

Children's Rights and Police Questioning



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Centre for Children's Rights
and Family Law
School of Law



AN TÚDARÁS PÓILÍNEACHTA
POLICING AUTHORITY

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Legal Framework and Standards

- ▶ Children Act 2001 – rights of children during Garda questioning:
 - ▶ Duty to act with due respect for the rights of the child, in light of their vulnerability, age and maturity and special needs (s 56)
 - ▶ Right to be informed in appropriate language of the charge, the right to contact a solicitor and parent contact (s 57) and to notify parents of arrest (s 58)
 - ▶ Child must be interviewed in presence of parent or ‘another adult’ (s 61)
- ▶ Convention on the Rights of the Child, 1989/European Guidelines on Child-friendly Justice, 2010
 - ▶ Age-appropriate protections, due process rights and safeguards essential in the justice system
 - ▶ Justice system must be adapted to take account of the circumstances and needs of the child
 - ▶ Specialised training and approaches are key
- ▶ Small scale study to understand **children’s experiences of their rights during garda questioning** involving children (20), Gardaí (9), Lawyers (4) and Parents/Adults in a supportive role (3)

Findings (1)

1. The experiences of young people varied:

- ❖ For some it was **“grand”** or **“straightforward”**,
- ❖ Others had more negative experiences, with Gardaí **“shouting”**, being **“very angry”**, or being **“rough”**
- ❖ Young people spoke about feeling as though they were being **“tricked”**
- ❖ Young people had a wide range of emotions during interviews, with some saying they were **“nervous”** or **“scared”** and others saying **“you get used to it”**

2. Key **challenges** and diverse **perspectives**:

- ❖ Language and understanding
- ❖ The approach of Gardaí
- ❖ Perceptions of how young people coped with the experience (Gardaí, lawyers, parents/caring adults)

Findings (2)

3. Right of access to a solicitor

- ❖ Young people found it **“very, very helpful”**
- ❖ Others waived this right – **“wanted to get out of there as fast as possible”**, waiting was **“a whole lot of hassle”** there was **“no point”**

4. Garda approach can have significant impact on how young people felt about the overall experience, their understanding of their rights and information given to them, and the consequences for the young person

- ❖ **“I’ve been interviewed ..a load of times ... there’s definitely nicer Guards and there’s worse Guards”**
- ❖ Good awareness of the need to modify language but methods of doing this varied
- ❖ Perception of a wide gap between Garda and young person’s perspective
 - ❖ **“it’s not the end of the world”**

Findings (3)

4. Need for age-appropriate approach highlighted by many participants
 - ❖ ***“For me like...I suppose it could be more child friendly like... Like you know they treat you the same as they treat an adult”*** (Young Person)

5. Consistency in practice is a key issue
 - ❖ Widely different experiences reported by young people and by lawyers
 - ❖ Some Gardaí were more aware of the need to make modifications than others

- Key challenges in (in)consistency and extent to which children’s rights standards are being applied in practice
 - Value of hearing directly from young people
 - And the 360 perspective.



Recommendations

- ▶ Law and policy reform
 - ▶ Appropriate adult scheme
 - ▶ Consider removing child's right to waive access to a solicitor
 - ▶ Enhanced guidance on protection of children's rights during Garda questioning
- ▶ Reiterate zero tolerance of unacceptable behaviour – effective access to complaints mechanisms
- ▶ Mainstream child-specific training for Gardai and Lawyers
- ▶ Develop child specific communication resources
- ▶ Engagement with young people to develop appropriate policy responses and the review of practice

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