


<p>California Department of Justice DIVISION OF LAW ENFORCEMENT Stephen Woolery, Chief</p> 	<h1>INFORMATION BULLETIN</h1>	
<p><i>Subject:</i></p> <p>New Law Prohibiting the Use of Certain Techniques When Interrogating Minors in Custody in a Fixed Place of Detention (Welf. & Inst. Code, § 625.7.)</p>	<p><i>No.</i></p> <p>2024-DLE-07</p>	<p><i>Contact for information:</i></p> <p>Rachelle Newcomb Deputy Attorney General Criminal Division 916-210-7657</p>
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TO: ALL CALIFORNIA LAW ENFORCEMENT AGENCIES

This bulletin summarizes a new law, Welfare and Institutions Code section 625.7, that prohibits law enforcement from using certain techniques during “custodial interrogations,” as defined in Penal Code section 859.5, subdivision (g)(1), of minors under 18 years of age. (Stats. 2022, ch. 289, § 1.) As of July 1, 2024, during a “custodial interrogation” of a person 17 years of age or younger relating to the commission of a misdemeanor or felony, law enforcement officers shall not “employ threats, physical harm, deception, or psychologically manipulative interrogation tactics,” as defined. (Welf. & Inst. Code, § 625.7, subds. (a), (e).)

Welfare and Institution Code Section 625.7 Applies to Law Enforcement Questioning of a Minor in Statutorily Defined Situations

Welfare and Institution Code section 625.7 applies when a law enforcement officer interrogates a minor 17 years of age or younger if (1) the minor is in custody in a fixed place of detention and (2) the officer questions the minor regarding the commission of a misdemeanor or felony. (Welf. & Inst. Code, § 625.7, subd. (a).) Section 625.7, subdivision (f), defines “custodial interrogation” as having the same meaning as defined in Penal Code section 859.5. It is similar to the United States Supreme Court’s description of custodial interrogation in *Miranda v. Arizona* (1966) 384 U.S. 436. Penal Code section 859.5 provides the definition for “custodial interrogation” (subd. (g)(1)) by a “law enforcement officer” (subd. (g)(4)) in a “fixed place of detention” (subd. (g)(3)). (Welf. & Inst. Code, § 625.7, subd. (g)(1).)

Custody occurs when “a reasonable person in the subject’s position would consider himself or herself to be in custody” “in a fixed place of detention.” (Pen. Code, § 859.5, subd. (g)(1).) Custody begins when the person should have been advised of the constitutional right to remain silent, to have counsel present during an interrogation, and to have counsel appointed if the person cannot afford counsel. (*Ibid.*) Custody ends “when the questioning has completely finished.” (*Ibid.*) A fixed place of detention is a “fixed location under the control of a law enforcement agency where an individual is held in detention in connection with a criminal offense that has been, or may be, filed[.]” (Pen. Code, § 859.5, subd. (g)(3).) Fixed locations under law enforcement agency control include jails, police and sheriff’s stations, holding cells, correctional and detention facilities, juvenile halls, or Division of Juvenile Facilities. (*Ibid.*)

Interrogation occurs when a law enforcement officer asks questions that are “reasonably likely to elicit incriminating responses[.]” (Pen. Code, § 859.5, subd. (g)(1).)

Interrogation Techniques Prohibited by Law Enforcement Officers in Questioning Minors

Under the circumstances set forth above, law enforcement officers shall not “employ threats, physical harm, deception, or psychologically manipulative interrogation tactics.” (Welf. & Inst. Code, § 625.7, subd. (a).) Both “deception” and “psychologically manipulative interrogation tactics” are defined. (Welf. & Inst. Code, § 625.7, subd. (b).) While not limited to the following situations, deception includes “the knowing communication of false facts about evidence, misrepresenting the accuracy of the facts, or false statements regarding leniency.” (Welf. & Inst. Code, § 625.7, subd. (b)(1).) Also not limited to the definition provided, psychologically manipulative interrogation tactics include minimization and maximization techniques and other interrogation practices that rely on a presumption of guilt or deceit, making direct or indirect promises of leniency, and employing a “false” or “forced” choice strategy. (Welf. & Inst. Code, § 625.7, subd. (b)(2).)

Maximization includes techniques used “to scare or intimidate the person by repetitively asserting the person is guilty despite their denials[.]” (Welf. & Inst. Code, § 625.7, subd. (b)(2)(A)(i).) It can also include “exaggerating the magnitude of the charges or the strength of the evidence, including suggesting the existence of evidence that does not exist.” (*Ibid.*) Minimization involves minimizing “the moral seriousness of the offense.” (Welf. & Inst. Code, § 625.7, subd. (b)(2)(A)(ii).) Minimization “falsely communicates that the conduct is justified, excusable, or accidental.” (*Ibid.*)

Direct and indirect promises of leniency are also prohibited as psychologically manipulative. (Welf. & Inst. Code, § 625.7, subds. (a), (b)(2)(B).) A promise of leniency includes “indicating the person will be released if the person cooperates.” (*Ibid.*) Immunity offered to a minor by a law enforcement officer in return for testifying truthfully is an example of a promise of leniency.

A law enforcement officer also may not use a strategy involving a “false” or “forced” choice. (Welf. & Inst. Code, § 625.7, subd. (b)(2)(C).) This strategy encourages a person “to select one of two options, both incriminatory, but one is characterized as morally or legally justified or excusable.” (*Ibid.*)

Exception for Imminent Threat to Life or Property

There is one exception to the above prohibitions against custodial interrogations of a minor. (Welf. & Inst. Code, § 625.7, subd. (c).) The exception applies only when both criteria are met: (1) the questioning officer “reasonably believed” the information sought “was necessary to protect life or property from an imminent threat”; and (2) the officer limited questions to only those “reasonably necessary to obtain information related to the imminent threat.” (*Ibid.*)

Lie Detector Tests May Be Used in Certain Circumstances

Welfare and Institutions Code section 625.7, subdivision (d), allows an officer to administer a lie detector test to a minor if the testing parameters meet certain requirements. First, the minor’s agreement to using a lie detector test must be voluntary and cannot be “obtained through the use of threats, physical harm, deception, or psychologically manipulative” techniques. (Welf. & Inst. Code, § 625.7, subd. (d).) Second, the officer cannot “suggest” the results of the test “are admissible in court or misrepresent the results of the test to the minor.” (*Ibid.*)