

## Speech by Koulla Yiasouma, Northern Ireland Commissioner for Children and Young People: The Challenge of Making the UNCRC a Useful Policing Tool

**\*NB Please check against delivery\***

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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.

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

- Education inequalities
- Poverty
- Mental health and well-being

Following discussion with young people we added a 4<sup>th</sup> the impact of the conflict.

Whilst young people living in families and communities most impacted by the conflict are those likely to be live in the most deprived areas, have higher rates of mental ill-health and lower educational attainment, there remain a number of other issues. These include assaults and intimidation of young people on the streets of their community. Assaults that are often described as “paramilitary-style”. They have no style and must be called what they are - child abuse. The perceived under-reporting of such assaults speaks to confidence that communities have in the formal processes being used to tackle them.

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.

We are currently consulting on the Corporate Plan which closes on the 9th of December.

The rights of children belong to them not to their parents or the government. It is the job of all adults to protect the child's rights.

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

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  
(para 26)

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<sup>1</sup> Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, UN

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”<sup>2</sup> 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. A theme I shall be coming back to later.

Let’s not pretend that policing today is as it was 15 years ago, it is not. It is much improved and as I have said we cannot ignore the particular circumstances of NI many of the issues that we experience are those faced by other policing services.

This was recognised by the Patten Commission which stated that regardless of which community they live in “people were concerned about youth crime and antisocial behaviour, about the threat to their children from a rapidly growing drug problem, and about paramilitary thuggery. They wanted a police service with a permanent local presence to deal with these threats, and officers they recognized and could identify with. In both communities people who described themselves as working class characterized the police as middle class people who found it hard to relate to them, and especially to youth; we were told several times that it was felt the police looked down on them and did not treat them with respect. Our public attitudes survey found that 45% of those aged under 35 believed that the police discriminated against younger people”<sup>3</sup>

The report later goes on to recognise outside of the particular threat of the “paramilitary thuggery” these sorts of issues are echoed in most policing situations across the western world. Indeed in 2016 these issues still resonate and the report of the Fresh Start Panel recommends increased activity to promote an understanding of lawfulness moving away from the idea of paramilitary organisations to criminal gangs.

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<sup>2</sup> Chief Constable’s speech from Children’s Law Centre and Save the Children NI event, November 2014

<sup>3</sup> New Beginning: Policing in Northern Ireland. The Report of the Independent Commission on Policing for NI, Sept 1999 (para 3.19)

So, to policing issues as they apply to children and young people today. They are many and varied but in the time left I will only discuss two main themes - police behaviour that impact on young people's confidence and secondly accountability mechanisms and how the concerns and experiences of young people inform them.

### **Confidence and policing practice**

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. The amplification effect cannot be under-estimated as most of us have little interaction with the police and so our views are informed by what we hear from others. 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<sup>4</sup>.

In this world of outcomes and evidencing impact my questions are what is the purpose of stop and search and does it work? Is there evidence that it is an effective tool for 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?

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<sup>4</sup> PSNI, Stop and Search Statistics (2015/2016), 20<sup>th</sup> May 2016

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.

With arrest rates so low, NICCY and others have been consistently asking for the evidence of the impact of stop and search other than to alienate young people and their families?

I cannot reconcile the statement that stop and search is an effective policing tool with the information albeit limited I have before me.

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.

I have mentioned that the elusive policy directive does provide a child's rights framework for policing and it is clear that although the most senior officers in PSNI understand their obligations under the UNCRC, ECHR and Human Rights Act this has not been effectively cascaded to the officers on the ground, those who engage with children and young people on a day-to-day basis. This is reflected in HMIC's Peel Effectiveness inspection looking at vulnerable groups which stated that PSNI should improve its response to children at risk of sexual exploitation by ensuring that specialist and frontline officers have the appropriate tools, training, knowledge and supervision to identify and respond to these young people.

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

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.

We then turn to the myriad of accountability mechanisms to ensure that these concerns are addressed. The latest thinking is that numerical policing targets can lead to unintended activity and the HMIC have advised that PSNI must ensure that “the current target-driven culture is not undermining the integrity of the organisation” and is assisting in achieving improvements for communities. However carefully chosen performance measures can be helpful.

These usually start with the Policing plan which is developed in partnership between the NIPB and PSNI and confidence of the public in the police has been a regular feature of the plan. 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 15/16 policing plan went a bit further identifying young people aged 16-24 and looked after children where reporting of crime should be encouraged. The Plan also aims to reduce risk of harm to vulnerable missing person including young people as well as establishing a baseline for cyberbullying. Thereby recognising that children and young people are more likely to be victims of crime than perpetrators.

Many of us know that the Policing Board has undertaken a considerable amount of work to try to understand the confidence of young people and there has been a lot of PSNI activity with regard to vulnerable young people particularly those at risk of CSE but also abuse within communities. 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. As for young people as victims of crime there is nothing in the narrative or in the performance grid of the Board's annual report you have to go to PSNI for some update on missing children and cyberbullying<sup>5</sup>.

Time marches on and with these concerns fed back to the policing board who have been very receptive we have yet another measure in 2016/17 Plan.

The plan clearly states that there will be twice yearly initiatives to improve confidence of young people where it is found to be lower. Additionally under the strategic outcome "preventing harm" the Chief Constable is expected to report to the Board on initiatives and outcomes in relation to CSE and child abuse and how PSNI responds to looked after children. Again sound aims which I support and which in the case of CSE, abuse and LAC there has been a lot of activity but it is effectiveness that we need to be concerned with. To that end we can find a 6 monthly quantitative performance report on the NIPB's website<sup>6</sup>.

It says absolutely nothing about any of the measures concerning children and young people and even more concerning it has a cut and paste from a 2014/15 DoJ survey on the confidence measures which bears little resemblance on what the Board wants the Chief Constable to do. The latest confidence figures published last week by NISRA show that 75% of the 1,000 or so over 16s questioned, felt that PSNI were doing a good or fairly good job in NI and more importantly 91% of those people feel very or fairly safe in their community. I commend the PSNI on these figures but where are we expected to find out about the result of the qualitative research where confidence of young people is lower and the twice yearly initiatives to improve that confidence?

As I said it would be wrong to assume that nothing has been done, it has. All organisations have been active and established collaborative processes including the

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<sup>5</sup> PSNI, Report to the Service Executive Board and the NIPB Performance against the 2015-2016 Policing Plan, 13<sup>th</sup> May 2016

<sup>6</sup> <https://www.nipolicingboard.org.uk/outcomes-policing-annual-policing-plan>

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.

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.

Policing in NI in the 21<sup>st</sup> Century is difficult, the young people PSNI engage with are the most vulnerable, disadvantaged and traumatised in our community, and because of this they often who display the most challenging and difficult behaviours. We know that a lot policing time is spent caring for our most vulnerable citizens and particularly as recent evidence bears out those with poor mental health. These issues cannot be addressed by PSNI in isolation but in partnership with others.

I genuinely believe that the Outcomes Based Accountability process for the Programme for Government provides us with an ideal opportunity to ensure that we only do the things that make a difference to all the people living in NI. Add to that the Children Services Co-operation Act of last year which places a statutory obligation for all agencies to co-operate to achieve 8 UNCRC informed outcomes in the next Children and Young People's Strategy and we have the perfect opportunity to turn all that talk and activity into tangible action to improve the lives of children, young people and the communities in which they live.

To conclude we still have some way to go to meet the challenge of making the UNCRC the effective policing tool that it is.

Thank you for listening and I look forward to engaging with you further .