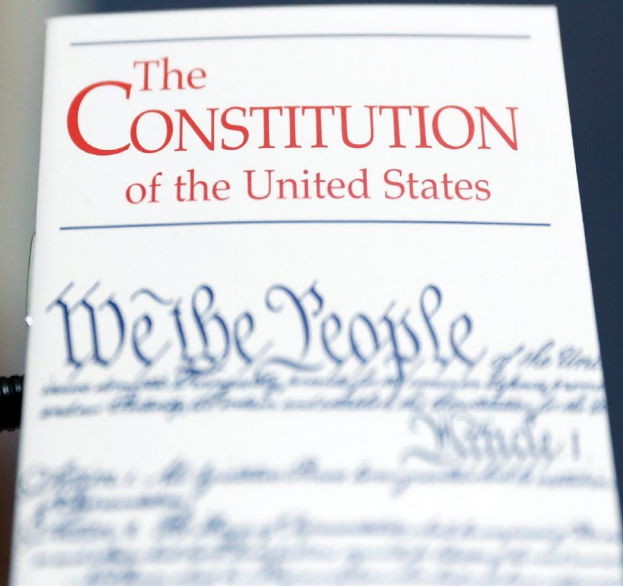




CUSTODIAL INTERROGATIONS IN SCHOOLS

KIMBERLY P. JORDAN



AGENDA

- *Miranda*
- *J.D.B.*
- Adolescent Development
- School Issues
- Motion to Suppress





MIRANDA v. ARIZONA

5th Amendment: No person...shall be compelled in any criminal case to be a witness against himself...without due process of law

4 cases from different states

All involve interrogations by police with statements by defendants

Issues:

1. Whether statements obtained from an individual who is subjected to custodial police interrogation are admissible at trial; and
2. What procedures are necessary to protect privilege under the 5th Amendment.

MIRANDA WARNINGS



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- “You have the right to remain silent.”
- “Anything you say can be used against you in a court of law.”
- “You have the right to speak to an attorney.”
- “If you cannot afford an attorney, one will be appointed for you.”
- When They See Us

CUSTODIAL INTERROGATION

Totality of the
circumstances
+ reasonable
person

Language

- Voluntary?
- Conversational?
- Confrontational?
- Promises of leniency?
- Deception?
- Psychological techniques?

Location

- Separation from others?
- Police Department?
- Handcuffs?
- Deprivation?

Interrogation

- Duration
- Isolation?
- Physical pressure?
- Coercive questioning?
- Denied ability to leave?

J.D.B. v. NORTH CAROLINA

Should age be a consideration for determining custody?

- 13 years old
- Uniformed police officer
- School conference room
- 2 administrators, another officer
- Closed door
- 30-45 minute interrogation
- Confession

Whether child's age "would have affected how a reasonable person in the suspect's position would perceive freedom to leave"

- If age known to officer
- At time of questioning
- Or would have been objectively apparent
- Officers are competent to evaluate effect of relative age

“A CHILD’S AGE IS
MORE THAN A
CHRONOLOGICAL
FACT”

J.D.B.



WHAT'S CHALLENGING ABOUT INTERVIEWING A KID?



- *Cognitive Differences*
- *Psychosocial Maturity & Decision-Making Abilities*
- *Stress and its Influences on Decision-Making*
- *Suggestibility*
- *Lack of Knowledge and Experience*
- *Identity and Social Development*
- *Mental Health Issues*
- *AND...*

LANGUAGE DEFICITS AND IMPAIRMENTS

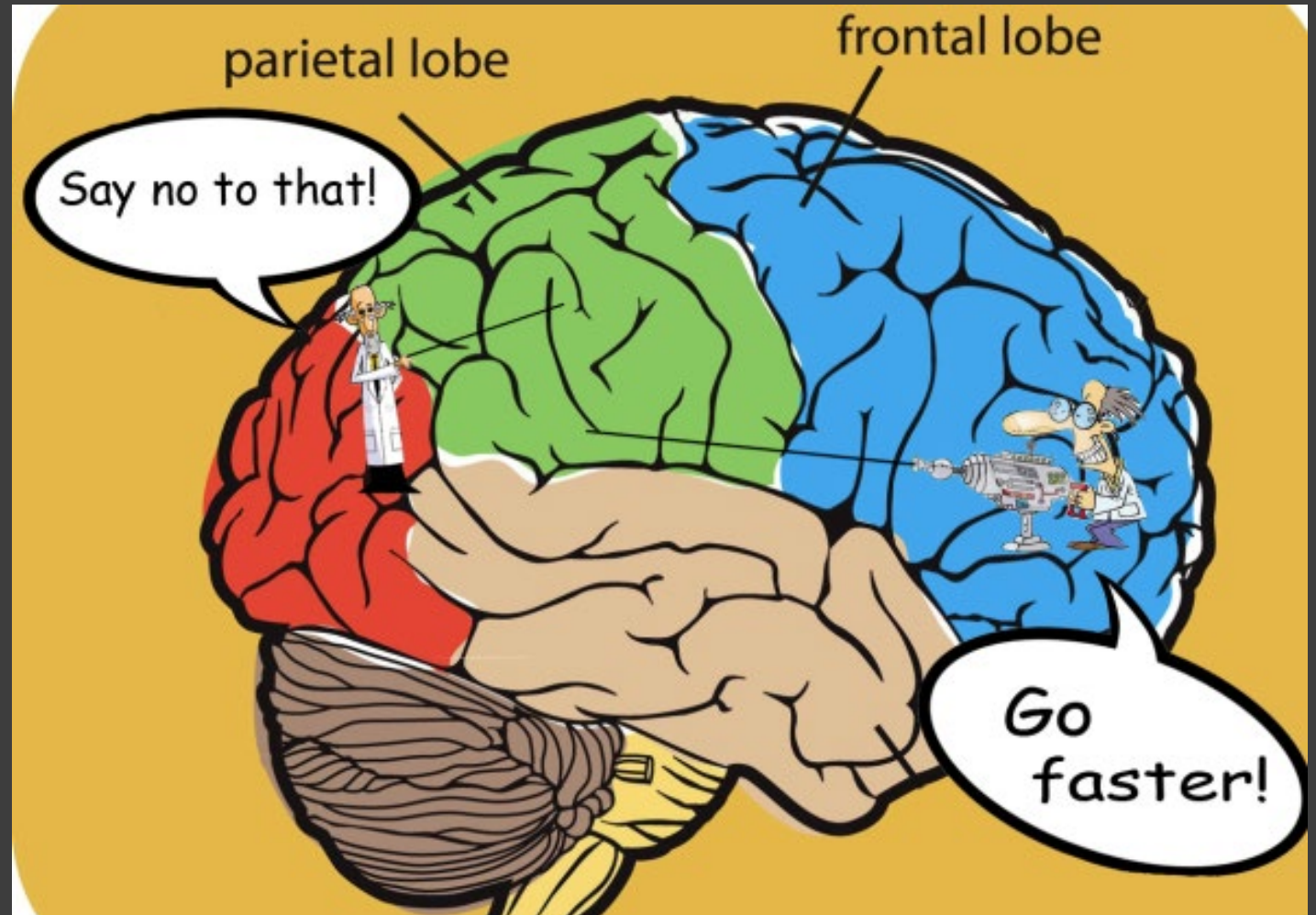


- There are many types of language deficits and impairments
- Impact every aspect of a child's life:
 - Development
 - Relationships
 - Learning
 - Mental Health
- Affect representation, competence to stand trial, and ability to interact with officials

HOW DO WE OVERCOME THESE BARRIERS?

Accommodate Developmental Difference

- Help youth connect immediate concerns with long-term goals
- Use kid-friendly language
- Break things down into easy parts
- Use visual aids
- Get clients to explain it back to you
- Practice with clients



NEW JERSEY v. T.L.O. – ARE SCHOOL OFFICIALS GOVERNMENT ACTORS?

■ YES

- School = government agency
- Administrators enforce education rules/regs
- *Parens patriae*
- 4th amendment protects against searches by government actors

■ NO

- Not law enforcement
- No training as law enforcement
- Protect learning environment
- *Tinker* – kids have lowered expectation of privacy/have rights restricted in school
- Search for compliance with rules, not law

BUT WHAT IF THE SCHOOL OFFICIAL IS A SCHOOL RESOURCE OFFICER??

SCHOOL RESOURCE OFFICERS

- Sworn law enforcement
- NASRO – 40 hour training
- 48% of schools, over 52,000 officers



MOTION TO SUPPRESS STATEMENTS

Timing, burden of persuasion

Any statement - Inculpatory or exculpatory – that prosecutor may seek to introduce

Applicability in juvenile court

Voluntariness v. Miranda claims

- May overlap, but focus here on Miranda

Custody analysis

Interrogation – express questioning or action that “the police know are reasonably likely to elicit an incriminating response”

If Miranda required, must have valid waiver – voluntary, knowing, intelligent

Witnesses – should defendant testify?



QUESTIONS?

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9/3/20XX