

STATES OF JERSEY



YOUNG OFFENDERS: NAMING BY THE MEDIA

**Lodged au Greffe on 17th September 2009
by Deputy T.M. Pitman of St. Helier**

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

- (a) to agree that the current restrictions on releasing the names of young offenders from the age of 12 who are convicted of a serious assault shall be amended to permit the naming by the media and others of such offenders provided that the courts shall retain a discretion to order that the offender shall not be named if –
 - (i) an individual has been identified as having learning difficulties impacting upon their actions; or
 - (ii) the Court is satisfied that there would be a serious risk of physical or mental harm to the individual if he or she was named or satisfied that there are other wholly exceptional circumstances that are sufficient to justify overturning the normal presumption in favour of naming;
- (b) to request the Minister for Home Affairs to bring forward for approval the necessary legislation to give effect to the decision.

DEPUTY T.M. PITMAN OF ST. HELIER

REPORT

I am quite sure that it will surprise many that I lodge this proposition, being a former professional youth worker. After all, to many I have met – especially if they happen to be of a rightist political persuasion – any worker with ‘youth’, ‘social’ or ‘community’ contained within their title must surely be arch-typical ‘bleeding heart liberals’ for whom the suggestion of apportioning any degree of responsibility to the young for their actions is not just a dirty word, it’s a positively filthy one. Fortunately, I have never believed in conforming to stereotypes. I am also confident that none within the Assembly will hold such ridiculous views. I bring this proposition for 3 main reasons:

- because I believe that a disgusted public are looking for strength and leadership from government in this area – and presently not finding it;
- because I believe that it is right and necessary;
- because I believe that ‘criminalising’ the young should be a last resort.

This last statement might raise a few eyebrows at first glance, given what I am proposing. I feel quite sure, however, that over the course of the following brief report I can clarify this very satisfactorily.

Young people are a product of their socialisation

I have believed this since even before I gained my professional qualification in Youth and Community Development and I retain this view to this day. Of course, this is not the same as holding to the all too fashionable view currently that a child/young person who goes ‘off the rails’ is all the fault of the parents. It is undoubtedly true – and I have met many through my former career, both here and whilst working in inner city Leicester – that there are parents who really never should have had children at all: such was their lack of either concern or support for their offspring. But even the most unsuitable parents regularly have their own stories behind them which will, if one has the opportunity, throw a whole different light on how they came to be that way. So let me repeat for the headline writers that it is not always the parents’ fault. Many I have met have tried unbelievably hard, yet to no avail. For the reasons, we need to look to a whole plethora of other influences within modern life, but more on that later.

What I do believe nevertheless, is that we as the government should be placing a far greater emphasis on ensuring that parental responsibility is understood and taken seriously; equally, of course, that we should be ensuring adequate resources are made available to make sure those parents who need support with regard to education to adequately support erring children/young people get it.

‘Social justice costs money’ we are constantly reminded by some within the Assembly. Yes, undoubtedly it does. But the thing is, if you put sufficient monies in to these areas earlier enough you save an absolute fortune over the following years. This is a fact and an inarguable one. All it takes is a bit of vision in looking to the bigger picture, rather than just opting for the apparently easy answer. For as Dr. Martin Luther King once stated –

“Rarely do we find men who willingly engage in hard, solid thinking. There is an almost universal quest for easy answers and half-baked solutions. Nothing pains some people more than having to think.”

Sadly this truth is not included within my new ‘Big boys’ book of quotes’ kindly donated to me by fatherly Deputy Roy Le Hérisier last week, but I would urge every one of us to cut it out so that we can pin it to our desks within the Chamber for future inspiration.

We need to take a hard look at the way we live in Jersey

I have no wish to bore members by writing a sociological paper or by playing amateur youth psychologist – I make my case purely based upon my own experience of many years spent working professionally with young people. Indeed, as all members will be only too aware, there has been huge and inconclusive debate recently about the age of criminal responsibility, involving the Howard League and many others. I have chosen not to effectively hold another such debate here deliberately for that very reason. This is an area I feel very strongly where it is necessary for every member to exercise his or her own common-sense based on personal experience – or else I fear we will never come to any decisions.

But I also believe that there are few of us who would not accept that there are a number of other related areas to which we really should be giving attention if we want to eradicate the appalling, and very damaging to the Island, types of behaviour involving a minority of young people that we have witnessed over the last year or so:

- ensuring we promote, support and, where necessary, enforce parental responsibility within the wider area of championing positive values at home;
- ensure adequate housing is available for all;
- examine the appropriateness of media messages sent out to the young, whether this be violent/racist/sexist/homophobic computer games, films or magazine, etc.;
- deliver adequate resourcing to ensure that our leisure facilities are adequate, stimulating and – crucially – affordable;
- ensuring school life recognises and promotes the value of all, no matter what their ability/race/gender/sexuality or creed. Likewise the workplace for children’s parents;
- work to diversify Jersey’s economy as far as possible so that career aspirations can be met wherever at all possible;
- in tandem with the above, ensure employer exploitation via unjust salaries becomes a thing of the past. Of course, I see this going hand-in-hand with moving away from a society based on greed, i.e. where the bizarre mentality holds sway that the richer you or your parents are – the ‘better’ you are. Utter and hugely damaging garbage.

None of the above is rocket science, as I'm sure members will agree. I am confident that every one of us will be committed to tackling all of the above. So where do 'kids' and their responsibilities come into all of this you ask?

At 12 you do know the difference between right and wrong

Right here, because just as important as any of the above is recognising and acting upon the fact – and believe me it is a fact – that children at 12 years and above most definitely do understand the difference between right and wrong when it comes down to the actions behind some of the horrific, unprovoked violent attacks we have seen on foreign students and others in recent times.

To pretend otherwise and to refuse to modify the law accordingly because of some antiquated view long made redundant by a rapidly changing modern society is to fail young people just as assuredly as we would if we fail to work as a government to tackle the other areas highlighted above. There is a saying along the lines of: 'if you're old enough to do the crime, you're old enough to do the time'. As someone who believes passionately that the criminalisation of young people, i.e. the giving of a record that will follow one through life and beginning on the road to incarceration should be the very last resort, I believe changing the law in the way I suggest can play a part in turning many away from such a self-destructive path.

Though it might surprise some at first glance, as I have said, I do not feel the step up to naming a young person upon conviction of the type of violent assault we have witnessed with increasing regularity recently is a step that will lead naturally to the road that presently ends all too regularly in incarceration. Far from it. Based upon my own professional experience working with young people I believe that – a small minority aside – the shock of actually being held up for the entire world (well, everyone who remotely knows you) to see what you had done is far more likely to be a deterrent.

Indeed, I consider it to be much more in tune with the far more constructive approach of restorative justice where the perpetrator is made to see the damage that they have done to a victim. The only difference – in this case the perpetrator will be made to also see the damage he or she is doing to themselves and to their families via the shock and shame. Being forced to confront your actions can be a powerful lesson.

Of course, I am sure that there will be some who would argue otherwise. Here perhaps it is worth considering the words of one young man then 13 – I'll call him Billy for name's sake – I worked with a number of years ago. Several years on, now approaching 20 and finding his past actions whilst seemingly 'untouchable' (his description) now catching up with him, I believe his thoughts on the issue are most insightful.

"I think we all thought it was such a laugh. Seemed like you were untouchable and I suppose that was half the attraction. My mum hated me getting in trouble. She never talked about it to anyone outside of family so I never really had to deal with any grief from any other adults – you didn't see your name in the paper like an adult would. But at school and with other kids you got all the 'street cred' because everyone always knew. Its only now, years later, that it comes back to haunt you. Not just the track record thing, employers and that, but the education I missed. Looking back I wish someone had jolted me into seeing how bloody stupid I was being".

The public expect strong, effective action – and they are right

Really I don't believe there is much that needs to be added, as I feel the above comments say more than I ever could in argument for the change in the law this proposition asks States Members to support. In fairness I think I should point out that in the case of 'Billy' the band of anti-social behaviour, though wide, including affray, malicious damage, theft, all usually fuelled by access to alcohol, was not the same as the appalling attacks we have read about recently. Nevertheless, the message sent out with the benefit of hindsight is still hugely relevant. The nature of my former profession I accept, but I could give many other examples, equally compelling.

The public are crying out for government to finally make a stance and do something constructive to tackle the problem of escalating youth violence. They want tough action undoubtedly. Most, and it seems from my own contacts, right across the age spectrum, people just do not accept or support the present situation where discretion to name lies with the courts in such cases, yet is never, ever used. This approach has failed.

Further still, whilst there will always be the vocal 'flog and hang them' brigade, most people, while wanting firm, decisive action, also want a solution that will in the long term be constructive for both society and erring individuals due to their youth. Changing the law to implement the deterrent of seeing your name in the paper alongside every horrible detail resulting from going along with the pack against your better judgement goes a long way to providing such a solution. So long, of course, as we also grasp the nettle and work on the other areas touched upon above.

Will there still be a core for which such disgust and ridicule arising from case reporting will instead be a 'badge of honour' as some who would oppose such a reform will no doubt suggest? Quite possibly. Yet set against the number for whom my own professional experience suggests such a reform of the law would ultimately benefit; true or false this possibility is largely irrelevant. Of course there will be exceptional circumstances and, as such, discretion must remain at the disposal of the courts. The obvious examples here are with the possibility of an offending individual being identified with a learning difficulty that might shed mitigating light upon a young person's actions. Both such possibilities are covered within (i) and (ii) of the proposition.

But these must, indeed, become the exceptions, with the norm becoming that those young people who choose to engage in vicious attacks that go as far as to put another's very life at risk can expect to see their identity held up for all the community to see. Government simply must show itself to be in charge and finally act. The public expect no less.

Financial and manpower implications

Other than the cost of drafting the amendment to the law, which I believe to be minimal, I do not believe there are any financial or manpower costs in implementing this proposition.