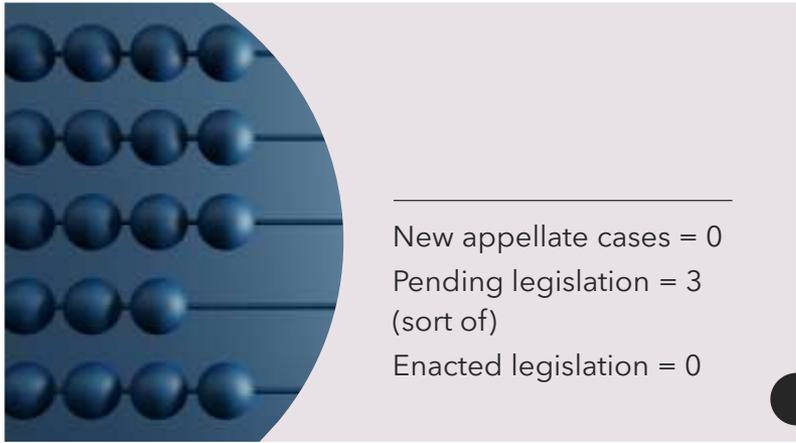




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4

Search and Seizure Headlines

Interrogation Headlines



5

Search and Seizure Headlines

- The reasonableness standard at school
- Age and excessive force analysis

6

Search in the Unique School Setting

Substantial need to maintain
order

Custodial and tutelary power
Educational and safety goals



7

New Jersey v. T.L.O., 469 U.S. 325 (1985)

Reasonableness test

1. Justified at inception?
2. Reasonably related in scope
to the circumstances that
justified the interference?



8

Justified at Inception

Reasonable grounds to suspect search will find evidence the student **violated school rules or the law**

9

Permissible in Scope

Reasonably related to search objectives and **not excessively intrusive** in light of student's age and sex and the nature of the infraction

10



What about school searches conducted by law enforcement?

Reasonableness applies when:

- School officials initiate search on their own
- Minimal law enforcement involvement
- Law enforcement in conjunction with school official
- SRO investigation on own or at direction of school officials and in furtherance of well-established educational and safety goals

In re D.L.D., 203 N.C. App. 434 (2010)

11



Strip searches at school

Require a level of suspicion that matches the high degree of intrusion involved

Safford Unified Sch. Dist. No. 1 v. Redding, 557 U.S. 364 (2009).

12

Student cell phone searches

- No NC cases
- Federal courts have applied reasonableness standard
- If having a phone, or using a phone, at school is a violation of a school rule, is the search always justified?



13

Age & excessive force

Objective reasonableness test
- Balance nature and quality of intrusion on 4th Amendment rights against countervailing governmental interests

Graham v. Connor, 490 U.S. 386 (1989)



14

The young age of a child is an important factor when determining objective reasonableness

Especially when the child:

- is not the suspect
- does not resist
- does not try to flee



15

Search and Seizure
Headlines

Interrogation Headlines



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G.S. 7B-2101(a)

Any juvenile in custody must be advised prior to questioning:

- (1) That the juvenile has a right to remain silent;
- (2) That any statement the juvenile does make can be and may be used against the juvenile;
- (3) That the juvenile has a right to have a parent, guardian, or custodian present during questioning; and
- (4) That the juvenile has a right to consult with an attorney and that one will be appointed for the juvenile if the juvenile is not represented and wants representation

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Everyone under age 18

State v. Fincher, 309 N.C. 1 (1983)



18

In Custody?



19

Objective test

Totality of Circumstances

Was there a formal arrest or a restraint on the juvenile's freedom of movement to the degree associated with a formal arrest?

State v. Gaines, 345 N.C. 647, 661, cert. denied, 522 U.S. 900 (1997)

20

Reasonable child standard

(J.D.B. v. North Carolina, 564 U.S. 261 (2011))



21

Common Factors Not Custody

Told free to leave

Nonsecure locations

Voluntariness of juvenile participation

Offered breaks

Absence of uniforms/weapons

22

Not Custody

In re D.A.C., 225 N.C. App. 547 (2013)

- 14-year-old questioned by 2 armed officers (1 in uniform)
- In yard, in daylight
- Parents were home and told him to cooperate
- No formal restraint
- Stood at arm's length
- 5 minutes



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Common Factors custody

Law enforcement
interview room

Formally taken
into custody

24



In Custody

In re L.I., 205 N.C. App. (2010)

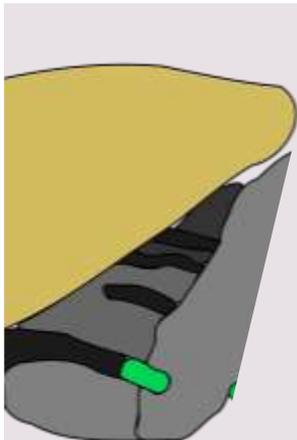
- Juvenile in backseat of car initially stopped for driver not wearing seatbelt
- Officer asked her to produce marijuana he "knew she had"
- Juvenile refused and appeared to reach into her pants
- Placed juvenile in investigative detention, placed handcuffs
- Placed in backseat of patrol car

25



SCHOOLHOUSE CUSTODY

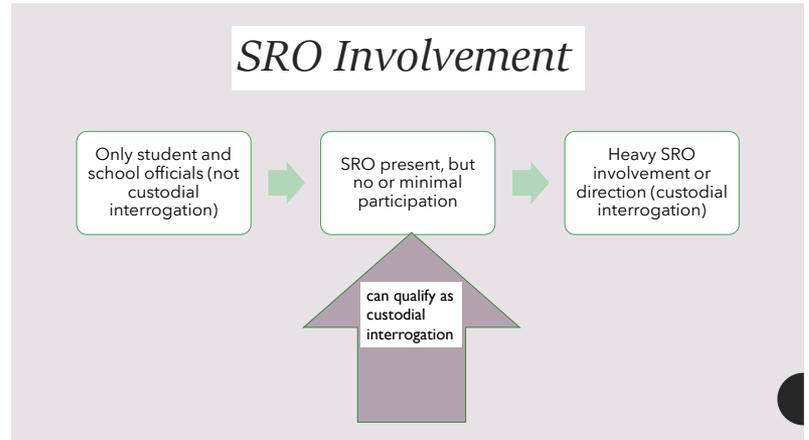
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In re D.A.H., 277 N.C. App. 16, 28 (2021)

- **Principal and SRO (in uniform) are seated together on one side of the table**
- **Principal questions Deacon**
- **Deacon says he sold the marijuana**
- **Principal calls Deacon's guardian**
- **Guardian arrives**
- **Principal tells Deacon to tell guardian and Deacon repeats confession**
- **Motion to suppress confession filed**

27



28

Factors Most Relevant in Determining Custody in Context of Schoolhouse Interview

- (1) traditional indicia of arrest;
- (2) the location of the interview;
- (3) the length of the interview;
- (4) the student's age;
- (5) what the student is told about the interview;
- (6) the people present during the interview; and,
- (7) the purposes of the questioning.

29

Interrogation?



30

Express
questioning

Functional
equivalent of
express
questioning

31

*Functional equivalent of
express questioning*

Words or actions by law enforcement that they should have known were reasonably likely to elicit an incriminating response



32

Factors:

1. Officer intent
2. Practice designed to elicit incriminating response
3. Officer knowledge about juvenile's unusual susceptibility to a specific form of persuasion



33



Interrogation

In re L.I., 205 N.C. App. (2010)

-Officer statement that taking drugs into the jail is an additional charge

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Factors Most Relevant in Determining Interrogation in Context of Schoolhouse Interview

- (1) the nature of the questions asked (interrogative or mandatory);
- (2) the willingness of the juvenile's responses;
- (3) the extent of the SRO's involvement;

35



G.S. 7B-2101(a) guardian or custodian

MUST have established a relationship with a child through a legal process

36

Not a guardian or custodian

- Sibling
- Aunt without any legal relationship
- Uncle without any legal relationship and supporting 13-year-old nephew for 1.5 years, sole supporter, enrolled child in school, considered by Dept of Health to be guardian



37

No waiver of parent, guardian, custodian, or attorney when juvenile is under age 16
(G.S. 7B-2101(b))

38



Invocation of rights

Must be unambiguous

“Um, can I call my mom?” - ambiguous

State v. Saldierna, 369 N.C. 401 (2016)

39

Only the juvenile can waive their rights

Mom couldn't waive privilege against self-incrimination that belonged to her 10-year-old child
(In re Ewing, 83 N.C. App. 535 (1986))

Parental refusal to be present does not constitute waiver by juvenile
(In re Butts, 157 N.C. App. 609 (2003), State v. Branham, 153 N.C. App. 91(2002))

40

WAIVER MUST BE:

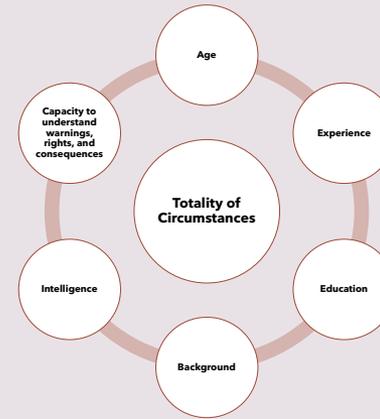
Knowing

Willing

Understanding

G.S. 7B-2101(d)

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