

S1

March 14, 2017
Juvenile Interrogation

[GD] Sponsor: CM Upthegrove
Proposed No.: 2017-0032

1 **STRIKING AMENDMENT TO PROPOSED MOTION 2017-0032 VERSION 1**

2 On page 1, beginning on line 6, strike everything through page 4, line 61, and insert:

3 "WHEREAS, the King County department of adult and juvenile detention
4 operates a juvenile detention center at the King County youth services center in Seattle,
5 and

6 WHEREAS, juveniles may be detained at the juvenile detention center following
7 an arrest for allegedly committing an offense or on a warrant, pending trial, as part of a
8 sentence or as part of an order sanctioning the youth for violating the terms of probation,
9 and

10 WHEREAS, juvenile nonoffenders, including truants, at-risk youth, children in
11 need of services or dependents, who violate a court order or are arrested on a warrant
12 may also be detained at the detention center, and

13 WHEREAS, a juvenile in detention will attend school and have access to a wide
14 range of programs and services with a focus on rehabilitation, not punishment, and
15 ensuring community safety, and

16 WHEREAS, King County is committed to helping youth involved in juvenile
17 court develop into healthy, productive adults, and

18 WHEREAS, a juvenile in detention does not have a parent or other guardian
19 available to help ensure that the juvenile is treated fairly, and

20 WHEREAS, the department of adult and juvenile detention maintains the
21 following visitation guidelines for juveniles in detention: visits may be up to thirty
22 minutes long; each youth may have visitors up to three times per week; only parents and
23 guardians and children under the age of eight may visit; and no food, clothing, money, or
24 personal items may be brought into the visiting area, and

25 WHEREAS, notwithstanding its visitation guidelines, the department of adult and
26 juvenile detention permits police officers and detectives to question juveniles in detention
27 and obtain confessions from them without the juvenile's attorney being present, and

28 WHEREAS, the United States Supreme Court observed in *J.D.B. vs. North*
29 *Carolina*, 131 S. Ct. 2394 (U.S. 2011): "By its very nature, custodial police interrogation
30 entails 'inherently compelling pressures.' . . . Indeed, the pressure of custodial
31 interrogation is so immense that it 'can induce a frighteningly high percentage of people
32 to confess to crimes they never committed.' . . . That risk is all the more troubling-and
33 recent studies suggest, all the more acute-when the subject of custodial interrogation is a
34 juvenile" (citations omitted), and

35 WHEREAS, the court further observed: "[C]hildren 'generally are less mature and
36 responsible than adults' . . . they 'often lack the experience, perspective, and judgment to
37 recognize and avoid choices that could be detrimental to them' . . . they 'are more
38 vulnerable or susceptible to . . . outside pressures' than adults. . . . Addressing the specific
39 context of police interrogations, we have observed that events that 'would leave a man
40 cold and unimpressed can overawe and overwhelm a lad in his early teens,'" 131 S. Ct. at

41 2403 (citations omitted; holding that a juvenile's age should be considered in the Miranda
42 analysis of the admissibility of the juvenile's confession); and

43 WHEREAS, the United States Department of Justice has recently required that
44 the St. Louis family court "revise its policies, procedures, and practices to prohibit police
45 interrogations in the Juvenile Detention Center unless an attorney is present to represent
46 the juvenile";

47 NOW, THEREFORE, BE IT MOVED by the Council of King County:

48 A. The definitions in this section A. apply throughout this motion unless the
49 context clearly requires otherwise.

50 1. "Custodial interrogation" means any interrogation by law enforcement of a
51 juvenile in the custody of the department of adult and juvenile detention.

52 2. "Juvenile" means a person under eighteen years old.

53 3. "Law enforcement" means representatives of local, state and federal law
54 enforcement agencies.

55 B. It is hereby established as the policy of King County that before a custodial
56 interrogation, and before the waiver of any Miranda rights, a juvenile shall consult with
57 legal counsel in person, by telephone or by video conference. The consultation may not
58 be waived. Unless required by court order, the department of adult and juvenile detention
59 shall not release a juvenile in its custody to law enforcement for the purpose of
60 interrogation.

61 C. The council requests that the county executive submit to the council in July
62 2017 a report, prepared in consultation with stakeholders the executive deems
63 appropriate, on the steps taken to implement this policy. The county executive is

64 requested to file the report in the form of a paper original and an electronic copy with the
65 clerk of the council, who shall retain the original and provide an electronic copy to all
66 councilmembers, the council chief of staff, the policy staff director and the lead staff for
67 the law and justice committee, or its successor."

68

69 **EFFECT:**

- 70 • The motion establishes as the policy of King County that prior to a custodial
71 interrogation, and before the waiver of any Miranda rights, a juvenile shall consult
72 with legal counsel in person, by telephone, or by video conference.
- 73 • The legal consultation may not be waived.
- 74 • Unless required by court order, DAJD shall not release a juvenile in its custody to
75 law enforcement for the purpose of interrogation.
- 76 • The motion covers auto-declined youth, or persons who are under the age of 18
77 and are charged as adults.
- 78 • The motion applies to juveniles in DAJD custody.
- 79 • The motion applies to all levels of law enforcement.