

HUMAN RIGHTS

Review of Children and Young People and Policing

DECEMBER 2024

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This report was prepared by the Policing Board's Human Rights Advisor with the assistance of the Board's Human Rights and Professional Standards team. The Policing Board, by consensus, has adopted and published this report but not every member of the Board endorses each and every part of this report.

INTRODUCTION

At a number of meetings of the Northern Ireland Policing Board during 2023, issues of concern relating to the treatment of children and young people by police officers were raised by Members of the Board. These included strip searches of children in custody and the increasing number of children stopped and searched by the PSNI. The Board then requested the Human Rights Advisor to examine these issues in more detail. The Human Rights Advisor first examined the issue of strip searching in custody and produced the [Human Rights Review Children and Young People: Strip Searching in Police Custody](#). This report has had an impact on effecting change in the way PSNI now carry out this process within custody suites.

The Board has now asked the Human Rights Advisor to extend his examination to how the PSNI engage with children and young People in general and to identify areas where PSNI can make improvements to how it carries this work out. The Board previously examined these issues in 2013 in its Human Rights Thematic Review: Policing with Children and Young People and it was overdue to re-examine this area again. Therefore, the Human Rights Advisor has undertaken a major piece of research in the chapters below.

This report focuses on the main areas where children and young people come into contact with the PSNI and where there is the greatest potential for impact on their human rights. It begins with an examination of PSNI's use of force and particularly focuses on the areas of stop and search, arrest, custody and spit and bite guards where children and young people are involved. It continues to examine the areas where children and young people are likely to be victims and examines the current issues with paramilitarism, child sexual exploitation, child criminal exploitation and the use of the national referral mechanism in Northern Ireland. The report also highlights the current issues with privacy and surveillance and the difficulties experienced by young people, particularly in relation to their mobile phones and social media. Other issues that the report considers are human trafficking, hate crime and young people in care. Therefore, this report covers important issues for children and young people at present.

The main purpose of this research is to improve how PSNI engages with and treats young people and to identify ways to enable PSNI to deliver a better service to children

and young people, to be more effective and more child focussed. It will also contribute to assisting with better implementation of the PSNI's Children and Young People's Strategy. The report aims to contribute to build trust, ensuring that children and young people will feel more confident in reporting incidents to the PSNI. The findings in the report also point to the importance of neighbourhood policing in building trust and relationships with children and young people. These officers are much more aware of the issues in the local area and those affecting the young people. In the current financial climate, neighbourhood police officers are currently not being replaced and this report provides further evidence of the need to invest and maintain the presence of sufficient neighbourhood officers. The evidence points to children and young people experiencing more problems with officers who they are not familiar with or who are not familiar with the issues and the local area.

Conversations with the young people directly has revealed how communication is also really important. Our findings illustrate how officers engage with children and young people in person and how language and attitude can either escalate or calm a situation. Moreover, we found that how officers perceive children and young people and have preconceived ideas of how they are going to behave/react can have an impact. There is a need to for communication and especially written information to be clearer and more child friendly so that children and young people can understand why and what is happening during an engagement with police officers. The PSNI also need to understand the importance and impact that the retention of mobile phones and other devices can have on young people as daily life and essential communications and services revolve around mobile phones.

As part of conducting this research, the Human Rights Advisor met with children and young people directly and engaged with those key organisations that advocate on behalf of children and young people to listen to their needs and concerns and to help identify areas for improvement. It is hoped that this document captures the essence of those conversations so that improvements can be made that have a positive impact for children and young people. Therefore, this report identifies sixteen recommendations in each of the chapters that aim to improve the PSNI's interactions with young people and to improve the service that PSNI currently provides to children and young people.

This report was researched and written over the first six months of 2024 and many of the statistics are for the year April 2023 to March 2024. There were significant public order issues and attacks on minorities and immigrants in Northern Ireland in the summer of 2024 and they deserve proper consideration and the Board decided not to add this issue to this report in its final stages.

RECOMMENDATIONS

OVERALL RECOMMENDATION

Within six months of the publication of this report the PSNI should provide an interim report and within 12 months a full update report to the Board on the progress and outcomes in meeting all the following recommendations alongside progress in implementing its Children and Young Person's strategy.

RECOMMENDATION 1:

The PSNI should review all of its policies and practices in order to minimise the use of force, particularly the use of weapons, against children under the age of 14. In the meantime, the PSNI should amend its policy to ensure that, as far as possible, spit and bite guards are never used on any child younger than 14 years of age.

RECOMMENDATION 2:

The PSNI should review all of the PSNI's policies and practices in relation to the stops and searches of children between the ages of 10 and 14.

RECOMMENDATION 3:

The PSNI should publish more detailed statistics in relation to Justice and Security Act (JSA) powers including the exact age of the children stopped and searched.

RECOMMENDATION 4:

The PSNI should publish annually the community background figures for arrest and custody of children and young people.

RECOMMENDATION 5:

The PSNI should report on the numbers, ages, and the offence for which they were arrested of all children and young people who have been detained in police custody for more than two hours and the length of time that they were detained.

RECOMMENDATION 6:

The PSNI should provide the Board annually with the numbers of children and young people who were not brought before the custody officer on arrival at the police station, their ages and the reasons why there was a delay.

RECOMMENDATION 7:

The PSNI should report to the Board what the barriers and obstacles are to increasing the diversion of children and young people away from the formal justice system.

RECOMMENDATION 8:

The Department of Justice should increase the minimum age of criminal responsibility in Northern Ireland to at least 14 years of age in order to comply with the recommendations of the UN Committee on the Rights of the Child.

RECOMMENDATION 9:

The PSNI should report on how they intend to achieve their objectives in supporting children at risk of offending or becoming victims of crime when neighbourhood police and other officer numbers are falling.

RECOMMENDATION 10:

The PSNI should investigate on how better data could be collected on boys and girls involved in Child Criminal Exploitation and/or Child Sexual Exploitation in order to consider and review the current policies and approaches.

RECOMMENDATION 11:

In the absence of a statutory definition of Child Criminal Exploitation the PSNI should adopt the following definition:

“Child criminal exploitation is a form of child abuse which occurs where an individual or group takes advantage of an imbalance of power to coerce, control, manipulate or deceive a child or young person under the age of 18 into any criminal activity. The exploitation (may be) through violence or the threat of violence (but may also appear to be transactional and in the context of perceived relationships and friendships). The victim may have been criminally exploited even if the activity appears to be consensual. Child criminal exploitation does not always involve physical contact. It can also occur through the use of technology (and social media). The criminal exploitation of children (and young people) can include being exploited into storing drugs or weapons, drug dealing, theft, violence, intimidation, vandalism, forced labour and other forms of criminality through grooming by people that children and young people trust or look up to.”

RECOMMENDATION 12:

The PSNI should meet regularly with the Commissioner for Victims of Crime, Victim Support and Assist NI to ensure the best possible ways to protect children and young people are identified and that additional training is provided to officers to help them with the process of referral to Victim Support and Assist NI.

RECOMMENDATION 13:

Data outcomes of campaigns relating to Child Sexual Exploitation, Sextortion and Sexting should be included in the PSNI reports to the Board twice a year.

RECOMMENDATION 14:

The PSNI should not in any circumstances, use children and young people as Covert Human Intelligence Sources.

RECOMMENDATION 15:

The evidence from this report appears to indicate that some young people do not report sexual crimes that have involved their telephones and other devices. This may be partly due to the fear that they themselves may be prosecuted and to a fear that their devices will be retained for long periods. The PSNI, therefore, should address these issues by:

- Setting up a speedier triage system and change its system of priorities so that the importance of the device to the victim is taken into account in how long the device is retained.
- The investigating officers need additional training to ensure that only the necessary data is being sought and that the device is returned as quickly as possible.
- Through school/youth settings, community visits and other outlets the PSNI should revisit its messaging around the sending and receiving of photographs. This is to ensure if young people are a victim they should report this crime and need not be afraid of the consequences if the image and its original communication was consensual. The victim should be reassured the real perpetrator is the person circulating the photographs.

- The current procedure for dealing with devices provides that the PSNI investigating officer completes an online form with details of what information needs to be retrieved, the nature of the incident and details of the device owner. A copy should be provided to the child when it is sent to the Cybercrime department.

RECOMMENDATION 16:

The PSNI should report twice a year to the Board on the progress and on the outcome of referrals made to National Referral Mechanism (NRM).

EXECUTIVE SUMMARY

The Northern Ireland Policing Board, as part of its continuing duty to monitor the Police Service of Northern Ireland's (PSNI) compliance with the Human Rights Act 1998 and to ensure fair, effective and efficient policing of all people in Northern Ireland, has identified policing with children and young people as a priority for the Human Rights Advisor. However, many of the issues identified in this report do not cease when a person reaches the age of 18.¹

The Policing Board carried out its first review focussing on children and young people in 2011, with an update published in 2013, following a series of engagements with NGOs and young people.² Those reviews focussed on areas informed by these engagements: anti-social behaviour, dispersal policy and practices, and alternatives such as restorative justice.

The previous Chief Constable introduced a new Children and Young People Strategy in June 2023 stating that:

“There are many circumstances where children and young people come into contact with police and I want to work with our partner agencies to take steps to develop a greater understanding of the needs of children and young people and to encourage more meaningful relationships by building greater trust and confidence. I recognise the importance of clearly setting out our commitments to the children and young people across Northern Ireland and to the people who support them and care for them.

The strategy also takes into account our responsibilities as outlined in the UN Convention on the Rights of the Child as well as recognition through Programme for Government, acknowledging the importance of giving our

¹ Overcoming ‘Sheriff Syndrome’: Exploring Young Adults’ Experiences of Policing in Northern Ireland
Brendan Coyle, 2023 – his study ‘is anchored in an analysis of in-depth narrative interviews with young adults, predominantly young men, in Belfast, Northern Ireland. Their accounts unveil the latent risks of police approaches that may pivot on the ‘age and/or lack of maturity’ of young adults.’

² [Policing with and for Children & Young People final January 2011 \(PDF 1.1 MB\) | Northern Ireland Policing Board \(nipolicingboard.org.uk\)](#) [Policing With Children and Young People November 2013 - UPDATE | Northern Ireland Policing Board \(nipolicingboard.org.uk\)](#)

children and young people the best start in life in its commitment to young people.

It is our aim that this strategy will build on the trust and confidence which children and young people have in their police service and give them a voice through the roll out of Youth Reference, Engagement and Listening events in partnership with the Education Authority Youth Service.”³

More recently, Assistant Chief Constable Singleton, set out his support for the implementation of this Review:

“Firstly, I would like to indicate that I welcome this review. It is extremely important that we consider any information that may assist us in serving those in our community who are vulnerable owing to age. Keeping people safe is at the core of what we do as a Police Service and this includes those children and young people we engage with, either as a victim or a person of interest.

How we engage with children and young people touches on every element of policing, which is supported by the number of thematic areas you have outlined in your letter. The level of focus the Police Service of Northern Ireland places on this type of engagement or interaction means that we hold a significant amount of related documentation.”⁴

One section of the report will assess the extent that PSNI protects children and young people as victims, potential victims or the children of victims particularly focusing on the areas of Child Sexual Abuse and Child Criminal Exploitation. It will examine whether PSNI complies with the Human Rights Act and international human rights more widely, particularly those human rights treaties agreed and ratified by the UK government.

Protecting children from harm is a key police priority and in June 2023, the PSNI launched their Children and Young Person Strategy to provide a commitment to young people, highlight the views of the child, engage and listen with partner agencies and with children and young people. The strategy has five key themes:

³1st REaL event held on 7 October 2023

⁴ Letter to the Human Rights Advisor, 15 March 2024.

- Engagement;
- Safety and Protection;
- Suspected Offending;
- Victims and Witnesses and
- Stop and Search.

Two areas of this strategy are key when considering the human rights of children and young people as victims. These are Safety and Protection and Victims and Witnesses. In relation to Safety and Protection, the PSNI have teams of specially trained child protection officers who are located throughout NI “whose job is dedicated to minimizing the risk of sexual harm and exploitation to young people and to identify and prevent those persons who would do young people harm, whether that harm is in private, in the community or online”.⁵

The Victims and Witnesses theme commits to “treat you with courtesy and fairness and respect if you are a victim or witness of crime. It also aims to meet your request to speak to an officer of your preferred gender if you are the victim of crime and take into consideration the level of your vulnerability and if necessary, bring in other partners to ensure you are being given the appropriate support. Talk to you about processes involved in your care and keep you informed about its progress”⁶. The strategy also highlights the need for training and development of officers including equipping them with the skills required to engage effectively to promote better outcomes.

The Children and Young Peoples strategy should be considered in tandem with the Violence Against Women and Girls strategy launched in September 2022. The PSNI acknowledged they would have to seek advice from other criminal justice and community partners to enhance knowledge and expertise in some areas and to provide guidance in making the correct policy decisions including on human rights.

The PSNI receive funding through The Northern Ireland Executive’s Tackling Paramilitarism, Criminality and Organised Crime Programme. This is a cross

⁵ PSNI Children & Young People Strategy (page 23)

⁶ PSNI Children & Young People Strategy

Executive Programme using a public health model and using evidence to address the vulnerabilities and issues associated with the harm caused by paramilitaries to communities and individuals. The Programme's aim is to create safer communities that are resilient to paramilitarism, criminality and coercive control.

The PSNI provided an update in January 2024 to the Partnership Committee on the progress of the Children and Young People Strategy. They commenced a new method of engagement through REaL events. (Reference, Engagement and Listening). These events provide the PSNI with an indication of how they are performing in the community. This is achieved through dialogue and feedback from community representatives and stakeholders.

Two areas of concern that were raised from the first event were training and the need for young peoples' voices to be heard. In response to this the PSNI with NIPB and PONI have developed the Youth and Policing Partnership Forum which takes on the format of the Youth Champions Forum which currently takes place three times a year.

The Youth Champions Forum is made up of representatives from various statutory and voluntary sector groups who work with or are involved in children's issues. They engage with the PSNI to build policies to assist in achieving the objectives of the children and young person strategies.

Committee members in January 2024 highlighted the need for the Youth and Policing Partnership Forum to be representative of all communities including those with children with a disability, child refugees and looked after children. It was accepted that it was important to speak to a diverse range of young people and for the forum not to be merely tokenistic. The PSNI responded by confirming the group should have a purpose, be representative and inclusive and to also hold sessions beyond just in Belfast.

Young people have also raised the issue that messaging from the police is not reaching them. A child friendly app was suggested to provide information on children's rights, information on how to protect themselves and what to expect if you come into contact with the PSNI. It would also be a platform for any further positive initiatives to be promoted. After discussion it was agreed that the best platform would be a Webpage rather than an app.

The PSNI Public Protection Branch (PPB) has five area-based teams, aligned with the five health and social care trusts and take the lead when investigating crimes against children and young people. The teams are made up of officers who have developed specialist knowledge in child abuse, child sexual abuse and exploitation including online crime, rape crime, interfamilial abuse and domestic violence. Most incidents involving children are investigated by PPB officers while local policing deals with less significant incidents but with the support of PPB if safeguarding issues arise. PPB, through the joint protocol work with social services to ensure that each child has the correct support. NGO's argue, however, that the joint protocol is not effective in every circumstance and should now be revised to meet the needs of children in the current environment. At present, PPB would not be referred cases of children and young people who are victims of Child Criminal Exploitation (CCE). The PSNI's Organised Crime Branch are conducting research into CCE and the police response to this to establish if there are lessons to be learnt. Children who are at risk of CSE, CCE and who are known to police would be flagged on the niche system and specialist officers can then be assigned to their cases.

The HMICFRS inspection of police effectiveness, efficiency, vetting and standards, (Oct 2023) commented that the PPB had strong governance structures and highlighted that senior leaders had a good knowledge of safeguarding. They reported that the PSNI has a good understanding of the nature and scale of vulnerability and prioritised protection of vulnerable people. The PSNI also has a good understanding of threats posed by domestic abuse and child abuse.

The two new strategies, Violence Against Women and Girls and Children and Young People, will take time to show meaningful change and the Board will need to hold the PSNI to account for the progress they are making and whether any other important issues need to be addressed. If children and young people do not see a change in how they are policed and treated by the police, then the strategies will not succeed. It is important that the strategy is effectively delivered and will require appropriate funding to ensure effective and measurable outcomes are achieved. The current NI Policing Plan provides a way of measuring the PSNI's progress alongside HMICFRS and CJINI reports.

CHAPTER 1: USE OF FORCE

The use of force by police officers is one of their most significant and symbolic powers and engages Article 2 (right to life), Article 3 (prohibition of torture and inhuman or degrading treatment or punishment) and Article 14 (prohibition of discrimination). Police officers have the authority to use force in order to defend themselves or others, to effect arrest, to secure and preserve evidence or to uphold the peace. The legal basis for the use of force comes from several areas of law including, common law and statutory law, for example, Section 3 Criminal Law Act (NI) 1967, Article 88 Police and Criminal Evidence (NI) Order 1989, Public Order (Northern Ireland) Order 1987 and the Human Rights Act 1998. The Police Code of Ethics also informs how standard operating procedures are developed. The PSNI have developed policies and procedures in relation to the type of force, when and how it should be used. Any use of force must not be greater than was reasonable in the circumstances and, where lethal force is used, no more than absolutely necessary. Each use of force must be justified on every occasion, therefore the greater the effect on the victim, the greater the justification needs to be for its use. The Board has held the PSNI to account in relation to use of force and several thematic reports have been published. These include the Human Rights Review of PSNI's Use of Force 2023 and the Review of the use of Spit and Bite Guards in 2022. These reports provide recommendations on how and when various use of force should be used, if at all.

The most recent report on the UK by the UN Committee on the Rights of the Child stated:

“The Committee notes with appreciation the information provided by the State party on the regulations governing the use of electrical discharge weapons, pain-inducing techniques and seclusion on children, but remains deeply concerned by the large number of children who continue to experience such treatment, particularly children belonging to ethnic minority groups and children with disabilities. The Committee reiterates its previous recommendations and urges the State party:

(a) To take legislative measures to explicitly prohibit, without exception, the use of:

*(i) harmful devices, including spit hoods, plastic bullets and taser guns, attenuating energy projectiles and other electrical discharge weapons, against children;*⁷

The PSNI has a range of weapons and types of force at its disposal. The use of force options ranges from lethal, (firearms) to less lethal (unarmed physical tactics). All twelve of these types of force (see next page) have been discussed in detail in the recently published [Five Year Review](#) on the PSNI and highlighted policy, medical evidence and statistical information showing trends over the past five years. Statistical information has demonstrated how often they are used, where they are used and on which members of the community. The Board has argued for greater transparency in relation to statistical information published by the PSNI and although positive steps have been taken including the gender, age and ethnic minority of those involved in incidents there are areas that could be improved, especially in relation to the community background of those against whom force has been used.

Very often the use of force by officers against a member of the public occurs on the street, often without independent witnesses, and is not always recorded by Body Worn Video or CCTV systems. Police officers in Northern Ireland are tasked with preventing assaults and protecting the public and many of them put themselves in harm's way nearly every day. There has been an increase in the number of assaults on police officers on duty recently, this has increased from 2,714 in 2018/19 to 2,823 in 2019/20 and then again to 3,020 reported assaults against officers in 2020/21. Furthermore, in relation to injuries on officers following assaults, between April 2022 and March 2023, there were 967 assaults resulting in injury and this figure increased to 975 between April 2023 and March 2024.⁸

In general, most encounters with the police are resolved without resorting to any force. Where force is used it is most likely to be unarmed physical tactics (60% in 23/24) and handcuffs or limb restraints (31% in 22/23). The use of force by police officers is one of their most significant and symbolic powers. The use of force by one person against another is ordinarily both a crime and a tort (a civil wrong) and, when used by law enforcement officials without justification, violation of the prohibition against ill-

⁷ Para 30, Concluding Observations on the UK, 22 June 2023.

⁸ [Police Recorded Crime Bulletin Period Ending 31st March 2024.pdf \(psni.police.uk\)](#)

treatment in international human rights law (and therefore the Human Rights Act). The use of the powers given to police officers to use force and the inevitable vulnerability of those arrested or in custody necessitates that any use of force must be justified by the particular circumstances. Once a person is in custody and/or restrained and is not able to escape, using force is very rarely likely to be justified unless officers continued to be threatened and cannot move away to a safe distance.

Eight per cent (1229) of all reports of use of force involved children aged 18 or under from April 2023 to March 2024.⁹ 94.3% refer to the use of unarmed physical tactics or handcuffs/limb restraints. There were two reports of use on force on children under 10. On both occasions unarmed physical tactics were used. Batons were used on two occasions also. In 12 cases a firearm was pointed but in all cases the suspect involved was threatening police.

Use of Force	12 and under	13-17 year old
AEP pointed	0	2
Baton drawn only	2	11
Baton drawn and used	0	2
Irritant Spray drawn only	0	7
Irritant Spray used	0	14
Firearm Drawn & pointed	0	13
Police Dog	0	5
CED red dot	0	1
CED aimed	0	1
Handcuff/limb restraints	22	398
Unarmed Physical tactics	62	677
Spit & Bite Guards	1	11
Total	87	1,142 ¹⁰

⁹ PSNI management statistics SAP – June 2024

¹⁰ [PSNI Use of Force Statistical Report 1 April 2023 - 31 March 2024.pdf](#). figures represent how many times force was recorded not the number of people who were subject to use of force

The PSNI published their Use of Force Statistics for 2023/24 in June 2024. The Childrens Law Centre have publicly raised their concerns especially in relation to the continued use of Spit and Bite Guards and AEPs. They highlight that

“While there appears to be a lower number of individual children subject to force by the PSNI compared to last year, it is worrying that the figures seem to indicate that more children have been subject to multiple types of force”.¹¹

SPIT AND BITE GUARDS

The Board has had concerns regarding the introduction of Spit and Bite Guards since 2015 when their possible future use by PSNI was first brought to its attention. They are devices which are intended to cover the mouth, face and head of a person in order to stop the person spitting or biting.

Recommendations were made in the 2016/17 Human Rights Annual Report to ensure oversight by the Performance Committee if they were introduced. In March 2020, the (then) Chief Constable confirmed his intention to introduce them to custody suites based on the likely risks of Covid transmission. Access by officers to these guards was gradually expanded and now includes any public-facing officer who has undertaken the specific training provided by PSNI. The thematic report on this subject published in 2022 outlined the Board’s concerns and made numerous recommendations regarding their use especially in relation to their use on children and vulnerable people. A constant factor in all the cases reviewed for that report was that the person subjected to a spit and bite guard appeared to be disconnected from reality (perhaps because of mental health issues or drugs or alcohol) and was not acting in their own best interests (let alone being able engage with the officers in any meaningful manner). Expert help from medical personnel might, if they had been available, have made a significant difference but the application of de-escalation measures would have equally helped. The Service Accountability Panel now regularly considers the use of Spit and Bite Guards.

¹¹ This comment was made in relation to the figures set out in the table - [Child Rights Experts “Very Concerned” by PSNI Use of Force Statistics – Children's Law Centre \(childrenslawcentre.org.uk\)](#).

The Equality Impact Assessment conducted by PSNI in 2021 had, previously, raised a few questions about disproportionality (based on Community Background).

In a joint press release on 4th March 2021 from Amnesty International, CAJ, Include Youth and Children's Law Centre, it was stated:

“The decision to roll out spit hoods, rather than withdraw them from use as advised by the Policing Board, is shocking. It is disturbing that in more than eight out of ten incidents, the PSNI has used spit hoods on people with disabilities and, on eight occasions, on children. The Chief Constable rushed to deploy spit hoods without evidence that they are effective in preventing the transmission of Covid-19. Now he is doubling down on that flawed decision, in outright defiance of the Policing Board. Placing a hood over someone's head is a significant use of force and one that raises key concerns over cruel and degrading treatment, as well as serious potential health risks. These devices must be withdrawn from use, as called for by the Policing Board.”

Include Youth responded to this Review by repeating what a number of young people had said directly to the PSNI:

“A small number of young people (6 young people) from Include Youth met with PSNI officers on 17th November 2020 to discuss their views on the use of Spit and Bite Guards on children and young people. The young people were not supportive of the use of the guards on children and young people and expressed their concerns on the damaging impact having a guard placed on a vulnerable young person's head would have, especially those young people experiencing mental health problems or with additional vulnerabilities that are not visible to the eye. Young people are concerned that the use of guards will only serve to further damage an already fragile relationship between young people and the police. They were not convinced that officers would be able to correctly identify those children and young people for whom the use of the guard could be severely damaging.”¹²

¹² ‘The young people were disappointed that the then Chief Constable appeared to have ignored their views when on 25th January 2021, he announced his intention to extend the provision of the guards to all frontline PSNI officers. While the young people appreciated and welcomed the opportunity to speak to PSNI officers, who were extremely open and attentive to the young people, they ultimately felt that taking part in the discussion had made no impact whatsoever on the then Chief Constable's decision around the continued use of Spit and Bite Guards.’

The Children's Commissioner responded to this current review on Spit and Bite Guards as follows:

“Children cannot be treated the same as adults within the policing and criminal justice system. It is widely recognised that they must be treated differently because of their distinct vulnerabilities, evolving capacities and greater developmental needs. Developments in neuroscience have also identified that brain development and specifically the frontal lobes (the area of the brain that helps regulate decision-making and the control of impulses that underpin behaviour) are still developing into the early 20s. Naturally, this will affect a child's ability to cope in stressful situations involving police and law enforcement. The use/application of a Spit and Bite Guard not only heightens the fight or flight response but could also risk subsequent psychological damage. This is compounded by the fact that children who come into contact with the police are some of the most vulnerable in society - many may have experienced abuse or violence, are victims of criminal exploitation, or have special educational needs (SEN), communication needs or mental health conditions.

NICCY has previously welcomed the PSNI's instructions around the use of spit and bite guards, where officers or staff are aware that a member of the public is vulnerable the presumption will be that a Spit and Bite Guard should not be used, and that it must be demonstrably necessary to be used. However, we understand there is still risk for PSNI Officers to potentially wrongly identify a young person as over 18.

Following two years' use as a temporary measure, in June 2022, the PSNI decided to continue the use of Spit and Bite as a permanent tactical option including on children and young people. Between March 2020 to June 2022, 6.4% of all deployments of SBGs involved young people. There has been strong opposition and concern regarding the use of this on children and young people.

The PSNI have previously indicated that as a mitigation they plan to improve their training to include that on adverse childhood experiences 'ACEs', all incidents involving young people will be examined by senior officers. Additionally, PSNI have committed to, 'continue to scrutinise the use of SBGs on children through a proposed performance accountability framework'.

It is NICCY's continuing position that the presumption that Spit and Bite Guards will not be used on children, is too vague and leaves scope for routine use on children and young people. There is a considerable risk that their use of this method will add to young people's belief that PSNI discriminate against them, treat them unfairly and disrespectfully. It is our view that the use of Spit and Bite Guards by the PSNI on children and young people is not in compliance with the UNCRC and other international and domestic children's rights standards and as such, their use should be banned.

Recommendation 6: Spit and Bite Guards should never be used by the PSNI against children and young people.

Recommendation 7: In the absence of a ban, the PSNI must fully implement the remaining recommendations made by the NIPBs Human Rights Advisor on the use of Spit and Bite Guards and detail how they have complied with those that have been accepted to date.¹³

The Northern Ireland Human Rights Commission in its Annual Statement for 2023 stated that:

“The Police Service of NI's policy on the use of spit and bite guards includes requirements to consider the best interests of the child as a primary concern when deciding whether to use a spit and bite guard on children. It also states that “where officers or staff are aware or believe that a member of the public is under 18 [years old], the presumption will be that a spit and bite guard should not be used”. However, in 2022/2023, spit and bite guards were used seven times on children under 18 years old in NI. Four instances involved a child under 16 years old and three instances were on a child aged between 16 and 17 years old.

The Police Service of NI's policy does not set out specific circumstances in which a spit and bite guard can be used on a child in NI. The policy instead states that “in all cases where a spit and bite guard was deployed on a person under 18, officers must be able to demonstrate that it was absolutely necessary in the circumstances.”

¹³ Submission from NICCY to the NI Policing Board Children & Young People Report

In response to the most recent Use of Force statistics published by the PSNI on the 14th June 2024, Amnesty International, made the following comment in regard to the increased use of spit and bite guards

*“The rapidly increasing use of spit hoods, including on children under the age of 13 and despite clear guidance that they should not be used on children, is deeply disturbing”.*¹⁴

The Children’s Law Centre also raised serious issues about the use on young people of TASERS, CS spray, Spit and Bite Guards and AEPs.¹⁵

“The increased use of spit hoods on children is particularly worrying, especially as explicit guidance exists which sets out a presumption they should not be used on children at all”.

CONDUCTED ENERGY DEVICES

The Board has, in the Human Rights Review on the Use of Force, looked specifically at the use of Conducted Energy Devices (CED), also known as Tasers. While it is clear that CED are obviously ‘safer’ than firearms, as they are less lethal, in England and Wales and elsewhere there is no clear evidence that the number of deaths as a result of the use of firearms by police officers has been reduced as a result of officers also carrying TASERS. Secondly, and perhaps more importantly, officers in England and Wales tend to use the weapon in response to lower levels of threat when lethal force is *not* justified. Use of Force statistics from England and Wales 2021/22 show that in 43% of cases where CED was fired, the person was unarmed. The use of CED by PSNI is restricted to the officers in Armed Response Units, officers in Specialist Operations Branch and Counter Terrorism Officers and this is a very sensible restriction, reducing the likelihood of them being used, in practice, outside ‘less-lethal’ situations.

¹⁴ <https://www.amnesty.org.uk/press-releases/northern-ireland-increase-use-force-psni-deeply-disturbing>

¹⁵ The Performance Committee of the Policing Board viewed the Body Worm Video of 12 year old girl who was subject to a Spit and Bite Guard which many members found disturbing.

Very recently the United Nations Human Rights Committee made this statement in relation to the United Kingdom's most recent report:

Excessive use of force by law enforcement officials

32. While welcoming the introduction of the new 2024 Code of Ethics by the College of Policing, establishing non statutory guidance for ethical and professional behaviour in policing, the Committee is concerned about the high rates by which law enforcement officials use conductive energy devices, known as “tasers”. In that regard, the Committee is particularly concerned by reports highlighting: (a) that the use of tasers on children and persons with disabilities persist; and (b) the significant role of systemic racism in the high levels of racial disparity in taser use, particularly affecting persons of African descent (arts.2, 6, 7 and 26).

33. Bearing in mind the Committee’s general comment No. 36 (2018), the State party should:

(a) Ensure that the domestic legislation and operational procedures governing the use of force and firearms by law enforcement officials are in full conformity with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement;

(b) Provide clear procedures against the use of tasers on vulnerable groups, such as children and persons with disabilities, prohibiting the use of tasers against them in all but the most extreme circumstances;

(c) Strengthen its efforts to address systemic racism and racial and ethnic discrimination in policing and law enforcement, including in the use of tasers.’¹⁶

Response from the Children’s Commissioner to the Policing Board’s Review:¹⁷

“Since 2008, NICCY has raised serious concerns regarding the decision-making process for the introduction of Tasers into operational use and how the implementation process raised serious concerns for the rights of children and young people. The PSNI

¹⁶ Para 32, 28 March 2024. See also para 28 of the UN’s Committee Against Torture’s report on the UK, 7 June 2019.

¹⁷ Footnotes omitted.

are trained in a range of tactical options relating to the use of force including the use and application of the National Decision Making Model (NDMM) in what are sometimes 'dynamic decisions. According to the PSNI, the test for Conducted Energy Devices (CED) such as Tasers is contained within PSNI's Conflict Management Manual at Chapter 12.79 and states:

'The use of Taser will be justified where the officer honestly and reasonably believes that it is necessary in order to prevent a risk of death or serious injury.'

It is NICCY's understanding that there is a high threshold for a Taser to be fired and only armed response Officers can do so. However, NICCY has been made aware that there have been a number of occasions where tasers have been raised against children and young people, and clarification should be sought by the Review Team to determine their use (including the raising of, red dotting), and whether the high threshold has been met on all occasions."

The Children's Commissioner has made the following recommendation:

'The use of tasers and acoustic devices against children and young people are prohibited by the PSNI at all times.'

ATTENUATED ENERGY PROJECTILES (AEPs)

The Children's Law Centre responded to this Review to say:

"There have been clear recommendations over many years made by both the Committee on the Rights of the Child and the UN Committee against Torture in relation to the use of plastic bullets in Northern Ireland. Despite these clear recommendations the PSNI continue to use plastic bullets¹⁸ including in public order situations when children and young people are present. The most recent figures from the PSNI show that between 1st October 2022 – 30th September 2023, of 75 occasions were an AEP was pointed/ red dotted, 4% of those occasions were children aged 13 – 17.

On the 13th July 2009 the PSNI fired 17 plastic bullets in the Ardoyne area of North Belfast during rioting, whilst children were present. A number of injuries were incurred by young people as a result of being hit by AEPs, including the wounding of a 13 year

¹⁸ The original AEPs in Northern Ireland were made of plastic. See the Policing Board's Use of Force report for more details of the AEP currently used by PSNI.

old child from Ardoyne. In July 2010, a 16 year old boy was hospitalised after sustaining severe liver damage as a result of being struck twice with plastic bullets fired by the PSNI during rioting at the Broadway interface in West Belfast.

On 29th January 2011 police fired a baton round during a riot in Lurgan, Co. Armagh. It was reported that the PSNI believed that a rioter was struck in the leg. CLC was unable to confirm the age of the person who was struck but news reports described them as a teenager. In April 2021, 6 plastic bullets were [fired] during rioting in west Belfast, where young people were present.

Plastic bullets have not been used as a means of crowd control in any of the other jurisdictions within the UK apart from Northern Ireland. They were not used during the 2011 riots in England. Following these riots, the Home Affairs Committee of the House of Commons in the UK Parliament initiated an inquiry and stated, in relation to the idea that plastic bullets could have been used during this disorder, that it would have been inappropriate and dangerous to do so. They referred to the lessons learned in the past in Northern Ireland over the use of such equipment. This has led to questions as to why it is continued to be viewed as acceptable to deploy plastic bullets in Northern Ireland, when it is not viewed as being acceptable to do so in England and raises questions of discrimination.

Eight children have been killed by plastic bullets in NI, clear evidence that they are lethal weapons. As such they should never be used against children or in public order situations when it is known children are present. Such use is a breach of children's rights under the UN Convention on the Rights of the Child and a breach of Article 2 of the European Convention on Human Rights."¹⁹

The Human Rights Review of the PSNI's Use of Force and subsequent Five-year Review highlighted the fact that AEPs are rarely used and due to upgrades newer AEP versions are no longer as dangerous. PSNI data in 2023/24 states that 2% of AEP's pointed where at 13 17-year-olds. There were no AEPs discharged towards under 18's in 2023/2024 however two AEP's were fired at under 18's in the recent anti migrant riots in Belfast.

¹⁹ Submission from CLC to the NI Policing Board Children & Young People Report

FIREARMS

In Northern Ireland, the Chief Constable has given standing authority for all officers, subject to successful training, to be issued with a personal issue handgun which may be carried when officers are both on and off duty. In the rest of the UK, only specially trained Authorised Firearms Officers (AFO) carry firearms. In the Human Rights Review of PSNI's Use of Force, following the Northern Ireland threat level from Northern Ireland Related Terrorism (NIRT) being reduced to 'substantial' for a period in 2022/23, the question was raised about what the criteria should be for issuing firearms to all officers rather than, as in the rest of the UK and the Republic of Ireland, only to those special trained in their use. PSNI responded as follows:

"This is now built into the annual APSTRA process (Armed Policing Strategic Threat and Risk Assessment) and therefore features in our long-term plans in a structured fashion.

The Strategic Management Board agrees that the question of arming / disarming officers is important and it remains under review. Although there is a low use of firearms (PPWs) it does not undermine the importance of being armed. The PSNI is an armed police force, given the indigenous threat from terrorists and the threat from organised crime gangs, PSNI will remain armed. It is believed that the removal of PPWs would impact in confidence in policing internally and externally."

DE-ESCALATION

The Board has highlighted the importance of the use of de-escalation techniques, which seek to minimise harm and avoid violence as an alternative to the use of force. This view is also shared by the Independent Office for Police Conduct (England and Wales).²⁰ Further information on de-escalation is provided in the Human Rights Advisor's Review of PSNI's Use of Spit and Bite Guards²¹ and this is particularly important because according to the PSNI's own EQIA consultation document showed that 81% of uses of Spit and Bite Guards had been on people with a disability, including people with mental health disabilities and incidents where drugs and/or alcohol were a factor.

²⁰ [We are the Independent Office for Police Conduct | Independent Office for Police Conduct \(IOPC\)](#)

²¹ [A Review of PSNI's Use of Spit and Bite Guards by the NI Policing Board's Human Rights Advisor](#) pages 56-58

TRAINING

During 2019 to 2023 the Board's Human Rights Advisor has observed a range of public order training across PSNI and engaged regularly with the PSNI Human Rights Trainer. Since the publication of Dr Richard Martin's research, which specifically relates to Public Order Command Courses delivered by Combined Operational Training,²² the PSNI reviewed and amended the Human Rights and Use of Force lessons in both the Bronze and Silver Command Courses. The Board will also wish to consider the proposed research which may be conducted by the Home Office and the University of Maynooth and University of Central Lancaster on behalf of the PSNI into de-escalation and firearms usage.

CONCLUSION

Through its thematic reports, the Board has highlighted a number of the concerns about the use of force and made several recommendations to try to ensure that any force used by the PSNI officers is proportionate and justified. CEDs and Spit and Bite Guards have consistently been raised as issues over the past five years with and by the Board and many recommendations have been made in relation to these weapons both by the Board and the Police Ombudsman. Progress has been made in both areas and the PSNI regularly report to the Board on their use. Over the past five years the PSNI have improved their training into the use of de-escalation techniques which in many circumstances, especially where mental health issues are involved, can reduce the risk of escalation and provide a better outcome for all involved. This is welcomed by the Board, particularly given the apparent increase in subjects who present with mental health or serious vulnerability issues.²³

RECOMMENDATION 1:

The PSNI should review of all of its policies and practices in order to minimise the use of force, particularly the use of weapons, against children under the age of 14. In the meantime, the PSNI should amend its policy to ensure that, as far

²² Policing Human Rights: Law, Narratives and Practice. Richard Martin Oxford University Press 2021

²³ For a more comprehensive overview of policing, use of force and mental health, see [Human Rights Review of PSNI's Use Of Force](#)

as possible, spit and bite guards are never used on any child younger than 14 years of age.

CHAPTER 2: USE OF POLICE POWERS

STOP AND SEARCH

Overall stop and search numbers for adults are remaining steady or reducing but the powers are disproportionately deployed against those under 18 despite the fact that the ‘outcomes’ against this group are poor. Furthermore, the experience of young people subject to these powers (and therefore the attitude of even those who have never been subject to the powers) is particularly negative. This negative experience and the consequential more general attitude, damage the reputation of the PSNI and policing more generally.

No general power exists for police officers to stop and question anyone but there is no law preventing or restricting it. There are therefore no statistics on its prevalence. Most people, however, find that it is sensible to cooperate with police officers – their work is important and they have a crucial role in protecting people and property from crime and investigating crime once it has been committed.²⁴ Their role is to uphold human rights – especially protecting the right to life (Article 2), from ill-treatment (Article 3), slavery (Article 4), freedoms of religion, expression and association (Articles 9, 10 & 11), and peaceful protection of property (Article 1 of Protocol 1). The Policing Board’s role is to try to ensure that the PSNI complies with all the rights in the European Convention on Human Rights as included by the Northern Ireland Act and the Human Rights Act.

In England and Wales a police officer might stop you and ask:

- What your name is?
- What you’re doing in the area?
- Where you’re going?

You do not have to stop to talk to them or to answer any questions. If you do not and there’s no other reason to suspect you, then this alone cannot be used as a reason to search or arrest you.²⁵

‘In this country, we are wary of giving too much power to the police. We

²⁴ Section 32, Police (Northern Ireland) Act 2000.

²⁵ <https://www.gov.uk/police-powers-to-stop-and-search-your-rights>

*believe that we should be free to be out and about in public without being subjected to compulsory powers of the police, at least unless and until they have reasonable grounds to suspect that we are up to no good.'*²⁶

In Northern Ireland there is one exception to this important freedom:

- (1) 'A member of Her Majesty's forces on duty or a constable may stop a person for so long as is necessary to question him to ascertain his identity and movements...
- (3) A person commits an offence if he—
 - (a) fails to stop when required to do so under this section,
 - (b) refuses to answer a question addressed to him under this section, or
 - (c) fails to answer to the best of his knowledge and ability a question addressed to him under this section.'

The latest statistics on Stop and Search reveal that between April 2023 and March 2024, 25,054 persons were stopped and searched/questioned. This was an increase of 6% on the previous year. 68% of stops were conducted under Misuse of Drugs Act, 11% under PACE, 17% under JSA Section 24 and 3% under JSA Section 21. 2,089 (8%) of persons stopped were under 17 compared to 11% the previous year.²⁸

Latest figures from PSNI show that there were 2,089 stop and search/questions involving under 17 year olds in 2023/24 with 1,922 (92%) recorded on an officers body worn video. These figures represent a decrease from 2022/23 when 2,561 stop and search/questions involving under 18s took place. Only 2,216 stops were recorded on body worn video. (87%).²⁹

The overall use (under and over 18's) of the Justice and Security Act powers increased last year by 127% (section 21) and 63% (section 24). Between April to March 2024 – (JSA Section 21) power was used 753 times with a subsequent arrest rate of 1% (the previous year the power was used 616 times). 27 of the people stopped and questioned under this power were young people aged between 14 and 17. But no younger people were stopped and questioned under this power. In the past this power

²⁶ Para 1, R (on the application of Roberts) (Appellant) v Commissioner of Police of the Metropolis, 17 December 2015, UK Supreme Court.

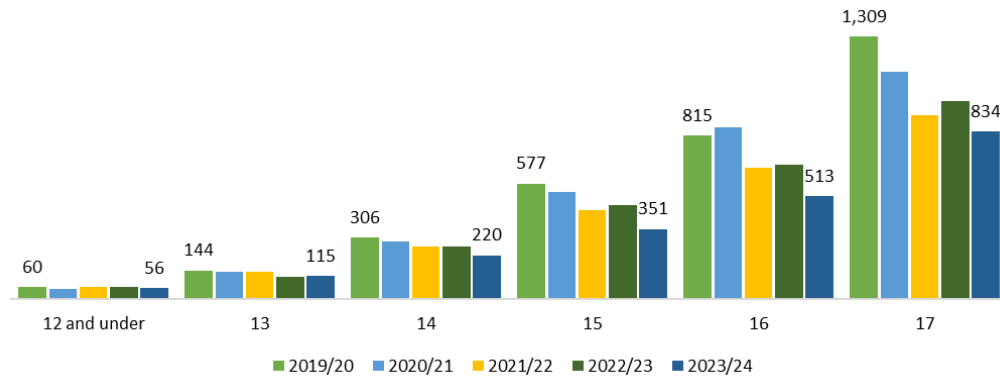
²⁷ Section 21, the Justice and Security Act 2007.

²⁸ [PSNI Stop and Search Statistics](#)

²⁹ [Stop and Search | PSNI](#)

was used much more often, for instance, in the year 2013/14 it was used 2,350 times in Northern Ireland (see table below for the last five years).³⁰

Chart 1: Persons stopped aged 12 to 17 by year 2019/20 to 2023/24



The use of stop and search by the PSNI was the most frequently issue raised by those children and young people and the organisations that promote their interests when consulted by the Human Rights Advisor during the preparation of this report. Include Youth state that,

“Over the years we have conducted a number of consultations with children and young people on issues of policing. Almost all of the young people we spoke to had negative experiences of being stopped and searched, more often than not this was on a consistent basis and was itself a factor in the level of confidence they held in the police. In some cases, it was reported that negative stop and search incidents had led to additional charges for young people. Include Youth consistently raise the issue of ‘stop and search’ and point out that young people feel targeted and victimised as a result of the use of ‘stop and search’ powers. They also report inconsistent experience of Officers’ communication when it comes to providing a rationale for the ‘stop and search’ and their rights within that process. Young people also believe that ‘stop and

³⁰ Marie Breen Smyth, Independent Reviewer of the JSA said in her last report (published Oct 24) ‘During the time from 2010 when the threat level was SEVERE the use of JSA powers of stop and search fell far short of what I report them to be during this review period. I conclude that the increase in the security assessment cannot account for the exponential rise in the use of JSA Section 21.’ Para 5.9

search' powers are used against them at a much higher rate than against adults³¹.

Include Youth are concerned about the extensive use against young people and also the experiences of those young people when they are stopped."

Young people tell us they feel targeted and demonised by the PSNI and it is clear this has an associated negative impact on their level of confidence in the police service. Almost unanimously the young people within focus groups felt their age, appearance, location and family history meant they were demonised and specifically targeted by the Officers. They believe this manifested itself as extra attention, excessive use of 'stop and search', constantly being viewed with suspicion, being looked down on by officers, being forced to disperse from public spaces and in many cases incivility. They believed the attention they receive from the police, including being questioned or searched on the street had a knock-on effect on how young people are viewed by the communities in which they live.³²

The Children's Law Centre (CLC) also reported:

"Young people have reported to CLC that it is their perception that the (over) use of stop and search powers creates a feeling that young people are unnecessarily being targeted by the police simply because of their age. This is undoubtedly a reality for many young people. Young people have also reported that the decision to stop and search is they believe often influenced by the location, appearance, family connection or history of the young person/people.

CLC has been raising the issue of the inappropriate disproportionate, discriminatory and non-human rights compliant use of stop and search of children for over two decades with no noticeable change or improvement. It is CLC's view that there needs to be an urgent root and branch review of PSNI practices in relation to stop and search, as figures on stop and search have remained stubbornly high. Focus thus far has been on improving processes e.g. utilising Body Worn Videos. While this is both important and welcome, CLC is clear that a cultural shift in the actual use of this intrusive power is now

³¹ ³¹<http://www.includeyouth.org/mgmt/resources/include-youth-comments-on-draft-psni-children-and-young-people-strategy-october-2018.pdf>

³² See for instance written evidence from Include Youth .

required to ensure that fewer children and young people in this jurisdiction are needlessly subjected to a stop and search by the PSNI and that the PSNI comply with their human rights obligations.”³³

As part of this research the Human Rights Advisor recorded a podcast with children and young people from St Peter’s Youth Centre in west Belfast. During this recording the Human Rights Advisor discussed the issue of stop and search and the experiences they had encountered with the police. The young people stated they had never been given cards informing them of why they had been stopped and searched, that body worn cameras were not switched on and discussed the behaviour of the police when stopped. Comments made by the young people include:

“They only switch on their cameras when you say something that annoys them or you start to argue back”

“The police who would be in here talking to you they would be alright but the ones who aren’t usually in the community would be more aggressive”.³⁴

The Children’s Law Centre highlighted a survey carried out by the PSNI in 2021 with young people between the ages of 11 and 18 which outlined that:

“Unfortunately, 77% of survey respondents described their experience of stop search as negative whilst 65% of respondents described the officers who searched them as not polite, 64% as not respectful, 55% as not professional, 66% as not fair, 50% as not calm and 69% as not understanding.

Furthermore, 41% of respondent stated that the officer who searched them did not explain what they were looking for, 66% said that the officer did not provide their details, 67% said that they were not informed of their rights and 72% said that they were not informed that they had the right to ask questions during their search. These feelings apparently resulted in 65% of respondents stating that

³³ Also in the evidence in the NI NGO Stakeholder Report 2 to the UN Committee on the Rights of the Child, December 2022.

³⁴ "Young People and Policing" by The St. Peters Experience; Amplifying the Voice of Young People in the Lower Falls <https://podcasters.spotify.com/pod/show/st-peters-immaculata-yout/episodes/Young-People-and-Policing-e2j2gha/a-ab7j3m2>

they had decreased confidence in the local police as a result of their stop search encounter and 72% felt that their search was not justified. Only 58% indicated that they were aware that they could make a complaint, if they felt a stop search was not carried out fairly.’³⁵

Many children and young people also gave their personal accounts to the Human Rights Advisor of their interaction with officers and others repeated the accounts from their friends. Those reports were much more positive when interactions occurred with the local and neighbourhood officers than with response officers and those officers who did not know the young people, the area or the local circumstances. For example, they stated that,

“It just depends on the officers, some of the police who come into the club and see you outside take a more friendly approach but some of the officers who are in the community team but don’t work with the club will treat you like the normal response team. The response team jump out all aggressive as if they are afraid when really we are the ones who should be scared as they are armed with a gun, we are not, we are just walking about the streets”.³⁶

Those reports often cited the failure of the officers to provide the young person with formal records of stops and searches or to give reasons for the search. The Northern Ireland Commissioner for Children and Young People (NICCY) responded to the request for submissions to this Review as follows:

“Many young people express a negative experience when they have been stopped and searched or questioned; this may make tense situations worse and works against improving confidence in policing. While PSNI have a clear policy commitment to children’s rights, and that this is recognised in their new Children and Young People’s Strategy, this needs to be reflected in their routine engagement with young people. It is experiences such as these that

³⁵ [Stop and Search Survey Summary Findings Report \(psni.police.uk\)](https://www.psnipolice.uk/stop-and-search-survey-summary-findings-report)

³⁶ "Young People and Policing" by The St. Peters Experience; Amplifying the Voice of Young People in the Lower Falls <https://podcasters.spotify.com/pod/show/st-peters-immaculata-yout/episodes/Young-People-and-Policing-e2j2gha/a-ab7j3m2>

shape young people's views and will adversely impact confidence levels in the PSNI which is of concern, if they are ever victims of crime in the future.

NICCY is aware that PSNI have improved the quality of their reporting on the use of stop and search powers to include more information on the demographics (age, community background etc) of those stopped and subsequent outcomes. However, PSNI published information shows that while the numbers of Stop and Search operations have reduced over the last 10 years NI still has some of the highest rates in the UK."

The Commissioner also called for a review of all of the PSNI's policies and practices in relation to JSA stops and searches of children between the ages of 10 and 14. The Human Rights Advisor therefore recommends that:

The Five-Year Review of the PSNI's compliance with human rights sets out the Board's overall position and its assessment on stop and search:

'Evidence shows that stop and search has a very weak and inconsistent relationship with crime and its effectiveness as a deterrent is not proven.³⁷ Its effectiveness as an investigatory power can be established by whether the object of the stop and search is connected to the outcome (the arrest rate and 'find rate' - how often the item being searched for is found).³⁸ A better 'stop-to-outcome' ratio would demonstrate that the exercise of these powers is fair and rational, which could improve public trust over their use. High volume of stops/low outcomes, lack of data and analysis and benefits impact on public confidence.'³⁹

This 5 Year Review also included a section dealing with children and young people and some of that particular assessment is relevant to this report.

In May 2018, Dr John Topping from Queen's University published research which gave the first independent analysis of how 16-year-olds are experiencing stop and search

³⁷ Home Office (2016)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/508661/stop-search-operation-blunt-2.pdf#page=3

³⁸ Home Office, 'Best Use of Stop and Search Scheme'

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/346922/Best_Use_of_Stop_and_Search_Scheme_v3.0_v2.pdf

³⁹ See page 52 of the 5 year Human Rights Review

powers being exercised by the PSNI.⁴⁰ The findings raised a number of issues concerning the socio-economic background of young people being stopped and how young people understand their rights under these powers. Dr Topping referred to stop and search powers as “the most prevalent form of adversarial contact between the public and the PSNI.”

In September 2019, Queen's University, in partnership with Include Youth and the Children's Law Centre, hosted a conference on young people, policing and stop and search powers in Northern Ireland. Consideration was given to how the suggested overuse of the power to stop and search can seriously undermine police legitimacy, particularly in the absence of opportunities for the police to engage positively with children and young people. In response PSNI advised that they are not out to criminalise young people and try to provide interventions and other forms of disposal where they can.

They have further stated:

*“There is no restriction in law preventing the stop and search of under 18s, therefore police officers will use their powers under stop and search when they have reasonable grounds [to do so]”.*⁴¹

The PSNI carried out a survey of young people in 2021, the summary included:

“From the comments gathered in the survey, the overall feedback could be summarised as involving concerns around the behaviour and attitudes of police officers. The main themes which emerged (when the comments were grouped) centred on unprofessionalism, aggressiveness, non-informative (re why searched or what for) and discriminatory behaviours towards young people, which seems to be linked to comments that indicated a feeling that searches were not justified, were uncomfortable / frightening experiences and the people who provided the feedback by majority, had decreased confidence / respect / trust in police, stated that their stop and search had a negative impact on them, felt their search was random and that it was not justified.

⁴⁰ John Topping and Dirk Schubotz, *The 'usual suspects'? Young people's experiences of police stop and search powers in Northern Ireland*, ARK research update, May 2018.

⁴¹ <https://www.nicva.org/article/psni-urged-to-reconsider-use-of-stop-and-search-on-under-18s>

There also appeared to be themes emerging which suggests knowledge of stop and search is low regarding the survey respondents. This came through via a significant number of comments that indicated respondents did not know that they could make a complaint about their search or felt that no action would be taken if they did. A significant amount of feedback suggested that respondents felt young people were stop searched for alcohol, drugs and anti-social behaviour. This again suggests a lack of knowledge around police powers (i.e. no power to search re anti-social behaviour).”⁴²

Dr John Topping commented at the end of this document:

“The survey confirms long-standing evidence about the negative impact stop and search has on community relations in Northern Ireland – and particularly regarding children and young people”.

A significant theme running throughout the survey are negative experiences from respondents derived from officer attitudes, treatment, behaviours and communication. It is a stark feature that 77% of respondents described their direct stop and search experience as ‘negative’. This is underpinned by the fact in every single category of response to officer behaviour around a stop and search encounter, a greater number of respondents did not find officers were polite, respectful, professional, fair, calm or understanding. Similarly, in terms of procedural aspects of a stop, the survey details a distinct lack of communication around grounds, rights or information related to the search.

When taken together with the high levels of stop and search by PSNI relative to the rest of the UK, coupled with low arrest-rates and particularly for children (3.8%), the survey points to the fact stop and search is having overall, a net negative impact on police relations with young people vis-à-vis the efficacy of the power in detecting crime.”⁴³

Finally, with regards to stopping children or individuals who have particular vulnerabilities, the grounds for the search should be clearly communicated in simple and easy to understand language, the use of technical or legal language should be

⁴² PSNI, Stop & Search survey of Young People. Action plan/recommendations. See also Stop & Search Survey Summary Findings

⁴³ Page 4.

avoided unless required by law. This will be facilitated by the creation of the information card following one previously produced by the Children's Law Centre some years ago but never fully rolled out. Any decision taken to stop and search a child must be in the best interests of that child, taking into consideration that exploitation of the child may be a factor in the case. In fact, the PSNI position is:

“Our conduct may be an opportunity to develop relationships with children during these exchanges.”⁴⁴

In June 2023, the PSNI introduced a 'Children and Young Person's Strategy' and this included the following statement:

“The percentage of stop and searches involving young people has reduced. In 2014/2015, 15.7% of people stopped and searched were children and young people under 18 years of age. This percentage reduced to 11% in 2021/2022.”

The current proportion is 8% with 68% of those stopped and searched being under the Misuse of Drugs Act.⁴⁵

To the extent that the new Strategy dealt with stop and search it said that PSNI will:

“Make sure if you are stopped and searched that it is explained to you why you have been asked to go through the process.

Make sure that officers conducting the search respect your rights and treat you fairly.

Make sure that the powers we have to conduct a search are not abused.

Consult with children and young people groups to ensure our practises are subject to scrutiny and provide detailed data about stop and searches if requested.

Get feedback from you to inform how the Police Service delivers policing – we will listen to your experiences and follow up on complaints.

⁴⁴ Page 10, Youth Justice, Service Instruction SI0817, 2017 (reviewed 2022).

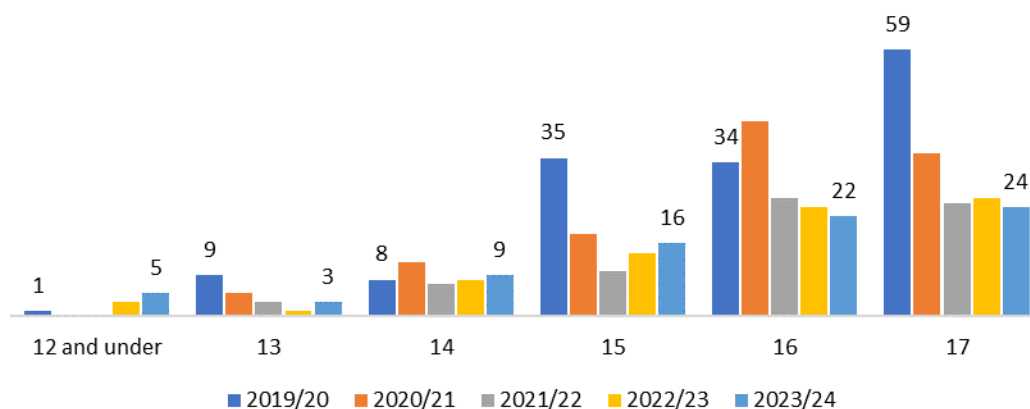
⁴⁵ 2022/23 data under 17s 1770 stopped under misuse of drugs act which is 68.8% of all stops for this age group.

Review our actions and consider changes to policy, practice and guidance and changes will be discussed with children and young people and representative groups.”

In practice, it is difficult to measure success in this context as it fails to deal seriously with the findings as set out earlier. However, at the time of writing the PSNI is currently finalizing a guide to stop and search for young people.

The most up to date statistics show 3% of stop and searches of 13 to 17 year olds led to an arrest in 2022/23 with this figure rising to 3.7% in 2023/24. However, it should be noted that some 17% of stop and searches of 13 to 17 year olds led to some form of outcome (arrest, community resolution, report to the PPS, penalty notice for disorder).

Chart 2: Persons arrested aged 12 and under to 17 by year 2019/20 to 2023/24



The relative breakdown of stops and searches of under 18-year-olds for the various stop and search powers for the last two years is set out in the following two tables.

2022/23 Under 18-year-olds	Number	%
PACE	672	26%
Misuse of Drugs Act	1770	69%
Firearms Order	15	1%
TACT S43A	1	0%

JSA Section 21	20	1%
JSA Section 24	73	3%
Other	23	1%

2023/24 under 18-year-olds	Number	%
PACE	533	24%
Misuse of Drugs Act	1,396	68%
Firearms Order	11	1%
TACT S43	0	0%
TACT S43A	0	0%
TACT 47A	0	0%
JSA Section 21	27	1%
JSA Section 24	126	6%
Other	4	0%

Overall figures for stop and search for April 2023 to March 2024 show a decrease of 19% for under 18s. However, increases were seen in JSA S21 (35%) and S24 (73%).⁴⁶

Of the 2,089 under 18s who were stopped and searched in 2023/24, 79 were arrested, 221 given Community Resolution Orders, 115 reported to PPS and No Further Action was recorded in 1,674 cases.

Finally, stopping and searching children and young people, has been a longstanding concern at an international level. In its concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland of 2016, the UN Committee on the Rights of the Child recommended the recording of community background regarding stop and search of young children:

⁴⁶ PSNI Management Statistics provided to the PSNI Service Accountability Panel

“The Committee recommends that the State party:

(a) Prohibit the use of non-statutory stop-and-search checks against children;

(b) Ensure that the statutory use of the stop-and-search checks is proportionate, taking into consideration the age and maturity of the child, and non-discriminatory;

(c) Regularly collect, analyse and publish data relating to the use of stop and search on children, disaggregated by age, sex, disability, geographic location, ethnic origin and socioeconomic background.⁴⁷

TAKING POSITIVE STEPS

A possible improvement to the way that stop and search is used would be to increase the role of supervisors, now much easier as a result of the use body worn video (BWV) cameras. The PSNI, supported by the Board, has recently identified a number of improvements and have started working on a number of options and ideas. The Board would encourage the PSNI to make progress with implementing the following:

- A pilot exercise to assess how much impact there would be on front line supervisors to review the BWV footage of all stop searches involving people under the age of 18;
- A checklist or guidance document for supervisors to refer to whilst dip sampling stop searches, which highlight these concerns as areas to focus on for learning and further investigation if serious wrongdoing is suspected;
- Instructions to ensure that BWV cameras are activated prior to interactions with young people, so that the entire encounter is captured and can be reviewed (along with any ensuing stop search activity) by a supervisor;
- An update to the stop and search guidance ‘point pages’ conveying the thoughts and feelings of young people regarding stop and search (to increase officer awareness around these issues);

⁴⁷ UN Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, CRC/C/GBR/CO/5. Repeated by the Committee in its next report, 22 June 2023, para 28.

- The results of this exercise to be communicated to district training so that awareness training can be delivered to operational officers. This training should also have a procedural element to include items such as informing young people why they are being stopped and searched and informing them what they are looking for;
- The continued development of a stop and search information card designed specifically for children and young people and for this card to specifically outline information on rights and procedure (this is currently an item that the stop and search working group regarding children and young people are planning to progress);
- Corporate communications department to deliver the content of any information card via social media in an effort to raise awareness amongst young people (Y-stop.org contains useful information around this area, including tools for young people to better enable them to develop skills to help them deal with stop and search);
- Focus groups with police officers to discuss the views expressed in this survey and explore the reasons for the results. The focus groups should be informed by these results and could be used for further qualitative analysis;
- At an appropriate time, share this whole research plan with the Northern Ireland Policing Board;
- Ensure that this work complements the children and young person strategy; and
- Ensure that this work complements what Professional Standards Department (PSD) are doing.

EQUALITY ISSUES WITH STOP AND SEARCH POWERS

There are particular concerns with the continued and extensive use of the exceptional power provided to PSNI officers by the Justice and Security Act, racial disparities and long-term concerns about the failure to collect community background data on those stopped and searched. Sections 21 and 24 of the JSA do not require individual reasonable suspicion. They are very similar in procedure and structure to the previous stop and search provisions in the Terrorism Act 2000, sections 44 and 45. Those provisions were ruled unlawful by the ECtHR in the case of Gillan and Quinton v UK (2010). Hence, their compatibility with ECHR Article 8 is questionable.

Following the examination of the United Kingdom's human rights record, the United Nations Human Rights Committee recently found:

“The Committee is concerned about reports indicating that racial inequality and discriminatory practices against Gypsies, Roma and Travellers, people of African descent and other minority groups remain largely unaddressed and appear to be increasing despite some positive measures taken by the State party, including... the Racial Equality Strategy 2015-2025 for Northern Ireland. In particular, the Committee is concerned about reports demonstrating that stark inequalities stemming from systemic racism, disproportionate and discriminatory policing of people of African descent and other ethnic minorities persist, including discrimination in the criminal justice system, the overrepresentation of people of African descent and ethnic minorities in detention, judicial bias and lack of participation of such minorities in policy and decision-making, as well as unjustified racial and ethnic disparities in stop and search powers (arts. 2, 3 and 26).⁴⁸

The lack of community background monitoring of stop and search of both adults and children and young people has been a longstanding issue in Northern Ireland. However, some positive developments can be reported. Marie Breen-Smyth, the former Independent Reviewer of the JSA, worked with the PSNI and the Northern Ireland Statistics and Research Agency (NISRA) to produce some useful indicative figures. Following work throughout 2022 and 2023, a pilot scheme to collect community background information under JSA is scheduled to commence in April 2024. It is important to acknowledge that community background monitoring is a significant piece of work requiring coordination across several areas of the organisation.

If the evidence is that a disproportionate number of young people from one religion, national or social origin, or national minority political group were subject to disproportionate action by a police service this would be unlawful unless that difference can be objectively justified, and this justification is a legitimate one. It is the

⁴⁸ Para 18, 28 March 2024.

responsibility of the police service to investigate this disproportionality and to justify it, if the service is to avoid the finding of a violation.

RECOMMENDATION 2:

The PSNI should review all of the PSNI's policies and practices in relation to the stops and searches of children between the ages of 10 and 14.

RECOMMENDATION 3:

The PSNI should publish more detailed statistics in relation to Justice Security Act powers including the exact age of the children stopped and searched.

ARREST AND CUSTODY

When the police arrest and detain a person, they assume responsibility for the protection of both the detainee's rights and welfare. Detention directly engages Article 5 of the ECHR (the right to liberty and security) and police must follow strict procedures and take every reasonable step to uphold the rights and welfare of all detained persons. Detention also potentially engages Articles 3 (prohibition of ill-treatment), 8 (right to privacy) and 14 (right not to be discriminated against). Articles within the PSNI Code of Ethics reflect these provisions and requires police officers to ensure that all detained persons are treated in a humane and dignified manner. It stipulates that arrest and detention must be carried out in accordance with the relevant Police and Criminal Evidence Order 1989 (PACE), the Codes of Practice made under PACE and in compliance with the ECHR. Police have a duty to protect the health and safety of detained persons and take immediate action to secure medical assistance where required.⁴⁹

There were 988 arrests of children and young people made under PACE Order during 2023/24, 76% of which were males. During 2022/23 there were only 49 persons detained in police custody for more than 24 hours and released without charge. During the same period there were 22 applications to Magistrates Courts for warrants of further detention (for more 36 hours), in relation to 17 individuals.

⁴⁹ More details of the human rights issues in relation to arrest and detention are set out in the Policing Board's Human Rights Monitoring Framework, page 29 onwards.

The number of arrests of under 18-year-olds made under the Police and Criminal Evidence (PACE) Order and Section 41 of the Terrorism Act (2000) during April 2023 to March 2024

Age	11	12	13	14	15	16	17	Total
	14	50	82	78	175	276	313	988

Of the total 988 arrests of under 18s, 751 were male, 223 female and 14 other or unknown. On ethnicity, 855 were white, 51 Irish Travellers, 27 Other, 21 were black, 9 Asian and 4 mixed race while 21 were not specified.

Religion	Number of Arrest of Under 18s
Catholic	285
Protestant	103
Other Religions (1)	50
Other Christian	21
No religion/none	367
Refused/Unknown/Missing	162
Total	988

(1) Includes Muslim, Hindu, Other⁵⁰

ARREST POWERS

An issue remains with PSNI's policy of using TACT powers of arrest rather than PACE for arrests of those suspected of terrorism. This was first raised by Jonathan Hall KC, the current Independent Reviewer of Terrorism Legislation in his Annual Report for 2020 (published in April 2022), and subsequently considered in Policing Board's Human Rights Annual Report for 2020/21. Jonathan Hall KC and the Board's Human Rights Advisor met with the PSNI's Terrorism Investigation Unit to discuss this issue in June 2023. In this meeting, officers helpfully set out some of the reasons that they considered justified the near automatic use of TACT section 41 arrest powers in terrorist cases. It was, however, noted that an exception was often made for juveniles

⁵⁰ PSNI Custody statistics

and vulnerable people who were usually arrested under PACE. Further discussions continue on this subject with the PSNI.

Inspections on the efficiency, effectiveness and treatment of detained persons in custody in Northern Ireland are conducted by the Criminal Justice Inspection Northern Ireland (CJINI) and the Regulation Quality and Improvement Authority (RQIA), and the Policing Board's Independent Custody Visiting Scheme (ICVs) which are all part of the system of protections within the UK Government's system for compliance including with human rights obligations.

During a CJINI Inspection looking at the standard of police custody in Northern Ireland and the experience of detainees in 2020, a number of recommendations were made. CJINI recommended that the PSNI hold strategic discussions with the Health & Social Care Trusts to address the issue of "looked after children" being held in police custody cells. They called for a further examination of the reasons for arrest and detention in custody of Irish Travellers and people of Black ethnicities, use of force, improvements to the coverage of audio recording in custody cells, the introduction of IT processes to alert custody officers that the child is on the Child Protection Register and a review of the provision of health care training. In response to the recommendations made by CJINI in their inspection report, the PSNI developed a Strategic Action Plan and identified key areas for development and learning. This action plan enabled the PSNI to analyse existing practices and to work towards implementing the recommendations. CJINI will undertake a follow up review in September 2024 to establish if the PSNI have achieved the recommendations made in their 2020 Custody report. This will be completed with collaboration from RQIA and the Human Rights Advisor to ensure Human Rights compliance. The Office of the Police Ombudsman for Northern Ireland (OPONI) has also made several recommendations regarding custody over the past five years.

The issue of detention of children has been a long-standing one for the Board. The Human Rights Annual Report for 2016/17 contained the following recommendation:

"PSNI should analyse its use in 2016/17 of police detention for children. That analysis should consider a random sample of cases (not less than 20%) in which children were detained. Analysis should include, in particular, whether alternative options were considered. If alternatives were considered but

unavailable the PSNI should identify the reason(s). PSNI should report to the Performance Committee within 6 months of the publication of this Human Rights Annual Report.”

PSNI advised it works with a range of statutory and voluntary partners to divert young people away from the criminal justice system.

“When, for whatever reason, a young person enters the criminal justice system, care is taken to manage the process to ensure the best outcomes for the young person. Custody records record the grounds for the arrest, reason for arrest and other information relevant to detention. Alternatives to arrest are considered by the arresting officer and not recorded on the custody log.”⁵¹

Recommendation 14 in the Human Rights Annual Report 2019/20 reiterated this recommendation and stated that:

“This recommendation was not completed because the PSNI did not have the capability to carry this out. However, the PSNI is part of a wider working group which has been considering alternatives to detention. The PSNI should report to the Board on the outcomes from this work and its actions following any recommendations”.

In response the PSNI stated that:

“The PSNI currently carries out a monthly audit which is then converted into an annual figure for comparison. The sample size exceeds the aforementioned 20%. It should be acknowledged that the PSNI does not currently have alternative accommodation, other than the Juvenile Justice Centre, so the sampling is based on identifying whether children and young people are not taken to Juvenile Justice Centre and associated rationale. Dip sampling is intended to highlight any recurring issues of Juvenile Justice Centre availability or compliance issues.”⁵²

⁵¹ [Human Rights 5 Year Review Table of Human Rights Recommendations & Responses from PSNI from 2015 to 2023 | Northern Ireland Policing Board \(nipolicingboard.org.uk\)](#)

⁵² [Human Rights 5 Year Review Table of Human Rights Recommendations & Responses from PSNI from 2015 to 2023 | Northern Ireland Policing Board \(nipolicingboard.org.uk\)](#)

An internal audit of relevant custody records is conducted on a monthly basis, to identify trends on reasons for non-transfer to Juvenile Justice Centre. The reason, in the majority of cases, is direct transfer to court, disposal, lack of available space in Juvenile Justice Centre or the impracticality of transfer due to travel distance. Education continues and is embedded around the unsuitability of custody for the detention of children in custody suites. PSNI continue to work with key strategic partners in relation to the provision of suitable overnight accommodation for detained young people. This includes a range of issues, including proximity of suitable accommodation to court and custody areas.

Going forward, PSNI suggest that they will forward a quarterly report to the Board to highlight figures and provide regular update on progress. This report should be published and forwarded to the Performance Committee within 6 months.

As recently as June 2023 the UN Committee on the Rights of the Child, in response to the UK's report on its compliance with the Child Rights Convention, stated that the UK should:

“Repeal the practice of remanding children into police custody, ensure that no child is held in police custody overnight and avoid the use and reduce the maximum duration of pretrial detention”⁵³

Include Youth responded to this Review:

“We remain concerned about the inappropriate use of custodial detention for children. Some young people continue to be held in custody because of the lack of suitable alternative accommodation or they do not have an appropriate suitable bail address. It is a matter of concern than latest figures from the Youth Justice Agency reveal that almost half of the children held in the Woodlands Juvenile Justice Centre were care experienced children. With just 1.3% of admissions to the JJC in that period being as a result of sentence, with the rest of the admissions being PACE and remand, it is clear that detention is not being used as a last resort.”⁵⁴

⁵³ Para 54(e).

⁵⁴ Submission from Include Youth to Policing Boards report into Children & Young People

The Children's Law Centre referred to the United Nations Committee on the Rights of the Child report in 2023 and its recommendations noting that in 2018/19, 1,823 children were held in police custody. CLC stated that:

“Youth Justice Agency figures show that in 2022 – 23, there were 110 children in custody at the Juvenile Justice Centre (224 admissions), with 57.3% of those children being Catholic, compared to 13.6% being Protestant. Almost half (41.8%) of the children held in the JJC were care experienced. Furthermore, of the 224 admissions, 176 (78.6% related to PACE, 45 (20.1%) to remand and just 3 (1.3%) to sentence admissions.⁵⁵ These statistics speak to worrying issues of discrimination and breaches of children's rights.

The Children's Law Centre receives calls regularly where children are detained at Woodlands JJC due to a lack of alternative accommodation. It is also our experience that some children are held on remand because they had breached unachievable bail conditions or were unable to perfect bail due to being homeless, despite a duty on Health and Social Care Trusts to provide these children with suitable accommodation.”⁵⁶

In a CJINI inspection in 2022, the Chief Inspector commented that the JJC was:

“Still being used too often as a place of safety because there are no available alternatives and children remain in custody because a suitable bail address isn't available”.

The CLC are also aware that there are now only two full time custody suites in police stations in Northern Ireland, namely Strand Road and Musgrave. As a result, there are often lengthy delays in processing children into custody, with no priority given to young people. We have been made aware of situations where children waiting to be processed have asked to go to the toilet, only to be refused and as a result have soiled themselves in the police vehicle they are being held in. A further consequence of this is an added charge of criminal damage for the young person. This is clearly a breach of children's rights and is degrading.

33 [Youth Justice Annual Workload Statistics 2022-23 | Department of Justice \(justice-ni.gov.uk\)](#)

⁵⁶ Childrens Law Centre Submission to the Policing Board Children & Young People report

CLC have not been able to obtain confirmation or details but are concerned that children may be being detained in police cells or vans overnight. It is CLC's view that police custody should not be used in any situation involving children under 18. Likewise, children should never be held in police vans. They are oppressive environments, which desensitise children and young people to the criminal justice system and increases their vulnerability. Noting the particular vulnerability of children who come in contact with the criminal justice system, the impact of holding children in police stations and/or police vans is significantly exacerbated and results in a differential adverse impact on these children. In order to be children's rights compliant, the PSNI, along with other statutory agencies, should desist from holding children in such conditions and should urgently move towards a Barnahus model, where children are brought to a child friendly environment, away from a police station to be processed and interviewed and where the need for short-term and longer-term therapeutic support can be assessed.'

COMMUNITY BACKGROUND AND RELIGION

During the last few years statistics have been published which raise some questions about fairness in policing the two main communities of Northern Ireland (see section in Stop and Search chapter). In December 2021, the Detail obtained Freedom of Information responses from the PSNI which suggested that over the previous five years, twice as many people who self-identify as coming from the Catholic community as come from the Protestant community were arrested and twice as many Catholics were subsequently charged after arrest.

RECOMMENDATION 4:

The PSNI should publish annually the community background figures for arrest and custody of children and young people.

RECOMMENDATION 5:

The PSNI should report on the numbers, ages and the offence for which they were arrested of all children and young people who have been detained in police custody for more than two hours and the length of time that they were detained.

RECOMMENDATION 6:

The PSNI should provide the Board annually with the numbers of children and young people who were not brought before the custody officer on arrival at the police station, their ages and the reasons why there was a delay.

STRIP SEARCHING IN POLICE CUSTODY

The United Nations Committee on the Rights of the Child on examining the UK's compliance with the Child Rights Convention stated in June 2021:

“The Committee reiterates its previous recommendations and urges the State party [the UK]:

(a) To take legislative measures to explicitly prohibit, without exception, the use of:

(ii) strip searches on children⁵⁷

The issue of strip searches of children and young people has been the subject of considerable concern over the last two years across the UK. In Northern Ireland, the issue of strip searching of children in custody was raised by organisations in the children's sector at a PSNI Youth Champions Forum meeting in May 2022 and the Board reviewed the practice in the Human Rights Review of Children and Young People: Strip Searching in Police Custody.⁵⁸

A series of recommendations were made in the Report, including updating guidance and re-evaluating governance frameworks and recommendations regarding the amendment of PACE legislation and Codes. The Report also considered the role of the Appropriate Adult in some detail and the alarming fact that in the majority of cases, an Appropriate Adult was not present. Apart from the obvious issues of the dignity and the likely humiliation of children and young people having to remove their clothes in police stations in front of strangers and, the questions about whether PSNI are complying with the law and regulations, there are a number of specific human rights issues involved, in particular Articles 3 and 8. It appears that as a result of the

⁵⁷ Para 30(a). This also a recommendation from the Children's Commissioner.

⁵⁸ [Human Rights Review Children and Young People: Strip Searching in Police Custody](#)

recommendations there are fewer strip searches and now very few in the absence of an appropriate adult.

Include Youth also flagged up a number of issues, that includes:

- **‘Rationale and justification for completing a strip search:** we would like to know the detailed reasoning for why a search is undertaken and how it is recorded. In particular, we are concerned that the justification for such searches is often derived from ‘flagging’ information already held by PSNI systems on the person subject to the search. We would require further information on how that ‘flag’ is interpreted and used in a decision to undertake a search;
- **Vulnerable young people:** what prior assessment is made to ensure that young people were not ‘triggered’ by a strip search, in particular young people who may have been victims of sexual abuse or exploitation. How is the sensitivity and vulnerability of young people assessed? Is a record taken and information shared with necessary authorities if a young person in care has been subject to a strip search?
- **Governance:** what steps are taken to ensure there is appropriate governance of the arrangements and decision making processes;
- **Appropriate Adult:** It is concerning that a considerable number of searches have taken place without an Appropriate Adult being present. How are young people consulted on who they would like to be present during the search and are young people given every opportunity to request who they want present?
‘Having no appropriate adult for children subjected to a strip search is a total human rights abuse. If they are in care, they don’t have a parent looking out for them like there would be in a private home. It should never be done without an appropriate adult there, it’s such an abuse, it wouldn’t happen in another context.’ (Include Youth staff)
- **How was the search conducted:** an examination and record of what levels of restraint were used during the search, and the justification of that level of restraint/ force;
- **Where the search was conducted:** a review of the location of the search and clarity about any searches that were conducted outside custody setting;

- **Follow up to search/safeguarding referrals:** what was the outcome of the search and was there a follow up in terms of a safeguarding referral if it was deemed necessary? If young people were ‘triggered’ by the search, what attempts were made to provide follow up support? and
- **What evidence is there of a trauma informed approach to strip searching of children and young people?**

The Children’s Law Centre responded:

“Whilst CLC recognise the improvements in procedure as a result of substantial engagement with the PSNI and following the publishing of the NIPB Human Right’s Advisor’s review earlier this year, it is CLC’s view that strip searching of children is not human rights compliant and is on the evidence a disproportionate use of force, and should be prohibited in line with the UN Committee on the Rights of the Child’s most recent recommendations.”

From April 2023 to March 2024:

- 19 children were subject to a strip search,
- 13 were male and 6 were female,
- there were on average 1.58 searches per month,
- 2 of those searches completed had a positive result,
- 8 searches were completed on 17-year-olds,
- 8 on 16 year olds,
- 3 on 15 and 13 year olds.⁵⁹

In terms of religion of those subject to strip searches, the data for 2023 shows that of the 26 children:

- 13 children identified as Catholic,
- 5 refused to disclose any religion,
- 7 answered none, and
- 1 answered unknown.⁶⁰

⁵⁹ PSNI Management Figures – SAP June 2024

⁶⁰ PSNI Management – SAP June 2024

STRIP SEARCHING IN CUSTODY UPDATE, SEPTEMBER 2024

The police service in England and Wales and the Home Office are changing the PACE codes to protect more juveniles following the discovery of an important clarification in the law. The clarification resulted from a court judgment in an English Court of Appeal case (*Davies v Chief Constable of Merseyside Police*, 19th February 2015, EWCA Civ 114) in relation to a girl who sued the police for compensation. In any case, which concerns the removal of all the clothes of a juvenile (even if in stages and one half at a time), and where this is supervised by officers then this needs to be considered a strip search. As result, the strip search protections in PACE Code C need to apply. Police forces had assumed that the 'mere' removal of clothes without a visual inspection of the half-naked detainee did not constitute a strip search.

The numbers of juveniles who have to remove their clothes but are not technically 'strip searched' therefore is much higher than the formal 'strip search' figures provided by PSNI for the Board's previous report. The PSNI reported this issue to the Human Rights Advisor in June 2024 but are having difficulty calculating the new figures and putting in place new arrangements, partly because the protections that apply in 'strip searches', including recording of every 'strip search', have not previously applied to the removal of clothing and will require a significant increase in the frequency of appropriate adults attending police stations.

Those additional cases where detainees have had to remove their clothing since the judgment in 2015 will not have been protected by the additional safeguards required by the specific strip search procedures and protections, will not have been properly recorded and the juveniles concerned are unlikely to have been provided with an appropriate adult to support them.

This issue does not, however, solely concern juveniles but also detained adults subjected to the removal of clothing. However, the extra procedural protections for juveniles in Code C are not provided to adults more generally (particularly the requirement to ensure an appropriate adult is available). Nevertheless, it is also likely that a significant number of vulnerable adults who have had to remove all their clothes

in front of officers should also have had the support of an appropriate adult and the other protections.

The Human Rights Advisor asked the PSNI whether failing to take urgent action to fix this problem was resulting in detainees being unlawfully treated in custody. On 31st July 2024 the PSNI replied as follows:

In relation to PSNI's legal position on circumstances where a juvenile/vulnerable adult is required to remove and/or change clothing for forensic and/or health and safety reasons the PSNI are currently developing a policy in this area. The PSNI recognises the engagement of Article 8 and that policy is required to be developed to standardise the use of reasonable protections to juveniles/vulnerable adults and that proper records are made and retained of that process to facilitate governance and oversight.

It is envisaged PSNI may consider seeking the routine assistance of appropriate adults as part of that policy. PSNI are aware of this issue and will continue to balance their obligations to protect the juvenile/vulnerable adult from a health and safety perspective, ensure the integrity of any criminal justice outcome that affects the individual and taking reasonable steps to limit interference with the rights of the juvenile/vulnerable adult.

Development of the policy will require consultation with stakeholders including the DoJ who holds responsibility for the Appropriate Adult scheme. The PSNI are content they are proceeding lawfully in policy development both in public law terms and in respect of the individual engagement of the rights of juveniles/vulnerable adults.

Separately the Department of Justice (DOJ) have recently started to consult on different changes to the PACE Codes but have not picked up the England and Wales consultation from April 2024 that deals with the above issue. The Board's response to the DOJ will allow the Board to raise a few issues from the previous strip search report, some issues to assist the Boards custody visitors, as well as this bigger problem.

CONCLUSION

Several substantive issues remain regarding the PSNI's full compliance with human rights law in this area. While no doubt a particular challenging line of policing work, the police are responsible for the protection of both the detainee's rights and welfare once they are arrested. Similar to stop and search, the figures on community background in relation to arrest and detention raise questions about fairness in policing of the two main communities of Northern Ireland. The inspection framework provided by RQIA, CJINI and ICVs is therefore vitally important. Additionally, it is important for the Board to continue in its advocacy role and continue tracking progress in relation to the implementation of previous recommendations, in particular regarding the rights of children and young people in detention.

DIVERSION

Diversion is the approach adopted the criminal justice agencies in Northern Ireland, particularly the Youth Justice Agency,⁶¹ to divert children and young people away from committing crime and, often, to divert them away from the formal criminal justice system.⁶² The PSNI is a key collaborator in this work.

One of the key recommendations from the Review of the Youth Justice System in Northern Ireland (2011) was the need to reduce avoidable delay in the system. One aspect of this involved significant numbers of families not responding to letters from the Public Prosecution Service (PPS) regarding Informed Warnings (IWs), Restorative Cautions (RCs) or Diversionary Youth Conferences (DYC), resulting in court appearances, most of which were diverted back to the PPS. Youth Engagement was developed, as a partnership between PSNI, PPS and YJA to help reduce this delay and to allow children and their families to make more informed decisions.

There were 3,747 cases (not crimes) referred for Youth Engagement in 2022/23, 1291 were suitable for youth engagement and 2,270 were not suitable. 186 were awaiting

⁶¹ Statement of purpose: 'Making communities safer by helping children to stop offending.'

⁶² In line with the UNCRC, see para 24, General Comment 10, 'States parties shall seek to promote measures for dealing with children alleged as, accused of, or recognized as having infringed the penal law without resorting to judicial proceedings, whenever appropriate and desirable. Given the fact that the majority of child offenders commit only minor offences, a range of measures involving removal from criminal/juvenile justice processing and referral to alternative (social) services (i.e. diversion) should be a well-established practice that can and should be used in most cases.'

PPS decision. These would have processed through the justice system and potentially the courts. In 2022/23 there were 857 referrals and cases of young people aged 10-13 years. Of these 385 were suitable for youth engagement and received various diversions/no further action. There were 70 out of the 385 who were returned to PPS for further decision.

The 3,747 cases relating to young people coming into formal contact with the criminal justice system in 2022/23 showed an increase of 1,260 (50.7%) from 2021/22. The Public Prosecution Service (PPS) assessed 34.5% (1,291) of cases suitable for resolution through the Youth Engagement process and 60.6% (2,270) as not suitable. Of those assessed by PPS as not suitable for Youth Engagement, 40.4% (916) were deemed suitable for prosecution and 58.2% (1,322) were assessed as requiring no further action. Just over two fifths (42.6%, 1,595) of cases in 2022/23 were in relation to those aged 16 or 17 at the time of their offence. The remaining 57.4% (2,152) were aged 10 to 15 at the time of their offence.

The most frequent outcome of those completing the youth engagement process was a Youth Conference. Almost all of the cases removed from the Youth Engagement process were returned to the PPS for a further decision on how the case was to be progressed. The median time for a case to be dealt with through the Youth Engagement process in 2022/23 was 67 days, an increase of one day from the median time recorded in 2021/22. The majority (74.4%, 2,786) of young people coming into formal contact with the justice system in 2022/23 were male.

Table 1a: Numbers of Youth Engagement Referrals and Cases by suitability

Referrals	2018-19	2019-20	2020-21	2021-22	2022-23
Suitable for Youth Engagement	1,139	1,221	1,121	1,016	1,291
Not suitable for Youth Engagement	1,618	1,427	1,085	1,330	2,270
Awaiting PPS decision	65	75	61	141	186
Total	2,822	2,723	2,267	2,487	3,747

Table 1b: Percentage of Youth Engagement Referrals and Cases by suitability⁶³

Referrals	2018-19	2019-20	2020-21	2021-22	2022-23
Suitable for Youth Engagement	40.4%	49.4%	40.9%	40.9%	34.5%
Not suitable for Youth Engagement	57.3%	47.9%	53.5%	53.5%	60.6%
Awaiting PPS decision	2.3%	2.7%	5.7%	5.7%	5.0%
Total	100.0%	100.0%	100.0%	100.0%	100.0%

Children and their families can attend Youth Engagement Clinics, facilitated by PSNI Youth Diversion Officers and YJA staff, where they can discuss the outcome recommended by PPS and its consequences and decide whether or not to accept this disposal.⁶⁴

COMMUNITY RESOLUTION NOTICE REFERRAL SCHEME

A Community Resolution Notice (CRN) is an alternative way of dealing with less serious crimes, allowing PSNI officers to use their professional judgement when dealing with offences such as low-level Public Disorder, Criminal Damage, Theft, minor Assaults and minor Drug Related Offences. CRNs allow victims a quick resolution to the harm caused to them; whilst giving those who commit the offence support to avoid further offending and the opportunity to repair the harm caused by their behaviour, without attracting a criminal record.

The Youth Justice Agency (YJA) commenced a pilot scheme at the beginning of March 2018 whereby drug and alcohol awareness sessions were delivered by YJA staff to children and their parents, as part of a CRN, where the police officer administering the CRN, having consulted a Youth Diversion Officer, deemed this appropriate to help prevent further offending. A review in November 2018 found that the scheme had been a great success; with children, parents, carers, police officers and YJA staff predominantly providing very positive feedback. Therefore, it was agreed to pilot the extension of the referral scheme for other types of offences in the YJA Belfast and

⁶³ [Youth Engagement 2022-23 revised \(justice-ni.gov.uk\)](https://www.justice-ni.gov.uk/youth-engagement-2022-23-revised)

⁶⁴ Youth Justice Agency, 'The Development of Diversion'.

Southern areas from February 2019. The extended pilot was reviewed in July 2019 and following equally positive feedback for all types of offences, PSNI and YJA agreed to roll this scheme out across Northern Ireland for all types of offences from November 2019.’⁶⁵

SEXTING REFERRAL SCHEME

The Sexting Referral Scheme is a partnership initiative between the PSNI and the Youth Justice Agency (YJA). Referrals are made by PSNI for children who have been involved in relatively minor “sexting” type offence behaviour, and who would benefit from education rather than a formal justice disposal. YJA staff provide one-off sessions for children and their parents/carers about the risks associated with this type of behaviour which are undertaken within 30 days of referral. If deemed necessary, children can also be offered further YJA involvement on a voluntary basis.’⁶⁶

Whilst the diversion route is an important method in diverting children from the formal court process, it is important that the child understands the full implications of what they are agreeing too. Legal representation should be present to ensure the child is aware of the consequences that could occur if a diversion is accepted. Consequences could include being excluded from some employment and not being able to gain entry to countries abroad. The Youth Justice Agency have reported that legal representation, while offered to individuals, was declined in the majority (77.1%, 654) of cases by the family.

The Children’s Law Centre submitted to this Review that:

“Some diversionary measures can be accessed only through the admission of guilt and the consent of the child. This is of concern given that many young people find the options under diversionary disposals confusing. It is critical that young people do not agree to a diversionary disposal without being fully aware of the impact of their decision, especially regarding a criminal record and the implications of admitting guilt on future choices. It is therefore critical that children should not make such admissions in the absence of independent legal advice, even when accompanied by their parents/guardians or an appropriate adult. However, practitioners working with young people have noted that the

⁶⁵ Youth Justice Agency, ‘The Development of Diversion’

⁶⁶ Youth Justice Agency, ‘The Development of Diversion’

capacity of some young people to give informed consent and meaningfully participate (e.g. in agreeing actions or conditions during diversionary youth conferences) is questionable. Meaningful participation in proceedings may also be affected by young people's mental health issues or learning difficulties.'

The diversion of children away from crime and away from the formal justice system is likely to be best achieved by a change in the age of criminal responsibility.⁶⁷ The UN Committee on the Rights of the Child recommends:

"A higher MACR [Minimum Age of Criminal Responsibility], for instance 14 or 16 years of age, contributes to a juvenile justice system which, in accordance with article 40 (3) (b) of CRC, deals with children in conflict with the law without resorting to judicial proceedings, providing that the child's human rights and legal safeguards are fully respected."⁶⁸

In 2022, the Department of Justice launched a public consultation on raising the minimum age of criminal responsibility in Northern Ireland. The current age is 10. In June 2024, the Justice Minister reported the outcome of the public consultation which showed a majority support for the age to be raised to 14. Any change requires legislative approval through the Executive. The DOJ has indicated they will draw up a set of options which will be shared with executive colleagues.⁶⁹

A joint submission was made by Children's Law Centre, NIACRO, Include Youth, VOYPIC and QUB Centre for children's rights to raise the age of criminal responsibility to age 16.

RECOMMENDATION 7:

The PSNI should report to the Board what the barriers and obstacles are to increasing the diversion of children and young people away from the formal justice system.

RECOMMENDATION 8:

The Department of Justice should increase the minimum age of criminal responsibility in Northern Ireland to at least 14 years of age in order to comply with the recommendations of the UN Committee on the Rights of the Child

⁶⁷ In Northern Ireland and England and Wales this is 10, in Scotland it is 12.

⁶⁸ Para 33, General Comment 10, 2007.

⁶⁹ [Options drawn up to raise age of criminal responsibility in Northern Ireland | Evening Standard](#)

CHAPTER 3: CHILDREN AND YOUNG PEOPLE – VICTIMS OF CRIME

This review provides the opportunity to analyse the statistics recorded where children and young people are victims of crime. Whilst statistics can be a good comparator and can help target resources into areas that may be of concern, they often do not reflect the nuances of individual situations. For example, the Jay Review highlights that there is no data on how many children are criminalised for offences as a result of their exploitation. Increases in drug offences or violence may be as a result of Child Criminal Exploitation and Child Sexual Exploitation but the figures do not provide this detail.

Looking at all ages under 18, PSNI recorded 9,130 crimes between April 2023 and March 2024. This was a reduction of 888 on the previous year. The most frequently recorded type of crime where an under 18 was a victim in 2023/24 was for violence without injury and sexual offences. Looking at these two categories of types of crime, the rate per 1000 population for under 18s is violence without injury eight per thousand and sexual offences five per thousand. Comparing that to the population as a whole – which includes the under 18s, the rate for these types of crime were nine and two per thousand respectively.⁷⁰

Age under 18	Recorded Crime by victim, age, gender and crime type	Apr 2022-Mar 2023	Apr 2023-Mar 2024
All genders (including unknown)	Violence with injury (including homicide & death/serious injury by unlawful driving)	2,070	1,937
	Violence without injury	3,692	3,435
	Stalking and Harassment	1,252	854
	Sexual offences	2,308	2,237
	Robbery	36	33
	Theft - Burglary	7	5
	Theft - vehicle offences	18	8

⁷⁰ [Police Recorded Crime Statistics | PSNI](#)

	All other theft offences	527	524
	Criminal damage	85	80
	Other crimes against society	23	17
	Total police recorded crime	10,018	9,130

These figures result in a recorded crime rate i.e. where the victims aged 10-18 are shown per thousand of the population of that age group.

Age under 18	Recorded Crime rate by victim age, gender and crime type per thousand 2022/23, 2023/24	Apr 2022- Mar 2023	Apr 2023- Mar 2024
All genders (including unknown)	Violence with injury (including homicide & death/serious injury by unlawful driving)	5	4
	Violence without injury	8	8
	Stalking and Harassment	3	2
	Sexual offences	5	5
	Robbery	0	0
	Theft - Burglary	0	0
	Theft - vehicle offences	0	0
	All other theft offences	1	1
	Criminal damage	0	0
	Other crimes against society	0	0

PARAMILITARISM

The influence of paramilitaries and exposure to intergenerational trauma has been widely researched and recognised as a legacy that is still felt in communities today. Paramilitary and Organised Crime Groups have influence, control and vulnerable children and young people can be groomed into criminal activity.

This can result in children and young people in some communities, believing they cannot rely on the police protecting them. Siobhan McAllister in her report, *Experiencing Paramilitarism: Understanding the Impact of Paramilitaries on Young People in Northern Ireland* states;

“Across all of the communities it was noted that threats or attacks were generally not reported to the police. This suggests that official police records/statistics on ‘paramilitary style incidents’ are a serious under-estimate. In fact, only one of the young people who had been personally intimidated, kidnapped, beaten, shot or exiled told us that this had been reported to the police. In this case it was because the exclusion order was communicated to them by the police.”⁷¹

Her research outlined a number of reasons why young people did not report to the police. These included:

- A perception that the police could not or would not do anything;
- A strong belief that in many cases the police already know who these people are, and do nothing about it;
- A fear of reprisals/ do not want to be viewed as a tout;
- Poor relationship with or lack of trust in the police (including previous negative encounters); and
- A feeling among some young people that they ‘deserved it’ because of their behaviour.

This last reason is of particular concern, as some young people referred to the fact that in retrospect, they felt that the ‘punishment’ they had received had ‘taught them a

⁷¹ *Experiencing Paramilitarism: Understanding the Impact of Paramilitaries on Young People in Northern Ireland*, Siobhan McAllister, Clare Dwyer and Nicola Carr, Centre for Children’s Rights, Queen’s University Belfast, October 2018.

lesson'. While, they had suffered injury themselves some said that if an issue arose for them (e.g their house was broken into), they would consider bringing it to the attention of paramilitaries rather than the police.⁷²

These sentiments were reflected in further research, (Countering Paramilitary & Organised Criminal Influence on Youth, A Review) whereby young people stated;

“There was consensus among all interviewees that young people were at the front line of the experience of paramilitarism in communities as both participants in and victims of activity, ideology and culture.”

‘Young people in this area usually have three options: one, they go to school, get a job and have no association with these groups or criminal activity; two, those that are manipulated into joining because of a debt or risk of beating; three, those that choose this lifestyle. That third group requires a specific skill set to work with – [a] special language and relationship style – to confront their choices.’

‘The people that are being arrested are young. And that is why it important to get them early. The psychology of this is get them early, when their life journey is shaped. So, a lot of our work now is [in] primary school. Our challenge is not the young people; it is building resilience in young people.’⁷³

Many interviewees identified the absence of meaningful relationships between young people and policing as a common theme in both loyalist and republican areas and were critical of the approach of policing at-risk young people, which they felt was often counterproductive, and created impediments to their own ability to work with police:

“Currently, the practice is personality-based and there is no real institutional contract. Also, the relationship is with constables and once you go up the pipe the police lose knowledge and become unclear about what is happening. Basically, I don’t think they internally share information.”⁷⁴

⁷² Experiencing Paramilitarism: Understanding the Impact of Paramilitaries on Young People in Northern Ireland, Siobhan McAlister, Clare Dwyer and Nicola Carr, Centre for Children’s Rights, Queen’s University Belfast, October 2018.

⁷³ Para 3.4, Countering Paramilitary & Organised Criminal Influence on Youth: A Review, Duncan Morrow & Jonny Byrne, March 2020.

⁷⁴ 3.4 Countering Paramilitary & Organised Criminal Influence on Youth: A Review, Duncan Morrow & Jonny Byrne, March 2020.

Many young people still share the basic assumption that the primary aim of police officers is to gather wider intelligence, potentially turning the young people into ‘touts’ and social pariahs among their peers:

“There is a fear factor there still when you explain to the young people the nature of your role with the police. From the police perspective, they need to get better at sharing information and not see it all as intelligence”

In some places, this has created a vacuum in social control that the paramilitaries first filled and now protect against the encroachment of the police, using an ideological justification:

‘The vacuum in law and order creates a platform which they [the paramilitary/armed groups] fill – that’s the problem.’

In this context, young people are largely the targets of brutal paramilitary action, where members of armed groups are able to portray themselves as acting on behalf of the community in the absence of policing.⁷⁵

The report recommends:

“The relation of youth workers to the police within ‘Policing with the Community’ should be clarified. The PSNI and youth service should develop clear protocols for youth workers and police officers on collaboration, making clear both the distinct and separate roles of the two services while enabling collaboration to support safeguarding. This might explore opportunities for a triage system to enable appropriate response to issues of young people and violence in the community.”⁷⁶

⁷⁵ Para 3.4, Countering Paramilitary & Organised Criminal Influence on Youth: A Review, Duncan Morrow & Jonny Byrne, March 2020.

⁷⁶ 3.9

CHILD CRIMINAL EXPLOITATION

Child Criminal Exploitation (CCE) is a complex concern in Northern Ireland and one that has gained public prominence over the past number of years in part due to the emergence of county lines drug gangs in England. CCE is also a safeguarding rather than solely criminal issue and cannot only be viewed in the context of criminal gangs but also through familial links and local communities. CCE can affect any child or young person. It can be as a result of coercion which results in intimidation and violence where the young person feels forced to comply with the perpetrators.

Protecting children from intimidation or violence and stopping them from developing a criminal lifestyle are obvious aims that any parent or carer would accept and the United Nations Convention on the Rights of the Child also takes this commonsense approach that parents would recognise:

“Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.”

Child Criminal Exploitation currently does not have a clear statutory definition. (A statutory definition is expected in Autumn 2024.) It can include a range of criminal behaviours and as our knowledge and understanding of CCE expands this should be reflected in the definition, the growing use of social media and mobile phones may result in the exploited child never meeting the person who is exploiting him or her.

The Home Office guidance states that CCE:

“Occurs where an individual or group takes advantage of an imbalance of power to coerce, control, manipulate or deceive a child or young person under the age of 18 into any criminal activity (a) in exchange for something the victim needs or wants, and/or (b) for the financial or other advantage of the perpetrator or

facilitator and/or (c) through violence or the threat of violence. The victim may have been criminally exploited even if the activity appears consensual. Child Criminal Exploitation does not always involve physical contact; it can also occur through the use of technology.”⁷⁷

Many argue, with some justification, that it constitutes a form of child abuse and that the definition should reflect this. The Human Rights Advisor was told by professional experts that he consulted, that the lack of definition impairs the PSNI’s ability to identify and take action against those who are victims or perpetrators of CCE and provide protective and appropriate responses. A child friendly definition should be developed to make it easier for children and young people to identify and combat exploitation and to seek help for themselves from friends and families. Discussion around this could be facilitated through the Youth and Policing Partnership Forum.

The PSNI are currently using the definition of CCE produced by the Child Protection Senior Officials Group (CPSOG). This multi-agency group of statutory and voluntary sector organisations was set up in response to NICCY advice after the public order disturbances in April 2021. The definition was reached with the involvement of children. The CPSOG agreed to set up a Task and Finish Group to investigate CCE and the PSNI are involved in this process.

“Child criminal exploitation is a form of child abuse which occurs where an individual or group takes advantage of an imbalance of power to coerce, control, manipulate or deceive a child or young person under the age of 18 into any criminal activity. The exploitation (maybe) through violence or the threat of violence (but may also appear to be transactional and in the context of perceived relationships and friendships). The victim may have been criminally exploited even if the activity appears to be consensual. Child criminal exploitation does not always involve physical contact. It can also occur through the use of technology (and social media). The criminal exploitation of children (and young people) can include being exploited into storing drugs or weapons, drug dealing, theft, violence, intimidation, vandalism, forced labour and other

⁷⁷ Home Office (2021) Modern Slavery Statutory Guidance for England and Wales and Non-Statutory Guidance for Scotland and Northern Ireland.

forms of criminality through grooming by people that children and young people trust or look up to”

A recent inspection by HMICFRS (PSNI Inspection of police effectiveness, efficiency, vetting and standards) published in October 2023, recommended that the PSNI should improve its understanding of CCE and challenge the perception that exploitation of children for a criminal purpose isn't a significant issue in Northern Ireland. The Report states that:

“The service should improve its understanding of and response to child criminal exploitation (CCE). Dedicated teams investigate child sexual exploitation and the service works well with other agencies to protect victims of child sexual exploitation and prevent those children most at risk from becoming victims. There is no similar process for CCE.

There is a perception in the service that CCE isn't a significant issue and there is a misconception that it only relates to county lines type exploitation that happens in England and Wales. Due to paramilitary involvement in organised crime, there are nuances to the criminal structures in Northern Ireland. But the view that this doesn't involve the exploitation of children is wrong. We found examples of children being exploited by criminal gangs, many of which have been reported in the press.”⁷⁸

In response to these recommendations the PSNI have commissioned an analytical profile of CCE in Northern Ireland. This should help gain insight into the scale of the problem of CCE in Northern Ireland and related issues of the role of children who use dangerous drugs or alcohol, why children are being arrested and gain a better understanding of those children who have become involved in criminal gangs. The results of this research should better inform the PSNI on how to develop training and the response to CCE and to target resources more effectively.

The difficulty for PSNI, as for any law enforcement institution, is that despite the exploitation of the child, the crimes committed are real and are likely to have real victims. The development of a new approach to CCE should not result in some kind

⁷⁸ <http://hmicfrs.justiceinspectorates.gov.uk/publications/psni-inspection-of-police-effectiveness-efficiency-vetting-and-standards>

of ‘get out of jail free card’ but should result in a greater understanding of the pressure on the child and children in general in order to reduce his or her propensity to commit crime, intervene to stop those exploiting the child, and, at least over time, reduce crime and protect victims.

In Northern Ireland paramilitary groups are known to be involved in targeting vulnerable children and young people, recruiting them, for example, for illegal money laundering and drug offences. These children often live in areas of socio-economic disadvantage, low educational attainment and are, often, vulnerable. These children are, at least anecdotally, more likely to distrust authority and the police in particular, making it difficult for PSNI to intervene.

“Poorer children were less likely to agree that young people in their area trusted the police - only 23% of those who received free school meals [a measure of being less well off] agreed that young people trusted the police, compared to 41% of those not on free school meals⁷⁹

The UN Committee on the Rights of the Child in 2016 recommended that the state party “Take immediate and effective measures to protect children from violence by non-state actors involved in paramilitary-style attacks from recruitment by such actors into violent activities, including through measures relating to transitional and criminal justice”.⁸⁰

Examples of this kind of exploitation were provided to the Human Rights Advisor: young people recruited or groomed for criminal and/or sexual exploitation by groups who provide them with money, gifts or for example drugs creating the beginning of some kind of dependence. The child or young person may then be ‘allowed’ to run up debts which they can’t pay and instead repay them through the movement or selling of drugs or in the case of girls completing sexual favours for the perpetrators. This can lead to the child being both a perpetrator and a victim. The child then may also not understand they can be a victim of coercion and exploitation because they are obviously conscious that they have committed crimes themselves. The PSNI have

⁷⁹ [Rights Here Right Now - Summary for Children and Young People - Jan 2023.pdf](#)

⁸⁰ UN Committee .

then to balance the rights of the child in this context. A clear definition of CCE and child centered legislation would help to ensure that children and young people are not being seen as criminals first but treated in a safeguarding environment.

The influence of paramilitaries has become embedded into some communities and exploitation normalised. The Executive Tackling Paramilitarism Programme gave evidence on 9th May 2024 to the Justice Committee on the number of children whose lives have been affected by paramilitaries. Their research showed 45% of young people in Northern Ireland have been impacted by paramilitaries and this figure can increase in some local areas. Fifty per cent of those young people did not feel protected by the PSNI or Justice system. The Executive's DOJ's programme runs 100 projects through the statutory and voluntary agencies and hopes to engage with young people at key intervention points in their lives. They report that 9 out of 10 young people who engage have already experienced complex trauma. 97% have seen a family member hit, kicked or punched at home, 12.5% have been attacked by paramilitaries, 33% threatened and 62% report having seen a paramilitary attack.⁸¹ The whole community is often affected and, with a lack of trust in public bodies including the PSNI, this can create even more reliance on the role of the paramilitaries within the areas as 'protectors' and enforcers.

"We heard that elements of guidance in Northern Ireland explicitly respond to the unique context of exploitation, namely that "Children may also be abused or exploited by adults who hold power within their communities..."⁸²

I have been told on many occasions of the 'threatening control' within communities by 'paramilitaries' but whose activities are serious criminality, with stories relayed in the press about continuing threat and violence⁸³

Dr Colm Walsh, published the findings of his study in December 2022 into understanding young peoples' experience and attitudes of criminal exploitation in relation to Northern Ireland. Focus groups representing Protestant/Unionist/Loyalist

⁸¹ Minutes 9 May 2024, Justice Communities

⁸²Jay Review of Criminally Exploited Children launched by Action for Children. (The report of the Jay Review of Criminally Exploited Children)

⁸³ [Independent Review of Children's Social Care Services | Department of Health \(health-ni.gov.uk\)](https://www.health-ni.gov.uk/independent-review-of-childrens-social-care-services)

and Catholic/Nationalist/Republican areas of communities were established. One of the areas that was examined was the relationship between young people, paramilitaries and organised crime. He states that,

*“Despite the transition towards peace, each focus group affirmed that the presence of paramilitary and organised crime groups remained a reality”.*⁸⁴

The young people also expressed their views on their relationship with the PSNI and whether they trusted them and if they would they inform them if they felt or were in fear. The young people in Dr Walsh’s research said that they would only go to the police as a last resort, if they could resolve an issue themselves or in another way this would be preferable. They also explained that if they did go to the police they could be seen as a ‘tout’ and the fear and reprisal from the community would stop them from reporting an incident to the police. Young people would only contact the police if there was immediate risk. Others felt that paramilitaries took action whereas the police would look away. This is a clear reminder that the PSNI have a lot of work to do to gain the trust and respect of young people in some communities.

When asked if you were in trouble would you contact the police, one young person replied;

“I wouldn’t..nobody likes the police. I had a relationship with two cops but don’t trust them anymore”.

The young person also said;

“People turn to the paramilitaries rather than the police because police don’t do anything about it”.

Dr Walsh comments that,

*“The police response to paramilitary style assaults against young people in how they are investigated could be more inventive and it required a full criminal justice response from not only the police but the PPS and court system which is slow.”*⁸⁵

⁸⁴ Dr C Walsh QUB from contextual to criminal harm Young Peoples perceptions and experiences of Child Criminal Exploitation in Northern Ireland

⁸⁵ Dr C Walsh QUB from contextual to criminal harm Young Peoples perceptions and experiences of Child Criminal Exploitation in Northern Ireland. Pg 23

NICCY also highlighted the positive work of the Neighbourhood Police Teams and Policing and Community Safety Partnerships who provide outreach to schools, youth groups and organisations to try and educate young people around the dangers of CCE and CSE. They acknowledge the challenges faced by the police and that there is a real danger that PSNI's overall financial situation is such that funding for this work will be lost.

The PSNI, however, already help to facilitate 'A fresh start' through sports initiative funded by the Executive.⁸⁷ The PSNI in local areas can nominate children to attend. This is a 16-week programme where vulnerable children and young people can learn and take part in sporting activities that they might otherwise not have the chance to do. "Ultimately the goal is to provide a pathway for participants to move away from paramilitarism and towards community engagement, coaching or volunteering within or parallel to their favourite sports and activities."

The officers who took part in the scheme reported that it was a good way for them to engage with children who they might not be able to reach otherwise. The report highlighted the importance of consistency in relation to the officers being afforded the time to take part in the initiatives and this is reflected through wider community policing whereby relationships are established between officers and the young people and then broken when officers are moved.

...you just see their reaction and they're taken aback because...their stereotype of the police is something that works against them. Someone that's not there for them. So for them to see them supporting this programme...you could really see the changing of the mindset especially and I think that's become apparent.⁸⁸

This initiative was evaluated by academics from Ulster University who concluded;

"The Fresh Start Through Sport programme for 2022-2023 saw a significant increase in participation from neighbourhood policing officers. In certain delivery areas, officers attended in plain clothes and took part in the majority of programme activities. As corroborated by the evidence in Section 3, this had a

⁸⁷ [FSTS 22-23 Final .pdf \(ulster.ac.uk\)](#)

⁸⁸ [FSTS 22-23 Final .pdf \(ulster.ac.uk\)](#)

substantial impact on the young people's attitudes towards the police and the subsequent interactions between the two parties. However, these effects were perhaps less evident in areas where local neighbourhood policing teams were unable to adopt a similarly consistent approach.”⁸⁹

As noted in recent reports and media the number of neighbourhood officers is now at an all time low of 600 officers (at end of 2023, down by 100 on 2022)⁹⁰. A direct result of this is officers are unable to establish the relationships with young people or keep connections made if they are moved to other posts. Trust then breaks down and the young people can feel abandoned. The positive relationships that are established through the various schemes the PSNI are involved in will be lost.

In March 2024, CJINI published a report into Community Safety and Local Policing Arrangements⁹¹ in Northern Ireland which highlights the issue of abstraction, whereby neighbourhood officers are moved from their core role to cover other duties such as parades. The report outlined the negative impact of falling neighbourhood officer numbers and the high turnover of officers as follows:

“Community groups and representatives spoke highly of neighbourhood Officers noting that they were visible, accessible, responsive and community focussed. However, there were indications that this had started to reduce as Officer numbers fell.”

The perception is that boys are more involved in CCE and that girls are likely to be more involved in child sexual exploitation although the lack of data means that the extent of exploitation relating to girls is unknown. It is also unclear how many boys who have been criminally exploited are also sexually exploited and girls who are sexually exploited are also criminally exploited.

The Commissioner for the Victims of Crime raised the issue with the Human Rights Advisor that an adult being held in custody in relation to CSE or CCE could still be able to contact the child, especially if it is in a familial setting. This poses a safeguarding risk to the child. They also highlighted the need for the police to listen to children and

⁸⁹ [FSTS_22-23_Final_.pdf \(ulster.ac.uk\) p49](#)

⁹⁰ [CJINI - Criminal Justice Inspection Northern Ireland - Community Safety and Local Policing Inspection](#)

⁹¹ [CJINI - Criminal Justice Inspection Northern Ireland - Community Safety and Local Policing Inspection](#)

give them their voice as concern has been raised that the police make decisions for or on behalf of the child or young person. This is not an easy one for the PSNI to resolve especially if that person is the child's Appropriate Adult and has a malign influence and intent.

The Executive Programme also fund an Emergency Department Initiative whereby support is provided to vulnerable young people aged 15-25 who present to emergency departments. It is a hospital-based violence prevention scheme which can free up police time as they would not be required to stay in hospital while the young person is being treated.

CCE is a complex issue that requires the statutory and voluntary organisations to work together to make a positive change. The PSNI has a key role to play and would benefit from the introduction of a statutory definition to enable effective policy and guidance in how to inform and help those children who are most vulnerable to CCE. Better messaging, engagement with the community and establishing and maintaining communication with those hard to reach areas should be improved. As highlighted throughout this report neighbourhood policing are often in the best position to complete this work.

CHILD SEXUAL EXPLOITATION

Child Sexual Exploitation as defined by CJINI;

“A form of sexual abuse. It occurs where an individual or group takes advantage of an imbalance of power to coerce, manipulate or deceive a child or young person under the age of 18 into sexual activity (a) in exchange for something the victim wants, and/or (b) for the financial advantage or increased status of the perpetrator or facilitator. The victim may have been sexually exploited even if the sexual activity appears consensual. Child sexual exploitation does not always involve physical contact; it can also occur through the use of technology.”⁹²

Child Sexual Exploitation and Criminal Exploitation can be inextricably linked. Victims of CCE are often at risk of serious CSE. Girls may be coerced into CCE through

⁹² [Child Sexual Exploitation: An inspection of the criminal justice system's response \(cjini.org\)](https://www.cjini.org/)

relationships with members and then be subject to sexual threats such as image sharing or assault. The CCE Task & Finish Group state that

“Girls and young women are more likely to be the victims of sexual violence and as the degree of influence increases become more engaged in criminal activity, including luring victims to specified areas to be physically harmed.”

The UN Committee on the Rights of the Child in 2016 highlighted concerns in regard to CSE. These concerns include:

- The increasing risk of online child sexual exploitation and abuse;
- The insufficient respect for the views of the children in efforts to prevent, detect and respond to such exploitation and abuse; and
- The low rate of prosecution of child sexual exploitation and abuse.⁹³

The HMICFRS October 2023 report of police effectiveness was more positive about the PSNI’s approach and understanding of CSE.

“Specialist CSE teams within PPB identify both children at risk of being victims of CSE and potential perpetrators. The teams investigate cases of CSE and also work with health and social care to prevent victimization. PPB and social care staff jointly decide whether someone is a potential perpetrator. Details of potential perpetrators and any further information needed, are sent to local officers for their awareness. The CSE team works closely with all departments across the service to provide support and guidance on individual cases. It also provides training and awareness for police personnel.”⁹⁴

As with CCE, Child Sexual Exploitation can begin with children and young people being involved in low level crimes and as the coercion begins to get more significant they become more involved and feel that there is no way out.

Girls can be sent to pay drug debts on behalf of someone else and become the one who is then sexually exploited to pay off the debt. They can be asked to drop payments off and then if they are caught they get into trouble with the police. Girls

⁹³ [CRC C GBR CO 5-EN \(2\).pdf](#). Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland

⁹⁴ <http://hmicfrs.justiceinspectorates.gov.uk/publications/psn-inspection-of-police-effectiveness-efficiency-vetting-and-standards>

often feel that what is happening is normal and do not feel as though they are being abused.⁹⁵

RECOMMENDATION 9:

The PSNI should report on how they intend to achieve their objectives in supporting children at risk of offending or becoming victims of crime when neighbourhood police and other officer numbers are falling.

PSNI INITIATIVES

The Grevio Visit (UK compliance report)⁹⁶ (June 2023) is a Report submitted by the United Kingdom pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention).

This report highlighted the progress the PSNI has made with initiatives relating to violence against women and girls. VAWG Schemes include;

- Launch of Ask for Angela (partnered with hospitality sector);
- Additional training and awareness (on the domestic abuse offence, stalking, and non-fatal strangulation);
- Introduction of rape myths training and organisational change;
- Roll out of Operation Encompass;
- Training with marginalised communities – awareness sessions with LGBTQIA+ partners;
- Listening events with university students;
- Extension of Ask for ANI code words; and
- Introduction of the ASSIST NI services for advocacy to support victims of domestic and sexual abuse.

⁹⁵ [Young girls are being sexually exploited to cover drug debts by organised crime gangs - Belfast Live](#)

⁹⁶ [1680abd6d3 \(coe.int\)](#)

The Report states that,

“The PSNI has undertaken a number of campaigns during the last six months including the launch of the PSNI Violence Against Women and Girls action plan, Ask for Angela, and Operation Encompass. There are further media campaigns planned in coming months to focus on stalking awareness and matters related to online harms.”⁹⁷

The “Trust Your Gut” campaign is a national campaign that aims to raise awareness of CSE within the hospitality industry. It is part of the PSNI Operation Makesafe which was launched in March 2022. Operation Makesafe’s key themes are to raise awareness of CSE in the Nighttime economy, to launch a CSE communications plan whose aim is to raise awareness, empower people to recognise signs of CSE and encourage people to report.

Within the PSNI, considerable training has been undertaken to better understand and support VAWG-related offences including domestic abuse, stalking and CSE in the last 12 months. This has included training in coercive or controlling behaviour and understanding the barriers to reporting, as well as the impact of domestic abuse from a victim-centred approach. This four module training package has been completed by around 6,500 people across the organisation, and a similar stalking module has been undertaken by 4,600 people. PSNI are in the final stages of launching a training package to support the introduction of non-fatal strangulation and rape myths and organisational cultural change.

The PSNI have also developed a toolkit which sets out the operating protocol for the safeguarding and protection of children from CSE. The toolkit provides guidance in all aspects of CSE identification, the investigative process, abduction, trafficking, sexual offending tools and Victim Care. The aims of this strategy include treating the child as a child first, collaborating with partner agencies, ensuring a trauma approach is adopted and that the voice of the child is considered throughout processes. The guidance seeks to ensure a consistent approach and to provide proactive measures to disrupt those who seek to exploit children.

⁹⁷ [1680abd6d3 \(coe.int\)](#) (pg 11)

REFERRAL TO VICTIM SUPPORT AND ASSIST NI

The PSNI will signpost domestic and sexual abuse victims to a range of voluntary/support organisations. This is supplementary to a referral to Victim Support Northern Ireland for all victims of domestic and sexual abuse-motivated crimes alongside Assist NI. This referral process is in response to legislation in the Victims Charter to provide advice for all victims of crime.

The PSNI have made referrals to Victim Support of children since the early 2000s. The current process for referral involves the PSNI sending a spreadsheet with contact details and information about the crime to victim support who then attempt to contact the victim within two days. Victim Support have highlighted difficulties when trying to ensure they receive every eligible referral. The system now works on an opt out basis thus ensuring all victims receive the same information and the onus is then on them to not take up the offer of support.

Victim Support conducted an exercise in December 2023 to analyse the qualifying and types of all referrals received from the PSNI. Their findings show;

- 54% of all sexual offences are not referred to VSNI;
- 57% of all violence against persons crimes are not referred; and
- 65.07% of crime victims are referred. (Based on PSNI statistics)

Prior to 2020, Victim Support offered their service to children and young people via their legal guardians. They have since changed this approach and offer services directly to the child or young person. This had led to new difficulties with the referrals received from PSNI. Some of these difficulties have been resolved but others are still occurring. These difficulties lead to children and young people not receiving timely support and adding to their stress and upset at an emotional time.

Victim Support have highlighted the following issues:

- Not receiving accurate Appropriate Adult (AA) contact information;
- Receiving contact information for the AA who is the perpetrator (although this happens infrequently);

- If the PSNI do not complete the spreadsheet in the template provided it prevents the information from registering on victim supports bespoke case management system; and
- Different referrals going to different agencies. Victim Support and Assist NI are the two support agencies for the PSNI to refer to. The agencies have indicated that it would be preferable for the PSNI to forward all referrals of children and young people to both agencies so they can use their resources most effectively. As part of their review Victim Support noted that the PSNI were not sending referrals to both agencies and had no reason for not doing so.

REPEAT VICTIMS

The repeat victimisation rate is a measure within the 2020-25 Northern Ireland Policing Plan. Outcome 1 measures PSNI performance against Repeat victimisation rate in relation to Domestic Abuse, Child Sexual Abuse and Exploitation (CSAE) and Hate Crime. The Board therefore has the opportunity to assess the performance of the PSNI in reducing rates of repeat victims and how they meet human rights obligations.

CSAE has risen significantly over the past 20 years. The number of crimes against children have increased and the types of crimes that children are victims of have become more harmful. There has been a steady increase in the reporting of rape, sexual grooming and other sexual offences involving children over the past three years. Links have been identified between children in care, flagged at risk of CSAE, mental ill health and risk-taking activities.

Figures for 2023/24 have remained the same as in 2022/23 at 932 children repeat victims. In 2022/23, 25 of these children were at risk of CSE (2.7%). These figures represent an end to the year-on-year increase.

Police are developing a Child Exploitation Strategy with Organised Crime Branch to try and establish the scope and scale of exploitation in Northern Ireland. They are also taking part in a self-assessment peer review as part of a UK wide policing programme Operation Hydrant.⁹⁸ A child protection and abuse investigation working group has been established. The group support police forces across all child protection and

⁹⁸ [Chief Constable's Accountability Report to Northern Ireland Policing Board 02 May 2024 \(psni.police.uk\)](#)

abuse investigation issues. The PSNI reflected on how their team functions, the impact they have on safeguarding vulnerable children and tackling behaviours of perpetrators. This information can be used to assess what has worked well and those areas of improvement. The Board welcomes this opportunity for self-reflection and improvement and the sharing of best practice.

The PSNI reported to the Performance Committee in June 2024 that there are 59 live investigations involving CSE children, which include rape and sexual offences, with CSE children being repeat victims. There are currently 36 children being managed on the CSE framework and 43 persons of concern.

SEXUAL OFFENCES

In 2021/2022, of 3,995 sexual offences recorded in NI, 2,274 were against children. Additionally, there were 211 offences of sexual grooming in NI, of which 198 concerned sexual communication with a child. Of these offences, 125 had an online element.⁹⁹ Thirteen per cent of police recorded sexual crime against children had an online element. Online grooming child crimes rose by 30% from 2022 to 2023. The possession or sharing of indecent images has increased by 22% while 56 arrests were made which is an increase of 19% on the previous year. Eighty three convictions for possession or sharing of indecent images (38%) were secured.¹⁰⁰ Figures for 2023/24 show that offences of sexual communication with a child have decreased to 132 from 150 in 2022/23. Police have reported the increase in reporting in relation to CSE can be attributed to the success of the Trust Your Gut campaign. Hotel staff are now reporting instances if they believe that a child could be harmed. The Human Rights Advisor and the Board would be interested in the data outcomes of the campaigns to indicate if progress is being made and resources are being targeted to the appropriate areas.

SEXTING

In 2020/2021, the number of victims of sex offences that were under 16 years old at the time the offence was committed has more than doubled since 2007/2008. This may be influenced by 'sexting'. In 2020/2021, 49 per cent of all victims under 18 years old were girls.

⁹⁹ Police Service NI, 'Police Recorded Crime in NI: Update to 31 March 2022' (PSNI, 2022), at Pivot Table 2

¹⁰⁰ [Online child grooming crimes rise by a third, say PSNI - BBC News](#)

Anecdotal evidence suggests that the sending and receiving of pictures between friends or 'sexting' is seen to be 'normal' and expected if you use social media. However, teenage girls have stated they receive messages from older men, often foreign nationals on a daily basis. This is not just a problem in one community but across all children and young people. The messages can often still be received even if the recipient's account is private. Most girls say that they delete the messages without even opening them but others said they had engaged with the sender.

The young people told the Human Rights Advisor that if they had sent a sexual image of themselves to a friend or a person they were in a relationship with they would not report the incident to police if the picture was then further distributed or used inappropriately. Often this was due to embarrassment but also because they were concerned that they had themselves committed a crime or that the police would need to retain their phone.

This was also the view of girls who would not traditionally be seen as having negative views of the police. The girls said that when local policing attended school events the messaging was that they have committed a crime by taking and sending the picture in the first place. The fear of being in trouble themselves despite the consequences of the picture/message circulating was a barrier to reporting. One participant stated that, *"I don't think there is a point in telling the police because yeah, the person circulating it would get into trouble but so would you for sending so why would you report it"*¹⁰¹

The police could revisit their messaging around this issue to provide reassurance that although it is a crime to take and send the picture, the real perpetrator is the person who circulates it and the police would take a considered approach to the young person in this instance.

The Child Internet Protection Team (CIPT) are part of Public Protection Branch. They lead the response in tackling online CSAE. On average there are five cases per week recorded by PSNI involving a child being targeted online by sex offenders although it

¹⁰¹ "Young People and Policing" by The St. Peters Experience; Amplifying the Voice of Young People in the Lower Falls <https://podcasters.spotify.com/pod/show/st-peters-Immaculata-youth/episodes/Young-People-and-Policing-e2j2gha/a-ab7j3m2>

is likely this number should be higher due to under-reporting. The CSAE Referral Bureau is the central point within the National Crime Agency for receipt of industry referrals relating to online child sexual abuse. In June, the Performance Committee was briefed on the figures for November 2023 to April 2024 where 137 disseminations were issued to the PSNI resulting in 21 arrests and 46 children being safeguarded as a result. These figures represent a decrease in referrals for the period April – October 2024, where 181 disseminations took place, 39 arrests and 90 children safeguarded. The NCA have reported that they currently have staffing issues which could have impacted on the reduction in referrals to the PSNI.

The PSNI have various methods of disposal in relation to the issue of sexting. In conjunction with the Youth Justice Agency police can refer a child for a one-off session with professionals if the police directs that there should be No Further Action (NFA) or a Community Referral Notice. This is a voluntary scheme. The child's parents also need to attend. If images have been sent, the police can also refer the child via YJA to social services. This collaboration is designed to educate and can involve restorative justice whereby the victim can request an apology or restitution. The YJA have welcomed the Child First approach because that is helping to change attitudes within the police service.

The Criminal Justice Inspectorate describe a Child First approach as putting children at the heart of service provision and seeing the whole child, identifying/tackling the influences on offending and identifying/promoting the influences that help them to move to pro-social, positive behaviour.¹⁰² This is reflected in the PSNI's CSE disruption toolkit.

The YJA have said that when liaising with some officers, they can sometimes display a more traditional approach to how to work with children and young people and this can be discouraging because it rarely gets to the heart of the issues with the child. Through enhanced training the aim would be to dispel the traditional beliefs and attitudes that some officers hold of young people.

The PSNI, through their Child Protection Service Instruction, covers how to engage with children and young people who are victims and perpetrators. The PSNI highlight

¹⁰² <https://www.justiceinspectorates.gov.uk/hmiprobation/research/the-evidence-base-youth-offending-services/general-models-an>

in this instruction that they want to ensure the children and young people have the right support either from the police or partner agencies to help them through the criminal justice process.

The police are very aware that children and young people are not reporting incidents of CSE and CCE and acknowledge, however, that these vulnerable children often trust youth and community workers. Anecdotal evidence confirms that these hidden harms can be interfamilial within the structures of paramilitaries and the police alone cannot provide solutions to ending this harm.

The PSNI work closely with PPS when referring a case to be assessed in relation to CSE and will highlight the victim/perpetrator dynamic in criminal cases. This ensures the PPS takes an informed decision whether to proceed with the prosecution. A vulnerability working group has also been established across the police service. Preventative actions are routinely completed and the focus is on offenders who have Child Abduction Warning Notices (CAWN), Sexual Harm Orders (ROSHO) and Sexual Offences Prevention Orders (SOPO) restrictions to ensure offenders are complying with the conditions of the orders.

A key part of the police's positive response to CSE is through trauma-informed policing. This includes bespoke initial training for officers who work in this area. Adverse Childhood Experience (ACE) training is provided to ensure officers are made aware of the impacts of ACE. This training has also been delivered to many frontline officers. A second training package in Applied Suicide Intervention Skills Training is also provided to student officers before they commence an operational role. This workshop delivers tools to officers when dealing with a child or young person in crisis. Sexual offences lessons are also provided. This course also highlights key recommendations from the Gillan review on serious sexual offences into criminal justice professionals being trauma informed. All voluntary sectors staff that were consulted by the authors of this report referred to the need for trauma informed policing and the continued development and education of officers. It is not always apparent that trauma informed policing is being implemented in practice as it needs to be.

Specialised training is also provided to support young victims who are suffering trauma and these include Child and Adult Joint Protocol Training and Specialised Child Abuse Development Programme. Training modules via E-learning are also provided.

Northern Ireland does not have any specialist therapeutic services for children who abuse drugs or alcohol. This service could provide the police with a helpful alternative if a child is arrested or presents under the influence. For example, if drugs testing on children was completed in the custody setting and the child found to have a small amount of drugs, the child could be referred to a specialist setting for the appropriate help rather than receiving a police caution or engaging in the criminal justice route.

Despite all of the positive work being completed by the PSNI, the majority of unreported sexual offences continue to be committed against children. Under-reporting is prevalent and low conviction rates still persist. Young females do not feel comfortable reporting information to male officers and the PSNI through their children and young people strategy have acknowledged this and are working towards respecting the wishes of the child in relation to who they report to.

SEXTORTION

There has been a significant increase in the number of reported incidents of sextortion. Sextortion scams are often run by organised crime gangs from overseas and are usually motivated by money.

Sextortion can refer to offences committed online. It is mostly associated as a form of blackmail where a perpetrator threatens to reveal intimate images of the victim online unless they give in to their demands. The crime often begins when victims are tricked or pressurised into sharing intimate images or footage which would obviously be embarrassing if published more widely. Perpetrators use false identities online and then groom or entice the victim to share those images or videos. The perpetrator then threatens to share the images online unless demands are met.

There is no agreed mechanism for reporting these offences and therefore the scale of the problem cannot be accurately quantified although the numbers are believed to be substantial and due to this difficulty the National Crime Agency (NCA) no longer collects data in this area. The NCA also issued an urgent warning in April 2024 regarding this issue and targeted schools as the vehicle for providing useful information.¹⁰³

¹⁰³ [NCA issues urgent warning about 'sextortion' - National Crime Agency](#)

Operation Corin is a dedicated team from PSNI who work with victims of sextortion where the perpetrator is outside of Europe. PSNI figures show the number of victims in 2022/23 were 18-23 years (39.6%) and under 18 were (26.7%)¹⁰⁴. Figures also show an increase in young male victims under 18. In March 2021, 4% were males under 18, March 2022 16% and 26% for March 2023. The PSNI's figures also show that female victims are rare. The figures also outline that the problem can occur anywhere across Northern Ireland.

The PSNI have stated that since 2019 they have not been able to identify any suspects in the UK or Ireland in relation to Operation Corin and therefore there is no possibility of successful prosecutions. The PSNI, therefore sensibly, focus their attention on education and awareness through campaigns online, speaking in schools, social media including paid advertising. PSNI have also liaised directly with Meta, who have overall responsibility for Facebook and Instagram to try to make a difference.

Victims are often concerned to report more serious crimes if they believe they have committed a crime by taking and sending the picture in the first place. This reinforces the need for improved engagement and education from the police in relation to reporting and how cases would be dealt with.

The NCA states it is not the victim's fault if the image is shared. It does not matter whether or not the¹⁰⁵ image was shared with the victim's consent – the misuse of image is the more significant offence. They have developed a report remove tool in collaboration with Childline which stops imagery being shared or going viral online.¹⁰⁶

When the PSNI receives a report, however, one of their partner agencies will speak with the victim in the first instance to provide support and advice. The voluntary agency will then complete a questionnaire in order to assist the PSNI to obtain the best evidence of the offence. This is best achieved if a statement and screenshots or text/photos can be supplied. The case is then passed to CID who complete a safeguarding and assessment matrix. No further action is taken if it is established the origin of the sextortion is outside of the UK. If the perpetrator is within the UK, then information will be passed to the local CID for further investigation.

¹⁰⁴ PSNI Investigation of Sextortion

¹⁰⁵ Oral evidence of NCA to the NIPB on June 2024

¹⁰⁶ [NCA issues urgent warning about 'sextortion' - National Crime Agency](#)

Underreporting and the normalization of image abuse is a concern for the Human Rights Advisor. The police need to be even clearer and more consistent in their messaging, through school/youth settings and community visits and other outlets - if you are a victim, it should be reported and you need not to be afraid of the consequences if the image and its original communication was consensual. Children told the Human Rights Advisor that any communication by PSNI about this needs to be easy for them to understand and should not use language that is wrapped up with 'adult terminology'.

CCE legislation in Northern Ireland is found in the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (NI) 2015. This legislation provides a statutory defence (section 22) available to those under 18 who would have ordinarily committed a criminal offence if that was as a result of being a victim of CCE. The Act states that victims of slavery or human trafficking have a defence against being convicted of certain crimes if the victims were compelled to commit the crime as a result of their exploitation or enslavement. The Human Rights Advisor was told that many criminal justice professionals do not have the necessary more detailed understanding of the complexities of CCE and the link with modern slavery. This may be partly why these important provisions are not being used in Northern Ireland as frequently as they should be.

OPERATION ENCOMPASS

Operation Encompass is a partnership between the PSNI, Safeguarding Board for Northern Ireland, Education Authority and schools. If police attend a domestic abuse call and children are present or witness the abuse, police can then contact the child's school to inform them. This ensures that when the child next attends school the teacher or appointed child protection staff member can monitor the child throughout the day to see how they are coping and provide additional practical or emotional support as required. Initially this was run as pilot project in September 2021 with a full rollout in May 2023. The scheme has contacts with 1,162 schools across Northern Ireland.

Operation Encompass has been welcomed as an important success but anecdotal evidence from schools, report that they do not always receive the information quickly enough. The Human Rights Advisor was advised by police as part of his research,

that they are aware of this issue and, given the resources issue that the PSNI generally have, suggested that part of the problem is the requirement to provide this information by telephone when an email system would be preferable. They are unable to email as the schools do not currently have a secure email address. The police have raised the issue of resources with the Education Authority.

Operation Encompass is seen as an important first step in supporting children who witness harm or violence within their household. Currently the scheme only applies where there has been an incident of domestic abuse and the scheme should be expanded to cover any occasion when the police enter a home when a child is witness to a serious incident, including an arrest or a search of the premises.

RECOMMENDATION 10:

The PSNI should investigate on how better data could be collected on boys and girls involved in Child Criminal Exploitation and/or Child Sexual Exploitation in order to consider and review the current policies and approaches.

RECOMMENDATION 11:

In the absence of a statutory definition of Child Criminal Exploitation the PSNI should adopt the following definition:

“Child criminal exploitation is a form of child abuse which occurs where an individual or group takes advantage of an imbalance of power to coerce, control, manipulate or deceive a child or young person under the age of 18 into any criminal activity. The exploitation (may be) through violence or the threat of violence (but may also appear to be transactional and in the context of perceived relationships and friendships). The victim may have been criminally exploited even if the activity appears to be consensual. Child criminal exploitation does not always involve physical contact. It can also occur through the use of technology (and social media). The criminal exploitation of children (and young people) can include being exploited into storing drugs or weapons, drug dealing, theft, violence, intimidation, vandalism, forced labour and other forms of criminality through grooming by people that children and young people trust or look up to.”

RECOMMENDATION 12:

The PSNI should meet regularly with the Commissioner for Victims of Crime, Victim Support and Assist NI to ensure the best possible ways to protect children and young people are identified and that additional training is provided to officers to help them with the process of referral to Victim Support and Assist NI.

RECOMMENDATION 13:

Data outcomes of campaigns relating to Child Sexual Exploitation, Sextortion and Sexting should be included in the PSNI reports to the Board twice a year.

CHAPTER 4: PRIVACY AND SURVEILLANCE

PRIVACY

The issue of privacy, particularly in relation to access to social media, the internet and telephones was raised by children and young people and those organisations working with them during the research for this report. This next section of the report is largely taken from the Policing Board's recently published Human Rights Review of Privacy and Policing Report where questions were raised by the Board about how private are our private lives really are and it was suggested that the right to privacy in Northern Ireland and United Kingdom more widely is probably the weakest one of our rights. Increasingly a person's private life is carried out online and, as result, individuals can be tracked and monitored in ever greater detail by law enforcement agencies. As a result, the PSNI can access, collect, and retain a mass of data about individuals. It was argued in that report that there needs to be greater transparency around online surveillance, tighter controls, and a detailed discussion of what is or is not justified.

The most relevant ECHR article that protects privacy rights is Article 8, the right to privacy. Article 8 covers four areas, namely: private life, family life, home and correspondence. Some matters, of course, span more than one interest. The primary purpose of Article 8 is to protect against arbitrary interferences with private and family life, home, and correspondence by a public authority. Children and young people may be more likely to have privacy issues and concerns because many of them will visit and congregate in public places and subject to CCTV surveillance and the majority of them will have digital devices and use them very frequently.

The Policing Board's report was the first assessment of privacy and policing in Northern Ireland. The report set out concerns with what appears to be an absence of consultation by the police, the Department of Justice, or the Northern Ireland Office on issues of privacy. The driver for new facial recognition systems, biometric data retention, CCTV and ANPR appears to be driven by the Home Office and the College of Policing, whose policies and guidance are often adopted in Northern Ireland without any public consultation or transparent decisions by the Northern Ireland Executive or Assembly.

Transparency in policing is even more difficult when techniques of targeted surveillance are concerned. Nevertheless, what techniques are actually used by PSNI in secret is often exaggerated and distorted. However, it is precisely these factors which continue to undermine confidence in PSNI, especially in some of the young people from some communities who talked to the Human Rights Advisor as part of the research for this report. A service which would wish the public to believe that it is solidly built based on ‘policing by consent’ must continue to strive to become more transparent as these techniques can have greater and greater impacts on privacy.

The Privacy Report from the Board also considered general public surveillance, in particular the use of public space CCTV and Automated Numberplate Recognition (ANPR), Body Worn Video, and the role of the Biometrics and Surveillance Camera Commissioner. Most CCTV cameras present throughout Northern Ireland and Great Britain are not operated by the police, but rather by the private sector and public authorities, such as councils and transport authorities, and PSNI rely on these CCTV networks when investigating crimes.

Since its publication of the Privacy Report, a (then) UK Home Office Minister from the Conservative government has stated that he intends to integrate the semi-automated facial search capability within the UK Police National Database (PND) with the UK Passport Office database containing images of 45 million UK passport holders. He also intends to allow Home Office forces to use facial recognition to compare CCTV images of suspects from volume crime scenes such as shoplifting against the UK passport database. The Scottish Biometrics Commissioner stated in response that:

“I view this egregious proposal as unethical and potential unlawful. I also wish to align myself with those who have condemned this proposal as a gross violation of British privacy principles.”¹⁰⁷

According to investigations by Liberty and the Daily Telegraph newspaper, facial recognition searches using the UK’s database of passports have been conducted since 2019. The UK government has recently introduced a provision in the UK Parliament which would allow the police service to run facial recognition systems against the photographs in the driving licence data base - some 50 million license

¹⁰⁷ Scottish Biometric Commissioner, 13 October 2023.

holders. As noted in the Review on Privacy and Policing, Northern Ireland does not have its own Commissioner to assess whether the PSNI should be included in these plans. In the absence of any legislative basis for using and controlling the use of facial recognition technology, it is therefore even more important for the Board and the PSNI to develop a Data Ethics and AI strategy.

Currently the PSNI can access databases with millions' of peoples records that includes:

- The UK Police National Computer has 58.5 million driver records, and 62.6 million vehicle records (figures are from 2017);
- PSNI can also seek matches with the 18.5 million custody images on the Police National Database (PND) and the PND system handles more than 1.5 billion records;
- Routine searches are also made by many forces against the Home Office immigration database even when the person has approached the police for help as a victim of a crime or modern slavery.

A particular issue with intelligence databases is that people often cannot check what is held about them. Sometimes what is held about them can be wrong or unnecessarily retained, for instance, data on protesters can be collected even when they haven't committed offences. This becomes even more problematic when images or other data are not deleted from this database, for example when a person is not charged or is acquitted. Police officers can also have access to information held on all the other databases that have information about you, for example, store cards, NHS, employer, bank accounts (obviously 'only' in order to prevent crime or identify offenders). Finally, the majority of people, especially young people, carry a tracking device (their smart phone), recording most of our movements and communications data and now most modern cars even have embedded tracking devices.

BIOMETRIC DATABASES AND ARTIFICIAL INTELLIGENCE

Biometrics held by the police include not just fingerprints and DNA. Biometric technology also makes faces machine-readable. The PSNI hold biometric data on hundreds of thousands of people in Northern Ireland which is being unlawfully held and has been since 2008. Legislation agreed but not in force in Northern Ireland is needed to remedy this.¹⁰⁸

Live facial recognition technology, powered by AI has the potential to be discriminatory, as the image databanks that the technology is trained often contains more white faces. Artificial intelligence is often the technology that induces the most wonder (and fear) in people and one of the problems with AI is that it is so complex that most people do not understand the algorithms behind the technology, which is why it's important that this type of technology should never have the final say in any serious decision-making process.

OPEN SURVEILLANCE

There are 120 CCTV cameras installed in Belfast City Centre, monitored around the clock and PSNI can respond quickly to incidents and to protect those at risk. Most CCTV cameras in Northern Ireland and Great Britain are not operated by the police, but rather by the private sector and public authorities, such as councils and transport authorities. Automatic Number Plate Recognition (ANPR) in Northern Ireland has 234 active sites. ANPR systems will read 100 million vehicle number plates by 2023/24. Many private homes now have CCTV and a door camera. The investigation into the attack on Detective Chief Inspector John Caldwell collected 100,000 hours of material. CCTV obviously has many positive impacts, for example, for the investigation into the ill-treatment in Muckamore Abbey Hospital has been possible and suspects have been identified because of its dedicated CCTV system.

WHAT NEEDS TO CHANGE

Technological change is progressing at a very fast pace and surveillance technologies such as CCTV and facial recognition are becoming more and more sophisticated. These technologies can help PSNI fight crime and help keep people safe, but inevitably impact on everyone's private lives. In Northern Ireland there needs to be a greater focus on what controls, oversight and, in particular, democratic oversight is

¹⁰⁸ The DOJ has recently published the Modernising Justice Bill which includes proposals to remedy this.

needed. There is also a need for a broader conversation in Northern Ireland regarding oversight of all these technologies to include the use of CCTV, facial recognition, mobile extraction and intrusive surveillance.

In England and Wales, there is a Commissioner whose purpose is to consider and report on these issues. In Northern Ireland, legislation to provide for a Biometrics Commissioner was introduced in 2013, but still hasn't been enacted. Technological progress in policing is largely driven by the Home Office, Westminster and police services in Great Britain and improving democratic governance is not in the gift of the Board and PSNI alone.

COVERT SURVEILLANCE

TARGETED AND UNDERCOVER SURVEILLANCE

Covert surveillance powers are governed by the Police Act 1997 (PA), the Regulation of Investigatory Powers Act 2000 (RIPA), the Investigatory Powers Act 2016 (IPA) and the many other formal and statutory codes.¹⁰⁹ All these provisions apply directly in Northern Ireland, to the PSNI and the other law enforcement bodies working in Northern Ireland.

These provisions include the following powers and procedures for the police service:

- The interception of communications (in the course of its transmission by means of a public postal service or public or private telecommunication system) (including 'telephone tapping' – listening in to a person's telephone calls);
- Intrusive surveillance on residential premises and in private vehicles (use of listening devices);
- Covert access to homes and properties (searching homes or installing cameras or surveillance devices);
- Covert (directed against a particular person) surveillance;
- The use of Covert Human Intelligence Sources (CHIS - commonly referred to as police informants, agents or undercover officers¹¹⁰);

¹⁰⁹ Including, for instance, the Covert Surveillance and Property Interference, Revised Code of Practice, August 2018.

¹¹⁰ 'What does anonymity ruling mean for undercover police?', the Detail, 7 November 2012.

- The authorisation of criminal conduct by those informants, agents or undercover officers (Criminal Conduct Authorisations);
- The acquisition of communications data (for example itemised telephone billing, telephone subscriber details and internet visiting data);
- Equipment interference (obtaining information from computers and other devices); and
- The investigation of electronic data protected by encryption (requiring a person to disclose their passwords).

TELEPHONE INTERCEPTION

Listening in to a person's telephone calls without consent is considered by the law to be a very serious invasion of privacy and, therefore, it is a criminal offence to intercept telephone communications without a warrant.¹¹¹ Warrants can only be granted by a Secretary of State on the basis of national security, preventing or detecting serious crime or in the interests of the economic well-being of the UK.¹¹² The Chief Constable of the PSNI, unlike other forces in the UK can apply directly to the Secretary of State for a targeted interception warrant. There are some enhanced protections for the telephone calls of Members of Parliament, journalists, and for privileged communications between lawyers and clients.¹¹³ There are also strict rules on who can have access to the content of the communication once an interception warrant is in place (including a prohibition on using the material produced in courts). The Interception of Communications Code of Practice provides considerable detail on the procedures.¹¹⁴

COMMUNICATIONS DATA

Access to data by police officers on the details of calls, emails, texts or internet connection data¹¹⁵, but not the content of the communications, is less strictly controlled. Communications data will, for instance, include the time, date and people called (or texted) but not a recording of the actual call, text, or material communicated.

¹¹¹ Strangely, the use of a listening device in person's home is not an equivalent criminal offence.

¹¹² 'Bulk warrants' are used by GCHQ, MI5 and MI6, restricted to overseas communications and have to be authorised by a Secretary of State.

¹¹³ Similar enhanced protections apply in relation to the other powers.

¹¹⁴ Interception of Communications Code of Practice, pursuant to Schedule 7 to the Investigatory Powers Act 2016 December 2022.

¹¹⁵ There are some additional restrictions that apply to this, IPA section 62.

Accessing the contents of the call, text, or material communicated have considerably greater safeguards. The grounds for accessing only the communications data are much wider, including national security, preventing or detecting crime (not just serious crime), public safety or health, and preventing disorder.¹¹⁶ The Office for Communications Data Authorisations (OCDA) was established following the Investigatory Powers Act (IPA) 2016 and considers requests for communications data from law enforcement and public authorities. The Investigatory Powers Commissioner (currently Sir Brian Leveson) is the head of OCDA and delegates his powers to authorise communications data requests to OCDA Authorising Officers.¹¹⁷ Authorisation can also be granted by designated police inspectors in Northern Ireland.¹¹⁸

EQUIPMENT INTERFERENCE

The IPA also allows police officers, including the PSNI, to engage in ‘equipment interference’ or interference with computers and other devices in order to obtain information.¹¹⁹

DIRECTED SURVEILLANCE

Authorisation is required before police officers monitor, listen to conversations or observe or track the movement or activities of a particular person. Including by recording such activities or by using a surveillance device. The justification required is similar to the test set out for communication data above and includes preventing or detecting crime or preventing disorder.¹²⁰ Authorisation can be by a Superintendent. Directed surveillance of an individual in the social media world also requires an authorisation.

Surveillance as part of a police officer’s normal duties does not require such authorisation. So, for instance, if officers notice people acting suspiciously and, in order to maintain a view of them without raising their suspicions, they conceal themselves behind a wall no authorisation is required.¹²¹

¹¹⁶ IPA section 61 onwards. Internet and communications service providers are obliged to retain data for one year, IPA section 87.

¹¹⁷ <https://www.gov.uk/government/organisations/office-for-communications-data-authorisations/about>

¹¹⁸ See IPA Schedules 4 and 6.

¹¹⁹ Approval requiring a warrant from a chief officer, IPA, Part 5.

¹²⁰ RIPA, section 28.

¹²¹ Page 96, Covert Investigation, 5th Ed. Harfield and Harfield.

The use of overt CCTV cameras does not normally require authorisation under RIPA or the IPA but Guidance is provided in England and Wales by the Surveillance Camera Code of Practice and overseen by the Commissioner.¹²² However, where overt CCTV or ANPR 'are used in a covert and pre-planned manner as part of a specific investigation or operation, for the surveillance of a specific person or group of people, a directed surveillance should be considered.'¹²³

INTRUSIVE SURVEILLANCE

Intrusive surveillance is surveillance that occurs in a private dwelling or vehicle, for instance, installing a listening device or camera. There is a higher test for this authorisation, it must be justified on the basis of preventing or detecting a **serious** crime.¹²⁴ Authorisation must be by a chief officer and is subject to prior approval by a Judicial Commissioner.

Interference with property and entry on to land

Generally, police officers must obtain a separate authorisation to enter someone's property without their consent.¹²⁵ This includes to interfere with property for the purposes of installing recording and surveillance devices.¹²⁶

SOCIAL MEDIA

A lot of information about people and their lives can be gleaned very easily from their social media posts. Those posting online do so with the knowledge that it is public. Therefore, the Covert Surveillance and Property Interference Code of Practice states:

"3.10... Much of it can be accessed without the need for RIPA authorisation; use of the internet prior to an investigation should not normally engage privacy considerations. But if the study of an individual's online presence becomes persistent, or where material obtained from any check is to be extracted and recorded and may engage privacy considerations, RIPA authorisations may

¹²² Protection of Freedoms Act 2012.

¹²³ Para 3.39, Covert Surveillance and Property Interference, Code of Practice, 2018.

¹²⁴ A serious crime is defined as one which, on first conviction for a person who has reached the age of 21, could reasonably be expected to receive three years imprisonment or involves violence, substantial financial gain or a large number of people in pursuit of a common purpose, RIPA section 81.

¹²⁵ Police Act 1997, Part III.

¹²⁶ Covert Surveillance and Property Interference, Code of Practice, Home Office, 2018.

need to be considered. The following guidance is intended to assist public authorities in identifying when such authorisations may be appropriate.

3.11 The internet may be used for intelligence gathering and/or as a surveillance tool. Where online monitoring or investigation is conducted covertly for the purpose of a specific investigation or operation and is likely to result in the obtaining of private information about a person or group, an authorisation for directed surveillance should be considered, as set out elsewhere in this code. Where a person acting on behalf of a public authority is intending to engage with others online without disclosing his or her identity, a CHIS authorisation may be needed (paragraphs 4.10 to 4.16 of the Covert Human Intelligence Sources code of practice provide detail on where a CHIS authorisation may be available for online activity).”

YOUNG PEOPLE AND SURVEILLANCE

CHILDREN USED AS COVERT HUMAN INTELLIGENCE SOURCES (CHIS)

Children and Young People in our consultations made comments that officers had asked them to inform and provide information includes issues of protection and confidence.

The Children’s Commissioner has stated that:

“NICCY have been clear that it is never acceptable for a child or young person to be used as a CHIS and have previously issued advice on this, as well as recently meeting with the PSNI and NI Policing Board and raising concerns.

The Covert Human Intelligence Sources (Criminal Conduct) Act 2021 empowers the police, and other authorities, throughout the UK to use CYP as CHIS and to authorise these children to engage in criminality, with no criminal liability, in return for information.”

The Code of Conduct on this Act was updated in 2022. It stated that,

“Children should only be authorised to act as CHIS in exceptional circumstances and subject to the enhanced risk assessment process’

and ‘a CHIS who is under 16 years of age must not be authorised to give information against their parents or any person who has parental responsibility for them. A juvenile CHIS who is aged 16 or 17 years old should only be deployed to gather information against a relative, their parents or any person who has parental responsibility for them where careful consideration has been given to whether the authorisation is justified in light of that fact.’

It lists the PSNI, NIPS and DoJ within the authorised agencies and officers in relation to information about children as CHIS.

There are also United Nations Economic and Social Council guidelines on ‘Justice in Matters involving Child Victims and Witnesses of Crime’ published in 2005 which call for the creation of a national authority to protect child victims and witnesses that would coordinate services on a national level and ensure that each interaction with children was tailored to the particular child.¹²⁷

In 2022, responding to an FOI request, PSNI refused to confirm or deny that it holds information in relation to the number of children and young people as CHIS on, amongst other things, grounds of National Security and Health & Safety as well as stating that there could be ‘considerable harm attributed to the confirmation or denial of any information from confidential sources, regardless of their age’. In 2017, an FOI request found that PSNI had spent £271,387 on CHIS from April 2016-2017.¹²⁸ No information is publicly available on the costs of CHIS within the PSNI budgets, or other relevant Departments and organisations.

NICCY recommends that the use of children and young people by the PSNI as CHIS is considered through this Review and raise awareness of such use by other government agencies. The Investigatory Powers Commission’s latest Annual Report had this to say about CHIS and young people:

“13.8 As highlighted in last year’s report, the Investigatory Powers Commissioner (IPC) wrote to all relevant authorities in August 2021 asking to be informed within seven days of the authorisation of a juvenile or vulnerable

¹²⁷ [Guidelines on justice in matters involving child victims and witnesses of crime - United Nations and the Rule of Law](#)

¹²⁸ ???

adult CHIS. This requirement has now been incorporated into the 2022 CHIS Code of Practice. We will visit and review the case as soon as possible following such a notification, underlining our commitment to ensuring that oversight of any juvenile or vulnerable CHIS is sufficiently dynamic to enable early identification of any concerns. We thoroughly review the relevant authorisation paperwork, including risk assessments, and will meet with those responsible for the authorisation and ongoing management of the individual. Any matters of concern are fed back to the officers concerned.

13.9 In 2022, four new CHIS authorisations were granted which related to a juvenile. It was disappointing that despite the requirement for juvenile CHIS authorisations to be notified to the IPC within seven days, two of the four authorised during 2022 were not reported to us within that timescale and could not therefore be inspected until 2023. We will report further on these cases in the 2023 Annual Report.

13.10 The low number of cases shows that this tactic is only considered in exceptional circumstances and when other potential sources of information have been exhausted. While it would be inappropriate to give specific details, we can report that juveniles were assisting with investigations tackling the supply of class A drugs and firearms. We were reassured that the duty of care was being taken extremely seriously and that the need to safeguard and promote the best interests of the juveniles was a primary consideration in the decision to authorise. In neither of the cases we examined was the juvenile authorised to participate in crime; in fact, the decision to authorise was viewed as a means of helping to break the cycle of crime and danger for each individual.

19.9 Of the 1,429 CHIS authorisations granted, only four related to juveniles. None of these were under the age of 16 at the time the authorisation was granted.”¹²⁹

The Children’s Commissioner further stated and recommended that:

¹²⁹ Annual Report of the Investigatory Powers Commission for 2022, 26 March 2024.

“As identified in the ToR, NICCY notes that the PSNI’s Strategy is at an early phase of implementation, having been launched in June 2023 at which NICCY was represented. It aligned with the National Police Chiefs’ Council guidelines on engagement, safety and protection, victims, and witnesses, offending and stop and search. It also outlined responsibilities in the UNCRC. NICCY provided a response to the strategy in January 2023, recommending that children’s and young people’s voices are included and reflected in decision making, policy development and practice and this should be reflected within the PSNI’s Policing Plan.

NICCY is concerned that the Strategy itself contains no obvious or defined KPIs and monitoring methodology on the implementation of the Strategy. We are also unaware of any additional or re-allocated resources, financial or otherwise, if deemed necessary, to support the implementation of the Strategy’s Action Plan by the PSNI and would welcome clarification on same. NICCY is also named as a partner agency amongst others within the Strategy and looks forward to continuing engagement with the PSNI on this.

Recommendation 13: That the PSNI develop and publish key performance indicators and an Action Plan to monitor the implementation of the Children and Young People Strategy, engaging with CYP on an ongoing basis to ascertain their views and experiences relating to it.”

Include Youth responded to this Review:

“The knock-on impact of young people’s poor relationship with police is that they are less likely to then report when they have been victims of crime themselves. Young people are more likely to be victims of crime than perpetrators but there is a risk that they are perceived less as victims and more as ‘troublemakers’. Our staff know that many of the young people who may come to the attention of the police have been victims themselves and can have a complicated and traumatic back story.”

Include Youth made the following suggestions for PSNI:

- Specialist training – care experienced young people, especially vulnerable young people, addiction issues, trauma, mental health, learning disabilities, refugees and unaccompanied asylum seekers;
- Partnership with the youth and community voluntary sector; and
- Increased direct involvement with young people.

The Children’s Law Centre stated that:

“CLC note the launch of the PSNI Children and Young People Strategy earlier this year. We welcome the development of the strategy and commend much of what it contains, including the prominence and attention given to the United Nations Convention on the Rights of the Child and to meaningful and ongoing engagement with children and young people directly. We recommend that this review considers how the strategy and the commitment made within it to international children’s rights standards can be reported on and scrutinised to ensure it actually plays a meaningful role in changing, shaping and improving PSNI practice and standards to ensure they are compliant with domestic and international human rights duties.”

RECOMMENDATION 14:

The PSNI should not in any circumstances, use children and young people as Covert Human Intelligence Sources.

DATA COLLECTION

Many organisations responding to this Review suggested the PSNI needs to review and improve its data collection. For instance, the Children’s Law Centre stated that:

“It has been a long-standing request and recommendation of the Children’s Law Centre that the PSNI improve their processes and procedures in relation to data collection in order to fulfil their relevant statutory duties in this regard. A statutory duty to collect data in relation to all s75 groups has been in place since the enactment of the Northern Ireland Act 1998, yet the PSNI still do not regularly collect data in respect of community background, political opinion or sexual orientation.

More generally, the recording, reporting and public availability of data can and should be improved not only to fulfil statutory obligations but to maximise the opportunity for effective transparency, broad scrutiny and building trust and confidence. The proper discharge of their s75 equality duty will also ensure that the development of legislation and policy is protected against having a differential adverse impact on particular groups of children. For example, there is no routine disaggregated data published on the number and profile of children in police custody in any given year.

No data on the strip searching of children appears to exist publicly prior to the reporting year 2021/21, despite the PACE Code of Practice governing the use of strip searching having been in place since 1989 and the s75 Equality duty under the NI Act 1998. There is data published on Use of Force, which is broken down in terms of age, but the data is not further disaggregated to provide any further information in relation to other s75 categories.

The PSNI have a clear statutory duty to collect disaggregated data on children's characteristics and address information gaps which exist in relation to specific groups of children and young people as they relate to PSNI activity. This information should be published as a matter of priority."

EXTRACTION OF DATA FROM MOBILE PHONES/DEVICES

A common theme that was raised in the research for this report with Include Youth, VOYPIC and Action for Children was the problems associated following the police seizing digital equipment from the young people. Young people expressed their considerable frustration at the length of time it took for them to get devices back. There was even a belief that it takes longer for a victim of crime to have their device returned than the perpetrator. Often the Human Rights Advisor was told that the young person cannot afford to replace the device once it is seized. Young people also complained about the lack of communication from the police after the device was seized and that they are not provided with regular updates. In today's society the majority of young people find it extremely difficult to function effectively without their device. It can be vital to maintain links with family, friends and support services, complete banking transactions, access public services and maintain social activities.

It is the PSNI's Cybercrime department who are responsible for retrieving data from mobile phones and devices. The current procedure for dealing with devices provides that the PSNI investigating officer completes an online form with details of what information needs to be retrieved, the nature of incident and details of the device owner. A copy should be provided to the child when it is sent to the Cybercrime department.

The onus is on the investigating officer to correctly assess the situation and provide accurate instructions on what information needs to be retrieved. The officer needs to assess whether the data extraction will be lawful, proportionate (Article 8 privacy considerations) and what information they need to assist with the investigation and prosecution of the case. In many instances, they are bound by what would be required evidentially for the criminal court and therefore the process of retrieving evidence must have a detailed audit trail. The least intrusive method of extraction should be used and the officer has to consider whether the information could be collected without taking the victim's device. For instance, would it be possible to obtain the information from the perpetrator's phone or can passwords for social media accounts be provided to the police who can then check these on another PSNI device.

When the phones are received by the cybercrime department the retrieval priority is dictated by the assessed seriousness of the alleged offence. This is created by a risk/harm matrix score. There are no formal triage systems in place and there is no ability to create a specific timeline for the return of the phone or other device. PSNI argue that the timeline also depends on how much content has to be retrieved, whether the child victims are willing to provide passwords, to approve access more generally and to provide detailed information about deletions. A special application to speed up the process can be made if the Investigating officer feels there are extenuating circumstances. This application has a high threshold and would only be used in extreme cases.

The police have confirmed however that there is a mobile triage centre which can be used at mass events. The triage centre was set up at the Greenvale tragedy. A large number of young people were at the hotel and the centre enabled the PSNI to obtain information quickly to assist with their investigation.

CJINI completed a follow up report to its original report into Cybercrime unit of the PSNI¹³⁰. This was published in November 2023. Their report highlighted some of the issues that the children have experienced including mobile phones not being processed and the backlog in processing mobile devices.

CJINI reported that the recommendation made to reduce the backlog of examinations was not achieved. PSNI argue that due to budget cuts, staff absence and increase demand for the service led to the recommendation not being achieved. It was also noted however that devices submitted in May 2022 were only being reached in May 2023. Further training for investigating officers might, however, be useful to avoid time wasting device downloads for information that was not necessary or in cases where specific information of what was required was not provided to the cybercrime department.

CJINI Recommended -The Police Service should reduce the backlog of digital forensic examinations to an acceptable level. This should be based on an assessment of potential future demand and consideration of all options including:

- The resourcing requirements to meet demand;
- The potential for outsourcing;
- The roll-out of NUIX10;
- The potential for use of automated technology;
- The scope for civilianisation; and
- The training and awareness provided to Officers about seizure and examination of technological devices ¹³¹

In order to increase awareness of the issues, two officers from the cybercrime department currently engage with schools and youth groups and other public sector agencies where they deliver information on cyber security.

¹³⁰ [Cyber crime: An Inspection of how the criminal justice system deals with cyber crime in Northern Ireland. A Follow-Up Review of Recommendation Implementation. \(cjini.org\)](#)

¹³¹ [Cyber crime: An Inspection of how the criminal justice system deals with cyber crime in Northern Ireland. A Follow-Up Review of Recommendation Implementation. \(cjini.org\)](#)

The PSNI mobile phone extraction guidance states that the witness shall be kept informed as to any decisions made as to disclosure of contents of the device and the length of time it can be estimated that the investigators shall have to retain the device.¹³² Our evidence suggests that this is currently not happening.

RECOMMENDATION 15:

The evidence from this report appears to indicate that some young people do not report sexual crimes that have involved their telephones and other devices. This may be partly due to the fear that they themselves may be prosecuted and to a fear that their devices will be retained for long periods. The PSNI, therefore, should address these issues by:

- **Setting up a speedier triage system and change its system of priorities so that the importance of the device to the victim is taken into account in how long the device is retained;**
- **The investigating officers need additional training to ensure that only the necessary data is being sought and that the device is returned as quickly as possible.**
- **Through school/youth settings, community visits and other outlets the PSNI should revisit its messaging around the sending and receiving of photographs. This is to ensure if young people are a victim they should report this crime and need not be afraid of the consequences if the image and its original communication was consensual. The victim should be reassured the real perpetrator is the person circulating the photographs.**
- **The current procedure for dealing with devices provides that the PSNI investigating officer completes an online form with details of what information needs to be retrieved, the nature of the incident and details of the device owner. A copy should be provided to the child when it is sent to the Cybercrime department.**

¹³² [Mobile Phone Extraction Guidance \(psni.police.uk\)](https://psni.police.uk)

CHAPTER 5: HUMAN TRAFFICKING AND MODERN SLAVERY

The PSNI in conjunction with Department of Health have developed guidance¹³³ on human trafficking and modern slavery. The guidance outlines the arrangements for staff and police when they encounter a child who they suspect maybe a victim of human trafficking or modern slavery.

The UK lifted its reservation on Article 22 of the UNCRC in 2008 which concerns the rights of children who are refugees or asylum seekers. The PSNI, therefore, has a duty to always act in the best interest of the child. Investigations must also be carried out under the provisions of Article 66 of the Children Order (a child protection investigation). Modern slavery covers the offence of slavery, servitude and forced or compulsory labour and human trafficking. Both offences involve exploitation.

Child victims are usually victims of human trafficking for financial gain for both parents and the trafficker can also benefit from payment from those wanting to exploit the child. The child can be trafficked across Northern Ireland on arrival from their home country. Exploitation of the child includes sexual, slavery, forced labour or to secure services (begging).

Children can be identified on arrival at ports and can also be recovered from homes where there are concerns of adult behaviour and social services have become concerned. Children are referred to a Health and Social Care Trust and are cared for as a looked after child.

If the police have arranged a preplanned operation to attend a location where reports of a child who is alleged to be a victim, they will inform the relevant Health and Social Care Trust to ensure the needs of the child are met. A social worker may be given permission to be present during the operation. When a child is found as a result of a planned operation or at a port setting the PSNI will appoint a liaison officer to work alongside an appointed social worker. The PPB central referral unit is also informed when there is an allegation or reasonable cause to suspect the abuse of a child or

¹³³ <https://www.health-ni.gov.uk/sites/default/files/publications/health/working-arrangements-potential-child-victims-of-huma>

clear concern for the child's safety. This is to ensure the correct safeguarding approach is taken.

The PSNI take the lead when a criminal investigation is undertaken. Police must ensure that the investigation is not compromised due to various agencies being involved. There can also be a higher risk of the child going missing and protocols are in place to ensure swift recovery of the child.

There were 94 separated and unaccompanied asylum-seeking children were referred to social care services between 1 April 2022 and 31 March 2023. This is the highest number on record and represents a 42% increase on previous reporting year. On 31 March 2023 there were a total of 100 open cases involving separated and unaccompanied asylum seeking children under the age of 18.¹³⁴ One possible cause of the increase in numbers of children in care in Northern Ireland is due to the increase in unaccompanied asylum-seeking children and young people being treated as separated children in Northern Ireland are now considered as looked after children.

The Human Rights Advisor met with representatives from voluntary agencies who are involved in supporting minors who arrive in Northern Ireland. They spoke of concerns the young people have when the police interact with them. Include Youth stated that;

“The young people who are unaccompanied minors have been reluctant to engage with the police here because of their negative experiences of police in their own countries. Police need to understand the needs of such unaccompanied young people, they need to have a very gentle approach in respect of trauma they have experienced and what experience they have had of policing in the countries they have fled from”.

Barnardo's facilitate an independent Guardian Service who provide guardians for up to 230 young people who enter NI on their own. This is funded by Department of Health. The Human Rights Advisor was informed of concerns that this group of young people have had significant damaging experiences of the police in their past and who may view PSNI officers through that lens. Barnardo's were also concerned about 'adulthood' where the young people may look older than they are – giving the impression that they are adults - and this is exacerbated by lack of accurate

¹³⁴ [The NI Review of Children's Social Care Services.pdf \(cscsreviewni.net\)](#)

information on their dates of birth. The names of people from different nationalities can sometimes be spelt in various ways and may have been registered differently across the statutory and voluntary agencies who come into contact with the young people. This can hinder the sharing of information of the persons true identity and may create suspicion when they are dealing with the police.

Language and cultural differences can also mean that if the child or young person is a victim of crime they may not be able to accurately describe what has happened to them or understand what information the police are attempting to provide. Currently a social worker or appropriate adult should attend if a young person is arrested but this does not always happen. There are also current difficulties between the PSNI and the Health and Social Care trusts regarding sharing information and associated GDPR issues.

Action for Children highlighted the lack of resources for interpreters when the police are dealing with people whose first language is not English and the resulting negative consequences for children. This obviously impacts on the children being fully informed about their rights, understanding what support is available to them and how to access that support. This can include the possibility of effective access to legal advice, housing, education and care. Such face-to-face resources in rural areas can be particularly difficult to access.

Every Child Protected Against Trafficking (ECPAT) conducted research with children and young people in the UK who have been trafficked and their experiences across public authorities beyond just police forces. The key findings include;

- Children not being believed regarding their age, or the details of their asylum journey;
- Children feeling they do not have a voice in regard to their asylum application;
- Interpreters who are appointed by authorities do not always treat the young person as a child (rather than as an adult); and
- The need for professionals to be trauma informed and well trained.

One young person stated that,

“From my personal experience with the police, she made you feel scared, was angry and not kind. ‘Here is the camera! Here is the mic! and you talk now. You must

answer every single question that I tell you, otherwise you will have to come here again.’ And the questions she asked made me feel like I didn’t want to answer. ... She said, even if you didn’t feel comfortable to talk about personal things, you must answer.”¹³⁵

Psychological safety was just as important as physical safety to many young people and they identified the police and interpreters (in immigration and care procedures) as two sets of professionals who could play a meaningful role in establishing a sense of psychological security for them.

“We fear the police because they are so brutal. ... We had mentoring on how the police here and back home are different. ... Who are they protecting against? Like drugs, criminal gangs ... we fear child abuse, statelessness.”¹³⁶

The children also expressed how important trust was between themselves and the police. If they do not trust they will not ask for help, say how they feel or what their experience has been.

A recurring theme throughout our research is the need for the police to be appropriately trained in how to communicate with children and young people for the situation they are called too. The PSNI confirmed they are reviewing their interpreter contracts¹³⁷ and are in the procurement process to appoint face-to-face interpreters to enhance their provision. They are monitoring calls to ensure compliance with contractors and to eliminate issues if required.

TRAFFICKING OF CHILDREN - NATIONAL REFERRAL MECHANISM (NRM)

The National Referral Mechanism is a crucial victim identification and support process. It is designed to make it easier for all agencies that might be involved in a trafficking case to identify victims of human trafficking or modern slavery and ensure they receive the appropriate support and are not further disadvantaged by being processed by the criminal justice system as an ‘ordinary criminal’. A potential victim of trafficking should be referred to the NRM team who can then make a decision whether a person has

¹³⁵ [Download.ashx \(ecpat.org.uk\)](#), note that this quote is not relate is not about PSNI.

¹³⁶ [Download.ashx \(ecpat.org.uk\)](#) Quote does not relate directly to PSNI

¹³⁷ [REaL Event Briefing Note 04 March 2024 | PSNI](#)

been trafficked and will continue to need support. Support for modern slavery victims is devolved to the Northern Ireland authorities.

The Nationality and Borders Act 2022 has changed the threshold for referral from *reasonable grounds to believe* that a child may be a victim of trafficking to reasonable grounds to believe *the child is a victim* of modern slavery or human trafficking.¹³⁸ This will mean fewer cases will be referred in the future.

This requires additional information to be submitted alongside the child's own statement. Unfortunately, some professionals are concerned that this additional burden could lead to more children being denied the support that they require. This has been found to be the case in England and Wales, with this change leading to a significant increase in negative decisions. Following its introduction on 30th January 2023 there has been an increase in negative child decisions from 7% in April to June 2022 to 26% in the same period in 2023.¹³⁹

In Northern Ireland there is a lack of awareness around the NRM and the Human Rights Advisor was told that it is being underutilized. NGOs argued that those agencies who can and should refer potential victims do so inconsistently and, sometimes, not at all. The PSNI are one of the first responder agencies, others include health and social care trusts and youth workers all of whom can make an NRM referral. Many interested parties told the Human Rights Advisor that in NI this referral mechanism should be used more frequently and that exploitation within paramilitary groups is currently not properly recognised as modern slavery and, as a result, the children involved are therefore not protected by the NRM. There has also been some discussion by professionals involved about the benefit to the child of referral through this mechanism. This is because, it is argued, it would be unusual for the child in this situation not to be already known to statutory agencies in Northern Ireland. Home Office guidance is clear that not only safeguarding should be implemented effectively but modern slavery referrals should also alert authorities to ensure that evidence is gathered about the abusers.

The NRM decision making process does not stop the criminal justice procedure if the child has been arrested and charged. However, the child or young person is assessed

¹³⁸ [Nationality and Borders Act 2022 \(legislation.gov.uk\)](#)

¹³⁹ [FINAL CRAE Submission to ICCPR UK examination 5 Feb 2024.pdf](#)

to ascertain whether they are a victim of exploitation at the same time (even though they may also be a perpetrator). Data in relation to referrals is not currently accurate as there is not one single source of information, is significantly under-reported and therefore the overall scale of the issue is unknown. Public Protection Branch work closely with colleagues in the Modern Slavery Team regarding any referrals received in respect of safeguarding and criminal activity.

CURRENT DATA FROM NRM

In 2023, in the UK, 7,432 referrals relating to children were made to the NRM, a 45% increase from the 5,468 referrals in 2021. Only 110 of those referrals were from Northern Ireland with 6,657 for children in England, 348 Wales and 306 in Scotland.

Between April 2016 and March 2021, the Police Service of Northern Ireland recorded 25 modern slavery offences where the victim was aged under 18 years at the time of the offence. The majority of victims (72%) were girls.¹⁴⁰ Of those 25 offences only one prosecution was initiated but this did not result in a conviction.

The NI charity Invisible Traffick gave evidence to the NI Affairs Committee and stated that there has never been a boy from Northern Ireland referred to the NRM. One girl was referred in 2022.¹⁴¹

The Childrens Rights Alliance in February 2024 reported that the numbers of potential child victims of exploitation referred to the NRM in England and Wales has continued to rise since 2016, to 7019 in 2022 (41% of all victims). UK National children are the fastest growing and largest group referred to the NRM, driven by child criminal exploitation (CCE). From July-September 2023, there were 209 'county lines' referrals and 154 (74%) were male children. Trafficked and separated children are among those at greatest risk of going missing.¹⁴²

RECOMMENDATION 16:

The PSNI should report twice a year to the Board on the progress and on the outcome of referrals made to National Referral Mechanism (NRM).

¹⁴⁰

www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/childvictimsofmodernslavery

¹⁴¹ [The effect of paramilitary activity and organised crime on society in Northern Ireland \(parliament.uk\)](#)

¹⁴² [FINAL CRAE Submission to ICCPR UK examination 5 Feb 2024.pdf](#)

CHAPTER 6: CHILDREN AND YOUNG PEOPLE IN CARE

NICCY states that it has consistently raised concerns about the number of looked after children who are in the criminal justice system at any one time. Our research has highlighted concerns regarding children in care and their interactions with police and evidence suggests that looked after children are more likely to be vulnerable to both CSE and CCE.

Action For Children argue that children in care who become known to police can be treated differently than other young people in the same community. They also state that the children may not have the same prompt access to legal advice due to relations between health and social care trusts and the police.

It has been reported that the joint protocol between the police and Children's Services does not work and this leaves a gap in the providing children with the support they require at the right time. It is known that budget cuts across all departments will impact on multi agency co-operation and this will have a significant impact on the service that can be provided. In Rights Here Rights Now the young people stated:

"[The police] expect us to be bad - always look at us suspiciously" - Care experienced young person aged 12-18 – Rights here right now.¹⁴³

Children have also said that if police recognise they are from a children's home they feel stigmatised and in many cases their friends may not know their personal story. The young people say that if the police talk or have a negative attitude towards them it provokes a negative response.

Action for Children also raised concerns that there are recent and repetitive experiences of young people in foster care coming to the attention of the police due to having indecent/illegal images on mobile devices. This has highlighted a number of issues, some of which relate to or impact on the human rights of the young people involved. Not all of these problems are unique to children in care, but they may have a greater impact on these children's day to day lives.

¹⁴³ [Rights Here Right Now - Summary for Children and Young People - Jan 2023.pdf](#)

Action for Children reported that:

- Variable responses from police and children's services to similar content on young people's phones/digital devices. For example, in one case quite severe restrictions were placed on the young person that would have been difficult to obtain if they were court sanctioned. In another case, a more relaxed approach was taken to a young person whose continuing behaviour and unwillingness to engage was of greater concern. Some of our staff report this as a long-standing problem/paradox in this area of work that whereby when young people are honest and co-operate they can become subject to greater control and surveillance in their lives than would be the case if they had not engaged, and that depending on the area or service involved, different approaches and actions are applied.
- There is the further well-established pattern that children in care who become involved with the police come under far more scrutiny due to the level to which their lives are already recorded and monitored, and the lack of a parental advocate when dealing with the criminal justice system. This can lead to them being more likely to receive a sanction than a similar child with the same/similar behavioural issues in the community.
- Some of our staff observe that police and social services are not moving quickly enough to ensure that young people have access to independent advocacy and genuinely independent legal advice. Social workers are in a difficult position because they cannot have legally privileged conversations with children. Foster carers are in a similar position. It is our view that VOYPIC have an important role to play here and should be involved early. The Independent Review of Children's Services by Professor Ray Jones also recommends a regional independent advocacy service, as currently accessibility is also an issue for those outside of the Greater Belfast area.
- Our staff report that the Joint Protocol between the Police and Children's Services is not working as it should. Consistently, they feel they are not seeing evidence of strategy discussions and clear decision making about whether

investigations should be joint or single agency. They feel there is often poor communication between the Police and wider Children's Services which can in some cases lead to a lack of information for foster carers or placing agencies which impacts on risk assessment and safety planning.

- Seizure of digital equipment, its return or access to alternatives is an issue. Young people cannot function in education without access to phones and IT. It impacts on their social life and leisure activities. Some of the proposed controls from police, social workers and harmful sexual behaviour services are unworkable and may infringe a young person's human rights, particularly in the absence of an admission or a conviction. This is particularly true when trying to balance managing risk with who it is reasonable to tell, particularly if the ultimate outcome is that there is no criminal sanction or conviction. The consequences of a caution are frequently understated and young people need independent legal advice and representation from the outset, linked to independent advocacy.
- We also observe there is frequently a delay issue with young people experiencing a lack of clarity about whether there will be further action – and in the interim they (as well as other services involved in supporting them) being asked to comply with safety plans that are unworkable or which impact on their own social, emotional and mental health.¹⁴⁴
- Include Youth reinforced the concerns that have been raised by Action for Children. They remain concerned about the criminalisation of care experienced young people. Their research has highlighted the following issues:¹⁴⁵

On 31st March 2023, 3,801 children and young people were in care in NI, the highest number recorded since the Children's (NI) Order came into force in 1995.

¹⁴⁴ Submission from Action for Children to NI Policing Board, Children & Young People report

¹⁴⁵ Submissions from Include Youth to NI Policing Board, Children & Young People report

Unfortunately, young people in care are more likely to come into contact with the police than their non care experienced counterparts.

Care experienced children are likely to be more vulnerable, placing them at increased risk of criminalisation and/or exploitation and harm. 42% of children in custody in NI are in care, and 29% of children in residential homes have a caution or conviction.¹⁴⁶ Barriers between police and those with care experience are frequently raised by Include Youth young people.

This interaction can be in connection with children's residential care homes. In 2022/2023, the PSNI received 5,240 reports of children/young people going missing from care in NI, which involved 1,171 individuals. Of these occurrences, 2,923 reports were from residential children's homes, relating to 166 individuals.¹⁴⁷ There are clear risks for children who are missing from care, one of which is risk of sexual exploitation and the revised protocol between PSNI and health and social care trusts on Children Missing From Care is a very positive step.

Moreover, an Include Youth staff member who specialises in supporting young people who have experienced or are at risk of CSE is concerned about inconsistent police reaction to care experienced young people who are at risk of CSE versus non care experienced young people.

"I think there is different approach taken for young people who are at risk of CSE who reside in children's homes and those who don't. If they are seen as someone who has ran away before, then that is just how they are seen. But they should be asking why, is the young person running away in the first place and who are they running to. They are running away for a reason, maybe perhaps they are being exploited and someone is buying them something and then they have to give something in return. That needs seriously looked at, rather than just seeing her as someone who always runs away."

¹⁴⁶ [Children in care in Northern Ireland 2021/22 | Department of Health \(health-ni.gov.uk\)](#)

¹⁴⁷ Northern Ireland Human Rights Commission Annual Report 2023, page 145

MISSING CHILDREN

The PSNI recognise that missing children are among the most vulnerable in society and are aware of the heightened risk of the children being susceptible to exploitation and becoming involved in harmful behaviour. In collaboration with the Health and Social Care Trust several protocols were agreed and can be enacted when a child goes missing either from their own home or a residential setting.

The Missing Persons Investigations Service Instruction¹⁴⁸, makes specific reference to children and young people and also outlines several protocols that can also be enacted when a child goes missing. These are the Philomena Protocol and in relation to children in care, the Interface Protocol between the Health and Social Care Trust and the PSNI. The Philomena Protocol records current key information about the child when they move into a residential care setting and records the actions that the trust professionals have undertaken to locate the child. When fully completed this protocol is then shared with the PSNI and officers will be actioned as appropriate. When the child is located an Immediate Safe and Well Check is conducted to ensure the child requires no medical help or has been a victim of crime.

The PSNI and Health and Social Care Trusts have signed an Interface Protocol which sets out the process and expectations when a child is reported missing and other police interactions with residential children's homes. The protocol aims to ensure that both parties work effectively in the best interests of the child and to uphold the ECHR obligation on public authorities to take reasonable action, within their powers, to safeguard the rights of individuals who may be at risk and the UNCRC specific rights of children.¹⁴⁹ The protocol highlights the need for effective collaborative working to establish the whereabouts of a missing child.

¹⁴⁸ [Missing Persons 17 July 2023.pdf \(psni.police.uk\)](#)

¹⁴⁹ Refer to Annex A

ANNEX A: CHILDREN AND YOUNG PEOPLE AS PEOPLE OF INTEREST, SUSPECTS OR DEFENDANTS: THE STATISTICS

Children can also be perpetrators of crimes but counting crimes is difficult because we don't really know how many crimes are committed. There will be crimes that are not reported to the police and crimes that are reported but not counted (according to Home Office Counting Rules) which is primarily to ensure that how police forces count crimes are comparable with each other. The DOJ Safe Community Telephone Survey has data on incidents of crime in 2022/23 of 80,000 which includes household and personal crime. The survey highlighted that around 35% of all crimes were reported to the police.¹⁵⁰

First offences data for 10–17-year-olds show that there were 668 first offences by this age group and they made up 8.8% of all first-time entrants to the justice system. Further offences included in a total of 1,458 means first time entrants aged 10-17 made up 45.8% of all offences in this age category.¹⁵¹

Age band	2022-23 First offences	2022-23 All convictions and diversions
10-17 yrs	668	1,458
18 - 24	2,137	5,731
25 - 29	922	4,606
30 - 39	1,679	8,988

¹⁵⁰ **Description of what how offences are counted:**

An offence is defined as a 'first offence' if it results in the offender receiving their first diversion, warning, caution or conviction – i.e. they have no previous criminal record in Northern Ireland. Offences resulting in further diversions, warnings, cautions or convictions are known as 'further offences', since the offender already has a recorded criminal history. Where an offender has had a diversion imposed, been warned, cautioned or convicted of several offences on the same occasion, **only one offence, the principal offence, is counted** (whether this is in relation to a first offence or, for the purposes of this bulletin, to a further offence). The basis for selection of the principal offence is laid down in rules issued by the Home Office.

Note:Data relate to principal offence and not all offences committed. It is possible that an individual may be prosecuted for more than one offence and only the principal offence will be counted.

- Also, first time entrants relate to the dates they enter the justice system and not to the date of the crime.
- There is also a difference between first offences and first convictions because an individual receiving a first conviction may have previously been dealt with within the justice system by way of diversion.

¹⁵¹ [Youth Justice Statistics | Department of Justice \(justice-ni.gov.uk\)](https://www.justice-ni.gov.uk/youth-justice-statistics)

Age band	2022-23 First offences	2022-23 All convictions and diversions
40 - 49	1,073	4,763
50 - 59	616	2,575
60 & over	490	1,353
Other/unknown [note 2]	39	46
Total	7,624	29,520

First convictions as a % of all convictions for 10–17-year-olds has fallen between 2021/22 and 2022/23 from 30.3% to 28.9%. First offences of 10–17-year-olds make up 8.8% of all first offences and 4.9% of all offences overall with a diversion or conviction. Population mid-year estimates for 2022 (the most recent) show this age group has an estimated population of 201,115. Therefore, this age group make up around 10% of the population (1,910,543 total MYE) and 5% of all offences in 2022/23.¹⁵² The 30-39 age group makes up around 253,000 of the population and 30.4% of all offences dealt with in 2022/23. The 10-17 age group makes up around 201,000 of the population and 4.9% of all offences.

UNDER 18S BY OFFENCE TYPE

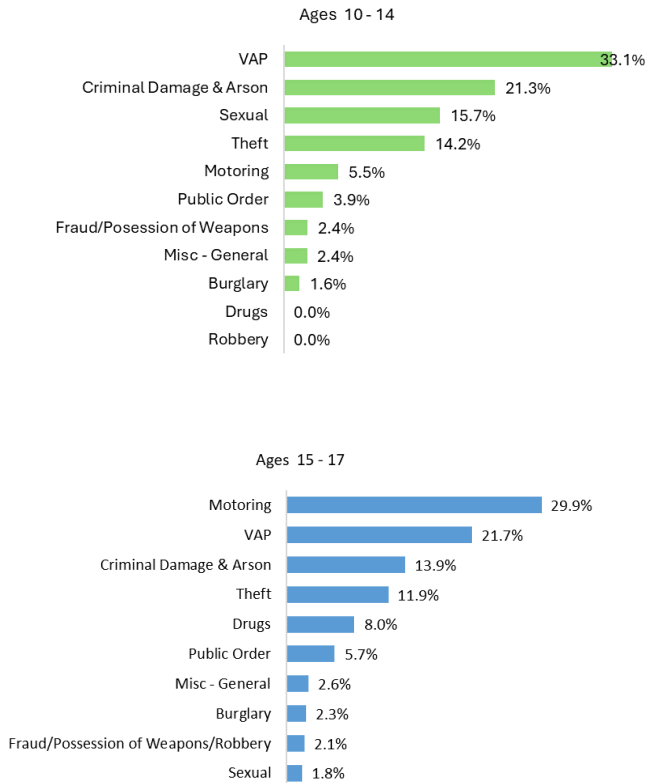
The two charts below show offence types for two age groups, 10-14 years old and 15-17 years old. There are differences in the type of offence on conviction for each group.

In 2023 there were 127 convictions of the youngest age group (10-14 years). One third of these (33.1%) are for violence against the person offences, with another fifth (21.3%) of convictions relating to criminal damage and arson. Sexual offences contribute to a larger proportion of convictions in this age group (15.7%) than in the 15-17 years age group (1.8%), although actual numbers of convictions are 20 in 10-

¹⁵² [Police Recorded Crime Statistics | PSNI](#)

14 ages and 12 in 15-17 ages. This is because of the larger number of convictions in the 15-17 age group overall, 653 convictions compared to 127 in 10-14 years.¹⁵³

Under 18 Offences by Type



¹⁵³ The following data from Analytical Services Division within Department of Justice NI was produced specifically for the Human Rights assessment on children and young people. Usually, data is reported based on date offence is dealt with, which could be some considerable time after an offence. The data relates to prosecutions and convictions being processed during the year 2023.

The official statistics publication can be found here: [Court Prosecutions Convictions and Out of Court Disposals Statistics for Northern Ireland 2023 | Department of Justice \(justice-ni.gov.uk\)](https://www.justice-ni.gov.uk/publications/court-prosecutions-convictions-and-out-of-court-disposals-statistics-for-northern-ireland-2023)

Prosecutions and convictions at courts for persons aged under 18 at offence date, 2023:

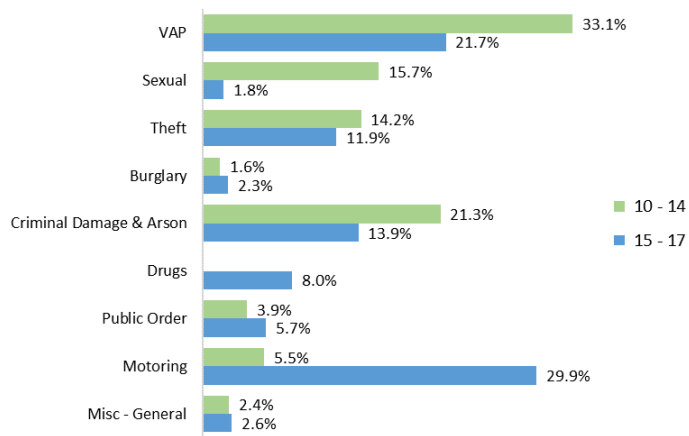
Age at offence date	Guilty	Not guilty	Total cases dealt with at courts	Out of court diversionary disposals
10	*	#	5	21
11	#	#	22	35
12	16	16	32	117
13	37	13	50	178
14	68	35	103	174
15	135	64	199	266
16	162	63	225	190
17	356	70	426	168
Total	780	282	1,062	1,149

Note in relation to the Table above:

1. Age is at offence date for principal offence in each case dealt with.
2. Figures relate to initial disposals at courts. Appeals are not included.
3. Figures relate to cases prosecuted by PPS on behalf of PSNI, Airport Constabulary, Harbour Police, NCA or PBNI.
4. Diversionary disposals includes cautions, informed warnings and PPS ordered Youth conference Plans.

This chart compares convictions by offence categories or types for the two groups, 10-14 years and 15-17 years.

Offence Categories Compared



ANNEX B: LIST OF ORGANISATIONS/PEOPLE CONSULTED

Academics from Queens University and University of Ulster

Victim Support NI

CJINI

Childrens Law Centre

Action For Children

Include Youth

Barnardos

VOYPIC

NICCY

St Pauls Immaculata Youth Club

Victim of Crime Commissioner

Department of Justice

Youth Justice Agency

PSNI officers and staff

ANNEX C: UN TREATIES AND THE RIGHTS OF CHILDREN AND YOUNG PEOPLE

This section sets out in summary the key United Nations treaties on human rights that are binding on the United Kingdom in international law. As a result of the United Kingdom ratifying those treaties the country is required to report periodically to the appropriate treaty specific United Nations committee.

There are nine core international human rights treaties. The United Kingdom have ratified seven of these. These are:

- International Covenant on Economic, Social and Cultural Rights
- International Covenant on Civil and Political Rights
- UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
- International Convention on the Elimination of All Forms of Racial Discrimination
- Convention on the Elimination of All Forms of Discrimination Against Women
- Convention on the Rights of Persons with Disabilities and
- The United Nations Convention on the Rights of the Child (UNCRC):

The UK has not ratified the following two:

- Convention on the Protection of the Rights of All Migrant Workers and Members of their families
- Convention for the Protection of All Persons from Enforced Disappearance

All treaties bind the states that have ratified them, under international law but this does not mean that their provisions are necessarily implemented or enforced.¹⁵⁴

UNCRC

The UNCRC is the key treaty protecting children and young people – it contains 54 articles which set out children’s rights and each state should make them available to

¹⁵⁴ [UN Convention on the Rights of the Child: a brief guide \(parliament.uk\)](#)

all children. Every state is required to meet every child's basic needs. Every child has several basic fundamental rights. These include the right to:

- Non Discrimination – (Article 2)
- Best interest of the child – (Article 3)
- Right to life survival and development (Article 6)
- Right to be heard – (Article 12)

Two additional protocols were added by the UN in 2000 concerning children in the armed forces and commercial sexual exploitation. The UK ratified the first two additions but did not ratify a third additional protocol on a communications and complaints procedure.

1. Optional Protocol on the involvement of children in armed conflict

This requires governments to increase the minimum age that children can join the armed forces from 15 years. It ensures that members of their armed forces younger than 18 do not take a direct part in armed conflict.

2. Optional Protocol on the sale of children, child prostitution and child pornography

This provides detailed requirements for governments to end the sexual exploitation and abuse of children. It also protects children from being sold for non-sexual purposes, such as other forms of forced labour, illegal adoption and organ donation.

3. Optional Protocol on a communications procedure

This allows children to submit a complaint to the United Nations when their rights have experienced a rights violation and their own country's legal system was not able to offer a solution.¹⁵⁵

There are seven independent human rights treaty bodies that monitor the implementation of the core human rights treaties. A Committee on the Rights of the child was established to oversee and report on the implementation of the UNHRC.

¹⁵⁵ [UN Convention on Rights of a Child \(UNCRC\) - UNICEF UK](#)

Periodically the United Kingdom is required to report to the Committee and provide an account of how it is complying with the rights in the treaty. NGO's can and do comment on the government's record and the accuracy of its report to the Committee. A hearing is held to examine the government's compliance and the Committee publishes its assessment - its 'concluding observations' outlining what the government should do to ensure compliance with the treaty.

Key extracts from the UNHRC and key comments from the UNHRC Committee:

'Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.¹⁵⁶

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for

¹⁵⁶ See section 53(3) of the Justice (Northern Ireland) Act 2002: 'But all such persons and bodies must also—

(a) have the best interests of children as a primary consideration; and

(b) have regard to the welfare of children affected by the exercise of their functions (and to the general principle that any delay in dealing with children is likely to prejudice their welfare), with a view (in particular) to furthering their personal, social and educational development.'

him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.¹⁵⁷

‘In all decisions taken within the context of the administration of juvenile justice, the best interests of the child should be a primary consideration. Children differ from adults in their physical and psychological development, and their emotional and educational needs. Such differences constitute the basis for the lesser culpability of children in conflict with the law. These and other differences are the reasons for a separate juvenile justice system and require a different treatment for children. The protection of the best interests of the child means, for instance, that the traditional objectives of criminal justice, such as repression/retribution, must give way to rehabilitation and restorative justice objectives in dealing with child offenders. This can be done in concert with attention to effective public safety.’¹⁵⁸

¹⁵⁷ For more information on the particular child rights in Europe (including in Northern Ireland) see Handbook on the Law relating to the Rights of the Child, Fundamental Rights Agency, European Court of Human Rights and the Council of Europe, 2022. Development of the right to be treated in a child-specific way, see the UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), the UN guidelines for the prevention of juvenile delinquency (Riyadh Guidelines), the UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) and the Lanzarote Convention.

¹⁵⁸ UN Committee on the Rights of the Child, General Comment No. 10, 2007, Children’s rights in juvenile justice.

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