

Submission No: 1607

Date Received: 12-8-03

Secretary:

SEP 2003

Dear Committee

This letter is a submission to the Committee's Child Custody Arrangements Inquiry. An earlier submission was sent with a request to add to it after a meeting between myself and the mothers whose views are expressed in this document. Please accept this as the amended submission. Additions arising from further discussion with these mothers are in bold. The original points have been accepted as those of the program participants.

(a) given that the best interests of the child are the paramount consideration:

(i) what other factors should be taken into account in deciding the respective time each parent should spend with their children post separation, in particular whether there should be a presumption that children will spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted;

I am involved with mothers and their children through a service called the Endeavour Camp Program. These camps are aimed at reconnecting mother and child as well as parenting, and self, development. In April of this year we held a camp and the focus was on reconnecting mothers and children who had experienced domestic violence. We explored with these eight mothers, and their children at times, what issues were impacting on their capacity to manage challenging behaviours. Custody arrangements with the abusive father and the ongoing effects of the abuse were noted as being of most concern. Therefore, I am opposed to any presumed division of children of separated parents for the following reasons:

- Ongoing power plays occur after separation whereby the perpetrator of abuse maintains power in the maternal home by opposing any strategies employed by the mother. This happens via negating new rules etc. that children are to learn and also by opposing mother's suggestions/ specialist recommendations for responding to challenging behaviours. **Indeed, one mother added that the father doesn't even understand, or respect, her concern for their child's well being regarding his punitive disciplinary approach.**
- In the same way, power plays are made, that would seem to be, for the benefit of aggravating and further dividing the mother/child relationship. Indeed, one mother reported that her children were instructed (on the phone by their father) to break something that they had spent the whole day making (with mum). It was also reported that the children come home from father's access very misinformed about the nature of the separation and the virtues of mum. **Indeed, very young children are coming home to call their mothers vindictive, paranoid, delusional and crazy as well as some words that definitely cannot be repeated as well as being told that they are unaccepting of the fact that 'dad just wants to come home'. In some cases it would seem that the father explicitly told the children to call mum these names.**
- **Mothers expressed that these power plays worsened after separation. Emphasis was made that (such as in the relationship) this extended to financial security whereby these ex-partners seemed to try and stop any chances of mothers having financial stability for themselves and their children. This was seen to be an extension of the fathers' need for control and for their need for others to depend on them (as well as anger that these mum's can look after themselves after all).**
- Many mothers reported children's behaviours closely resembling those of the abusive perpetrator. It seemed that, after separation, where contact was maintained with that parent, those behaviours continued or worsened despite interventions to respond to those challenges.
It was also highlighted that difficulties were inherent in the father's views of this behaviour also. Mothers reported that, in their experience, the fathers' either supported aggressive and violent means to children's problem solving or they

could not understand why their children could not control their behaviour. This last point was concerning as it is evident to these mothers that these fathers are still responding to difficult behaviours in a negative and detrimental manner. Again, ongoing physical and emotional abuse is evident and one mother suggests that the father struggles to manage the children's behaviour in safe and non-violent ways even when mother is present.

- Sibling rivalry is further problematic when interactions closely resembles those of the fathers' to the same end as the above point
- That ongoing verbal and physical violence is still occurring, only now mothers are not in the position to observe this as readily. **One mother pointed out that, in her experience, through access arrangements with the extended family, this is still likely and that she is scared that one day they will hurt themselves through having learnt these violent ways. At the same time, these children are still waiting for counselling services from the statutory authority in this state. I might add that my concern extends to their problem solving approach to each other as I have seen one of them try to strangle the other.**
- That working with the father outside of court ordered arrangements is negating their rights in other ways. This is seen as problematic when last minute crises or situations, or special events, occur and to negotiate with the father leaves them unsupported legally in other custody matters.
- **One mother reported that a court order for her child to receive counselling has not occurred because he refuses to attend. She feels that the onus is on her to make this happen although it the mother and child relationship which is yet further damaged by her insistence on this. However, she also is concerned regarding this intervention as she feels that her young son 'manipulates' workers to get what he wants in much the same fashion that his father continues to demonstrate. She is still hoping that he decides to attend however.**
- The children reported having worries that were quite specific regarding 'when dad hits', 'fighting at home' etc...Socially, these children presented as having little understanding, or skills, in how to relate to others positively and respectfully when being challenged or, for some, often. **Mothers reported their children feeling powerless, depressed, fearful, angry and deeply sad.**
- **One mother added that supervised access only is what she was hoping for in the best interests of her children at this stage and that this should also involve some parenting development coursework with the father, restrictions around substance use (legal as well as illegal) when in contact, and conditions to be met regarding interactions with the children on an emotional, verbal and physical level. This mother pointed out that, in her experience, this should also apply to other members of her ex-spouses family including grandparents (when reports of abuse/neglect are lodged regarding extended family this point was made in response to (ii)).**
- **Mothers also asked that there be an expression of concern for the inadequate level of funding distributed to statutory bodies to investigate the situations that they base these concerns (and indeed their initial separations) on and that this makes difficult the offering of evidence in court to prove why these custody arrangements must be ordered a certain way to protect and serve the best interests of these children. Concern was raised regarding the time it took to document, prove and call police all the time to report matters to build a case – the question of 'what time is remaining to be a mum' was expressed.**

In these ways, and with these families, it is viewed that ongoing contact is impacting on the emotional and social development of these children especially when high levels of contact with the abusive partner is maintained. Mothers reported that this is impacting on their capacity to manage challenging behaviours, their relationship with their child (including their ability to enjoy a close, loving and fun relationship with the child such as what some of the fathers are now able to concentrate on), as well as the child's peer relationships (which

have tendencies also resembling those of the abusive relationship). These situations, in our view, are not being recognised in child custody hearings, and therefore, these arrangements do not seem to be accounting for the best interests of the child.

(ii) in what circumstances a court should order that children of separated parents have contact with other persons, including their grandparents.

- **One point raised regarding this was related to the safety of the mother and their children. In situations where the father has no access, it was deemed concerning for extended family member's to have access in case information is accidentally divulged by the children that would lead to the discovery of their new residence. Similarly, on camp, I witnessed two children having phone access with their father who were being ordered to identify and disclose any information around the room which would help to locate them (even though their participation in the program was legally lodged with the lawyers involved). In this same phone call, a worker and a volunteer were abused for being there with these children (and for the children being there) after the father demanded to speak with them. This occurred in front of the children.**

(b) whether the existing child care formula works fairly for both parents in relation, to their care of, and contact with, their children.

- **One mother pointed out that it is not working fairly in her situation and that it should better reflect the percentage of custodial care.**
- **Another mother maintains that her ex-partner deliberately loses work to escape maintenance payments over \$10 per fortnight and that she cannot use this money to buy anything that she may herself use part of such as food and other household products.**
- **In regards to the implementation of these arrangements, mothers are furious that police do not have the authority to get their children back when they aren't returned as court arranged – apparently this has to go back through the family courts which costs more money and time (and there's no punishment for the person who did not adhere to the access conditions).**

Other points raised regarding this question centre on the establishment of custody arrangements as opposed to their implementation (day-to day children's costs for each parent)

- **Legal aid is not available for both parents. This is a first in, first served arrangement that may generally benefit those who have the time and the strength to enquire from day one. This was particularly unacceptable for one mother who was unable to access this much needed service because her ex-partner had done so when they were together for something incidental. She had even attended with him at the time. Some time later, however, she was denied a service because of this.**
- **For those buying property or where a property settlement is completed, legal aid must be repaid. These mothers reported that this diminishes their chances of placing a deposit on another home, thereby reducing their chances of secure housing and long term financial stability.**
- **Costs regarding applications to the family court were also impacting on mother's financial position as well as stress levels.**

Yours faithfully

Angela Stephenson
Social Worker – Endeavour Camp Program
Goodwood Community Services Inc.