

**INQUIRY INTO INQUIRY INTO THE PROHIBITION ON
THE PUBLICATION OF NAMES OF CHILDREN INVOLVED
IN CRIMINAL PROCEEDINGS**

Name: Dr Dorothy Bottrell

Date received: 12/12/2007

Submission to the NSW Legislative Council Standing Committee on Law and Justice, Inquiry into the prohibition on the publication of names of children involved in criminal proceedings

This submission is mainly relevant to 1.a-c of the Terms of Reference which refer to the validity of the policy objectives of the prohibition, concerning protection from stigmatising effects for those involved in crimes.

The general discourse surrounding the Inquiry has been that naming children involved in criminal proceedings means 'shaming' young offenders into desistance. Though it is unclear how representative this perspective is, it does perhaps reflect broad concern about young people involved in crime and the effects of their offending. In my view this concern is appropriate but a punitive response may not be the most effective one if the goal is to support desistance and prosocial participation of young people in their communities.

The views expressed here are based on nearly thirty years of working with young people, in education, juvenile justice and community-based youth work. Additionally, while still in youth work I completed a doctorate in education which analysed the experiences of marginalised young people in inner-city Sydney. The young people live in a public housing estate and the study aimed to understand their truancy and getting into trouble in relation to their recreations and community life. More recently, I have worked the project, "Young People's Pathways Into and Out of Crime" (UK).

It was interesting to discover many commonalities between the experience of the young people in my study and of the participants in the Pathways research. What was clear from both is that the young people were not 'career criminals', deliberately choosing a life of crime, but that the social context of their growing up and the nature of institutional support or marginalisation were crucial to how well the young people fared and how they negotiated the crime in their areas. When young people grow up in high crime areas they necessarily encounter crime in their everyday. In fact, the UK study found that any dichotomy of victim-offender was quite meaningless as most of the young people who did offend had also been victims of crime. At the very least they were often witnesses to crime.

How individuals in such circumstances come to get involved in offending or manage to avoid trouble, or are involved in each in different periods, are complex issues involving factors in biography, family resources, social relations in communities, location, environment, and opportunities. Communities living with persistent crime and social problems are readily stigmatized as localities with bad reputations. The stigma of place can readily attach itself to people living there. This was the case with some of the young people in the UK study and a central theme of my own study. In explaining their truancy from school, the young people's most vehement critique was of being spoken down to, of being made to 'feel low'. As one girl explained, 'School is background, school is even where you live, who you hang around with. It's not just about work. Most of the time it's all about social stuff'. The essential argument was that they are stereotyped by virtue of where they live, that lack of practical support with learning and stereotyping at school are principal reasons for truancy and early school-leaving, and once out of school and 'hanging around' with other young people, getting into trouble is almost inevitable. In the context of experiencing denigration

and being low in the academic and social prestige systems at school, truanting and hanging around with peers in the youth network is articulated as both critique of alienating schooling practices and opting for the sense of acceptance, belonging and social support of the youth network that is seen as unavailable at school.

These young people, whether or not they offended, were already shamed by virtue of growing up in an area where crime and social problems had a long history, support resources were inadequate to needs and the bad reputation meant that “even if you weren’t in trouble you still got targeted anyway” (young person). For some, the logic of the situation then was that they might as well participate in the illicit recreations that are the “done thing” and a tradition of youth culture – drinking, taking drugs, fighting and getting into trouble with police. They rationalised that they might as well do what the labels suggested. “You can’t go walking around on your tippytoes – you’ve gotta do some stuff that’s good” (young person).

Michael Ungar is a psychologist and academic at Dalhousie University, in Canada. In his work with “high-risk” youth he found that ‘[f]or many children, patterns of deviance are healthy adaptations that permit them to survive unhealthy circumstances’ (2004, p. 6). The young people’s participation in activities such as substance abuse, truancy and crime, detachment from families and orientations in ‘negative’ peer groups and street culture, though defined normatively as disordered or delinquent, are from their perspectives the activities, places and relationships in which they find wellbeing, belonging and power. This is an appropriate characterisation of the experience of the young people in my own study. When faced with the stigma and everyday difficulties in an under-resourced community, they coped by avoiding shaming situations and thus trying to resist the pejorative identities ascribed them by others.

In their refusal to accept the negative ascriptions they encountered and in their maintaining pride in ‘their people’, based on knowing the good things about people in their neighbourhoods, the young people arguably demonstrate their resilience. They find ways to cope and draw on the support and resources of their networks, helping each other out in all sorts of ways. When subjective meanings are taken as the basis for understanding patterns of relationships and behaviour, the evidence indicates that young people forge resilient identities by challenging labels of disorder and seeking positive relationships and health resources within available contexts.

This recognition of resilience in young people can be the basis of advocating for the kinds of support and resources which can validate young people’s rejection of shaming and stigma and focus their resilience in domains of participation that are safer and healthier for all concerned. But as Michael Ungar’s work demonstrates, counselling young people and helping them to recognize what is just and unjust and work out what is in their best interests for a positive future, also requires shifting the attitudes of significant others. When families, neighbours, teachers and authorities also give up the negative labelling and open up the space for young people’s positive self-esteem and optimism, this is the crucial support needed. It is not just about changing young people.

Many young people who come into the juvenile justice system are sufferers of the consequences of inadequate care and protection. They are already shamed in ways

which detrimentally affect their self-concept, understanding of life options and hopes for the future. Yet the social construction of young people's shame is significantly unrecognised. To consider exacerbating this burden by naming young offenders and potentially subjecting them to further shaming in their communities is, in my view, the shame of those adults and authorities who would use their power over young people in this way. I would like to see the present protections for children involved in criminal proceedings maintained and consideration given to how further protections may support and strengthen young people's resilience in positive directions.

I would be happy to provide the Committee with further details of the studies mentioned in this submission and further explanation of the position put, at the Committee's request.

Sincerely,

Dr. Dorothy Bottrell
Senior Research Associate in Child and Youth Studies,
Faculty of Education and Social Work,
University of Sydney.

02 9516 2217

d.bottrell@edfac.usyd.edu.au

Reference:

Ungar, M. (2004) *Nurturing Hidden Resilience in Troubled Youth*. Toronto: University of Toronto Press.