

FIFTH AMENDMENT: MIRANDA AND TEENS

This activity explores the Supreme Court decision in *J.D.B. v. North Carolina*. In this case, the Supreme Court was asked to decide if the age of a child subjected to police questioning is also relevant to custody determinations spelled by the *Miranda* warnings. Participants will analyze the the Supreme Court case and apply it to a fictional scenario involving a high school student and shoplifting.

About these Resources

- Analyze the [facts and case summary](#) for *J.D.B. v. North Carolina*.
- Apply the case to a [fictional teen scenario](#).
- Use critical thinking skills and share reflections on the [discussion questions](#).
- Use the [worksheet and answer key](#) to compare the fictional scenario to *J.D.B. v. North Carolina*.

How to Use These Resources

These resources are designed to use in the classroom, courtroom or for individual learning. Follow the sequence below to complete the activity.

In the Classroom or Courtroom

1. Participants prepare presentations of the [facts and case summary](#).
2. Read the [fictional teen scenario](#) and apply *J.D.B. v. North Carolina* to it.
3. Use critical thinking skills and share reflections on the [discussion questions](#).
4. Use the [worksheet and answer key](#) to determine if the requirements that would entitle the two boys to a *Miranda* warning were met.

FACTS AND CASE SUMMARY

Facts and case summary for *J.D.B. v. North Carolina*

Background:

In 1966, in the landmark case *Miranda v. Arizona*, the Supreme Court held that a person questioned by law enforcement officers after being "taken into custody or otherwise deprived of his freedom of action in any significant way" must first "be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of any attorney, either retained or appointed." Statements made by a defendant when law enforcement has not complied with this rule may not be admitted as evidence of guilt in a criminal trial.

An officer's obligation to administer *Miranda* warnings attaches only where there has been such a restriction on a person's freedom as to render him "in custody." In determining whether an individual was in custody, a court must examine all the circumstances surrounding the interrogation in determining whether there was a "formal arrest or restraint of freedom of movement of the degree associated with a formal arrest."

Many Circuit Courts of Appeals have laid out a number of nonexclusive factors to consider in determining whether a defendant is in custody, such as (1) the language or tone used when initially confronting or later questioning the suspect; (2) the physical surroundings or location of the questioning; (3) the duration of the interview; (4) the extent to which the defendant is confronted with evidence of guilt; and (5) the degree of pressure applied to detain the individual, including whether the officers brandished weapons or touched the suspect.

In *J.D.B. v. North Carolina*, the Supreme Court was asked to decide whether the age of a child subjected to police questioning is also relevant to this custody determination.

Facts:

J.D.B. was a 13 year-old student in the seventh grade when a uniformed police officer on detail at the school escorted him from his social studies classroom to a conference room where two school administrators and another police officer were waiting. In the closed-door room, Police Investigator Joseph DiCostanzo questioned J.D.B. for 30 to 45 minutes about some recent neighborhood break-ins. Among the items reported stolen was a digital camera that had been found at the school and seen in J.D.B.'s possession.

J.D.B. first denied his involvement. However, after the investigator pressed him for additional details about his presence in the neighborhood after one of the break-ins and confronted him with the stolen camera, and after the assistant principal urged him to tell the truth, J.D.B. asked whether he would "still be in trouble" if he returned the "stuff." Investigator DiCostanzo then warned J.D.B. that he may face juvenile detention. J.D.B. confessed. At that time, Investigator DiCostanzo told J.D.B. that he could refuse to answer questions and was free to leave. Asked whether he understood, J.D.B. nodded and provided further details, including the location of the stolen items. He also wrote a statement, at the investigator's request. When the school day ended, J.D.B. was permitted to leave.

Procedural History:

The state of North Carolina charged J.D.B. with breaking and entering and larceny. The public defender who represented J.D.B. moved to suppress his statements and any evidence gathered as a result of those statements. The public defender argued on behalf of J.D.B. that J.D.B. was in custody at the time he was interrogated and that the police had failed to give him a *Miranda* warning. The state trial court ruled that J.D.B. was not in police custody and denied the motion to suppress the statements and evidence. The court adjudicated him delinquent, finding that J.D.B. had violated criminal laws.

J.D.B.'s public defender disagreed and appealed first to the North Carolina Court of Appeals and then to the North Carolina Supreme Court. Both appellate courts agreed with the trial court. The North Carolina Supreme Court held that the test for custody did not include consideration of the age of an individual subjected to questioning by police.

Issue:

"[W]hether the *Miranda* custody analysis includes consideration of a juvenile suspect's age." More specifically, whether "a child's age 'would have affected how a reasonable person' in the suspect's position 'would perceive his or her freedom to leave.'"

Supreme Court holding:

Yes. "So long as the child's age was known to the officer at the time of police questioning, or would have been objectively apparent to any reasonable officer, its inclusion in the custody analysis is consistent with the objective nature of the test. . . . Just as police officers are competent to account for other objective circumstances that are a matter of degree such as the length of questioning or the number of officers present, so too are they competent to evaluate the effect of relative age."

The Supreme Court reversed the judgment of the North Carolina Supreme Court and remanded the case to the lower court to determine whether, taking his age into consideration, J.D.B. was in custody when he was interrogated.

Dissent:

Four Justices dissented, noting that the *Miranda* rule "places a high value on clarity and certainty." The dissent states that the majority's holding "shifts the *Miranda* custody determination from a one-size-fits-all reasonable-person test into an inquiry that must account for at least one individualized characteristic—age—that is thought to correlate with susceptibility to coercive pressures." The dissent asserts that "[t]he Court's decision greatly diminishes the clarity and administrability that have long been recognized as 'principal advantages' of *Miranda's* prophylactic requirements."

Argued: March 23, 2011

Decided: June 16, 2011

Vote: 5-4

Majority opinion written by Justice Sotomayor and joined by Justices Kennedy, Ginsburg, Breyer, and Kagan.

Dissenting opinion written by Justice Alito and joined by Chief Justice Roberts and Justices Scalia and Thomas.

FICTIONAL SCENARIO

Applying *J.D.B. v. North Carolina* to *People v. Brandon Salinger*

Brandon Salinger was a 15-year-old high school sophomore and his school's 6'2" wrestling champion, weighing in at 220 pounds when he won the regional championship last year. He was mistaken for the team's assistant coach at several tournaments because of his physical appearance and mature demeanor.

During his social studies class period one Wednesday afternoon, Brandon was at the mall with his 18-year-old sister Katie, who was helping him shop for a tie to wear to the homecoming dance. When Brandon refused to touch a neon green paisley tie that Katie handed to him, she stuffed it in the back pocket of his pants. Finding nothing they liked in the men's formal wear department, they left the store and continued through the mall.

Sam Sanchez was a security guard employed by MallSecure, at the time. He was on duty that afternoon when he noticed Brandon walking through the mall with a green tie and price tag hanging out of his back pocket. In light of the fact that the department store manager had recently notified MallSecure about a spike in shoplifting during homecoming season, Security Guard Sanchez became suspicious. He approached Brandon and asked to see the receipt for the tie. When Brandon could not produce the receipt, the security guard escorted Brandon and Katie away from the public shopping forum and into the mall's security office suite.

Anita Colton was a city police officer who worked part-time as a security guard for MallSecure when she was off duty. She was in the security office at the end of her shift on Wednesday when Security Guard Sanchez brought in Brandon and Katie. Officer Colton was on her way to the police station and had changed into her police officer's uniform, which included a badge and a handgun.

Security Guard Sanchez put Brandon in an empty office and took Katie to another room to question her. The empty office had a window looking into the outer reception area of the security office suite. Brandon could see people coming and going through the front door.

Officer Colton entered the room where Brandon was seated and closed the door. When Officer Colton asked Brandon to produce his driver's license, Brandon said he did not have one yet and handed her his school ID, which did not indicate his age or year in school. Brandon then told Officer Colton that he was 15 years-old, and Officer Colton responded by raising her eyebrows and asking him to recite his exact birth date. Based on his stature and mature appearance, Officer Colton suspected that Brandon was misrepresenting his age – a common tactic used by shoplifters who hope to be sent home with just a warning. Brandon refused to give Officer Colton further information without knowing where his sister was. Officer Colton told Brandon that he was not required to speak to her or to offer any information.

Brandon then saw Katie through the window. She was walking around in the reception area and talking on her cell phone. Officer Colton again acknowledged that Brandon did not have to talk, but added that it was likely that both he and his sister could go to jail for the night if he did not tell the whole story and resolve the situation before she had to leave and go to the police station in a few minutes. She also warned that punishment for Katie would likely be much worse as an adult. Brandon did not want to risk his sister going to jail, so he answered the officer's questions truthfully over the next 15 minutes.

DISCUSSION QUESTIONS

Questions to check for understanding

Applying *J.D.B. v. North Carolina* to the fictional scenario in *People v. Brandon Salinger*:

1. If J.D.B. and Brandon had been given a *Miranda* warning, what would the police have said to them?
2. What factors should be considered in determining whether a person is in custody?
3. Does it matter if J.D.B. and Brandon were custody at the time they were questioned? Why or why not?

WORKSHEET AND ANSWER KEY

Use this worksheet and answer key as a discussion guide for *J.D.B. v. North Carolina* and the fictional scenario of *People v. Brandon Salinger*

Worksheet Answer Key

Note to Teachers: Use this chart to help students identify the factors that courts might take into consideration in each case to determine if someone is in custody and, therefore, should receive a *Miranda* warning.

Discussion Guide: Were They in Custody?	<i>J.D.B. v. North Carolina</i>	<i>People v. Brandon Salinger</i>
Language Used to Summon the Individual		
Confrontation with Evidence of Guilt		
Physical Surroundings/Location		
Duration		
Degree of Pressure Applied (physical or otherwise)		
Other Factors		
Totality of the Circumstances: In Custody or Not?		

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Answer Key: Were They in Custody?	<i>J.D.B. v. North Carolina</i>	<i>People v. Brandon</i>
Language Used to Summon the Individual	Escorted by police from class to school conference room	Escorted by mall security to mall business office
Confrontation with Evidence of Guilt	Yes – shown a digital camera	Yes – had tie in his pocket
Physical Surroundings/Location	Closed-door school conference room with two police officers and two school administrators	Mall business office with window on the reception area where others were seen, including his sister using her cell phone
Duration	About 45 minutes	15 minutes +
Degree of Pressure Applied (physical or otherwise)	When summoned by school authorities, students do not feel free to leave until released, but was allowed to leave at end of school day	Was told that if he didn't cooperate, he and his sister might go to jail, Threat that he would be held in detention pending trial
Other Factors		Questioned in a public space, not isolated, and could see his sister talking on her cell phone
Totality of the Circumstances: In Custody or Not?	Question of custody has been remanded to the N.C. state courts to answer	You decide