

Memorandum

**TO: ALL DEPARTMENT
PERSONNEL**

FROM: Edgardo Garcia
Chief of Police

**SUBJECT: DUTY MANUAL REVISIONS:
INTERROGATION OF LAW
VIOLATORS AGE 17 AND YOUNGER**

DATE: November 20, 2020

Memo# 2020-046

BACKGROUND

On September 30, 2020, Governor Newsom signed Senate Bill 203, which amended Section 625.6 to the Welfare and Institutions Code and changed the way in which police officers may interview juveniles 17 years of age and younger. As of January 1, 2021, officers shall ensure that prior to a custodial interrogation, and before the waiver of any Miranda rights, a juvenile 17 years of age or younger shall consult with legal counsel in person, by telephone, or by video conference; the consultation may not be waived. The section does not apply to the admissibility of statements of a juvenile 17 years of age or younger if both of the following criteria are met:

- 1) The officer who questioned the juvenile reasonably believed the information he/she sought was necessary to protect life or property from an imminent threat, and
- 2) The officer's questions were limited to those questions that were reasonably necessary to obtain that information.

ANALYSIS

The Duty Manual has been revised to reflect changes made to sections L 3012.5 INTERROGATION OF LAW VIOLATORS AGE 15 AND YOUNGER and L 4510 WARNING PRIOR TO INTERROGATION. Additions are shown in italics and underlined. Deletions are shown in "strike through" form.

L 3012.5 INTERROGATION OF LAW VIOLATORS AGE ~~15~~ AND YOUNGER:
Revised 11-20-20

Officers shall ensure juveniles ~~15~~ years of age or younger consult with legal counsel in person, by telephone, or by video conference prior to a custodial interrogation, and before the waiver of any Miranda rights; the consultation may not be waived. Officers may obtain a *custodial* statement from a juvenile ~~15~~ years of age or younger without legal counsel only if both of the following criteria are met:

(1) The officer reasonably believes the information he/she is seeking is necessary to protect life or property from an imminent threat.

(2) The officer's questions are limited to those reasonably necessary to obtain the information.

NOTE: This section does not preclude officers from complying with L 4507 CUSTODY OF JUVENILES, which states an officer must advise a juvenile of his/her constitutional rights when taken into custody for any of the following: a violation of 601 or 602 W&I, a violation of a court order, or escape from a court-ordered detention facility or place of commitment

L 4510

WARNING PRIOR TO INTERROGATION:

Revised 11-20-20

Each officer will carry the Department issued Miranda Warning Card Form 200-56 at all times. When necessary, required or appropriate, the arresting officer will notify the person to be questioned of such person's constitutional rights by reading out loud from the Miranda Warning Card. Officers will be prepared to testify in court.

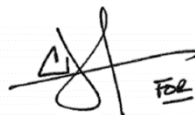
NOTE: Per Duty Manual Section L 3012.5 INTERROGATION OF LAW VIOLATORS ARE 17 AND YOUNGER, officers shall ensure juveniles 17 years of age or younger consult with legal counsel in person, by telephone, or by video conference prior to a custodial interrogation, and before the waiver of any Miranda rights; the consultation may not be waived. Officers may obtain a custodial statement from a youth 17 years of age or younger without legal counsel only if both of the following criteria are met:

(1) The officer reasonably believes the information he/she is seeking is necessary to protect life or property from an imminent threat.

(2) The officer's questions are limited to those reasonably necessary to obtain the information.

ORDER

Effective January 1, 2021, officers shall adhere to the above stated Duty Manual Sections while interrogating juveniles 17 years of age or younger. In the event a juvenile age 17 or younger is going to be interrogated and does not have a private attorney, law enforcement can contact the on-call attorney from the Santa Clara County Public Defender's Office, who will be available 24 hours-a-day, 7 days-a-week. The on-call public defender will be available to consult with the minor by phone or in-person. The phone number to contact the Public Defender's Office is 408-529-0881.

A handwritten signature in black ink, appearing to read 'Edgardo Garcia', with a stylized flourish at the end.

EDGARDO GARCIA
Chief of Police

EG:SD:MB

