

JUVENILE ARREST / MIRANDA

All Arrests falling under WIC 601 and 602



Upon determining the minor is in-custody and before custodial interrogation contact the Public Defender's Office (Court Hours 909 387-0569 / After Hours 909 501-6943) if the Public Defender does not answer the business line call after hours line.

If attorney answers



Obtain Public Defenders name. Facilitate private consultation between minor and Public Defender. Give a reasonable amount of time for consultation. (Minor secured in back of police unit, phone on speaker, MAV off) After consultation, advise Public Defender you will be disconnecting to advise minor of Miranda rights. They may object, they do not have a legal right to remain on the phone or to invoke the minor's rights. If consultation not completed contact the WC.

If consultation completed

If consultation not completed



Advise minor of Miranda rights verbatim from MPD card. If implied or expressed waiver obtained (expressed waiver preferred) conduct interrogation. Book minor appropriately.



Advise minor of his Miranda rights pursuant to WIC 625. **DO NOT** attempt to obtain waiver of rights. Book minor appropriately.



If attorney does not answer



Leave detailed message of purpose of call. "Officer Smith, Montclair PD calling regarding the arrest of John Doe DOB: 1/2/05 arrested on (date and provide an approximate time)"

If you intend on asking custodial question provide a number for the attorney to call you back.

If you do not intend on asking custodial questions



End the call by saying, "This notification was made pursuant to WIC 625.6 (a). I do not intend on questioning the minor, he will be booked at"



You **SHALL** document in the report narrative the details of the call.

If the consultation was completed, "I contacted Juvenile Public Defender John Smith via telephone and facilitated a consultation between Smith and arrestee Doe in accordance with WIC 625.6(a). I advised Doe of his Miranda rights per my Department issued Miranda card."

If the consultation was not completed, "I attempted to contact the Juvenile Public Defenders office to facilitate a consultation per WIC 625.6(a) on (Date and approximate time). The phone call was not completed and I left a voicemail with the arrestees name, birthdate, and booking location. I advised arrestee Doe of his Miranda rights. I did not seek a waiver of Doe's right and no questions were asked of Doe."

* As with adults, spontaneous statements are admissible and it will assist prosecutors if your report reflects the circumstances leading up to those statements.

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Federal Law

1. Custody for purposes of Miranda advisements means either actual arrest or equivalent restraints on the person's freedom of movement. A juvenile's age is a factor to be considered in determining whether the minor is in "custody."
2. Taking a minor into "temporary custody" is the legal equivalent of an actual arrest.
3. A parent does not have the right to be present during Miranda or interrogation. If the parent is denied the right to confer with the minor or be present during interrogation the court can use that as a factor in determining the totality of the situation in determining custody.
4. A parent may not invoke a minor's Miranda rights because those rights are personal to the minor and may not be vicariously invoked by any other person, even an attorney.

California's Statutory Requirements

California has additional statutory obligations regarding the questioning of minors deemed to be in custody.

1. WIC 625.6 (a) Prior to a custodial interrogation, and **before the waiver of any Miranda rights**, a youth 17 or younger shall consult with legal counsel in person, by telephone, or by video conference. The consultation may not be waived.
2. WIC 625 requires you to give Miranda advisement to **any minor who is in custody even if you are not about to interrogate him**. "In any case where a minor is taken into temporary custody believing that such minor is a person described in Section 601 or 602, or that he has violated an order of the juvenile court or escaped from any commitment ordered by the juvenile court, the officer shall advise such minor [1] that anything he says can be used against him [2] his right to remain silent, [3] his right to have counsel present during any interrogation, and [4] his right to have counsel appointed if he is unable to afford counsel."

Miranda Waivers for Juveniles

1. Under federal constitutional law, a minor can validly waive his Miranda rights without his parents or other (non-attorney) adult being present or consulted
2. A minor need not expressly waive his Miranda rights but can validly waive them by his conduct, such as by answering questions.
3. Before proceeding with an interrogation, it is wise to make sure a minor clearly understands his rights and that the decision to waive those rights is voluntary.

** Remember to give minors standard Miranda warnings without alteration. Adlibbing could invalidate the admonishments.*

** Giving section 625 advisements when you do not plan to interrogate does not affect your ability to seek a waiver of rights in compliance with section 625.6 at a later time.*

** As with adults, spontaneous statements are admissible and it will assist prosecutors if your report reflects the circumstances leading up to those statements.*

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