



# Cleland Thom Journalism Training Services

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Reporting young people involved in crime used to be child's play. But now it can be a legal minefield, with a whole range of new legislation adding to the restrictions that were there in the first place.

In 1993, the Lord Chancellor ordered a review of the laws relating to press access and reporting of cases involving juveniles. This review stressed the need for consistency. But since then the law has become increasingly inconsistent!

And we also have a stricter PCC Code of Practice that offers children more protection than they have ever had before.

The result is that editors are finding it increasingly difficult to know where they stand, what they can report - and when.

This article offers a simple guide. It is not intended to be an eloquent exposition of law ... more like a practical How-To for the busy news or features editor.

## **Criminal age ranges**

- A child is over ten, but under 14
- A young person is over 14, but under 18
- A young person who turns 18 during his trial can be named by the media from that point – but application should be made to Magistrates for permission to do so
  - A young person who was under 18 at the time they committed an offence but over 18 by the time they get to court can be named - but again, application should be made to Magistrates for permission to do so

## **Youth Courts - Access**

- Bona fide representatives of the press are allowed in – but proof of identity and credentials may be needed
  - The public are not allowed in unless they are directly involved in the case



### **Youth Courts - Reporting restrictions**

- We cannot use the name, address, school, photo of or including or any details leading to the identification of any child or young person concerned in the proceedings in any way. This kicks in from the point when a juvenile first appears in court – though many editors voluntarily give anonymity before this point.

- Schools cannot be named, even if they are so big that identifying them could not identify a child involved in a case. Most editors voluntarily extend this to cover colleges and workplaces if the juvenile has left school

- Pixelated photos of juveniles involved in a case can be used, provided they do not reveal their identity to anyone, even to people who know them

- Photos which black out a juvenile's face can be used – provided this does not reveal their identity, even to people who know them

- We can use other details about the juvenile – eg age, area (s)he lives in – provided they don't lead to identification. Take care if a juvenile lives in a small village – revealing the age could be a problem

- Beware the jigsaw effect, where different media use different details of a juvenile. The two publications taken together could result in the identity being revealed. The onus is on news editors to liaise with one another to avoid this – or for printed media to follow the line taken by web or broadcast media, who will usually run their stories first

- The anonymity automatically applies to appeals from youth courts

### **Youth Court – when reporting restrictions can be lifted**

- To avoid injustice to the juvenile

- To enable us to publish a photograph or description of a juvenile who is on the run after being charged with, or convicted of, a serious offence. The Youth Court, if asked by the Director of Public Prosecution, may give permission to do this. If the restrictions are lifted, the court may state exactly what can be reported and how long the relaxation of the rules lasts (usually until the juvenile is captured)

- On conviction, we may apply to the Magistrate to name a child in the public interest, particularly if (s)he is a persistent or serious offender. The magistrate will take a decision that balances the welfare of the child with the public interest.

### **When Youth Court reporting restrictions start**

- The identity restrictions kick in when the court case starts. The Government has threatened to bring this trigger point forward to the point when *an investigation begins* with the Youth Justice and Criminal Evidence Act 1999

- This Act would also provide anonymity to *all* juveniles involved, whether as suspects, witnesses or victims

- **But** this Act has not been implemented. So the best advice is to take great care before naming juvenile suspects, witnesses or victims before the point of charge. The PCC Code of Practice reminds us to 'pay due regard to the potentially vulnerable position of juvenile witnesses and victims

### **Children in an adult court - access**

- Normal adult access restrictions apply ... but ...

- Press numbers may be limited when juveniles are on trial at the crown court. Arrangements are usually made for other journalists to report proceedings via a video link

- We *can* name juveniles unless the Judge or Magistrate passes a S39 order. If so, then Youth Court reporting restrictions apply to those involved in the trial

- The onus is on us to find out if a S39 order has been passed

- We may challenge the passing of a S39 order. Crown Court judges must hear these challenges. The court has to balance open justice with the need to protect young people.

- S39s should *not* be passed as a matter of routine. Judges have been told that there must be a good reason for passing them. Their job is to balance open justice with the need to protect young children involved in the case

- S39 orders should not be passed on dead children

- They should not be passed on adult defendants to protect the identity of a child

- Successful challenges have been made when a S39 order has been considered for a baby or child too young to be affected by publicity

- If a challenge to a S39 order fails at the beginning of the case, it may succeed at the end – especially if the juvenile has been convicted

- A S39 order passed at a magistrates does not travel with the juvenile to the crown court – a new order must be made

- A juvenile *can* be named if (s)he is jointly charged with an adult, unless a S39 order has been made

- S39 orders can be passed at civil courts as well as criminal ones

### **Sexual offences and jigsaw identification**

To avoid jigsaw identification, the PCC Code says we should:

- Identify the adult
- Not use the term incest, when applicable
- Describe the offence as a 'serious offences against young children' or something similar
- Not identify the child
- Remove copy that implies the relationship between the accused and the child

### **ASBOs**

- Applications can be made for ASBOs to be placed on juveniles to curb persistent offending or anti-social behaviour
  - They can be brought by police, local authorities or social landlords
  - They are civil orders and are usually passed by Magistrates
  - The juvenile may be named unless the Magistrate passes a S39 order
  - We may challenge this in the public interest – and we should also argue the ASBO will be easier to enforce if the public knows the identify of the person covered
  - A breach of an ASBO will be dealt with in a Youth Court
  - Usual Youth Court access and anonymity arrangements apply – even if the juvenile has been identified previously
  - If the Magistrates find the juvenile guilty of a breach, then the press may ask to name them in the public interest – especially if (s)he was named when the ASBO was first passed

### **Children in Civil cases - Access to Magistrates Family Proceedings**

- Arrangements are the same as Youth Courts if the hearing is under the Children Act 1989, but Magistrates have the power to sit in private.

### **Children in Civil cases - Reporting restrictions**

- You cannot name children under 18, or publish anything that could lead to their identity, if the case is under the Children Act

Other restrictions:

You can only report:

- Names (other than children and adults whose names could identify children), addresses and occupations of parties and witnesses
- Grounds of the application and a concise statement of the charges, defences and counter charges in support of which evidence has been given (but the evidence itself cannot be used)
- Submissions on points of law and decisions about them
- The court's decision and observations made in giving it

### **Adoption of children**

- Hearings are held in private
- Stories (picked up afterwards) should comply with the 4 restrictions above
- Children cannot be identified, and neither can adults if their identities can lead to the child being identified
- The Adoption of Children Act 2002 makes it an offence to publish an advert or story indicating that:
  - A parent or guardian wants a child to be adopted
  - Someone wants to adopt a child, or
  - Is willing to receive a child with a view to adoption, or
  - Is willing to remove a child from Britain for adoption elsewhere

### **Wards of Court**

Hearings are usually held in private

- You cannot report anything that relates to the proceedings (ie reports, letters, documents, evidence, statements) once the ward of court application process has begun
- You cannot name children unless the Judge gives permission
- You *can* report:
  - The name of the court
  - The name of the Judge
  - The decision
  - A story about a child who is a ward of court that does not name the child or refer to the proceedings (unless there is an injunction)

- A story about a child who is a ward of court, including his name, provided you don't say he is a ward of court, or link him to proceedings (unless there is an injunction)
- The same restrictions apply to children in other civil cases. But the media can argue in favour of identification on a case by case basis

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