I am writing in strong support of SB 593, which reforms current juvenile interrogation practices to bring them in line with what is appropriate given our understanding of the developing adolescent brain.

It is well-known that the area of the brain that is responsible for higher order cognitive processing, the prefrontal cortex, continues to develop well into the 3rd decade of life. In our medical training, physicians are taught to be responsive to the differences in how adolescents and adults approach decision-making and weigh consequences; for example, when counseling an adult about smoking cessation, we focus on risk of developing emphysema or lung cancer, but when counseling an adolescent, we focus on bad breath, and stained teeth. This is because we understand that the adolescent brain does not process long term risk, such as that of developing lung cancer in several decades, in the same way the adult brain does; it assigns lower saliency, despite greater gravity of this outcome.

It is easy, then, to understand why it is inappropriate for an adolescent to be read the standard "adult" set of Miranda rights, in a situation which is intimidating by definition, and then to potentially waive those rights without the benefit of legal counsel. Without fully comprehending the consequences, juveniles in police custody are easily intimidated into false confessions, which is absolutely unacceptable. Indeed, the Supreme Court of the United States has recognized the need to take age into account when a child is read their Miranda rights.

Children, regardless of their physical size or stature, are not just "little adults" when it comes to their cognitive development and processes, and SB 136 is frankly common sense legislation that ensures that law enforcement must take extra care to not treat children as little adults, expedient as that might be. I hope you will prioritize passage of SB 136 during this legislative session and respectfully urge a favorable report.

# **TPM SB136 Support.pdf**

Uploaded by: Syrrakos, Holly

Position: FAV





## **SB 136 – SUPPORT JUVENILE LAW – JUVENILE INTERROGATION PROTECTION ACT (JIPA)**

Senate Judicial Proceedings Committee

*Dear Chair Smith and Members of the Senate Judicial Proceedings Committee:*

Takoma Park Mobilization is a grassroots organization with 2,300 members that advocates at every level of government, to ensure equal treatment and justice for all. We are in **SUPPORT** of SB 136.

The passage of SB 136 will increase protection for children facing interrogation by requiring a parent or custodian to be present and by asserting the juvenile's right to an attorney. Currently, Maryland law allows police to detain and interrogate a child without a parent's presence or even the knowledge that their child is being questioned or arrested.

According to the Maryland State Department of Education, **3,141 children were arrested** in the 2018-2019 school year. (This number does not include those who may have been interrogated but not arrested.) **More than 70% of those were children of color**—Black, Latino, Asian or biracial—**reflecting the racial disparity rampant in our criminal justice system**. Seventy children were in elementary school when arrested. Special needs children accounted for 727 arrests.

Juveniles are far less likely to assert or understand their rights than adults. And, minors are particularly susceptible to police questioning techniques and interrogation tactics. A University of Michigan Law School study found that "42 percent of exonerated juveniles had falsely confessed, compared with 13 percent of adults." False confessions do not aid public safety.

In 2012, the U.S. Supreme Court acknowledged the diminished culpability of children in *Miller v. Alabama*, ruling that the Constitution mandates children are entitled to unique protections in the criminal justice system. Over the years, science, courts and doctors have researched and documented the differences between children and adults in decision-making capacity—that is why there are separate justice systems for minors and adults. Yet, current Maryland law treats all ages as though they have the same capacity.

SB 136 acknowledges that a minor's brain development and life experience are significantly different from that of adults. This bill, requiring juveniles to have an attorney's assistance to understand their rights, follows what the courts have recognized, science has proven and most states have already implemented.

All Maryland residents benefit when our criminal justice system is made more equitable. We cannot be serious about building a better world until we invest in, and protect our children's human rights. SB 136 is a step in the right direction.

**We urge a favorable report on SB 136.**

*Submitted for Takoma Park Mobilization by Holly Syrrakos, [hollyrockus@gmail.com](mailto:hollyrockus@gmail.com),  
301-312-2525  
February 4, 2021*

# **SB 136 - Juvenile Interrogation Protection Act.doc**

Uploaded by: Todd, Tamara

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of white folks working as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 10. I am testifying **in support of Senate Bill 136**



Senate Bill 136 will require a law enforcement officer to contact a parent/guardian with reasonable notice and provide consultation with an attorney for any child they plan to interrogate. I request that you support this legislation to protect children from the manipulation and fear they can experience during a police interrogation.

Both the United States and Maryland Constitution provide the right to be free from self-incrimination and the right to effective assistance of legal counsel. Although these rights are important for adults, they are even more important for minors, who are often under added pressure to please adult figures of authority and may not understand the motivations a law enforcement official may have for misleading or intimidating them. Minors may also not understand the long-term implications of agreeing to something an adult figure of authority may pressure them to say, which in the case of interrogation by law enforcement can have life-long negative repercussions. These concerns were recognized by the legal community in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court, which stated that minors had “diminished capacity” and were not able to fully understand the risks and consequences of their actions.

A well-known historical example of the consequences of children testifying without the presence of their parents or without having the opportunity to consult with legal counsel is the Central Park Five. In this case, police used intimidation and their role of the authority figure to coerce a group of minors into guilty pleas, even though no evidence for the guilt of the minors existed. As a result, six Black young men were imprisoned for years, only to have their convictions vacated years later. This is a situation that could easily be replayed in Maryland due to our current gap in ensuring minors are provided with the guaranteed legal support they are supposed to be guaranteed.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 136** to ensure children get the help they need before being interrogated by police.

I appreciate your time, service, and consideration.

Sincerely,  
Tamara Todd  
211 Northway Rd, Reisterstown, MD 21136  
Showing Up for Racial Justice Baltimore

# **WDC Testimony SB0136\_FINAL.pdf**

Uploaded by: Tomasello, Beth

Position: FAV



MONTGOMERY COUNTY, MARYLAND  
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

[www.womensdemocraticclub.org](http://www.womensdemocraticclub.org)

**Senate Bill 136-Juvenile Law-Juvenile Interrogation Act  
Judicial Proceedings Committee – February 4, 2021  
SUPPORT**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2021 legislative session. WDC is one of the largest and most active Democratic Clubs in our County with hundreds of politically active women and men, including many elected officials.

WDC urges the passage of SB136. This bill will increase protections for children facing interrogation by law enforcement, and we commend Delegate Bartlett and her cosponsors for their leadership in proposing this legislation.

From a young age, we are taught that lying is bad—that above all else, the truth matters. Unfortunately, this age-old emphasis on truth telling dissipates in our criminal justice system, specifically when law enforcement officers interrogate those accused of crimes. Law enforcement officers can and do lie as a coercive tactic to compel information from the accused.<sup>1</sup> This tool of deception is entirely legal and can lead even the most poised of adults to provide false and incriminating information. When used with children, deception and manipulation is even more troubling.

In *J.D.B. v. North Carolina*, the Supreme Court held that age must be considered when analyzing the details surrounding one's detention. The Court underscored that "it is beyond dispute that children will often feel bound to submit to police questioning when an adult in the same circumstances would feel free to leave," noting that children feel an inherent obligation to obey authority figures.<sup>2</sup> In *Miller v. Alabama* the Court described children as "constitutionally different from adults."<sup>3</sup> The Court has further equated "a mere child" to "an easy victim of the law."<sup>4</sup>

The Court has repeatedly and clearly spoken: the U.S. Constitution mandates unique protections for children in the criminal justice system. However, failure to meet that mandate persists. According to the National Registry of Exonerations, 38% of exonerations for crimes allegedly committed by youth involved false confessions, triple

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<sup>1</sup> *Frazier v. Cupp*, 394 U.S. 731 (1969) (holding defendant's confession voluntary even though induced by law enforcement's dishonesty during interrogation).

<sup>2</sup> *J. D. B. v. North Carolina*, 564 U.S. 261, 264 (2011) (highlighting that law enforcement and courts may not "blind themselves to the commonsense reality" that children are different than adults).

<sup>3</sup> *Miller v. Alabama*, 567 U.S. 460, 471 (2012).

<sup>4</sup> *Haley v. Ohio*, 332 U.S. 596, 599 (1948) ("That which would leave a man cold and unimpressed can overawe and overwhelm a lad in his early teens.").



MONTGOMERY COUNTY, MARYLAND  
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

[www.womensdemocraticclub.org](http://www.womensdemocraticclub.org)

the estimated rate of false confessions generally.<sup>5</sup> Fixated on their desire to return home, children are willing to say whatever they can to free themselves from the four walls of an interrogation room.

Maryland does not treat its children any better than the nation at large. Law enforcement can question a child taken into custody in Maryland without an attorney present, and often, the child's parent or guardian is not notified of the child's detention or adequately informed of the circumstances surrounding the detention. Maryland exacerbates existing injustices surrounding the interrogation of youth by prosecuting children as young as seven, the average age of a second grader.<sup>6</sup> Interrogating a child without allowing the child to consult with an attorney and his parents or guardians and without the attorney's continued presence during questioning does nothing to further the quest for justice.

Children are vulnerable—they lack the developmental maturity, experience, and perspective necessary to withstand interrogation by authorities when faced with criminal accusation. Subjecting children to interrogation that is legally infiltrated by deception and coercion transforms the constitutionally protected presumption of innocence to one of coerced guilt. If seeking justice for all those affected by crime is the goal, we ask you to pass SB136, which will simultaneously inform law enforcement's search for the truth and adequately protect accused children as the Constitution instructs.

**We ask for your support for SB136 and strongly urge a favorable Committee report.**

Respectfully,

Diana Conway  
President

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<sup>5</sup> Zusha Elinson, *False Confessions Dog Teens*, THE WALL STREET JOURNAL (Sept. 8, 2013), <https://www.wsj.com/articles/SB10001424127887324906304579036901493013302>.

<sup>6</sup> Md Code, Cts & Jud Proc § 3–8A–02.

# **YEJ Testimony in Support of Senate Bill 136.pdf**

Uploaded by: Touati, Jayne

Position: FAV

**Testimony in Support of Senate Bill 136**  
**Juvenile Law – Juvenile Interrogation Protection Act**

To: Senator William J. Smith, Jr., and Members of the Judicial Proceedings Committee

From: Jayne Touati and Maya Habash, Student Attorneys, Youth, Education and Justice Clinic, University of Maryland Francis King Carey School of Law, 500 W. Baltimore Street, Baltimore, MD 21201 (admitted to practice pursuant to Rule 19-220 of the Maryland Rules Governing Admission to the Bar)

Date: February 2, 2021

We are student attorneys in the Youth, Education and Justice Clinic (“the Clinic”) at the University of Maryland Francis King Carey School of Law. The Clinic represents children who have been excluded from school through suspension, expulsion, and other means, as well as individuals who are serving life sentences for crimes they committed when they were children (“juvenile lifers”) and who are now eligible to be considered for parole. We write in support of Senate Bill 136, which seeks to enhance legal protections for children before, during, and after a custodial interrogation.

Police interrogation is inherently intimidating, frightening, and confusing to adults. False confessions are a major contributor to wrongful convictions. The coercive tactics law enforcement officers often use during interrogations have caused adults to testify falsely.<sup>1</sup> However, for children in police custody, the intimidation, fear, and confusion is exponentially worse. Children are “particularly vulnerable to external influence . . . experience a heightened reaction to stress . . . struggle to accurately assess risks,” and do not understand the long-term consequences of their actions or decisions, putting them at even greater risk of confessing falsely.<sup>2</sup> Therefore, children are uniquely susceptible in custodial interrogation settings.<sup>3</sup>

Senate Bill 136 takes the urgent and necessary step to protect children and their rights in custodial interrogation settings by prohibiting police officers from interrogating a child until, and after, an attorney has consulted with the child. Importantly, this bill prohibits waiver of the attorney consultation, lessening the opportunity for coercion. Thus, this bill ensures that a child, and his or her guardians, will be provided full explanation and counsel on how to proceed in custodial

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<sup>1</sup> See generally Saul M. Kassir et al., *Police-Induced Confessions: Risk Factors and Recommendations*, 34 L. & HUM. BEHAV. 49 (2009), <https://web.williams.edu/Psychology/Faculty/Kassin/files/White%20Paper%20online%20%2809%29.pdf>.

<sup>2</sup> Megan Crane et al., *The Truth About Juvenile False Confessions*, 16 INSIGHTS ON L. & SOC’Y 2, 14 (2016), <https://olis.leg.state.or.us/liz/2017R1/Downloads/CommitteeMeetingDocument/109353#:~:text=It%20is%20estimated%20that%20false,commit%20than%20their%20adult%20counterparts>.

<sup>3</sup> For example, a “study of 340 exonerations found that 42% of juveniles had falsely confessed, as compared with only 13% of adults.” *Id.* at 12.



interrogation settings by an attorney whose sole purpose is to advocate zealously on the child's behalf.

However, as Senate Bill 136 recognizes, it is not enough that a child consult with an attorney, given the life-lasting stakes involved in any custodial interrogation. As has been documented thoroughly, children often do not understand the traditional *Miranda* warnings police officers must give prior to custodial interrogations.<sup>4</sup> Despite this lack of understanding, several studies have found that children “waive” these rights approximately 90% of the time.<sup>5</sup> The United States Supreme Court has held that a child's age is relevant for a court when determining whether the child believed they were free to leave when subjected to police interrogation, which is a critical component of the *Miranda* analysis.<sup>6</sup> Thus, implementing and requiring age-appropriate *Miranda* warnings, as Senate Bill 136 requires, is not only a positive step, but a necessary measure to minimize unjust outcomes.

Senate Bill 136 is also a necessary measure for racial justice in Maryland. The requirements and protections set forth in the bill understand the reality that Black children and other children of color are substantially more likely than White children to have negative interactions with police officers and the juvenile and criminal justice systems as a whole.<sup>7</sup> In 2018, children of color made up 45% of Maryland's youth population (ages 11 to 17), but comprised over 70% of youth who were referred to the Maryland Department of Juvenile Services for intake.<sup>8</sup> This same year, 62% of Black youth were referred to intake, more than doubling the 29.4% of White youth who were referred.<sup>9</sup>

Many Black children are taught at young ages to comply with police officers, out of fear for their physical safety and their lives. Thus, for Black children who are criminalized in every walk of life and understand deeply the physical risk of law enforcement interaction, the custodial atmosphere is especially intense. Out of sheer fear for their safety and their lives, Black children, as well as children from other racially marginalized groups, are pressured to tell police officers what they

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<sup>4</sup> See Kristen Henning & Rebba Omer, *Vulnerable and Valued: Protecting Youth from the Perils of Custodial Interrogation*, 52 ARIZ. ST. L.J. 883, 898 (2020) (youth often misunderstand the right to silence and “the role of attorneys,” and “researchers [have] found that the majority of youth aged fourteen and younger did not comprehend at least one of their *Miranda* rights”).

<sup>5</sup> Lorelei Laird, *Police Routinely Read Juveniles Their Miranda Rights, But Do Kids Really Understand Them?*, A.B.A., Aug. 1, 2016, [https://www.americanbar.org/groups/public\\_interest/child\\_law/resources/child\\_law\\_practiceonline/child\\_law\\_practice/vol-35/august-2016/police-routinely-read-juveniles-their-miranda-rights--but-do-kid/](https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/child_law_practice/vol-35/august-2016/police-routinely-read-juveniles-their-miranda-rights--but-do-kid/).

<sup>6</sup> *J. D. B. v. North Carolina*, 564 U.S. 261, 271-277 (2011).

<sup>7</sup> In October 2015, the incarceration rate for children in Maryland per 100,000 was 30 for White children and 238 for Black children. THE SENTENCING PROJECT, BLACK DISPARITIES IN YOUTH INCARCERATION (2017), <https://www.sentencingproject.org/wp-content/uploads/2017/09/Black-Disparities-in-Youth-Incarceration.pdf>.

<sup>8</sup> GOVERNOR'S OFFICE OF CRIME CONTROL & PREVENTION, MARYLAND'S ANNUAL DISPROPORTIONATE MINORITY CONTACT PLAN FY 2019: STATEWIDE AND JURISDICTION DATA 3 (May 14, 2019), [https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/MD-FY18-DMC-PLAN\\_508.pdf](https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/MD-FY18-DMC-PLAN_508.pdf).

<sup>9</sup> *Id.* at 4.

believe the officers want to hear. This reality further emphasizes the importance of prohibiting Maryland police officers from interrogating a child until they have the protections that only an attorney can afford.

In sum, Maryland's children need the protections (and rights) of parental notification, attorney consultation, and age-appropriate *Miranda* warnings. Indeed, these protections are interrelated. Each is necessary to protect children. For these reasons, we ask for a favorable report on this bill.

This written testimony is submitted on behalf of the Youth, Education, and Justice Clinic at the University of Maryland Francis King Carey School of Law and not on behalf of the School of Law or the University of Maryland, Baltimore.

# **2021\_0204\_SB0136\_JuvInt\_Testimony\_EzraTowne.pdf**

Uploaded by: Towne, Ezra

Position: FAV

## Ezra MacLeod Towne

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3010 Blueridge Avenue  
Silver Spring, MD 20902

(e) ezra.towne@gmail.com  
(p) 703.609.1092

### **Testimony Favorable to SB0136: Juvenile Interrogation Protection Act**

February 4, 2021

Senator Smith, Chair; Senator Waldstreicher, Vice Chair; and esteemed members of the Judicial Proceedings Committee:

My name is Ezra Towne, and my pronouns are they/them/theirs. I am a parent of two children (ages 8 and 13) who attend Montgomery County Public Schools. **I submit this testimony today in favor of SB0136: Juvenile Interrogation Protection Act.**

I am privileged and lucky to have read this bill in its entirety. I have spare time, a home, a computer, a spouse with a full time job, and children who are doing well with virtual school today. My children are also white, and do not have intense developmental or psychological disabilities. Even so, they are far from perfect, and my 8 year old does have behavioral issues at school, including running away from staff and teachers.

SB0136 guarantees that minors, even if they are charged as adults, must be able to seek counsel before they are interrogated, and that the police officers must make a reasonable attempt to provide actual notice to the parent or guardian of the minor. Essentially, it gives children the same Miranda rights that are read to adults at the point of detention and/or arrest.

Maryland needs this bill, and recent news regarding police intervention, custody, and arrest in elementary, middle, and high school environments in just the past year bring this issue to the forefront.

First, there is clear evidence of disproportionate police intervention and arrest rates for black and brown students - especially black students. Their "crimes" and misbehavior are no different than their white cohorts in school settings.

Second, Maryland has more than a few recent stories involving police custody and arrest of minors in school settings. Below are examples of preschool and elementary school children in Montgomery County Public Schools that were placed in police custody during the school day:

- On January 14, 2020, a 5 year old preschooler “walked out” of East Silver Spring Elementary School. MCPD officers were called to help retrieve Shanta Grant’s child. This five year old was terrified when the officers arrived, and didn’t want to go in the car. The officers grabbed and forcefully placed the child in the police car. One of the officers berated the child on the way to the school - the five year old a “bad kid” who deserved a good spanking from a parent. When they arrived at the school, the officer forced the child into a chair and screamed directly in the preschooler’s face. All of these actions were captured on a body cam. Shanta Grant is suing the county and the school district for the trauma caused to her five year old, and I would do the same in Grant’s shoes.
- On May 14, 2019, a fourth grader was playing with toy money (clearly identifiable as such) on a school bus. Police and the FBI were called and brought to the child’s school. Fake/play/counterfeit money is not illegal unless someone tries to spend it; the child absolutely did not. Tiffany Kelly, the 10 year old’s mother I did not know any of this occurred until almost 4 pm, at the end of the school day, when the officer finally called her. This ten year old had a developmental disability, and was using the play money to help socialize with fellow students.

The above examples are mild compared to police intervention, discipline and arrest in our middle and high schools. I will leave others to submit testimony regarding examples of these throughout Maryland. *The very same parental notification requirement and right to legal counsel should be extended to ALL minors both inside our schools, and outside out of them.*

**I urge the Judicial Proceedings Committee to file a favorable report on SB0136: Juvenile Interrogation Protection Act.**

Sincerely,



Ezra Towner  
D18, Montgomery County

# **Written Testimony SB136.pdf**

Uploaded by: Watts, Linda

Position: FAV

## **Written Testimony SB 136 – Judicial Proceedings Committee**

**For - with amendments submitted by sponsor**

**Linda Watts  
4212 Harcourt Rd  
Baltimore MD 21214  
BRIDGE Maryland Inc.**

Human Rights for Kids recently released a national report, rating how well of how poorly states were doing at protecting the human rights of kids on the justice system. Maryland was dead last along with Alabama, Mississippi and Georgia, only earning a score of 2 out of 10. One of the areas measured was Due Process, which was defined as:

Having a statutory provision requiring children to consult with their parents or legal counsel before waiving their Miranda Rights or being subject to a custodial police interrogation.

SB136 addresses this very issue. Developmental research suggests that youth may be more susceptible than adults to interrogation pressures because they:

- Are less likely to understand the legal process or their rights;
- Have less impulse control and are prone to more risky behavior;
- Are more susceptible to immediate rewards and have more difficulty in anticipating the consequences of their actions;
- Are more likely to comply with authority;
- Are more susceptible to peer influence.

In a study of youth who self-reported confessing, 38% reported falsely confessing. Of those youth who reported falsely confessing:

- 65% reported interrogations longer than 2 hours;
- 40% reported being intoxicated at the time of questioning; and
- Youth who were refused breaks or were in the presence of friends during questioning were 4 times more likely to report falsely confessing.

Of all youth in the study:

- 66% reported having more than one officer present;
- Only 7% reported the presence of a lawyer.

According to the National Registry of Exonerations:

- 36% of exonerees who were under the age of 18 at the time of the alleged offense had falsely confessed.
- Of all exonerees under 18, 85% were black and 86% were under 14.

SB 316 would provide for:

- Mirandizing a minor using age-appropriate language,
- Notifying a parent/guardian as soon as the minor is placed in custody,
- Require that a minor speak with legal counsel prior to custodial interrogation.

Last year, this bill failed to make it out of committee. Current year SB136, had some extra language under (G) added because of some remarks during testimony regarding instances where a life might be in danger. Not only do I not believe that this language is necessary, I think that this new language oversteps what was intended by the sponsor of this bill and at a very minimum be tightened up. The sponsor submitted amendments would help to mitigate the frequency with which a child would be submitted to custodial interrogation without access to legal representation.

# **SB 136 - Juvenile Interrogation Protection Act.doc**

Uploaded by: Wilkins, Katherine

Position: FAV



Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of white folks working as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District **12**. I am testifying **in support of Senate Bill 136**



Senate Bill 136 will require a law enforcement officer to contact a parent/guardian with reasonable notice and provide consultation with an attorney for any child they plan to interrogate. I request that you support this legislation to protect children from the manipulation and fear they can experience during a police interrogation.

Both the United States and Maryland Constitution provide the right to be free from self-incrimination and the right to effective assistance of legal counsel. Although these rights are important for adults, they are even more important for minors, who are often under added pressure to please adult figures of authority and may not understand the motivations a law enforcement official may have for misleading or intimidating them. Minors may also not understand the long-term implications of agreeing to something an adult figure of authority may pressure them to say, which in the case of interrogation by law enforcement can have life-long negative repercussions. These concerns were recognized by the legal community in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court, which stated that minors had “diminished capacity” and were not able to fully understand the risks and consequences of their actions.

A well-known historical example of the consequences of children testifying without the presence of their parents or without having the opportunity to consult with legal counsel is the Central Park Five. In this case, police used intimidation and their role of the authority figure to coerce a group of minors into guilty pleas, even though no evidence for the guilt of the minors existed. As a result, six Black young men were imprisoned for years, only to have their convictions vacated years later. This is a situation that could easily be replayed in Maryland due to our current gap in ensuring minors are provided with the guaranteed legal support they are supposed to be guaranteed.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 136** to ensure children get the help they need before being interrogated by police.

I appreciate your time, service, and consideration.

Sincerely,

**Katherine Wilkins**

**10651 Gramercy Pl, Unit 257, Columbia, MD 21044**

Showing Up for Racial Justice Baltimore

# **SB 136 - Juvenile Interrogation Protection Act.pdf**

Uploaded by: Yoder, Daryl

Position: FAV

Dear Members of the Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of white folks working as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with Out for Justice. I am a resident of MD District 12. I am testifying **in support of Senate Bill 136**



Senate Bill 136 will require a law enforcement officer to contact a parent/guardian with reasonable notice and provide consultation with an attorney for any child they plan to interrogate. I request that you support this legislation to protect children from the manipulation and fear they can experience during a police interrogation.

Both the United States and Maryland Constitution provide the right to be free from self-incrimination and the right to effective assistance of legal counsel. Although these rights are important for adults, they are even more important for minors, who are often under added pressure to please adult figures of authority and may not understand the motivations a law enforcement official may have for misleading or intimidating them. Minors may also not understand the long-term implications of agreeing to something an adult figure of authority may pressure them to say, which in the case of interrogation by law enforcement can have life-long negative repercussions. These concerns were recognized by the legal community in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), the United States Supreme Court, which stated that minors had “diminished capacity” and were not able to fully understand the risks and consequences of their actions.

A well-known historical example of the consequences of children testifying without the presence of their parents or without having the opportunity to consult with legal counsel is the Central Park Five. In this case, police used intimidation and their role of the authority figure to coerce a group of minors into guilty pleas, even though no evidence for the guilt of the minors existed. As a result, six Black young men were imprisoned for years, only to have their convictions vacated years later. This is a situation that could easily be replayed in Maryland due to our current gap in ensuring minors are provided with the guaranteed legal support they are supposed to be guaranteed.

It is for these reasons that I am encouraging you to vote **in support of Senate Bill 136** to ensure children get the help they need before being interrogated by police.

I appreciate your time, service, and consideration.

Sincerely,  
Daryl Yoder

309 Glenmore Ave.

Catonsville, MD 21228

Showing Up for Racial Justice Baltimore

## **210102 Amey Testimony.pdf**

Uploaded by: Amey, Betsy

Position: FWA

## Betsy Fyfe Amey

1205 Stevenson Lane – Towson, Maryland 21286-7334

Feb. 2, 2021

To: Chairman Smith and Members of the Senate Judiciary Committee

Re.: SB 0136, Juvenile Law - Juvenile Interrogation Protection Act

Recommendation: Pass with Sponsor's Amendments

Dear Chairman Smith and Senators,

I am fervently hoping that you will give a favorable report on SB 0136. In addition, it is essential that the amendments Sen. Carter has proposed to clarify Section G be adopted.

This bill would:

- 1) Mirandize a minor using standardized age-appropriate language.
- 2) Notify a parent/guardian immediately when their minor is in custody.
- 3) Require that a minor speak with legal counsel prior to custodial interrogation.

Maryland's young people grow into adulthood fearing the police – sadly, with good reason. Under current law and process, the rights children (under 18) should enjoy as members of a free and just society can be overlooked in the process of police questioning. "Miranda" rights are in language that many minors would not fully understand, so these children waive their constitutional right to counsel and to the presence of their parents without fully understanding that they are doing so.

Although the current system may make it easier for law enforcement to make speedy arrests, it allows too many to be falsely accused and punished for crimes which they did not commit.

Data from the National Registry of Exonerations shows that 36% of exonerees who were under the age of 18 at the time of the alleged offense had falsely confessed. In our own state, jurisdictions are paying expensive compensation to many people who were improperly charged long ago.

Even if a child is not charged, he or she experiences undue trauma in the process of an interrogation without his/her own advocate present. This child will grow into an adult who may respect police authority, but who does not see police as a source of safety and justice in his/her community. This is not the kind of society we should want to perpetuate.

Further, the protections of this bill should not be diluted by allowing the law enforcement officer to waive the minor's rights based on a hunch or feeling that he/she will get the information desired by waiving those rights. Therefore, Section G must be amended as Senator Carter has proposed.

Please give a favorable report on this bill. Thank you for your service, time, and consideration.

Betsy F. Amey, 1205 Stevenson Lane, Towson MD 21286-7334

# **210202-SB 136 Testimony.pdf**

Uploaded by: Rogers, Audrey

Position: FWA

Members of the Judicial Proceedings Committee:

I am writing to you to request your affirmative vote for SB 136 (Juvenile Interrogation Protection Act), with the amendment submitted by the sponsor of the bill.

When I became aware of the current situation in which juveniles can and are frequently interrogated without parental notification or legal counsel (a situation this bill is intended to remedy), I was shocked. I worked for years as a NIH epidemiologist whose duty was coordinating a multicenter, multicity research network studying HIV/AIDS in teens and young adults. I can tell you that federal regulations require parental permission for any minor's involvement in research, even something as simple as a survey. This requirement could be waived but only in the circumstance that researchers could demonstrate that the survey posed no more than a minimal risk (usually by being anonymized). This whole research endeavor entailed stringent application and review procedures.

How could there be less protections for youth placed in interrogation situations where there is a power differential and the likelihood of misunderstanding and intimidation? How could there be less protection for these youth when the outcome of such a situation could change the trajectory of their lives?

Our government should never have two standards for the protections of its citizens: one for research and one for law enforcement.

Audrey Smith Rogers, Ph.D., M.P.H.  
2515 Boston Street Apt 603  
Baltimore MD 21224

# **SB136 Testimony Rev. MBT2021.pdf**

Uploaded by: Tilghman, Marlon

Position: FWA



Submitted by: Rev. Marlon B. Tilghman (a Harford County, MD Pastor, U.S. Marine Corps SSgt, retired commission '92), 1118 Marksworth Road, Gwynn Oak, Maryland 21207.

Dear William Smith and members of the Senate Judiciary Proceeding Committee,

I am speaking in favor of Senate Bill 136 with amendments submitted by sponsor of the bill. It was former President Hubert Humphrey who said that, "*The **moral test of government** is how that government treats those who are in the dawn of life, the children.*" And it was Nelson Mandela who said that, "*There is no keener revelation of **a society's soul** than the way in which it treats its children.*" And Rev. Dr. Martin Luther King, Jr. summarized these respected leaders by saying, "*The law cannot control how people regard each other, but it can mandate how people treat each other.*"

BRIDGE Maryland, Inc., which represents several of the legislative districts on this committee, and throughout the state, wants our most vulnerable population in Maryland protected from harmful interrogations that could scar them for life. We want our children, grandchildren, nieces, nephews, and the next unborn generation to feel safe in the custody of police officers who are authorized to lie to get answers for incarceration. We want these things for several reasons. Theologically, we want SB136 to pass because our membership of over 7 faith traditions feel it is our moral imperative to protect them from the risk of emotional, cultural and situational trauma that could impact them into their adulthood. Our sacred texts in the Talmudic says *our children are our guarantors*. Our sacred text tells us in the Torah that, "*Children's children are a crown to the aged, and parents are the pride of their children*" (Proverbs 17:6). Our sacred text from the words of Jesus the Christ says, "*See that you do not despise one of these little ones. For I tell you that their angels in heaven always see the face of my Father in heaven*" (Matthew 18:10).

Historically we want you to support SB136 because it brings Miranda into the 21<sup>st</sup> Century to protect our children. Every game, movie, and TV program now have age appropriate labels for playing or viewing. Why? Because some language or content is not meant for certain audiences. In the case of *Miranda v. Arizona*, 384 U.S. 436 (1966), the U.S. Supreme Court ruled that the [Fifth Amendment to the U.S. Constitution](#) prevents prosecutors from using a person's statements made in response to [interrogation](#) in [police](#) custody as evidence at their [trial](#) unless they can show that the person was informed of the right to consult with

an [attorney](#) before and during questioning, and of the right against [self-incrimination](#) before police questioning, and that the defendant not only understood these rights, but voluntarily waived them.<sup>1</sup> In 1966, Miranda was not written for children who were immature, irresponsible, or fully aware that their words could affect their long-term freedom. Miranda needs to catch up with the 21<sup>st</sup> Century.

Sociologically we want you to support SB136 because Legal counsel before a custodial interrogation is the Law.<sup>2</sup> Law enforcement can lie to obtain information.<sup>3</sup> Police “interrogation methods are based on behavioral psychology, scientific methods, and advances in technology.”<sup>4</sup> Thus, how would the average child compete with that level of questioning? And most recently, Human Rights For Kids released the [2020 National State Ratings Report](#) which rated how well or how poorly each state's laws protected the human rights of children in the justice system. Maryland was tied with 5 other states for the worst score, leading HRFK to label Maryland one of the "Human Rights Offenders." Their grading was based on the United Nations Convention on the Rights of the Child and the International Covenant on Civil and Political Rights.

Lastly, we want you to support SB136 because it's a reasonable request to notify a parent/guardian before a custodial interrogation. The mental scars on a child being interrogated outweighs the wait to contact a parent/guardian. There are endless ways of getting the message to parents/guardians, such as: home, work, and cell numbers; emails, social media (Facebook, Snapchat, Twitter, Instagram, etc.); Taking the child home before going to the precinct; Sending a patrol car to inform parent/neighbor, etc.

In summary, if I were to rephrase words from the Rev. Dr. Martin Luther King, Jr. on the triplets of evil, I would say, *“Now there is nothing new about why we should protect the most vulnerable, our children. What is new are the resources, skills, and techniques to protect them. Thus, the question is whether our state or nation has the will.”*<sup>5</sup>

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<sup>1</sup> [https://en.wikipedia.org/wiki/Miranda\\_v.\\_Arizona](https://en.wikipedia.org/wiki/Miranda_v._Arizona)

<sup>2</sup> [https://en.wikipedia.org/wiki/Miranda\\_v.\\_Arizona](https://en.wikipedia.org/wiki/Miranda_v._Arizona)

<sup>3</sup> <https://www.davidpshapirolaw.com/can-law-enforcement-lie-to-you/>

<sup>4</sup> Philip Matthew Stinson, Sr., J.D., Ph.D.

[https://scholarworks.bgsu.edu/cgi/viewcontent.cgi?article=1086&context=crim\\_just\\_pub](https://scholarworks.bgsu.edu/cgi/viewcontent.cgi?article=1086&context=crim_just_pub).

<sup>5</sup> King Jr., Martin Luther, “Martin Luther King, Jr. Saw Three Evils in the World | Racism was only the First,” The Atlantic, May 10, 1967, accessed September 12, 2020, <https://www.theatlantic.com/magazine/archive/2018/02/martin-luther-king-hungry-club-forum/552533/>

Thus, if we are not providing good council to children in what could be the most influential decision in their life, we are being disobedient to God. Legal council is reasonable, parent notification is rational and Maranda that is age appropriate at least gives our children, the constituents of your children, a fair chance at due process. Therefore, we urge you to vote in favor of SB136 with amendments submitted by sponsors of the bill.

Sincerely,

Rev. Marlon B. Tilghman,  
Co-Chair of BRIDGE Maryland, Inc., Criminal Justice and Education Workgroup

# **SB136 02012021.pdf**

Uploaded by: Barton, Alvin

Position: UNF

**Bill Number: SB136**

**Alvin S. Barton, Homicide Detective, Baltimore County Police Department**

**Opposed**

**WRITTEN TESTIMONY OF ALVIN S. BARTON**

**BALTIMORE COUNTY POLICE DEPARTMENT HOMICIDE DETECTIVE**

**IN OPPOSITION OF SENATE BILL 136**

**JUVENILE INTERROGATION PROTECTION ACT**

I write in opposition to Senate Bill 136 because it restrains the ability of law enforcement to investigate crimes in a timely and complete manner. A blanket set of rules, prohibiting the interrogation of a juvenile arrestee does not serve the public interest and could potentially endanger the public. It would prevent the timely recovery of dangerous and deadly weapons, prevent the timely identification of other victims, prevent the timely identification of other involved individuals and would allow more opportunity for the destruction of evidence.

Law enforcement already ensures that all persons are treated in the same manner, preserving every person's constitutional rights. Every single person being interrogated must be advised of his/her Miranda rights. It is well known that law enforcement has the burden of ensuring that the arrestee, regardless of his/her age, has a clear understanding of those rights, prior to any waiver. In crimes such as murder, juvenile offenders are automatically charged as adults, which prevent the offender from being placed in the juvenile system from the beginning, and in nearly every instance result in adult prosecution.

I have handled many cases in my 15 years as a homicide detective. The following examples illustrate why I am opposed to this bill:

On 05/14/08, sixteen year old Lewin Powell beat his mother to death and then waited for his father to return home and beat him with a baseball bat. He was caught by officers fleeing the family home. Is it at all reasonable to require that Powell's father be present, when he had the clear intention of killing him?

On 02/02/08, fifteen year old Nicholas Browning shot his mother, father and two brothers to death and then tossed the gun on the side of a nearby road. In this instance, both parents are dead and a dangerous and deadly weapon was unsecured in the community. Don't we have a responsibility to take immediate action in the name of public safety?

On 05/21/18, four juveniles went on a burglary spree in Baltimore County, utilizing a stolen vehicle from a burglary on a previous day in Baltimore City. During the course of one of those burglaries, one of the juveniles killed Baltimore County Police Officer Amy Caprio with

the stolen vehicle. That driver, sixteen year old Dawnta Harris, was arrested while trying to flee the neighborhood. The other three juveniles were able to flee the area on foot after stealing a handgun during that burglary, which resulted in several nearby schools to be placed on a lock down status for several hours. Harris' mother had previously pled for assistance from the state juvenile system, stating that she could not control her son and that he was likely to seriously injure or kill someone. Does it make sense that Harris' mother would be required to be notified and present for an interrogation? Does it make sense that there be any delay in the effort to identify the other three juveniles who were involved in the crime spree and were actively on the run in the community with a stolen handgun?

Beyond these examples, one should consider the situations where the parents are involved in the underlying criminal activity that led to the arrest, situations where the parents are involved in the criminal justice system themselves and situations where parents do not have the juvenile's best interest in mind. Additionally, such requirements would increase the amount of time that every juvenile offender is in custody.

These are just a few examples of why Senate Bill 136 should be opposed.

# **MCPA-MSA-SB 136-Juvenile interrogation act \_Oppose**

Uploaded by: Mansfield, Andrea

Position: UNF



# Maryland Chiefs of Police Association

## Maryland Sheriffs' Association



### MEMORANDUM

TO: The Honorable William C. Smith, Jr. Chairman and  
Members of the Judicial Proceedings Committee

FROM: Chief David Morris, Co-Chair, MCPA, Joint Legislative Committee  
Sheriff Darren Popkin, Co-Chair, MSA, Joint Legislative Committee  
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee

DATE: February 4, 2021

RE: **SB 136 Juvenile Law – Juvenile Interrogation Protection Act**

POSITION: **OPPOSE**

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE** SB 136. This bill requires certain procedures to be followed when taking a juvenile into custody and interviewing and interrogating a juvenile.

Model policies exist for the interviewing and interrogation of juveniles to ensure consistency with the limitations in maturity and emotional development characteristic of juveniles. The model policies recognize that special care must be taken to ensure that any statement made by a juvenile in custody is voluntary and consistent with the Constitution, Supreme Court, and Maryland appellate court precedent. SB 136 does not adopt best practices, however. Under SB 136, before a custodial interrogation of a juvenile can begin, consultation with an attorney is required and *cannot* be waived, regardless of the individual circumstances of the individual being questioned. This requirement goes beyond best practices and the standards required by the Constitution, the Supreme Court, and Maryland appellate courts.

Police are expected, and trained, to be mindful of a person's age and experience when conducting an interview. Currently, many juveniles exercise their constitutional right to remain silent without the mandatory provisions of SB 136. Many juveniles speak with investigators and, when they do, the interview is scrupulously reviewed by prosecutors, challenged by defense attorneys, and ruled upon by judges. Judges do not hesitate to exclude from evidence a statement taken in violation of a person's rights. Simultaneously, a statement given by a juvenile who freely and voluntarily chooses to speak should be admissible.

MCPA and MSA recognize, and agree with, the very important goal of ensuring that statements are voluntary and rights are protected. MCPA and MSA have met with the proponents and have agreed to explore options to enhance due process for juveniles while balancing the needs of public safety.

For these reasons, MCPA and MSA **OPPOSE** SB 136 as introduced and plan to have continued conversations with the Committee and bill sponsor on these matters.



# **SB 136 - Juvenile Interrogation Protection Act.pdf**

Uploaded by: Shellenberger, Scott

Position: UNF

**Bill Number: SB 136**

**Scott D. Shellenberger, State's Attorney for Baltimore County**

**Opposed**

**WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,**  
**STATE'S ATTORNEY FOR BALTIMORE COUNTY,**  
**IN OPPOSITION OF SENATE BILL 136**  
**JUVENILE INTERROGATION PROTECTION ACT**

I write in opposition to Senate Bill 136 that substantially hampers law enforcements ability to investigate crimes and goes well beyond the protections afforded under the Constitution. This bill also ignores some practical realities of some of the most heinous violent crimes that can be committed by juveniles.

On February 2, 2008, Nicholas Browning, who was 15 years old, shot his father in the head, shot his mother in the head and killed his younger brothers. All four died. Browning was 6'2" tall, 200lbs with an IQ of 125 and was an honor student. Browning wore gloves and had a spare magazine on him. This was a cold and calculated murder.

If Senate Bill 136 was in effect who do the police call for notification? Who does the lawyer call when consulting with the parents?

The gun Browning used was missing and hidden. Can the police conduct a public safety interview to retrieve the gun? The Supreme Court says you can in New York v. Quarles. Senate Bill 136 only has an exception if "necessary to protect an individual from imminent threat to the life of the individual." That would not apply in the Browning case.

The problem that Senate Bill 136 presents is not a problem for just one case.

Also in 2008, Lewin Powell, who was 16 years old, beat his mother to death with a baseball bat. When his father arrived home, he tried to beat him to death. Powell was a student at McDonogh and beat his mother to death because she kept asking about his failing school grades.

Who do the police call in the Powell case? The dead mother or the father he just tried to kill? Do the police not have the right to find out where Mrs. Powell's body is hidden?

In both of these cases, police followed the Constitution of the United States. They followed the dictates of the Supreme Court and the Court of Appeals. The Supreme Court in JDB v. North Carolina already tells Judges they must consider the age of the Defendant when ruling on the admissibility of statements.

All these Defendants were properly advised of their rights.

What do police do about the sexual child abuse case that occurs between siblings or step siblings? If son is suspected of sexually abusing his sister, how will the police ever get to the truth if the parents have to be consulted prior to questioning? If

questioning is blocked by the parents and a case cannot move forward, more sexual assaults may occur on the sister.

The requirement that the child consult with a private attorney or attorney provided by the public defender before any conversation is practically unrealistic. It will be rare that a child will be able to retain private counsel in a time period conducive to a timely conversation. In addition, the public defenders office will not provide an attorney to a yet uncharged person without a qualification process and more time than practicable. Ironically, this scenario will, on occasion, cause harm to the child. If an officer has sufficient probable cause to arrest or detain, the child may have information which will exonerate him and cause his release. With this legislation, the officer will not be able to talk to the child because he can't locate a parent or an attorney cannot be timely provided to the child.

If they have to wait to contact parents and attorneys, juvenile Defendants will actually be held longer while waiting for contact.

Finally, the bill is constitutionally flawed in that it allows for "simpler" Miranda warnings so the juvenile understands them. The Supreme Court says Miranda is Miranda. Simple warnings are not permitted.

Passing Senate Bill 136 goes well beyond the constitutional protections for all other citizens of the United States. Each of the above Defendant's had an attorney for trial and reviewed the facts of their clients' cases to make sure the constitutional guarantees afforded Defendants had been complied with.

I urge an unfavorable report.