YOUTH Interrogations

BALTIMORE POLICE DEPARTMENT YOUTH INTERACTIONS TRAINING

GOALS FOR THIS TRAINING

When do you need to read Miranda to Youth? How do you make sure confessions are voluntary?

Review of new BPD policies

EXPRESS VS. IMPLIED QUESTIONING

Express questioning:

- Questions designed to elicit an incriminating response (even if it's a lie):
- "Where were you around 7:30 this evening?"
- "Have you ever been to the 400 block of Saratoga?"
- "Do you know Mildred Wilson, who was shot last night?"

EXPRESS VS. IMPLIED QUESTIONING

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Implied Questioning:

- Any words or actions that an officer knows or should know are reasonably likely to get an incriminating response from the suspect.
- Also referred to as the equivalent of questioning. Example:
- "Johnny says you hit him"
- Presenting evidence

CONSTITUTIONAL REQUIREMENTS FOR STATEMENTS

5th Amendment

 You must read suspect Miranda rights if there is custody + interrogation

14th Amendment

 All statements must be given voluntarily (you cannot coerce someone into confessing)

REASONABLE CHILD STANDARD

Because Youth are more susceptible to police pressure, a reasonable child might feel they are in custody when an adult would not.

A Youth suspect might feel pressure to make a statement, while an adult suspect would not feel that same pressure

New BPD policies take into account adolescent development and concepts discussed earlier in the course

HOW WILL THIS TRAINING HELP YOUR INVESTIGATIONS?

- Build rapport
- Ensure admissible confessions
- Build trust with youth and families
- Prevent false confessions

Ensuring that all Youth confessions are voluntary will help:

PART E WHEN DO YOU HAVE TO READ MIRANDA RIGHTS TO A YOUTHP

MIRANDA "CUSTODY" INDICATORS

Even if the suspect was <u>not</u> formally arrested, the court will consider these factors to see if they were in CUSTODY (an "arrest-like" situation) while he was being questioned:

Length of time and location of the questioning

Were the suspects isolated? How did they get to the location?

"Threatening presence" of several police officers

Any weapons displayed or physical touching of the suspect

Age of the suspect

Intimidating tone of voice or language

Restrictions on movement, handcuffs or other restraints

Was the suspect "confronted with evidence"? Accused of a crime?

IS THIS YOUTH IN CUSTODY? Is miranda required?

- Police suspected Johnny, a 13-year-old special education student in 7th grade, of two home break-ins
- A uniformed police officer on detail at Johnny school took Johnny out of his classroom to a conference room where, with the door closed, the police and school administrators questioned him for 30 minutes.
- Before beginning, they did not give him Miranda warnings or the opportunity to call his grandmother, his legal guardian, nor tell him he was free to leave the room.
- At first, Johnny denied that he was involved. But after police urged him to tell the truth, and told him that he could go to juvenile detention, he confessed.

IS THIS YOUTH IN CUSTODY? Is miranda required?

- After he confessed, police then told him that he could refuse to answer questions and was free to leave.
- Johnny was asked if he understood his rights, and Johnny nodded. He then provided further detail about the crime, including the location of the stolen items. He also wrote a statement, at the police officer's request.
- When the school day ended, he was permitted to leave to catch the bus home. Two juvenile petitions were filed against Johnny, charging him with breaking and entering and with larceny.

QUESTIONS TO DISCUSS:

- Would a reasonable Youth feel like they were in "custody"?
- Would a reasonable Youth feel free to leave in this situation? To refuse to answer questions?
- Does it matter that the Youth was a special education student who did not have the comprehension of a typical 13-year-old?
- Should the detectives have read the Youth his Miranda rights?
- Were the Youth's statements "voluntary"? Or the product of improper police pressure?

<u>J.D.B. VS. NORTH CAROLINA, 564 U. S. (2011)</u>

- These were the facts from a Supreme Court case, decided in 2011
- The lower courts thought the confession was admissible, as they said that because the Youth was not in custody, the officer did not have to read Miranda. They said that age did not matter in deciding custody.

What do you think the Supreme Court decided?

YES, MIRANDA WAS REQUIRED HERE.

• The Supreme Court overturned the lower court decisions that said age didn't matter. **Age does matter** in deciding whether or not a Youth is in custody for purposes of Miranda.

• "It is beyond dispute that children will often feel bound to submit to police questioning when an adult in the same circumstances would feel free to leave. Seeing no reason for police officers or courts to blind themselves to that commonsense reality, we hold that a child's age properly informs the *Miranda* custody analysis."

J.D.B. vs. North Carolina, 564 U.S. (2011)

IS THIS YOUTH IN CUSTODY?



IS THIS YOUTH IN CUSTODY?



IS THIS YOUTH IN CUSTODY?



BEFORE STARTING THE INTERROGATION

BPD Policy 1207 requires that you ask:

- Is the Youth enrolled in school? At or below appropriate grade level? Receive special education services? Been diagnosed with a disability (including a learning disability)?
- Impaired by drugs or alcohol?
- Experiencing a behavioral health crisis?

If the Youth shows signs that their ability to understand is impaired by a behavioral health or intellectual disability, you must stop the interrogation.

PART E WHAT S REQUIRED FOR A YOUTH'S **CONFESSION TO** BE VOLUNTARY?

MIRANDA WAIVER MUST BE "KNOWING AND VOLUNTARY"

- The waiver of Miranda rights must be KNOWING and VOLUNTARY.
- If the Youth does not understand the Miranda rights, the Youth cannot give a KNOWING waiver and the statement is not VOLUNTARY either.
- Make sure that the Youth you are interviewing actually understands what a "RIGHT" is (that is it not a privilege that can be taken away)
- Policy I 207 addresses how to go through these rights and why it's important to check for understanding

WHY ARE YOUTH VULNERABLE TO MAKING INVOLUNTARY STATEMENTS?

Susceptible to pressure

Focus on immediate reward (i.e., getting home) vs. long term risks

Scared of consequences if they do not tell police what they want to hear

COERCION? WHY OR WHY NOT?

"Tell me what you know or I'll arrest your friend" "Tell me what you know and I'll make sure your brother's case goes well" What if the Youth tries to bargain with YOU?

"If I tell you what I know, can you help with my case?"

CASE STUDY #1: YOUTH INTERROGATION IN NEWPORT NEWS, VA

As you watch this video, think about how the detective is putting pressure on the Youth, and whether or not this makes his confession involuntary.



CASE STUDY #1: YOUTH INTERROGATION IN NEWPORT NEWS

Ways that the detective applied pressure to the Youth during the interrogation:

- Length of time of the interrogation (8 hours with few breaks)
- Very short Miranda advisement with no check for comprehension
- Detective sat very close to him
- Detective frightened him about prison rape
- Threatened him with stories about other kids

PART III: BPD YOUTH NTERROGATION **POLICY 1207**

PARENTAL NOTIFICATION REQUIRED

BPD Policy 1207:

- You cannot interrogate a Youth under 18 without a parent, guardian, or attorney present
 - Contact parent/guardian when you get to BPD facility for questioning
 - Attempt to contact an attorney (Office of Public Defender)
 - Document your attempts
- For Youth ages 16 and 17:
 - You can begin advise of rights and interrogation once parent/guardian or attorney is present

REQUIREMENTS FOR YOUTH 15 AND UNDER

What are the unique requirements for youth 15 and under?

Public Defender 24 hour hotline number

Parent/guardian must **consent** before beginning advisement of rights and interrogation Youth must have the chance to consult with an attorney before advisement of rights and interrogation

WHAT TO TELL THE PARENT/GUARDIAN

Tell the parent/guardian:

- Youth can consult them prior to/during questioning
- They have to be there to conduct interrogation
- If they want the interrogation to stop, it will stop

EXCEPTIONS: Do not allow the parent/guardian into the Interrogation if they:

- Are a complainant in the offense under investigation
- Are suspected of being an accomplice in the offense
- Express strong hostility towards Youth
- If parent/guardian wants to be present, but the Youth states they do not want them to be present, an attorney must be present to proceed with the Interrogation

READING MIRANDA RIGHTS

BPD Policy 1207: Use Explanation and Waiver of Rights Form for Youth

How should you present it to the Youths and their guardians?

- Give everyone the form, and go through it line by line
- Youth read it to themselves, then you read it to them
- Ask Youth to explain, in their own words, what each right means
- If Youth asks for a lawyer, contact a lawyer
- If Youth doesn't want to talk, stop the interrogation

WHAT SHOULD YOU DO DURING A YOUTH INTERROGATION?

BPD Policy 1207:

- Ask age appropriate questions, take into account education and prior experience
- Build rapport, have an interrogation plan
- Ask open ended questions
- Give brief overview of BPD procedures and prosecution with clear, simple language
- Tailor questions to Youth's age, maturity, and experience

BPD POLICY 1207: WHAT YOU CANNOT DO DURING AN INTERROGATION

NO DECEPTION:

• Can't tell Youth: You have evidence against them, video, other people said Youth involved- if this is FALSE

Don't go beyond 2 hours, unless circumstances require it (get supervisor approval)

Don't shackle unless safety issue

Don't proceed if Youth is experiencing behavioral crisis

CASE STUDY #2: TREVON YATES

Trevon Yates interrogation Aug. 28, 2013

IMPROPER YOUTH INTERROGATION TECHNIQUES

- Ignoring behavioral health crisis and vulnerability
 - Youth threatens to kill himself
 - Begs for his mother and rocks back and forth
 - Sobbed uncontrollably, rocked back and forth
- Confronting Youths with false accusations
 - Falsely told him others said he had the gun
 - Said they already knew he did it
- Making promises of leniency or protection
 - "We're not talking about prison. But you have to tell the truth"
- Fed him details of the offense for him to confess to

CONSEQUENCES OF POLICE COERCION FOR YOUTH SUSPECTS

- Trevon was charged as an adult with armed robbery.
- Trevon thought he would go home after confessing. Instead, his mugshot appeared in the newspaper identifying him as the suspect.
- Unable to meet \$500,000 bond, he spent nine months in jail before the State's Attorney's Office dropped the charges, after viewing the video.
- Police never identified another suspect.

FINAL TAKE AWAYS

- Each table will be assigned a topic from the Youth Interactions training
- You will be responsible for making a short presentation to "Teach Back" one thing that you learned from your assigned topic that you will take with you when you leave the training.
- You can do an illustration, skit, pop quiz, Q&A with the class, whatever you'd like!

Here are the assignments:

- Adolescent Development
- Mental Health Vulnerabilities or Trauma
- Stops, Searches and Arrest
- Diversion
- Youth Interrogations