

House of Representatives Standing Committee  
on Family and Community Affairs

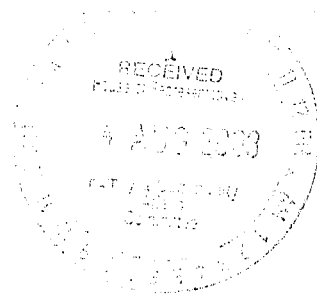
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Committee Secretary  
Standing Committee on Family  
And Community Affairs  
Department of the House of Representatives  
Parliament House  
CANBERRA ACT 2600



Dear Committee Secretary.

I am writing to you to convey my experiences over the last seven and a half years in relation to child residence, child access and child support. This letter is quite comprehensive however; given the importance of the inquiry I believe some degree of detail is required.

General. My first wife, [REDACTED], and I separated in [REDACTED]. At the time, we were living in [REDACTED]. On the breakdown of the marriage, she received a tax payer funded removal back to our hometown [REDACTED] where she still lives with our son, [REDACTED]. At the time of separation [REDACTED] was three years old.

Orders struck at the time indicated that she would have sole custody and we would both have joint guardianship. They also stated that contact with [REDACTED] would be as agreed between ourselves. Little did I know that this broad statement regarding contact would be the sole cause of seven years of frustration and anguish.

[REDACTED] I remarried, [REDACTED] and we have two of our own children [REDACTED] (6) and [REDACTED] (4).

Child Contact. My experience with the Family Court, Federal Magistrates Service and the issue of child contact is extensive. That experience is summarised below:

- In [REDACTED] [REDACTED] and I travelled to [REDACTED] for Christmas. There was a family gathering at my parents house. [REDACTED] mother refused to allow him to attend because [REDACTED] would be present.
- [REDACTED] I made separate applications to the Family Court for defined contact. [REDACTED] solicitor torpedoed my efforts. My finances were finite, however hers were not as she was receiving Legal Aid. Her solicitor simply protracted until I could no longer hold out financially. It was not until 2001 and the introduction of the Federal Magistrates Service, and the removal of Legal Aid from Family Law, that I had any hope of financing an application for basic

contact with [REDACTED] I have spent over \$8000 to get five weeks contact a year and one phone call a week, being the main elements of the current orders.

During this whole process, I found that [REDACTED] would not openly discuss any aspects of my contact with [REDACTED]. Her track record is such that she says she wants to discuss the issue but when pressed will not.

At no time did she make any effort to alleviate my concerns or to resolve contact issues. She would only consider one issue or contact visit at a time and this usually involved protracted negotiation and discussion. I have found her manner since we separated to be dictative rather than co-operative.

- In [REDACTED] [REDACTED] and I again travelled to [REDACTED], this time with [REDACTED] I advised [REDACTED] of this travel [REDACTED]. One week before we arrived [REDACTED] advised me she was taking [REDACTED] to a location three hours drive from [REDACTED] for five of the 12 days we would be in [REDACTED]. She also mentioned that she had made these plans before she knew what ours were – it just took her four months to tell us. In order to see [REDACTED] for Christmas day we were required to drive three hours for a contact period of one hour. [REDACTED] birthday is the 29 December. On this day, I attended a party at his residence without [REDACTED] or [REDACTED] as 'they are not welcome in my house'. Hardly a mature attitude to be conveying to [REDACTED].

Before we left [REDACTED], I broached the topic of [REDACTED] visiting my residence, which was [REDACTED] at the time. [REDACTED] asked to know flight details, costs etc which I provided to her and then got accused or trying to railroad her in to a quick decision and making plans without consulting her. The nature of airline ticketing is that the closer to the flight date the more expensive the ticket. In an effort to minimise expenses and also secure a seat I have tried to book as far in advance as possible. I had concerns that if I were to wait for the last minute to book, due to [REDACTED] delaying a decision, then no seats would be available and therefore I would get no contact at all. Additionally, as a member of the [REDACTED] I am restricted to specific periods of the year when I can take leave, generally during school holiday periods. There is a considerable amount of planning to ensure that leave, contact with [REDACTED] and seat availability coincide.

At this time, I advised her I intended to apply to the court for defined access as this visit had highlighted how controlling she was when it came to spending time with [REDACTED]

- In [REDACTED] [REDACTED] travelled to [REDACTED] in the company of my mother, [REDACTED]. This contact only came about as I was insistent on lawyer involvement and [REDACTED] capitulated at the last moment.

- In [REDACTED] I requested of [REDACTED] that [REDACTED] be allowed to visit my residence, [REDACTED], during the July 1999 school holidays – she refused. At this time we also had a standing agreement regarding phone contact. We agreed out of court that [REDACTED] and I would speak to each other every Wednesday and Sunday, alternating the calls. This went well for four months before [REDACTED] ended the arrangement with no explanation or alternative arrangement, stating there was never an agreement in the first place and I must have been mistaken. The only phone contact I had with [REDACTED] was when I was lucky enough to catch him at home or when he rang me during one of his very infrequent visits to my parents. [REDACTED] even stated at this stage that installing an answering machine so I could leave messages for [REDACTED] to hear was 'not a priority'.
- [REDACTED] I deployed to [REDACTED] and our children moved to [REDACTED] to be near my family during my absence. [REDACTED] made many approaches to [REDACTED] for the children to spend time together, but she refused on all occasions. The only time the children saw each other was during [REDACTED] visit with my parents.
- [REDACTED] I returned to Australia and had a period of six weeks leave in [REDACTED] before having to move to [REDACTED]. I had contact with [REDACTED] during this period however, it was sporadic and at the whim of [REDACTED]. Towards the end of our time in [REDACTED] contact deteriorated completely with no explanation from [REDACTED]. At no time did [REDACTED] encourage [REDACTED] that he ought to spend time with us while we were living in the same place. Rather, she exploited his uncertainties to the point that he became distressed.
- In [REDACTED] visited us in [REDACTED] in the company of my parents. This visit also hung under the threat of legal action, as I was tired of having no certainty as to when I would see [REDACTED] again. I was also tired of having to travel to [REDACTED] to see [REDACTED]. With two children the expense was prohibitive. I firmly believe [REDACTED] was hoping that I would simply declare it all too hard and give up.
- [REDACTED] I wrote to [REDACTED] detailing what I expected as minimum contact with [REDACTED] during a planned trip to [REDACTED] in [REDACTED] 2000. This letter also contained a request for [REDACTED] to visit [REDACTED] again in [REDACTED] 2001. She refused the request for contact during the [REDACTED] 2001 school holidays. I would not learn until much later that [REDACTED] never advised [REDACTED] of my requests for contact. On this occasion though, I told him that I had asked and was told 'no'.
- In [REDACTED] I arrived in [REDACTED] with [REDACTED] and our children. Contact proceeded as per written arrangements.

- [REDACTED] I made application to the Federal Magistrates Service in [REDACTED] for specified contact with [REDACTED] and other issues. These were signed in [REDACTED] approximately two hours before the matter was due to be heard by a Magistrate. I now see [REDACTED] for specified periods each year, and we speak once a week, among other things.

Even now that we have court orders detailing each other responsibilities, she still attempts to undermine my contact with [REDACTED] and consistently dismisses my efforts to have input. She does the absolute bare minimum to achieve compliance. For example, she forwards a copy of [REDACTED] school term planner each term but does not advise me of teacher interviews or test results. If I want this information, I have to ask and then will only receive it after [REDACTED] has consulted with a third party to determine her position.

Also, even though the Orders state she is to consult with me on a range of specific issues, she does not. She either advises me after the fact, or does not tell me at all. My solicitor has advised me that if I wish to do something about this (i.e. go to court) the court is likely to view this type of matter as insignificant. He states:

I have some concern for you that should you initiate proceedings for contravention in relation to an issue the Court ultimately determines to be minor, may result in a review of the current orders and deletion of some of the concessions you now have.'

I take this to mean that I will be punished and [REDACTED] will miss out for trying to make [REDACTED] stick to the agreement. How reassuring. I tried to get these concerns resolved during counselling however the counsellor simply made excuses for [REDACTED] behaviour and [REDACTED] burst in to tears. The whole exercise was a waste of time. I do not know of any organisation, agency or department that I can go to and have my concerns validated and dealt with in a timely manner.

I could return to counselling however, I do not have every day at my disposal to go over old ground. There is absolutely no way to get a quick and satisfactory resolution on issues that are important to *me*.

All the while, I have complied with [REDACTED] requests to call back at a time she designates or provide information she has asked for or follow her lead when it came to explaining new circumstances to [REDACTED]. Without fail she has not been home when I have called back at the time she designated or has made accusations of one kind or another for simply doing what she asked of me. One of her letters to me even describes me as 'an insignificant family member'. Because of all this I found it necessary, not to mention easier, to only communicate in writing. This began [REDACTED] and has been very successful. We avoid the tension that always arises when we speak in person, and each of us knows exactly what to expect of the other.

After seven and a half years, [REDACTED] is beginning to understand that he has two parents and a father who desires to be a part of his life. I find this very sad, as [REDACTED] is now ten years old. I have my own theory as to why [REDACTED] has behaved the way she has. I believe she has never really moved beyond the divorce and that I have repartnered. I believe that she was hopeful we would reconcile and was rather upset that we did not. Two Family Court counsellors who both mentioned she has 'separation issues' have confirmed this. This has been compounded by her [REDACTED] place in life, having lived off welfare and child support payments for the last seven and a half years. She has fought me every step during my efforts to get regular contact with [REDACTED] almost as some sort of payback as she blames me for all her problems.

Moreover, she does not encourage my relationship with [REDACTED]. At all times [REDACTED] and I have to think of ways to strengthen my relationship with [REDACTED]. [REDACTED] will not purchase birthday cards for [REDACTED] to send, so now [REDACTED] has to do that. She arranges the procurement, sends them, with return postage, to [REDACTED] for him to write on and post back to us. During his last visit, we suggested that [REDACTED] and I keep a notebook of what we did during the week so we could keep each other up to date with our activities. [REDACTED] keeps his notebook (provided by us with a pen also) very well, however with no encouragement from his mother. We also had to suggest to him that he have his school newsletter handy when we speak so he could inform me as to what is going on at his school.

If [REDACTED] was truly concerned about [REDACTED] best interests, or that he and I have a strong relationship, she would have suggested all of these things for him to do and more. For someone who has resolutely maintained she only has [REDACTED] best interest at heart, I cannot make sense of her inconsistent behaviour. [REDACTED] is now old enough to draw his own conclusions about his mothers conduct. He is not impressed at how hard she is making it.

At no time has [REDACTED] been called to account for her obstructionist behaviour.

Child Support/Welfare payments. I started paying child support in [REDACTED] 1995, the same [REDACTED] moved back to [REDACTED] with [REDACTED]

The arrangement up until recently was that I would pay by fortnightly allotment to [REDACTED] bank account the amount as assessed by the Child support Agency (CSA).

Everything was going well until I deployed to [REDACTED]. As a result of [REDACTED] service, my taxable income was significantly reduced. [REDACTED] and I asked the CSA many times how this would impact on child support payments, as our disposable income was so high, but assessed income very low. I was told not to worry, but I should have. As a result of a change of assessment process in [REDACTED] the Senior Case Officer arbitrarily increased my income for the child support period immediately following my return from [REDACTED] to a figure that resembled what my income would have been had I not deployed, thereby creating a debt of some \$6 000. I appealed this decision

through a Ministerial Officer of the CSA and the Ombudsman. Even though the CSA admit they gave me terrible advice, they will not be held accountable for the debt. I notice that the CSA website has made a recent inclusion to their homepage – 'special considerations for defence personnel deployed on war like service'. The powers of the CSA are unbelievable. They can even change my income, income that has been reconciled by the ATO as correct. Does the ripple affect of this change across interested Government departments get taken in to account – no.

I am also annoyed that my costs associated with [REDACTED] are never taken in to account. For example:

- I put aside \$68 every fortnight just for airfares. I consider \$68 every fortnight significant enough to offset against the amount of child support I pay. The CSA disagree.
- I am required to pay child support to go towards the entire upkeep of [REDACTED] house, which [REDACTED] lives in also. Why does [REDACTED] get a financial benefit to upkeep her house when [REDACTED] is with her, but I do not get a financial benefit to upkeep my house when [REDACTED] is with me?
- Why does [REDACTED] get allocated more than [REDACTED] and [REDACTED] I currently pay \$584 every month for [REDACTED]. Based on CSA figures on my assessment, the CSA affords me \$530 per month each for [REDACTED] and [REDACTED]. Why does [REDACTED] get an allocation of \$54 extra every month?
- Why do I pay child support for when [REDACTED] is with me? If the time [REDACTED] spends with me were taken in to account, I would pay \$26 less every week of the year.
- I now pay child support via the 'collect' mechanism. This means that I pay the CSA, and they on forward the child support to [REDACTED]. This arrangement came about at [REDACTED] request. In order for the arrangement to go back to 'non collect' [REDACTED] must approve. I find this insulting as a parent who prides himself on a faultless payment history. I also believe that the payer cannot request to 'opt in' for collect payments.
- If my income reduces I can apply to have the amount of child support I pay reduced. However this reduction in income has to be more than 15% of present income. Based on current figures, and if my income were to drop, I would have to pay an extra \$143 per month, calculated on an income I was not earning, before the CSA would even consider reducing the amount I have to pay.
- The CSA are reluctant to uphold their own policy guidelines. I applied for a Change of Assessment in the hope of recouping some

of the legal fees I had spent in my quest to get contact with [REDACTED] I felt strongly that I would qualify as I thought I could prove how difficult [REDACTED] had been. I thought wrong. The CSA dismissed my application out of hand.

- Based on current figures, [REDACTED] Disregarded Income Amount is \$36 213.00. This means that I have to pay [REDACTED] top rate of child support up to this figure. My Exempted Income Amount is currently \$25 027.00. Worst case, my income could drop 14%, Joanne could earn \$36 212.00, and I would have to pay the absolute maximum amount of child support. Hardly fair.
- The whole system is geared around the payee. And if the CSA makes a mistake, the payer has to make amends, normally financial. The CSA kept sending assessments to my old address when I relocated from [REDACTED] to [REDACTED]. Despite three advices of the relocation and admission that 'it probably has got lost as we have changed over computer systems', I got left with the shortfall because the assessment that kept getting sent to my old address was for an increase in child support. By the time I finally got it, approximately three months had elapsed, but I all of a sudden had to find roughly \$2000 in one hit. If the CSA had just got it right this would have been spread over normal payments.
- To date I have paid \$31 280.11 in child support, not including the shortfall created as a result of the change of assessment. Once that is paid this figure will rise to \$39 435.57.

How do I explain to [REDACTED] why one parent constantly gets a better deal over the other? Until such time as all interested Government agencies level the playing field, [REDACTED] will not be able to properly see that his parents are equals. I also take exception to the CSA deciding for me what is a significant amount of money and what is not. Also, the majority of fathers who want to do the right thing and pay child support for their dependents are forced in to abiding by a set of rules designed specifically for those fathers who do not wish to uphold their responsibilities. I find this very frustrating. I firmly believe that the sole purpose of child support is the ease the burden on the public purse. If that were not true, there would be more equity.

Regarding welfare payments, I do qualify for Shared Care via the Family Assistance Office, as [REDACTED] is with me for more than 10% of the year. This equates to about \$5 per fortnight, as the benefit is paid to me after being means tested. I also notice that those people who receive the maximum rate of Family Tax Benefit Part A are issued the Health Care Card if their family income is less than \$29 857 *excluding child support*. Why 'excluding child support'?

Also, as a related issue, how is it that [REDACTED] can get away with not working? She has not been financially self sufficient for over eleven years. The fact that [REDACTED] sees his mother receiving substantial finances for doing nothing causes

him concern. [REDACTED] started school in [REDACTED] [REDACTED] has done nothing to improve her situation in all this time. No courses, sustained voluntary work, retraining, *nothing*. She is 37 years of age and is a prime candidate for Government support in to old age because that is how the system is structured. As a taxpayer I take great exception to funding [REDACTED], and others like her, to do nothing. As a result I have grave fears for the social example she is setting [REDACTED] in regards to how to be a socially responsible adult and earn a living and contribute to society.

Financial Rewards. I consider that the current system across the spectrum inadvertently encourages single mothers (I say that because they are far and away the majority) to deliberately deny contact. I know full well that when I request that [REDACTED] spend more time with me culminating in a trial year of living with me [REDACTED] will make it as difficult and stressful as possible because she will lose her meal ticket. While ever [REDACTED] is with her, she gets significant Government payments and child support. Government welfare decreases the more time [REDACTED] spends with me. Child support is a different story but if [REDACTED] were to live with me full time that would dry up completely. Where is the incentive for [REDACTED] to encourage father-son contact when her finances fluctuate in direct proportion to what she agrees to?

Defence Members. I have been in [REDACTED] years. It is necessary for me to remain in the [REDACTED] states in order for my career to progress. This makes contact with [REDACTED] difficult at best. [REDACTED] has indicated that he would like to see more of my new family and me. I am in for another lengthy round of legal manoeuvring to achieve this, as [REDACTED] will never agree. I caution against any decision regarding how much child support is paid based on the level of care by both parents. How am I supposed to have a significant level of care when my employer makes it impossible? Sure, I could take a posting to [REDACTED]. Apart from the fact there are precious few postings to [REDACTED] for my rank, it would be a career killer. Or, I could resign [REDACTED] and find a job in [REDACTED] to be near [REDACTED] full time.

I would do this if I had any faith I would be treated fairly by the CSA. I have what the CSA refer to as 'an earning capacity'. No job in [REDACTED] would pay me what the [REDACTED] pays me. I therefore fully believe that the CSA would assess me on my higher [REDACTED] income because I have established that earning capacity, even though I would not actually be earning at that level. This is the faith the CSA inspires in paying parents.

Defence members also qualify for the 'Retention Benefit', paid after 15 years continuous service. It is a one off, taxable payment equivalent to one years salary. I was eligible for the Retention Benefit [REDACTED] I was forced in to electing not to receive it [REDACTED]. At the time there was no provision for lump sums gained for direct benefit of my family. Then, I was told that if I wished to take the retention benefit I would 'have to take my chances' with how the CSA would handle it. I asked [REDACTED] if she would agree that the benefit not be included in CSA calculations and she refused. She stated that I would just have to 'let it run through and she would then get just what she was entitled to'. I hasten to add than I offered to share the



benefit with [REDACTED] and [REDACTED] as well as my new family if she agreed to my request.

As there was no certainty how the CSA would view the benefit, I simply had to not receive it. I had every belief that I would end up paying child support calculated on an income roughly double what I was actually earning.

Even though the CSA has some provision in place, it does not go far enough to safeguard benefits such as this, or give the payer any assurances that they will be treated fairly and honourably.

Grandparents. My parents, [REDACTED] and [REDACTED] live five minutes drive away from [REDACTED] and [REDACTED] parents also live in [REDACTED] a similar distance from her. Since separation [REDACTED] has made contact between my parents and [REDACTED] difficult at best. More so now that I have achieved Contact Orders. Now that [REDACTED] cannot disrupt my contact with [REDACTED] she makes contact between my parents and [REDACTED] as distressing as possible, as they do not have the luxury of a court order specifying contact.

[REDACTED] does not encourage [REDACTED] to contact my parents on their birthdays or on respective parent's day. Again, [REDACTED] and I have to do this. [REDACTED] does not encourage contact with my family at all. [REDACTED] has two aunts, five cousins and two second cousins and their children all within easy reach. [REDACTED] has had to make a special calendar for [REDACTED] so that he will know when all the birthdays are and when holidays are etc etc. This is concerning to me as the link between [REDACTED] and me is not being utilised. [REDACTED] is deliberately not encouraging [REDACTED] relationships with my family.

If [REDACTED] and I have a disagreement, she will take it out on my parents via their contact with [REDACTED]. They are totally at her whim in this regard. It has taken her up to twelve days to return a phone call requesting to see [REDACTED]. These days, my parents are lucky to see [REDACTED] five or six times a year. That is not a mistake – five or six times a year. Her parents are afforded significantly more consideration and time with [REDACTED]. Even if [REDACTED] needs a babysitter and her parents are not available, she will place [REDACTED] with a school friend rather than ask my parents to care for him. I believe her conduct in all matters stem directly from her own bitterness and dissatisfaction with her situation. At all times she treats my parents with disdain, and an "I'll show you who's in control" attitude.

Media Comment. I have noticed in a few newspaper articles that this push to get fathers more time with their children is nothing more than an attempt to dodge child support. How ridiculous is that. I caution the Committee against taking these accusations seriously. I have missed out on a significant chunk of [REDACTED] life and development as a direct result of an embittered mother and a system that supports this attitude and associated conduct.

I prefer comments made by Ms Bettina Arndt in an article she wrote for The Age newspaper dated 20 June 2003. She writes:

'But we should ask ourselves why the sole-parent lobbyists are screaming blue murder at the joint custody proposal. There's a simple answer. Sole custody gives mothers clout.'

I could not agree more. And I can say that this clout is wielded unfairly and does not benefit the child in any way. [REDACTED] has not benefited in any way from his mothers assertions that she knows best. We are now paying the price for her selfish decisions made 'in [REDACTED] best interests'. We are desperately trying to catch up time she has effectively stolen from us.

A couple of websites worth visiting to further gauge male sentiment on this issue are:

<http://www.mensrights.com.au/page11c.htm>  
<http://www.certifiedmale.org/issue8/shared.htm>

I have also seen it written and commented on the radio that if joint residency were to become the rule then children will get caught out where parents live on opposite sides of the country – being forced to shuttle to and fro. Clearly, my situation falls in to this category. It is simply absurd to suggest that I would subject [REDACTED] to this and to try and make that argument is simply desperation in the face of the current situation being turned on its head.

Other. As an interesting aside, [REDACTED] school [REDACTED] also appears to do nothing to encourage the relationships of absent fathers and their children. I noticed on [REDACTED] term planners that Mothers Day was celebrated with not only a Mothers Day stall but a Mothers Day morning tea as well. Fathers Day does not rate a mention.

Conclusion. The last seven and a half years have been extremely distressing. The toll taken on my new family and me has been immense. At no time can we breath easy because we never know when the next legal wrangle will unfold, or if [REDACTED] will launch another child support issue, or if she will even put [REDACTED] on the plane. We have absolutely no peace of mind. I am concerned at the example [REDACTED] is setting [REDACTED] by being clearly anti-Dad and the fact she does not earn a living in any way.

The CSA is a law unto itself and I would dearly love to see more equity. The CSA is set up to cater to payees with a set of rules designed to reign in recalcitrant payers (largely fathers). It is the fathers, who want to see their children, provide for their children that are getting caught in the middle.

The structure of the Family Law system and the CSA leave me with the impression that they deem not just the parents to be divorced but also the non-residential parent and their children. This is the attitude that needs to be addressed.