Miranda Goes to School: The Need to Safeguard Students’ Fifth Amendment Rights in School-Based Interrogations

By: Lynsey Stewart and Laura Knittle

Introduction

The United States Supreme Court has held that "students do not shed their constitutional rights at the schoolhouse gate."\(^1\) However, as a result of the current educational climate, including zero tolerance discipline procedures\(^2\), students' constitutional rights have been limited on school grounds. Despite an expansion of juvenile rights during delinquency proceedings,\(^3\) the Court has continually curtailed juveniles' rights in school.\(^4\) This trend is most troubling when coupled with the increase in police presence in schools.\(^5\) As students are coming into contact with the juvenile justice system in greater numbers based on conduct in school, where their rights are limited, juvenile rights in this context have seemingly returned to the pre-Kent “worst of both worlds,”\(^6\) with harsh penalties for even minor infractions and almost no constitutional protections.

Accordingly, as schools continue to rely on law enforcement for discipline, it is imperative that students’ constitutional due process rights are protected on school grounds. This is especially true when disciplinary offenses at school can lead to an arrest and the filing of a

\(^2\) Marsha Levick, Zero Tolerance: Mandatory Sentencing Meets the One Room Schoolhouse, KENTUCKY CHILDREN’S RIGHTS J., 1, 3 (2000).
\(^3\) In re Gault, 387 U.S. 1, 33 (1967) (holding that in juvenile delinquency proceedings, youth are entitled to notice of charges, assistance of counsel, cross-examination and confrontation of witnesses, and the privilege against self-incrimination).
\(^6\) Kent v. United States, 383 U.S. 541, 556 (1966) (noting that "the child receives the worst of both worlds," receiving neither the constitutional protections afforded to adults nor the rehabilitative treatment recommended for children).
delinquency petition. Fortunately, the Supreme Court’s recent decision in *J.D.B. v. North Carolina* has opened the door for greater protection of Juveniles' Fifth Amendment rights in schools.\(^7\) To fully realize the protections offered in *J.D.B.*, schools must conform their policies to ensure that students are provided with *Miranda* warnings every time a student is questioned regarding an offense that could result in the filing of a delinquency petition by a school resource officer ("SRO") or by a school administrator in the presence of a law enforcement officer.

Furthermore, in order to safeguard students’ rights, schools must train SROs on how to administer discipline within the context of the school setting in a manner that is consistent with school policy and protective of students' Fifth Amendment right against self incrimination.

In this article we first address the implications of the increased presence of SROs in schools. In Part II, we describe the history of reduced Fourth Amendment protections in schools and the development and extension of the “special needs” doctrine. In Part III, we posit that the "special needs" doctrine is inapplicable in a Fifth Amendment analysis, and that courts should look instead to the coerciveness of the environment. Part IV discusses the holding in *J.D.B.* and its effect on the *Miranda* custody analysis, placing particular emphasis on the interaction between age and environment in school-based interrogations. Finally, in Part V, we provide suggestions as to how schools can provide increased Fifth Amendment Protections in light of *J.D.B.*

**Part I: Increasing Police Presence in Schools**

School administrators have been increasingly relying on law enforcement to maintain order and discipline in schools as SROs.\(^8\) Since the late 1990s, the number of SRO programs has expanded, leading school-based policing to become one of the fastest growing areas of law

---


\(^8\) Brown, *supra* note 5.
enforcement. While it is difficult to know the exact number of SROs in schools today, it is estimated that more than 20,000 law enforcement officers are currently assigned to patrol schools. Thus, it is not surprising that nearly 70% of public school students ages 12 to 18 reported that police officers or security guards patrol their hallways. As school administrators rely more heavily on law enforcement officers to keep their schools safe, more kids are coming into contact with police on a regular basis.

The job description of an SRO is multifaceted. Their broad range of duties are part educational, as they are asked to teach lessons on crime prevention and drug abuse; part law enforcement, as they are required to enforce school policies and maintain a visible presence in hallways; and part correctional, as they may be asked to conduct searches of students for contraband or to question students to gather intelligence for local criminal justice officials. The correctional duties of SROs implicate students’ Fourth Amendment protection against unreasonable searches and seizures and their Fifth Amendment protection against self-incrimination. As SROs take on a disciplinary role in schools, protection of students’ constitutional right to due process becomes imperative, especially when disciplinary offenses at school can lead to arrest and the filing of a delinquency petition.

---

10 See Brown, *supra* note 5 at 591-593.
12 *Id.*
13 See Brown, *supra* note 5 at 593-595.
14 *Id.*
15 U.S. Const. amend. IV; U.S. Const. amend. V.
During the 2007-2008 school year, 62 percent of public schools reported an incident of crime that had occurred at school to the police.\textsuperscript{16} While a greater percentage of high schools and middle schools reported incidents of crime to the police than elementary schools,\textsuperscript{17} even very young children are coming into contact with police at schools.\textsuperscript{18} Many blame this increase in crime reporting on the heightened police-presence on school grounds.\textsuperscript{19} When examining the number of delinquency petitions filed in juvenile court based on arrests made during school hours, schools with SROs made five times as many arrests for disorderly conduct than schools without a permanent police presence.\textsuperscript{20} Therefore, it can be argued that the increased police-presence in schools has contributed to a criminalizing of student behavior, introducing more youth to the juvenile justice system. In light of this trend, it is concerning that students have reduced constitutional protections while at school.

**Part II: Reduced 4\textsuperscript{th} Amendment Protections in Schools**

The Fourth Amendment of the U.S. Constitution protects citizens against “unreasonable searches and seizures” that are not supported by “probable cause.”\textsuperscript{21} However, this constitutional right has been severely curtailed in schools.\textsuperscript{22} In *New Jersey v. T.L.O.*,\textsuperscript{23} the

\begin{itemize}
  \item[17] Id. at 26.
  \item[18] See Denise Buffa, *Public Enemy No. 1: City Sued for Cuffing 4-yr.-old Nap Nixers*, NEW YORK POST, March 10, 2008, at 15. (In a public school in New York, two four-year-old boys were handcuffed for, essentially, refusing to take a nap).
  \item[19] Theriot, *supra* note 9 at 284.
  \item[20] Id. The most common charge at SRO schools over three consecutive school years was disorderly conduct with 398 arrests. *Id.* At non-SRO schools, disorderly conduct accounted for only 77 arrests over the same three-year period. *Id.* Theriot points out that having an SRO at school significantly increased the rate of arrests for disorderly conduct by over 100 percent even when controlling for school poverty. *Id.* at 285.
  \item[21] U.S. Const. amend. IV.
  \item[22] *T.L.O.*, 469 U.S. at 342.
\end{itemize}
Supreme Court held that although the Fourth Amendment prohibition against unreasonable searches and seizures applied to searches of public school students by school administrators, neither a warrant nor probable cause was necessary. While the Court noted that students do have a right to privacy in schools, the Court subordinated that interest to the school’s “substantial interest” in “maintaining discipline.” The Court determined that due to the “special need” of schools to maintain order, instead of requiring probable cause, a search would be valid so long as there are “reasonable grounds” for suspecting that a search will uncover evidence that the student was violating the law or a school rule. Thus, the Court’s decision in *T.L.O.* opened an avenue for severely restricting the rights of children in schools under the “special needs” doctrine by upholding government action that would presumably be unconstitutional for adults simply because they are students.

*The Extension of the “Special Needs” Doctrine to Police in Schools*

While the Court’s decision in *T.L.O.* opened the door for school officials to search students under a far less stringent standard than required for adults, the Court left undefined the specific standard that should govern searches by law enforcement officers assigned to work at schools. Appellate courts in Pennsylvania, North Carolina, Florida, Illinois, and Arizona, among others, have answered that question by applying the majority’s reasoning in *T.L.O.* to uphold student searches by police officers in schools. In permitting warrantless searches of students

---

23 Id.
24 Id.
25 Id. at 339.
26 Id. at 342.
by police on the basis of mere suspicion, these opinions emphasized the “special need” to maintain order and discipline as well as the government’s duty to provide a safe learning environment to students. The implication of the extension of this special need to SROs patrolling school hallways is a severe deprivation of juveniles’ rights. In order for police to obtain evidence that can be used to file a delinquency petition in juvenile court, which could result in a deprivation of liberty, the arresting officer need not conform to requirements of the Constitution and may afford the youth less rights than they would be required to offer an adult in the same situation.

For example, in People v. Dilworth, a police officer assigned to work at the school noticed Dilworth and another boy holding a flashlight and giggling at their lockers. The police officer testified that the boys were looking at him as if they had “put one over on him,” so he seized the flashlight, unscrewed the top, and found cocaine. The Supreme Court of Illinois applied the reasonable grounds standard, despite the fact that the search was conducted by a law enforcement officer, and held that the search was merely incidental to maintaining a safe educational environment for students.

The tendency for state courts to show deference to school officials and the need to promote school safety has been extended to SROs in many states, resulting in an utter lack of Fourth Amendment protections in schools, as virtually any search and seizure will be upheld as reasonable and therefore constitutional. When coupled with the increasing number of students

\*\*\*

28 See Id.
29 People v. Dilworth, 661 N.E.2d 310, 313 (Ill. 1996).
30 Id.
31 Id. at 317.
introduced to the juvenile justice system based on conduct that occurred on school grounds, this lack of constitutional protections is particularly troubling.

**Part III: The Fifth Amendment: No Need for the “Special Needs” Doctrine**

With the number of SROs patrolling school grounds, law enforcement officers have greater access to students and a built-in space to question students away from their parents. Historically, the Court has refused to afford greater protections to children than were applied to adults when determining whether a child had waived his *Miranda* rights. In *Fare v. Michael C.*, the Court reasoned that the totality of the circumstances test that applied to adults was adequate to protect the rights of children.

While *Michael C.* determined the test to apply once a *Miranda* warning had been given, it did not reach the issue of when *Miranda* warnings should be read to juveniles. The familiar *Miranda* warning, which begins with the phrase, "you have the right to remain silent," only attaches in the context of custodial interrogations. Determining whether police questioning rises to the level of custodial interrogation for *Miranda* purposes requires two separate inquiries. First, whether the person was in custody, and second, whether the questioning amounts to interrogation. Most of the case law concerning *Miranda* focuses on the custody

---

32 *E.g., Miranda v. Arizona* 384 U.S. 436 (1966) (holding that confessions taken during custodial interrogations were only admissible if police officers had advised suspects of their constitutional right to silence and an attorney).


34 *Id.* at 724-725.

35 *Id.*

36 *Miranda*, 384 U.S. at 444.


38 *Id.*
inquiry, for which the current standard is whether a reasonable person in the suspect's position would perceive that he was free to leave.\textsuperscript{39}

Following the Supreme Court’s decision in \textit{T.L.O.}, many courts extended the “special needs” doctrine to \textit{Miranda}, assuming that \textit{Miranda} does not apply to questioning by school officials.\textsuperscript{40} One New Jersey court stated “the T.L.O. standards concerning Fourth Amendment searches are equally applicable to defendant's Fifth Amendment claim,” relying on school officials special need to maintain discipline.\textsuperscript{41} In extending the special needs doctrine to \textit{Miranda}, some courts placed too much weight on the job title of the questioner without taking account of the full context in which the questioning took place.\textsuperscript{42} For example, a Florida court found that \textit{Miranda} warnings were unnecessary when the questioning was conducted by the principal, but at the bequest and in the presence of a police officer.\textsuperscript{43} Moreover, some courts categorically determined that the questioning in the school setting, even by law enforcement officers, was noncustodial, rendering \textit{Miranda} inapplicable.\textsuperscript{44} This extension of \textit{T.L.O.} reasoning into Fifth Amendment analysis ignores important distinctions between the Fourth and Fifth Amendments and glosses over the underlying purpose of \textit{Miranda}.

In general, the result of a search is likely the same regardless of who conducts it. If a student possesses contraband, the search will not yield a different result if conducted by a school administrator rather than an SRO. However, the same cannot be said of an interrogation. The mere presence of a law enforcement figure at an interrogation is likely to create apprehension

\begin{itemize}
  \item \textsuperscript{39} 
  \item \textsuperscript{40} 
  \item \textsuperscript{41} 
  \textit{Id.}
  \item \textsuperscript{42} 
  \item \textsuperscript{43} 
  \item \textsuperscript{44} 
\end{itemize}
and even fear, and the effects can be even greater if the officer participates in the questioning.\textsuperscript{45} Thus, contrary to a search, the effects of an officer's presence or participation are likely to have a direct impact on the results of the process.\textsuperscript{46}

This difference between a search and an interrogation is mirrored in the language of the Fourth and Fifth Amendments. The Court in \textit{T.L.O.} was able to introduce the “reasonable grounds” test based on the special needs doctrine because the Fourth Amendment makes \textit{reasonableness} a chief concern, inviting the balancing of competing interests.\textsuperscript{47} On the contrary, the Fifth Amendment invites no consideration of reasonableness, but rather forbids the compulsion of incriminating statements.\textsuperscript{48} As such, the "special needs" doctrine is wholly out of place in a Fifth Amendment analysis. Rather, an appropriate Fifth Amendment analysis must look to the nature of the setting during questioning and the likelihood for coercion.

In June 2011, the Supreme Court opinion in \textit{J.D.B. v. North Carolina} introduced a new factor into the \textit{Miranda} custody analysis, restored the risk of coercion as the most important factor in a \textit{Miranda} analysis, and thereby restricted courts’ ability to apply the "special needs" doctrine to police interrogations in schools.


In \textit{J.D.B. v. North Carolina}, a 13-year-old, seventh-grade student was escorted from his social studies classroom by police and questioned regarding conduct that occurred off school property.\textsuperscript{49} The student was questioned for at least thirty minutes in a closed-door conference.

\textsuperscript{45} Holland, \textit{supra} note 42 at 65.
\textsuperscript{46} \textit{Id}.
\textsuperscript{47} \textit{Id}. at 66; U.S. Const. amend. IV (protecting against “unreasonable” searches and seizures).
\textsuperscript{48} U.S. Const. amend. V (“No person…shall be compelled in any criminal case to be a witness against himself.”).
\textsuperscript{49} \textit{J.D.B.}, 131 S. Ct. at 2399.
room in the presence of police and school administrators.\textsuperscript{50} He was given no *Miranda* warnings before questioning began, and confessed after officials urged him to tell the truth and told him about the prospect of juvenile detention.\textsuperscript{51} A juvenile delinquency petition was later filed based on his confession.\textsuperscript{52} The public defender assigned to the case argued that the confession should be suppressed, because it was made during a custodial interrogation in the absence of *Miranda* warnings.\textsuperscript{53} However, his motion was denied.\textsuperscript{54}

In a landmark decision, the United States Supreme Court granted *certiorari* and held that a child's age should be considered for purposes of the *Miranda* custody analysis.\textsuperscript{55} The Court recognized that in some circumstances "the child's age would have affected how a reasonable person in the suspect's position would perceive his or her freedom to leave."\textsuperscript{56} The opinion describes children as "possessing only an incomplete ability to understand the world around them" thereby distinguishing them from an adult in a similar situation.\textsuperscript{57} Additionally, the Court pointed to the United States' history of laws and judicial recognition that children cannot be viewed in the same light as adults.\textsuperscript{58} Therefore, the Court concluded that as long as the child's age was known to an officer at the time of questioning or would have been objectively apparent

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{50} *Id.*
\item \textsuperscript{51} *Id.* at 2400.
\item \textsuperscript{52} *Id.*
\item \textsuperscript{53} *Id.*
\item \textsuperscript{54} *Id.*
\item \textsuperscript{55} *Id.* at 2406.
\item \textsuperscript{56} *Id.* at 2403.
\item \textsuperscript{58} *J.D.B.*, 131 S. Ct. at 2404.
\end{itemize}
\end{footnotesize}
to a reasonable officer, it should be a factor considered for purposes of the *Miranda* custody analysis.\(^{59}\)

The Court’s holding is significant in two important ways. First, because age is now a factor that must be taken into consideration when determining whether a reasonable person *of that age* would feel free to leave, *Miranda* is never going to be off the table during schoolhouse interrogations of minor students. Second, the Supreme Court paved the way for lower courts to take into consideration the coercive effects of the school environment when determining whether a schoolhouse interrogation is custodial.

*The Coercive Nature of the School Environment*

While the Supreme Court’s holding in *J.D.B.* is limited to the consideration of age as a factor in the *Miranda* custody analysis, in dicta, the opinion highlights the unique nature of the school environment and the limitations placed on children’s freedom of movement.\(^{60}\) The Court noted that a child’s presence in school is compulsory, and that “disobedience at school is cause for disciplinary action.”\(^{61}\) Thus, the Court in *J.D.B.* recognized the "coercive effect" of the school setting on minors, as a child, whose attendance at school is mandatory, would inevitably view his or her circumstances differently from an adult in a similar situation.\(^{62}\) Once students enter school grounds, they are expected to ask permission, follow school rules, and admit to wrongdoing.\(^{63}\) In school, students must adhere to strict schedules that outline where they are allowed to be, and are

---

59 *Id.* at 2406.

60 *Id.* at 2405.

61 *Id.*

62 *Id.*

not permitted to leave the school without permission.\textsuperscript{64} In fact, students are expected to follow directions, respond to questions by adults, and are disciplined when they refuse.\textsuperscript{65} Accordingly, a student who is removed from a classroom and encouraged by his principal to "do the right thing"\textsuperscript{66} and warned of the "prospect of juvenile detention"\textsuperscript{67} cannot be compared to an adult in a similar situation, not only due to his age, but due to the nature of the school environment.

Additionally, the presence of SROs tasked with maintaining discipline in schools enhances this “coercive effect.”\textsuperscript{68} The Chicago Public Schools budget for the 2010-2011 school year included a $67 million allocation for school security, which includes security officers, metal detectors, and surveillance cameras.\textsuperscript{69} In addition, SROs are often hired by school districts to patrol school hallways full-time.\textsuperscript{70} Thus, when a student is asked to report to the principal’s office under the watchful eye of a police officer, the student would feel that he has no choice but to comply. Furthermore, due to the documentation of student arrests for minor misconduct by SROs in the media, it would not be unreasonable for a student to fear the consequences of disobedience at school.\textsuperscript{71}

\begin{thebibliography}{9}
\bibitem{64} Id.
\bibitem{66} \textit{J.D.B.}, 131, S.Ct. at 2405.
\bibitem{67} Id.
\bibitem{68} \textit{See} Theriot, \textit{supra} note 9 at 284.
\bibitem{70} \textit{See} Kim, \textit{supra} note 11 at 5.
\bibitem{71} Brief Amicus Curiae\textit{ supra} note 65 at 11.
\end{thebibliography}
Moreover, the presence of these officers not only affects school disciplinary procedures but also affects students’ view of their school environment. The presence of SROs in schools causes students and teachers to feel less connected, as the correctional nature of the school environment induces stress and fear. Studies show that students who feel connected to their schools and have strong relationships with the school community have more positive social values and greater academic success. Therefore the stress-inducing presence of SROs does not contribute to student learning or success, but rather serves to push students toward the juvenile justice system by creating an adversarial environment where arrests and adjudication are common.

**Part V: Implications of J.D.B.: Increased 5th Amendment Protections in Schools**

School districts that have teamed up with law enforcement, and have thereby imposed the criminal justice paradigm on students’ behavior at school, must enact policies that are protective of students constitutional due process rights. When the Supreme Court granted juveniles the privilege against self incrimination in 1967, the Court warned that “the greatest care must be taken” to protect juveniles’ Fifth Amendment rights, and charged law enforcement officers with ensuring that confessions are “not the product of ignorance of rights or adolescent fantasy, fright or despair.” In order to meet this requirement, schools must enact policies that require students to receive *Miranda* warnings whenever they are questioned on school grounds regarding conduct.

---

74 Rabinowitz, *supra* note 72 at 167.
75 *Id.* at 169; *See* Kim, *supra* note 8 at 11.
76 *In re Gault*, 387 U.S. at 55.
that could result in the filing of a delinquency petition by 1) an SRO, or 2) by a school official in the presence of or in conjunction with a school resource or law enforcement officer.

The Court’s recognition in *J.D.B.* that some school settings and law enforcement practices do create genuine risks of coercion, means that neither officers nor the school officials with whom they collaborate can assume that *Miranda* is inapplicable merely because the officials, rather than the officers, question students. Whenever students are taken out of their regular routine or are questioned by a school official in a private setting there is an element of coercion. This coercive element is only amplified by the presence of law enforcement officers. Thus, schools must comply with *Miranda* requirements whenever a student’s liberty is at stake. This increased regulation of schoolhouse interrogations need not unduly interfere with school-based policing and the work of SROs. Warnings need not be provided every time a student is questioned about school misconduct, but officers should not be permitted to "take advantage of the school environment to coerce statements that they would not be able to obtain through questioning away from school grounds." Thus schools must safeguard students’ constitutional rights regarding any serious offense that could result in the filing of a juvenile delinquency petition. If *Miranda* warnings are not required for every serious offense, police officers may be able to abuse to school grounds to obtain information that they would otherwise be unable to attain. Thus schools need not merely craft this policy, but must enforce it. Therefore, SROs should be trained that *Miranda* warnings are necessary whenever there is the possibility that a juvenile petition for such crimes as theft, violence, or drug possession will be filed against a student.

---

77 Brief Amicus Curiae, *Supra*, note 65 at 55.
78 *Id.*
Furthermore, in order to best ensure that SROs uphold students’ constitutional rights in the exercise of their disciplinary responsibilities, districts must provide these officers with appropriate training. Currently, there are no national training requirements for school security officers. Rather, the procedures that security staff follow are typically dictated by the policies and procedures of individual school districts. While these policies may provide some guidance, they are typically written with teachers and administrators in mind as opposed to law enforcement officers. Thus, there is a great need for SRO-specific training and guidance.

In Illinois, school districts are given a certain amount of money each year and can choose how to spend it- whether on training for resource officers or other educational material. According to the National Institute of Justice and the U.S. Department of Justice, one of the most frequent and destructive mistakes by districts regarding funding SRO programs is that they fail to define the SRO's roles and responsibilities before these officers begin working in schools. As a result, these officers may not have a clear understanding of their role in the school and may push students further from the school culture and disengage them from a positive school environment.

In order to ensure that students are not pushed further from the positive school environment due to interaction between officers and students, SROs should receive mandatory training regarding how to address issues unique to the school setting. First, officers should receive training on how to distinguish between crimes that are merely disciplinary misconduct

---

79 E-mail interview with Ken Trump, President of National School Safety and Security Services, Cleveland, OH. (Oct. 3, 2011).
80 Id.
81 Id.
82 Id.
83 See Kim, supra note 11 at 6.
84 Id.
and those that are criminal offenses. In conformance with the holding in *Graham v. Connor*, officers should first evaluate whether an "immediate threat to safety" is posed by an individual. If there is an "immediate threat to safety" such as possession of a weapon or physical violence, a resource officer should be able to intervene and prevent such violence. On the other hand, for offenses such as "disorderly conduct; disturbance/disruption of schools or public assembly; trespass; loitering; profanity; and fighting that does not involve physical injury or a weapon," the school should take its own disciplinary approach, with the role of the SROs limited to merely upholding school policy. In schools that fail to differentiate between serious crimes and those of mere misconduct, students often receive the same, more serious punishment regardless of the offense. Therefore, in order to ensure that the punishment is appropriate, and that delinquency petitions are only issued when absolutely necessary, SROs must be trained to appropriately evaluate the immediacy of the threat posed by a student's conduct. It is when a serious threat is imposed, that *Miranda* warnings will most likely be necessary.

Second, SROs must be trained to understand the role of students and the mission of education. Many SROs are retired police officers or practicing officers hired by the school who may have had limited to zero interaction with children, and only limited understanding of the educational system. If one of the goals of education is to "maximize student learning by providing safe, supportive, and engaging environments in which learning can take place," SROs must be trained on how best they can assist in achieving that goal. When children are

---

85 *Id.*
87 *See* Kim, *supra* note 11 at 12.
88 *Id.*
89 *Id.*
90 *Id.*
exposed to harsh punishment by SROs, they often feel less connected to teachers and other members of the education community. Additionally, children who are receiving such punishment range in age from kindergarten to high school. Children at some ages may be incapable of forming the requisite mens rea or criminal intent to commit crimes. SROs who do not understand the key developmental differences between children and adults may "resort too quickly to using handcuffs or treating misconduct as part of a person's criminal make-up when in a student the behavior may be an example of youthful indiscretion." Therefore, SROs must be trained to understand unique issues relating to children in schools such as child development and psychology as well as children with special needs in order to ensure that students continue to feel connected to teachers and promote effective education.

Additionally, once each district develops a plan for how to best train SROs based on each district's individual needs, this plan should be recorded and distributed to SROs to ensure that all officers are aware of standardized procedures that will ensure the successful collaboration amongst various stakeholders in the educational setting. For instance, although the Code of Conduct for Chicago Public Schools has been revised in recent years, individual schools are still not provided with clear expectations and guidelines as to how to respond to misconduct. By standardizing procedures and providing mandatory training for SROs, school districts will better

93 Id. at 3.
95 Id.
96 See Kim, supra note 11, citing Peter Finn et Al., CASE STUDIES OF 19 SCHOOL RESOURCE OFFICER (SRO) PROGRAMS, 53 (2005).
97 Id.
98 Voices, supra note 69 at 27.
be able to ensure that discipline is administered fairly and proportionately, and that students’ constitutional rights are protected.

**Conclusion**

As school officials and law enforcement officers continue to work together to maintain order and institute discipline in schools, students’ constitutional rights will continue to be implicated. However, the "special needs" doctrine that enables schools to curtail students’ Fourth Amendment rights on school grounds should not apply to considerations of students' Fifth Amendment rights. Rather, when students’ Fifth Amendment rights are implicated, the analysis must look to the age of the child and the coercive effect of the environment where the interrogation is taking place. Due to restrictions on students’ freedom of movement on school grounds, in addition to the emphasis on honesty and compliance in schools, the school environment will almost always be a coercive environment for an interrogation of a student. However, when SROs are involved, the coercive effect of the environment is beyond doubt, regardless of who is doing the questioning. Therefore, to safeguard students’ Fifth Amendment protection against self-incrimination, schools must enact policies regarding *Miranda* warnings. A *Miranda* policy should require the issuance of warnings whenever a student is questioned in the presence of law enforcement officers regarding conduct that could result in the filing of a delinquency petition. By enforcing this policy and by training SROs on the appropriate ways to discipline students and when *Miranda* warnings are required, schools can ensure that students “do not shed their constitutional rights at the schoolhouse gate.”

---

99 *Tinker*, 393 U.S. at 506.