

**Testimony to the House Judiciary Committee  
HB315 Juvenile Law — Juvenile Interrogation Protection Act**

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My name is Keith Wallington. I am the State-based Strategist with the Justice Policy Institute (JPI), a national research and policy organization with expertise on criminal and juvenile justice issues. Over the years, my work has focused on utilizing two decades of JPI's policy and research reports to inform better practices in Maryland's justice system. Please accept this statement in support of HB315 Juvenile Law — Juvenile Interrogation Protection Act.

In accordance with the 6<sup>th</sup> and 14<sup>th</sup> amendments, United States Supreme Court states that *"The juvenile needs the assistance of counsel to cope with problems of law, to make skilled inquiry into the facts, to insist upon regularity of the proceedings, and to ascertain whether he has a defense and to prepare and submit it. The child 'requires the guiding hand of counsel' at every step in the proceedings against him."*

In Maryland, this is not the case. Under current Juvenile Law, children can be questioned without a parent or attorney present which violates the youth's basic rights to due process. A 2013 study of 4 jurisdictions in Maryland, showed that 40% to 58% of the youth routinely waived their right to counsel.<sup>ii</sup> Another study found an astonishing 90% of youth waiving their Miranda Rights.<sup>iii</sup> Thus, youth are unrepresented at each step of the judicial process from interrogation to arraignment to adjudication.

Without council, studies show that children can make harmful legal decisions. One study of exonerations found that 42% of juveniles had made false confessions compared to only 13% of adults.<sup>iv</sup> Similarly, lack of council can lead to extended periods of pre-trial incarceration, excessive plea bargains, or inadequate services.<sup>v</sup> Research on adolescent development shows that children prioritize reward-seeking behavior because their frontal lobe, controlling reasonable decision-making is not fully developed.<sup>vi</sup> Therefore, teenagers and younger children are highly vulnerable to coercive interrogation tactics.

Not only does this violate their basic rights to due process, but Maryland's unjust Interrogation practices target the population's most vulnerable.

Children as young as seven years old can be involved in the criminal justice system without protections of due process.<sup>vii</sup> According to the FBI crime statistics, nearly 27,000 children under 10 were arrested between 2013 and 2017.<sup>viii</sup> Each of these children would be at risk of exploitation under Maryland Law.

In particular, Black children are overpoliced in Maryland, leading to susceptibility to unjust juvenile interrogation. Maryland's incarceration rate for Black men is higher than anywhere else in the country and more than double the national average.<sup>ix</sup> Over 70% of the state's prison population is Black, while making up only 31% of the state's population.<sup>x</sup> Thus, Black children account for 90% of all juvenile arrests while only making up for 64% of the population.<sup>xi</sup> The presence of officers in schools contributes to the discrepancies with Black students more likely to be arrested in school than all other racial and ethnic groups combined.<sup>xii</sup>

Children with disabilities also make up a large portion of those involved with the justice system. In Maryland, students with disabilities made up 12% of the overall student population while having 23% of

arrests in schools.<sup>xiii</sup> Compared to students without disabilities, students with disabilities are referred to law enforcement 16% more often.<sup>xiv</sup> Without counsel, these children could plea or give false confession that will drastically change the course of their lives and exacerbate mental health conditions. Low-income children are disproportionately affected by the lack of protections. For families who qualify for counsel through the Office of the Public Defender, current Maryland law does not guarantee the right to an attorney until adjudication.<sup>xv</sup> Therefore, poor children are left in interrogation and subsequent hearings without adequate representation and understanding of the law and its consequences.

Other states have already adopted protections for their children. In California, a person under the age of 18 can only waive Miranda Rights after consulting with a lawyer.<sup>xvi</sup> In Illinois, juveniles under the age of 15, for certain serious crimes, must be represented by an attorney for the entire interrogation.<sup>xvii</sup>

### **Solutions to Protect the Children of Maryland**

*Maryland Law should require law enforcement to notify to a child's parents, guardians, or custodian when taken into custody before interrogation can occur.* This notification should include the child's location, the reason for custody, and immediate means to contact the child. It would allow parents to obtain legal representation and ensure the protection of the child's rights.

*Maryland Law should require age-appropriate language adaptations to inform the child of their rights.* As previously demonstrated, children often don't understand the full extent of their rights, causing decisions against their own benefit. This would ensure greater understanding and adequate enactment of due process.

*Maryland Law should require consultation with an attorney before interrogation may occur.* While everyone has the right to an attorney, it is especially paramount that children understand and invoke this right in the complicated legal system.

HB315 does not intend to impede police ability to promote public safety. The police should continue to work for accountability, but not at the expense of the child's right to due process given by the United States Constitution and the Supreme Court as informed by current understandings of childhood development. Children should not be subject to unjust interrogation and possible lifelong consequences from lack of rights and understanding. For this, JPI asks for favorable consideration of HB315.

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<sup>i</sup> re Gault, 387 U.S. 1, 36 (1967)

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

<sup>iii</sup><https://jlc.org/issues/youth-interrogations>

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

<sup>v</sup> <https://www.ncjrs.gov/pdffiles1/ojdp/204063.pdf>

<sup>vi</sup> <https://jlc.org/issues/youth-interrogations>

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

<sup>viii</sup><https://ucr.fbi.gov/crime-in-the-u.s>

<sup>ix</sup>[http://www.justicepolicy.org/research/12702?utm\\_source=%2fMarylandYoungAdult&utm\\_medium=web&utm\\_campaign=redirect](http://www.justicepolicy.org/research/12702?utm_source=%2fMarylandYoungAdult&utm_medium=web&utm_campaign=redirect)

<sup>x</sup>[http://www.justicepolicy.org/research/12702?utm\\_source=%2fMarylandYoungAdult&utm\\_medium=web&utm\\_campaign=redirect](http://www.justicepolicy.org/research/12702?utm_source=%2fMarylandYoungAdult&utm_medium=web&utm_campaign=redirect)

<sup>xi</sup><https://www.baltimoresun.com/news/crime/bs-md-ci-youth-assessment-20190417-story.html>

<sup>xii</sup><http://marylandpublicschools.org/about/Documents/DSFSS/SSSP/StudentArrest/MarylandPublicSchoolsArrestDataSY20172018.pdf>

<sup>xiii</sup><http://marylandpublicschools.org/stateboard/Documents/2020/0623/MarylandPublicSchoolsArrestData20182019.pdf>

<sup>xiv</sup><https://www.gao.gov/assets/700/690828.pdf>

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

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

<sup>xvii</sup>[http://directives.chicagopolice.org/CPDSergeantsExam\\_2019/directives/data/a7a57b9b-1595072f-cff15-9507-743def5458f2f5e1.html](http://directives.chicagopolice.org/CPDSergeantsExam_2019/directives/data/a7a57b9b-1595072f-cff15-9507-743def5458f2f5e1.html)