

February 19, 2020

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TESTIMONY IN SUPPORT OF SB 593
Juvenile Law - Child Interrogation Protection Act

TO: Chair Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee

FROM: Toby Ditz

My name is Toby Ditz and I live in Baltimore City in District 40. This testimony is in support of SB 593.

Children's rights deserve special protection. No child should be asked to waive their right to silence or to participate in a custodial interrogation without consulting with a lawyer. Nor can a parent or guardian be asked to waive those rights on the child's behalf without first consulting a lawyer.

As experts on cognitive and emotional development tell us, children cannot be expected to comprehend fully even the most careful enumeration of their rights, let alone to evaluate when it is in their interest to waive them. The Baltimore Police Department's newest draft policy on youth interrogations puts it this way: even older minors "have a lower capacity for self-regulation in emotionally charged contexts ... and are more susceptible than adults to Custodial Interrogation pressures." (BPD Draft policy, "Youth Interrogations," #1209, January 6, 2019). Simultaneously eager to please and fearful of those who have authority over them, children easily exaggerate, make false accusations, and even falsely confess. The miscarriage of justice in the Central Park Five teaches us as much: the rush to judgement by police, prosecutors, and self-proclaimed pundits was, we now know, based on the false confessions extracted from black youths when they were picked up and interrogated at the police station without the presence of their parents or lawyers.

Even so, I probably would not be submitting this testimony today, if I had not gone to a people's town hall attended by 40 to 60 of my neighbors and fellow Baltimoreans who gathered at the Douglas Memorial Community Church in West Baltimore last November to comment on the BPD's new draft policy, which was then being revised to meet the standards of constitutional policing mandated by the Consent Decree. The version of the draft policy we considered protected younger children, as SB593 would do, but it permitted 16 and 17 year olds to waive their rights to silence without a lawyer or guardian present. When I first read the draft a few days before the meeting, I jotted in the margin, "no minor can waive their rights." But then I began to second-guess myself. After all, I thought, this was a new, presumably liberal, policy. Maybe I just don't understand standard practice. Maybe I am naïve.

The people at the Douglas Memorial Church that evening taught me to trust my original intuition. We split up into five or six worktables for about thirty minutes to talk about the draft. Then the spokesperson for each group stood up one after the other to summarize. We were unanimous: no child should ever be interrogated without a lawyer. The parents were especially adamant; they pointed out that the law held them responsible for their children's welfare and that no other adult—let alone the police—should assume that basic authority without their consent. We also emphasized that our youth are typically very afraid of the police, despite their superficial bravado and that many have also experienced trauma. We also knew from experience how easily children can be made to tell the story that their questioners want to hear. Above all, we no longer want the law to treat our black youths, especially, as if they were adults. That is how black childhood gets criminalized. The BPD has now strengthened its policy.

SB593 is the right bill, with the right answer: no child or youth should be subject to custodial interrogations without the opportunity to first speak with a lawyer. Unbiased policing requires this answer. Respect for the rights of vulnerable populations requires this answer. **Lurge a favorable report on SB593.** Thank you.