Reasonable Child Annotated Bibliography 08/2015

Law Review Articles

Megan Annitto, *Consent Searches of Minors*, 38 N.Y.U. Rev. L. & Soc. Change 1 (2014).

- Very interesting and well-written article arguing that the although the Supreme Court jurisprudence discussing consent searches originally accounted for "subjective factors" including age, that courts have moved away from this to "objective reasonableness." She argues that *J.D.B.* should be applied to the analysis of the voluntariness of consent to search under the Fourth Amendment. Includes a history of jurisprudence around youth and consent searches, as well as practical steps forward.

Lily Katz, *Tailoring Entrapment to the Adolescent Mind*, 18 U.C. Davis J. Juv. L. & Pol'y 94 (2014).

- This article argues that age should be considered when analyzing the entrapment defense in light of recent youth jurisprudence and developmental science findings. The author surveys the history of the entrapment doctrine and argues that under the subjective entrapment defense no child can be "predisposed" to commit crime and that under the objective entrapment defense age should be considered in the analysis, especially in light of *J.D.B.*.

Shobha L. Mahadev, *Youth Matters: Roper, Graham, J.D.B., Miller, and the New Juvenile Jurisprudence*, 38-MAR Champion 14 (2014).

- This article surveys recent youth jurisprudence and pulls together conclusions about ways to use the cases to make a wide range of arguments. In terms of a "reasonable child standard," the author suggests pushing back against felony murder and accomplice liability and the admissibility of confessions.

Marsha Levick & Elizabeth-Ann Tierny, *The United States Supreme Court Adopts a Reasonable Juvenile Standard in J.D.B. v. North Carolina for the Purposes of the Miranda Custody Analysis: Can a More Reasoned Justice System for Juveniles be Behind?*, 47 Harv. C.R.-C.L. L. Rev. 501 (2012).

- Explains the history of the "reasonable juvenile" standard vis-à-vis the "reasonable person" standard throughout the common law; discusses how youth has been recognized as different by the Supreme Court in the latest string of cases; goes into depth about the facts of *JDB*; and argues that the "reasonable juvenile" standard should be extended to the duress defense, justified use of force defenses, provocation defense, negligent homicide, and felony murder.

Hilary Farber, *J.D.B. v. North Carolina: Ushering in a New "Age" of Custody Analysis Under Miranda*, 20 J.L. & Pol'y 117 (2011).

- The author also says that the reasonable child standard should apply in waiver of counsel analyses and *Terry* stop analyses.

Jonathan Carter, *You're Only as "Free to Leave" as You Feel: Police Encounters with Juveniles and the Trouble with Differential Standards for Investigatory Stops Under In re I.R.T.*, 88 N.C. L. Rev. 1389 (2010).

- Pre-dating *J.D.B.*, this article discusses and criticizes a holding by the North Carolina Supreme Court that age is relevant to the Fourth Amendment seizure analysis. Although this article argues *against* the adoption of a reasonable juvenile standard in the context of the Fourth Amendment, it discusses a case that adopted the reasonable juvenile standard at length, which is useful. The article also discusses the reasonable juvenile standard in other contexts in order to distinguish why the seizure analysis should *not* include age.

Cases

WAIVER OR INVOCATION OF *MIRANDA* RIGHTS

In re Art. T, Case No. B251083 (Cal. Ct. App. Feb. 11, 2015) (FAVORABLE).
"[A] 13-year-old boy's statement—'Could I have an attorney? Because that's not me'—made during the course of a custodial interrogation after watching a video of a shooting was an unequivocal and unambiguous invocation of his rights under *Miranda* . . . and its progeny."

State v. Antonio T., 352 P.3d 1172 (N.M. 2015) (FAVORABLE).
Finding a 17 year old did not make a knowing, intelligent, and voluntary waiver in the presence of an SRO and his statements made were inadmissible in a delinquency proceeding. "Although a school official may insist that a child answer questions for purposes of school disciplinary proceedings, any statements elicited by the official in the presence of a law enforcement officer may not be used against the child in a delinquency proceeding unless the child made a knowing, intelligent, and voluntary waiver of his or her statutory right to remain silent."

People v. N.A.S., 2014 WL 2957719 (Colo. June 30, 2014) (UNFAVORABLE).
Thirteen-year-old held to have knowingly, voluntarily, and intelligently waived *Miranda* rights. "Juvenile's statements to school resource police officer in assistant principal's office were voluntary and not the product of police coercion; interview took place on school grounds, 13-year-old juvenile's father and uncle were present in the office with him, officer neither threatened juvenile nor promised him anything, officer spoke in a conversational tone without raising his voice, and the discussion was very short, lasting approximately five to ten minutes." (Quote from WL headnote.)

Nelson v. Diaz, 2014 WL 2812476 (C.D. Cal. June 20, 2014) (unreported) (UNFAVORABLE).
Court declined to extend *J.D.B.*'s mandate to consider age to the question of waiver's validity.

Boyd v. State, 726 S.E.2d 746 (Ga. Ct. App. 2012) (FAVORABLE).
Fifteen-year-old held not to have knowingly, voluntarily, and intelligently waived *Miranda* rights.[1]

Gray v. Norman, 2012 WL 4111837 (E.D. Mo. Sept. 19, 2012) (unreported) (UNFAVORABLE).
Sixteen-year-old held to have knowingly, voluntarily, and intelligently waived *Miranda* rights.[2]

People v. Nelson, 266 P.3d 1008, 1020 n.7 (Cal. 2012) (UNFAVORABLE).
"[N]othing in *J.D.B.* calls for application of a subjective test to determine juvenile postwaiver invocations. While *J.D.B.*'s analysis generally supports the view that a juvenile suspect's known or objectively apparent age is a factor to consider in an invocation determination, knowledge of defendant's age would not have altered a reasonable officer's understanding of defendant's statements in the circumstances here. As indicated, defendant, who was 15 years old, appeared confident and mature."

State v. Garcia, 33 A.3d 1087 (N.H. 2011) (UNFAVORABLE).
Sixteen-year-old held to have knowingly, voluntarily, and intelligently waived *Miranda* rights.[3]

SUFFICIENCY OF ADULT *MIRANDA* WARNINGS AS A SAFEGUARD FOR JUVENILE INTERROGATION SUBJECTS

State v. Anderson, 2014-Ohio-4245 (Ohio Ct. App. Sept. 26, 2014) (reported only in Ohio's online public domain, not in N.E.2d) (UNFAVORABLE).
Rejected argument that 16-year-old's "rights were infringed by the failure to provide additional safeguards prior to the wavier of his Miranda rights."

FOURTH AMENDMENT *TERRY* SEIZURE

In re J.G., 175 Cal. Rptr. 3d 183 (Cal. Ct. App. 2014) (FAVORABLE DICTA).
Court ultimately did not make a holding that age should be taken into account in determining whether a juvenile appellant was subjected to an investigatory stop (i.e., whether he would have felt free to leave/ignore the officer and go about his business), but discussed at some length appellant's claim that age should be a factor, and stated, "*J.D.B.*'s holding—that a juvenile's age is a factor in the reasonable-person analysis of Fifth Amendment custody—may implicate 'other areas of criminal procedure—including voluntariness of waivers of rights and seizure inquiries' as well as areas of substantive criminal law, such as 'blameworthiness of [the subject's] conduct and/or state of mind'" (quoting Levick-Tierney article).

4 Wayne R. LaFave, *Search and Seizure* § 9.4(a) (5th ed. 2014) (FAVORABLE).
"Were the Supreme Court to resolve this issue, it is likely a majority of the Court would conclude that this 'reasonable person' test requires consideration of some known unique characteristics of the suspect (e.g., his youth). Indeed, such a result seems highly likely given the Court's resolution of an analogous issue in *J.D.B. v. North Carolina*."

Hunt v. Dept. of Safety and Homeland Sec., 69 A.3d 360 (Del. 2013) (FAVORABLE).
Eight-year-old juvenile held to have been seized. "A child's age is one of the circumstances to be considered in evaluating the reasonableness of a seizure." "Viewing the record in the light most favorable to Hunt, the facts support a finding that he was seized for Fourth Amendment purposes. He was called to the Vice Principal's office and was escorted there by a teacher's aide. Outside the office, Pritchett met Hunt and walked with him into the reading lab. Pritchett was in uniform, carrying a gun, handcuffs, and other indicia of police authority. Pritchett then met with [another student] and Hunt in the reading lab for close to one hour. For some period of time, the door to the reading lab was closed. Hunt was eight years old. Pritchett never told Hunt that he could leave the reading lab, and Pritchett admitted that he did not expect Hunt to leave. Based on these facts, a reasonable child would not believe he was free to leave the room."

In re Michael S., 2012 WL 3091576 (Cal. Ct. App. July 31, 2012) (unreported) (FAVORABLE DICTA).
In dicta, citing *J.D.B.*, states, "a child's age '"would have affected how a reasonable person"' in appellant's position '"would perceive [his] freedom to leave."'

F.E.H., Jr. v. State, 28 So.3d 213 (Fla. Dist. Ct. App. 4th 2010) (FAVORABLE).
Adopted a reasonable juvenile standard in Fourth Amendment seizure analysis.

People v. Lopez, 892 N.E.2d 1047 (Ill. 2008) (FAVORABLE).
Adopted a reasonable juvenile standard in Fourth Amendment seizure analysis.

*J.N. v. Stat*e, 778 So.2d 440 (Fla. Dist. Ct. App. 2001) (FAVORABLE).
Applied a reasonable juvenile standard in Fourth Amendment seizure analysis.

Matter of Appeal in Maricopa Cnty., Juvenile Action No. JT30243, 920 P.2d 779, 783 (Ct. App. 1996), corrected (July 8, 1996) (FAVORABLE).
Applied a reasonable juvenile standard in Fourth Amendment seizure analysis.

VOLUNTARINESS OF CONSENT TO SEARCH/SEIZURE

State v. Valenzuela, 350 P.3d 811 (Ariz. 2015) (FAVORABLE)
Reiterating that age and absence of parents are relevant to the voluntariness of consent to search.
"Rather, the voluntariness of consent is based on a totality-of-the-circumstances test. *Schneckloth,* 412 U.S. at 226, 93 S.Ct. 2041. Relevant factors may include age, education, intelligence, advice regarding constitutional rights, length of detention, and deprivation of food or sleep. *Id.* at 226, 248, 93 S.Ct. 2041. Thus, in *Butler,* the court considered age, criminal history, the length of detention, the absence of parents, physical demeanor, and emotional state. 232 Ariz. 84, ¶ 20, 302 P.3d at 613. Despite Valenzuela's contention, such factors are valid considerations in determining voluntariness." *Id.* at 819.

State v. Butler, 302 P.3d 609 (Ariz. 2013) (FAVORABLE).
"[T]he Fourth Amendment requires an arrestee's consent to be voluntary to justify a warrantless blood draw. If the arrestee is a juvenile, the youth's age and a parent's presence are relevant, though not necessarily determinative, factors that courts should consider in assessing whether consent was voluntary under the totality of the circumstances.
. . .
"Although Tyler did not testify at the suppression hearing, sufficient evidence supports the juvenile court's finding that he did not voluntarily consent to the blood draw. At the time, Tyler was nearly seventeen and in eleventh grade. He had been arrested once previously, but not adjudicated delinquent. Tyler was detained for about two hours in a school room in the presence of school officials and a deputy. Neither of his parents was present. Tyler initially was shaking and visibly nervous. When he became loud and upset after being told he was being arrested, the deputy placed him in handcuffs until he calmed down. A second deputy sheriff arrived before the blood draw was taken. After removing the handcuffs, the first deputy read the implied consent admonition to Tyler, once verbatim and once in what the deputy termed 'plain English,' concluding with the statement, 'You are, therefore, required to submit to the specified tests.' Tyler then assented to the blood draw.
"Viewing the facts in the light most favorable to sustaining the ruling below, we hold that the juvenile court did not abuse its discretion by ruling that Tyler's consent was involuntary and granting the motion to suppress."

ADULT JURISDICTION

People v. Harmon, 2013 IL App (2d) 120439 (Oct. 28, 2013) (reported only in Ohio's online public domain, not in N.E.2d) (UNFAVORABLE).
Rejected argument (based on *J.D.B.*, *Roper*, *Graham*, and *Miller*) that automatic adult jurisdiction over offenses by 17-year-olds constitutes cruel and unusual punishment and a denial of due process.

People v. Willis, 997 N.E.2d 947 (Ill. Ct. App. 2013) (UNFAVORABLE).
Rejected argument (based on *J.D.B.*, *Roper*, *Graham*, and *Miller*) that "mandat[ory] automatic transfer to criminal court of 15- and 16-year-olds charged with certain Class X felonies" constitutes cruel and unusual punishment and a denial of due process.

FORESEEABILITY—FELONY-MURDER

Layman v. State, 17 N.E.3d 957 (Ind. Ct. App. 2014) (May, J., concurring in result) (FAVORABLE DICTA).

Two 16-year-olds and one seventeen-year-old were convicted of felony-murder.

"I am concerned that our application of the tort-like 'foreseeability' standard to juveniles waived into adult court and tried for felony murder is inconsistent with the reasoning our Indiana Supreme Court applied to sentencing review in *Fuller* and *Brown* and the United States Supreme Court decisions cited therein. The inherent differences between children and adults have been recognized in decisions applying tort standards similar to foreseeability. For example, in a determination whether a suspect is 'in custody' for *Miranda* purposes, a child's age might affect how a reasonable person in a suspect's position would perceive his or her freedom to leave that is, a reasonable child subjected to police questioning will sometimes feel pressured to submit when a reasonable adult would feel free to go. *J.D.B. v. N. Carolina*, ––U.S. ––––, 131 S.Ct. 2394, 2403, 180 L.Ed.2d 310 (2011). 'We think it clear that courts can account for that reality without doing any damage to the objective nature of the custody analysis.' *Id.*"

MANDATORY MINIMUM SENTENCES

State v. Vance, 2015 WL 4936328, at *1 (Iowa Ct. App. Aug. 19, 2015) (UNFAVORABLE)
Declining to extend considering the mitigating factor of youth in determining the legality of a sentence for a person who was 19 years old at the time of the crime committed.

State v. Lyle, 854 N.W.2d 378 (Iowa July 18, 2014) (FAVORABLE).
Iowa constitution's prohibition against cruel and unusual punishment "prohibits the one-size-fits-all mandatory sentencing for juveniles." Court relied on *J.D.B.* along with many other U.S. Supreme Court decisions regarding juveniles. Specific portions of opinion addressing *J.D.B.*:

> First, children lack the risk-calculation skills adults are presumed to possess and are inherently sensitive, impressionable, and developmentally malleable. Second, the best interests of the child generally support discretion in dealing with all juveniles. In other words, "the legal disqualifications placed on children as a class ... exhibit the settled understanding that the differentiating characteristics of youth are universal." *J.D.B. v. North Carolina*, 564 U.S. ——, ——, 131 S.Ct. 2394, 2403–04, 180 L.Ed.2d 310, 324 (2011).
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> . . .
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> More recently, the United States Supreme Court has recognized a child's age is relevant to the analysis of whether the child is in custody for the purposes of *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966). See *J.D.B.*, 564 U.S. at ——, 131 S.Ct. at 2402–06, 180 L.Ed.2d at 326–27. The Court there recognized that youth "is a fact that 'generates commonsense conclusions about behavior and perception'" that "apply broadly to children as a class" and are "self-evident to anyone who was a child once." *Id.* at ——, 131 S.Ct. at 2403, 180 L.Ed.2d at 323 (quoting *Yarborough v. Alvarado*, 541 U.S. 652, 674, 124 S.Ct. 2140, 2155, 158 L.Ed.2d 938, 958 (2004) (Breyer, J., dissenting)). Moreover, a child's impressionability continued to be relevant: the Court noted "that events that 'would leave a man cold and unimpressed can overawe and overwhelm a lad in his early teens.'" *Id.* (quoting *Haley v. Ohio*, 332 U.S. 596, 599, 68 S.Ct. 302, 304, 92 L.Ed. 224, 228 (1948)). In short, because children are categorically different under the law, the child's age is "a reality that courts cannot simply ignore." *Id.* at ——, 131 S.Ct. at 2406, 180 L.Ed.2d at 327.

People v. Gutierrez, 324 P.3d 245 (Cal. 2014) (FAVORABLE).
Cites *J.D.B.*'s "discuss[ion of] children's responses to interrogation" in deciding that "a presumption in favor of a sentence of life without parole under [California law] violates the Eighth Amendment under the principles announced in *Miller*."

INTERROGATION TECHNIQUES AND RELIABILITY OF CONFESSIONS

State ex rel. A.W., 51 A.3d 793 (N.J. 2012) (Albin, J., dissenting) (FAVORABLE DICTA).

"[T]his case is a textbook example of the use of interrogation techniques that have the clear capacity to produce a false confession from a juvenile.

"Thirteen-year-old A.W. was subjected to interrogation techniques that were just as likely to produce a false confession as a true confession. The investigating detective violated A.W.'s *Miranda* rights by insisting throughout the interrogation that he had to speak after initially telling him that he had a right to remain silent. The investigating detective violated A.W.'s rights by orchestrating the removal of the juvenile's father from the interview room, even though our jurisprudence places great emphasis on the importance of the presence of an adult during an interrogation. Last, the interrogation methods used against this thirteen-year-old, which have been known to induce even adult suspects to falsely confess, pose an unacceptably high risk of eliciting false confessions from juveniles.

. . .

"We have long recognized that, even among mature adults, custodial police interrogations present 'inherently compelling pressures which work to undermine the individual's will to resist and to compel him to speak where he would not otherwise do so freely.' *Miranda v. Arizona*, 384 U.S. 436, 467, 86 S.Ct. 1602, 1624, 16 L.Ed.2d 694, 719 (1966). Based on 'mounting empirical evidence,' such interrogations—by their very nature—'can induce a frighteningly high percentage of people to confess to crimes they never committed.' *Corley v. United States*, 556 U.S. 303, 321, 129 S.Ct. 1558, 1570, 173 L.Ed.2d 443, 458 (2009) (citing Steven A. Drizin & Richard A. Leo, *The Problem of False Confessions in the Post–DNA World*, 82 N.C. L.Rev. 891, 906–07 (2004)). '[W]hen the subject of custodial interrogation is a juvenile,' the risk of a false confession becomes 'all the more acute.' *J.D.B. v. North Carolina*, 564 U.S. ——, ——, 131 S.Ct. 2394, 2401, 180 L.Ed.2d 310, 321 (2011) (citing 'empirical studies that "illustrate the heightened risk of false confessions from youth"' contained in amici curiae brief filed by Center on Wrongful Convictions of Youth et al.).

"Significantly, a study of exonerations over a fifteen-year span indicates a striking correlation between false-confession rates and the suspect's age. *See* Samuel R. Gross et al., *Exonerations in the United States 1989 through 2003*, 95 J.Crim. L. & Criminology 523, 545 (2005). In juvenile cases, false confessions were found in 42% of wrongful convictions; in adult cases, false confessions were found in only 13% of wrongful convictions. *Ibid.* In cases of juveniles twelve to fifteen years of age who were exonerated of wrongful convictions, 69% had given false confessions. *Ibid.* These findings, which strongly suggest a direct correlation between a defendant's youth and susceptibility to falsely confessing, are supported by other studies. *See also* Drizin & Leo, *supra*, 82 *N.C. L.Rev.* at 944 (finding youths overrepresented in sample of false confessions with juveniles fifteen years or younger representing half of all juvenile false confessions); Joshua A. Tepfer et al., *Arresting Development: Convictions of Innocent Youth*, 62 Rutgers L.Rev. 887, 905 (2010) (finding false-confession rate of more than 50% in wrongfully convicted youth aged eleven to fourteen, compared to less than 17% of eighteen-year-olds and less than 10% of nineteen-year-olds)."

WAIVER OF PROCEDURAL RIGHT

People v. Perez, 12 N.E.3d 416 (N.Y. 2014) (Rivera, J., dissenting) (FAVORABLE DICTA).
Failure of defendant, who was 15 years old at time of conviction, to timely appeal should not bar appellate review.

"The defendant contends that the Appellate Division abused its discretion by dismissing his appeal on the grounds of inaction and speculative claims of prejudice to the People. The defendant further argues that he believed his lawyer would 'handle things'—which the defendant argues was a reasonable way for a defendant who was 15 at the time of conviction and 16 at the time of sentencing, to view his situation and his attorney's role. He argues that minors should not be expected to understand and appreciate the appeals process and should have assistance of counsel in applying for poor person relief.

"It is generally accepted and well established that young people and adults mature at different rates and that children simply do not have the capacity to fully appreciate the world and the consequences of their actions and choices. As the United States Supreme Court stated in 2011 in *J.D.B. v. North Carolina*, '[t]he law has historically reflected the same assumption that children characteristically lack the capacity to exercise mature judgment and possess only an incomplete ability to understand the world around them' (564 U.S. ——, ——, 131 S.Ct. 2394, 2397, 180 L.Ed.2d 310 [2011]). 'Children "generally are less mature and responsible than adults" . . . [and] "often lack the experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them."' (*id.* at ——, 131 S.Ct. at 2403 [citations omitted]). Moreover, children 'are more vulnerable or susceptible to . . . outside pressures than adults' (*id.* at ——, 131 S.Ct. at 2403 [internal quotation marks omitted], citing *Roper v. Simmons*, 543 U.S. 551, 569, 125 S.Ct. 1183, 161 L.Ed.2d 1 [2005]; *see also Johnson v. Texas*, 509 U.S. 350, 367, 113 S.Ct. 2658, 125 L.Ed.2d 290 [1993] ['A lack of maturity and an underdeveloped sense of responsibility are found in youth more often than in adults and are more understandable among the young. These qualities often result in impetuous and ill-considered actions and decisions']). The inescapable conclusion is that children are unable to understand life's challenges or exercise judgment as would adults."

RIGHT TO COUNSEL DURING PRE-INDICTMENT INTERROGATION

In re M.W., 978 N.E.2d 164 (Ohio 2012) (O'Connor, C.J., dissenting) (FAVORABLE DICTA). Although Ohio law does not entitle an adult to counsel during a pre-indictment interrogation, a juvenile should be guaranteed counsel in pre-indictment interrogation, based on *J.D.B.* and other authorities.

PROCEDURAL DUE PROCESS

Gingerich v. State, 979 N.E.2d 694 (Ind. Ct. App. 2012) (FAVORABLE).
Cites *J.D.B.* among other cases in support of statement that "the United States Supreme Court has issued a number of opinions in recent years recognizing differences between juvenile and adult criminal offenders which underscore the importance of protecting the due process rights of juveniles at waiver hearings." Court held that juvenile was deprived of due process by juvenile court's denial of his motion to continue a waiver (transfer) hearing "to conduct a mental health evaluation and had not received potential evidence to present including witness statements, client statements, autopsy reports, coroner reports, ballistic reports, or forensic reports."

In re D.V., 265 P.3d 803 (Utah Ct. App. 2011) (FAVORABLE).
Court reversed juvenile court's contempt finding against juvenile for running away from child-welfare placement. "The order [that he was found to have violated] directed, '[D.V.] is/are placed in the interim custody of [DCFS].' There is, however, no evidence that D.V. ever received or was shown a copy of the written order nor is there evidence that D.V. understood that the order placing him 'in the interim custody of [DCFS]' required him to remain at the foster placement and that if he failed to do so, he could be held in contempt of court."

CULPABLE MENTAL STATE

People v. Prado, Not reported in Cal.Rptr.3d 4 (2015) (UNFAVORABLE).
Rejecting the defendant's argument that the jury should have received a generalized instruction to consider his general culpability under a reasonable juvenile standard of care.

Waterman v. State, 342 P.3d 1261 (Alaska Ct. App. 2015).
Declining to extend *J.R.* and a juvenile standard of care to juveniles charged as adults. The court held this under the theory that "the legislature has the authority to determine the scope of adult criminal responsibility," and that, through allowing juveniles to be charged as adults, the legislature had determined the adult standard should apply. The court directly addressed the argument that brain development should be relevant to whether it is constitutional to hold people under the age of 25 to the same standard of negligence and recklessness as those over 25 because of the differences in brain development. The court ultimately held that the state's universal definition of criminal negligence was constitutional for policy reasons.

People v. Guzman, Not reported in Cal.Reptr.3d, 19-20 (2014) (UNFAVORABLE).
Rejected the defendant's argument (relying in youth jurisprudence including J.D.B.) that the jury should have received a reasonable juvenile instruction for determining the defendant's claim of self-defense and provocation defense.

In re C.I., Not reported in P.3d (Ariz. Ct. App. 2014) (UNFAVORABLE).
Rejecting respondent's argument that a reasonable juvenile standard should be applied in "determining the propriety of the force used in self-defense."

B.B. v. Commonwealth, ___ S.W.3d ___, 2014 WL 1998725 (Ky. Ct. App. May 16, 2014) (NEUTRAL/FAVORABLE).
In analyzing whether juvenile's conduct satisfied legal standard of wantonness, court stated that the reasonable person "standard, though it is an objective one, requires some degree of individualization" and cited *J.D.B.* in support. Court further noted, "B.B. urges us to review the judgment in this case with a reasonable juvenile standard in mind and to evaluate what a reasonable juvenile would have done in this situation." Although the court reversed juvenile's adjudications, it did not expressly rule on his argument for a reasonable-juvenile standard.

Sen v. State, 301 P.3d 106 (Wyo. 2013) (UNFAVORABLE).
Affirmed trial court's exclusion of testimony by defense expert regarding 15-year-old's capacity to form specific intent, "because (1) there is no support in the record for the assertion that Dr. Banich would have testified that 15-year-olds do not have the capacity to form specific intent, and (2) Sen has failed to provide any legal authority supporting his claim that the proposed testimony was relevant."

In re Christian D., Not reported in P.3d (Arizona 2012) (UNFAVORABLE).
Rejected the argument that reasonable juvenile standard should apply when determining self-defense.

In re J.E.M., 2012 WL 1380400 (Minn. Ct. App. Apr. 23, 2012) (unreported) (UNFAVORABLE).
"[T]here exists no caselaw or statutory authority in Minnesota to support appellant's proposition that a reasonable juvenile standard should apply to the element of knowledge in a possession of child pornography case."

People v. Juarez, Not reported in Cal.Rptr.3d 7 (2011) (UNFAVORABLE).
Rejecting a reasonable juvenile standard for the determination of culpability for a homicide or determining between voluntary and involuntary manslaughter.

In re D.V., 265 P.3d 803 (Utah Ct. App. 2011) (FAVORABLE).
Court reversed juvenile court's contempt finding against juvenile for running away from child-welfare placement. "The order [that he was found to have violated] directed, '[D.V.] is/are placed in the interim custody of [DCFS].' There is, however, no evidence that D.V. ever received or was shown a copy of the written order nor is there evidence that D.V. understood that the order placing him 'in the interim custody of [DCFS]' required him to remain at the foster placement and that if he failed to do so, he could be held in contempt of court."

People v. Juarez, 2011 WL 2991530 (Cal. Ct. App. July 25, 2011) (unreported) (UNFAVORABLE).
Held, with no mention of *J.D.B.*, that "the standard to be applied in deciding criminal culpability for a homicide or in deciding between voluntary and involuntary manslaughter turns on whether a defendant's actions were those of a reasonable person, not the actions of a reasonable juvenile." (Case was decided the month following *J.D.B.* decision.)

In re Welfare of J.T.R., Not reported in N.W.2d (Minn. 2009) (UNFAVORABLE).
Rejected the argument that a reasonable juvenile standard should have been applied in determining whether the respondent had knowledge of the complainant's mental impairment in a criminal-sexual-conduct case.

State v. Alford, Not reported in N.W.2d (Minn. 2008) (UNFAVORABLE).
Rejected a juvenile tried in adult court's request that the jury receive a modified instruction for defense-of-others using a reasonable juvenile standard. The court distinguished this case from the cases cited by the defense as no case had dealt with the determination of guilt in adult court/Minnesota had not adopted a reasonable juvenile standard under a diminished capacity doctrine.

State v. R.L., Not reported in P.3d (Wash. Ct. App. 2006) (FAVORABLE).
Adopted a reasonable juvenile standard in assessing criminal recklessness.

In re A.A.M., 684 N.W.2d 925, 927 (Minn. App. 2004) (UNFAVORABLE).

Rejected the respondent's argument that a "reasonable juvenile standard" should apply to the element of consent in a criminal-sexual-conduct case (would a reasonable juvenile have understood there was not consent?). The case acknowledged that a reasonable juvenile standard had been recognized in the custody analysis of interrogations and whether a juvenile's conduct was criminally negligent or reckless in other jurisdictions.

State v. Oaks, 104 P.3d 163, 167 (Ariz. Ct. App. 2004) (UNFAVORABLE).
Applied a reasonable person standard to a 15-year-old youth in adult court accused of a violent crime in determining criminal recklessness, rather than a reasonable juvenile standard which applied to juveniles in delinquency court.

In re Welfare of R.J.R., Not reported in N.W.2d (Minn. App. 2004) (FAVORABLE).
Applied a reasonable juvenile standard to determination of recklessness.

J.R. v. State, 62 P.3d 114 (Alaska Ct. App. 2003) (FAVORABLE).
Held that whether the defendant's conduct had been reckless should have been judged against a reasonable juvenile rather than reasonable adult standard.

MIRANDA CUSTODY ANALYSIS

J.D.B. v. North Carolina, 131 S.Ct. 2394, 2396-2398, 2403-2408 (2011) (FAVORABLE).
A child's age properly informs Miranda's custody analysis. As long as the child's age was known to the officer at the time of the interview or the child's age would be objectively apparent to any reasonable officer, considering age as part of the custody analysis would not require an officer to consider facts unknown to them.

In re E.W., 114 A.3d. 112, 114-118 (Vt. 2015) (FAVORABLE).
A child is questioned by a state trooper in uniform at the child's foster home about a break-in and theft. The child's police interrogation at his foster home was custodial. The court ultimately looked at the communication between the officer and the child, the location, and the age of the child to determine whether the child was in custody.

United States v. IMM, 747 F.3d 754 (9th Cir. 2014) (FAVORABLE).
"A reasonable twelve-year-old child in juvenile's position when he was interrogated by detective at police station would not have felt he was free to terminate interrogation and leave, and, thus, juvenile was in custody, so as to require Miranda warnings; juvenile's mother agreed to voluntary meeting with detective, but, from juvenile's vantage point, an armed detective arrived at his house, drove him and his mother to police station, and brought him to small room for nearly an hour of questioning, and, although detective told juvenile at outset of interview that he could stop it if he felt uncomfortable, detective's aggressive, coercive, and deceptive interrogation tactics created atmosphere in which no reasonable twelve-year-old would have felt free to tell detective to stop questioning him." (Quote from WL headnote.)

In re R.S., 2014-Ohio-3543 (Ohio Ct. App. Aug. 18, 2014) (reported only in Ohio's online public domain, not in N.E.2d) (UNFAVORABLE).
Sixteen-year-old held not to be in custody.[4]

In re Edgar Z., 2014 WL 3752828 (Cal. Ct. App. July 31, 2014) (unreported) (FAVORABLE).
Thirteen-year-old held to be in custody.[5]
Setting of interrogation is strikingly similar to *J.D.B.*

People v. N.A.S., 2014 WL 2957719 (Colo. June 30, 2014) (UNFAVORABLE).
Thirteen-year-old held not to be in custody. (He was given *Miranda* warnings, but juv. court held that he was in custody and that his waiver was not knowing, voluntary, and intelligent.)
"Juvenile, who was 13-years-old, was not in custody for purposes of *Miranda* when he made statements to school resource police officer in assistant principal's office; interview took place on school grounds rather than at a law enforcement facility, non-law enforcement personnel were allowed to remain in the office, although officer remained standing and was in uniform while questioning juvenile, he spoke calmly and in a normal tone of voice, simply asking juvenile what he knew about the allegations, at no point did officer issue any directions, nor did he touch juvenile or restrict his movements in any way, and the discussion was very short, lasting approximately five to ten minutes." (Quote from WL headnote.)

People v. Prado, 2014 WL 889461 (Cal. Ct. App. Mar. 6, 2014) (unreported) (UNFAVORABLE).
Seventeen-year-old held not to be in custody.[6]

In re T.M., 2014 WL 321970 (Cal. Ct. App. Jan. 23, 2014) (unreported) (UNFAVORABLE).
"*J.D.B.* is inapposite. There, a uniformed police officer removed the juvenile, who was 13 years old, from his seventh grade classroom, and an investigator questioned him in a closed–door conference room in the presence of two school officials. (*Id.* at p. —— [131 S.Ct. at p. 2399].) Here, the questioning at issue was conducted, not by a law enforcement official, but by a school vice principal acting as a private citizen. Under these circumstances, *Miranda* warnings were simply not required."

A.K.M. v. Com., No. 2012-CA-001190-DG, 2014 WL 3887910 (Ky. Ct. App. Aug. 8, 2014) (UNFAVORABLE).
"For *Miranda* to apply when a student is questioned by a school official regarding conduct that may later lead to criminal charges, the involvement of law enforcement must be direct, preplanned, and active from the inception of the school official's questioning. Otherwise, the school official is not acting as law enforcement but only performing his or her duty to investigate school disciplinary matters, and no *Miranda* warnings are required."

People v. Sample, 2013 WL 5460190 (Cal. Ct. App. Oct. 1, 2013) (unreported) (UNFAVORABLE).
Sixteen-year-old held not to be in custody.[7]

People v. Rocha, 2013 WL 4774758 (Cal. Ct. App. Sept. 6, 2013) (unreported) (UNFAVORABLE).
Seventeen-year-old held not to be in custody.[8]

In re J.V., 2013 WL 1641415 (Cal Ct. App. Apr. 17, 2013) (unreported) (UNFAVORABLE).
"The record does not indicate that when Officer Moran talked to J.V. on the street, he knew or had reason to know J.V. was a minor. At the adjudication, the officer was asked only whether J.V. matched the description of 'a male Hispanic with some specific clothing.' The record also indicates that, at the time of the accident, J.V. was six months short of his eighteenth birthday. *J.D.B. v. North Carolina*, *supra*, 564 U.S. ___, 131 S.Ct. 2394, does not require that we conclude J.V.'s age is a significant factor under the circumstances."

N.C. v. Commonwealth, 396 S.W.3d 852 (Ky. 2013), *cert. denied*, 134 S. Ct. 303 (U.S. 2013) (FAVORABLE).
Juvenile was entitled to *Miranda* warnings before being questioned by a school official in the presence of a law enforcement officer, when he was subject to criminal charges or adult felony charges; juvenile, who had been taken from his class by a law enforcement officer, was seated in the principal's office, where the door was shut, and was not told that he was free to leave, was in custody at the time of the interrogation, and juvenile was aware that he violated school rules but had no reason to believe he was facing criminal charges. (Quote from WL headnote.)

In re F.F., 2013 WL 1274706 (Cal. Ct. App. March 28, 2013) (unreported) (FAVORABLE).
Twelve-year-old held to be in custody.[9]

People v. Alexis C., 2013 WL 153758 (Cal. Ct. App. Jan. 15, 2013) (unreported) (UNFAVORABLE).
Fourteen-year-old held not to be in custody.[10]

In re N.J., 2013 WL 5460091 (N.C. Ct. App. Jan. 23, 2013) (unreported) (UNFAVORABLE).
Fifteen-year-old held not to be in custody.[11]

In re C.M.A., 2013 WL 3481517 (Tex. Ct. App. July 2, 2013) (unreported) (UNFAVORABLE).
Fourteen-year-old held not to be in custody.[12]

State v. Oligney, 841 N.W.2d 581 (Wis. Ct. App. Nov. 13, 2013) (unreported) (UNFAVORABLE).
Sixteen-year-old held not to be in custody.[13]

In re J.S., 2012-Ohio-3534 (Ohio Ct. App. Aug. 6, 2012) (reported only in Ohio's online public domain, not in N.E.2d) (FAVORABLE).
Thirteen-year-old held to be in custody.[14]

In re T.W., 2012-Ohio-2361 (Ohio Ct. App. May 29, 2012) (reported only in Ohio's online public domain, not in N.E.2d) (FAVORABLE).
Fourteen-year-old held to be in custody.[15]

In re Robert J., 2012 WL 1269184 (Cal. Ct. App. Apr. 16, 2012) (unreported) (NEUTRAL/FAVORABLE).
Robert J. was 13 years old.
"[T]he juvenile court failed to consider Robert's age when it determined a police officers questioning of Robert was not a custodial interrogation. . . . [W]e reverse and remand for the juvenile court to reconsider Robert's motion to suppress his statements.
. . .
"Marlatt interviewed Robert in the principal's office; the principal and another officer were present while the interview took place. Both officers were carrying loaded firearms, tasers, and batons, but never drew their weapons. The principal brought Robert into her office at Marlatt's request. The door was closed, but not locked, while the interview took place. Marlatt and Robert were seated in chairs facing the principal's desk, while the principal was seated behind her desk and the other officer was seated by the door.
"Marlatt never told Robert that he was required to speak to her, that he could not leave the office, or that he was under arrest. Nor did she tell Robert that he was free to leave or that he was not under arrest."

Commonwealth v. Bermudez, 980 N.E.2d 462, 468, 83 Mass. App. Ct. 46, 52-53 (2012) (UNFAVORABLE).
Seventeen-year-old held not to be in custody. (He was given *Miranda* warnings, but juv. court held that he was in custody and that his waiver was not knowing, voluntary, and intelligent. Having held that he was not in custody, the court—unlike the Colo. court in *Bermudez*—did not address the validity of his waiver.)[16]

State v. Jones, 55 A.3d 432 (Me. 2012) (UNFAVORABLE).
Seventeen-year-old held not to be in custody.[17]

State v. Yancey, 727 S.E.2d 382 (N.C. Ct. App. 2012) (UNFAVORABLE).
Seventeen-year-old held not to be in custody.[18]

People v. Munoz, 2012 WL 5871714 (Cal. Ct. App. Nov. 21, 2012) (unreported) (UNFAVORABLE).
Hospitalized 21-year-old held not to be in custody.[19]

People v. Lewis, 2012 WL 1631677 (Cal. Ct. App. May 10, 2012) (unreported) (UNFAVORABLE).
Seventeen-year-old held not to be in custody.[20]

People v. Belmonte, 2012 WL 1274343 (Cal. Ct. App. Apr. 26, 2012) (unreported) (UNFAVORABLE).
Sixteen-year-old held not to be in custody for some questioning, and held to have validly waived *Miranda* rights before custodial questioning.[21]

Taylor v. State, 23 A.3d 851 (Del. 2011) (FAVORABLE).
Unemployed, homeless 26-year-old held to be in custody.[22]

In re R.P., 718 S.E.2d 423 (N.C. Ct. App. Nov. 1, 2011) (unreported) (NEUTRAL).
"[W]e are unable to discern whether the trial court considered the juvenile's age in accordance with the United States Supreme Court's mandate in *In re J.D.B.* Thus, this issue must be remanded to the trial court for entry of a written order containing findings of fact and conclusions of law, specifically addressing the concerns set forth in *In re J.D.B.*"

State v. Pearson, 804 N.W.2d 260 (Iowa 2011) (UNFAVORABLE).
Seventeen-year-old held not to be in custody.[23]

C.S. v. Couch, 843 F. Supp. 2d 894 (N.D. Ind. 2011) (UNFAVORABLE).
High school freshman held not to be in custody, because "[a]lthough a child's age factors into the custody analysis, custody and interrogation do not exist without the presence of law enforcement officers. Even the holding of *J.D.B.* itself is limited to the questioning of children by law enforcement officers." (Citations omitted.)

In re J.W., 2011 WL 5594011 (Cal. Ct. App. Nov. 17, 2011) (unreported) (UNFAVORABLE).
Sixteen-year-old held not to be in custody.[24]

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[1] "[T]he record and transcripts show that Boyd was 15 years old and in the ninth grade at the time he was interviewed. Boyd was arrested and taken into custody within hours of the crime, after he had been identified by the victim as the person who brandished the sawed-off shotgun during the robbery. He was handcuffed and placed

alone in an interview room; the recording equipment was activated at approximately 2:08 a.m., and the officer conducting the interview, Corporal Eric Osterberg, began interviewing Boyd at about 2:20 a. m.

"Osterberg began by asking Boyd general background questions, and Boyd could not tell the officer his street address or whether he lived in Norcross or Lilburn, but described generally for the officer where his home was located. He gave the officer his mother's cell phone number, but said he did not live with his mother and that she lived in College Park. He told the officer he lived with his father, gave the officer his father's cell phone number, and said his father 'should be' home at that time.

"Osterberg then told Boyd he was going to read him his Miranda rights as if Boyd was reading them to himself; in other words, Osterberg read Boyd his rights, using a form which was intended to be read by the suspect, in the first person singular, using the pronoun 'I,' instead of using the pronoun 'you.'

"Osterberg then asked Boyd if he understood his rights, and Boyd gave a slight nod of his head; Osterberg asked Boyd if he had any questions, and Boyd indicated he did not by a slight shake of his head, again giving a slight nod of his head when Osterberg asked him if he understood his rights fully. Osterberg then asked Boyd if he was ready, 'with those rights in mind, . . . to go ahead and continue this interview and kind of straighten out what in the hell happened this evening.' Boyd did not respond, and Osterberg queried 'Understand?' and Boyd slightly nodded his assent. Osterberg then asked Boyd again whether he wanted to go ahead and get it straightened out now, and Boyd hesitated and then responded 'Yeah.'"

[2] "Gray asserts that his confession was erroneously admitted for the following reasons: (1) he did not understand or intelligently waive his rights to make a statement, because he was only sixteen years old; (2) he was taking Prozac and other medications for depression, anxiety, and attention deficit disorder; (3) he had an IQ of 73; (4) he was not informed that his mother was willing to help him; (5) he perceived himself as being assaulted; (6) the investigation lasted into the early hours of the morning and involved three different officers after Gray was taken in on a search warrant; (7) then being interrogated without being advised that he was free to leave; (8) he had sleeping difficulties; and (9) juvenile officials merely recited Gray's rights without ensuring that he knew them."

[3] "The trial court made findings on each of the above-enumerated factors, at least twelve of which indicated that the defendant knowingly, intelligently and voluntarily waived his rights.

"The trial court found that the defendant was less than two months away from his seventeenth birthday (factor one) and that the evidence did not support a finding that his apparent mental age or educational level were inconsistent with that of a sixteen year old (factors two and three). The court further found that the defendant did not allege that anything was wrong with his physical condition (factor four). While the court noted that the defendant had no prior dealings with the police or court appearances, it found that Flanagan twice reviewed a *Benoit* form with him, and answered any questions he had regarding the form (factors six and seven). The court noted that Flanagan lied to the defendant about having a videotape of the altercation; however, it found that the interrogation was generally cordial (factor eight). Indeed, Flanagan testified that the tenor of the interview was 'pretty cordial' and even when they decided to question the defendant 'a little stronger,' the interview did not 'get out of hand or completely aggressive or anything.' The trial court further found that the length of the entire custodial interrogation was over an hour (factors nine and ten) and the defendant was not held incommunicado (factor eleven).

"The court found that the defendant understood the offense charged, noting that Flanagan and Biron explained why they wanted to speak with the defendant (factor thirteen). Further, it found that the defendant was warned of possible transfer to adult court through the use of two *Benoit* forms that indicated that if his case was transferred to adult court, he would have to go through the adult criminal system and, as a result, he could go to the county jail or state prison (factor fourteen). The court also found that the defendant did not later repudiate his statement (factor fifteen)."

[4] "Captain Weidenhamer testified that upon arriving at Campbell's office, 'Campbell had told me that [R.S.] was one of her probationers and that [he] had been doing some drinking over the weekend and something had happened, and she *asked [R.S.]* to tell me what happened.' . . .

"However, there are some facts that tend to weigh in favor of a finding that R.S. was in custody. Although Captain Weidenhamer stated R.S. and his father were free to leave at any time during the interviews, she did not convey this to either R.S. or his father. *Yarborough v. Alvarado*, 541 U.S. 652, 665, 124 S .Ct. 2140 (2004). Captain Weidenhamer was also in uniform when the interview took place. *T.W.* at ¶ 29. Further, while the record is silent as to how long each interview was, R.S. was subject to essentially three interviews: one with Campbell at her probation office; another with Captain Weidenhamer in Campbell's office; and a third interview at the police department. *See K.W.*, 2009–Ohio–3152, ¶ 12.

"Nevertheless, these circumstances are offset by other facts that tend to weigh against a finding that R.S. was in custody. Most important, R.S. and his father voluntarily showed up at Campbell's probation office. . . .

"Further distinguishable from *T.W.*, R.S. was never separated from his father during either interview. There is also no evidence on the record that Captain Weidenhamer carried a gun to the interviews and if so, whether it was visible to R.S. *T.W.* at ¶ 29; *In re R.H.*, 2d Dist. Montgomery No. 22352, 2008–Ohio–773, ¶ 20. Moreover, there was no testimony as to whether Campbell or Weidenhamer blocked the door, preventing R.S. from exiting the interview. *T.W.* at ¶ 29. Unlike the juvenile in *K. W.*, who was 10–years–old and had no criminal history, R.S. was 16–years–old and had previous experience in the criminal justice system. R.S. and his father were allowed to leave after the interviews concluded. *Billenstein*, 2014–Ohio–255, ¶ 44. Lastly, R.S. was not transported to the interview by a police officer. *See Yarborough*, 541 U.S. at 664; *T.W.* at ¶ 30."

[5] "Edgar was only 13 years old at the time of his police interview. Officer Horvat was clearly aware of Edgar's young age as she interviewed him at his middle school. Edgar was taken to the assistant principal's office where the office door was closed and Edgar sat in a chair between the assistant principal and Officer Horvat. Officer Horvat introduced herself as a detective and then proceeded to question him. When Edgar failed to respond to Officer Horvat's initial inquiry, she told him that someone mentioned he was connected to a residential burglary and then asked again if he was involved. Edgar denied involvement so Officer Horvat continued her questioning. At no point did Officer Horvat or the assistant principal give Edgar an opportunity to call his mother, tell him he was free to leave, or inform him that he was not obligated to speak to her. In our view, a reasonable 13 year old in Edgar's position would not have felt free to leave the assistant principal's office where the officer asked the door be closed and both the assistant principal and officer were present. A child in Edgar's situation would reasonably believe that his disobedience would subject him to disciplinary action. Under these circumstances, Edgar was in custody for *Miranda* purposes and thus the trial court erred in failing to suppress the statements Edgar made before receiving *Miranda* warnings."

[6] "The following factors lead us to conclude the trial court did not err in finding Mr. Alfaro was not in custody for purposes of *Miranda v. Arizona*, *supra*, 384 U.S. at page 444. Mr. Alfaro was not under arrest. Mr. Alfaro acknowledged he was present in the police station interview room freely and voluntarily. One of the doors to the interview room was ajar during the discussion and voices and laughter of other people could be heard during the interview. . . . Defendant was not handcuffed nor otherwise restrained in the interview room. Mr. Alfaro was never told he was under arrest, in custody or a suspect. The fact no warnings were given is circumstantial evidence Mr. Alfaro was not a suspect. Mr. Alfaro was repeatedly told the fact others had said he was present when the killing occurred was not necessarily a bad thing. The two detectives never expressed any belief Mr. Alfaro was guilty nor did they ask questions in an accusatory, aggressive or confrontational way. The detectives politely indicated they wanted Mr. Alfaro to tell the truth. And when Mr. Alfaro denied much specific knowledge about the killing, the detectives said they wanted him to tell the truth and provide more information. Once the interview was completed, after a brief delay, Mr. Alfaro left the police station with his mother.

"The fact that after a while, the two detectives politely expressed skepticism with some aspects of Mr. Alfaro's statements, were not evidence he was in custody. Further, the fact the interview occurred at a police station is not dispositive. A coercive environment is insufficient by itself to create a duty to give the required advisements. Nor is the two-hour duration of the questioning in an interview room dispositive. And Mr. Alfaro offered no testimony as to whether he believed he was free to leave. Taken collectively and viewed objectively, a 17–year–old would not have felt restrained to the degree associated with a formal arrest." (Citations omitted.)

[7] "In *J.D.B.*, the United States Supreme Court held that the inclusion of a child's age in the custody analysis is 'consistent with the objective nature of that test.' *(J.D.B.*, *supra*, 131 S.Ct. at p. 2406.) But that is not to say, the court qualified, that 'age will be a determinative, or even a significant, factor in every case.' (*Ibid.*) In this case, we are convinced by the totality of the circumstances that Sample's age (16 and a half at the time of the interview) was not a significant factor. We have listened to the audio recordings, and we agree with the trial court's assessment that the detectives conducted their entire encounter with Sample in a respectful, nonaggressive, and nonthreatening manner. The tone of the recordings is conversational throughout. Sample freely and even volubly responded to the officers' questions, and we detect no anxiety in his voice. The tone and tenor of the conversation did not change after the officers showed Sample the fake sketch. Although Sample told the officers he was 'shocked' by the resemblance and that he had been worried about the sketch, he also calmly explained that there had to be someone else who looked like him, since nothing at all had happened when he and his friends were outside Torres's house that night. The trial court did not abuse its discretion in denying Sample's motion to suppress his December 6, 2006 statements."

[8] "The record here . . . demonstrates that on the date of his interview at the station defendant was less than three months short of his 18th birthday. It thus would not have been unreasonable for the court to have not considered his age. Moreover, it did consider it, expressly noting how well defendant conducted himself during the interview despite his age and claim that he was high and drunk. In light of this, we reject defendant's claim the court did not consider his age just because it said 'juvenile[s do] not having any special rules for determining whether someone is in custody or not.'"

[9] "Police initiated the contact with F.F., and there is no evidence he voluntarily agreed to be interviewed. (*Aguilera*, *supra*, 51 Cal.App.4th at p. 1162.) At the voir dire on the *Miranda* issue, Sergeant Baarts testified he was summoned to a middle school, where the principal handed him a knife and a ziplock bag containing 0.05 grams of what he believed was concentrated cannabis and told him he found it when searching F.F. Thus, the 'express purpose of the interview was to question [F.F.] as a . . . suspect.' (*Aguilera*, at p. 1162.) Though the Attorney General asserts '[i]t . . . does not appear that Baarts questioned [F.F.] in an intense manner,' the record reflects nothing about the intensity of the questioning.

"Sergeant Baarts did not tell F.F. he was free to leave or that he did not have to talk to him. Sergeant Baarts testified his purpose in questioning F.F. and examining the suspected cannabis was 'to determine that there was actually a violation of the law and that the item was what [F.F.] said it was. And also, I was not at a conclusion on what I was ultimately going to do with [F.F.], whether I was going to take enforcement action, handle it via a counseling session and maybe meeting with his parent. So my decision for the enforcement action hadn't came to conclusion yet.'"

[10] "An Oceanside Police detective interviewed the Minor at a Breaking Cycles camp facility where the Minor was being housed for an unrelated offense. A staff person brought the Minor to an administrative office where the detective was waiting. The detective was not in uniform. The Minor was informed of the purpose of the interview and was told he was free to leave. The Minor was also informed he was being interviewed as a witness and that he was not going to be arrested. The detective asked if it was okay to talk and the Minor agreed. Toward the end of the interview the Minor was asked if he felt he was forced to talk and the Minor said 'no.' When the Minor did ask if he was free to leave the detective reminded him he had always been free to leave and that the Minor had said he was willing to stay and talk."

[11] "[W]e affirm the trial court's conclusion that the circumstances of this case are not sufficiently similar to those of an arrest to establish in the mind of a reasonable fifteen-year-old juvenile that he was 'in custody' for purposes of *Miranda* and section 7B–2101. While Respondent may or may not have subjectively felt 'free to leave,' the circumstances of this case do not objectively suggest that a reasonable fifteen-year-old juvenile would have believed he was under arrest. Indeed, the fact that Respondent's friend, J.J., had just been detained, handcuffed, and directed to sit on the sidewalk would have indicated to a reasonable fifteen-year-old juvenile that his friend was under arrest and he was not. Unlike J.J., Respondent was never handcuffed. Further, though Respondent was frisked, he was not searched. The entire process took place in an open area, while the sun was still up, and the juveniles were only asked one question. Indeed, the question asked was directed to *all three* juveniles, as a group, not just Respondent. For these reasons, we conclude that the trial court's findings of fact support its conclusion that Respondent was not 'in custody' at the time he admitted ownership of the marijuana."

[12] "[I]n this case, there are additional facts and circumstances that, viewed through our applicable standard of review, support the district court's conclusion that a reasonable fourteen-year-old in C.M.A.'s position would not believe that his freedom of movement was restrained to the degree associated with a formal arrest. First, there was evidence that during both interviews, C.M.A. was expressly told that he was not under arrest. During the first interview, there was likewise evidence that C.M.A. was also told that he did not need to speak with Beathard and was free to leave the room at any time. Although this information was not expressly conveyed to C.M.A. during the second interview, the district court could have reasonably inferred that such information was implicitly conveyed when C.M.A. was told that he was not under arrest, and the district court could have further reasonably inferred that a reasonable fourteen-year-old would believe that he had the same freedom to leave during the second interview that he had during the first interview, especially since Beathard was again conducting the interview and Beathard had allowed C.M.A. to return to class following the first interview. Also, according to Beathard, C.M.A. 'already knew' him prior to the first interview, which, the district court could have reasonably inferred, would have made a reasonable fourteen-year-old feel less restrained around Beathard than he would have felt around other law enforcement officers whom he did not know. Additionally, the room in which the interviews took place was not an interrogation room at a police station, but was described instead as 'set up like a conference room' that was approximately 25 to 30 feet long and 15 to 20 feet wide. The room had windows, and the door to the room also had what was described as an 'observation window.' Although the door was closed during the

interviews, it was not locked. The room contained what was described as a 'big table,' and, during the interviews, C .M.A. was seated on the side of the table that was closest to the door. Moreover, Beathard and Hollas also testified that they were seated at the table during the interviews, but not on the same side of the table as C.M.A., which, the district court could have reasonably inferred, would make a reasonable fourteen-year-old feel less restrained. Additionally, the evidence, when viewed in the light most favorable to the district court's ruling, tends to show that C.M.A. was not handcuffed during either interview, he had not been escorted to the room by law enforcement officers, he was not denied 'basic necessities' during the interviews, and he was not threatened or promised anything during the interviews. And, although C.M.A.'s parents were not present during the interviews, the evidence tends to show that C.M.A. did not ask to speak with his parents. The evidence also tends to show that C.M.A. did not ask to leave the room, go to the bathroom, or get a drink of water during either interview. Finally, the first interview lasted approximately thirty minutes, while the second interview lasted approximately twenty minutes, and once the interviews were completed, C.M.A. was allowed to return to class. Based on this and other evidence, the district court could have reasonably inferred that the interviews were not so long or so intimidating as to make a reasonable fourteen-year-old believe that his freedom of movement had been significantly restricted. See Meadoux v. State, 307 S.W.3d 401, 409–12 (Tex.App.-San Antonio 2009), aff'd on other grounds, 325 S.W.3d 189 (Tex.Crim.App.2010); *In re M.R.R.*, 2 S.W.3d 319, 323–25 (Tex.App.-San Antonio 1999, no pet.).

"We are to sustain the trial court's ruling if it is 'reasonably supported by the record,' and we can overturn the ruling only if it is 'outside the zone of reasonable disagreement.' *See Martinez*, 348 S.W.3d at 922; *Valtierra*, 310 S.W.3d at 448. Based on the totality of the objective circumstances summarized above, and viewing the evidence and all reasonable inferences therefrom in the light most favorable to the suppression ruling, the district court's determination that a reasonable fourteen-year-old would not have believed that his freedom of movement was significantly restricted during either the first or second interview was 'reasonably supported by the record' and was not 'outside the zone of reasonable disagreement.' Accordingly, we cannot conclude that the trial court abused its discretion in denying the motion to suppress on the ground that C.M.A. was not in custody during either interview. We overrule C.M.A.'s first and second points of error."

[13] "[V]irtually all the relevant circumstances militate against a determination that Oligney was in custody. Perhaps the most important factor is the 'defendant's freedom to leave. *Id.*, ¶ 28. Oligney was informed on two occasions that he did not need to be at the interview, was not under arrest, and was free to go whenever he wanted. The doors were kept unlocked and there is nothing to suggest Oligney would have been prevented from declining to answer any more questions and leaving. When the officers concluded the interview, Oligney walked out of the room.

"Other factors, such as the location and length of the interrogation and degree of restraint used by law enforcement, were such that a reasonable person would have believed he or she was free to terminate the interview and leave. *See id.* Officers did not overtly display their authority and draw Oligney out of class; rather, the attendance office requested Oligney, and he left class by himself. The interview was held in a relatively neutral location, a school resource office. *See id.* (An interview that takes place in a law enforcement facility, such as a sheriff's department, police station, or jail, may weigh toward the encounter being custodial.). The interview lasted two hours and partially occurred during the school day. Oligney was seated next to a door, which was unlocked. The officers were not in uniform and did not draw or show Oligney their weapons, nor did they perform a frisk, handcuff Oligney, or otherwise restrain him. *See State v. Morgan*, 2002 WI App 124, ¶ 12, 254 Wis.2d 602, 648 N.W.2d 23.

"Oligney makes much of the fact that there were two officers questioning him, and his belief, articulated at the suppression hearing, that he was at risk of being arrested. However, the mere presence of two officers is insufficient to establish a custodial situation. *See Lonkoski*, 346 Wis.2d 523, ¶ 32, 828 N.W.2d 552. Similarly, a suspect's belief that he or she is the main focus of an investigation is not determinative of custody. *Id.*, ¶ 34. The custody inquiry is an objective test; Oligney's subjective fear of arrest is therefore irrelevant.

"Oligney also emphasizes that he was still a minor at the time of the interview. '[A] reasonable child subjected to police questioning will sometimes feel pressured to submit when a reasonable adult would feel free to go.' *J.D.B. v. North Carolina*, —— U.S. ——, ——, 131 S.Ct. 2394, 2403, 180 L.Ed.2d 310 (2011). However, a child's age is not determinative, and may not even be a significant factor. *Id.* Oligney was sixteen at the time of the encounter and nearly subject to adult criminal court original jurisdiction. He was eventually waived into adult court. A reasonable person of Oligney's age would not ordinarily have felt obligated to participate against his or her wishes; teenagers are often recalcitrant. We see nothing about Oligney's age that would yield an objective conclusion that Oligney was in custody."

[14] "[A]ppellant was in custody, for the purposes of *Miranda*, when he gave his statements to [Detective] Pavia. First, there is no evidence in the record that appellant voluntarily went to the police station. Rather, his father was instructed by police officers to follow them to the Union Township Police Department so that appellant could be questioned. Second, appellant was only 13 at the time of the interview and, consequently, there was a likelihood that appellant was unaware of his rights, including the right to be silent or request a lawyer. Third, although Pavia testified at the adjudication hearing that he informed appellant he was not under arrest, the videotape of the interview reveals that no such statement was made. Rather, Pavia stated only that appellant would be returning home after the interview, implying at times that the interview would end once appellant finally told the truth. Further, Pavia never told appellant that he had the right to end the interview at any time."

[15] "[A]t fourteen years of age, a reasonable juvenile in T.W.'s position would, in all likelihood, be intimidated and overwhelmed. There is no evidence that T.W. volunteered to go to Children Services. Rather, the evidence reveals that T.W.'s mother, at Page's request, agreed to bring T.W. to Children Services, limiting the extent of his control over his being there, and rendering his presence ostensibly involuntary. *See Yarborough v. Alvarado*, 541 U.S. 652, 665, 124 S.Ct. 2140 (2004). Shortly after arriving at Children Services, T.W. was escorted away from his mother and step-father by two unfamiliar authoritarian figures, one of whom was dressed in a police uniform and carried a weapon on his person. *See In re R.H.*, 2d Dist. No. 22352, 2008–Ohio–773, ¶ 20. As Officer Rowe and Page escorted T.W. back to the interview room, Shimp and T.W.'s step-father attempted to follow them back but Officer Rowe advised them that they could not accompany them in the interview room. Last, upon entering the interview room the door was closed and T.W. was seated facing Officer Rowe, with either Officer Rowe or Page sitting near the door through which they entered the interview room. Regardless of who sat near the door, a reasonable juvenile in T.W.'s position would likely not feel free to stand, walk past the authoritarian figure seated near the door and out of the interview room.

"While the foregoing facts tend to weigh in favor of a finding that T.W. was in custody, other facts tend to weigh against a finding that T.W. was in custody. T.W. was not transported to the interview by a police officer. *See Yarborough* at 664. The interview occurred at Children Services as opposed to a police department. *But see In re K. W.*, 3d Dist. 9–08–57, 2009–Ohio–3152, ¶ 14 (child found to be in custody during interview at children services agency). The parents waited in the lobby during the interview, suggesting that the interview would be brief. *See Yarborough* at 664. In the lobby, prior to the interview, Officer Rowe testified that he informed T.W., Shimp, and T.W.'s step-father that T.W. was not under arrest and free to go. Review of the taped interview and Officer Rowe's testimony reveals that T.W. was relaxed during much of the interview. Last, during the interview, at approximately eight and twenty-seven minutes into the interview, Officer Rowe informed T.W. that he was 'not going to be arrested,' and that he was 'free to go, and [he is] not going to be arrested' that day, respectively."

[16] "[W]e conclude that the defendant's interrogation was not custodial. Although the interrogation occurred at the police station, the defendant appeared there voluntarily, accompanied by his mother, in response to a police request. He was neither under arrest nor escorted to the station by the police. The interrogation lasted seventy minutes, and the defendant sat next to the door throughout the interview. One of the two interviewing officers left the room from time to time, and the other sat across from the defendant behind a desk next to a computer. The questioning was conversational and nonthreatening in tone, and the detectives repeatedly told the defendant, who was not handcuffed or restrained in any way, that he would be allowed to return home with his mother, as he ultimately was. The defendant's age, a few months shy of his eighteenth birthday, placed him on the cusp of majority, and far removed from the tender years of early adolescence. Viewing all the pertinent factors objectively, including the defendant's age at the time of the interview, we conclude that the interrogation was not custodial so as to require Miranda warnings."

[17] "At the time of the interrogations, Jones was seventeen years old and had been living on his own with his girlfriend and child. He also declined to have his mother present during the first two interrogations. Thus, despite Jones's status as a juvenile, he was functioning in the world as an adult, and there is no basis to treat his age as a significant factor in a custody analysis. See *id.* ('[T]eenagers nearing the age of majority are likely to react to an interrogation as would a typical 18–year–old in similar circumstances.' (quotation marks omitted)). Because there was no motion for further findings pursuant to M.R.Crim. P. 41A(d), we infer that the court made this finding, and thus properly considered Jones's juvenile status. See M.R.Crim. P. 41A(d); *J.D.B.*, 131 S.Ct. at 2399; *Connor*, 2009 ME 91, ¶ 9, 977 A.2d 1003."

[18] "*Miranda* warnings are not required 'simply because the questioning takes place in the station house, or because the questioned person is one whom the police suspect.' *Buchanan*, 353 N.C. at 337, 543 S.E.2d at 827 (internal quotation marks omitted). Defendant voluntarily spoke with and rode with detectives and was told he was free to leave and that he could leave the vehicle at any time. Although defendant gave his statement while in the

detective's vehicle approximately two miles from his home, he sat in the front seat of the vehicle and the entire encounter lasted under two hours. . . .

"Defendant emphasizes that he was a juvenile at the time of the 20 November 2009 encounter, relying on *J.D.B.* for the proposition that a juvenile's age is a factor in the *Miranda* custody analysis. However, in *J.D.B.*, the United States Supreme Court acknowledged that, although the Miranda custody analysis included consideration of a juvenile suspect's age, that was 'not to say that a child's age w[ould] be a determinative, or even a significant, factor in every case.' . . . In this case, defendant was 17 years and 10 months old at the time of the encounter. Considering the totality of the circumstances, defendant's age does not alter this Court's conclusion that defendant was not in custody during the 20 November 2009 encounter with detectives."

[19] "At approximately 3:00 a.m., Officer Akiyoshi interviewed Munoz who was lying on a gurney in an exam room. At times, medical personnel were also present in the room. Upon entering the exam room, Officer Akiyoshi observed that Munoz was awake and able to converse. He appeared to be in some discomfort, but not in pain. He was wearing an oxygen mask which he removed on his own prior to the interview. He also had an intravenous bag and a catheter, which he attempted to remove at some point during the interview. Officer Akiyoshi immediately noticed the smell of alcohol on Munoz's breath, but did not observe Munoz to be under the influence of narcotics at that time. Munoz did not appear to have any difficulty understanding or answering the officer's questions.

"Officer Akiyoshi began the interview by asking Munoz if he knew what had happened. Munoz responded that he did not remember, but he did recall that he was coming from the nightclub. When asked how much he had to drink, Munoz answered that he had two tall cans of Tecate. When asked who owned and was driving the car at the time of the collision, Munoz indicated that the car belonged to his brother, Nathan, and that Munoz was driving because Nathan had too much to drink. Munoz also said that his cousin, Gabriel, was with them in the car. The interview with Officer Akiyoshi lasted between one and two minutes.

"At Officer Akiyoshi's request, a registered nurse at the hospital drew a sample of Munoz's blood for forensic purposes at 6.24 a.m. which was submitted for analysis to the Los Angeles County Sheriff's Department. According to the results of the sheriff's department's blood chemistry analysis, Munoz's blood alcohol concentration at 6:24 a.m. was 0.07 percent.

"West Covina Police Detective Huston Clements and his partner conducted an audio recorded interview with Munoz at the hospital between 8:00 and 8:30 a.m. that morning. During the interview, Munoz was lying on a gurney in the emergency room and being treated by hospital staff. He was attached to monitors and medical personnel occasionally walked in and out of the area as the detectives interviewed him. Munoz was cooperative during the interview and appeared to understand the questions that were asked. He did not appear to be under the influence of alcohol or narcotics at that time.

". . . When Munoz indicated to the detectives that his head was 'ringing,' they promptly terminated the interview and asked him if he wanted to see the nurse. Detective Clements arrested Munoz seven months later on May 6, 2010."

[20] "Having reviewed the record, and giving deference to the trial court's factual findings, we conclude Lewis was not in custody before he was provided *Miranda* warnings, and thus his pre-*Miranda* incriminating statements were admissible. Lewis was brought to the police station by Detective Browning, but the record shows he was not 'summoned' as Lewis argues. Rather, he went there voluntarily, sitting unrestrained in the front passenger seat of the detective's vehicle. (*Oregon v. Mathiason* (1977) 429 U.S. 492, 495 [the fact that the defendant came to the police station voluntarily and was told he was not under arrest suggested he was not in custody]; *California v. Beheler* (1983) 463 U.S. 1121, 1123–1124 (*Beheler*).) Furthermore, at the time he agreed to go to the station, Lewis understood he would be questioned there. (*Beheler*, at p. 1125 [holding defendant was not in custody when he agreed to accompany police to the station to answer questions and was allowed to leave immediately afterwards].) While at the station, Detective Browning told Lewis he was not under arrest and was free to leave. During the interview, Lewis was not handcuffed or otherwise physically restrained; his freedom of movement was restricted only by virtue of the fact the questioning occurred in an interview room with the door closed. However, the door was unlocked and Detective Browning made it clear Lewis could use the bathroom if he wished, telling him, '[I]t's right out here.' Indeed, at one point during a break in the interview, Lewis was alone for three minutes and stepped outside the room to speak with Detective Long, who asked him if he was 'fine,' and if he wanted a soda or water. (Accord, *Howes v. Fields*, *supra*, ___ U.S. at p. ___ [132 S.Ct. at p. 1193] [concluding coercive circumstances, including the fact that an in-prison interview lasted from five to seven hours, were offset by the circumstances that the respondent was told at the outset and reminded he could leave and go back to his cell whenever he wanted, he was not physically restrained, he was offered food and water, and the door to the room was sometimes left open].) Detective Long also told Lewis that he was not in custody when she explained that the

Miranda warnings were a matter of procedure due to his age. The detectives did not display force, and though Detective Browning was accusatory at times in the interview, he was not overly aggressive in tone and he focused on the actions of the other individuals with Lewis that morning. We conclude the objective facts are consistent with an environment in which a reasonable person in Lewis's position would have felt free to leave at any time.

"Concededly, there are some facts that would weigh in favor of a custody finding; namely, the length of Lewis's interview and the fact it occurred in a police station, and Lewis's arrest at the conclusion of the interview. But as a whole, the facts suggesting that Lewis was in custody are less compelling that those present in Yarborough v. Alvarado, *supra*, 541 U.S. 652, and they are outweighed by the other facts showing Lewis understood he could leave the interview room and was primarily questioned about the crimes that others committed against Brown.

"In urging us to reject the trial court's finding he was not in custody, Lewis argues that '[e]ven though [he] was not under formal arrest, in handcuffs, or in a locked, windowless room, the fact that he was being interrogated by two police detectives at a police station, as opposed to at his home or at another non-law-enforcement venue, should not be underestimated, particularly when [his] youth and lack of experience with the criminal justice system are taken into account.' But in *Yarborough*, the court suggested that reliance on a suspect's prior history with law enforcement was improper when applying the objective custody rule, which is 'designed to give clear guidance to the police . . . .' (*Yarborough v. Alvarado*, *supra*, 541 U.S. at p. 668.) As for his age, Lewis was over six-feet tall and his probation report indicates he weighed approximately 200 pounds; there is no reason to conclude the fact he was a minor was 'known to [Browning] or objectively apparent' to him or a reasonable officer for purposes of considering his age in the custody analysis. (*J.D.B. v. North Carolina*, *supra*, ___ U.S. ___ [131 S.Ct. at p. 2406].)"

[21] "Both detectives identified themselves to Eduardo when they first spoke with him at the jail before walking him over to the interview room. After answering some questions about his family and about life in this country, Eduardo asked why he was being asked so many questions. Those questions were not designed to elicit incriminatory admissions, so no waiver of his *Miranda* rights was necessary yet.

. . .

"Even though Eduardo emphasizes that although the detective 'read [him] his rights' he 'never took any explicit waiver,' the record shows both a choice without coercion and the requisite level of comprehension. (Cf. *Burbine*, *supra*, 475 U.S. at p. 421.) 'The question is not one of form, but rather whether the defendant in fact knowingly and voluntarily waived the rights delineated in the *Miranda* case.' (*North Carolina v. Butler* (1979) 441 U.S. 369, 373.)

"Even so, relying on *J.D.B. v. North Carolina* (2011) __ U.S. __, __ [180 L.Ed.2d 310, 328–329; 131 S.Ct. 2394, 2408], Eduardo argues that the detective's 'exhortations regarding the importance of honesty and truth in speaking to the police and the negative implications for his life in the United States by a failure to speak' were inconsistent with *Miranda* and confusing to 'any reasonable person, *let alone a juvenile*.' (Italics added.) In *J.D.B.*, the juvenile was a 13–year–old seventh-grade middle school student. (*Id.* at p. __ [180 L.Ed.2d at p. 319; 131 S.Ct. at p. 2399].) Eduardo, on the other hand, was a 16–year–old high school dropout. After only one year in the United States, he already had two arrests on his record, one for possession of a firearm, the other for assault. The high court declined to hold 'that a child's age is never relevant to whether a suspect has been taken into custody' and held that to ignore 'very real differences' between children and adults 'would be to deny children the full scope of the procedural safeguards that *Miranda* guarantees to adults.' (*Id.* at p. __ [180 L.Ed.2d at p. 329; 131 S.Ct. 2394, 2408].) The court's ruling here did not deny Eduardo the full scope of those safeguards. By a totality of the circumstances, our analysis of the record persuades us that, contrary to his argument, he 'knowingly and intelligently waived his privilege against self-incrimination and his right to retained or appointed counsel.' (*Miranda*, *supra*, 384 U.S. at p. 475; cf. *People v. Davis* (2009) 46 Cal.4th 539, 586 [reviewing court's duty is to 'independently decide whether the challenged statements were obtained in violation of *Miranda*'].)"

[22] "In this case, the interrogating police officer told the witness (falsely) that he was under arrest and handcuffed the witness to a chair in an interrogation room at the police station. The officer wanted the witness to believe he was under arrest for murder. The officer's deception was successful. After the witness stopped crying, he made a statement to the officer that he had refused to make during the two hours of questioning that preceded the officer's false representation that the witness was under arrest.

"Although the witness was told and believed that he was under arrest, he was not afforded any of the procedural safeguards recognized in *Miranda* as necessary to mitigate the inherently coercive pressure of a custodial interrogation. Fundamental fairness and the orderly administration of justice require that custodial interrogations be treated consistently. Where the procedural safeguards of *Miranda* are not followed for a defendant who is actually under arrest, any incriminating statement is inadmissible. Where the procedural safeguards of *Miranda*

are not followed for a witness who is falsely told, but actually believes, he is under arrest, constitutional consistency requires that any § 3507 statement that incriminates a third-party be inadmissible as well.

"Absent uniform treatment for the custodial interrogation of both a defendant who is actually under arrest and a witness who believes he is under arrest, the evidentiary results are unfairly and inexplicably inconsistent. The defendant's self-incriminating statement would be inadmissible, yet the § 3507 statement of the witness that incriminates a third-party would be admitted into evidence. That is not how the rule of law should or does operate under our constitutional democracy. In both situations, the custodial interrogations are inherently coercive and both types of statements are inadmissible if the procedural safeguards of *Miranda* are not followed. That must be so, since the concerns that animate *Miranda* are identical in both cases.

"As the United States Supreme Court recently explained in *J.D.B.*, '*Miranda*'s procedural safeguards exist precisely because the voluntariness test is an inadequate barrier when custodial interrogation is a stake.' 'Unless adequate protective devices are employed to dispel the compulsion inherent in custodial surroundings, no statement obtained from the defendant can truly be the product of his free choice.' The same rule of law must apply to the § 3507 statement of a witness that is the product of a custodial interrogation, where that witness is falsely told that he is under arrest and believes that deception."

[23] "Social worker's interview of juvenile at youth home, during which he confessed to crimes, was not custodial interrogation, for *Miranda* purposes; youth home was not a detention or lockdown facility, and, although juvenile had been moved to unlocked, windowless room where he could be closely observed by staff, he was not handcuffed and he was interviewed in room with door open, juvenile was just seven months shy of his eighteenth birthday, he had been accused of beating an elderly man and he had history of assaulting adults, including his mother and police, social worker, who had eight-year history as juvenile's caseworker, was operating independently of police in conducting status assessment of juvenile, and she did not convert her status assessment of juvenile into a custodial interrogation by asking juvenile at the outset what he had done." (Quote from WL headnote.)

[24] "We agree with the juvenile court that minor was not subjected to a custodial interrogation. He was questioned by Officer Barkdoll, and the questions sought potentially incriminating information, like many investigative questions asked by police. However, minor was merely detained and not formally arrested. The record indicates that Officer Barkdoll went to Jeffrey B.'s house, found the three boys outside, and simply asked them about what had happened at the high school. The three boys were seated in the open, on the curb in front of Jeffrey B.'s home. The detention was brief, as they were seated on the curb for only five to 10 minutes. None of the boys were handcuffed. There was an equal ratio of officers to suspects. None of the officers had their weapons drawn. Furthermore, minor was nearly 17 years old, and there is no evidence that Officer Barkdoll posed confrontational questions or pressured him in any manner. Considering the totality of the circumstances, we cannot say that minor 'would believe he was in police custody of the degree associated with formal arrest.' [Citation.]' (*Pilster*, *supra*, 138 Cal.App.4th at p. 1403, fn 1.) Thus, *Miranda* warnings were not required prior to this detention, and the juvenile court properly admitted evidence of minor's statements to Officer Barkdoll."