



King County

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King County Executive

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September 7, 2022

The Honorable Claudia Balducci
Chair, King County Council
Room 1200
C O U R T H O U S E

Dear Councilmember Balducci:

This letter is provided on behalf of the King County Sheriff's Office in response to the reporting requirements of Ordinance 19148. This letter, which serves as the required report, provides the number of times law enforcement personnel questioned youth before the youth consulted with legal counsel; data on the number of youths arrested by year; and incidents where officers questioned youths under specific circumstances.

Ordinance 19148 prohibits King County Sheriff's Office (KCSO) personnel from questioning youth without first having the youth consult with legal counsel. KCSO modified its General Operations Manual (GOM) to reflect this requirement. GOM Section 12.07.055 now states that youth are not to be questioned prior to consulting with legal counsel. The specific section of the GOM is attached to this letter for reference.

Additionally, Ordinance 19148 has two reporting requirements. Section 4 of the ordinance requires the Sheriff's Office to report the number of times law enforcement personnel questioned youth before the youth consulted with legal counsel. Ordinance 19148 Section 4D allows such questioning under specific circumstances, including the protection of life from eminent threat. The ordinance requires the Sheriff's Office to deliver to the Clerk of the Council, the Prosecuting Attorney's Office, and the Director of the King County Department of Public Defense a record for each time KCSO questions a youth in the circumstances permitted by Ordinance 19148 Section 4D.

Since the passage of Ordinance 19148 and the modification of KCSO policy to require case reports when questioning youth, the KCSO finds no reports of officers questioning youth prior to the youth's access to legal counsel. A search of the KCSO's incident reporting system (known as Mark 43), completed in June 2022, identified no reports of officers questioning youth prior to the youth's access to legal counsel. Additionally, KCSO reviewed its complaint logs and found no complaints of a youth being questioned prior to access to legal counsel.

Section 5 of the Ordinance calls for identifying the number of youths arrested by year, as well as data on incidents where youths are questioned under the circumstances outlined in Section 4D of Ordinance 19148.

Table 1 below identifies the number of youths arrested by month and year.

Table 1. Ordinance 19148 – Youths Arrested by KCSO by Year													
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2021	23	13	11	19	15	22	16	8	20	27	26	9	209
2020	40	45	35	35	34	24	28	30	37	27	22	19	376
2019	40	37	60	54	50	44	49	33	35	37	53	34	526

Table 2 below provides the required reporting components called for in Section 4E of the ordinance. As identified for the first reporting requirement, the KCSO finds no records of youth being questioned under the provisions of Section 4 D.

Table 2. Ordinance 19148 – Reporting Requirements Records for Use of Sec. 4D Exceptions to Access to Legal Counsel	
Reporting Requirement - 2021 Data	2021
The number of times youth were administered their Miranda warnings	0
The number of times Miranda rights were waived	0
The number of times law enforcement requested permission from a youth to conduct a search of the youth, their property, abodes, or vehicles under the youth’s control	0
The number of times youth consented to a search	0
The number of times legal counsel were provided to youth	See Note 1

Note 1: Per comments above, KCSO provides legal counsel to all youth under 18 prior to questioning.

Because there were no reported incidents where KCSO questioned youth under the circumstances permitted by Ordinance 19148 Section 4D, no such reports were provided to the Clerk of the Council, the Prosecuting Attorney’s Office, or the Director of the King County Department of Public Defense.

Finally, the Ordinance requests information as to whether it resulted in systemic problems in securing safety in emergency situations or impaired investigations. While questioning witnesses or suspects at the scene certainly speeds response and facilitates investigations, KCSO recognizes that law enforcement engagement with youth presents special circumstances and should be treated differently than interactions with adults. As previously discussed, KCSO policy

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now incorporates access to legal counsel prior to questioning for youth and has modified its investigations to reflect this change. On the whole, KCSO does not believe this policy negatively impacts public safety or investigations. KCSO also reached out to the Prosecuting Attorney's Office (PAO) and the Department of Public Defense (DPD) for its feedback on impacts from implementing the requirements of Ordinance 19148. DPD stated:

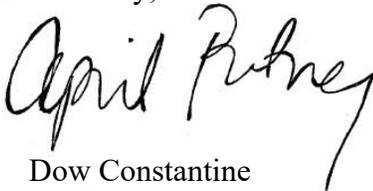
DPD is pleased with the Ordinance's role in protecting the rights of young people who are interrogated by law enforcement officers with the King County Sherriff's Office. DPD attorneys regularly now read police reports where law enforcement connects a youth with an attorney before conducting a custodial interrogation. DPD attorneys have also consulted with youth who are seeking legal advice and have seen how youth are empowered when they are able to understand their constitutional rights and have their questions answered by an attorney.

PAO shared that while it strongly supports the right against self-incrimination, it believes that access to counsel could potentially delay the apprehension of a suspect in a violent incident. PAO added that investigations are often fluid, and the requirements of the Ordinance has likely delayed investigations and contributed to unsolved cases. The PAO also pointed to the need to ensure that deputies and detectives are trained on adhering to the Ordinance.

The information in this report reflects the efficient, accountable regional and local government goal of the King County Strategic Plan. This report required 20 staff hours and cost an estimated \$2,500 to prepare.

If your staff have any questions, please contact Sheriff Patti Cole-Tindall at 206-263-2878.

Sincerely,

 for

Dow Constantine
King County Executive

Enclosure

cc: King County Councilmembers
ATTN: Stephanie Cirkovich, Chief of Staff
Melani Pedroza, Clerk of the Council
Shannon Braddock, Chief of Staff, Office of the Executive
Karan Gill, Deputy Chief of Staff, Office of the Executive
Mina Hashemi, Council Relations Director, Office of the Executive
Sheriff Patti Cole-Tindall, King County Sheriff's Office

12.07.055 Interviews / Consent to Search

(revised July. 2021)

Purpose

Establishes requirements, limits, and expectations when detaining a juvenile based on probable cause of involvement of a crime, questioning a juvenile during a custodial interrogation, or requesting that a juvenile consent to an evidentiary search.

Scope

All commissioned personnel.

Definitions

Custodial interrogation: express questioning or other actions or words by a law enforcement officer which are reasonably likely to elicit an incriminating response from an individual and occurs when reasonable individuals in the same circumstance would consider themselves in custody.

Imminent threat: An objectively reasonable need to protect persons from an immediate danger consistent with the public safety exception to the Miranda rule first announced in the United States Supreme Court case *New York v. Quarles*, 467 U.S. 656, 81 L. Ed. 2d 550, 104 S. Ct. 2626 (1984).

Policy

Washington State law and King County Code establish strict requirements for law enforcement officers when detaining and interviewing juvenile crime suspects or requesting consent to search a juvenile's person or property. State law and county code are the foundation of this policy. Officers shall follow this policy.

Reasonableness: Custodial interrogations of a juvenile should not extend over periods of time that could be considered unreasonable or harassing. The interrogation should be conducted by only those deputies/detectives that are actively involved in the investigation.

Deputies should notify a juvenile's parents if the juvenile interviewed is under twelve (12) years of age. Deputies should attempt notification within a reasonable amount of time, but not as to interfere with the immediate investigation.

If the interview occurs at a school refer to GOM [12.06.025](#).

Miranda: Prior to conducting a custodial interrogation, juveniles shall be advised of their constitutional rights from a department issued reference card; including the juvenile warnings.

Access to an Attorney: Deputies shall provide a juvenile with access to an attorney for consultation in the following circumstances;

1. Before questioning a juvenile during a custodial interrogation; OR
2. After detaining a juvenile based on probable cause of involvement in criminal activity; OR
3. Before requesting that a juvenile consent to an evidentiary search of their person, property, dwelling, or vehicle.

Access to an attorney may be provided in person, by telephone, or by video conference. The juvenile cannot waive their right to consult with the attorney.

After the juvenile has consulted with legal counsel, the juvenile may assert or waive their constitutional "Miranda" rights. The juvenile may also have their parent, guardian, or legal counsel advise, on the child's behalf, whether they choose to assert or waive their constitutional rights.

The King County Dept. of Public Defense provides 24hr on-call attorney services. KCDPD can be reached by calling;

- (206) 296-7662 during business hours
- (206) 477-8899 after business hours

Exceptions to Attorney Requirement: Deputies are not required to provide access to an attorney before custodial interrogation if;

1. Deputy believes the juvenile is a victim of human trafficking as defined in RCW 9A.40.100; however, any information obtained from the juvenile cannot be used in any prosecution of that juvenile; OR
2. Deputy believes that the information sought is necessary to protect an individual's life from an imminent threat; AND
3. A delay to allow legal consultation would impede the protection of an individual's life from an imminent threat; AND
4. Questioning by the law enforcement officer is limited to matters reasonably expected to obtain information necessary to protect an individual's life from an imminent threat.

Reporting Exceptions to the Juvenile Interview Attorney Requirement: Whenever a deputy exercises one of the listed exceptions to the attorney requirement during a juvenile interview, they shall document the following in their case report;

1. Time youth was advised of “Miranda” warning
2. Time questioning began
3. Reasons that justified the exception
4. The questions asked
5. Juvenile’s name, age, and the race with which the juvenile identifies
6. Name and personnel number of each law enforcement officer present

Copies of the case reports shall be submitted via chain of command to the Sheriff’s Office Legal advisor.

Twice each year, the KCSO legal advisor shall transmit copies of the case reports to the King County Prosecuting Attorney and the director of KC Dept. of Public Defense.

Each quarter, the KCSO legal advisor shall transmit copies of above case reports to the Clerk of Counsel.

Annual Report to Clerk of Counsel: On January 4th each year, through the year 2023, the KCSO legal advisor shall compile a report documenting the following:

1. # of youth arrested, by month, compared to the three years prior to August 2020
2. # of times youth were given Miranda warnings
3. # of times youth waived Miranda rights
4. # of times consent to search was requested
5. # of times youth consented to search
6. # of times legal counsel was provided to youth
7. Whether the attorney consultation requirement in KCC 2.63 has resulted in any systemic problems in securing safety in emergency situations or impaired investigations.
8. Input from the KC Dept. of Public Defense and the KC Prosecuting Attorney’s Office regarding the impacts of KCC 2.63, whether positive or negative.

The report shall be filed in paper form and electronic format with the Clerk of Counsel.

Responsibilities

N/A

Procedures

N/A

Reference:

KCC [2.63](#)

RCW [13.40](#)

Annual Review Responsibility:

Patrol Operations Chief