

STATE OF MARYLAND



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The Office of the Public Defender provided comprehensive comments during the initial comment period on the youth policies and, to the extent that they have not been adopted, our recommendations remain the same. In this comment, we provide supplemental information regarding the interrogation of youth, in light of additional information since our prior submission.

The State’s Attorney call youth interrogation protections

On Thanksgiving Day, the Washington Post published an [op ed authored by Baltimore City State’s Attorney Marilyn Mosby](#), in which she states:

To begin, we simply should not allow interrogation of youths younger than 14. Kids this young cannot be deemed to have “voluntarily” waived their rights, and the risk of false confessions is simply too high. Statements from children under 14 should be inadmissible as unreliable, and we should not tolerate the risk of undue coercion or influence.

Moreover, experts have cautioned that youths below age 18 should have legal counsel (to protect their legal rights) and a parent or supportive guardian present during interrogation. As the American Academy of Child & Adolescent Psychiatry concluded, “parental presence alone may not be sufficient to protect youth suspects.” The academy further recommended simplifying Miranda warnings for kids — a practice implemented by the King County (Seattle) Sheriff’s Office — and videotaping all such interrogations.

Our prior submission discusses the developmental, constitutional law, and best practices reasons to adopt these measures. Ms. Mosby’s op ed provides further practical implications. With this public statement, her office will not be able to credibly stand

behind interrogations of children that she recognizes are unreliable. Rather than waste limited law enforcement resources on problematic interrogations that will not be used in litigation, the BPD should adopt the practices called for by the State's Attorney – by ending its interrogation of children under the age of 14 and ensuring all youth have legal counsel, including (for older children) during interrogation.

#### Hotline for public defender representation at interrogation

OPD continues to stand ready to provide representation any time a young suspect is being questioned. BPD Policy Analyst Paul Mincarelli contacted us to inquire about the mechanism available to do so. We are currently exploring a hotline option that would allow for automatic forwarding of calls to an assigned attorney. In the interim, OPD has a toll free number with a 24-hour messaging service through which a live operator can forward a message to the appropriate attorney.

If BPD opts to include this in their policy, we will provide the toll-free number and establish a schedule such that a member of the BPD can inform the operator that they need a Baltimore City juvenile attorney and the operator can relay the information to the on-call attorney. As our statewide agency already has this messaging service, we would need minimal time to prepare for the BPD and our Baltimore City Juvenile Division to utilize this communication option.