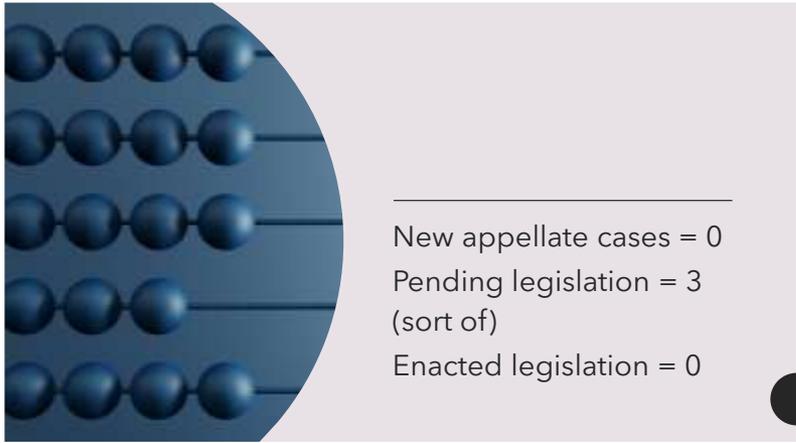




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## Search and Seizure Headlines

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 4<sup>th</sup> 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



16

## 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

17

## 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



23

## **Common Factors custody**

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Law enforcement interview room

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Formally taken into custody

24



## *In Custody*

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

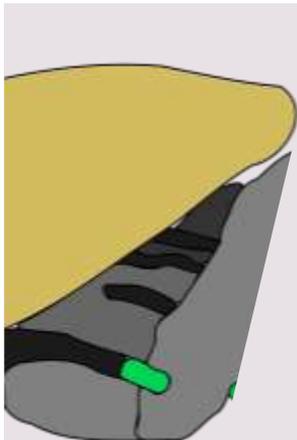
- Juvenile in backseat of car initially stopped for driver not wearing seatbelt
- Officer asked her to produce marijuana he "knew she had"
- Juvenile refused and appeared to reach into her pants
- Placed juvenile in investigative detention, placed handcuffs
- Placed in backseat of patrol car

25



## *SCHOOLHOUSE CUSTODY*

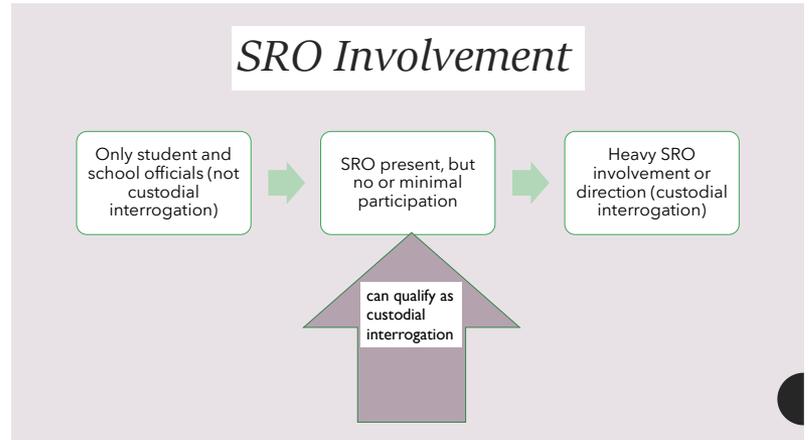
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## *In re D.A.H., 277 N.C. App. 16, 28 (2021)*

- **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

34

### ***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

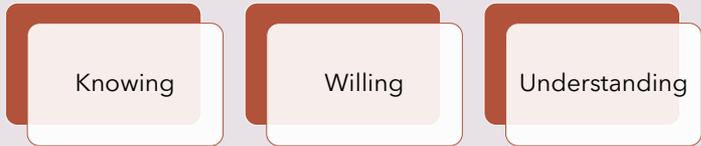
## *Only the juvenile can waive their rights*

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))

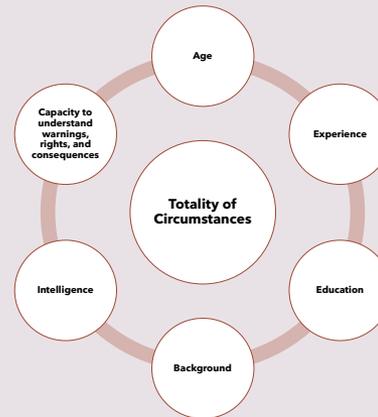
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**WAIVER MUST BE:**



G.S. 7B-2101(d)

41



42

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43