Comment

School Bullies—They Aren't Just Students: Examining School Interrogations and the *Miranda* Warning

I. INTRODUCTION

In the first few weeks of working at the Macon Circuit Public Defender's Office in Macon, Georgia, I represented a juvenile client who was charged with possession of a weapon on school grounds. She was a fourteen-year-old public high school student accused of bringing a knife to school. She did not mean to bring the knife to school, having that morning switched purses, and when she realized the knife was in her bag, she did not know what to do. She did not get caught with the knife in a fight, nor were there ever allegations that she was involved in an altercation with another student. Another girl saw the knife in her bag and reported it. The student was brought to the principal's office by the school resource officer. The officer participated in the ensuing interview with the student, but the principal did most of the questioning. When the officer stepped out for a moment, the principal told the student that if she confessed to bringing the knife to school, the matter would be handled at school quietly, and the student would not be referred to juvenile court. No one else was present for this part of the interrogation. The principal knew he was required to report this incident and that it

would then be referred to juvenile court, and he intended to do so. The child, worried about how much trouble she could be in if the incident were referred to court, wrote out a statement, admitting that she brought the knife to school. The principal and school resource officer referred the matter to juvenile court.

When I met the student and she became my client, she told me her story, and I thought that a *Miranda* issue must have been involved. I researched the issue in Georgia and, in the caselaw, found a loophole that made it difficult to suppress the student's admission. I found that she could fight the use of the statement on the grounds that it was involuntary, but I recognized that the factors rendering the statement involuntary were witnessed only by the student and the principal, making the case a matter of "he said, she said." I was able to negotiate with the prosecutor for the possibility of a sentence that did not include any time in a youth detention facility in exchange for the student's admission of the charges. I informed my client of my research and how I would go about fighting the validity of the admission, but I dutifully informed her of the plea offer, including the possibility of a disposition that include time-to-serve should the court (1) rule against the student at a motion to suppress hearing and (2) find the student delinquent at an adjudicatory hearing. Aware of the probabilities of winning a motion to suppress and afraid of going to a youth detention center, the child decided to admit the charges and take the deal.[1]

Working with juveniles in delinquency proceedings in Georgia can often be a tenuous and arduous process. The Juvenile Code, found in Chapter Eleven of Title Fifteen of the Official Code of Georgia Annotated ("O.C.G.A."),[2] is sometimes muddled and misleading. Even thirty years after the United States Supreme Court decided *In re Gault*,[3] state legislatures and juvenile courts have struggled with the proper mode of protecting juveniles' constitutional rights, including the right against self-incrimination.

A growing area of concern for juvenile courts in Georgia is delinquency matters that have originated in the state's schools. Many of Georgia's school systems have their own police departments or school resource units that are trained and equipped to deal with discipline and criminal

1. This scenario is based on the facts of one of the first cases that the Author handled as a student working under the Third Year Practice Act, Official Code of Georgia Annotated § 15-20-2 (2005), at the Macon Circuit Public Defender.

2. O.C.G.A. ch. 15-11 (2005 & Supp. 2007).

3. 387 U.S. 1 (1967).

matters within school halls.[4] Other functions of school officers include educating and counseling children on various issues. With the advent of prevailing police presence in schools, school officials have modified how they handle criminal matters to better collaborate with law enforcement.[5] Accordingly, the school environment for today's children is significantly different than it was in years past. One area that is appreciably affected by the changes in the educational environment is how children are interrogated in connection with criminal matters, both by school officials and school resource officers ("SROs").

The focus of this Comment is the lack of procedures in place in Georgia for dealing with school interrogations, the dangers of coercion, and the necessity for the *Miranda* warning. First, this Comment examines the *Miranda* warning, including its purposes and requirements. Second, this Comment analyzes how Georgia deals with school interrogations. Third, this Comment analyzes how other states have dealt with school interrogations. Finally, this Comment analyzes several previously proposed solutions to the problem and then synthesizes them into a workable solution for the children of Georgia.

II. LEGAL BACKGROUND

A. Miranda and the Fifth Amendment Right Against Self-Incrimination

Children have constitutional due process rights in delinquency matters that are equal to adults' rights in criminal proceedings.[6] One of these rights is the Fifth Amendment[7] right against self-incrimination.[8] In *Miranda v. Arizona*,[9] the United States Supreme Court ruled that before interrogating suspects, law enforcement officers must inform suspects in custody that they have the right to remain silent, that any statements they make can be used against them, that they have the right to consult with an attorney and have an attorney present during

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4. *See, e.g.*, Decatur County Board of Education Police Department Home Page, http://bainbridgega.com/chamber/boepolice.shtml (last visited Feb. 19, 2008).

5. *See* Paul Holland, *Schooling* Miranda: *Policing Interrogation in the Twenty-First Century Schoolhouse*, 52 LOY. L. REV. 39, 39 n.2 (2006) (referring to a compilation of case studies that describes "a school at which 'SRO's work closely with school administrators in matters that may involve an arrest' and at which officers and administrators 'refer cases to each other 8-10 times a month and collaborate on solving them.'" (quoting PETER FINN ET AL., CASE STUDIES OF 19 SCHOOL RESOURCE OFFICER (SRO) PROGRAMS, 53 (2005))).

6. *In re* Gault, 387 U.S. 1, 30-31 (1967).

7. U.S. CONST. amend. V.

8. *In re* Gault, 387 U.S. at 49-50.

9. 384 U.S. 436 (1966).

the interrogation, and that if they cannot afford an attorney, one will be provided for them.[10]

The warnings are only required when the suspect is both (1) interrogated and (2) in custody.[11] Interrogation is the questioning of a suspect initiated by law enforcement.[12] Specifically, interrogation is "express questioning or its functional equivalent," including "any words or actions on the part of the police . . . that the police should know are reasonably likely to elicit an incriminating response from the suspect."[13] Therefore, volunteered statements or "threshold confessions," in which the defendant walks into the police station and confesses immediately, are not subject to the *Miranda* requirements.[14]

A suspect is "in custody" when he or she is either formally arrested or "otherwise deprived of his [or her] freedom of action in any significant way."[15] The focus of the analysis is not on the subjective belief or intent of the officer, even if he or she has probable cause to arrest the suspect.[16] Also, the fact that a person is the main suspect in the case is not enough to render an interrogation custodial.[17] In Georgia, the custody analysis has been held to an objective standard, asking whether a reasonable person would have believed that his or her freedom was restrained in such a way that he or she could not terminate the questioning and leave.[18] It is well established in the caselaw defining "interrogation" and "custody" that the two cannot exist without the presence of a law enforcement officer.[19]

In deciding *Miranda*, the Court was aiming to alleviate the inherently coercive environment that custodial interrogations create.[20] The main police tactic in modern interrogations is the element of privacy—isolating the suspect from society, out of his or her own comfort zone, and wearing the suspect down until he or she confesses.[21] The Court detailed other common interrogation techniques: "good cop-bad

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10. *Id.* at 444.
11. *Id.*; Thompson v. Keohane, 516 U.S. 99, 102 (1995).
12. *Miranda*, 384 U.S. at 444.
13. Rhode Island v. Innis, 446 U.S. 291, 300-01 (1980) (footnote omitted).
14. *Miranda*, 384 U.S. at 478.
15. *Id.* at 444.
16. Stansbury v. California, 511 U.S. 318, 323 (1994).
17. Beckwith v. United States, 425 U.S. 341, 347 (1976).
18. State v. Parks, 273 Ga. App. 682, 683, 616 S.E.2d 456, 458 (2005) (quoting State v. Wintker, 223 Ga. App. 65, 66, 476 S.E.2d 835, 837 (1996)).
19. *Miranda*, 384 U.S. at 478.
20. *Id.* at 448.
21. *Id.* at 449.

cop," trickery, and deception.[22] The Court decided that a blanket warning requirement would help counteract what goes on behind closed doors inside the interrogation room.[23] In later decisions, the Court held that a questioning does not have to be at a police station to be a custodial interrogation and that every questioning that takes place at a police station is not automatically a custodial interrogation.[24]

In several cases, courts have found various nonpolice interrogations to be noncustodial. In *Beckwith v. United States*,[25] the Court held that a questioning by IRS agents at the suspect's home was not inherently coercive and therefore not custodial.[26] When confronted with an interrogation by a probation officer in *Minnesota v. Murphy*,[27] the Court likewise held that the suspect was not in custody even though he was required to attend the meeting with his probation officer.[28] In *Baxter v. State*,[29] the Georgia Supreme Court held that statements the defendant made to a fellow inmate who was questioning the defendant to receive leniency from law enforcement were not during a custodial interrogation because the situation was not inherently coercive.[30]

One of the major exceptions to the requirements of *Miranda* is the "public safety" exception.[31] This exception is narrower than it may sound. The United States Supreme Court pointed out, in *New York v. Quarles*,[32] that unlike constitutional requirements concerning search and seizure under the Fourth Amendment,[33] the government cannot justify disregarding constitutional procedure with a later showing of reasonableness.[34] However, when the interrogation of a suspect and

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22. *Id.* at 450-54.

23. *Id.* at 467. After *Miranda*, the Court treated the warnings as prophylactic, but in *Dickerson v. United States*, 530 U.S. 428 (2000), the Court held that *Miranda* was a constitutional decision and could not be overruled by Congress's enactment of 18 U.S.C. § 3501 (2000). *Dickerson*, 530 U.S. at 444.

24. *See, e.g.*, Oregon v. Mathiason, 429 U.S. 492, 495 (1977) (holding questioning at police station where suspect agreed to meet officer was not custodial); Orozco v. Texas, 394 U.S. 324, 327 (1969) (holding interrogation at suspect's home was custodial).

25. 425 U.S. 341 (1976).

26. *Id.* at 348.

27. 465 U.S. 420 (1984).

28. *Id.* at 440.

29. 254 Ga. 538, 331 S.E.2d 561 (1985), *overruled on other grounds by* Schofield v. Meders, 280 Ga. 865, 632 S.E.2d 369 (2006). Situations of third party interrogations are discussed in more detail in Part III.

30. *Id.* at 546, 331 S.E.2d at 570.

31. New York v. Quarles, 467 U.S. 649, 653 (1984).

32. 467 U.S. 649 (1984).

33. U.S. CONST. amend. IV.

34. *Quarles*, 467 U.S. at 653 n.3.

the subsequent confession are made under circumstances in which the primary purpose is to save the life of a victim, the confession of a suspect who has not received a *Miranda* warning is admissible.[35]

To illustrate, the facts of *Quarles* involved a rape in which the defendant was allegedly armed with a gun. When police officers arrived on the scene, they chased the suspect and caught him inside a store. One officer ordered the suspect to stop; the officer frisked him and found he was wearing an empty shoulder holster. After handcuffing the suspect, the officer asked where the gun was located.[36] The suspect indicated a nearby rack, and said, "'[T]he gun is over there.'"[37] In this case, the police officer was dealing with a crime involving a gun and an empty holster. He found the suspect in a public place and needed to know where the gun was in order to prevent the weapon from being used to harm the public.[38] The Court thus carved out this public safety exception to allow expedited interrogation in time-sensitive circumstances, focusing on the need for such an exception, not on the actual motivation of the officer.[39]

B. The Due Process Requirement that Confessions Be Voluntary

When courts rule on the admissibility of a confession, a determination on the statement's voluntariness must be made in addition to a Fifth Amendment *Miranda* determination. Prior to *Miranda*, the United States Supreme Court held that all statements must be voluntary before being admissible under the Due Process Clause of the Fourteenth Amendment;[40] the Fifth Amendment had not yet been applied to the states.[41] As in *Miranda*, the Court was concerned with police interrogations and their coercive effects.[42] With *Miranda* in 1966, the Court shifted its main focus to the warnings, but the due process standard of voluntariness still continues to apply.[43] The main difference between the two requirements is that statements taken in violation of *Miranda* may be admissible for the purpose of impeachment, but involuntary statements are never admissible.[44]

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35. *Id.* at 657.
36. *Id.* at 652.
37. *Id.*
38. *Id.*
39. *Id.* at 656-57.
40. U.S. CONST. amend. XIV, § 1.
41. Brown v. Mississippi, 297 U.S. 278, 286 (1936).
42. *Id.* at 287.
43. Mincey v. Arizona, 437 U.S. 385, 398 (1978).
44. *Id.* at 397-98.

Voluntariness is determined on a case-by-case basis through an examination of the totality of the circumstances.[45] Criminal defendants have a constitutional right to a voluntariness hearing, under *Jackson v. Denno*,[46] when the defendant asserts that he or she has been subjected to a coercive state interrogation.[47]

As with *Miranda*, the Court has held that a confession cannot be involuntary unless the suspect has been subjected to coercive interrogation by law enforcement.[48] In *Colorado v. Connelly*,[49] the case that announced this rule, the Court held that even "[t]he most outrageous behavior by a private party seeking to secure evidence against a defendant does not make that evidence inadmissible under the Due Process Clause."[50] In *Connelly* the defendant was suffering from psychosis when he confessed to his crime, and the Colorado Supreme Court held the confession involuntary and against the defendant's will.[51] In reversing the decision, the United States Supreme Court focused on the fact that police interrogators put no coercive pressure on the defendant and that the purpose of the due process requirement for a voluntary confession was to prevent constitutional violations by state officials.[52]

C. The Fourth Amendment Right Against Unreasonable Searches and Seizures

Some courts and commentators have analogized and extended Fourth Amendment protections to the Fifth Amemendment interrogation context.[53] The Fourth Amendment protects individuals from "unreasonable searches and seizures" and also requires probable cause for searches.[54] School searches, however, are treated differently. In *New Jersey v. T.L.O.*,[55] the United States Supreme Court held that students and their belongings may be searched at school by school officials on a reasonable belief that evidence will be found.[56] The more stringent

45. Fikes v. Alabama, 352 U.S. 191, 197-98 (1957).
46. 378 U.S. 368 (1964).
47. *Id.* at 376-77.
48. Colorado v. Connelly, 479 U.S. 157, 164 (1986).
49. 479 U.S. 157 (1986).
50. *Id.* at 166.
51. *Id.* at 162.
52. *Id.* at 165-66.
53. *See infra* Parts IV and V.
54. U.S. CONST. amend. IV.
55. 469 U.S. 325 (1985).
56. *Id.* at 341-42.

requirement of probable cause does not apply even though students do retain their privacy rights when they go to school.[57]

III. GEORGIA AND SCHOOL INTERROGATIONS

A. *Georgia's Treatment of Voluntariness*

Georgia has a statutory requirement that confessions be voluntary before they may be admitted.[58] The statute, O.C.G.A. section 24-3-50,[59] states that for a confession to be admissible, "it must have been made voluntarily, without being induced by another by the slightest hope of benefit or remotest fear of injury."[60]

Following the United States Supreme Court's decision in *Fikes v. Alabama*,[61] Georgia has employed a totality of the circumstances test when analyzing the voluntariness of a statement, as seen in *Riley v. State*.[62] In that case, the Georgia Supreme Court listed nine factors that the courts should weigh when making a voluntariness determination:

> "(1) age of the accused; (2) education of the accused; (3) knowledge of the accused as to both the substance of the charge . . . and the nature of his rights to consult with an attorney and remain silent; (4) whether the accused is held incommunicado or allowed to consult with relatives, friends or an attorney; (5) whether the accused was interrogated before or after formal charges had been filed; (6) methods used in interrogations; (7) length of interrogations; (8) whether vel non the accused refused to voluntarily give statements on prior occasions; and (9) whether the accused has repudiated an extra judicial statement at a later date."[63]

Riley involved a juvenile who confessed to police without the presence of his parents, and subsequent cases have limited application of the factor analysis to juvenile confessions.[64]

Georgia is more lenient than the United States Constitution when assessing confessions made by insane individuals. In Georgia, courts

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57. *Id.* at 338.
58. O.C.G.A. § 24-3-50 (1995).
59. O.C.G.A. § 24-3-50 (1995).
60. *Id.*
61. 352 U.S. 191 (1957).
62. 237 Ga. 124, 128, 226 S.E.2d 922, 926 (1976).
63. *Id.* (quoting West v. United States, 399 F.2d 467, 469 (1968)).
64. *See e.g.*, Vergara v. State, No. S07A1234, 2008 WL 4799998, at *2 (Ga. Sup. Ct. Feb. 25, 2008); Franklin v. State, 249 Ga. App. 834, 835, 549 S.E.2d 794, 796 (2001) (holding that the *Riley* factors apply only to juvenile confessions).

exclude such confessions for being involuntary,[65] while allowing confessions by mentally ill yet competent individuals.[66]

Confessions that are induced from suspects through promises of benefit or threats of injury are also involuntary and inadmissible.[67] The "slightest hope of benefit[] or the remotest fear of injury" will cause a confession to be inadmissible.[68] Benefits such as promises of immunity, reduction or dismissal of charges, or relatively light sentences render confessions involuntary.[69] Further, police statements to a suspect that cooperation would "probably help him in court" are impermissible.[70] However, when the officer qualifies such a statement by telling the suspect that he or she will tell the prosecutor and the judge about the suspect's cooperation, there is no impermissible promise.[71] Fear of injury includes torture and threats, such as threats to terminate the suspect's state financial aid, take away the suspect's children, or terminate the suspect's state employment; also included is an officer's "advice" that if the suspect knows anything he or she had better tell it.[72]

Georgia jurisprudence related to voluntariness of confessions also applies to confessions made to nongovernmental actors. In *Griffin v. State*,[73] the Georgia Court of Appeals held that O.C.G.A. section 24-3-50 makes no distinction between people to whom confessions are made, requiring only that they be made "'without being induced by another.'"[74] The court held that although a defendant is not entitled to a *Jackson-Denno* hearing,[75] Georgia law mandates that the state has the burden of proving a confession was voluntary, that the judge must make a threshold determination on the matter, and that the best way to achieve this is outside the presence of the jury at a pretrial hearing.[76] Such a pretrial hearing is now known as a *Griffin* hearing. In *Griffin* the defendants were employees at a department store who were

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65. State v. Gardner, 254 Ga. 264, 265, 328 S.E.2d 546, 547 (1985).

66. Johnson v. State, 256 Ga. 259, 260, 347 S.E.2d 584, 585 (1986).

67. King v. State, 155 Ga. 707, 712-13, 118 S.E. 368, 371 (1923).

68. *Id.* (emphasis omitted).

69. Johnson v. State, 238 Ga. 27, 28, 230 S.E.2d 849, 850 (1976); Bryant v. State, 132 Ga. App. 186, 187, 207 S.E.2d 671, 672 (1974).

70. Askea v. State, 153 Ga. App. 849, 851, 267 S.E.2d 279, 281 (1980) (internal quotation marks omitted).

71. Lyles v. State, 221 Ga. App. 560, 561, 472 S.E.2d 132, 133 (1996).

72. Garrity v. New Jersey, 385 U.S. 493, 497 (1967); Lynumn v. Illinois, 372 U.S. 528, 534 (1963); Dixon v. State, 113 Ga. 1039, 1039, 39 S.E. 846, 846 (1901).

73. 230 Ga. App. 318, 496 S.E.2d 480 (1998).

74. *Id.* at 320, 496 S.E.2d at 482 (quoting O.C.G.A. § 24-3-50).

75. Jackson v. Denno, 378 U.S. 368, 376-77 (1964).

76. *Griffin*, 230 Ga. App. at 323, 496 S.E.2d at 484-85.

suspected of stealing from the store. The store's loss-prevention specialist interrogated the defendants separately in a small room at the store for several hours each, after which he obtained confessions from both defendants.[77] The court did not make a final determination on whether the interrogation was coercive but held that the defendants had a procedural right to a hearing on the issue of voluntariness and an express ruling by the court.[78] While *Griffin* is still good law, there has not been an appellate case upholding the suppression of a statement made to a person other than a police officer.

B. Georgia's Treatment of Juvenile Confessions

Georgia has codified the juvenile Fifth Amendment[79] right against self-incrimination as outlined in *In re Gault*[80] in O.C.G.A. section 15-11-7(b).[81] The statute mandates, in relevant part, that: "A child charged with a delinquent act need not be a witness against or otherwise incriminate himself or herself. An extrajudicial statement obtained in the course of violation of this article or one which would be constitutionally inadmissible in a criminal proceeding shall not be used against such child."[82] The O.C.G.A. also outlines how juveniles should be treated if they are taken into custody.[83]

In Georgia, confessions from juveniles should be treated the same as those of adults, except they must be "scanned with more care and received with greater caution."[84] In *Crawford v. State*,[85] the Georgia Supreme Court examined the confession of a juvenile who had been tried as an adult in superior court.[86] The court noted that as in adult cases, the juvenile's confession must be examined for voluntariness under a totality of the circumstances analysis.[87] The court held that to achieve such a determination, the *Riley* factors, listed above in Part III.A., must be examined, with special consideration given to the child's age and whether the child's parents were present during the interrogation.[88]

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77. *Id.* at 319, 496 S.E.2d at 482.
78. *Id.* at 323-24, 496 S.E.2d at 485.
79. U.S. CONST. amend. V.
80. 387 U.S. 1 (1967).
81. O.C.G.A. § 15-11-7(b) (2005).
82. *Id.*
83. O.C.G.A. §§ 15-11-45 to -50 (2005 & Supp. 2007).
84. Crawford v. State, 240 Ga. 321, 323, 240 S.E.2d 824, 826 (1977).
85. 240 Ga. 321, 240 S.E.2d 824 (1977).
86. *Id.* at 321, 240 S.E.2d at 825.
87. *Id.* at 323-24, 240 S.E.2d at 826.
88. *Id.*

Although Georgia law requires extra caution when dealing with a juvenile confession, the courts have held that a confession is not automatically excluded if officers do not comply with the provisions of the Juvenile Code[89]—rather, the totality of the circumstances must be examined.[90] In *Paxton v. State*,[91] the court of appeals held that the Juvenile Code's requirements concerning the detention of a child are directory and not mandatory.[92] Further, in *Paxton* the court held that there is no requirement that "an accused juvenile . . . be advised that he has a right to have a parent, guardian or adult present during questioning."[93]

C. Georgia, Miranda, and Nonpolice Interrogators

Georgia law allows for no leeway in that it requires custodial interrogations to be carried out by police officers before the requirements of *Miranda* apply.[94] There have been several cases dealing with different nonpolice interrogators,[95] but very few have involved public schools.

1. Nonpolice Interrogators in General. Georgia has consistently held that *Miranda* warnings are only required when the interrogator is a law enforcement officer.[96] In the case of *Berryhill v. State*,[97] the Georgia Supreme Court dealt with a defendant's statement to a filmmaker.[98] After being sentenced to death for felony murder and armed robbery, the defendant appealed, and while his case was still pending, he was approached by a filmmaker who asked if he would consent to being interviewed for a film about the death penalty. The defendant agreed and confessed to the entire crime on film. After his case was reversed on federal habeas relief, the defendant's filmed confession was admitted into evidence at retrial. The defendant appealed the confession's admission, asserting that it was, *inter alia*,

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89. O.C.G.A. ch. 15-11 (2005 & Supp. 2007).
90. Massey v. State, 243 Ga. 228, 228, 253 S.E.2d 196, 198 (1979).
91. 159 Ga. App. 175, 282 S.E.2d 912 (1981).
92. *Id.* at 178, 282 S.E.2d at 915.
93. *Id.* at 180, 282 S.E.2d at 916.
94. *See, e.g.*, Berryhill v. State, 249 Ga. 442, 291 S.E.2d 685 (1982), *abrogated on other grounds by* Jones v. State, 261 Ga. 665, 409 S.E.2d 642 (1991).
95. *See, e.g.*, *id*.
96. *See, e.g.*, *id*.
97. 249 Ga. 442, 291 S.E.2d 685 (1982), *abrogated on other grounds by* Jones v. State, 261 Ga. 665, 409 S.E.2d 642 (1991).
98. Id. at 449, 291 S.E.2d at 693.

given without *Miranda* warnings.[99] The court held that "[s]tatements made to parties which are not law enforcement officers or agents of the state do not require Miranda warnings."[100] The court noted that when confessions are not coerced, they are "'inherently desirable.'"[101]

Similarly, the Georgia Court of Appeals made a distinction between Division of Family and Child Services ("DFCS") investigators and law enforcement officers.[102] *Hendrix v. State*[103] involved a statement made to a DFCS worker who was investigating the defendant under allegations of child molestation. In the course of her investigation, the DFCS worker called the defendant and asked him to come to the police station for questioning. The defendant complied, and he was interrogated in a small, windowless interview room in the presence of a police investigator. The defendant was not under formal arrest, but he had not been informed that he was free to leave. The defendant was arrested the following day.[104] The court held that the defendant was not in custody at the time of his interrogation.[105] The court based its reasoning on the fact that the defendant was not subject to a formal arrest or its equivalent, and it emphasized the fact that the DFCS worker conducted most of the interview.[106] Moreover, as specifically held in *Banther v. State*,[107] a DFCS worker is not a law enforcement officer for purposes of *Miranda*.[108]

In *Banther* the court relied on *Grogins v. State*,[109] a case involving a statement made to a welfare caseworker.[110] In *Grogins* the defendant appealed admission of her statement to a caseworker.[111] The defendant was charged with welfare fraud and was investigated by the county's family and child services agency and the welfare agency. The caseworker questioned the defendant about some income she had received, and the defendant admitted to having earned the income.[112]

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99. *Id.*
100. *Id.* at 450, 291 S.E.2d at 693 (citing Grogins v. State, 154 Ga. App. 606, 607, 269 S.E.2d 98, 100 (1980)).
101. *Id.* (quoting United States v. Washington, 431 U.S. 181, 187 (1977)).
102. Hendrix v. State, 230 Ga. App. 604, 497 S.E.2d 236 (1997).
103. 230 Ga. App. 604, 497 S.E.2d 236 (1997).
104. *Id.* at 604-05, 297 S.E.2d at 237-38.
105. *Id.* at 605-06, 497 S.E.2d at 238.
106. *Id.*
107. 182 Ga. App. 333, 355 S.E.2d 709 (1987).
108. *Id.* at 333, 355 S.E.2d at 710 (citing *Grogins*, 154 Ga. App. at 607, 269 S.E.2d at 100).
109. 154 Ga. App. 606, 269 S.E.2d 98 (1980).
110. *Banther*, 182 Ga. App. at 333-34, 355 S.E.2d at 710.
111. *Grogins*, 154 Ga. App. at 607, 269 S.E.2d at 100.
112. *Id.* at 606, 269 S.E.2d at 99.

The court upheld the admission, in part because "the case worker was not a police officer or an agent of the state charged with law enforcement," and therefore, warnings were not required.[113]

Similarly, the court of appeals distinguished a paramedic from a law enforcement officer in *Turner v. State*.[114] The court of appeals held that for purposes of evaluating a confession, a paramedic is not a law enforcement officer.[115] Therefore, incriminating statements the defendant made to a paramedic were properly admitted.[116]

Also, as mentioned in Part II, the court in *Baxter v. State*[117] upheld a confession elicited by the defendant's fellow inmates who hoped to receive lenient treatment, though they were never promised such leniency by law enforcement.[118] In reaching this holding, the court distinguished the case from *United States v. Henry*,[119] in which the United States Supreme Court deemed an inmate to be an agent of the state when he was paid by the state and was acting under specific state instructions.[120]

Family members, even when law enforcement officers themselves, have also been distinguished by the Georgia Supreme Court.[121] In *Cook v. State*,[122] a twenty-two-year-old man was suspected of murdering two college students. When confronted by his father, who was an agent in the Federal Bureau of Investigation, the defendant admitted to the killings, claiming self-defense. The father reported what he learned from his son to the sheriff's office. The defendant was subsequently arrested on unrelated charges and then questioned by an agent from the Georgia Bureau of Investigation concerning the murders. The suspect demanded to speak to a lawyer and to see his father. The father was allowed to see his son, and the defendant again confessed to the murders, this time negating his previous self-defense claim. The son was convicted of the murders, and he appealed, *inter alia*, the admission of his second confession to his father.[123] The court held that although the father was a member of law enforcement, he was not a part of the

113. *Id.* at 607, 269 S.E.2d at 100.
114. 246 Ga. App. 49, 539 S.E.2d 553 (2000).
115. *Id.* at 53-54, 539 S.E.2d at 559.
116. *Id.* at 54, 539 S.E.2d at 559.
117. 254 Ga. 538, 331 S.E.2d 561 (1985), *overruled on other grounds by* Height v. Kemp, 278 Ga. 592, 604 S.E.2d 796 (2004).
118. *Id.* at 546, 331 S.E.2d at 570.
119. 447 U.S. 264 (1980).
120. *Id.* at 270.
121. Cook v. State, 270 Ga. 820, 514 S.E.2d 657 (1999).
122. 270 Ga. 820, 514 S.E.2d 657 (1999).
123. *Id.* at 822-24, 514 S.E.2d at 661-63.

authorities investigating this specific offense, and the investigating authorities did not request that he interrogate his son about the crime.[124] Under these circumstances, the defendant was not subject to the inherently coercive environment that *Miranda* seeks to protect suspects from, and therefore, the warnings were not required.[125] The court held that when suspects are questioned by relatives who are also law enforcement officers, the circumstances must be evaluated on a case-by-case basis in order to determine if the questioning rises to the level of dangerous coercion.[126]

Another case involves a juvenile and a non-law enforcement interrogator who was also the juvenile's employer.[127] In *R.W. v. State*,[128] a fourteen-year-old boy was accused of stealing money from his employer. The employer questioned the juvenile at the store with his parent present. Initially the juvenile denied stealing the money, but the employer pressed him, saying that she had spoken to the police and if she could not clear the matter up herself, she would have to refer it to them. The employer said that she would not press charges or publicize the theft if the juvenile returned the money. At this point, the juvenile admitted that he took the money and loaned most of it to his older brother. The case went to trial, and the juvenile appealed the admission of the confession on both Fifth Amendment *Miranda* and voluntariness grounds.[129] The court held that because the employer was not a law enforcement officer, *Miranda* warnings were not required.[130] In determining that the confession was voluntary, the court noted that the juvenile admitted to taking the exact amount of money missing, even though the employer never mentioned how much was stolen.[131] By focusing on these facts, however, the court revealed that it based its determination of voluntariness on the truth of the confession.[132] As

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124. *Id.* at 827-28, 514 S.E.2d at 665.

125. *Id.* at 828, 514 S.E.2d at 665.

126. *Id.* at 827, 514 S.E.2d at 664. The court of appeals revisited the area of parents who are law enforcement officers in *Pruitt v. State*, 263 Ga. App. 814, 589 S.E.2d 591 (2003). In that case, the court held that when the nineteen-year-old defendant's father, who was also a police officer, searched his son's car without his son's consent (in a hostile encounter) and turned the drugs he found over to waiting police officers, the officer-father was a state actor and subject to the Fourth Amendment. *Id.* at 819, 589 S.E.2d at 595.

127. R.W. v. State, 135 Ga. App. 668, 218 S.E.2d 674 (1975).

128. 135 Ga. App. 668, 218 S.E.2d 674 (1975).

129. *Id.* at 669-70, 218 S.E.2d at 675-76.

130. *Id.* at 671, 218 S.E.2d at 676.

131. *Id.*

132. *See id.*

mentioned earlier, such a reasonableness determination is not permitted after the fact, which calls this court's holding into question.[133]

2. Interrogations in Georgia's Schools. Georgia has fleshed out little jurisprudence concerning interrogations in schools, especially those conducted by school officials, school resource officers, or other law enforcement officers. One of the Author's main concerns in penning this Comment is the inadequacy in this area of the law and the resulting uncertainty it causes. Without more guidance in this area, juveniles may be forced to accept plea deals for crimes they were coerced into confessing to at school, as in the scenario laid out in the introduction of this Comment.

A recent Georgia Court of Appeals case, *Dillard v. State*,[134] concerned a school interrogation of a student who was not a juvenile. The student was an eighteen-year-old senior in high school who was suspected of being involved in a string of armed robberies outside of school. The robberies involved stolen debit and credit cards from individual victims. In gathering evidence, the police obtained video and photographs from surveillance cameras posted at a store and an ATM where stolen cards were used. Witnesses identified the defendant as the person depicted in the ATM photos. On the day of the interrogation, the student was summoned to the principal's office where two police officers were waiting. Without informing the defendant of her *Miranda* rights, one of the police officers showed her the photographs. The defendant admitted that the photographs were of her. After this admission, the police escorted the defendant to the police station for further questioning.[135]

The court examined the totality of the circumstances and upheld the confession.[136] In making its decision, the court focused on the following facts: (1) the interrogation lasted only fifteen minutes; (2) the defendant "appeared to be reasonably intelligent and appeared to understand the officers"; (3) "[t]he officers' manner was conversational and [the defendant] did not appear frightened"; (4) she "was not in handcuffs"; (5) she "had not been told that she was not free to go or under arrest"; (6) "she was never threatened or promised anything"; and (7) "she never asked to terminate the meeting or objected to the questioning."[137] Because the evidence indicated that the confession

133. *See* New York v. Quarles, 467 U.S. 649, 653 n.3 (1984).
134. 272 Ga. App. 523, 612 S.E.2d 804 (2005).
135. *Id.* at 524, 612 S.E.2d at 807.
136. *Id.* at 525, 612 S.E.2d at 807.
137. *Id.*, 612 S.E.2d at 808.

was not coerced, the court held that the defendant did not meet her burden of proving the trial court's admission of the statement was clearly erroneous.[138]

Although this case involved an interrogation by a police officer, it nonetheless helps to illustrate how school interrogations occur. The crime that the police were investigating did not take place at the school or give officers any reason to believe that anyone in the school was in any immediate danger. Yet the officers made a choice to interrogate the defendant at her school. Indeed, they could have gone to her home or asked her to meet them at the police station, both places where her parents more likely would have been present. But by interrogating her at school, the officers were able to avoid the question of whether she was in custody at the time of the interrogation.

D. Georgia School Policies on Interrogations

There is a wide array of school board policies in Georgia concerning interrogations of students at school. There are roughly four common variations of these school policies.[139] Many counties have a broad policy stating that schools will cooperate with law enforcement and, at the same time, also maintain responsibility to protect students by requiring law enforcement to notify the school of its intent to interrogate and to conduct the interrogation in private, with a school representative present.[140] Many policies only outline the procedures required to be followed by outside law enforcement.[141] Atkinson County's policy

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138. *Id.* at 526, 612 S.E.2d at 808.

139. The policies examined here can be found by searching the Georgia School Board Association website, www.gsbaepolicy.org (select the desired county; follow "Policies" hyperlink; then follow "Students" hyperlink). All Georgia school boards do not have their policies available on this website.

140. BARROW COUNTY SCHOOLS, BOARD POLICY MANUAL (1989); BRANTLEY COUNTY SCHOOLS, BOARD POLICY MANUAL (2001); BRYAN COUNTY SCHOOLS, BOARD POLICY MANUAL (1987); CHATTOOGA COUNTY SCHOOLS, BOARD POLICY MANUAL (2006); CLARKE COUNTY SCHOOLS, BOARD POLICY MANUAL (1994); DOUGHERTY COUNTY SCHOOLS, BOARD POLICY MANUAL (1994); DUBLIN CITY SCHOOLS, BOARD POLICY MANUAL (1991); ECHOLS COUNTY SCHOOLS, BOARD POLICY MANUAL (2007); EFFINGHAM COUNTY SCHOOLS, BOARD POLICY MANUAL (2004); GILMER COUNTY SCHOOLS, BOARD POLICY MANUAL (1977 & 1988); HARRIS COUNTY SCHOOLS, BOARD POLICY MANUAL (1988); JEFFERSON COUNTY SCHOOLS, BOARD POLICY MANUAL (2002); LANIER COUNTY SCHOOLS, BOARD POLICY MANUAL (2003); LIBERTY COUNTY SCHOOLS, BOARD POLICY MANUAL (2006); MILLER COUNTY SCHOOLS, BOARD POLICY MANUAL (2000); OCONEE COUNTY SCHOOLS, BOARD POLICY MANUAL (2007); PAULDING COUNTY SCHOOLS, BOARD POLICY MANUAL (2001); PEACH COUNTY SCHOOLS, BOARD POLICY MANUAL (2006); PELHAM CITY SCHOOLS, BOARD POLICY MANUAL (1980 & 1989).

141. *See* ATKINSON COUNTY SCHOOLS, BOARD POLICY MANUAL (2003); BARROW COUNTY SCHOOLS, BOARD POLICY MANUAL (1989); BARTOW COUNTY SCHOOLS, BOARD POLICY

implies that students only need protection from law enforcement and that the schools will fill the role of protector.[142] The policy states that "a spirit of cooperation will be extended to any" officers who enter schools to interrogate students, as long as the officers comply with the suggested guidelines.[143] The procedures themselves are not stringent, merely requiring (1) that the officers contact the school administration and identify themselves and (2) that the administration attempt to notify parents.[144] The policy is silent regarding *Miranda* or other constitutional warnings.[145] Bartow County requires the presence of a representative from DFCS.[146] Some counties will not allow law enforcement officers on school grounds to interrogate a student as a suspect unless the officer has an arrest warrant.[147] Other counties have set procedures for the interrogation of students by school officials.[148] Berrien County allows "reasonable interviews and interrogations" and requires documentation of the interrogation and notification to parents if the student is the focus of a criminal or school investigation.[149] The Berrien County policy also requires school police officers to adhere to the United States Constitution in interrogating students but designates that if an investigation is turned over to the police, the school official will assist law enforcement; however, the official "may not act as an 'agent' of the police."[150] The counties that follow this policy have the most stringent standards among any the Author could find in Georgia.

MANUAL (2000); QUITMAN COUNTY SCHOOLS, BOARD POLICY MANUAL (2003); ROME CITY SCHOOLS, BOARD POLICY MANUAL (2006); STEPHENS COUNTY SCHOOLS, BOARD POLICY MANUAL (1981 & 1997); STEWART COUNTY SCHOOLS, BOARD POLICY MANUAL (1900 & 2007); TALBOT COUNTY SCHOOLS, BOARD POLICY MANUAL (2002); TATTNALL COUNTY SCHOOLS, BOARD POLICY MANUAL (2002); THOMAS COUNTY SCHOOLS, BOARD POLICY MANUAL (2001); THOMASTON-UPSON COUNTY SCHOOLS, BOARD POLICY MANUAL (1978); TROUP COUNTY SCHOOLS, BOARD POLICY MANUAL (2001); VALDOSTA CITY SCHOOLS, BOARD POLICY MANUAL (2004); WASHINGTON COUNTY SCHOOLS, BOARD POLICY MANUAL (2002).

142. ATKINSON COUNTY, *supra* note 141.

143. *Id.*; *see also* COFFEE COUNTY SCHOOLS, BOARD POLICY MANUAL (2000 & 2006).

144. ATKINSON COUNTY, *supra* note 141.

145. *Id.*

146. BARTOW COUNTY, *supra* note 141.

147. BEN HILL COUNTY SCHOOLS, BOARD POLICY MANUAL (2006); CARROLLTON CITY SCHOOLS, BOARD POLICY MANUAL (1990 & 1995); CRAWFORD COUNTY SCHOOLS, BOARD POLICY MANUAL (2006).

148. BERRIEN COUNTY SCHOOLS, BOARD POLICY MANUAL (2003); CHEROKEE COUNTY SCHOOLS, BOARD POLICY MANUAL (2001).

149. BERRIEN COUNTY, *supra* note 148.

150. *Id.*; *see also* CHEROKEE COUNTY, *supra* note 148.

E. School Searches in Georgia

Georgia has its own Fourth Amendment jurisprudence as it applies to schools. In *State v. Young*,[151] the Georgia Supreme Court held that for Fourth Amendment search purposes, school officials are state actors and subject to constitutional procedures.[152] The court held that there are three types of "searchers": private citizens, law enforcement officers, and other state officials.[153] The court put school officials in the third group and held that their actions raise Fourth Amendment concerns, except that the exclusionary rule, which suppresses evidence, does not apply.[154] Because school officials possess state authority and "'purport[] to act under that authority,'" their actions are state actions.[155] However, school officials are "subject only to the most minimal restraints necessary to insure that students are not whimsically stripped of personal privacy and subjected to petty tyranny."[156] The court declared that "[t]here can be no serious contention that public school officials are law enforcement personnel," and thus subject to the exclusionary rule.[157] Like the United States Supreme Court in *New Jersey v. T.L.O.*,[158] the Georgia Supreme Court recognizes a distinction between school goals of enforcing discipline and law enforcement goals of crime control.[159]

In a decision after *T.L.O.*, the Georgia Court of Appeals forged a distinction between school officials and police officers.[160] In *State v. K.L.M.*,[161] the court held that probable cause is required for a school search conducted by a police officer, not the reasonable suspicion standard, which governs searches by school officials.[162] In *K.L.M.* a police officer searched a student after being directed to do so by the principal.[163] The court held that because the police officer participated

151. 234 Ga. 488, 216 S.E.2d 586 (1975).
152. *Id.* at 494, 216 S.E.2d at 591.
153. *Id.* at 493, 216 S.E.2d at 591.
154. *Id.* at 494, 216 S.E.2d at 591.
155. *Id.* (quoting Griffin v. Maryland, 378 U.S. 130, 135 (1964)).
156. *Id.* at 496, 216 S.E.2d at 593.
157. *Id.* at 494, 216 S.E.2d at 591.
158. 469 U.S. 325 (1985).
159. *Young*, 234 Ga. at 494, 216 S.E.2d at 591.
160. State v. K.L.M., 278 Ga. App. 219, 628 S.E.2d 651 (2006).
161. 278 Ga. App. 219, 628 S.E.2d 651 (2006).
162. *Id.* at 221, 628 S.E.2d at 653.
163. *Id.* at 220, 628 S.E.2d at 652.

in the search, probable cause was required; the court would not view the search as being conducted solely by the school official.[164]

Finally, in *State v. Scott*,[165] the court of appeals held that police officers who are assigned to schools as school resource officers are considered law enforcement, not school officials, and are therefore subject to the Fourth Amendment and the exclusionary rule.[166]

IV. OTHER STATES' APPROACHES TO SCHOOL INTERROGATIONS

Courts in many states have ruled specifically on interrogations that take place in schools, whether by school officials, SROs, or police officers. In the states that have made such rulings, these three types of interrogators have been treated differently. Some states draw a bright line between SROs and police, delineating that police are clearly law enforcement officers and SROs are not.[167] Other states have decided that SROs are law enforcement officers.[168] Most states continue to hold that school officials, such as principals, are not law enforcement officers.[169] Most states make their various distinctions based chiefly on the job title of the interrogator, refusing even to inquire into the specific circumstances and determine the possibility or probability of a coercive interrogation environment in schools where children and any authority figures are clearly on uneven footing.

A. Interrogations Conducted by Police

In contrast to the above-mentioned Georgia case, *Dillard v. State*,[170] the court in *State v. D.R.*,[171] a Washington case, held that a police officer's interrogation of a student at school necessitated the *Miranda* warnings.[172] *D.R.* involved a fourteen-year-old boy who allegedly admitted in a school interrogation to having sexual intercourse with his thirteen year-old sister. On the day of the interrogation, the juvenile was summoned to the assistant principal's office where a social worker, the assistant principal, and a police officer were waiting for him. The

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164. *Id.* at 220-21, 628 S.E.2d at 653.
165. 279 Ga. App. 52, 630 S.E.2d 563 (2006).
166. *Id.* at 55, 630 S.E.2d at 566.
167. *See, e.g.*, *In re* R.H., 791 A.2d 331 (Pa. 2002).
168. *See, e.g.*, *In re* D.A.R., 73 S.W.3d 505 (Tex. App. 2002).
169. *See, e.g.*, *In re* Paul P., 170 Cal. App. 3d 397 (1985); Commonwealth v. Snyder, 597 N.E.2d 1363 (Mass. 1992); State v. Tinkham, 719 A.2d 580 (N.H. 1998); State v. Biancamano, 666 A.2d 199 (N.J. Super. Ct. App. Div. 1995); *In re* Angel S., 302 A.D.2d 303 (N.Y. App. Div. 2003); *In re* Harold S., 731 A.2d 265 (R.I. 1999).
170. 272 Ga. App. 523, 612 S.E.2d 804 (2005).
171. 930 P.2d 350 (Wash. Ct. App. 1997).
172. *Id.* at 353.

officer was not in uniform, and his gun was not visible.[173] The officer told the juvenile that he did not have to answer questions, but the officer did not give the *Miranda* warnings "because *he* concluded the child was not in custody."[174] At the start of the questioning, the officer informed the juvenile that a social worker had already spoken to the juvenile's sister and that they already knew the story.[175] Indeed, the officer viewed the juvenile as the "focus subject of the investigation" because of what the sister had told authorities.[176] The officer further admitted that his questions were leading in light of what he knew from the sister. The juvenile testified that the officer showed him his badge and told him he did not have to answer the officer's questions; however, according to the juvenile, the officer did not tell him that he was free to leave, and the juvenile did not believe that he was free to leave, in part based on his own past experiences with the assistant principal. The juvenile also testified that the officer told him the authorities already knew he had sexual intercourse with his sister.[177]

Under these circumstances, the Washington Court of Appeals held that the trial court erroneously admitted the statement without the *Miranda* warnings.[178] The court cited two Oregon cases, one in which the Oregon Court of Appeals upheld the admission of an un-*Mirandized* confession, and one in which the court struck an un-*Mirandized* confession.[179] The Washington court quoted the Oregon court's reasoning from *State ex rel. Juvenile Department v. Loredo*:[180]

> "Given that the school setting is more constraining than other environments, it is especially important that police interviews with children, when carried out in that setting, are conducted with due appreciation of the age and sophistication of the particular child. An interview that would not be 'compelling' for an adult might nonetheless frighten a child into believing that he or she was required to answer an officer's questions. Accordingly, special precautions should be taken to ensure that children understand that they are not required to stay or answer questions asked of them by a police officer."[181]

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173. *Id.* at 351.
174. *Id.* at 351-52 (emphasis added).
175. *Id.* at 352.
176. *Id.* (internal quotation marks omitted).
177. *Id.*
178. *Id.* at 353.
179. State *ex rel*. Juvenile Dep't v. Loredo, 865 P.2d 1312 (Or. Ct. App. 1993); State *ex rel*. Juvenile Dep't v. Killitz, 651 P.2d 1382 (Or. Ct. App. 1982).
180. 865 P.2d 1312 (Or. Ct. App. 1993).
181. *D.R.*, 930 P.2d at 353 (quoting *Loredo*, 865 P.2d at 1315).

It seems the Washington and Oregon courts appreciate the unique situation that children are in while at school, and by not holding them to adult expectations or standards, these courts appear to understand the scary and intimidating situation of being interrogated by authority figures.

These cases would be highly instructive if a similar case were to arise in Georgia, and it is the Author's contention that these situations happen often. These cases are easily distinguished from *Dillard* in that the defendant there was eighteen and seemed fairly comfortable during her interrogation; however, in *D.R.* the juvenile was fourteen—which makes a world of difference in maturity and intelligence—and scared while he was being interrogated.

B. Interrogations by School Officials—No Miranda *Warnings Necessary*

In examining interrogations conducted by school officials, a New York case and a Rhode Island case are illustrative. In *In re Angel S.*,[182] the principal questioned a juvenile about a fire that had been started on school grounds. Two fire marshals were also present at the interrogation. The trial court admitted the juvenile's confession to the principal, and the juvenile appealed, objecting to the presence of the fire marshals and asserting that they were law enforcement officers.[183] The New York appeals court upheld the trial court's decision, noting that the questioning was done by the principal with the intention of furthering the school's investigation of the incident and that the fire marshals did not participate in the interrogation.[184]

In *In re Harold S.*,[185] the juvenile was accused of waywardness based on his assault and battery of another student at school. The school principal was informed of the fight, which occurred after school but on school grounds, by a police officer who asked to speak with the two boys who were involved. The principal called the juvenile's father, who came to the school and was present during the interrogation. The juvenile admitted to hitting the victim. Later, the juvenile appealed the juvenile court's admission of his statement by asserting that although the police were not directly involved in the interrogation, the principal was acting as an agent of the police during the interrogation.[186] The

182. 302 A.D.2d 303 (N.Y. App. Div. 2003).
183. *Id.* at 303.
184. *Id.*
185. 731 A.2d 265 (R.I. 1999).
186. *Id.* at 266.

court rejected this contention, distinguishing the case from the Oregon case, *State ex rel. Juvenile Department v. Killitz*,[187] because no officer was in the room during the interrogation.[188] The court cited several cases from other states that drew bright lines between law enforcement and school officials.[189] The court quoted *Commonwealth v. Snyder*,[190] a Massachusetts case, noting that the principal's intention was irrelevant:

> "The Miranda rule does not apply to a private citizen or school administrator who is acting neither as an instrument of the police nor as an agent of the police pursuant to a scheme to elicit statements from the defendant by coercion or guile. The fact that the school administrators had every intention of turning the [evidence] over to the police does not make them agents or instrumentalities of the police in questioning [the juvenile]."[191]

Thus, the court concentrated on the employment of the interrogator.[192]

In a recent Florida case, the court rejected a blanket rule requiring *Miranda* warnings in all school interrogations.[193] In *State v. J.T.-D.*,[194] the juvenile was being investigated for lewd or lascivious molestation of another student. An assistant principal interrogated the juvenile in the presence of the school resource officer, who had previously warned the juvenile that she had the authority to send him to the juvenile detention center. Once the juvenile admitted to touching the other student, the resource officer immediately took over the interrogation, beginning by reading the juvenile his *Miranda* rights.[195] The reading of the rights at that point suggests that the focus of the investigation had always been criminal, not school-related. The court, however, did not consider the intent of the interrogators or the student's perspective on the circumstances.[196] Rather, the court focused on the job description of the assistant principal and upheld the juvenile's pre-*Miranda* admission.[197]

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187. 651 P.2d 1382 (Or. Ct. App. 1982).
188. *In re Harold S.*, 731 A.2d at 267.
189. *Id.* at 268 (citing *In re Paul P.*, 170 Cal. App. 3d 397; *Snyder*, 597 N.E.2d 1363; *Tinkham*, 719 A.2d 580; *Biancamano*, 666 A.2d 199).
190. 597 N.E.2d 1363 (Mass. 1992).
191. *In re Harold S.*, 731 A.2d at 268 (quoting *Snyder*, 597 N.E.2d at 1369).
192. *Id.*
193. State v. J.T.D., 851 So. 2d 793, 797 (Fla. Dist. Ct. App. 2003).
194. 851 So. 2d 793 (Fla. Dist. Ct. App. 2003).
195. *Id.* at 794-95.
196. *Id.* at 795-96.
197. *Id.*

In another case originating in Florida, *In re J.C.*,[198] the court held that when an assistant principal interrogated a student in the presence of a sheriff's deputy who acted as the school's resource officer, but whose participation was *de minimis*, *Miranda* warnings were not required.[199] The court noted that without the officer's presence, there would have been no problem with this interrogation.[200] The court focused on the officer's minimal participation, not his job title.[201] Further, the court made a point to confine its ruling strictly to the circumstances at hand, noting that "[a]s a general rule, where a student is detained . . . and a law enforcement officer participates in the interrogation, *Miranda* warnings should be given if the confession is to be admissible."[202]

This was a middle-of-the-road holding, excluding the possibility that an interrogation by a school official could rise to the level of coercion that concerned the Supreme Court in *Miranda*, but clearly holding that SROs are law enforcement agents for purposes of *Miranda*.[203] Like the courts of Rhode Island, Massachusetts, New Jersey, California, and New Hampshire, the court in Florida could not overcome the tendency to analyze school interrogations by concentrating on the job title of the interrogators.

C. Interrogations by School Resource Officers

Various courts have heard cases dealing with the middle ground between school officials and police officers: the school resource officer. In *In re D.A.R.*,[204] an SRO interrogated a thirteen-year-old juvenile in a closed room pursuant to other students' allegations that he had a gun on school grounds. The armed SRO searched the juvenile, and finding no weapon on him, sent the juvenile back to class. The SRO then received reports from fifteen other students that they had seen the juvenile with the gun. A security guard brought the juvenile back to the SRO's office where the SRO told him that another student had seen him with the gun and that it would be best if the juvenile told the SRO where the gun was hidden. The juvenile told the SRO where the gun was and took the officer to it.[205] The Texas Court of Appeals determined that a reasonable thirteen-year-old would have thought he was in

198. 591 So. 2d 315 (Fla. Dist. Ct. App. 1991).
199. *Id.* at 316.
200. *Id.*
201. *Id.*
202. *Id.*
203. *Id.*
204. 73 S.W.3d 505 (Tex. App. 2002).
205. *Id.* at 507-08.

custody under the circumstances, and therefore, *Miranda* warnings were required.[206]

In a Pennsylvania case, a court held that *Miranda* warnings were required when two school resource officers interrogated a student.[207] In *In re R.H.*,[208] the trial court found that because the officers were employed by the school, they were to be treated as school officials who do not have to give warnings when interrogating students about violations of school rules.[209] The Pennsylvania Supreme Court reversed on the grounds that the officers had the duties and privileges of municipal police officers and therefore were subject to *Miranda*'s constraints.[210] The focus remained on the job title and description of the interrogators.

In a dissenting opinion, one justice agreed with the trial court's finding that an SRO is not a police officer but rather a school administrator, and as long as the officer is not an agent of law enforcement, there is no need for *Miranda* warnings.[211] Another dissenter abandoned examining the interrogator's job and focused on the circumstances of the interrogation, but ultimately concluded that the student was not actually in custody at the time and was free to leave.[212] This dissenter's conclusion seems strange because the student was escorted to the main administration building by the two officers who were in uniform with badges, and they took the student's shoe, telling him it was for "evidence" in a vandalism case.[213] A concurring justice proposed a test for school interrogations that would extend the Fourth Amendment school protections outlined in *T.L.O.*[214] The test would balance the student's privacy interests with the school's crime-solving interests, while considering several relevant factors, including the student's age, the student's understanding of his or her rights, the gravity of the offense, the prospect of criminal proceedings, and the extent of coercion involved.[215] The test would examine the specific circumstances, which is a valid inquiry. However, the concurring justice goes too far, asserting that even when a child is in custody, a school official could overcome the

206. *Id.* at 511-12.
207. *In re* R.H., 791 A.2d 331, 332 (Pa. 2002).
208. 791 A.2d 331 (Pa. 2002).
209. *Id.* at 334.
210. *Id.*
211. *Id.* at 335 (Cappy, J., dissenting).
212. *Id.* at 338-39 (Castille, J., dissenting).
213. *Id.* at 332-33.
214. *Id.* at 348 (Newman, J., concurring).
215. *Id.*

need for *Miranda* warnings with a reasonable balancing of the factors.[216] The justice probably does not envision such an interrogation as leading to a criminal prosecution, but this is not made clear from the opinion.

In a recent North Carolina case, *In re W.R.*,[217] the North Carolina Court of Appeals held that when school officials and an SRO interrogated a student in the assistant principal's office, *Miranda* warnings were required.[218] School officials were investigating a report that a student had a knife. The student, who was fourteen years old, was repeatedly questioned over the course of thirty minutes and kept in the office under the SRO's supervision while school officials left to interview other students. The student was never informed that he was free to leave, and it was only after a search of the student by the SRO that the student made his inculpatory statement.[219] The court held that under these circumstances, a reasonable person would believe that his freedom to leave was restricted to the level of a formal arrest.[220]

The Texas, Pennsylvania, and North Carolina courts focused on the juvenile's age and the circumstances surrounding the interrogation.[221] There is a strong similarity between the factors considered by these courts, and Georgia's *Riley v. State*[222] factors for determining voluntariness. These cases may pave the way for Georgia to extend the application of its own factors when determining whether *Miranda* warnings should be given to juveniles at school.

V. ALTERNATIVE SOLUTIONS

In addition to the various approaches that courts have employed, various commentators have contributed to the discussion of school interrogations. Most commentators are wary of a bright-line test focusing on the job title of the interrogator.[223] One approach suggests that in examining a school interrogation of a juvenile by a school official, an SRO, or a police officer, the focus should be on the intent of the

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216. *Id.*
217. 634 S.E.2d 923 (N.C. Ct. App. 2006).
218. *Id.* at 927.
219. *Id.* at 926.
220. *Id.* at 926-27.
221. *See In re D.A.R.*, 73 S.W.3d 505; *In re R.H.*, 791 A.2d 331; *In re W.R.*, 634 S.E.2d 923.
222. 237 Ga. 124, 226 S.E.2d 922 (1976).
223. *See, e.g.*, Eleftheria Keans, Note, *Student Interrogations by School Officials: Out with Agency Law and in with Constitutional Warnings*, 27 B.C. THIRD WORLD L.J. 375 (2007).

interrogator.[224] Similarly, another approach suggests a broad application of *Miranda* to any and all government employees who question an individual with the purpose of enforcing of criminal laws.[225] A final approach disregards the intent of the interrogator, and instead focuses on the perspective of the student and whether, under the circumstances, it would be reasonable for the student to believe that he or she is the subject of law enforcement authority.[226]

A. Applying Fourth Amendment Holdings to School Interrogations

The first approach that focuses on the interrogator's intent concentrates on recent Fourth Amendment[227] jurisprudence to support the imposition of Fifth Amendment[228] *Miranda* constraints. Eleftheria Keans, author of the recent law review note, *Student Interrogations by School Officials: Out with Agency Law and in with Constitutional Warnings*,[229] advocates extending the recent United States Supreme Court decision in *Ferguson v. City of Charleston*[230] to school interrogations.[231]

In addition to its determination in *New Jersey v. T.L.O.*,[232] the Supreme Court has further examined school searches in the context of drug testing. In *Vernonia School District 47J v. Acton*,[233] the Court upheld a mandatory drug test for students that wished to participate in school athletics.[234] The Court balanced the students' privacy interests with the school's interest in protecting the safety of students and maintaining order, while also examining the scope of the intrusion.[235] The Court held that while students have an expectation of privacy in school, it is lessened for student-athletes who submit to preseason medical exams and use communal locker rooms.[236] The Court also mentioned that school athletics are optional, and therefore, students who

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224. *Id.*
225. *See* WAYNE R. LAFAVE ET AL., CRIMINAL PROCEDURE § 6.10(c), at 370 (3d ed. 2000).
226. Paul Holland, *Schooling* Miranda: *Policing Interrogation in the Twenty-First Century Schoolhouse*, 52 LOY. L. REV. 39 (2006).
227. U.S. CONST. amend. IV.
228. U.S. CONST. amend. V.
229. Keans, *supra* note 223.
230. 532 U.S. 67 (2001).
231. Keans, *supra* note 223, at 378.
232. 469 U.S. 325 (1985).
233. 515 U.S. 646 (1995).
234. *Id.* at 651, 664-65.
235. *Id.* at 652-54, 658, 660.
236. *Id.* at 657.

disagree with the rule can choose not to participate.[237] Finally, it is noteworthy that only the school's disciplinary and protective interests are furthered; students who failed the drug tests would not be reported to the police, rather, the school's policy simply laid out procedures to help such students.[238]

In a similar case, *Board of Education of Independent School District No. 92 v. Earls*,[239] the Supreme Court upheld a school district policy that required drug testing for students wishing to participate in any extracurricular activities.[240] The Court again emphasized the elective nature of extracurricular activities and that students who failed the drug test were not referred to law enforcement.[241]

In *Ferguson* the Supreme Court heard another drug testing case, this time involving pregnant women.[242] State hospital workers were required to test pregnant women for drugs without their consent. Initially, women who tested positive for drug use were only referred to a treatment program. However, the hospital then formed an alliance with the City of Charleston Solicitor and developed a policy to prosecute women who tested positive for drugs and did not complete treatment.[243] The Court held that the policy violated the Fourth Amendment.[244] First, the Court held that the state hospital workers were government actors and subject to the constraints of the Constitution.[245] Then, the Court held that the drug tests were searches according to the Fourth Amendment.[246] Finally, the Court balanced the women's privacy interests with the government's interest in preventing drug use in pregnant women.[247] The Court distinguished the searches in *Ferguson* from searches in other cases, including *Vernonia*, by noting that in these cases, the results from the drug tests were not turned over to law enforcement and criminal prosecution was never a goal.[248] As the Court noted, the privacy interest in not being criminally prosecuted is greater than the interest in playing school sports.[249] The Court

237. *Id.*
238. *Id.* at 651.
239. 536 U.S. 822 (2002).
240. *Id.* at 825.
241. *Id.* at 831, 833.
242. 532 U.S. at 70.
243. *Id.* at 70-73.
244. *Id.* at 86.
245. *Id.* at 76.
246. *Id.*
247. *Id.* at 78.
248. *Id.* at 79.
249. *Id.*

further held that the primary governmental interest in *Ferguson* was to coerce women into treatment by threatening them with prosecution.[250] The test that emerged from *Ferguson* was this: when state employees undertake to obtain evidence for the specific purpose of incriminating others, they have a special obligation to make sure that those being incriminated are fully informed about their constitutional rights.[251] The Court did not accept that the hospital had a separate purpose of preventing drug abuse but rather that the purpose was inseparable from a law enforcement goal.[252]

Keans asserts that the Court's holding in *Ferguson* can and should be extended to the Fifth Amendment context when dealing with school interrogations.[253] If the holding in *Ferguson* were applied to school interrogations, then school officials, as government actors, would be subject to *Miranda* when the immediate purpose in conducting an interrogation is collecting evidence for a criminal prosecution, even if the ultimate goal is to maintain school safety.[254] Keans notes that the Supreme Court did not expressly limit its holding to Fourth Amendment rights but rather worded its test quite broadly: "'when [public hospital employees] undertake to obtain such evidence from their patients *for the specific purpose of incriminating those patients,* they have a special obligation to make sure that the patients are fully informed about their constitutional rights, as standards of knowing waiver require.'"[255] Keans notes that had *Vernonia* and *Earls* dealt with policies that provided for law enforcement involvement, it is likely the drug testing would have been struck down.[256] By analogy, she asserts that when school officials interrogate students with a general crime control purpose and an intent to provide law enforcement with evidence, the holding in *Ferguson* requires *Miranda* warnings.[257]

If Georgia's school search law was extended to interrogations, this would not solve the problems associated with coercive interrogations by school officials. It would be clear that police officers who enter schools and SROs would be subject to the constraints of *Miranda*. Practically speaking, because so much of contemporary school discipline involves SROs and the police, the decision in *State v. K.L.M.*,[258] applying the

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250. *Id.* at 80.
251. *Id.* at 85.
252. *Id.* at 81.
253. Keans, *supra* note 223, at 389.
254. *Id.*
255. *Id.* at 395 (brackets in original) (quoting *Ferguson*, 532 U.S. at 85).
256. *Id.*
257. *Id.* at 395-96.
258. 278 Ga. App. 219, 628 S.E.2d 651 (2006).

probable cause requirement to school searches by police officers,[259] may support the requirement of *Miranda* warnings any time an officer is involved. But because the role of school officials has changed from a purely pedagogical relationship with students to a more adversarial one, a rule that examines the circumstances of each interrogation is necessary.

In his Criminal Procedure hornbook, Professor Wayne LaFave briefly outlines a similar intent-focused approach, finding support in other Supreme Court opinions.[260] In *Mathis v. United States*,[261] the Court held that an interrogation by an IRS agent fell within the constraints of *Miranda* because although the agent was conducting an investigation for a civil action, there was always the possibility that the evidence would support a criminal prosecution.[262] LaFave also points to *Estelle v. Smith*,[263] in which the Court required a *Miranda* warning to be given to a criminal defendant being questioned by a state-appointed psychiatrist.[264] LaFave concludes that "questioning by any government employee comes within *Miranda* whenever prosecution of the defendant being questioned is among the purposes, definite or contingent, for which the information is elicited."[265]

An "intent approach" is tempting at first glance, but upon further analysis, it becomes clear that applying *Ferguson* completely to school interrogations by school officials flies in the face of long-standing *Miranda* jurisprudence. As discussed above, the Supreme Court has held that the intent of the interrogator is irrelevant in a *Miranda* determination.[266] A complete shift in the appropriate *Miranda* analysis is not only difficult to support, but it is also unlikely to be adopted by the courts. However, the unique situation of a juvenile being questioned by any authority figure in his or her school necessitates some consideration of the interrogator's intent. A school official's intent can be highly instructive in examining a situation and determining whether the environment was unnecessarily coercive. After all, the purpose behind the *Miranda* warning is to alleviate inherently coercive

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259. *Id.* at 221, 628 S.E.2d at 653.
260. LAFAVE ET AL., *supra* note 225, § 6.10(c), at 370.
261. 391 U.S. 1 (1968).
262. *Id.* at 4.
263. 451 U.S. 454 (1981).
264. *Id.* at 468.
265. LAFAVE ET AL., *supra* note 225, § 6.10(c), at 371.
266. *See* Stansbury v. California, 511 U.S. 318, 323 (1994) (holding that the objective circumstances of the interrogation, not the subjective views of the interrogator or the suspect being questioned, are determinative).

interrogations.[267] When (1) the interrogator is not a law enforcement officer but is a state employee that has come to work closely with law enforcement in investigating criminal conduct; (2) the interrogation itself is coercive; and (3) the suspect is a juvenile, the juvenile should be informed of his or her rights.

B. Reasonable Belief of a Student

Professor Paul Holland advocates a reasonable student standard in determining whether law enforcement is sufficiently involved.[268] He articulates his test as follows: whether "under the circumstances . . . it would be reasonable for the student to believe that she is the subject of law enforcement authority, regardless of whether a law enforcement officer conducts the questioning."[269] According to Professor Holland, an examination of the circumstances of the interrogation should be conducted, including: the relationships of the parties, the role of any present law enforcement officer, and the background norms at the particular school.[270] The reasonableness test would require that, assuming the requirement of custody is found, *Miranda* warnings be given at all times when a sworn police officer (whether a state, municipal, or school officer) conducts the interrogation.[271] Holland also stresses the importance of considering a student's experience[272] and age[273] in determining whether an interrogation took place in a custodial environment, contrary to existing law.

Holland asserts that interrogations by school officials could necessitate *Miranda* warnings, especially when law enforcement collaborates with the school.[274] However, Holland qualifies his test by stating that school officials and SROs would be authorized to question students in most school settings without *Miranda* warnings even where they "are in fact acting as agents of law enforcement."[275] According to Holland, if the school official "fails to convey to the student that the official is sharing or otherwise drawing on the authority of law enforcement

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267. *Miranda*, 384 U.S. at 458.
268. Holland, *supra* note 5, at 43.
269. *Id.*
270. *Id.* at 72.
271. *Id.* at 78.
272. *Id.* at 80 (citing Yarborough v. Alvarado, 541 U.S. 652, 668-69 (2004) (declining to consider the suspect's prior experience with law enforcement)).
273. *Id.* at 84 (citing *Yarborough*, 541 U.S. at 669 (O'Connor, J. concurring) (noting that there may be times when a suspect's age would be relevant to a *Miranda* custody inquiry)).
274. *Id.* at 89-90.
275. *Id.* at 44 n.15.

officers," warnings are not required.[276] The test requires manifestation of "actual law enforcement authority."[277]

Holland recognizes how much the average school environment has changed in recent years.[278] He points out that just over twenty years ago, Justice Powell wrote in his concurring opinion in *T.L.O.* that principals have "'no obligation to be familiar with the criminal laws.'"[279] Today, however, it is often school policy for principals to report certain crimes to police, and procedures to do so are in place.[280] Holland rightly points out that "it is the collaborating principal, the one who is routinely vested with the authority of a collaborating law enforcement officer, who figures to be most coercive in students' eyes."[281]

This test could necessitate too close an examination of exactly what is said in an interrogation, a situation which is unlikely to be accurately replicated before a juvenile court hearing a motion to suppress. Did the principal share authority with law enforcement officers? Did he or she draw on the authority of law enforcement officers? What exactly does it mean to "draw on the authority"? Can a principal merely mention law enforcement? Holland's test allows for guile and manipulation on the part of a school official, a standard that is supported by *Illinois v. Perkins*,[282] but is less tolerable in the context of a school interrogation. The test also assumes that there is a different effect on a student who is interrogated by a principal who threatens to involve law enforcement but does not present any actual law enforcement authority than on the student who is not threatened with law enforcement but does see a manifestation of law enforcement authority due to constant police presence or involvement in the school. When dealing with students, there is often not a difference between the fear of a visit to the principal's office and a visit to the SRO's office, but Holland's test could cause a difference in treatment of interrogations under those circumstances.

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276. *Id.*

277. *Id.* at 90.

278. *Id.* at 88.

279. *Id.* (quoting *T.L.O.*, 469 U.S. at 350 n.1 (Powell, J., concurring)).

280. *See* Michael Pinard, *From the Classroom to the Courtroom: Reassessing Fourth Amendment Standards in Public School Searches Involving Law Enforcement Authorities*, 45 ARIZ. L. REV. 1067, 1079 & n.58 (listing examples of school requirements); *see also* FINN ET AL, *supra* note 5. For access to various Georgia county boards of education policies, see Georgia School Boards Association, GSBA ePolicy, http://www.gsba.com/esolutions/ePolicy/about.htm.

281. Holland, *supra* note 5, at 92.

282. 496 U.S. 292 (1990).

VI. WHAT NEXT FOR GEORGIA?

The courts continue to place a strong emphasis on the job title and description of a school interrogator. Even states that require *Miranda* warnings from an SRO or a police officer concentrate on the duties and the powers that police officers have.[283] What these policies do not consider is the reason behind *Miranda* of protecting people from the power of law enforcement and the fact that school officials can fill this fearful role for students. The Constitution seeks to protect individuals from the coercive environment associated with a custodial interrogation. Traditionally, the coercion was likely only to exist when a law enforcement officer was involved. But in contemporary Georgia schools, where metal detectors, school police, and strong administrations are present, our students are at constant odds with authority figures. Being called to the principal's office is not a pleasant experience, and being interrogated by the principal, a state employee, can invoke the same dangers of coercion that can exist with police officers. Also, not requiring *Miranda* warnings can foster an environment of restricted communication between school officials, SROs, and police officers. When a school official knows that *Miranda* warnings would be required for an SRO or a police officer, the official will conduct the interrogation alone, knowing that a full criminal investigation and prosecution will likely follow. A better way of doing things would be to not require *Miranda* warnings in every circumstance, as even law enforcement officers are not always required to give the warnings. This Comment simply asks, along with other articles that advocate similar change, that the custodial interrogation inquiry not be forestalled simply because the interrogation took place in a school by school police or other administrative officials.

A new test is warranted in Georgia especially in the circumstances when a school official interrogates a student. Georgia courts should not blindly accept and follow what other states have done, drawing a bright line between law enforcement and school officials.[284] Those courts treat school officials like private citizens,[285] even though public school officials are state employees who have an imposing authority over many people, especially students. School officials are therefore more akin to law enforcement, and although the most significant factor should not be

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283. *See In re* R.H., 791 A.2d 331 (Pa. 2002); State v. D.R., 930 P.2d 350 (Wash. Ct. App. 1997).

284. *See* Commonwealth v. Snyder, 597 N.E.2d 1363 (Mass. 1992); *In re* Harold S., 731 A.2d 265 (R.I. 1999).

285. *See Snyder*, 597 N.E.2d at 1369 (likening school officials to private citizens).

the interrogator's job title, they should be subject to more state regulation than private citizens.

When dealing with circumstances involving school resource officers, schools have been able to draw on the authority and power of the officer without being subject to any of the constitutional requirements. Even when an officer is simply present and does not directly participate in the questioning, the uniform, the badge, and all of the implied power that comes with the officer's position are present. Courts have allowed these interrogations on the basis that the officer did not substantially participate, but this analysis actually supports both an abandonment of the job-title inquiry and a move to an examination of the actual circumstances and whether the juvenile was coerced.[286] Two often conservative states, North Carolina and Texas, have made a *Miranda* inquiry when dealing with school police, finding that their presence can make an interrogation custodial, thus requiring *Miranda* warnings.[287] These opinions should be instructive in forming a policy for Georgia.

Keans and LaFave's intent-focused analysis is flawed in that it contradicts how *Miranda* has been interpreted to ignore the intent of the interrogator. However, the unique situation of school children warrants the special consideration of intent. Additionally, this analysis rightly moves away from a job-title focus. While a bright-line rule that distinguishes interrogators by their job may be attractive, the unique situation of school children warrants a totality of the circumstances test.

Holland's test asks whether under the circumstances it was reasonable for the juvenile to feel that he or she was subject to law enforcement authority. This test is closer to *Miranda* jurisprudence, but it does not completely address the core coercion concerns of *Miranda*. It also relies on the fiction that a child would go through the thought process of analyzing the circumstances and asking whether their interrogator is acting under law enforcement authority. The test is also too restrictive, requiring that a school official manifest actual law enforcement authority.

A more functional test that addresses those concerns is to ask whether, under the circumstances, it was reasonable for the child to feel that he or she was under unduly coercive pressure. This test may require school officials to give the *Miranda* warning, depending on the circumstances. This makes sense because public school officials are employees of the state who are trusted with great power and authority

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286. *See* State v. J.T.D., 851 So. 2d 793 (Fla. Dist. Ct. App. 2003); *In re* Angel S., 302 A.D.2d 303 (N.Y. App. Div. 2003).

287. *See In re* W.R., 634 S.E.2d 923 (N.C. Ct. App. 2006); *In re* D.A.R., 73 S.W.3d 505 (Tex. App. 2002).

over students, and often cooperate with law enforcement. Additionally, examination of intent should be a part of the analysis of the circumstances. If an interrogator's intent is law enforcement rather than maintaining school order, safety, and discipline, it will cast light on how a reasonable child would perceive the circumstances. Further, under circumstances in which student safety is under immediate peril, the interrogator may dispense with the *Miranda* warning under the public safety exception.[288]

Returning to the scenario outlined in Part I of this Comment, under the above-outlined test, the child could have reasonably thought she was under the coercive influence of both the principal and the SRO. With the protection of the *Miranda* requirements, the child would now have one more weapon in her arsenal. Fighting the admission of a statement as involuntary is insufficient to protect a juvenile's interests because the *Riley* factors are not fully adequate for the school context.

One final question is this: Will applying *Miranda* to school interrogations actually help? The answer to this question is "yes." One reason the Author is concerned with the rights of juveniles is to ensure that they do not lose faith in the legal system. While schools have genuine concerns and interests in questioning students about potentially harmful behavior, everyone suffers when children do not trust the legal system, and we end up with more crime in the long run. We must focus on protecting our children and helping them to become functioning members of society. Throwing them into the system is not the answer. Children have a right to justice, and the United States Supreme Court has stated that "'[i]t is not sufficient to do justice by obtaining a proper result by irregular or improper means.'"[289] We value proper procedure because it ensures justice for everyone.

Another question not addressed by this Comment is whether children would actually understand their rights. There are problems with the wording of *Miranda* warnings in the context of its application to juveniles, and a better, more child-friendly wording would be more reasonable and just.[290] A simple experiment of informing a juvenile of

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288. *See* New York v. Quanes, 467 U.S. 649, 653 (1984).

289. *Miranda*, 384 U.S. at 447 (quoting NAT'L COMM'N ON LAW OBSERVANCE AND ENFORCEMENT, REPORT ON LAWLESSNESS IN LAW ENFORCEMENT, H.R. REP. NO. 71-252, at 5 (1931).

290. *See* Ellen Marrus, *Can I Talk Now?: Why* Miranda *Does Not Offer Adolescents Adequate Protections*, 79 TEMP. L. REV. 515 (2006) (arguing that *Miranda* does not adequately protect children from self-incrimination); Richard Rogers et al., *An Analysis of* Miranda *Warnings and Waivers: Comprehension and Coverage*, 31 LAW & HUM. BEHAV. 177 (2007) (analyzing numerous versions of *Miranda* warnings and the reading comprehension levels required for understanding).

his or her rights and then asking the juvenile to repeat them as he or she understands them, reveals the deficiencies in the wording. *Miranda* requires a "full and *effective* warning"; what may be effective for adults is not necessarily effective for children.[291] Requiring warnings that children understand would protect children from unknown consequences. Many children who are interrogated do not understand what can legally happen as a result of confessing to what they perceive as a school violation. Various manipulative and coercive techniques employed by the interrogator can cause a student to say things unwittingly. *Miranda* warnings are meant to "dispel . . . compulsion," and without them, "no statement obtained from [a child] can truly be the product of his free choice."[292] *In re Gault* guarantees children their constitutional rights, and when children are subjected to coercive interrogations in school, they should be protected. We should not only *declare* that we protect children's rights, but we should also tailor those rights to fit children's unique susceptibilities and ensure that children are *actually* protected.

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291. 384 U.S. at 445 (emphasis added).
292. *Id.* at 458.