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## **TRAINING BULLETIN**

**February 1, 2018**

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### **625.6 W&I - New Miranda Law for Juveniles in CA**

The California Legislature recently passed Senate Bill 395 which added Section 625.6 to the Welfare and Institution Code which significantly changes the way in which police officers may interview juveniles (referred to as "youth" in the section) 15 years old and younger. As of January 1, 2018, officers must be aware of the following changes.

January 1, 2018 - Welfare Institutions Code Section 625.6 is added  
**BRIGHTLINE RULE:** Prior to a custodial interrogation, and before the waiver of Miranda rights, a youth 15 years or younger (15 and 364 days) shall consult with legal counsel in person, by phone, or video conference. The consultation cannot be waived.

The section states that the Court shall consider a violation of this section in determining whether to admit a statement in violation of this section in court.

**PUBLIC SAFETY EXCEPTION** (Welfare and Institutions Code section 626.6(c))

No attorney consultation necessary when both of the following exist:

1. The officer who questioned the youth reasonably believed the information he or she sought was necessary to protect life or property from imminent threat;

**AND**

1. The officer's questions were limited to those questions that were reasonably necessary to obtain that information.

Cases have provided that the location of firearms is a public safety exception, the location of victims, determining whether a person is armed, and ascertaining who the suspect is and who the victim is to determine whether there is an armed suspect remaining.

Note--the section provides for the protection of life and property.

The following are the thoughts of the author of this article and are not suggested as legal advice. Be sure to contact your juvenile Deputy District Attorneys for their expert advice in this area.

This section does not apply in the following situations:

- Juvenile is 16 or older
- Miranda does not apply
- Non-Custodial/Beheler

Of course Miranda does NOT apply if there is not Custody AND Interrogation. There are differences when analyzing Miranda when it comes to juveniles.

The test is whether an objective person of the juvenile's age would have understood themselves to be in custody. The Court looks at the situation through the eyes of a juvenile.

California Appellate Court cases have found custody for juveniles in some of the following:

- Handcuffs---potentially in custody
- In back of patrol car---potentially in custody
- Multiple officers-potentially in custody
- Police Pressure, ie aggressive tone of voice in questioning/of focusing on juvenile as suspect in questioning as-potentially in custody
- Length of detention-potentially in custody

California Appellate Court cases have found NO custody when officers tell the juvenile "you are not under arrest." Of course, once a suspect is released from custody that person may be questioned and not violate this section.

Interrogation - any question or conduct designed to illicit an incriminating response may be and have been judged differently when used on juveniles as opposed to adults.

- Ruses and lies have in certain circumstances been held to be interrogation.

- Lengthy interviews have been held to be violative of Miranda in Appellate Court decisions.
- Questioning at school has been found to be coercive by nature because disobedience to authority may be punished.
- Recent Court of Appeals decisions have focused on implicit indications of minimization as being coercive in interrogation.