



# Maryland Chiefs of Police Association Maryland Sheriffs' Association



## MEMORANDUM

TO: The Honorable Luke Clippinger, Chairman, and  
Members of the Judiciary Committee

FROM: Darren Popkin, Executive Director, MCPA-MSA Joint Legislative Committee  
Andrea Mansfield, Representative, MCPA-MSA Joint Legislative Committee  
Natasha Mehu, Representative, MCPA-MSA Joint Legislative Committee

DATE: January 25, 2023

RE: **HB 76 –Custodial Interrogation of Minors - Admissibility of Statements**

POSITION: OPPOSE

The Maryland Chiefs of Police Association (MCPA) and the Maryland Sheriffs' Association (MSA) **OPPOSE HB 76**.

MCPA and MSA recognize that custodial interrogation of juveniles often requires special care in order to ensure that any statement made by the juvenile is voluntary. Police officers are trained to consider the age, experience, education, character, intelligence, and mental and physical condition of the juvenile when conducting an interrogation. Juries and judges who consider the juvenile's statement in court proceedings are also required to consider these factors. Ultimately, the State must prove that the statement was voluntary after consideration of the totality of the circumstances.

Police deception during an interview is certainly an appropriate consideration for the judge or jury. However, police deception is also an appropriate interrogation technique depending on the characteristics of the person being interviewed and the particular facts and circumstances being investigated. If a person continues to provide the same account when presented with evidence (whether true or false), an investigator may consider that persistence as demonstrating honesty. A change in the narrative, however, may be an indication that the person was not being honest. Deception, if used, is a tool to evaluate an account already provided by the interviewee.

HB 76 creates a presumption against the admissibility of a statement if a law enforcement officer intentionally used false information "to elicit the statement." The presumption can only be overcome if the State can prove the statement was voluntary *and* "not made in response to the false information." This effectively removes the use of false information as a truth-finding tool. Any revision to the interviewee's account following the use of false information will be "in response" to that information, no matter how voluntary or truthful the further statements are.

Just as every juvenile in the State is a unique individual, so, too is every custodial interrogation. Current law expects and requires, that any statement provided be evaluated under the totality of the circumstances – including any use of deception.

For these reasons, MCPA and MSA **OPPOSE HB 76** and ask for an **UNFAVORABLE** Committee report.