

## Rights During Custodial Police Questioning

If you are 17 or younger, the law says the police cannot question you in custody UNLESS you have talked with a lawyer.<sup>1</sup> You have the right to speak to a lawyer. Even if the police make it seem like an option, it's a right. You cannot give up this right. If you are questioned without your lawyer while in custody, make sure you tell your lawyer that the police questioned you. This conversation can take place in person, on the phone or by video.

There are exceptions but it's very rare. If you have doubts, bring it up with your lawyer.

The consultation may not be waived.<sup>2</sup> If you were questioned after arrest without a lawyer present, once you do have a lawyer, you should let them know this.

The only exception is for an imminent threat.<sup>3</sup> The officer who questioned you must:

- (1) reasonably believe the information they looked for was necessary to protect life or property from a serious imminent threat.
- (2) ask only questions that are reasonably necessary to get that information.<sup>4</sup>

See *Intake* for rights during probation questioning.

## Drug and Alcohol Testing Rights

Once you are in police custody, police can legally ask you to take a drug or alcohol test. So long as the police do not suspect you of drunk driving, they must tell you that the test is voluntary and that you have the right to refuse the test.<sup>5</sup> They also have to tell you that you have the right to talk to your parents before taking the test.<sup>6</sup> If you agree to take a drug or alcohol test, it can be a factor in deciding what happens to you, when a judge decides your disposition (sentence), but it cannot be the sole basis for a petition or finding by the court.<sup>7</sup>

If you refuse to take a test, they might try to scare you by saying:

- “You refusing will hurt you”
- “You refusing will make you look guilty”
- “If you don’t take the test we will write you up for resisting an officer”
- Etc.

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<sup>1</sup> Cal. Welf. & Inst. Code § 625.6.

<sup>2</sup> *Id.*

<sup>3</sup> Cal. Welf. & Inst. Code § 625.6(c).

<sup>4</sup> *Id.*

<sup>5</sup> Cal. Welf. & Inst. Code § 625.2(a).

<sup>6</sup> *Id.*

<sup>7</sup> Cal. Welf. & Inst. Code § 625.1.

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