



Handout: Statements: Persons in Authority and the Law

The police must follow certain rules set out in the *Youth Criminal Justice Act* when taking statements from young people who are under arrest or being detained. However, it is not just the police that these rules apply to. The rules also apply to other “persons in authority” when young people are being questioned about criminal offences. This safeguard recognizes that young persons may be more susceptible to pressure and less likely to exercise their right to remain silent when being interrogated by an authority figure, such as a school principal, security guard, or social worker.

The YCJA specifically provides that certain safeguards must be met before any statement made by a young person is admissible in court. These safeguards are set out in section 146(2) of the YCJA.

Under section 146(2), when a young person is under arrest or being detained, any statements they make to a police officer or other person in authority can’t be used as evidence against them in court unless...

- the statement was voluntary
- they have been told they don’t have to make a statement and understand that
 - any statements made can be used against them
 - they have a right to consult a lawyer and parent or other adult they choose
 - any statements made must be made in the presence of a parent or other adult consulted unless the young person says they don’t want them present
- they had a reasonable opportunity to consult a lawyer and parent or other adult they chose, and
- if they consulted with a lawyer, parent, or other adult they had a reasonable opportunity to make the statement in the presence of the lawyer, parent, or other adult

Who is a person in authority?

Most people, even young people, recognize that there could be serious consequences if they make a statement to a police officer concerning a criminal offence. It is important for young persons to understand that making a statement regarding criminal activity to a person such as a school principal or other “person in authority” could have the same consequences.

But just who is considered to be a person in authority? To a large extent, the answer is it depends on the circumstances. Generally speaking, anyone who is involved in the investigation of an offence or the interrogation of a young person could be considered a person in authority. It’s important to look at the question from the point of view of the young person and whether the young person would be influenced, pressured, or intimidated to make a statement to that particular person in those circumstances.

The issue of determining whether a person falls within the legal definition of a person in authority is critical because a person in authority must comply with the safeguards of section 146(2) of the YCJA. If they do not, a statement made to them will be inadmissible and cannot be used as evidence in court. The following cases illustrate the type of factors a court will consider to determine whether a person is a “person in authority.”

