The Richard Hillman Foundation Incorporated

~ *Pursuing Equality, Unity and Justice for Families* ~

Submission:

to the Standing Committee on Family & Community Affairs

Inquiry into Child Custody arrangements in the event of Family Separation.

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Produced by:
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of
The Richard Hillman Foundation Incorporated

(Lodged on the 8th of August 2003)

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Submission

Inquiry into child custody arrangements in the event of family separation

Having regard to the Government's recent response to the Report of the Family Law Pathways Advisory Group, the committee should inquire into, report on and make recommendations for action:

(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; and

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

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

(c) with the committee to report to the Parliament by 31 December 2003.

Committee Secretary
Standing Committee on Family and Community Affairs
House of Representatives
Parliament House
CANBERRA ACT 2600
AUSTRALIA

4 August 2003

Dear Sir/Madam,

I seek to make a submission to this inquiry, based on my personal experiences and working with disenfranchised fathers over last 6 years.

In this submission, I will demonstrate that the rebuttable presumption of equal shared care and residence satisfies the current intention of the Family Law Act to the maximum extent. But one that needs ratifications in discussed areas of concern within this submission, including administrative changes to the Family Law, Child Support Agency and Centrelink services.

It is imperative that such changes must bring about reform that are not based on ideological paradigms of today, but be inline to those wishes of the community and most importantly for the future of children.

In terms of the child support formula, any formula based on taxable income will be treated as excessive discriminatory taxation, by human nature either resisted or totally avoided accordingly by those in the community whom it affects most.

It is thus hoped that the members of the committee will make recommendations in respect of the terms of reference, that are based on common sense, scientific and scholarly studies, rather than based on ideological paradigms or radical thinking of vested interest groups or judiciary pressures.

While it is difficult to recommend any particular solution, some suggestions within my discussion are of simple nature while others will need legislature remedies, and others administrative adherence by service providers.

The writer took a stance of view that in essence current provisions of Family law and Child Support scheme are in place, but had not been practiced, and much of current dissatisfaction in the community lies in the administrative process of quasi-judicial decision made within service delivery providers. These should be remedied via presumption of Rebuttable Shared Parenting and devising an equitable cost sharing arrangements for financial support of children of separated families

Regards

Pavel Muckarovski

Section 1 Summary and Recommendations

(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; and

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

- Existing provisions within the current Family Law Act already underpin children's issues, but are rarely practiced in reality, and as such needs as a starting point to include:

- **To enshrine in law that Rebuttable presumption of Equal Shared Parenting and Residence must be asserted on the fact that most parents were good enough to parent before divorce proceedings began**

- The "best interest of the child" principle needs ratification to recognise children flourish when both parents are involved in their children upbringing equally.

- A rule/statute that will establish a preference for the care taking arrangement that generally will be in the best interests of children (the case–by–case rule incorrectly assumes that the child's best interests can always be determine) as a starting point, but one that can be overcome when a parent is able to clearly establish that another arrangement would be better for the child

- Legal responsibility of the former partners arrangement would go into effect without litigation unless one of the parents can establish that he or she had satisfactory and proven (not allegations) evidence to institute clearly that a different arrangement would be in the best interests of the child (given new statute to the principle of "best interest of the child")

- Rebuttable – where its proven that abuse of child existed, or was committed, NOT alleged or implied, and on the death of one parent, and when such presumption of shared and equal parenting was denied continually and repeatedly to one parent.

- Clear legislative mandate would enhance the public's acceptance of rebuttable shared residence and make it easier for courts and parents to consider applying *(given the overwhelming evidence by scholarly studies that equal shared parenting are in the best interest of the child, irrespective of geographical localities or situations where one parent is unable to be situated in the same geographical location, in fact many in-tact families "juggle such situations due to work pressures or necessity, and separated families should not be discriminated contrary to in-tact families doctrine)*

- That the most other significant persons in child's lives are their **paternal and maternal grandparents**, and as such must be given the paramount consideration to play a role and be given access in the grandchildren's lives, since they play an important role in the upbringing and development of the child whilst the family is intact.

- Administrative functions and delivery of services within the Family Court and CSA and Centerlink needs urgent remedial attention, as recommended in Pathways Report, to date has been hampered by the ever increasing judicial activism, that has rippled throughout the divorce industry system.

- Inclusion within the current FMC of "family tribunal" that will enact legal parenting responsibilities of rebuttable shared parenting, without lawyers, and binding parental plans as a starting point as discussed above. This could reduce cost of litigation and "combative" approach of present system, as well as reduce the cost of the Family Court system to the taxpayer, and leave Family Court to handle difficult cases.

- That a Bill not dissimilar to that, which has already been tabled in parliament by Sen Len Harris, be introduced.

- Given the fact of democratic societies that The State does not in essence interfere in the affairs of intact families, and should not be doing so in the case of separated families. Such interference has proved in the history to be detrimental to human kind.

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

In a simple word: NO, the formula does not work fairly

The only real solution is that both parents should jointly share the basic cost of child maintenance. This should be <u>levied at a flat rate</u> for all parents, based on a child index or similar to that produced by the Budget Standards (BSU) Approach / Institute of Family Studies and regardless of any financial circumstances, other than excluding liability in times of genuine unemployment or hardship, and on the other side of the scale those in full time care of children 0-5 years of age, and must reflect the following:

- Neither parent should have their income considered for the purposes of Child Support if that income, net of tax and the cost of dependants, falls below a reasonable amount. This amount should be the same for both the resident and non-resident parent. <u>And not</u> as in a current scenario 11,000 (approx) for non-resident and 30,000 (approx) for resident parent.

  It is preferred that a flat rate be applied to any provision, but must take into account:

  - The cost of two households

  - Equitable split be based on a basic cost of (ie BSU studies) irrespective of income level, this basic cost is same irrespective wether income is 70,000 or 30,000, but should have a "safety net" in either side of scale, ie minimum and maximum amount, and the figure be borne equally by both parents

- Both parents financial income be treated equally, ie disregarded income threshold

- Taken into account that some asset distribution has already happened via the family court or is to happen, and should be recognised that in some instances are contributions to the child basic costs.

- And be based on equitable costs by both parents equally, perhaps based on the notion of equitable split,

Section 2 Discussion

Terms of reference - remarks

It is welcomed that the Government is in a position to further inquire into the issues of separated families. Yet the narrow set of framework which the committee is working from may in itself be not enough to bring about genuine long overdue change of the Family Law System without taking into account underlying issues, as has been the case with the Family Law Pathways exercise, of which I had been both a "consumer" and a "provider".

In this submission I will be covering some of these intersecting issues as they relate to the terms of reference. *They include: Judicial and ideological prejudice[1] within the court system, ideological "sole custody" culture within many of the support services of legal aid and advocacy, mediation and counselling, court appointed psychologists and at its worse domestic violence industry, administrative unaccountability of the worse kind: the Child Support Agency.*

All have a common denominator in their philosophy and practice: ***Sanctifying motherhood and demonising fatherhood****. Ideological Philosophy and Practice that is hardly, if I may borrow the phrase. "In the best interest of child". Why is it so that up to 92% of non-custodial parents are fathers? Is it because they are bad parent? They are NOT. Is it because they are abusers? They are NOT. Is it because of myriad of other false accusations against fathers that find their way into the Family Court proceedings? They can NOT all to be. Common sense tells me so, and supported by many scientific studies, some of which are attached to this submission. Perhaps appropriate summary by which I can illustrate the reasoning is the following:*

> ***Writing for 'The Australian' newspaper last year, Janet Albrechtsen wrote the following:***
>
> ***"Six years ago [federal] parliament sent the [family] court an explicit message. Upon divorce, children were to have the right to know and be cared for by both parents. Statistics show that the Family Court has ignored parliament with impunity.***
>
> ***Sadly, it is caught downwind of the more illogical parts of feminist thinking that sanctifies the womb as soon as a marriage is over. So shared parenting lost out."***
>
> ***Source: Ideology blurs role of judiciary', The Australian - August 21, 2002***

"Best interest of the child" principle

The above statement is one of the most pretentious phrases used within the Family Court of Australia quadrant, inclusive of family law lawyers, counsellors and mediators, judges and registrars, and indeed by the media, the parliament and the community.

Yet there is no clear explanation in the law or indeed anywhere a definition of what exactly it means to be "in the best interest of the child". Upon further examination of the

1 Chief Justice of the FCA Marxist views of fatherhood and disregard to the parliamentary legislature are well documented in the press

law, the available literature and research[2], all suggest all permutation of the statement above, but none has actually defined the term, that in reality is used as a "Horoscope" which is used within the "Divorce Industry" in willy-nilly fashion, **but rarely in the best interest of the children.**

One then has to ask a question why this phenomenon has been used to such an extent in legislature and determination of law, yet without a specific benchmark from which the interpretation can be ascertained. The following monogram taken from the ***"Back To The Best Interests Of The Child: Towards A Rebuttable Presumption Of Joint Residence" by Yuri Joakimidis***, best illustrates this dilemma:

"Unexaminable Judicial Discretion and the Best Interest Determination"

"The attempt to determine which parent is the better child custodian depends on such fine–grained distinctions as to make this, in the context of a custody dispute, a choice between two essentially indistinguishable alternatives, between Tweedle–Dee and Tweedle–Dum" (Burt 1982).

The judge in a family court case generally is presented with much highly conflicting evidence. This often includes conflicting testimony of the two parents as to events that only they have witnessed and the testimony of the child who may have been influenced by parental persuasion, bribery or coercion. The parents' self-serving statements as to their intentions add to the problem. Moreover, the custody determination must be made at a time when reliable evaluation of the parents by the judge or mental health professionals is difficult, if not impossible.

The fact that parents are being evaluated during the divorce period is likely to cause them to behave differently than they would under normal circumstances' further complicating the evaluation. The diagnostic and therapeutic skills of the behavioural professional are often badly distorted in the divorce setting. In any case the search for the better custodian is a meaningless exercise since both parents are important for the psychological development of the child (Warshak 1992).

The inability of a judge to determine the best interests of the child in the typical custody case is described by Chief Judge Hood of the District of Columbia Court of Appeals in Coles v Coles (Coles verses Coles (204 A. 2d D C 1964). The trial was reported in over 2000 pages of transcript, and "all phases of the backgrounds and lives of the parties were fully explored." Judge Hood states:

"The best interests of the child principle is easily stated but its application in a particular case presents one of the heaviest burdens that can be placed on a trial judge. Out of a maze of conflicting testimony which one court called 'a tolerable amount of perjury' the judge must make a decision, which will inevitably affect materially the future of an innocent child. In making his decision... the judge must endeavour to look into the future and decide that the life of a child's best interests will be served if committed to the mother or the father...When the judge makes his decision, he has no assurance that his decision is the right one. He can only hope that he is right. He realises that another equally able and conscientious judge might have arrived at a different decision on the same evidence."

The requirements of the Family Law Act 'that the court must regard the best interests of the child as the paramount consideration' has traditionally presented decision makers with the problem that it is far easier to state them rather than to define. The difficulties inherent with the best interests principle and the scepticism about its usefulness have been the subject of comments of even the High Court Of Australia. See for example, Secretary, Department Of Health And Community Services v JWB & SWB (1992) FLC 92,293 at 79, 191 per Brennan J:

"It must be remembered that in the absence of legal rules or a hierarchy of values the best interests approach depends on the values of the decision–maker. Absent any rule or guideline that approach creates an unexaminable discretion in the repository of the power."

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2 Family Law Act, Family Services Legislation, Family Law Council and other credible research

Despite these concerns the best interests standard should not be abandoned. Though it is beyond the ability of a judge to balance all of the probabilities concerning future living situations of the child, the judge will have the basis for making the custody decision in some cases. The problem with the by-case rule, is not the best interest of the child can never be determined, but that the case-by-case rule incorrectly assumes that the child's best interests can always be determined.

It is argued what is needed is a rule that will establish a preference for the care taking arrangement that generally will be in the best interests of children, but one that can be overcome when a parent is able to clearly establish that another arrangement would be better for the child. Such a preferred care giving arrangement would go into effect without litigation unless one of the parents believed that he or she had sufficient evidence to establish clearly that a different arrangement would be in the best interests of the child. Litigation would usually occur only in those cases in which the result of the litigation might benefit the child. Although the Family Court could independently establish joint residence as the preferred method of resolving parenting decisions within the present statutory framework, a new statute is desirable. Such a clear legislative mandate would enhance the public's acceptance of joint residence and make it easier for courts and parents to consider applying.

References:

Burt R (1982). Experts, Custody Disputes & Legal Fantasies. Psychiatric Hospital. 14
Warshak R. A (1992). The Custody Revolution: The Father Factor and The Motherhood Mystique. Simon & Schuster: New York.
Coles verses Coles. 204 A. 2d D C 1964

Factors to be taken into account in deciding respective time each parent should spend with their children in post separation.

It is not as much about the amount of time spent with the children, so much as regarding each parent **both mother and father as being equal to each other** in regards to caring for, and supporting their children. Once the principle is established then the parents should be left alone to make their own arrangements. **Intact** families had been doing this all the time, on equal footing basis. If they've decided they want the mother or the father to stay at home to raise their young children, fine they can do that, and without the interference of the state. ***In any case with rebuttable equal shared parenting and joint residence as a norm,*** separated families can always fall back on the proper court process if there are excruciating circumstances, not merely based on accusations, allegations and innuendos.

So why then should separated families be treated any different? Following separation parents should not be placed in combative competitive situation where their relationship with the child and parenting skills are "measured" against each other and the parent with the most "points" after three rounds is declared the winner – which is the current adversarial technique employed by the Family Court.

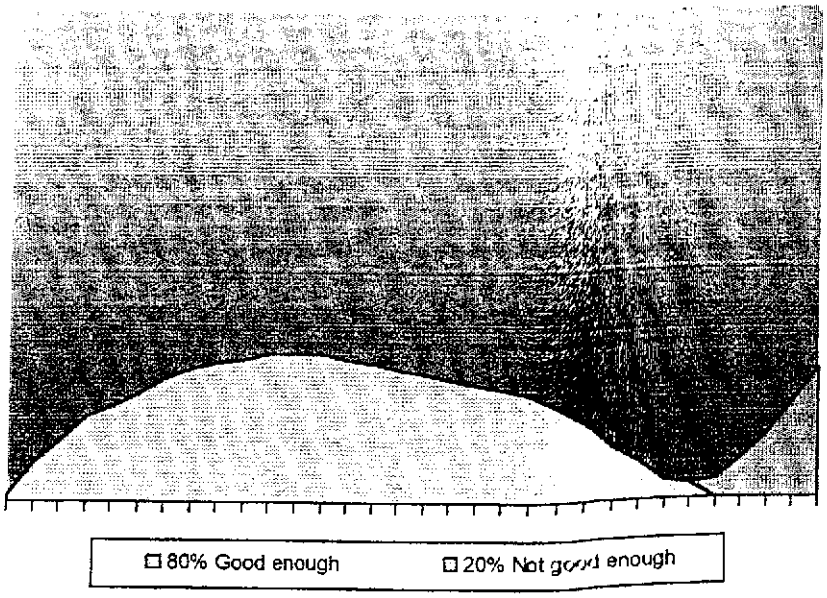
CJ of FCA A. Nicholson has ventured into the political arena with many of his public comments in the press, amongst others accusing fathers as "sinister man". So much so for judicial independence, not to mention fathers receiving a fair hearing in the chambers of the Family Court, as the Marxist views of the CJ A. Nicholson whom appears to be engrossed in social engineering, no doubt influence many decision in the Family Court.

"Respect for the court, nah, its just a farce", can be heard in the community.

Despite the existence and basis for equal shared parenting within current Family Law Act 1995, the judiciary largely ignored the legislation and intent of the parliament[3], instead pursuing the ideological road of Radical Feminist/ Marxist thinking, that has been an obstacle of implementation to many amendments made to the legislature, and [the judiciary] followed largely their own "thinking"[4] of what the law should be in their eyes, rather than what the parliament has decreed.

Rebuttable presumption of Equal Shared Parenting and Residence must be premised on the fact that most parents were good enough to parent before divorce proceedings began. The statistical probability in any population is that 80% fall into this category with the remaining 20% falling, by degrees, into 'marginal' to 'unfit' (see whale or 'poisson' distribution graph below).

The 'Good Enough' Parent Principle



In his second reading speech moving the amendments to the Family Law Act 1975, Mr Peter Duncan said:

> *"The original intention of the late Senator Murphy was that the Family Law Act would create a rebuttable presumption of shared parenting, but over the years the Family Court has chosen to largely ignore that. It is hoped that these reforms will now call for much closer attention to this presumption and that the Family Court will give full and proper effect to the intention of the parliament."*
>
> *Family Law Reform Bill 1994: Consideration of Senate Message, 21 November 1995. database: House Hansard, p3303*

Despite the adverse culture of the Family Court, **BOTH** parents must be recognised in **sharing and contributing to the child upbringing equally**. It must be recognised that children have the right to the love and care of both parents even after separation, also **includes significant others of extended family, most importantly grandparents.** This is in line with the United Nations Convention on the Rights Of the Child (UNCROC) and is also contained within the current Family Law Act (although not practiced). This is also the finding of many scientific studies into post separation child upbringing .

[3] Peter Duncan speech in the parliament to the Family Law Act amendments
[4] Ideology blurs role of judiciary', The Australian - August 21, 2002

Father depravation, and in some cases mother depravation, bearing in mind that up to 92% of non-custodial parents are fathers:

> " .. is a serious form of child abuse that is institutionalised and entrenched within our legal system. Powerful sexist people in Canada have a vested interest in diminishing the role of men, especially their role as fathers. Research proves that children thrive with active and meaningful participation of both biological parents, and is true even for post-divorce families." (Dick Feeman, Joseph Maiello, Mike Jebbet, "Child Custody or Child Abuse", Victoria Times-Colonist, Jan 8 1998)

The above is equally true in Australia and other western world countries, the excerpt was taken from "Statistics, Analyses, Data, And Anecdotal Evidence In Support of Joint Custody Statutes, found in appendices to this submission.

Some opponents to the current inquiry may argue that such arrangement will not work for multitude of reasons. There is however overwhelming evidence at hand that such claims are self-centred and in many cases based on the ideological paradigms discussed above. The problem of the current system is self-evident. If it was all just and equitable for the best interest of the child, there would not be a need for this inquiry.

So does Rebuttable presumption of Equal Shared Parenting and Residence help reduce conflict between parents or is it simply that more cooperative parents are more likely to agree to joint custody arrangements in the first place?

Many studies have demonstrated that Equal Shared Parenting and Residence arrangements lead to a much better financial compliance and greater parental involvement. But opponents of this principle have claimed that these benefits occur only because the more cooperative parents were the ones that chose joint custody. **A study, amongst many others, by Judith Seltzer, University of Wisconsin-Madison, provides strong evidence to refute this claim, attached to this submission in appendices.**

There are other factors that are detrimental in the current context of divorce proceedings. Family Law practitioners are often seen as catalyst in hostilities between parents that culminates in Win-Lose scenario for one of the parents usually Win for the mother and Lose for the father, and Lose/Lose for the child.

Other contributors to the adversarial system are court appointed counsellors, mediators and family psychologists that are driven by the culture of the Family Court ideology as discussed above. In many cases the administrative service delivery is not provided equally by the system in respect of information, support services and attitude. Those that are available, are predominantly based on ideological paradigms, and exclusive rather than inclusive of fathers needs.

This observation is from personal experience and association with many non-custodial parents over the last 6 years, and the large amount of correspondence and data I have in regards to the above factors proves in evidence that it is detrimental to majority of the divorce industry practitioners.

Of all people, one only has to look at recent statement by the Sex Discrimination Commissioner, Pru Goward in regards to shared parenting. Pru Goward's attempts to enter the "shared custody" debate for gender political purposes, are grossly inappropriate for (supposedly) an impartial Sex Discrimination Commissioner.

One of the most used (read overused) tactics in divorce proceedings is one of domestic violence restraining orders, in the majority of cases against fathers, and other forms of alleged abuse. Why is it that these forms of allegations suddenly surface at the time of separation, yet when family is intact no such allegations are made? While the issue could be debatable, overwhelming scientific research and studies, in evidence finds on the contrary to the popular belief that violence and abuse is only done by men. Attached to this submission is annotated bibliography of 122 scholarly investigations, 99 empirical studies and 23 reviews and/or analyses, which demonstrate that woman are as physically aggressive, or more aggressive, than men in their relationships with their spouses or male partners.

Yet the tactics and notion of "male only perpetrators" are used frequently in divorce proceedings by mothers, and in many cases on advice from advocacy by vested interest groups, to effectively deny children meaningful relationship with their fathers at the time when the children needed most support from both parents, to minimise the impact of separation. There is also other scholarly evidence when it comes to child abuse, it happens where there are sole custody arrangements.

In support of the above discussion, following references are attached to this submission:

Economic & Social Research Council, ESRC Press Release, *"Involved Fathers Key For Children"*, University of Oxford.

Bettina Arndt, The Age, July 17 2002, *"Nicholson's Dark Legacy: a court that failed men"*

Janet Albrechtsen, The Australian, August 21 2002, *"Ideology blurs role of judiciary"*

Robert Bauserman, Journal of Family Psychology, 2002, Vol. 16, No 1, 91-102, *"Child Adjustment in Joint-Custody Versus Sole-Custody Arrangements: A Meta–Analytic Review"*

Benefits of Joint Custody, *Statistics, Analyses, Data, And Anecdotal Evidence In Support Of Joint Custody Statutes*, Men's Confraternity (WA) Inc., www.mensconfraternity.org.au

Elizabeth M Ellis, Ph.D., Atlanta, Georgia, *"What have we Learned from 30 Years of Research on Families in Divorce Conflict"*, Dads on the Air, www.dadsontheair.com

Monitor on Psychology, Volume 33, N0. 6 June 2002, *"Joint custody might be best option for children of divorce, study finds"*

Ira Daniel Turkat, Ph.D., *"Child visitation interference in divorce"*, Florida Institute of Psychology and University of Florida College of Medicine, Clinical Psychology Review, Vol14., No 8, pp 737-742, 1994

Martin S. Fiebert, Department of Psychology, California State University, Long Beach, *"References Examining Assaults By Women On Their Spouses Or Male Partners: An Annotated Bibliography"*, May 24 1997

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

The original formula devised when the scheme began was intended to be a temporary measure, and was to be reviewed, yet to date small changes, as in 2000 reform, made little difference, if not making it more unworkable all around.

Below is one of the examples of the dealings with the CSA. There are many cases like the ones below, only the magnitude changes. The relationship of male suicide to CSA, and denial of contact to children must be obvious to politicians.

'CSA victims 'pushed to point of no return'

By John Stapleton

June 28, 2003

JACK, a senior public servant, slashed his wrists after receiving 36 letters from the Child Support Agency in one day. "Their system is so maladministered they can't mail letters regularly," he says.

"I am being pushed against the wall emotionally, financially and in every other way. The best analysis: you get stuck in a dark tunnel, you keep walking down the tunnel, there is no light at the end, so why keep walking?"

The male suicide rate in a single year is now four times that of the total number killed in the Vietnam conflict. Fathers groups around the country claim at least three clients of the CSA commit suicide every day. Jack was almost one of them.

The best-known CSA suicide victim was Canberra man Warren Gilbert. The 28-year-old with three young children was found dead in a car clutching a letter from the CSA. **He was losing more than 80 per cent of his gross pay in tax and child support**.

The coroner indicated there was a clear link between the CSA and the man's death.

The Australian

So much for fairness. I urge the honourable members of the committee to read attached copies titled:

"Suicide victim hounded over child support"

and in particular independent report:

"Child support scheme –National financial disaster"

"Report on alleged CSA breaches

These reports and published stories highlight the misadministration, unaccountability, bad management and financial disaster to the tax payer in general, misery and loss of many fathers lives, that is nothing short of criminal.

I confirm from my personal experience, I myself had been "client" of the CSA scheme and I was astonished, after applying under the Freedom Of Information Act for CSA to release my case file, that the other party had supplied them (false) information regarding my "wealth". The reality was I was "dead broke", and renegade CSA took it upon themselves to treat this information as accurate (without testing or proving the

facts of her allegation and clarifying it with me). I was than treated by CSA as if the false allegation were proven and totally factual, making further demands for more money. This is extortion!. Not to mention abuse of administrative powers outside of the legislation.

All I ever wanted to do is to look after my **children's basic needs**, no different when the family was intact, and **shared equally between the parents**.

What's wrong with each parent being responsible for their share of 'the basic costs' of maintaining their children?

It is not a case of simply correlating the formula to fairness in relation to contact and care of children. It must relate to the Rebuttable presumption of Equal Shared Parenting and Residence, where both parents should jointly share the basic cost of child maintenance. This should be levied at a flat rate, on NET income, and not the current GROSS income system.

The British Child Support System has recently been changed so that the child support amount is calculated based on the after-tax income of the non-resident parent.

The results of some research into the cost of children is presented below.

Source	Cost (pw)
Lee	$225
Percival and Harding	$167
Budget Standards (BSU) Approach	**$136**

Costs of Children - various sources.

To date, the Family Court has preferred the Lee method for establishing the cost of children. There have however been some recent decisions where the more comprehensive BSU approach has been used in applications for departure from the Child Support formula, and the figures produced using this approach have been accepted by the court.

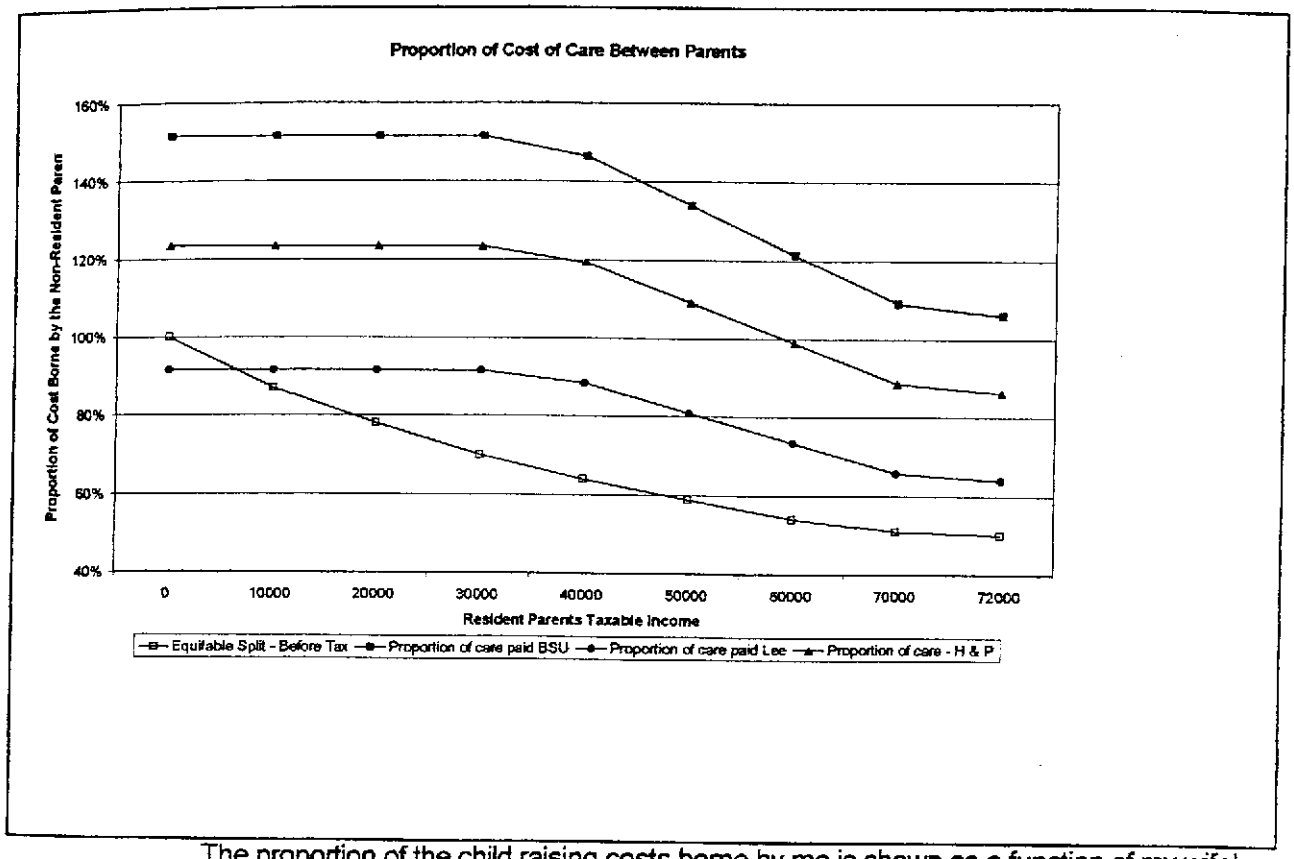
However it must be reflected that many intact families cannot afford to or do not use the above amounts per-se, due to circumstances, priorities and level of financial income. It must also be remembered that the cost of running two households after separation be inclusive to any new formula or sliding scale of financial support.

In any case, if we (intact family) didn't have money for anything above our basic needs, we went without. We couldn't just go to an employer for extra money, because we wanted something better. How absurd it would be if THE STATE dictated to the employer to pay their employees more money just because they want to send their children to private school or take that holiday that we thought we deserved! There would be a revolt. And that's how absurd the child support scheme is. Non-custodial parent is like that though – "taxed to the max" in majority of the cases.

"The scheme has failed on all counts to fulfil its primary objectives as specified by the government in 1986. It was supposed to ensure that work incentives were 'not impaired'

and 'adequate support' would be available for children not living with both parents. Those parents would share the costs according to their "capacity to pay', not according to the oft used CSA determination of 'capacity to earn'. The not so subtle changes away from parliament's original intentions have resulted in fathers being forced to pay on the basis of income levels they are just not earning" Men's Rights Agency co-founder Sue Price said.

The following example devised by P. Johnston (on the Internet) adequately illustrates disparity of the present formula



The proportion of the child raising costs borne by me is shown as a function of my wife's income in above figure. The figure also shows the proportion of costs that *should* be borne by me, if there was true equality in the levels of support having regard to each parent's income.

Regardless of the method used to determine the cost of raising a child, it is clear that at I pay more than I should, having regard to each parents income. This disparity is most apparent just below the resident parents disregarded income amount, $36213. At this income, even using the Lee estimate for the cost of a child, I am paying 92% of the total cost of care, however if the level of support was weighted according to each parent's income, I should only be paying about 70%

At most, I should only ever have to pay 100% the cost of raising a child, and that should occur only my wife is not earning anything, and has no capacity to earn anything. If I pay more than 100% the cost of raising a child, then I am in fact paying spousal maintenance. However, spousal maintenance is covered under the Family Law Act, and should not be collected using the authority of the Child Support Act.

The proportion of the child raising costs borne by me is shown as a function of my wife's income in above figure. The figure also shows the proportion of costs that should be borne

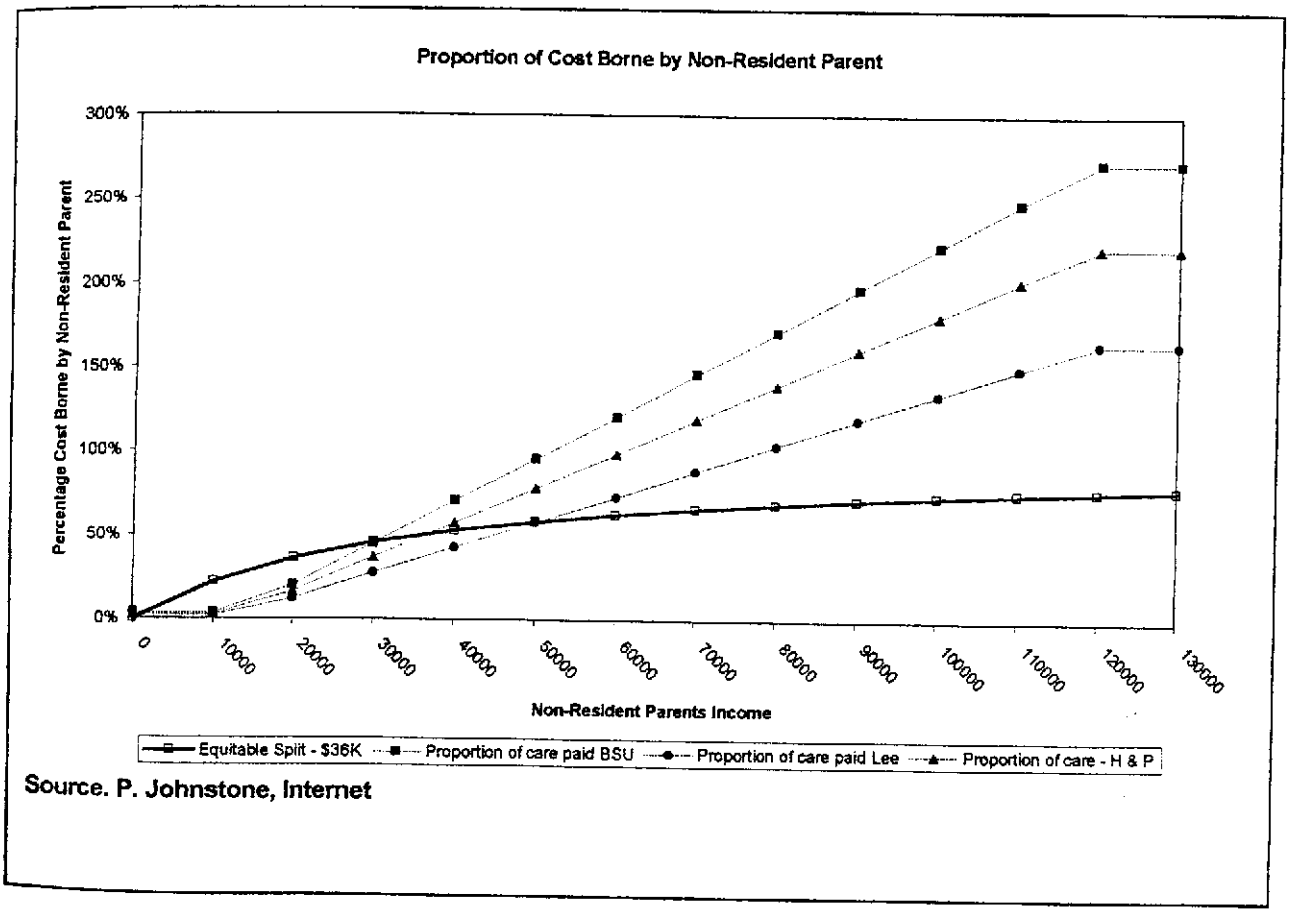
by me, if there was true equality in the levels of support having regard to each parent's income.

Figure below shows the effect that the income of the non-resident parent has on the proportion of costs borne by them in raising a child. In this figure, it is assumed that the resident parent is earning $36000.

From this Figure, it can be seen that if the non-resident parent is earning below $30000 pa, then the cost of raising a child is unfairly distributed in respect of the resident parent.

However once the income of the non-resident exceeds $50000 pa the cost of raising the child is unfairly distributed in respect of the non-resident parent.

It is also clear from this Figure that once the non-residents income exceeds $80000 pa, they are paying 100% the cost of raising the child, and this inequity increases with increasing income.



Source. P. Johnstone, Internet

Many employers (predominantly small business) I have been in contact with cite in private that they are reluctant to employ those where wages will be garnished, as it will add extra administration costs and generally those employees are in such a state of despair that productivity and ability to function in a workplace are severely diminished by the unfair scheme.

The resident parent receiving child support from a non-resident parent also has a disincentive to increase their earning capacity. Child support paid to the resident parent is tax-free, and is far more attractive than the equivalent money earned in taxed employment.

Finally, the cost to the Commonwealth (taxpayer) was to be limited to the minimum necessary to ensure the needs of the children are met. Obviously the scheme has become a monster that eventually will eat itself out of existence, but at what cost? One has to question wether the social cost, the monetary cost to the taxpayer and the political cost is worth the existence of Child Support Agency?. Please refer to the independent report by PIR Research attached to this submission.

Oh I almost forgot, the gender feminism ideology entrenched within the scheme, and in particular at the local service delivery level. But I already said enough about it in above discussion. I'm sure the honourable members of the committee will get the picture.