

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

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DEAR MADAM,

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

In the first instance can I state that when dealing with issues such as that currently before the committee, one needs to remove the emotive considerations that often cloud the better judgment of sensible, well educated people. It is for this reason that I believe that the Committee is best placed to deal with this issue, as fortunately, there are no emotive cases currently before the press.

It has always been the view of Vocal that in dealing with any crime, there are two aspects that must be considered when dealing with offenders at sentence. The first of these must be an element of punishment, although not necessarily by deprivation of liberty, so that Community Service Orders can be more than appropriate.

The second however is I believe more important than the first and that relates to the element of rehabilitation and, as a natural consequence, dealing with the offending behaviour of the criminal, no matter what age.

In the last ten years I have spent a great deal of time appearing on behalf of victim's in the NSW State Parole Authority and I have always emphasised that until such time as the prisoner deals with his or her offending behaviour, consideration for release should not be given. It has been our experience that when offenders take courses such as anger management, drug and alcohol dependency and violent offender therapy, the likelihood of their re-offending is greatly reduced.

This therefore goes to the nub of the issue when dealing with juvenile offenders. In order to accept treatment, one must first take responsibility for one's actions and the very fact that currently juvenile offenders are not named inhibits this concept. By hiding behind the veil of anonymity, taking responsibility is discouraged and I feel that this is evidenced by the fact that over two thirds of juvenile offenders re-offend (Dept of Juvenile Justice website Aug, 2006)

Reports of BOSCAR (Crime and Justice Bulletin No 86, May 2005) indicate that the rate of re-offending at that time was 68%, being based on the offender re appearing before a court for a subsequent offence within eight years.

As a result in the first instance, I believe that Juvenile Offenders being dealt with "at law" between the ages of 16 years and 18 years, should be named, but only upon conviction. I am aware that there are some views that there should be an exception in the event that a Judge believes that there are compelling reasons not to name, then discretion should lie with the court, but this is not a view which we share. It is the view of Vocal that for such serious offences the offender should take responsibility for their actions, in the hope that this would be the first step in the path to rehabilitation.

In relation to the naming of Juveniles for serious indictable offences there are two methods by which this could be achieved and clearly amending the Children (Criminal Proceedings) Act, 1987 Section 3 would be one way to achieve such an outcome, but this would then result in the inclusion of all offences which would not be our intent. As a result I believe that Amending S11 would be the preferred action.

In relation to offenders who commit serious indictable offences between the ages of 14 years and 16 years, we believe that these offenders should also be named but with the proviso that a court, if able to provide compelling reasons, has a discretion not to name, but that they be required to publish those compelling reasons and the suppression of names be appellable, in the event that the reasons provided by the court are wrong "at Law".

The above view relating to offenders between the age of 14 years and 16 years is influenced to a great extent following the murder of Janine Balding in 1988. In that case one of the offenders "B" was aged 14 years and 11 months at the time of the offence and to this day still cannot be named. The offender in this case has been the subject of two CCA appeals (Regina v Elliott and Blessington [2006] NSWCCA 305 being the most recent) and one most recently before the High Court. He still fails to take responsibility for his actions and continues to hide behind the anonymity of his situation.

I would also draw your attention to a most recent case, only just recently decided in the Supreme Court R-v-CK, R-v-TCS [2007] NSWSC 1424, where both offenders were under the age of 16 and the time of the death of the Victim in December of 2006. One of the offenders, CK was on a bond for assault, at the time of the offence. At the time of his original conviction he was afforded the protection of anonymity due to his age and clearly has learned nothing from his earlier crime and has done so at the expense of a young man from Griffith whose life has been lost. This clearly is a case, where in our view, there could be no compelling reasons for the non publication of the offenders details.

We are also of the view that for offenders between the age of 14 years and 16 years who have more than two previous convictions, consideration should be given to the naming of these offenders, as clearly the non publication of their details has had no beneficial impact. We believe that although this may bring some greater focus on the offender's family this may in fact be the root cause of the offender's inability to deal with their offending behaviour, as the family too have been in denial of the problems of the offender. This would however be best served by the discretion of the court.

I appreciate that there are entrenched views relating to the issue of publication of juveniles details but clearly the current situation has been of no real benefit to either the community at large and more importantly to offenders. The figures provided by BOSCAR show a disturbing trend in relation to recidivism by juvenile offenders and it is our view that until a new approach is adopted, the problem will never be solved.

I trust that this is of some assistance to you and may I state that should you require additional information or would prefer my attendance at public hearings I would be more than happy to comply.

Yours faithfully

Howard W. Brown OAM
Vice President
Victims of Crime Assistance League (Vocal)