When Juveniles Face Questioning

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CHAPEL HILL Five years ago I sat in a courtroom in Hillsborough, watching a hearing on the defense's motion to suppress a juvenile's confession. J.D.B., the 13-year-old boy charged with breaking into neighbors' homes and taking things, was a special education student. He had been questioned alone in a conference room at his middle school by a uniformed police officer, a police investigator, and the assistant principal.

Without telling him that he had the right to remain silent and could leave if he wished, the investigator advised J.D.B. that he should "do the right thing because the truth always comes out in the end" and that if J.D.B. kept breaking into houses, he would "get sent to juvenile detention before court."

Minutes later, the boy admitted to the allegations and gave a written statement. When J.D.B. got off the school bus that afternoon, another police officer was waiting for him. After the investigator arrived with a search warrant, they entered the boy's home and J.D.B. turned over the stolen items.

Before questioning him at school or searching his home, the officers did not try to reach J.D.B.'s guardians - his grandmother and aunt - because the police believed the family would not cooperate.

During the hearing, the prosecutor argued that there was no evidence that J.D.B. did not feel "free to leave," a legal term that rings hollow when referring to children who are questioned by adult authority figures without a lawyer, parent or guardian present. The juvenile court judge found that the boy was never in custody and that the conference room door was closed but not locked; therefore, the investigator had no legal obligation to tell J.D.B. - as established through the widely known U.S. Supreme Court case of Miranda v. Arizona and through the North Carolina Juvenile Code - that he did not have to talk to them and could have a guardian present and an attorney appointed.

Our state Supreme Court agreed with the trial judge, holding that the custody inquiry is an objective test that does not allow for the consideration of the suspect's age or academic standing. In response, a dissent contended that failure to consider age would lead to an "absurd" result in which courts would apply the same analysis regardless of whether the individual's age was 8 or 38.
Earlier this month the U.S. Supreme Court agreed to review the case, J.D.B. v. North Carolina, providing an opportunity to reconsider whether age should be a factor in determining whether a suspect felt free to leave, a notion the court rejected in 2005.

The constitutional landscape in regard to the treatment of juvenile defendants has changed in the past five years, with the decisions of Roper v. Simmons and Graham v. Florida, in which the court held (respectively) that the death penalty could not be imposed on offenders who committed their crimes as minors and that sentences of life in prison without the possibility of parole could not be imposed on juveniles for non-homicide crimes.

Justice Anthony Kennedy, who wrote the majority opinion in both cases, emphasized that an offender’s youth should be considered mitigating and not aggravating, and that all young offenders - unlike their adult counterparts - have the potential for redemption. With such cases serving as precedent, the odds are good that the Supreme Court will reverse the state court and hold that age should be a factor when determining whether police should warn a suspect prior to questioning.

Yet, there is an irony to this story. Even if JDB prevails, empirical evidence shows that most young people - as well as many adults - do not fully grasp the meaning or import of the Miranda warning. In fact, even if the court were to hold that the warning should be given whenever minors are questioned by police, because of its contorted syntax and legalese, it is likely that this right would rarely, if ever, be invoked.

For this reason, some juvenile justice advocates have called for a modified, developmentally appropriate Miranda warning drafted specifically for young suspects.

Despite the irony, the case is an important one. The court’s decision will signal whether it is committed to ensuring that age matters not only at sentencing but also during the investigation itself. In determining whether the questioning of J.D.B. was custodial, surely it should matter that the individual sitting alone in a room with two police officers and an administrator was a 13-year-old boy and not a 38-year-old man.

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