

LEGISLATIVE DIGEST

[Administrative Code - Police Officers Questioning Youth]

Ordinance amending the Administrative Code to prohibit police officers from questioning persons 17 years of age or younger, in custody, unless certain conditions are met, providing for legal representation of the youth in connection with the interrogation, and mandating parental access to youth while police officers question youth.

Existing Law

There is no City law requiring persons 17 years of age or younger to consult with a lawyer prior to a custodial interrogation or waiver of Miranda rights. State law requires persons 15 years of age or younger to consult with a lawyer prior to a custodial interrogation or a waiver of Miranda rights.

There is no City or state law that provides the parent, guardian, or a responsible relative (collectively “parent”) the right to immediately access the Youth while in police custody or to be present during a custodial interrogation.

Amendments to Current Law

This ordinance expands on state law by increasing the age of persons, to 17 and younger, with a nonwaivable right to consult with a lawyer prior to a custodial interrogation or waiver of Miranda rights. This ordinance also gives the parent the right to be present during the custodial interrogation or when police officers engage in unnecessary conversation with or question a youth who is not free to leave. These restrictions would not apply when the information the SFPD officer seeks is reasonably necessary to protect life or property from an imminent threat and questions asked of the youth are reasonably necessary to obtain that information.

Background Information

This ordinance arose from an incident where SFPD officers questioned students during the investigation of a firearm discharge at Balboa High School. During the Board of Supervisors hearing on SFPD’s response to that incident, parents stated that SFPD detained students at gunpoint, and that parents were not allowed to see their children for over an hour, or to be present during SFPD’s questioning of the students.