



Speech by

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JUVENILE JUSTICE LEGISLATION AMENDMENT BILL

Ms NELSON-CARR (Mundingburra—ALP) (11.57 a.m.): I rise to speak in support of the Bill before the House. The recent tragic case of the twelve-year-old girl charged with shooting her mother has provided the impetus for the knee-jerk calls for naming juvenile offenders. As a former teacher and a mother of five, I find this latest sensationalism attached to juvenile justice abhorrent in the extreme. To continually blame children and sensationalise unproven crime is not a good blueprint for our future society. Australian criminal law has provided that juveniles charged with any offence should not be named. There is a fundamental rationale behind this principle and, if we do not continue to adhere to it, then we are in danger of Americanising juvenile criminal law and, in the extreme, incarcerating juveniles with adults.

The most important rationale behind the principle as it stands is that young people are emotionally and mentally immature. Young people can be at varying levels of maturity or personal development and, thus, take longer to understand the consequences of their actions and to accept responsibility for their actions. We need to recall that, for all of us, negotiating the transition between childhood and adulthood is difficult and sometimes painful. Not surprisingly, young people can temporarily experience difficulties in coming to terms with their changing sense of self-identity and so may temporarily err in trying to resolve their new role in life. As part of growing up, young people have special needs and requirements, including nurturing, role-modelling, tolerance and discipline. This is all part of the "duty of care" that the community has to its young people.

Self-report studies of school students indicate that relatively minor offending is extremely widespread during most young people's adolescence. Despite this, almost all develop into law-abiding citizens contributing meaningfully to society.

The quest to name juvenile offenders has been around for a while, being part of the Borbidge Government's election platform, but the facts are that, biologically, juvenile offenders just do not have the maturity to understand the consequences of being publicly named. Young people growing up often do not have the same awareness of the implications of what they are doing. They tend not to reflect on what they are doing before committing the act, especially in violent situations.

This idea of shaming is appealing to the public, but the question is: what will the policy of naming juvenile offenders achieve? I have yet to see proof that as a result of changing this law crime would reduce. Can it be demonstrated that naming children will have a deterrent effect that will make the community safer? It has been my experience in my professional life that the kids who commit crime live in tragic circumstances, and the threat of penalty and shaming does nothing to prevent their act. Punishment like this does not deter. For example, it is a known fact that capital punishment does not prevent murder. It is ludicrous to think that the idea of naming a potential killer would be a constraint based on fear. Most of the proponents of public identification of young offenders believe that it would be part of the punishment for the crime. On the whole, this should be rejected.

The reasons young offenders should be treated differently from adult offenders are numerous. Children aged 10 to 16 years charged or found guilty of criminal offences are dealt with under the Juvenile Justice Act 1992. The Juvenile Justice Act 1992 provides for a separate jurisdiction for dealing with children who offend. It contains a code of sentencing and guiding principles specific to young people which are very different from those applied to adult offenders. Importantly, detention of children

is to be used as a last resort. This separate jurisdiction and specific law for young offenders is consistent with the law in all other States and Territories of Australia and in other Western developed nations.

Young offenders are treated differently from adults because juvenile crime is different in nature and type from adult offending. The differences include that young people's crime is transitory. Most young people simply grow out of crime and become law-abiding citizens. Almost 60% of young people who come before the courts do not again come to the adverse notice of police and 75% of young people who appear to do so only once or twice. Almost 85% of young people who are cautioned by police do not again come to the adverse notice of the police.

Juvenile crime is typically opportunistic. It concerns public space and good order violations and is not violent in character. In contrast, adult crime is premeditated and is much more violent in type. Three per cent of young people who appear in court are responsible for nearly 20% of juvenile crime. Other cautionary data which suggests that young offenders should be treated in a balanced and responsible way includes the fact that young offenders constitute only 1% of the population aged 10 to 16 years.

In the five years 1991-92 to 1996-97, cleared juvenile crime as a percentage of all crime increased only 1%, from 19% to 20%. The vast majority of young offenders who do not receive convictions will go on to become law-abiding citizens contributing meaningfully to society. This separate jurisdiction provides them with the ability to leave their pasts behind them and commence adulthood free of any record or stigma. As yet, none of the proponents of change has advanced any arguments which would suggest that changing the law would reduce crime. Any changes will make no difference to most young people, who are abiding by the law.

It must be remembered that young perpetrators are also the major victims. It is worth considering the possible impact on some young criminals should they be named. Unfortunately, notoriety could be addictive, adding to their perceived power. They could be more feared and this would certainly not act as a deterrent. For those young people who have just begun criminal activities, naming could only help to confirm their future criminal path. Any public outcry would only alert the community; it would not act as a punishment to the offender. In conclusion, it would be rare that naming young offenders could be justified. Making a general rule is fraught with dangers, but one thing is certain: public identification would make it so much more difficult for so many kids who are caught once and never re-offend. This Bill has my full support.
