

Rule 105. Detention and Shelter Care Procedures

(a) Scope. The provisions of this Rule shall apply to all respondents taken into custody including those taken into custody by the Director of Social Services pursuant to D.C. Code § 16-2337.

(b) Review by Director of Social Services. The Director of Social Services or the Director's delegate shall, if possible, release the respondent to the care of the respondent's parent, guardian, custodian, or other person or agency able to provide supervision and care for the respondent, or may admit the respondent to the shelter or detention facility subject to further order.

(c) Notice of rights to respondent. The Director of Social Services or the Director's delegate shall notify any respondent upon admission to shelter care or detention of the reasons for such admission, and of the respondent's right to telephone the respondent's parent, guardian or custodian and attorney, if any. The Director shall also notify the respondent that a hearing will be held by the Family Court the next day (excluding Sundays) concerning the necessity for further shelter care or detention, and that the respondent will be represented by counsel at such hearing pursuant to SCR-Juvenile 44.

(d) Notice to respondent's parent, guardian, or custodian. The Director of Social Services or the Director's delegate shall promptly notify the parent, guardian, or custodian of the respondent, by telephone or in person, that the respondent has been admitted to shelter care or detention, what the nature of the complaint is, and that a detention hearing which they must attend will be held by the Family Court at a specified hour on the next day (excluding Sundays). The Director shall inform them that they may meet the Director prior to the detention hearing to discuss any questions that they may have. The Director shall also inform the parent, guardian, or custodian of the right to visitation and of the respondent's right to be represented by counsel or, if the respondent's parent, guardian, or custodian is unable to retain counsel, that the Family Court will appoint counsel to represent the respondent.

(e) Interview of respondent in detention prohibited.

(1) Need for written permission of parent, guardian, custodian or attorney. Except for a staff member of a shelter or detention facility, an authorized provider of medical, psychiatric, or other evaluation or treatment, or a probation officer, and unless the Family Court orders otherwise, no person shall be permitted to interview a respondent held in the facility without the respondent's parent, guardian, custodian or attorney being present, unless the parent, guardian, custodian or attorney has been informed of the purpose of the interview and has given written permission for the interview to be held without her or him.

(2) Exception when respondent consents to questioning about unrelated offense. Any respondent held in a shelter or detention facility who is the victim of, the witness to, or has any information pertaining to any criminal offense committed in the facility or in transit to or from the facility, and with which the respondent is not currently charged, may be interviewed by law enforcement officers with respect to that offense without an order of the Family Court, without permission of the parent, guardian, or custodian, and without the consent of the respondent's attorney provided that:

(A) the respondent is not suspected of having been a participant in the criminal act or acts under investigation;

(B) the respondent consents to the interview; and

(C) the respondent is notified of the right to terminate the interview at any point.

Any statement made by a respondent to a law enforcement officer pursuant to this subparagraph (e)(2) shall not be admissible for any purpose, except for impeachment, at any proceeding brought against the respondent.

COMMENT

Paragraph (a) of this Rule makes it clear that the procedures set forth in the Rule apply to all cases where children are taken into custody. Paragraphs (b) and (c) implement D.C. Code § 16-2311(b). Paragraph (d) provides for notice to the parent, guardian, or custodian by the Director of Social Services or the Director's delegate in addition to the notice by the person taking the respondent into custody required under D.C. Code § 16-2311(a). Paragraph (e) is designed to prevent interviews of a respondent in detention by the police and others, about the offense for which the respondent is in custody without the presence or consent of the respondent's parent, guardian, custodian, or attorney. Subparagraph (e)(2) permits a law enforcement officer to interview a respondent, with the respondent's consent, about an offense committed in or on route to or from the detention facility and with which the respondent has not been charged. Statements obtained pursuant to subparagraph (e)(2) are not admissible, except for impeachment, at any proceeding brought against the respondent. See *Harris v. New York*, 401 U.S. 222, 91 S. Ct. 643, 28 L. Ed. 2d 1 (1971).