Is Stop and Search – A tool for Alienation?

Speech by the Northern Ireland Commissioner for Children and Young People, Koulla Yiasouma, at the ‘*Police Stop and Search Powers: A Conversation on Delivery, Experiences & Accountability in Northern Ireland’* conference on 31st March 2017.

**NB . this speech was accompanied with a** [**PowerPoint presentation which you can view here**](http://www.niccy.org/media/2768/niccy-qub-stop-and-search-presentation-31-march-2017.pdf)**.**

Slide 1

Congratulations to the excellent work of the Detail TV for getting this information out there.

Slide 2

For those not familiar with NICCY we are an independent human rights body established in 2003 and tasked to specifically to Safeguard and Promote the Rights of Children and Young People across NI. That is everybody under the age of 18 except where someone is registered disabled or are formally looked after when my remit extends to 21.

The UNCRC is the guiding framework and along with views of children, young people and their parents provides the checklist for everything that we do.

We work in four main ways:

* Advise and comment on the work of any relevant statutory body
* Raise awareness of children’s rights
* Promote and hear the voice of young people and their parents
* Casework and investigations

I am also advised by the NICCY Youth panel and the NICCY Advosiry Group (made up of members of NGOs, Academia and trade unions).

I have established priorities for my 4-year term of office, which are:

* Education inequalities
* Poverty
* Mental health and well-being
* the impact of the conflict.
* Brexit

The priorities we have identified represent the most egregious and persistent breaches of children’s rights in Northern Ireland.

There are also persistent violations which we will continue to address. A focus of our work in the next 18 months or so will be on achieving equal protection for children from assault in their home. Youth Justice and safeguarding of children will also remain core business for NICCY as will our legal and casework activities.

The rights of children belong to them not to their parents or the government. And let’s also be clear that with children’s rights do not come children’s responsibilities. It is the job of all adults to protect the child’s rights.

Slide 3

There are 4 general principles of the UNCRC, **Article 2** – non-discrimination, **Article 6** – the right to life, survival and development and **Article 12** – the child’s right to a voice.

But it is often **Article 3,** best interests of the child that is considered to be key. When it comes to best interests NI is ahead of some others as article 3 has been incorporated into our Youth Justice legislation through the Justice (NI) Act of 2015 which states that all persons and bodies must concerned with Youth Justice must:

 (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………...”

This legislation is to be applauded and with our system still coming to terms with what this means in reality I would recommend examination of international guidance. The UN Committee on the Rights of the Child’s recent concluding observations stated that the state party must**:**

(a)Ensure that this right is appropriately integrated and consistently interpreted and applied in all legislative, administrative and judicial proceedings and decisions as well as in all policies, programmes and projects;

As well as to

(b) Develop procedures and criteria to provide guidance. [[1]](#footnote-1)

(para 27)

As you would expect the UNCRC is all about avoiding the victimization of children and along with article 6 the right to life does specifically reference protection from sexual exploitation in article 34. Articles 37 and 40 are particularly concerned with young people as alleged.

The UNCRC must be integral to all laws, policies and services as they affect children and young people. A very wise man said (and I quote) that the UNCRC is a “useful tool for policing”[[2]](#footnote-2) that man was George Hamilton. In a speech he gave in 2014 the Chief Constable went on to talk about how the PSNI’s Policy Directive “Policing with Children and Young People” binds them to the CRC and other HR obligations. I read the Directive some years ago but all searches Google and otherwise have yielded little evidence of its existence.

Slide 4

There any amount of surveys and research which demonstrate that in particular communities young people feel discriminated against by the police and are unaware of or have little confidence in measures of redress. How police engage with young people in routine operations affects how they view the service and how they talk about it. Ask any young person from those communities I described earlier what they think about the PSNI and many of them will talk about how they feel marginalised because of their age or are aggrieved about being persistently and, in their view, unfairly stopped and searched. Rudeness and disrespect is a common complaint from many young people with regards to how police undertake routine operations.

Stop and Search is an accepted if often contentious policing tool wherever it is used although police services around the UK will assert that S&S is effective for preventing terrorism but it is S&S under PACE, Misuse of Drugs and Firearms legislation where there has been significant increases over the last number of years and which most impact on young people. Stop and search under these provision makes up for 74% of the operations that’s 25,151 out of 34,000[[3]](#footnote-3).

Statistics for the first ¾ of 2016/17 demonstrate a possible drop in the number of Stop and Search operations of about 1800 when compared to the same period last year.

The question remains with regards to the purpose of Stop and Search operations. The Detail TV article has some helpful quotes from the police including:

“PSNI operates to keep people safe,” ......

“We do that through detection (arrest, prosecution) but quite often we prefer prevention and deterrence to stop crimes or harm to people occurring in the first place.

“So the fact is that arrest is not necessarily a successful outcome for PSNI nor is it the only successful outcome. In many incidents we stop and search people, and in particular young people, to try and deal with the real issues of drug misuse and underage drinking.

“We also aim to prevent young people from carrying offensive weapons or carrying materials, for example fireworks, which may encourage them to get involved in anti-social behaviour.” [[4]](#footnote-4)

Slide 5

I applaud these intentions particularly those concerning safeguarding children and diverting them from the criminal justice system. But in this world of outcomes and evidencing my question where is the evidence that it is an effective tool for safeguarding, diverting, preventing and detecting non-security crime. Let’s look at the statistics from 2015/16. 14% (4,859) of all stop and searches were against people children (those aged 17 or under) and of those 61% were under the Misuse of Drugs Act.

So how much crime was detected? Of the 34,171 people S&S 7% were arrested, that’s 2,391. For PACE, Drugs and Firearms the figure rises to 9%. That’s arrest not conviction or other disposal. We have no publicly available information with regards to conviction or disposal rates, information which is available in England.

I cannot reconcile the statement that stop and search is an effective policing tool achieving all the things outlined above with the limited information we have either through published PSNI stats or what the Detail have accessed. There is no evidence that these operations keep young people safe.

Additionally I the 59 incidents involving young people under 11 need further discussion as does the fact that records on this age group are no longer kept in this database.

Slide 6

The UN Committee on the Rights of the Child in its most recent concluding observations has recommended that our government examines Stop and Search as it relates to young people to ensure that the operations are necessary, proportionate and non-discriminatory. As you can see the issues of data has not been lost on them. I look forward to hearing how the DoJ, PSNI and Policing Board will address these concerns.

PSNI have said that new officers are being taught that S&S is an opportunity for engagement. The evidence suggests differently, engagement with young people has to be built on respect which includes civility not the assumption that the child is up to no good.

Slide 7

I have mentioned that the elusive policy directive and the promising card and leaflet which is no-where to be found. Check out the PSNI website and what is says about young people. Whilst we welcome commitment to human rights this site has not been updated in over 5 years and contains little or no information that would enlighten any young person on the relevance of the police service to them.

None of what I have said is new. The NIPB were so concerned about the engagement with young people that it was the subject of their second human rights thematic report. The Youth Justice Review which reported in 2011 in recommendation 4 reflected some of the issues identified in the thematic and by children, young people and their advocates

Police should build on the progress ….. by:

1. raising the priority of children and young people;
2. modelling best practice;
3. developing an appropriate skills package for all officers
4. Develop robust and locally-based complaints procedures for young people

At the end of 2015 the Criminal Justice Inspectorate reported on their assessment of how much of the youth justice review recommendations were achieved. They assessed that in relation to policing c and d were not achieved.

Slide 8

Confidence of our young people in policing is important for two main reasons. The traditional one of the right of every citizen to be protected by the police service and secondly because young people in certain communities in Northern Ireland are being threatened and assaulted by gang or so-called “paramilitary organisations.” These young people, their families or communities have little or no confidence that the PSNI can or will protect them from such assault.

Confidence is a regular feature of the Policing plan which is developed in partnership between the NIPB and PSNI. One of the many difficulties in using the methodology that is employed across these islands is that it only asks over 16s and is not necessarily representative of all communities. So if as I have said there are a number of policing behaviours which undermine the confidence of young people we need to begin to look at the levels of confidence of those young people who have the most engagement with PSNI either as victims or alleged offenders.

So imagine my delight when in the 2014/15 policing plan there was a measure that stated......

 “ By March 2015 the Board to establish a baseline for young people’s confidence”

And then the same again in 2015/16 when I wasn’t quite so delighted..... The latest plans discuss addressing confidence where it is found to be lower.

But what has been achieved? It is not unreasonable to expect to see this work and an analysis of its impact reflected in the Policing Board’s annual report of 2015/2016 which outlines performance of the Board and PSNI against the Policing Plan targets. In the 2015/16 annual report there is some discussion of activity but no reporting on performance or on whether a baseline for young people’s confidence has been established.

All policing organisations have been active and established collaborative processes including the PSNI Champions group and the NIPB Youth Advisory Forum who have been very active. But it is evidence of impact and outcomes that we should be interested in. The Policing Board and the PSNI clearly have not organised themselves sufficiently to demonstrate what they have done or measure its impact.

We have policing structures and I include PONI in this who clearly state that they want to address issues concerning children and young people but have yet to refocus their administrative, data collection and accountability mechanisms in such a way that elicits confidence of civic society and those of us with monitoring roles in whether there are improvements with regards to the policing of young people.

Slide 9

PSNI have struggled for many years to translate promising children’s rights based policy approaches translated into everyday policing. Whilst there is a resources expended on keeping children and young people safe as well as policing them they remain invisible in formalised accountability and complaints processes.

I applaud the Detail for focussing on this issue but it only uncovers what nearly everyone already knows. And I mean everyone as the following quote demonstrates:

*“Stop-and-search has the potential to cause immense resentment and honesty to the police, with all the implications that has for generating distrust and ending co-operation from the public, if it is not used fairly.”*

Theresa May, 2013 (speech to Superintendents Associations)

Albert Einstein is reported as saying but probably didn’t that:

**“definition of insanity is doing something over and over again and expecting a different result”**

Let’s stop being insane and search for the best ways to police with and for our children and young people.

1. Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, UN [↑](#footnote-ref-1)
2. Chief Constable’s speech from Children’s Law Centre and Save the Children NI event, November 2014 [↑](#footnote-ref-2)
3. PSNI, Stop and Search Statistics (2015/2016), 20th May 2016 [↑](#footnote-ref-3)
4. http://www.thedetail.tv/articles/psni-urged-to-reconsider-use-of-stop-and-search-on-children [↑](#footnote-ref-4)