IN THE SUPREME COURT OF OHIO

IN RE L.G., A Minor Child	:	Case No. 2017-0877
	:	On APPEAL from the Montgomery County Court of Appeals Second Appellate District
	:	C.A. Case NO. 27296

BRIEF OF AMICI CURIAE, JUVENILE LAW CENTER, OFFICE OF THE OHIO PUBLIC DEFENDER, CHILDREN'S LAW CENTER, INC., EDUCATION LAW CENTER-PA, JUVENILE JUSTICE COALITION, NATIONAL JUVENILE DEFENDER CENTER, AND SCHUBERT CENTER FOR CHILDREN'S STUDIES, IN SUPPORT OF APPELLANT, L.G.

Marsha L. Levick (PHV 1729-2018)
Mathias H. Heck Jr. (0014171)

[redacted]

Juvenile Law Center
1315 Walnut Street, 4th Floor
Philadelphia, PA 19107
(215) 625-0551
(215) 625-2808 (fax)
mlevick@jlc.org

Christina E. Mahy (0092671)
Montgomery County Prosecutor's Office
Appellate Division
P.O. Box 972
301 W. Third St., 5th Street

Rickell Howard (0081982)
Ohio Director of Litigation and Policy
Children's Law Center, Inc.
1002 Russell Street
Covington, KY 41011
(859) 431-3313
(859) 655-7553 (fax)
rhoward@childrenslawky.org

Attorney for Amicus Curiae
Children's Law Center, Inc.

Erin Davies, (0078248)
Executive Director, Juvenile Justice Coalition
P.O. Box 1016
Worthington, Ohio 43085
(614) 400-5848
edavies@jjcohio.org

Attorney for Amicus Curiae
Juvenile Justice Coalition

Michael Deffet (0051976)
Montgomery County Public Defender's Office
117 South Main Street, Suite 400
Dayton, Ohio 45402
(937) 496-7476
(937) 225-3449 (fax)
deffetm@mcohio.org

Counsel for Minor Child-Appellant, D.M.

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Statement of Interest of Amici Curiae

Juvenile Law Center advocates for rights, dignity, equity, and opportunity for youth in the child welfare and justice systems through litigation, [redacted]

briefs, policy reform, public education, training, consulting, and strategic communications. Founded in 1975, Juvenile Law Center is the first non-profit public interest law firm for children in the country. Juvenile Law Center strives to ensure that laws, policies, and practices affecting youth advance racial and economic equity and are rooted in research, consistent with children's unique developmental characteristics, and reflective of international human rights values. Juvenile Law Center has represented hundreds of young people and filed influential amicus briefs in state and federal cases

and societal change. For nearly 30 years, CLC has worked in many settings, including the fields of

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services, and are represented by counsel. For the past ten years, CLC has worked on issues facing Ohio youth prosecuted in juvenile and adult court, including ensuring that youth receive constitutionally required protections and due process in educational settings, as well as delinquency

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public defenders, appointed counsel, child advocates, law school clinical programs, and non-profit law centers to ensure quality representation and justice for youth in urban, suburban, rural, and tribal areas.

The Second District Court of Appeals addressed the facts below as follows:

On October 27, 2015, a person called the Dayton Regional Dispatch Center and claimed that there was a bomb in Dayton's Longfellow Alternative School. The police contacted school

had witnessed the questioning. Officer Stewart placed L.G. under arrest and transported him

The following day, the Dayton Police Department filed a complaint alleging that L.G. was a delinquent child for committing the offense of inducing panic under R.C. 2917.31(A)(1), a second-degree felony under R.C. 2917.31(C)(5). L.G. filed a motion to suppress the statements that he had made to Bullens, arguing that the questioning was not conducted with his (L.G.'s) consent and that he was not advised of his *Miranda* rights before the questioning. The matter

Argument

Introduction

"[N]o person shall be 'compelled' to be a witness against himself when he is threatened with deprivation of his liberty." *In re Gault*, 387 U.S. 1, 50, 87 S.Ct. 1428, 18 L.Ed.2d 527 (1967). Moreover, a suspect must be warned of his constitutional rights to remain silent and to appointed counsel when

choice." *Miranda v. Arizona*, 384 U.S. 436, 457, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966). Absent a waiver

appropriate test is whether a "reasonable child" would feel free to leave and terminate the interrogation. *Id.* at 271. These conclusions are grounded in research showing that children's

Id. at ¶ 1, 19-24. The courts' holdings below protect the constitutional rights of children, giving them

J.D.B., 564 U.S. at 281. For the reasons that follow, and for those outlined in L.G.'s answer brief, *Amici Curiae* urge this Court to affirm the decisions of the Montgomery County Juvenile Court and Second District Court of Appeals.

Amici Curiae's Response to Petitioner's Proposition of Law

custodial interrogation is so immense that it can induce a frighteningly high percentage of people to confess to crimes they never committed * * * That risk is all the more troubling -- and * * * all the more acute – when the subject of custodial interrogation is a juvenile."). Children are more at risk of

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adults, * * * often lack the experience, perspective, and judgment to recognize and avoid choices that

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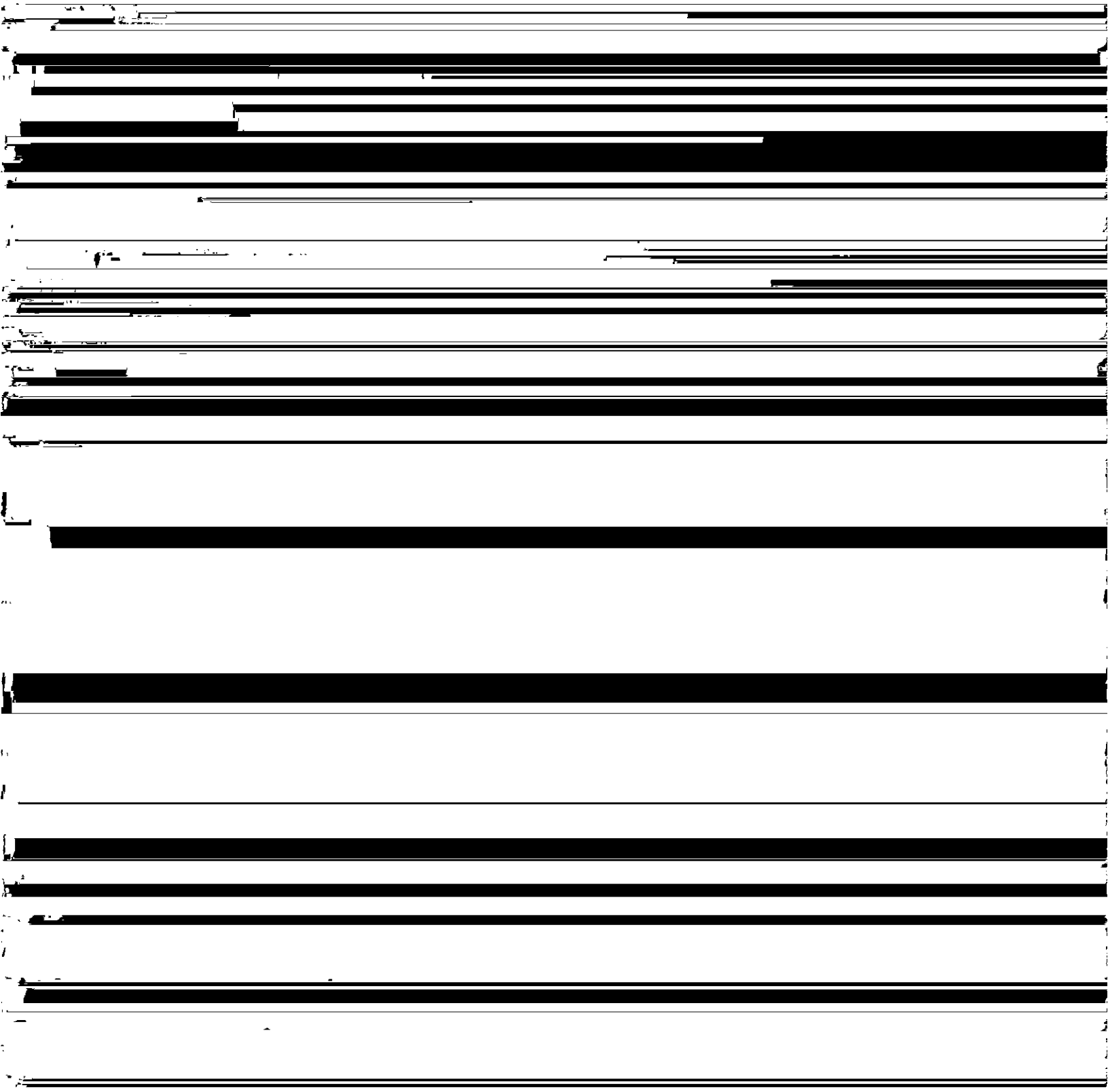
"absurdity," since a minor's developmental status, including age, informs his or her perspective. *Id.* at 276.

St.3d 1, 2016-Ohio-2708, 73 N.E.3d 365 at ¶ 24 (noting that "[a] juvenile's access to advice from a parent, guardian or custodian also plays a role in assuring that the juvenile's waiver is knowing,



more susceptible to coercion than adults. Psychological studies and false confessions

encounter with authority figures. Saul M. Kassin et al., *On the General Acceptance of Confessions Research:*

"certain police interrogation techniques are psychologically potent and [the stress of determining

arrival of law enforcement to the department store. *Id.* at 16-17. In that case, the security guard was nothing more than an employee of the department store who had no power of detention other than that granted by other store employees. *Id.* at 17. The guard was therefore not acting under the direction of law enforcement when he questioned Mr. Bolan. Such was not the case here.

Today, public schools have increased the presence of law enforcement on their campuses, which has led to greater cooperation between school officials and police and increased student interactions with law enforcement. Kristi North, *Recess is Over: Granting Miranda Rights to Students*

investigation in this case was initiated when Bullens received a call from the Dayton Police Department Regional Dispatch. (10.6.15 Entry p.4).

The employment structure of Director Bullens and other school officials is also significant here. Rather than being a school employee who was at Longfellow Alternative on a regular basis, Director Bullens—a retired police officer with 23 years of experience in law enforcement, is the Executive Director of Safety and Security for all the City of Dayton Public Schools. (12.22.15 T.p. 17). He supervises 40 employees, including the 26 school resource officers who were trained as peace officers for the district and sworn in through the City of Dayton Police Department as

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Bullens's school resource officers carry handcuffs and have authority to arrest individuals for

L.G. at ¶ 22. Immediately after Bullens was finished questioning L.G., the youth was "handed off" to a police officer who immediately placed L.G. under arrest and transported him to West Patrol Operations to be questioned further. (10.6.15 Entry p.5).

Both the court of appeals and juvenile court found that the above-referenced factors created a "great deal of entanglement" between Director Bullens and the local police department such that Director Bullens was acting "in conjunction with law enforcement officers, [and] *Miranda* warnings were required." *L.G.*, 2017-Ohio-2781, 82 N.E.3d 52, at ¶ 22.

The Second District expressly stated that it was not holding "as a per se proposition that *Miranda*

"Bullens's questioning of L.G. was part of the criminal investigation, not simply the school district's investigation, into the bomb threat at Longfellow Alternative School" and that his "interactions with the police following the bomb threat, including his interview of L.G. in the presence of police officers, reasonably rendered him an agent of law enforcement for purposes of *Miranda*." *Id.* at ¶ 23.

procedural safeguards to secure the privilege against self-incrimination."). Thus, in the absence of *Miranda* warnings, statements elicited during custodial interrogations are presumptively coerced and must be suppressed. *United States v. Patone*, 542 U.S. 630, 639, 124 S.Ct. 2620, 159 L.Ed.2d 667 (2004).

In reviewing a motion to suppress, the appellate court is bound to accept the trial court's

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10-63, 2012-Ohio-2361, ¶ 20-22, citing *State v. Burnside*, 100 Ohio St.3d 152, 2003-Ohio-5372, 797

In analyzing the interrogation here, *J.D.B.* is instructive. J.D.B. was 13 years old when he was removed from his classroom and taken to a closed conference room where he was questioned for 30-45 minutes by police about a break-in, in the presence of the assistant principal and an administrative intern. *J.D.B.* at 265-266. The officers did not read J.D.B. his *Miranda* rights. *Id.* J.D.B. initially denied

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the assistant principal, J.D.B. made incriminating statements to the officers. *Id.* at 266. In analyzing whether the reasonable person standard applied, the Court found that "[i]t is beyond dispute that children will often feel bound to submit to police questioning when an adult in the same circumstances would feel free to leave." *Id.* at 264. Accordingly, the Court established the reasonable juvenile

Crime Stoppers award had been offered; all students were gathered in the gymnasium during the search of the school and were not permitted to leave; L.G. was taken to the cafeteria by a school

was questioned by the school district's Executive Director of Safety and Security, not a staff member

[redacted]

(614) 752-5167 (fax)
brooke.burns@opd.ohio.gov

Counsel for Amicus Curiae
Office of the Ohio Public Defender

(215) 625-2808 (fax)
mlevick@jlc.org

Counsel for Amici Curiae, Juvenile Law Center, Education Law Center-PA, National Juvenile Defender Center, and Schubert Center for Children's Studies

/s/: Rickell Howard
Rickell Howard (0081982)
Ohio Director of Litigation and Policy
Children's Law Center, Inc.
1002 Russell Street
Covington, KY 41011
(859) 431-3313
(859) 655-7553 (fax)
rhoward@childrenslawky.org

Attorney for Amicus Curiae
Children's Law Center, Inc.

Certificate of Service

I hereby certify that a copy of the foregoing **BRIEF OF AMICI CURIAE JUVENILE LAW CENTER, OFFICE OF THE OHIO PUBLIC DEFENDER, CHILDREN'S LAW CENTER, INC., EDUCATION LAW CENTER-PA, JUVENILE JUSTICE COALITION, NATIONAL JUVENILE DEFENDER CENTER, AND SCHUBERT CENTER FOR CHILDREN'S STUDIES, IN SUPPORT OF APPELLANT, L.G.** was sent by regular U.S. mail, postage prepaid, to Mathias H. Heck, Jr., Montgomery County Prosecutor, 301 West Third Street, 5th Street, Dayton, Ohio 45422, Christine E.