



HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

Reference: Aspects of family services

CANBERRA

Thursday, 31 October 1996

OFFICIAL HANSARD REPORT

CANBERRA

HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

Members:

	Mr Andrews (Chair)	
Mr Andrew		Mr Mutch
Mr Barresi		Mr Randall
Mrs Elizabeth Grace		Mr Sinclair
Mr Hatton		Dr Southcott
Mr Kerr		Mr Tony Smith
Mr McClelland		Mr Kelvin Thomson
Mr Melham		

Matters referred to the committee:

To inquire and report on:

the range of community views on the factors contributing to marriage and relationship breakdown;

those categories of individuals most likely to benefit from programs aimed at preventing marriage and relationship breakdown;

the most effective strategies to address the needs of identified target groups; and

the role of governments in the provisions of these services.

WITNESSES

BROWNE, Dr Margaret, First Assistant Secretary, Legal Aid & Family Services, Attorney-General's Department, George Knowles Building, National Circuit, Barton, Australian Capital Territory	2
CLARE, Ms Coleen, Director, Coordination & Development, Family Services Branch, Legal Aid & Family Services, Attorney-General's Department, George Knowles Building, Barton, Australian Capital Territory	2
HAMBLING, Ms Helen Katrina, Assistant Secretary, Family Services Branch, Attorney-General's Department, George Knowles Building, Canberra, Australian Capital Territory	2

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Present

Mr Andrews (Chairman)

Mr Andrew

Mr Mutch

Mr Barresi

Mr Randall

Mrs Grace

Mr Tony Smith

The committee met at 10.27 a.m.

Mr Andrews took the chair.

BROWNE, Dr Margaret, First Assistant Secretary, Legal Aid & Family Services, Attorney-General's Department, George Knowles Building, National Circuit, Barton, Australian Capital Territory

CLARE, Ms Coleen, Director, Coordination & Development, Family Services Branch, Legal Aid & Family Services, Attorney-General's Department, George Knowles Building, Barton, Australian Capital Territory

HAMBLING, Ms Helen Katrina, Assistant Secretary, Family Services Branch, Attorney-General's Department, George Knowles Building, Canberra, Australian Capital Territory

CHAIR—I declare open this public hearing of the committee's inquiry in aspects of family services. I welcome the witnesses and others who are here today. This is the first public hearing for this inquiry. We have received over 100 submissions to date and they are still flowing in.

The principal focus of the inquiry is to identify strategic directions for relationships support including effective preventative strategies that can foster positive healthy family relationships. This focus casts a spotlight on issues and activities, such as education, counselling, mediation, et cetera. I am pleased to be able to commence the committee's program of public hearings by having officials from the Attorney-General's department here today. Margaret, Coleen and Helen, we welcome you. I suspect that this will not be the only occasion that we will want to talk to you, but it did seem important at the outset that we had the opportunity of having a brief discussion with the Attorney-General just to clarify some aspects of where different inquiries and investigations at the moment are heading so to avoid duplication. It is important for us to be able to have you here at the outset because of the integral role that the department has so far as this is concerned.

As I understand it, the department's submission is still being constructed. We look forward to that when it does come. It may well be that there are some issues that we can discuss this morning which could be of assistance to you in things that members of the committee would like to see addressed in the submission. Is there any opening statement that you would like to make at this stage?

Dr Browne—Subject to your views I thought that given that the submission is not with you yet, it might be useful if I spoke for 10 to 15 minutes about some of the things that we are addressing in it. But I am very happy to be diverted by questions if that is what you would prefer to do.

CHAIR—That is fine. Please proceed.

Dr Browne—First of all, thank you for the opportunity to come and talk to you. I do apologise that the submission is not with you, but we are experiencing a fairly heavy workload at the moment on the family services and the legal aid side and we wanted to do a thorough job of that submission.

I would like to take the opportunity to outline the approach that the department is taking in developing and administering the family services program because I think that this might provide a useful background for you in your examination of the terms of the reference. The aim of the family services program, as you are probably aware, is to assist families achieve and maintain appropriate functional relationships through

providing reasonable access to quality marriage celebrant and family relationship services including, where appropriate, alternative means of family dispute resolution.

This aim is achieved through contracting community based organisations to provide services under the following subprograms: marriage and relationship counselling; marriage and relationship education; family mediation; adolescent mediation and family therapy; family skills training; changeover and visiting services; and the marriage celebrants' program. These subprograms provide a diverse range of services. The department, through the program, administers a budget of \$33 million and contracts 73 not for profit community organisations to provide services in an estimated 339 venues. These organisations comprise a mix of small single service venues through to larger organisations which offer services across multiple programs. In some of those organisations they are actually programs that are not administered by our department. This means that very few organisations are alike.

The program also funds three national organisations, Centacare Australia Limited, Family Services Australia Limited and Relationships Australia Incorporated, to provide a national voice for their members, who are all service delivery agencies in the program, and to be actively involved in ongoing consultation with the Legal Aid and Family Services Division, or LAFS as we are affectionately known. Those peak bodies, as we call them, provide us with advice on significant policy and procedural issues. All the organisations that are funded through the family services program are required to join one of those peak bodies, because we see them as a major channel of communication between the department and the organisations.

There is also, as you would be aware, a Family Services Council, which was established in 1994 to advise the Attorney-General on policy and practice for the program. The council is like the peak bodies: a source of information and advice to us, which we find invaluable in relation to a range of issues which arise under the program.

We provided you, at an earlier stage, with a brief history of the program, so you will be aware that it has evolved as a result of a range of different decisions made in response to particular needs of Australian families and particular issues that were facing governments at particular times. I do not propose to take you through that detail again, unless you wish me to, but I would like to emphasise the significance of the fact that the program does have diverse origins. Various elements of the program arose in different ways and it is important to recognise the challenge that faces us in continuing to shape that program to meet the changing needs of Australian families.

The terms of reference for the inquiry provide an opportunity to look again at the groups in the community who would benefit from relationship services, to reassess the most appropriate strategies to address their needs, and to ensure that the program provides an integrated and holistic approach.

The department's submission will provide you with information on how the family services program seeks to address the issues involved in the terms of reference. Again, I do not propose to cover that material in detail, but I would like to take the opportunity to highlight some of the salient points in that submission.

Firstly, in relation to the first term of reference, the range of community views on the factors contributing to marriage and relationship breakdown, the research that we have available to us suggests that

the causes of marriage and relationship breakdown are complex. An analysis of recent ABS data, research from the Australian Institute of Family Studies, and pertinent overseas research, which is being looked at by the family services council, indicates a number of things that are worth running through briefly.

Firstly, relationships today are more diverse than they were in former times and certainly than they were when some of the programs were established. There is a range of factors that contribute to relationship difficulties and these factors are complex and diverse. Relationships must, of course, function within a social, political, economic and cultural environment, which impact on those relationships. If services are to be responsive to the needs of the community, they must take the diversity of relationships into account and address the needs of married couples with children as well as those of single parents, defacto couples, blended families, two income families, same sex couples and older couples, to name just some of them.

Relationships, of course, are not static. They are constantly evolving and go through many periods of transition. They have different needs at different stages. Given the many and varied stages of relationship life cycles, and the issues that will arise in any relationship, services must be both diverse and accessible to a range of groups in the community.

In our view, more research is needed on the characteristics of functional relationships because that gives us some indication of the sorts of skills which should be fostered, and also on the reasons for relationship difficulties, separations and divorces.

We do undertake some research, usually on a contractual basis, in the department and there are a number of things that we have undertaken in recent years that are referred to in the submission. I might just mention one at this point, because it is pertinent to the point I am making, and that is some research that was commissioned jointly by the Office of Multicultural Affairs in the Prime Minister's department and by Attorney-General's. This research aimed to identify access and equity barriers for people of non-English speaking backgrounds in relation to marriage and relationship counselling services, and to examine the cultural appropriateness of those services.

We found the research quite useful, in that it identified a number of factors on the basis of interviewing people and having focus groups and a range of strategies like that, to try and identify the factors that affect people from a diverse range of backgrounds. The sort of factors that emerged were the adjustment of the family unit post-migration; changes in the rights and independence of women; overly optimistic expectations of life of Australia prior to migration; cross-cultural conflict; intergenerational conflict; infidelity; and domestic violence. While some of those factors are obviously particularly pertinent for people who were not born in Australia, some of them have more general application. In response to that research, community development officers were placed in six established marriage and relationship counselling organisations in the 1995-1996 financial year.

CHAIR—I am sorry, but a division has been called in the House. Unfortunately, we will have to suspend matters at this stage. We will resume within a couple of minutes of the division or divisions being concluded.

Short adjournment

CHAIR—I reopen the public hearing. I have a feeling that this is going to be a disrupted morning, so we will proceed so that at least you can get the rest of your opening remarks on the record, Margaret. That might be useful.

Dr Browne—Thank you. Just before we broke, I was talking about the research that had been undertaken on behalf of the department and the Office of Multicultural Affairs, in relation to factors that might prevent access to marriage counselling services. I also thought it would be useful to mention that an evaluation of the marriage and relationship education program has recently been commissioned. This, I believe, will assist us in identifying community views on the factors contributing to relationship breakdown. The evaluation will include qualitative research on those characteristics that contribute to high quality relationships, as well as those characteristics that are likely to influence marriage and relationship breakdown. An essential element of this part of the research component will be the definition of appropriate and functional relationships, and identification of factors characterising relationships at risk of breakdown.

In relation to the second term of reference, that which requests the committee to examine categories of individuals most likely to benefit from programs aimed at preventing marriage and relationship breakdown, ABS data that we have available to us indicates that the median age for divorce falls within the 25 to 34 age cohort and this, of course, is a priority target group for the family services program. However, all age groups benefit from programs aimed at preventing marriage and relationship breakdown, as relationships are continually evolving and changing. Family and relationship support services are therefore targeted at couples around the life cycle transition stages—namely, those single young adults considering moving home; the joining of families through marriage, or the new couples; families with young children; families with adolescents; and families which are launching children and moving on.

Additional factors which place further stress on relationships include divorce, remarriage and step-parenting. Unanticipated factors may also place further stress on relationships, and I am thinking of factors such as unemployment, illness, untimely death, or birth of a handicapped child. Disadvantaged persons, such as those on low income, those who are socially isolated, or those in rural and remote communities, may face added stress around life cycle transition stages. The family services program targets families in all their diversity, and seeks to provide support for the different needs which arise at different stages of the relationship cycle, through a holistic, integrated approach to family services provision.

Service providers inform us that there is an increased community awareness that successful relationships require maintenance, and do not happen by chance but through commitment to learning and skill development. They tell us that programs are required that encourage couples to seek help from services early in their relationship and not only at the point of breakdown. They also note that couples with complex problems will continue to need access to counselling services, while separating couples will continue to benefit from access to high quality mediation services.

An important avenue in the provision of preventative services, therefore, is education programs for enhancing relationships. Many services now provide a full range of marriage and relationship education programs across a continuum of pre-marriage classes and counselling, classes at the birth of a first child, and classes to assist with step parenting, death, grief and loss, separation and re-partnering.

Some organisations work closely with allied health and welfare service providers to offer holistic programs for families. Programs promote healthy relationships and stable marriages, thus reducing the possibility of marriage breakdown and the stress associated with separation and divorce.

The family services program seeks to provide services that increase the levels of relationship skills within the general community and therefore decrease the need for therapeutic services, which are resource intensive relative to preventative intervention.

In relation to the third term of reference, the most effective strategies to address the needs of identified target groups, LAFS uses a range of methods to ensure that subprograms are effectively targeted and to assist service delivery organisations to provide appropriate high quality service delivery. Needs based planning, collection of statistical and financial data, research, special projects and evaluations each provide mechanisms to gather specific qualitative and quantitative data to assist in assessing the gaps and limits in service delivery and ways to improve the service to better meet the needs of identified target groups.

Work undertaken by the Family Services Council suggests a number of factors that I think are of importance and should be of importance to the committee's inquiries. The council suggests that programs aimed at assisting both the formation and maintenance stages of the relationship life cycle should be supported. Prevention and early intervention greatly assist couples when difficulties arise; education, counselling, therapy and mediation—which are quite different intervention strategies—all have a role to play in assisting couples through relationship difficulties; and a holistic integrated approach to service delivery would assist organisations to better meet the demands and needs of clients.

Evaluations of family service subprograms to date have indicated that they are appropriate, efficient and effective in addressing the needs of their respective target groups at formative and maintenance stages of relationships. I will not go into details here about the findings of those evaluations, except to refer you to the submission which will be becoming available. The submission talks about the evaluation of marriage counselling which was undertaken in 1989; it talks also about two evaluations of the family mediation subprogram; it mentions an evaluation of adolescent mediation and family therapy which was undertaken by the Australian Institute of Family Studies; and it refers also to the Morris report in May 1995 of an inquiry into youth homelessness, undertaken by the House of Representatives Standing Committee on Community Affairs. That report makes quite a lot of supportive comments about the adolescent mediation and family therapy subprogram.

The family skills program has also been evaluated and, as I have already mentioned, marriage and relationship education is shortly to be evaluated. I should mention also that there has been a more recent evaluation of the marriage counselling program and that report will be made available to the committee.

Finally, the fourth term of reference refers to the role of governments in the provision of these services. As I have already indicated, the role of the Commonwealth, through the department, is that it contracts community organisations to undertake a service delivery role. We see our role as working to ensure that the family services program has national consistency, quality control, continuity of policy and service delivery nationwide, a coordinated approach to developing and implementing access and equity initiatives, a coordinated approach to addressing the needs of children, particularly with recent changes to the Family Law

Act, and effective coordination with other Commonwealth department services.

The program is subject to constant review and development, and we look forward very much to benefiting from the committee's deliberations on key issues. Thank you very much.

CHAIR—Thank you, Margaret. Are there any questions or comments that any member would like to make at this stage?

Mrs ELIZABETH GRACE—You were talking earlier, just as we came back, about counselling within ethnic groups and things like that. Has any research been done into counselling with Aboriginals?

Dr Browne—Not that I am aware of. Are you aware of anything, Coleen?

Ms Clare—What we have undertaken is an analysis of the access that families gain to our services. We have started to talk with the peak organisations and the Family Services Council about what sorts of services might be appropriate and what models would be necessary.

Mrs ELIZABETH GRACE—I see that as an area that we should be looking at in the terms of reference, particularly, so it would be interesting to know what the historic background on that is. Not only with Aboriginals but with all ethnic groups you have got the cultural problem as well as the breakdown problem.

Dr Browne—That is absolutely right. In terms of the ethnic groups, we will be learning a lot not only from the original research but from the community development officers that have been placed in those six programs. They will be able to inform the program about better ways of reaching those particular groups. Certainly, I think there is room for a lot more research in relation to the needs of Aboriginal people and the cultural mores that are relevant to those groups.

Mrs ELIZABETH GRACE—Would it be possible to request that any information you have in that area be circulated for us to have a look at, please?

Ms Clare—Yes. We have only preliminary information under the projects that Dr Browne just referred to. Several of those projects have undertaken to make links with indigenous families and are endeavouring to see how models of service delivery would need to be made more flexible. Those projects have a 3½-year period to run and, in that time, we will be gathering their research findings and using that to inform the program. At the moment, we can give you information on what access is presently gained and how those projects—

Mrs ELIZABETH GRACE—It could be useful as a reminder for us to look at or to keep pursuing in that particular area.

Mr BARRESI—This is a minor question that you may not have the research for. To follow on from the previous question, there are quite a few ethnic groups to be considered. The one that comes to mind is that in the Jewish community, for example, you have to go through a Jewish divorce as well as a civil

divorce. That involves going down their path of mediation as well. Are there any figures—I do not think there are—to show the effectiveness of the cultural models versus, perhaps, the standard models that we have in the Family Court?

Ms Clare—I cannot give you specific figures on the Jewish community but again it—

Mr BARRESI—I did not think you could. I was using it only as an example. I am sure the Islamic community probably has a similar sort of thing.

Ms Clare—Several of our mediation funded projects are actually concentrating on looking at whether models of service need to be adapted for ethnic populations, particularly in Noble Park in Melbourne and Centacare in Sydney. They will also work closely with the community development officers to see if we can adapt models so that they will meet the needs of clients from ethnic groups.

Dr Browne—There is an ongoing debate, I think, about whether it is better to fund generic service providers or ethno-specific service providers. I think that is something that will be constantly with us. The advantage of using generic service providers is that they develop the general skills, and then the challenge is to sensitise them to the particular needs of ethnic communities. It is very resource intensive to have a whole range of ethno-specific services.

Mr BARRESI—The reason why I ask—I am just making an assumption here—is to find out whether, because there is a two-step barrier if you are Jewish or from one of those other strong religious communities, perhaps mediation does work because it is such a long process to go through. It is an assumption I am making; it may not stand up in terms of statistics. Perhaps the divorce rate amongst the Jewish community is as high as it is in any other community, so I am probably arguing against my own assumption there.

Ms Clare—One of our projects in Western Australia has, in fact, trained nearly a dozen different bilingual workers whom they now have on contract for families as they present. It is early days, because this program is only beginning, but what they are seeing is that an education or a group process is often a better entry for families from ethnic communities. Then, as they come to trust the service and see that it is willing to be flexible, they will go through things like a mediation process. It is the access and the approach that is the most difficult.

Mr BARRESI—The question was asked by Elizabeth Grace of the Attorney-General this morning, that just the mere presence of the Family Court, as an institution, has a very powerful presence about it and a high level of authority attached to it, as well; and that there is a greater likelihood that mediation will take place if you actually go to the courts rather than, say, to Centacare or one of the others. The minister's reply did not quite convince me that one or the other is more appropriate. Do you have any figures to support that the court itself has a greater success rate than the three other bodies do?

Dr Browne—I believe not. I think the research we have done suggests that community organisations are equally effective, and that services in both streams achieve resolution of about 75 per cent of cases. Ms Clare may wish to elaborate on that.

Ms Clare—We have undertaken research, initially in Melbourne, where we were able to compare two community organisations with an evaluation undertaken by the court, and the court participated in that process. Again, more recently, in Sydney research, the court was a full participant. What was of interest was that the findings were almost identical across community based agencies and court agencies, with a very high level of satisfaction of around the order of 75 per cent, and with parties willing to recommend the service to their friends and relatives. So, there was no difference.

Mr RANDALL—With respect, I do not think you are comparing apples with apples. You are talking about a situation where people voluntarily attend and are looking for a resolution. What Mr Barresi is alluding to, I believe, is a situation where probably a partner, or whatever, is reluctant to be involved, and the legitimacy of the court is something that can be used to bring them together again. I would say the figures may be skewed, because the hardened cases are the ones that eventually end up under the umbrella of the court. Trying to compare them with community based arrangements, I think, is not comparing apples with apples.

Dr Browne—There are a couple of points to be made there. It would be acknowledged, and research would support the statement, that the community services generally deal with clients at an earlier stage in their matters; but, that said, mediation is a voluntary process and, in both the community organisations and the court, people are entering into that process because they want to and they believe it might be useful. They own, therefore, the process and the outcomes. It is quite different from compulsory counselling in that sense, or from a compulsory conciliation conference or a compulsory conference in a legal aid commission. So, I would not quite share your view that it is comparing apples and pears. I think the processes are very similar.

Mr RANDALL—Can I follow on from that? I have said this a few times before this committee, and they are probably getting bored with it. The ability of the court, as it is operating, to order or suggest that people actually leave the court and go and receive counselling within the same building seems to be highly successful. I also do not agree with what the Attorney said this morning regarding relocating those services outside the court. I also referred to the fact that Judge McCall, the head of the Western Australian Family Court, is the person who lobbied me on this. I was able to observe while I was there that a magistrate in a case had asked that they suspend the proceedings and involve themselves in some counselling. To me, it seemed a highly effective thing, rather than stop proceedings, set a date, send them down to a completely different suburb, try to get a result, and come back again. The dislocation that that encompasses, I think, is far less successful than the way it operates at the moment.

Dr Browne—I think there are a number of issues there. There are issues around who manages the service, but there are also issues around where the service is located. As I understand what has been put on the table, the proposal is that all these things and a range of options can be looked at. The sort of options that would be considered would be services that are actually located physically very close to the court, or even maybe in the same building, but they are not necessarily managed and run by the court. So I think there are a range of ways of looking at this. Certainly, the point of geographical proximity is one that needs to be taken into account. I think it can be addressed in a number of ways, though.

CHAIR—Can I pick up on that, in a sense, because I think there is a danger that we could end up pursuing a tangent. Can I put this in the context of your submission and perhaps invite you to, if you have

not already in your draft, consider it in the submission.

It seems to me that—and this terminology may not be the most accurate terminology but I use it because I cannot think of anything better at the moment—in the way in which the services, particularly around counselling and mediation, are provided, there is a division. That division is between that which is aimed at providing counselling and mediation where the end product or the likely outcome is separation and divorce—and they are the services that are being provided largely by the Family Court itself to date—and there is another range of counselling, and perhaps less mediation but some mediation, of which the possible outcome is the continuation of the relationship rather than separation and divorce. Those services are the ones which have largely been provided by the community agencies to date.

Historically and technically, that division does not have to be the case because, as I recall the provisions of the Family Law Act, it talks about supporting relationships—section 41 or 40, something like that—but the reality is that has never happened and, therefore, in practice you have tended to have this division.

If we are now talking about a situation where there is some possibility, at least in terms of discussion from the Attorney's point of view, that some of those mediation and counselling services currently provided through the Family Court itself might be provided through community organisations, then I would like to see some discussion of whether those differences that seem to have grown up in practice need to continue to exist. If the reality is that they do, because you are dealing with perhaps two slightly different animals, then how do you maintain those differences?

I think there is some confusion, naturally enough, coming into discussion about this. I see it in terms of the reaction of some of the community agencies to what the Attorney has said. Is that enough to highlight the issue, which I think we have been, in a sense, talking around, anyway? I think it would be very useful for the committee—it does not have to be conclusively—to start thinking through those sorts of issues.

I suspect the community agencies will be coming along. I have heard a representative of one community agency on radio already, saying that this is not the role of the community agencies. But given that it is on the agenda, I think we need to start looking at what it is. Is there, for example, a distinction between—to put it in very broad terms—relationships which you might, for want of a better description, describe as dysfunctional versus functional, or some other terminology. I think that would be useful in terms of some thought about that which the committee could then talk about. Otherwise, I think we could end up talking about something without seeing it in its total context.

Dr Browne—We can certainly take that on notice. As I understand it, you are asking how much there is in reality a distinction and to the extent that there is, whether that has to be maintained or whether there can be more flexibility around that.

CHAIR—Yes. Or is it a practical distinction, that no matter how much you might play around with terminology, it is still going to exist? If it is still going to exist as a matter of reality, then common sense suggests that you ought to at least recognise it and maintain it. I think we need to talk through some of those things.

Ms Hambling—My understanding is that the discussion paper that the department is preparing on this proposal, which is likely to be available early next year, will cover those issues. Perhaps what would be good would be if we could provide you with whatever information we can about the difference and the nature of the services provided in the court and in the community organisations. To take it much further at that stage, for the department, might pre-empt some of the consultative process that is about to occur, but we could dig out whatever we can about the data on the nature of the services, if that would be acceptable.

CHAIR—Yes. I think we have to address that. Even if we are not going down the track, except in a peripheral way, of dealing with what in effect was the thrust of the Attorney's announcement at the Press Club, it still has an impact upon what we are doing, because there is an overlap. Unless we are clear about where we think the community services should be going and any distinctions that need to be drawn, the end result is going to be a mess, it seems to me. That is a starting point.

Dr Browne—We are happy to seek out whatever information we have available that might inform your consideration of your terms of reference.

CHAIR—I raise a couple of other things which you might be able to address in the submission, if you have not intended to already. You mentioned the research into the believed causes of marriage and relationship breakdown. As you know, the first term of reference refers to the range of community views on the factors which, in a sense, partly suggests anecdotal evidence about what people think. My view is that is not to be dismissed, because often what people say as a matter of common sense does reflect what the factors are. But I think it would be very useful if the committee were able to, in some way, collate that research, possibly with a view to having a chapter of the report actually bringing together the research that has been done about what the factors are.

My inclination is to tend to agree with you that that must end up being partly inconclusive because of the nature of what we are dealing with, but I think it would be very useful if we are able to actually collate in some way some of that research. So if it were possible in your submission, or as an exhibit to your submission, to provide us with even a list of references that you are aware of regarding some of the research that has been done, that would be useful. I am going to ask the Institute of Family Studies the same question.

Ms Clare—Yes. I was just going to say that I was aware that the Institute of Family Studies has provided a submission which is more research based. The Family Services Council, in their advisory role to the Attorney-General, has also prepared a submission that has looked at the research and analysed that as much as the time frame allows, and it is about to present that, I think, this very day. So the actual analysis of research is not a role that we had specifically undertaken because we were aware that was part of the council's undertaking.

CHAIR—That is fine. As long as it comes to the committee. I do not mind so much who it comes from but I think it is useful that we have, in addition to anecdotal evidence, some of the academic considerations of what the causes are as well.

On another matter, you spoke about the targeting of funding in the Justice Statement and, in the round of funding which you are considering at the present time, there are geographic areas in that. I think it would

be useful to have some background on how that has been arrived at—the process, the mechanism of identifying, which I think is largely geographic at this stage. But there was also the point that I think Elizabeth or Phillip raised about the non-English speaking and the Aboriginal groups and whether there was some process for that. I have probably got this myself but it would be useful for the committee to have a list of the actual organisations that are funded under the different programs, if you could provide that as an annexure or an exhibit.

Dr Browne—Certainly.

CHAIR—I think you made reference to the evaluations of the various subprograms that have been carried out. I understood that what you were saying was that you would provide us with those anyway, which will be useful background.

Dr Browne—Yes, we will.

CHAIR—They were the things that I thought would be useful for the committee to have, if your submission was not dealing with them.

Dr Browne—Yes, I think we can provide all of that.

Ms Clare—I guess we can have help with the research.

Ms Hambling—Perhaps on that one, if we have a look at the submissions you have got from those organisations, and then we will augment it as appropriate.

CHAIR—Yes; that is fine. I know Tony has a question. I was going to say this in the end but I envisage that it is useful to have your preliminary overview and also to have the attorney clarify some of the areas, and what we can look at discretely at this stage. But once we have then heard from some of the community organisations and the Institute of Family Studies and others, we would like to be able to invite you back and then look at some more issues in more detail. So that would be quite useful.

Dr Browne—We would be very happy to do that.

Mr TONY SMITH—I have a number of questions. Having regard to what you said, Mr Chair, I just wanted to take up what Don had said and add to it just to this extent. I think the fact that people are in the building and are sent to counselling means that they go to counselling at that time. But if it is suspended and it is adjourned, the inevitable happens. That was just my comment. I tend to agree with what Don said in relation to that.

Getting back to some of your functions, I was particularly interested in whether you have any pathways in terms of giving advice and/or suggestions to counselling groups who are getting funding from you in relation to particular types of counselling? For example, do any recommendations come from your department as to the type of pre-marriage counselling or, indeed, directions in relation to parties who might be intending to separate. By way of background, might I just say on that latter point, that it is very important

to get to people at that time because, if they can be counselled at that time, I suspect that a lot of marriages that fall down by the wayside would not fall down by the wayside. It may help if that point in time can be identified, or if there can be put in some provision—it may need to come in the form of an amendment to the Family Law Act, I do not know—that can trigger a counselling situation before the thing goes too far.

As the first approach, for example, frequently women—and men, for that matter—I suspect, approach solicitors in a feeling-out type of way. At that point in time, it seems to me, the act prescribes certain duties of practitioners. From my own experience of this, and as you are presumably aware from section 14(i) and 16A(i) of the act, section 14(i) imposes a particular duty on a legal practitioner to give consideration to the possibility of reconciliation where proceedings have been instituted. Again, in 16A, the Family Court exercises jurisdiction.

To me, sure, it is good to pay regard to the need to direct the attention of parties to proceedings to certain counselling facilities. But ought there not be a more interventionist approach to try and stop the rot before it has gone too far? People could be acquainted with the consequences, even in quite explicit terms of what it can amount to—the enormous costs in the case of the child support system, for example, that that imposes on some people. Those are quite disproportionate to what they are paying in a family situation for the support of children. There are those sorts of things.

I know this is a bit of a mishmash of a question, but you would see where I am going. If we get to these situations early, then the chances are that we are going to save some. There are others we will not save. In this context, I might add, my view is that, although I took that particular provision very seriously in my own legal practice, mostly the practitioners ignore it or forget about it. There is a statutory duty to try and get people together if that is possible. Lawyers, of course, frequently have a view of their self-interest in promoting the alternate course. I am sorry to be so verbose but I really feel that is an area that involves pathways. Then, in terms of pathways, getting people into that court is to me a great counselling means, getting intending couples to go down to a call-over day and see what happens. They could sit in the call-over court and see the misery that occurs. Likewise, if you can get to the people who are thinking about it, you can get them down to that court and see what happens.

Dr Browne—I will make a couple of comments and my colleagues may like to add some thoughts. It is a very difficult question, as you yourself recognise. Fundamentally, it is probably one of community education, which can be carried out at a couple of levels at least. Firstly, it is a role that I think the department, the government, can play, in resourcing community education campaigns at various levels to make people more aware of the different services available in the community and of the difference between them. I think a lot of people do not understand the difference between marriage education, say, and marriage counselling, the difference between marriage counselling and mediation, and the difference between mediation and meditation!

In some research that we undertook—last year, from memory—some polling of awareness in the community suggested that the awareness level in relation to marriage counselling was high, about 96 per cent, which was a very positive result. In relation to family mediation it was something like 17 per cent. That represents a real challenge to us in terms of how we can make that service better understood and better known. There is a confusion between mediation and meditation. A lot of people do not really understand

what the service is about.

So there is a role there at a macro level to have a strategic approach to community awareness, although you might conduct it at various levels. You might have a broad saturation campaign, or you might do it at a local level through local radio and other sorts of techniques such as that.

Secondly, it is important for local service providers to network effectively in their communities and to make their services known, as well as available, in their local communities, including making effective contacts with ethnic groups, as we have been discussing earlier, and also making appropriate contact with other service delivery organisations in the community who can refer people on. I would include in that lawyers, doctors and a range of professional groups. The service providers have a responsibility to play that sort of role so that people know where to send someone when they come across the threshold, in the same way as doctors need to know about home and community care services and other support services for people in the community. So there is that level of awareness raising that can go on as well.

CHAIR—You mentioned earlier, in your opening comments, the median age of divorce. It struck me in the context of what Tony was raising that the problem is in many cases that by the time that they even get to a solicitor, in reality separation and, in their minds, divorce has occurred, so it is too late. Are there any statistics, data or research that you are aware of that attempts to measure the time—this may not be possible to do—when problems arise, rather than at the point of separation when they get into the Family Court. That is easier to deal with, because they are more defined.

Perhaps this is something we ought to be asking the Institute of Family Studies to be looking at, as well, if they have not already. It seems to me that it is that time prior to separation occurring and before you go along to see a solicitor that is the crucial time where what Tony is referring to could be of more use. As I recall, the median length of marriage now is only about 10 years. That is, the median age of marriages is 26½ or 27 for females and 29 for males, and the age of divorce is only about 10 years older than that on both scores. So, maybe those early years of marriage are actually the crucial years that would deal with what Tony is talking about.

Ms Hambling—I know the Family Services Council is interested in what they call normalising relationship problems, which, as I understand it, being a non-professional in that area, is increasing the acceptance of the community that it is okay and likely that every relationship will have difficulties, and that it is okay and desirable to seek some assistance to resolve them.

I do not know that the thinking has gone much further than that, but I know that the council is interested. To follow up from what Margaret said in terms of community education, that is another aspect that might be considered, not only in terms of what services are available, but also in terms of in what instances it is appropriate to seek those services.

The other message that I have had loud and clear in the short time that I have been with this program is that the most effective outcomes come from early interventions, and that is when there are the first signs of a problem rather than exactly at the beginning when a relationship is starting, or right at the point where it is about to dissolve, but rather, as you have suggested, at that point. I am not aware of any research that tries to

map that, but I suppose you might be able to get that from surveys of people who are separating or divorcing and get their own estimate of when that—

CHAIR—I have just never seen it, but then it may not exist.

Ms Hambling—No, I have not either.

Dr Browne—I think the community organisations would be able to give you some anecdotal feel for that and, when you get couples in, say, a fairly early stage of their relationship, maybe even for marriage education rather than counselling, the extent to which they identified problems there and it is useful to refer them to counselling. I think you would get some feel of that by asking them those sorts of questions.

Ms Clare—Some of them have done quite extensive program work. In Western Australia, they have a program called building better relationships that is linked to a health approach. That certainly has a lot of appeal for young couples. Because it is linked a bit more widely than some other traditional programs, it is being accessed by a group that may have been overly optimistic that, because they were in love, everything would be all right.

From the research that Michelle Simons and her colleagues at the University of South Australia undertook on barriers to access education programs, we did discover that that was something we needed to overcome. I think pitching the education projects a little more widely is meaning that they are being accessed by a wider and a younger age group.

Mr TONY SMITH—I have probably a comment more than anything else. Some of the lawyers do need to be educated a bit in this area. Frequently when I went to court I felt that I was basically a counsellor more than a lawyer. I did not mind that too much. I found it interesting really, particularly if I resolved something. To me, court was absolutely last resort stuff and that is the view I took of it.

It seems to me that, as part of the whole process, we should be looking at getting lawyers far more informed about this. It is unfortunate. A lot of lawyers are very good, but others, I am afraid, encourage the dispute process just by the way they write letters. You see these incredible letters which just excite disputes immediately.

I do not know how you do it. I think, personally, looking at the act and maybe one would have to look at perhaps getting a duty for lawyers that extends before proceedings are commenced. If they are approached in relation to something, there would need to be a reference to counselling before proceedings could be filed. Maybe something like that. That is a comment really rather than a question.

CHAIR—We have been informed that there is a division soon. I suspect there might be a few divisions. I think it would be a waste of your valuable time to keep you here once the division bells ring. I am proposing that, if anybody has any more questions, we will take them on notice if we cannot deal with them.

Mr BARRESI—I am quite happy to put my questions on notice.

CHAIR—If you could just raise them now. Once the division bells ring, I will draw the hearing to a conclusion.

Mr BARRESI—I do not need an answer. One of the issues that is raging in Victoria at the moment is the protection of children of abuse and the failure of the community services groups to look after them. I want to make that kind of analogy with family counselling.

I know there are such things as injunctions, restraining orders and all those sorts of things, but is there a role for the court family services group rather than the court itself in terms of monitoring the effectiveness of the counselling, particularly in the light that a lot of crimes that are created are crimes of passion between the two groups? Are there any statistics available that will show whether or not there has been a failure in counselling which has then gone on to exacerbate the situation even further? In other words, it is a failure of the model or a failure of the counselling which has then kept the issue alive. That is a general point.

A lot of this basically comes from the fact that I am not a lawyer. I have never gone through a court system and I hope I never will.

Also, what is the link between various services in the community? You have the mediation services, the women's violence groups and the community house. Is there a link between them? Is it an effective link in the relationship between the groups? I am not sure about that. I see so many people bombarded in terms of what can be done for them and it is all very confusing.

Dr Browne—We are very happy to take those on notice.

Mrs ELIZABETH GRACE—There is something I would like you to consider. This is moving away from the terms of reference a bit, but I have been requested by several people in my area to raise this. This was commented on prior to my coming into politics. Priests who have left the order and been married have said that they would like to be marriage celebrants but in a very minor way. They have family that request them to conduct a marriage—cousins, nephews or whatever the case may be—and I wonder if it is possible for it be looked at in the form that they are given a restricted licence, say five or 10 marriages a year, so that they can carry on and do those things. They have had all that training and they can go into the counselling side of things. It is just something I would like you people to consider as a possibility. Perhaps it can be tied in with what we are doing here.

Resolved:

That, pursuant to the power conferred by paragraph (o) of standing order 28B, this committee authorises publication of the evidence given before it at public hearing this day.

Committee adjourned at 11.56 a.m.