

# 11

## CHILDREN'S RIGHTS IN POLICE CUSTODY

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### Introduction

The UN Convention on the Rights of the Child recognises that children in conflict with the law are entitled to special protection. Acknowledging the particular vulnerability of such children, the Convention and related international standards highlight the importance of ensuring children's rights are protected during the criminal process. International standards build on the general principles of age-appropriate treatment and due process rights and require that the process of police questioning is specially adapted to children's circumstances and needs. However, despite important legal developments at regional and international levels (discussed further later), relatively little is known about how children experience their rights. There are similar gaps in the literature with regard to how children experience the specialised policies, procedures, and approaches that are put in place to accommodate their particular vulnerability as suspects. Finally, little attention has focused on how to strike an appropriate balance between children's due process rights and the police duty to investigate alleged crime.

The aim of this chapter is to explore these issues through the lens of a study of children's rights in police questioning, undertaken by the authors for the Irish Policing Authority. This chapter begins by setting out the rights of children during police questioning in international and national law. It then presents a summary, drawing on empirical research, of how children experience these rights before going on to consider the key factors influencing these experiences. This chapter concludes with recommendations as to how to improve the realisation of children's rights in this setting, taking account

of the need to appropriately balance the rights of the child suspect with the parameters of police investigation.

### International Standards

The United Nations Convention on the Rights of the Child (CRC)<sup>1</sup> is a widely accepted legal blueprint for the rights of children, defined as every child below the age of 18 years (Art. 1). Embedded in the Convention is an understanding that although vulnerable due to their age and maturity, children are entitled to enjoy a wide range of rights across a variety of circumstances and settings including in education, health, and family care. Children in the justice system receive particular attention in the Convention and those in conflict with the law are entitled to special protection under Articles 37 and 40. Together, these provisions require that every child is entitled to treatment in a manner consistent with the child's age and needs highlighting the importance of age-appropriate treatment. Article 40 sets out a detailed list of due process rights that include procedural protections that apply during the investigation process, such as the right to be informed promptly and directly of the charges against them and to have legal or other appropriate assistance in the preparation of their defence.<sup>2</sup> In addition to these specific rights, the Convention recognises that in order to take account of the vulnerability of children in these situations, states must promote the "establishment of laws, procedures, authorities and institutions" specifically applicable to children alleged or accused of having infringed the penal law (Art. 40(3)). A consistent recommendation of the Committee on the Rights of the Child, whose role is to monitor implementation of the Convention, is that "continuous and systematic training of professionals" is vital to ensure that these rights are effective. The Committee emphasises that this training should be provided to all legal professionals working in the youth justice system,<sup>3</sup> emphasising the additional requirement to provide training to police to avoid questioning techniques and practices that might result in unreliable testimony or confessions.<sup>4</sup> In this respect, the Committee draws attention to the duty on police officers to uphold the standards associated with the child's right to a fair trial, while clearly reinforcing the broader need to ensure that children's rights and dignity are respected.

1 United Nations Convention on the Rights of the Child (Adopted and Opened for Signature, Ratification and Accession by General Assembly Resolution 44/25 of 20 November 1989 Entry into Force 2 September 1990, in Accordance with Article 49).

2 UN Committee on the Rights of the Child, *General Comment no 24 on the Rights in the Child Justice System*, UN Doc CRC/C/GC/24 (18 September 2019) paras 47–53.

3 *Ibid.*, paras 39, 112.

4 *Ibid.*, para 60.

The European Guidelines on Child-friendly Justice (2010)<sup>5</sup> seek to build on these international standards by paying special attention to the ways in which the justice system should be adapted to take account of the vulnerability of child suspects.<sup>6</sup> Although not exclusive to children in conflict with the law, the Guidelines emphasise the need to adjust the criminal justice process in order to ensure the child's right to participate is effective. In this regard, they highlight the importance of providing children with information and explanations in age-appropriate language and stress the need to ensure children receive access to legal advice and assistance, as well as assistance from parents or other "appropriate" adults in police custody. With particular regard to police questioning, the Guidelines stipulate that

[w]henver a child is apprehended by the police, the child should be informed in a manner and in language that is appropriate to his or her age and level of understanding of the reason for which he or she has been taken into custody.<sup>7</sup>

In addition, the Guidelines require that children should be provided with "access to a lawyer and be given the opportunity to contact their parents or a person whom they trust."<sup>8</sup> Parents should normally be informed as to the reasons for the child being taken into police custody and should be invited to come to the police station. Questioning of the child should not take place except in the presence of a lawyer or the child's parent or alternatively another person whom the child trusts. According to Liefwaard, these safeguards are necessary "because of a child's particular vulnerability in the earliest stages of a criminal proceeding" and because a child being questioned by the police needs protection both from police ill-treatment and "treatment that trumps his right to a fair trial."<sup>9</sup> The Child-Friendly Justice Guidelines recognise that questioning children is specialist police work that should involve "trained police officials that work for special police units."<sup>10</sup> In light of the risks to children's rights in police custody, Liefwaard asserts that the Guidelines provide "concrete" safeguards in relation to children's access to a lawyer and the presence of a lawyer during police questioning.<sup>11</sup> He highlights how

5 Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th Meeting of the Ministers' Deputies).

6 T Liefwaard, 'Child-Friendly Justice: Protection and Participation of Children in the Justice System' (2016) 88(4) *Temple Law Review* 905.

7 Guidelines of the Committee of Ministers (n 5) 26.

8 Ibid.

9 Liefwaard (n 6) 919.

10 Guidelines of the Committee of Ministers (n 5) 72.

11 Liefwaard (n 6) 919.

this reflects the importance of these rights in the case law of the European Court of Human Rights<sup>12</sup> and the monitoring work of the Committee for the Prevention of Torture. At the same time, Liefwaard laments the fact that the Guidelines appear to conflate the presence of a lawyer with that of a parent, in stating that “a child . . . should not be questioned . . . except in the presence of a lawyer or one of the child’s parents.”<sup>13</sup> This suggests, he says, that a child could be denied the opportunity to have a lawyer present if a child is questioned while their parents are in attendance, when these parties play very distinct roles in support of the child. Similar softness is evident in the Convention on the Rights of the Child, which appears to use “legal” and “other appropriate assistance” interchangeably in Article 40. However, recently the Committee on the Rights of the Child has highlighted the distinctive importance of both the lawyer and the parent in ensuring that the child’s rights are adequately protected in police custody, emphasising that legal assistance should be guaranteed to all children facing charges, in addition to ensuring the maximum involvement of parents or legal guardians in the proceedings.<sup>14</sup>

The Guidelines can be criticised for remaining silent with respect to the recording of police interviews, despite the importance of such a safeguard in protecting the child from the infringement of their rights. Although this right is set out in Article 9 of EU Directive 2016/80,<sup>15</sup> it is not mandatory if the child is represented by a lawyer during questioning. What is significant, however, is that the Directive includes the right to the presence of a lawyer during police questioning amongst the procedural safeguards that must apply to child suspects in criminal proceedings and stipulates that lawyers should be able to participate effectively during questioning. Although this right can be derogated from if it is not proportionate in light of the circumstances of the case and the child’s best interests, the Directive establishes an important presumption in favour of providing legal assistance to a child throughout the process of questioning. The instrument also provides that all children who are suspects or who are accused should have a right to an individual assessment and to a medical examination; again, while provision is made for derogation in the child’s best interests, these provisions provide important means of establishing any needs or vulnerabilities of the child which may require an adaptation to criminal justice processes. Even though Ireland has so far opted out of this Directive, it represents an important European standard in the area and provides guidance on the steps that should be taken to provide greater

12 *Salduz v Turkey* (2000) 49 EHRR 19.

13 Liefwaard (n 6) 920.

14 UN Committee on the Rights of the Child (n 2) paras 49–51, 57.

15 Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on Procedural Safeguards for Children Who Are Suspects or Accused Persons in Criminal Proceedings.

protection for children's rights when they are being questioned by police. Significantly, in the most recent Concluding Observations issued by the CRC Committee, it has been recommended that Ireland should either opt into the Directive or transpose its most important elements into national law.<sup>16</sup>

### Requirements of Irish Law

The Children Act 2001, as amended ("the 2001 Act"),<sup>17</sup> provides a statutory framework for youth justice in Ireland, with Part 6 focused on the treatment of children in Garda (police) custody. Most importantly, s 55 of the Act requires that in any investigation of an offence by a child, members of the Garda Síochána (the police)

shall act with due respect for the personal rights of the children and their dignity as human persons, for their vulnerability owing to their age and level of maturity and for the special needs of any of them who may be under a physical or mental disability.

This duty must be balanced with the duty to prevent escapes from custody and to act with "diligence and determination in the investigation of crime" as well as "the protection and vindication of the personal rights of other persons." While this is an important statement of principle, there is, interestingly, no guidance available as to how the competing interests highlighted here are to be appropriately balanced. The Act sets out the steps to be followed when the child is brought to a Garda station to be interviewed and makes provision for safeguards in this context. In particular, the Act provides for the child's right to be informed in appropriate language of the charge against them, their right to contact a lawyer (solicitor), and their right to have their parent or guardian contacted and asked to attend the Garda station.<sup>18</sup> If a parent cannot be contacted or cannot attend within a reasonable period of time, the Act requires another adult relative or other adult named by the child to be contacted to this end. If the child is in need of care and protection, the Act requires contact to be made with Tusla, the Child and Family Agency, for the purposes of care and protection.<sup>19</sup>

In terms of legal representation, the Act makes provision for the child's solicitor to be contacted "as soon as practicable" and where this is not

16 UN Committee on the Rights of the Child, *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Ireland (Advance Unedited Version)*, UN Doc CRC/C/IRL/CO/5-6 (7 February 2023) para 45.

17 Children Act 2001.

18 Ibid., s 57.

19 Ibid., s 59.

possible within a reasonable period of time, or the solicitor is unwilling or unable to attend the Garda station, the child is to be given the opportunity to ask for another solicitor to attend.<sup>20</sup> The child is entitled to be supported in identifying an available solicitor, so that the child's legal right to representation can be given effect. At the same time, the Act stops short of expressly recognising the child's right to avail of legal advice prior to, or the presence of a solicitor during questioning. It also does not make such access mandatory in any way. Accordingly, if they choose to waive their entitlement to seek advice from a lawyer, a child may be questioned by Gardaí without accessing legal advice prior to interview. The possibility also remains that, as no clear legal entitlement exists in statute, children may face questioning without the support of legal representation during the interview itself, unless Gardaí allow the attendance of a solicitor on a discretionary basis. Admittedly, the Act provides that where the child or their parent or guardian asks for a solicitor, they will not be asked to make a statement in relation to an offence until "a reasonable time" for the attendance of the solicitor has elapsed. However, it is not clear from the Act who determines "reasonableness" for this purpose or indeed, what factors dictate what is reasonable in such circumstances. With regard to the presence of a parent or guardian, the Act provides that a child shall not be questioned unless in the presence of a parent or guardian or "another adult" where the parent is not available<sup>21</sup> although questioning may go ahead where delay would risk death or injury or interfere with the investigative process.<sup>22</sup>

The Treatment of Persons in Custody Regulations 1987 ("the Regulations")<sup>23</sup> provide further instructions on the treatment of persons in custody, including children. Importantly, they set out the role of the "member in charge" of the Garda station and provide for their duties to maintain the custody record and ensure the fair treatment of any person detained in Garda custody. Amongst other duties, the member in charge has responsibility for notifying the child's arrest to the child's parents or to another appropriate adult. However, the Regulations do not provide further detail on who should play the role of the "appropriate adult," beyond specifying that it should be a "responsible" adult who is not a member of An Garda Síochána. This arguably leaves the choice of such persons to the discretion of the member in charge.

It is evident from the above summary that Irish law makes reasonable provision for legal safeguards to protect the child's rights during police

20 Ibid., s 60.

21 Ibid., s 61.

22 Ibid.

23 SI no 119/1987 – Criminal Justice Act 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations 1987.

questioning, in general alignment with international children's rights standards. There are some gaps, however. For example, there is no requirement to ensure that the child has understood the information provided, and there is no requirement for guidance to ensure that the child's age and maturity are taken into account in this process. Similarly, while the legislation mandates the presence of a parent, guardian, or other adult during police questioning, there are no requirements as to who undertakes these roles and, with respect to the "other adult," there are no requirements as to qualifications, suitability, or vetting. While there is provision for the child's right to contact a lawyer, the parameters for proceeding to question a child without legal assistance are unclear. Finally, while the Regulations require the member in charge to seek medical treatment for detainees, there is no routine requirement for a full assessment of the needs or vulnerabilities of the child at the point where they are taken into Garda custody. Interestingly, the Act allows for the making of regulations with respect to the treatment of children in police custody, with regard to the role of the parent, guardian, or other adult, and any other matters "necessary or expedient" for the purpose of enabling Part 6 to have full effect. To date, no such regulations have been developed.

### Children's Experiences of Their Rights

Children who participated in the Policing Authority study reported a variety of experiences of their rights during police questioning.<sup>24</sup> Some children reported taking the experience in their stride and found the experience to be "straightforward" or "grand."<sup>25</sup> However, other children had much more negative experiences, as a result, mainly, of the demeanour or the behaviour of questioning Garda members. For instance, some children interviewed reported Gardaí "shouting" at them or appearing "very angry" during questioning.<sup>26</sup> In a number of instances, children experienced Gardaí being "rough" or verbally or physically ill-treating them on arrest or in custody.<sup>27</sup> Importantly, these issues were raised spontaneously by some children during interviews. With regard to their experience of the line of questioning followed by Gardaí at interview, some children routinely described feeling that they were being "tricked."<sup>28</sup> This arose, for instance, when the child was asked a question in different forms, multiple times, or where the Garda would return to questions already asked. Sometimes, the children considered

24 U Kilkelly and L Forde, *Children's Rights and Police Questioning: A Qualitative Study of Children's Experiences of Being Interviewed by the Garda Síochána* (Police Authority 2020).

25 Ibid., 23.

26 Ibid., 25.

27 Ibid., 26.

28 Ibid., 23.

that the Garda was not being truthful during the course of the interview and might, for instance, suggest that a friend who had also been arrested with the child was giving a different version of events.<sup>29</sup> Overall, the impression in many cases was that the child had little confidence that they were being treated fairly, resulting in them having little faith in the legitimacy of the questioning process.

It was evident from the interviews that children's experience of being in police custody was impacted by the inappropriateness of the custodial environment. This was especially the case where the child was held in custody overnight or, in one case, over a weekend.<sup>30</sup> In general, the children described rooms in which they were held as dirty and cold, and where they were provided with food, they described it as being of poor quality.<sup>31</sup> The inappropriate nature of the environment in which children were detained was also highlighted by lawyers and Gardaí interviewed as part of the study, with some trying to take measures to ensure that the time children spent in these cells was limited.<sup>32</sup>

Some children described being "nervous" or "scared" during the police interview and while children interviewed multiple times described getting "used to it," it was clear that in at least one case the experience of being interviewed had a profound impact on the child, who described being "shook for about 3 or 4 months" afterwards.<sup>33</sup>

A particular issue clearly arose with respect to the inconsistency of the experience from the child's point of view and approaches of individual Garda members clearly varied depending on their behaviour, experience, and expertise. The reports of the children interviewed indicated a willingness on the part of Gardaí to adapt their approaches, modify language, and adjust the interview style to support the child's effective participation in the process.<sup>34</sup> At the same time, the variability of the children's experiences highlighted the absence of a consistent approach. For children, this sometimes came down to whether they considered they could trust the Garda in question and they were quick to identify that while some were "nicer," others were clearly "worse."<sup>35</sup> Whether they had been treated fairly or not was keenly felt by some children and could impact how children engaged with police during the course of the interview. One child stated clearly "if they're nice to me, I'm going to be nice

29 Ibid., 24.

30 Ibid., 12.

31 Ibid., 13.

32 Ibid.

33 Ibid., 35.

34 Ibid., 30.

35 Ibid., 25.

to them. Simple as, really.”<sup>36</sup> In general, the individual approach of the Garda interviewer evidently had a significant impact on how children felt about the overall experience, their understanding of their rights, and information given to them.

As a result, some children described having real difficulty understanding the interview process and reported that it was “confusing because they use hard words I don’t really understand.”<sup>37</sup> The interviews highlighted the critical need for age-appropriate information as even though some children said the information they received was “clear enough” and “straightforward,” others clearly struggled.<sup>38</sup> Those who were supported by an adult – a parent/guardian or a legal representative – identified the value of this support in enabling them to understand the process better. For instance, one child explained that having a lawyer in attendance at the interview was “handy like for something you don’t understand.”<sup>39</sup> In this respect, the need for an age-appropriate approach was clearly recognised by many of the children interviewed. As one explained the process “could be more child-friendly like” as he explained that in his experience “they treat you the same as they treat an adult.”<sup>40</sup> Assistance from a parent or supportive adult was also considered crucial for children, who reported wanting someone to offer “guidance . . . or assistance.”<sup>41</sup> While some identified that the parent or solicitor offered concrete or practical support, such as help understanding questions posed to them, for others the support was less tangible but no less important, in that it “just felt better.”<sup>42</sup> Some children were also able to discern the circumstances in which it was not comfortable having a parent in attendance.<sup>43</sup> For some, their difficult relationship with a parent or their awkwardness around the alleged offence made it less appealing to have their parent present. In other circumstances, such as where the parent was not available to attend the garda station, they did not have this support available to them.<sup>44</sup>

One of the more important findings of the study was that children frequently waived their right of access to a solicitor, despite the fact that those who availed of this right found it “very, very helpful.”<sup>45</sup> For those children who had a solicitor to provide advice in advance of questioning and/or to attend the interview with them, they found them to be an important source of

36 Ibid., 26.

37 Ibid., 30.

38 Ibid., 29–30.

39 Ibid., 19.

40 Ibid.

41 Ibid., 41.

42 Ibid.

43 Ibid.

44 Ibid., 41–42.

45 Ibid., 18.

help, information, and support. Children liked that “they’re on your side.”<sup>46</sup> Those children who waived their right did not always provide a clear reason. In general, however, the children indicated wanting “to get out of there as fast as possible,” and “to get home as quick as I can” and so, waiting for a solicitor was “a whole lot of hassle.”<sup>47</sup> Some children seemed to decide that it was not always worth the wait and preferred instead to be questioned alone. This feeling that there was “no point” waiting for a solicitor also reflected the value to the child of having legal representation when the charge was not serious (according to them) or where they had decided to exercise their right to silence.<sup>48</sup> Interestingly, the value of having a solicitor present was borne out by children who made the alternative decision to wait for their lawyer to arrive.<sup>49</sup>

### Recommendations

This study demonstrates that while the Children Act 2001 envisions that a number of legal safeguards should exist for children during Garda questioning, in practice, it is often challenging to ensure that these provide effective protection for children in this situation. The diversity in the experiences of children being questioned by the Gardaí suggests that there is an urgent need to find methods of ensuring that legal safeguards and protections are applied in a manner that is both meaningful for children in practice and brings about consistency that generates confidence in the fairness of the system. The standards set out in the CRC, the Child-Friendly Justice Guidelines, and Directive (EU) 2016/800 provide very important guidance on the practical steps necessary to ensure respect for children’s rights during the investigation process, while balancing this with the duty on police to effectively investigate alleged offences.

One of the key issues identified with Part 6 of the Children Act 2001 is that although many of the key elements identified in the international standards are reflected in the legislation, they are broadly defined with no clear guidance as to how they are to be implemented.<sup>50</sup> This is especially the case with regard to the requirement to provide information to children and parents, to ensure that children have access to legal assistance, and the requirement that another adult must be present if it is not possible for a parent to attend. The absence of this detail means that in practice, individual Gardaí

46 Ibid.

47 Ibid., 15.

48 Ibid., 16.

49 *ibid.*

50 See further, *ibid*; L Forde, ‘The Role of the Courts in Protecting Children’s Rights in the Context of Police Questioning in Ireland and New Zealand’ (2022) 61 *The Howard Journal of Crime and Justice* 240.

must exercise their own judgement as to how best to adapt their language and approach to account for the child's age and level of understanding, while the member in charge is left to identify a person to act as an appropriate adult if a child's parent or guardian is unable to attend a Garda interview for any reason. The Policing Authority study highlighted the fact that despite the efforts of some Gardaí to adapt their approach to ensure it was more suitable for children, children continue to have divergent experiences of the level of protection for their rights.<sup>51</sup> In order to address this, it is recommended that robust regulations are developed to promote more consistent realisation of the rights of children in the questioning process in practice. The fact that s 70 of the Children Act 2001 allows for the making of regulations to support the operation of Part 6 may provide a useful means of achieving this. Regulations should also provide guidance as to how to support children's understanding of the information received, and the procedures to be followed in relation to their access to supports.

In addition to the adoption of regulations, the adoption of a range of practical tools would also facilitate more rights-compliant practices by Gardaí. These would not only support better communication with children, but would also enhance the process of police questioning in line with fairer and more robust standards of justice. Similarly, investing in the training of professionals who have roles supporting children during this process – including Gardaí, lawyers, and appropriate adults – would strengthen practice, bringing about stronger and more consistent realisation of children's rights in this area. Finally, the Policing Authority study demonstrates the need to ensure that an effective system of inspection and monitoring is in place and that transparent and responsive complaint mechanisms are available to children who have experienced breaches of their rights in police custody. Wider police reforms also create an opportunity here. The following section considers these recommendations in more detail, placing them in the context of the wider literature.

### *The Development of Regulations*

An important issue which could be addressed through the development of regulations under s 70 of the Children Act 2001 relates to information and explanations. While the Act requires specific types of information to be given, it does not explicitly require that children should be given explanations of their rights or supported to understand them in practice. In order to realise children's rights to participate effectively and meaningfully from the first stages of their engagement with Gardaí, adequate information and explanations delivered in an age-appropriate manner are an important pre-requisite.<sup>52</sup>

51 Kilkelly and Forde (n 24).

52 UN Committee on the Rights of the Child (n 2) paras 46, 48.

Access to reliable information has been described as an “essential starting point” for meaningful participation.<sup>53</sup> However, children can have difficulty understanding information which is provided to them, particularly if it is delivered in a rote or bureaucratic form or in written form.<sup>54</sup> In addition, interactions with the police can be further complicated when a child has an intellectual disability, communication difficulty, or other concern which impacts their ability to understand the process.<sup>55</sup> In this respect, it is particularly important to note that children with communication difficulties are over-represented in youth justice systems internationally.<sup>56</sup> The CRC Committee has been clear that while both parents and appropriate adults have an important role to play in supporting children’s understanding, authorities should not leave the task of explaining charges to the child, to them.<sup>57</sup> In light of this, and given that the duty falls on police to ensure the integrity of the questioning process, placing an explicit duty on Gardaí to support children’s understanding of this process would be a legitimate step to take, towards the realisation of children’s rights.

While it is clear from the study that many Gardaí make efforts to adapt their language to make it less difficult for children to understand, making this mandatory through the establishment of a specific regulation would help to make practice more consistent in this area. This is the experience in other jurisdictions. For example, in New Zealand, the statutory framework imposes a duty on police officers to provide detailed explanations of their entitlements to children before they are questioned,<sup>58</sup> allowing more robust oversight of the quality of the explanations given to children by the courts.<sup>59</sup> Imposing a similar duty in Ireland would thus ensure a greater focus on the

53 H Stalford, L Cairns and J Marshall, ‘Achieving Child Friendly Justice Through Child Friendly Methods: Let’s Start with the Right to Information’ (2017) 5(3) *Social Inclusion* 207, 210.

54 H Zelle, CL Riggs Romaine and NES Goldstein, ‘Juveniles’ Miranda Comprehension: Understanding, Appreciation and Totality of Circumstances Factors’ (2015) 39(3) *Law and Human Behaviour* 281; S Parsons and G Sherwood, ‘Vulnerability in Custody: Perceptions and Practices of Police Officers and Criminal Justice Professionals in Meeting the Communication Needs of Offenders with Learning Disabilities and Learning Difficulties’ (2016) 31(4) *Disability & Society* 553.

55 K Gooch and P von Berg, ‘What Happens in the Beginning, Matters in the End: Achieving Best Evidence with Child Suspects in the Police Station’ (2019) 19(2) *Youth Justice* 85; K McLachlan and others, ‘Evaluating the Psycholegal Abilities of Young Offenders with Fetal Alcohol Spectrum Disorder’ (2014) 38(1) *Law and Human Behavior* 10.

56 SAS Anderson, DJ Hawes and P Snow, ‘Language Impairments Among Youth Offenders: A Systematic Review’ (2016) 65 *Children and Youth Services Review* 195.

57 UN Committee on the Rights of the Child (n 2) para 48.

58 Oranga Tamariki Act 1989, ss 215–20.

59 Forde (n 50).

suitability to the child's circumstances of the mode of communication used in each individual case.

The second area that might be developed through the establishment of appropriate regulations is the issue of assessment when a child is being brought into police custody. Directive (EU) 2016/800 is clear that children who are suspects or accused persons should have a right to an individual assessment to identify "specific needs in terms of protection, education, training and social integration, to determine if and to what extent they would need special measures," as well as the extent of their criminal responsibility and the appropriateness of proposed measures. This would also identify, at the earliest appropriate stage of the proceedings, if the child has any learning disabilities or communication difficulties. The value of an early assessment clearly lies in the potential to identify any circumstances that might impact the child's ability to participate effectively, especially in the vital process of police questioning. It would also provide a clear pathway for circumstances, such as where the child is found to be under the influence of an intoxicating substance, preventing the child from being questioned under these conditions.<sup>60</sup> Apart from protecting the integrity of the police investigation, the desirability of identifying the child's speech, language, or communication needs at an early stage is also linked to ensuring that the child receives appropriate supports.<sup>61</sup> The study of children's experiences in Ireland also highlighted that information about a child's particular needs could prompt Gardaí to try to put measures in place to mitigate this vulnerability, further underscoring the potential benefits of ensuring that early assessments are in place.

The Treatment of Persons in Custody Regulations currently require the member in charge to note the physical and mental condition of the individual on the custody record, and requires that medical treatment be sought if it appears they are injured, where they are suffering from a mental illness or where it appears they may need medical attention, amongst other circumstances. However, this is clearly less than a comprehensive assessment of a child's needs, including whether they may require additional measures to assist them to participate in the interview, in a routine manner. Research has indicated that the process of assessing the needs of people in police custody in Ireland generally is relatively informal and unstructured in nature.<sup>62</sup>

60 Kilkelly and Forde (n 24).

61 Anderson, Hawes and Snow (n 56); C Holland, P Hutchinson and D Peacock, 'The Importance of Screening For Speech, Language and Communication Needs (SLCN) in Police Custody' [2023] *The Howard Journal of Crime and Justice* 1; K Ellem and K Richards, 'Police Contact with Young People with Cognitive Disabilities: Perceptions of Procedural (In)justice' (2018) 18(3) *Youth Justice* 230.

62 L Skinnis, *Police Powers and Citizens' Rights: Discretionary Decision-Making in Police Detention* (Routledge 2019).

Developing regulations which provide for routine assessment of children's needs and any relevant vulnerabilities would help to bring Ireland closer to the minimum procedural safeguards set out in Directive (EU) 2016/800, and would enhance the ability of Gardaí to meet the requirement set out by s 55 of the Children Act to act with due regard for children's needs, including any physical or mental disability.

A third area for development identified in this study which could potentially be addressed through the establishment of regulations was the need for further development of the role of the parent, guardian, or "other adult." Research has highlighted that the role parents/guardians are expected to play often lacks clarity and can be particularly complex and difficult.<sup>63</sup> Practical considerations can also make it difficult for Gardaí to secure the attendance of parents at police interviews.<sup>64</sup> The international standards emphasise the need for children to be supported by an "appropriate adult" where a parent or guardian is not available.<sup>65</sup> The Children Act specifies that where a parent or guardian is unavailable, an adult relative or other adult named by the child should be notified in the case where a child has been brought into Garda custody,<sup>66</sup> and that if a parent or guardian cannot attend the interview, another adult nominated by the member in charge of the station should be present.<sup>67</sup> The Treatment of Persons in Custody Regulations refer to another adult relative or "some other responsible adult other than a member" [of an Garda Síochána] but do not provide any further details on the role expected to be played. While well-established "appropriate adult" systems operate in countries such as the United Kingdom, there are continuing debates about who should undertake this role, and what their duties should be.<sup>68</sup> Given the complexity of the role that a parent, guardian, or appropriate adult has when a child is being subjected to police questioning, greater certainty around this

63 M Peterson-Badali and J Broeking, 'Parents' Involvement in the Youth Justice System: Rhetoric and Reality' (2010) 52(1) *Canadian Journal of Criminology and Criminal Justice* 1; HMD Cleary, 'Police Interviewing and Interrogation of Juvenile Suspects: A Descriptive Examination of Actual Cases' (2014) 38(3) *Law and Human Behaviour* 271; HMD Cleary and TC Warner, 'Parents' Knowledge and Attitudes About Youths' Interrogation Rights' (2017) 23(8) *Psychology, Crime & Law* 777; L Cohen, 'When Parents Are Not Enough: The Case for Counsel in Juvenile Interrogations' (2020) 34(4) *Criminal Justice* 55.

64 Kilkelly and Forde (n 24).

65 UN Committee on the Rights of the Child (n 2) para 60.

66 Children Act 2001, s 58.

67 *Ibid.*, s 61.

68 H Pierpoint, 'How Appropriate Are Volunteers as Appropriate Adults for Young Suspects? The Appropriate Adult System and Human Rights' (2000) 22(4) *Journal of Social Welfare and Family Law* 383; H Pierpoint, 'Reconstructing the Role of the Appropriate Adult in England and Wales' (2006) 6(2) *Criminology and Criminal Justice* 219; R Dehaghani and D Newman, 'Can – and Should – Lawyers Be Considered "Appropriate" Appropriate Adults' (2019) 58(1) *The Howard Journal of Crime and Justice* 3.

role should be established in Ireland; in the study discussed earlier, we suggested that it may be useful to establish a panel of appropriate adults who would be trained to undertake this role.<sup>69</sup> Setting out clearly who can undertake the role of an appropriate adult, what their duties and responsibilities are, and the expectations of appropriate adults in supporting children's effective participation and the realisation of their rights would bring much needed clarity to police practice in this area and would ensure greater protection of the child's rights during this process.

Additional specialist supports may also be necessary where a child being questioned experiences a learning disability or a communication difficulty. Intermediaries or communication assistants have been introduced in youth justice settings in other jurisdictions with positive impacts reported by both young people and professionals.<sup>70</sup> In light of the difficulties facing young people who experience these problems in their interactions with police, it has been suggested that speech and language specialists have an important role to play in ensuring children are not disadvantaged in their interactions with formal criminal justice processes.<sup>71</sup> The CRC Committee has said that states should provide "adequate and effective assistance by well-trained professionals to children who experience communication barriers,"<sup>72</sup> thus ensuring the specialist assistance of an intermediary is available to children is important to ensure the protection of their rights in this area.

A fourth important issue worthy of consideration is that of providing greater protection for a child's access to legal advice. Reflecting similar findings in the international research that a high proportion of children do not avail of their right to legal advice,<sup>73</sup> children who participated in the Irish

69 Kilkelly and Forde (n 24).

70 K Howard, C McCann and M Dudley, "It's Really Good . . . Why Hasn't It Happened Earlier?" Professionals' Perspectives on the Benefits of Communication Assistance in the New Zealand Youth Justice System' (2020) 53(2) *Australian & New Zealand Journal of Criminology* 265; K Howard, C McCann and M Dudley, "It Was Like More Easier": Rangatahi (Young People) and Their whānau (Family) Talk About Communication Assistance in the New Zealand Youth Justice System' (2021) 21(2) *Youth Justice* 210.

71 PC Snow, 'Speech-Language Pathology and the Youth Offender: Epidemiological Overview and Roadmap for Future Speech-Language Pathology Research and Scope of Practice' (2019) 50(2) *Language, Speech, and Hearing Services in Schools* 324.

72 UN Committee on the Rights of the Child (n 2) para 65.

73 B Feld, 'Police Interrogation of Juveniles: An Empirical Study of Policy and Practice' (2006) 97(1) *The Journal of Criminal Law and Criminology* 219; B Feld, 'Real Interrogation: What Actually Happens When Cops Question Kids' (2013) 47(1) *Law & Society Review* 1; JL Viljoen and R Roesch, 'Competence to Waive Interrogation Rights and Adjudicative Competence in Adolescent Defendants: Cognitive Development, Attorney Contact, and Psychological Symptoms' (2005) 29(6) *Law and Human Behavior* 723; Cleary (n 63); V Kemp, P Pleasence and N J Balmer, 'Children, Young People and Requests for Police Station Legal Advice: 25 years on from PACE' (2011) 11(1) *Youth Justice* 28.

study of children's experiences of questioning revealed that children often did not request to speak to a lawyer prior to being questioned.<sup>74</sup> However, those who did reported that they had found it to be very beneficial, with some suggesting that with the benefit of hindsight, they would in future choose to exercise, rather than to waive their right to legal advice.<sup>75</sup> The CRC Committee has emphasised that legal assistance should be guaranteed to all children from the outset of proceedings,<sup>76</sup> and Article 6 of Directive (EU) 2016/800 similarly requires states to guarantee that children have the assistance of a lawyer during police questioning. At present, in Ireland, while a child has a statutory and constitutional right to access legal advice, this has been interpreted as access to a lawyer prior to questioning, and the statutory entitlement does not extend to allowing the presence of a lawyer during garda questioning. While the presence of a lawyer is now permitted by a Code of Practice,<sup>77</sup> and gardaí in the study discussed earlier were unanimous in their support for the presence of a lawyer during the interview process,<sup>78</sup> it remains problematic that this entitlement is not enshrined in statute. In light of this, codifying the child's right to assistance a lawyer throughout the police questioning process in a Regulation would help to protect children's access to legal safeguards in this context.

Finally, it is important that any regulations adopted under the Children Act would address the issue of children being held in police custody. Children interviewed as part of the Policing Authority study reported very negative experiences in this regard, including being held in cells for long periods while waiting to be questioned.<sup>79</sup> Issues relating to the physical condition of police cells, the length of time they were detained, the quality of food provided, and ill-treatment while in custody were raised by young people.<sup>80</sup> Article 37 of the CRC is clear that deprivation of liberty – including in police custody – should be a measure of last resort and for the shortest appropriate period of time. Further, it stipulates that where children are detained, it should be in circumstances which are appropriate to their age and needs. The Children Act provides that children should be separated from adults in a Garda station, as far as practicable,<sup>81</sup> and further, that children may be released on bail.<sup>82</sup> However, given the significant breaches of their rights

74 Kilkelly and Forde (n 24).

75 Ibid., 16.

76 UN Committee on the Rights of the Child (n 2) para 49.

77 An Garda Síochána, *Code of Practice on Access to a Solicitor by Persons in Garda Custody* (An Garda Síochána 2015).

78 Kilkelly and Forde (n 24).

79 Ibid., 12.

80 Ibid.

81 Children Act 2001, s 56.

82 Ibid., s 68.

that children have experienced while in police custody, it is crucial that the measures in Irish law are strengthened with regard to the duties of Gardaí to protect the child's rights in this context. Making explicit provision for the child's rights to protection from harm, to assessment of need and vulnerability, and to accessing necessary supports and services where required would serve to underscore the exceptional vulnerability of children in police custody, placing the duty firmly on the justice authorities to respond to children in these circumstances. Crucial too is the need to make appropriate provision for an effective complaints process, one which delivers accountability and in which children themselves can have confidence.<sup>83</sup>

### ***Resources and Training***

While enacting regulations relating to children's rights in police custody and questioning is important, it is equally important to develop complementary resources and training for members of An Garda Síochána, as well as for lawyers, appropriate adults, and other professionals who work with children in this setting. It was clear from the Policing Authority study that Gardaí often make significant efforts to adapt their approach in order to make it more suitable for children, but in the absence of concrete guidance and tools to support this progress, practice was dependent on the approach of individual Gardaí, leading to inconsistency in practice. Similarly, issues relating to the conditions in which children are held in Garda custody are significantly impacted by the conditions in custody, pointing to the need for investment so that the physical environment is fit for purpose.

One area in which it may be particularly useful to develop practical resources is in relation to information provision and communication. The CRC Committee and the Child-Friendly Justice Guidelines emphasise the need to adapt language and processes so that they are accessible to children, and tools and resources can help professionals to communicate more effectively with children. While the provision of written information that does not meet the needs of children can hamper their understanding,<sup>84</sup> practical resources developed in other jurisdictions, such as "Talking Mats" and "Communication Postcards," have been shown to enhance the ability of young people to understand and communicate better during the youth justice process.<sup>85</sup>

83 See, e.g. U Kilkelly and E Logan, *National Independent Human Rights Institutions for Children. Protecting and Promoting Children's Rights* (Palgrave Macmillan 2021); Ombudsman for Children, *A Guide to Child-Centred Complaints Handling* (Ombudsman for Children) <[www.oco.ie](http://www.oco.ie)>.

84 Parsons and Sherwood (n 54).

85 See further Howard, McCann and Dudley (2021) (n 70).

In order to make these measures effective, however, it is also important to adequately resource the systems through which children can access such supports. A recommendation has been made to establish a panel of specially trained appropriate adults, from which Gardaí draw if a parent or guardian were unable or unwilling to attend a Garda interview with a child.<sup>86</sup> In jurisdictions such as England and Wales, where the appropriate adult safeguard is provided for under Code C of the Police and Criminal Evidence Act 1984,<sup>87</sup> each local authority area is required to have a system for providing appropriate adults. In order to ensure that such effective safeguards are available to children in Ireland, the establishment of an appropriate adult service across the country would be a welcome step.

The international children's rights standards in this area stress the importance of systematic training on children's rights and issues relevant to children's development and well-being for all professionals involved in the youth justice system.<sup>88</sup> In Ireland, while some training is available to Gardaí and lawyers, it is limited in scope and/or undertaken on an ad hoc or voluntary basis.<sup>89</sup> No training is available to those currently appointed to act as appropriate adults. If significant improvements are to be brought about to children's experiences of their rights in police questioning, the provision of mandatory, consistent, rights-based training to all those who engage with children during police questioning is very important. Given the specialist nature of this work, such training should be mandatory for members of An Garda Síochána, for lawyers who represent children in the justice system, and for appropriate adults who also play such a vital role in the protection of children's rights in this setting. The CRC Committee has provided guidance on the content of the training that should be provided to professionals working with children in the youth justice system. The Committee is clear that the training should be multidisciplinary in nature and should include information about children's rights under the CRC, as well as:

[E]stablished and emerging information from a variety of fields on, inter alia, the social and other causes of crime, the social and psychological development of children, including current neuroscience findings, disparities that may amount to discrimination against certain marginalized groups such as children belonging to minorities or indigenous peoples, the culture and the trends in the world of young people, the dynamics of group activities, among other issues.<sup>90</sup>

86 Kilkelly and Forde (n 24).

87 Police and Criminal Evidence Act 1984.

88 UN Committee on the Rights of the Child (n 2).

89 Kilkelly and Forde (n 24).

90 UN Committee on the Rights of the Child (n 2) para 112.

Other studies have also highlighted the importance of ensuring comprehensive training, taking account of the variety of issues which can impact young people in contact with the justice system, and recommending that issues such as trauma are also given consideration in this training.

### *Inspection and Monitoring*

As research has consistently highlighted, effective systems of oversight and redress are essential to ensure that children's rights are respected in practice, and it is equally important that children have access to effective remedies where their rights are breached. The importance of this comes into sharp focus given the concerns raised by children about the inappropriate nature of the conditions of detention and their reports of ill-treatment by members of An Garda Síochána.<sup>91</sup> There may be a number of ways of ensuring that effective systems of oversight are in place. In the first instance, there is a need for regular inspections of all places where children are deprived of their liberty, including in police custody. The CRC Committee highlights that independent and qualified inspectors should be empowered to visit and inspect all places where children are deprived of their liberty, on a regular basis, as well as to carry out unannounced visits.<sup>92</sup> The General Scheme of an Inspection of Places of Detention Bill was published in 2022 and provides for the establishment of a Chief Inspector of Places of Detention, and for the designation of national preventative mechanisms (NPMs). Ensuring that these bodies have regular access to children in police custody, and are appropriately vetted and trained for such engagement, is important to ensure that these safeguards serve to enhance children's experiences of their rights in police custody in Ireland.

In addition, there is a need to ensure that children have access to effective mechanisms in the event that their rights are breached. The Ombudsman for Children is currently precluded under the Ombudsman for Children Act 2002 from considering such complaints, meaning that children can only complain to the general Garda Síochána Ombudsman Commission (GSOC).<sup>93</sup> However, little is known about children's experiences of this mechanism and no information is available explaining whether the mechanism has been adapted to meet children's particular needs and circumstances. It is notable that the CRC Committee has also recently recommended that any limits to the jurisdiction of the Ombudsman should be removed, so that they have clear authority to

91 Kilkelly and Forde (n 24).

92 UN Committee on the Rights of the Child (n 2) para 95.

93 Kilkelly and Logan (n 83).

investigate complaints on all matters affecting children.<sup>94</sup> No statistics have been published by GSOC on children's use of the complaints mechanism, meaning that research is needed in order to assess how well this mechanism is operating for children and to consider whether it is effective in providing access to justice for children who experience a breach of their rights.

## Conclusion

The international standards set out in the CRC, the General Comments of the CRC Committee, the Council of Europe Child-Friendly Justice Guidelines and EU Directive 2016/800 require that special attention is required to ensure that the rights of children who are being questioned by police or who are in police custody are adequately protected. The volume and complexity of these requirements at international level reflect the particular vulnerability of children in this situation and highlight that particular efforts are required to adapt these procedures adequately for children. The Children Act 2001 sets out a number of requirements for the treatment of children in police custody and for the questioning of children. Yet as the diversity in the experiences of children who have been questioned by members of An Garda Síochána, as reported through the Policing Authority study, indicates, there is still significant room for improvement. Overall, then, while the current legislative framework provides a good foundation from which to build, further steps are required to bring Ireland in line with the requirements of international instruments. In particular, more detailed legislative requirements, the development of resources to provide appropriate supports to children during police questioning, increased training for professionals and robust systems of inspection and monitoring are needed so that children's rights in this context are fully respected.

S 70 of the Children Act 2001, in enabling the drafting of regulations related to Part 6 of the Children Act, provides an (as yet unexploited) avenue for the development of more robust provisions designed to ensure that the rights of children are protected in their interactions with Gardaí during the questioning process. This chapter argues that the development of regulations would be a welcome way to increase the protections available for children being questioned by police. Any such regulations could usefully provide for a right to explanation and information, a process for individual assessment of children in police custody, the development of the role of the "appropriate adult," more robust provisions in relation to legal advice, and stricter regulation in relation to the conditions in which children are held in police custody. Establishing regulations such as these would help to bring Ireland much

94 UN Committee on the Rights of the Child (n 16) para 11.

closer to the expectations set out at international level. However, in building on the regulations, a range of practical supports and resources should be introduced, including the provision of training to all professionals working with children, so that Gardaí and professionals working with children in this context are supported to better fulfil their roles in a rights-compliant manner. Finally, ensuring that relevant inspection bodies and complaint mechanisms have strong mandates would help to ensure that avenues for redress are available where children experience breaches of their rights.

## Bibliography

### *Legislation and International Conventions*

- Children Act 2001.  
 Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on Procedural Safeguards for Children Who Are Suspects or Accused Persons in Criminal Proceedings.  
 Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th Meeting of the Ministers' Deputies).  
 Police and Criminal Evidence Act 1984.  
 SI no 119/1987 – Criminal Justice Act, 1984 (Treatment of Persons in Custody in Garda Síochána Stations) Regulations, 1987.  
 United Nations Convention on the Rights of the Child (Adopted and Opened for Signature, Ratification and Accession by General Assembly Resolution 44/25 of 20 November 1989 Entry into Force 2 September 1990, in Accordance with Article 49).

### *Books and Reports*

- Kilkelly U and Forde L, *Children's Rights and Police Questioning* (Police Authority 2020).  
 Kilkelly U and Logan E, *National Independent Human Rights Institutions for Children: Protecting and Promoting Children's Rights* (Palgrave Macmillan 2021).  
 Skinns L, *Police Powers and Citizens' Rights: Discretionary Decision-Making in Police Detention* (Routledge 2019).

### *Journal Articles*

- Anderson SAS, Hawes DJ and Snow PC, 'Language Impairments Among Youth Offenders: A Systematic Review' (2016) 65 *Children and Youth Services Review* 195.  
 Cleary HMD, 'Police Interviewing and Interrogation of Juvenile Suspects: A Descriptive Examination of Actual Cases' (2014) 38(3) *Law and Human Behaviour* 271.  
 ——— and Warner TC, 'Parents' Knowledge and Attitudes About Youths' Interrogation Rights' (2017) 23(8) *Psychology, Crime & Law* 777.  
 Cohen L, 'When Parents Are Not Enough: The Case for Counsel in Juvenile Interrogations' (2020) 34(4) *Criminal Justice* 55.

- Dehaghani R and Newman D, 'Can – and Should – Lawyers Be Considered "Appropriate" Appropriate Adults' (2019) 58(1) *The Howard Journal of Crime and Justice* 3.
- Ellem K and Richards K, 'Police Contact with Young People with Cognitive Disabilities: Perceptions of Procedural (In)justice' (2018) 19(3) *Youth Justice* 230.
- Feld B, 'Police Interrogation of Juveniles: An Empirical Study of Policy and Practice' (2006) 97(1) *The Journal of Criminal Law and Criminology* 219.
- 'Real Interrogation: What Actually Happens When Cops Question Kids' (2013) 47(1) *Law & Society Review* 1.
- Forde L, 'The Role of the Courts in Protecting Children's Rights in the Context of Police Questioning in Ireland and New Zealand' (2022) 61 *The Howard Journal of Crime and Justice* 240.
- Gooch K and von Berg P, 'What Happens in the Beginning, Matters in the End: Achieving Best Evidence with Child Suspects in the Police Station' (2019) 19(2) *Youth Justice* 85.
- Holland C, Hutchinson P and Peacock D, 'The Importance of Screening for Speech, Language and Communication Needs (SLCN) in Police Custody' (2023) 62 *The Howard Journal of Crime and Justice* 1.
- Howard K, McCann C and Dudley M, 'It's Really Good . . . Why Hasn't It Happened Earlier?' Professionals' Perspectives on the Benefits of Communication Assistance in the New Zealand Youth Justice System' (2020) 53(2) *Australian & New Zealand Journal of Criminology* 265.
- "'It Was Like More Easier": Rangatahi (Young People) and Their whānau (Family) Talk About Communication Assistance in the New Zealand Youth Justice System' (2021) 21(2) *Youth Justice* 210.
- Kemp V, Pleasence P and Balmer NJ, 'Children, Young People and Requests for Police Station Legal Advice: 25 Years on from PACE' (2011) 11(1) *Youth Justice* 28.
- Liefaard T, 'Child-Friendly Justice: Protection and Participation of Children in the Justice System' (2016) 88(4) *Temple Law Review* 905.
- McLachlan K and others, 'Evaluating the Psycholegal Abilities of Young Offenders with Fetal Alcohol Spectrum Disorder' (2014) 38 *Law and Human Behavior* 10.
- Parsons S and Sherwood G, 'Vulnerability in Custody: Perceptions and Practices of Police Officers and Criminal Justice Professionals in Meeting the Communication Needs of Offenders with Learning Disabilities and Learning Difficulties' (2016) 31(4) *Disability & Society* 553.
- Peterson-Badali M and Broeking J, 'Parents' Involvement in the Youth Justice System: Rhetoric and Reality' (2010) 52(1) *Canadian Journal of Criminology and Criminal Justice* 1.
- Pierpoint H, 'How Appropriate Are Volunteers as Appropriate Adults for Young Suspects? The Appropriate Adult System and Human Rights' (2000) 22(4) *Journal of Social Welfare and Family Law* 383.
- 'Reconstructing the Role of the Appropriate Adult in England and Wales' (2006) 6(2) *Criminology and Criminal Justice* 219.
- Snow PC, 'Speech-Language Pathology and the Youth Offender: Epidemiological Overview and Roadmap for Future Speech-Language Pathology Research and Scope of Practice' (2019) 50(2) *Language, Speech, and Hearing Services in Schools* 324.
- Stalford H, Cairns L and Marshall J, 'Achieving Child Friendly Justice Through Child Friendly Methods: Let's Start with the Right to Information' (2017) 5(3) *Social Inclusion* 207.

- Viljoen JL and Roesch R, 'Competence to Waive Interrogation Rights and Adjudicative Competence in Adolescent Defendants: Cognitive Development, Attorney Contact, and Psychological Symptoms' (2005) 29(6) *Law and Human Behavior* 723.
- Zelle H, Romaine CLR and Goldstein NES, 'Juveniles' Miranda Comprehension: Understanding, Appreciation and Totality of Circumstances Factors' (2015) 39(3) *Law and Human Behaviour* 281.

### **Other**

- An Garda Síochána, *Code of Practice on Access to a Solicitor by Persons in Garda Custody* (An Garda Síochána 2015).
- Ombudsman for Children, *A Guide to Child-Centred Complaints Handling* (Ombudsman for Children) <www.oco.ie>.
- UN Committee on the Rights of the Child, *General Comment no 24 on the Rights in the Child Justice System*, UN Doc CRC/C/GC/24 (18 September 2019).
- *Concluding Observations on the Combined Fifth and Sixth Periodic Reports of Ireland (Advance Unedited Version)*, UN Doc CRC/C/IRL/CO/5-6 (7 February 2023).