



Handout: Case Studies: Persons in Authority

R. v. M.A. | The Facts

A 13-year-old allegedly smashed the windows of an old truck that was out in a hay field of a neighbour's ranch. The young person, a foster child, made a statement to his foster mother after she insisted on knowing whether he was responsible for the damage to the truck. The prosecutor wanted to use this statement against the young person in court.

The defence lawyer argued that the statement was inadmissible because the foster mother was a “person in authority” and the safeguards relating to statements and young persons had not been met. The young person was not advised of his right to remain silent and was not given an opportunity to talk to a lawyer before he made the statement to his foster mother.

Questions to Consider

1. Was the foster mother, in law, a person in authority?
2. If so, was the statement free and voluntary and were the safeguards relating to young persons and statements met?

The Decision

In *R. v. M.A.* the British Columbia Youth Court decided that the statement the young person made to his foster mother was a statement to a “person in authority” and that the safeguards related to young persons and statements were not followed. The statement could not be used against the young person in court.

The Reasons

The Court found that the purpose behind the foster mother's interrogation of the accused young person was to tell the police whatever the young person might confess to her. When a statement is made by a young person to a person in authority, certain safeguards must be followed because the young person might be unduly pressured by an authority figure to waive the right to remain silent. If these safeguards are not satisfied, the statement will not be allowed into evidence. This case was unlike other cases where a parent, or person in place of a parent, was found not to be a person in authority, where, for example, they had no intention of calling the police or had begged a young person to tell them the truth so that they could get help for the young person.

R. v. H. | The Facts

A grade eight teacher left her purse in the classroom while she went to a meeting. When she returned she found that her purse was open, her wallet was gone, and \$65 was missing. The teacher reported the incident to the vice-principal. The next day she spoke to her class about the incident and told them that if the money was returned that would be the end of the matter. After the teacher said this, student H and some boys came forward, admitted the theft, and returned some of the money. The teacher brought this to the principal's attention. The principal then called the boys into the office and questioned them about the theft. The principal decided to call the police and have the boys charged with theft. When the case went to court, student H argued that what he had said to the principal could not be used as evidence against him because his rights had been violated.



Questions to Consider

1. Do the safeguards of the YCJA concerning statements apply to statements a young person makes to a principal? A teacher? Why or why not?
2. Were student H's rights violated? If so, how? Does the fact that the teacher promised the matter would end if the money was returned make any difference?

The Decision

In *R. v. H.*, the Edmonton Provincial Court decided that the statements student H made to the principal and the teacher could not be used in these circumstances because the requirements of the Act were not met.

The Reasons

The Judge said that both the teacher and the principal were “persons in authority” in this case. Someone is a person in authority if the accused believes this person has some power over them and could make good on a promise or carry out a threat. The Judge found that a 13-year-old boy like student H would believe that a teacher or a principal could exercise power over him.

The Judge decided that none of the requirements in the YCJA had been met. He noted that the confession to the teacher was not voluntary because she promised there would be no further consequences if the person came forward. The Judge said student H relied on this promise when he admitted the theft to the teacher and when he admitted the theft to the principal. The Judge also found that neither the teacher nor the principal told the student he could talk to a lawyer or his parents, nor did they give him a chance to do so.

The decision of the Provincial Court was appealed to Queen's Bench Court. The higher court agreed that in these circumstances the principal and the teacher were persons in authority and the requirements under the YCJA were not met. The statements made by student H to the teacher and the principal could not be used against him in court.



R. v. D.J. | The Facts

The young person was arrested and held on a number of charges including aggravated assault and kidnapping. After speaking with his lawyer, he indicated that he would not be making a statement and was then placed in a jail cell. He also spoke with his mother some time later.

An undercover officer was placed in an adjacent cell and struck up a conversation with the young person. The young person believed the undercover officer was a fellow prisoner. Over the course of a few hours the young person made several incriminating statements and admissions about his involvement in the assault and kidnapping.

At trial, the Crown sought to have the statements used as evidence in the case against the young person. The young person's lawyer argued that the statements made to the undercover officer were inadmissible as they were given to a person in authority without the benefit of the safeguards set out in section 146(2).

Questions to Consider

1. Should the undercover officer be considered a person in authority? Why or why not?
2. What, if any, difference does it make that the young person didn't know the real identity of the undercover officer?

The Decision

The Court found that the undercover officer in this case was not a person in authority and that the statements were admissible.

The Reasons

There was no relationship of trust between the young person and the undercover officer and the young person was not obligated or vulnerable to the undercover officer. The undercover officer was permitted to engage in trickery, lie, and allow himself to be misidentified to the extent that he did. The statements made by the young person were not actively elicited by the undercover officer or the result of an interrogation by the undercover officer. The undercover officer didn't press for answers or repeatedly try to get more detailed answers. The young person conversed with the undercover officer openly and freely, without reservations or qualms.