



MICHIGAN STATE POLICE LEGAL UPDATE

No. 87

June 12, 2011

This update is published by the Michigan State Police, Office of the Director, Legal Resource and Education Unit. Questions and comments may be directed to MSPLegal@michigan.gov. Past editions can be found at www.michigan.gov/msp-legal.

CRIMINAL LAW AND PROCEDURE MANUAL

The 2010 edition of *Michigan Criminal Law and Procedure: A Manual for Michigan Police Officers* is available for purchase.

The manual is published by [Kendall Hunt Publishing Co.](#) Copies may be ordered by calling Kendall Hunt Customer Service at (800) 228-0810, or through their [online catalog](#) (search by title or ISBN: [978-0-7575-8710-8](#)).

SEARCH AND SEIZURE

Age must be considered when determining whether to give Miranda warnings to a juvenile suspect.

In [J.D.B. v. North Carolina](#), J.D.B. was a 13-year-old, seventh grade student suspected of breaking and entering and larceny. J.D.B. was removed from class and interviewed at his school in a closed-door conference room by two police officers and two school administrators. Before beginning the interview, the officers did not give him Miranda warnings, the opportunity to call his legal guardian, or tell him he was free to leave the room. J.D.B. was interrogated about the crimes, and he confessed his involvement. After J.D.B. confessed, an officer advised him that he could refuse to answer further questions and that he was free to leave. Asked whether he understood, J.D.B. nodded and provided further information regarding the crimes and a written statement.

Two juvenile petitions were filed against J.D.B., charging him with breaking and entering and larceny. J.D.B.'s attorney moved to suppress his statements and the evidence located as a result of those statements, arguing J.D.B. was interrogated while in custody without being read his Miranda warnings; therefore, his statements were involuntary. The trial court denied the motion to suppress, stating J.D.B. was not in custody at the time of the interrogation and

that his statements were voluntary. J.D.B. was adjudicated delinquent and later appealed.

The U. S. Supreme Court reviewed the test for custody: whether a reasonable person in the suspect's position would believe he or she was free to leave. The Court noted, in some circumstances, a reasonable child subjected to police questioning will feel pressured to answer questions even though a reasonable adult would feel free to go. The Court held that so long as a child's age was known to the officer at the time of questioning, or would have been objectively apparent to a reasonable officer, the child's age must be included as part of the custody analysis. In addition, the Court noted this does not mean the child's age will be a significant factor in every case, but it must be included in the analysis.

Officers are required to consider a juvenile suspect's age in determining whether Miranda warnings must be given to a juvenile during an interrogation. Additionally, officers are reminded to properly advise all in-custody suspects of their Miranda warnings before questioning.

VEHICLE CODE

Moving violations in school bus zones

Public Act 60 of 2011 amended [MCL 257.601b](#) to add moving violations occurring in a "school bus zone" to the list of offenses for which enhanced penalties apply. A "school bus zone" is the area within 20 feet of a stopped school bus displaying two alternately flashing red lights.

SUBSCRIPTIONS

In order to receive the Update via e-mail, click [here](#) or go to www.michigan.gov/msp-legal and click on "subscribe to legal updates."

This update is provided for informational purposes only. Officers should contact their local prosecutor for an interpretation before applying the information contained in this update.