HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

Reference: Aspects of family services

MELBOURNE

Monday, 28 July 1997

OFFICIAL HANSARD REPORT

CANBERRA

HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

Members

Mr Andrews (Chairman)

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	

Matter referred to the committee for inquiry into 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

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

Aspects of family services

MELBOURNE

Monday, 28 July 1997

Present

Mr Andrews (Chair)

Mr Barresi	Mr Sinclair
Mr McClelland	Mr Kelvin Thomson

The committee met at 1.15 p.m.

Mr Andrews took the chair.

CHAIR—I declare open this public hearing of the committee's inquiry into aspects of family services, and welcome you to the meeting of the committee. We look forward today to hearing evidence about family skills training services available from providers here in Melbourne. Representatives of the Family Court will also appear again before the committee for discussions.

Finally, the committee will receive Mr David Blankenhorn, a visitor from the United States, who has studied family relationships with particular focus on men and fathers. The committee has received evidence from several organisations representing the views of men and fathers in Australia. This will certainly be a useful opportunity for comparison by the committee to learn something of the American experience from Mr Blankenhorn.

This hearing is likely to be one of the last for this inquiry as the committee is moving towards the conclusion of the evidence-taking phase of the inquiry. The committee has sought to obtain evidence from a broad range of witnesses from all over Australia. We have received some 160 submissions and, to date, have taken over 800 pages of evidence at public hearings—in all a significant volume of evidence.

I would like to take this opportunity to thank the witnesses who have made themselves available to assist the committee today. Could I also request that, after giving their evidence, the witnesses remain behind so the Hansard officer can verify details of information provided at the hearing.

ROSE, Ms Jillian Ann, Temporary Regional Manager, Anglicare (Victoria), Broadmeadows Family Services, PO Box 355, Glenroy, Victoria 3046

CHAIR—Although the committee does not require you to give evidence under oath, I should advise you that the hearing is a legal proceeding of parliament and warrants the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter, and may be regarded as a contempt of the parliament.

We do not have a written submission as such from you. Part of the services that are funded through the Attorney-General's Department include the family skills training program, and the Broadmeadows service, as I recall, was one of the original programs that was funded in the first round of funding and so has been operating for a period. We are interested, therefore, in how that has been operating; what challenges or problems that you perceive there may be at present, and some ideas about where we ought to be going into the future in this area given that, whilst there has been an expansion of the number of family skills or parenting programs, it quite clearly is still minuscule compared with the general population of the nation. If you would like to make some comments in relation to that, please do so.

Ms Rose—I first want to say that at Broadmeadows Family Services we are funded for family skills by two means—one direct from the Commonwealth, which is the family skills program that you referred to, and, secondly, Anglicare has a parent help position which is funded partially by the Commonwealth and partially by the state, and the funding actually reaches us via the state. There are in fact two programs that I have been involved with for a number of years.

The family skills program is the older of the two. I have been the program manager and responsible for the management of that since its inception, which was over six years ago now. That is the context, I guess. The Broadmeadows area is a high need area in terms of the targeted groups. It is very culturally diverse as well as being an area where the indices of disadvantage are very high. That is the context for the program.

Many of the challenges that the family skills programs across Australia have faced are highlighted in the Broadmeadows context. There is a very high incidence of child abuse; there is a very high incidence of family violence, spousal violence; and there is a very high incidence of unemployment. Then there is the additional complication of a number of newly arrived immigrant groups and a very great cultural diversity of language and culture. That is the context.

The family skills program that we have operated has two major components and both have functioned very well and are quite complementary to each other. One is the range of parenting groups. We run about 24 a year and the number of participants coming to those parenting groups would be around 160. We run it on the basis—and I think it is comparable with some other family skills programs—of community need, as indicated and demonstrated to us, so that our planning for that is very flexible. The range of groups we run is quite varied and covers a diverse range of topics.

Mr McCLELLAND—How do you cope with the language problems of the newer arrivals?

Ms Rose—We cope in a number of ways. We certainly do not have the resources that we would love to have to do that really adequately but some of the means that we use are to have interpreters, to have cultural guides from the specific groups and to actually train some of the workers from the different cultural groups in how to run parenting groups so that they then have the confidence and ability to do it themselves. So we use a range of models in different circumstances to try to meet the needs across the board.

The other component of it, which I was going to go on to, is really the community development component which has always been quite strong. It is really about fostering and encouraging parenting and parenting skills services. I think both of those components have supported each other and are very important. The family skills program, in our case, has provided a very good adjunct to our state funded and church funded services, in the sense of wanting to provide to families in Broadmeadows a range of different alternatives to assist them with their problems.

CHAIR—At the office in Broadmeadows, is there a range of programs which are provided?

Ms Rose—Yes. I did provide a little background information to the committee about that but it is basically a family support program which is state funded and church funded, funded by Anglicare. We also have a women's neighbourhood house which provides a range of women's services.

CHAIR—Is the women's neighbourhood house at the same location?

Ms Rose—No. It is at a separate location a short distance away. But it is very much a part of our program and it is quite integrated. Referrals back and forth happen in quite a smooth way from all of the program elements. The family support program that we have, which really is supplementary to this family skills program, provides more casework, more individual contact between workers and families—and it may be with a focus on other issues as well, not simply parenting issues but things that feed into parenting capacities.

CHAIR—How do you attract people to the program? Do they roll in the door or do you advertise it?

Ms Rose—We advertise it. We have an extensive mailing list. We go and talk to various groups. We have networks that we attend to all the time. We have an extensive parenting interest network system that we maintain so the parent help people actually maintain a variety of local networks.

Mr McCLELLAND - I was going to ask a similar question: do you think the people who are coming in for assistance in many ways are people who do not need it as much as those who do not come in? In other words, they are obviously conscientious and very interested in doing the right thing by their families. If that is so, are there difficulties in getting to those families that are in breakdown stage to try to rectify the breakdown?

Ms Rose—I think there are always difficulties in getting to the families we want to reach because we are talking about vulnerable families or often marginalised and isolated families, isolated for the cultural reasons I have talked about and for other less obvious cultural reasons. In terms of the targeting of family skills my impressions of programs generally is that they target very well. They do actually meet the needs of

the people who are really up against it and vitally need help with parenting in the skill area and many other areas. We do that because we have referrals from child protection services and we have referrals from community health centres. We would have a number of self-referrals but, in the instance of our program, the self-referrals would probably number something like 15 per cent. There would be referrals from other agencies as well. We are definitely targeting the higher need groups.

In most of the areas where the family skills programs are set up the incidence of disadvantage is very high so in a sense it is not so difficult to actually target the people who really do need it. That is a generalisation but I have heard from the other programs in Canberra recently, because we had a conference across Australia. It does seem as if the targeting is very good.

CHAIR—Given the demand for the services in Broadmeadows, are you able to say anything about whether or not there is demand elsewhere for that sort of service which is provided in Broadmeadows?

Ms Rose—Yes, I think so. I have knowledge of the parent help program which also meets a similar sort of demand but to a lesser degree because the money is differently allocated and there are smaller amounts of money. But that is a state-wide arrangement. I think the need for these services is across the board. We are targeting the more vulnerable groups and they exist in many areas of the state, certainly not just in Broadmeadows.

CHAIR—What about the less vulnerable groups? I suppose in a sense it is easy enough to identify the needs of those who are in a vulnerable situation for whatever reason or whose family relationship has some dysfunctional aspects to it. That, in a sense, is perhaps a bit easier to identify. What about what I might call the ordinary couple whom you would not identify that way? Are these sorts of programs useful for them as well?

Ms Rose—It depends. It is hard to generalise. They should be. The principles we run them on are of trying to meet a range of needs within the program so our range is a little different from the one you describe generally. But occasionally we do have people who come to the program who get their needs met. They may have quite a few strengths already, but have one specific area they need assistance with. For example, people who are quite well resourced often have great difficulties in dealing with teenagers because that is difficult and demands lots of resources from parents. So we will run groups for that and that meets that specific need.

Generally, the way I understand family skills is that there is that flexibility; programs are designed to meet the needs as they are presented rather than the other way around. They are not unresponsive. They will cover the range of demand that is in their catchment area, where possible.

Mr SINCLAIR—How do you determine ‘vulnerable’? Children of parliamentarians, for example, are very vulnerable. But how do you determine vulnerability? Is it the children’s vulnerability? Is it the parents’?

Ms Rose—It is both in the case of family skills because the guidelines that we have had from Family Services include incidents of child abuse, but also include parents with abusive backgrounds, parents who are vulnerable in their parenting by virtue of the fact that they had abusive experiences in their own childhood. So they are the general guidelines that Family Services provide. When I say ‘vulnerable’ I guess I am using it

very generally but I am specifically thinking of those two groups which obviously overlap.

Mr SINCLAIR—The reason I asked about the vulnerability—excuse me interrupting here—is that I suppose in a way you could say that when people are married they are vulnerable. Perhaps if they are not married and living together they might be more so.

Ms Rose—Yes. I understand your point.

Mr SINCLAIR—Have you a range of definition which says these people therefore are more susceptible or vulnerable than others or do you just take those that you can and you are really just dealing with a very small percentage of the whole?

Ms Rose—I think that the way the program has been set up it is based on areas of known economic disadvantage. That is my understanding of how the program was initially set up. We are working within those guidelines anyway, aren't we?

Mr SINCLAIR—Yes.

Ms Rose—Then, as I said, beyond that it really is a matter of targeting, in the first instance, the parents from abusive backgrounds, as I mentioned, and parents who are having serious problems with child rearing, where there may be some incidence of child abuse, in very broad terms. I do not mean necessarily just physical or sexual abuse of a serious nature but, broadly speaking, abusive environments for children.

Mr SINCLAIR—Then, at that end, your success rate must be fairly low, or is it?

Ms Rose—It depends how you are estimating success. Certainly our consumer feedback is very good, the take-up of groups is good and the continuing take-up of other services is good. All of those indicators show that there are some good outcomes from these programs. Of course, we are still missing the studies that give us longitudinal evidence about what are the preventive aspects of child abuse and what are the successful interventions to prevent child abuse. We do not have evidence that gives us clear outcomes on those sorts of interventions.

Mr SINCLAIR—A and B are partners. They come along to you and one or the other or both attend a course. Do you measure thereafter whether the children have been abused and whether the couple are in fact separated? Are there any normal standards from which you could measure the outcome of a long-term relationship and the benefits to those who have had the course?

Ms Rose—No. I do not think there are normal standards, but, yes, we do observe that if we have information. Most of the programs are evaluated on the basis of consumer evaluation of how useful it was and with some behavioural indicators at the time or shortly after the closure of the program, rather than providing any longitudinal evaluation.

Mr McCLELLAND—For further research do you think it would help to have someone follow up two years hence, five years hence or 10 years hence on people who have gone through the program?

Ms Rose—Yes, I think so. I think I am right in saying that we can go a lot further in research into parenting programs in the Australian context. There is obviously more research from overseas, but I think there is a lot more we can do. One of the areas I am particularly interested in is appropriate parenting programs for people from different cultural and language backgrounds and working out how to do that in an appropriate way. The small amount of research that we have done—and I am saying 'we' meaning within family skills—has indicated that we may have to think more broadly than simply providing parenting groups, because they are not really culturally appropriate for some groups.

Mr SINCLAIR—As you are tied to the Anglican Mission, is there some way in which you have, through your priests or ministers, access to those who attend courses and do they follow up those who attend your courses in any way? Do they have a home visitation program or a social welfare program?

Ms Rose—Yes. We certainly have those sorts of links, but not in a routine way. A lot of people who are involved with Broadmeadows Family Services would not necessarily be involved with the church or want to be involved with the church. There are some links to the parishes, but not in a systematic way. A lot of the people attending our program would not have any church links, as I said, and would certainly not desire to have church links.

Mr SINCLAIR—I was not really trying to push the church necessarily, but it seemed to me that it might be one way by which you could within your own organisation get some idea whether your courses had the beneficial outcomes that you seek.

Ms Rose—We certainly do where that is relevant. We do get some idea from that. In Broadmeadows it is perhaps even less likely than it might be in some areas, because, as I said, there just are not many links between a lot of the people we see and the parishes.

Mr McCLELLAND—That is not part of your mission to get them involved in the church.

Ms Rose—No, not particularly, not unless it is appropriate for them and they express an interest. We would look at the range of services that were available and for some people the Anglican church would not be appropriate basically, especially if we are talking about different cultures, too—if we are talking about Muslim groups.

Yes, in principle we certainly would like to see people involved with the parishes where appropriate or involved with other more community based support services where appropriate. Yes, we would like to have feedback about how they go in the long run. Of course, because we are locally based, we get some follow-up with a number of parents and a number of families, because they go on to attend other programs of ours or they keep in touch with us and we get an indicator of how they are progressing, but that is not systematic.

CHAIR—I take it that what you are saying is that what assessment of the outcome there is tends to be largely anecdotal. There is not a detailed longitudinal, in-depth, ongoing study of the effectiveness of such programs and that would be useful.

Ms Rose—Yes, I think that is what I am trying to say, but it is in the context of very little outcome evaluation in this field anyway of the sort that we have just described. It is not as if it is lacking particularly in this program. It is not addressed across the field yet because of the resources involved largely.

Mr McCLELLAND—Maybe you could ask for some PhD research or something?

Ms Rose—Yes. And the other thing is that consumer feedback is very relevant too in terms of what we are looking for in the outcome area. They themselves are very well able to give in our experience a very balanced view of whether they have derived any benefits and whether their children have thereby.

CHAIR—Can I just ask you a couple of questions about the characteristics of the people attending your programs? I took it from what you said earlier that they are largely referred by others rather than self-referred. Is that correct?

Ms Rose—Yes. I have brought the statistics about referrals. This is for the last financial year. Self-referral was about 15 per cent and there were the other large referral sources such as other welfare organisations and programs. Schools and community health centres were a very large referral source.

CHAIR—That indicates, does it not, that for the 85 per cent some other individual or agency, whether it be the local school, the infant welfare centre or whoever, has identified a problem—if I can use that language—in relation to this particular family?

Ms Rose—Yes, that is right.

Mr SINCLAIR—Do you get references from government departments, for example, from CES, home and community services or Legal Aid and Family Services in Victoria?

Ms Rose—Yes.

Mr SINCLAIR—What percentage would they be?

Ms Rose—I will have a look.

Mr SINCLAIR—Would we be able to get a copy of that? It would be very helpful if we could.

Ms Rose—Yes. This is our statistics collection for Canberra. Yes, there is no problem about that. Most of our referrals in terms of government would probably come from state community services from the child protection area, but they could be a bit broader than that. There are other parts of Community Services Victoria that could be making referrals as well. For this particular financial year, it actually seems to be a bit smaller than it would normally be.

Mr SINCLAIR—What about the Family Court? Do you get any referrals from them?

Ms Rose—Yes, we do. In fact, there are some indicated here; three for the year. These are new referrals.

CHAIR—Of the families involved, do you have figures on how many were married, how many were in de facto relationships or how many were sole parent families? Do you have that breakdown?

Ms Rose—No, I do not have that breakdown here and we do not keep that breakdown, but I have got some general statements about that. The percentage of sole parents is very high. The number of people in de facto relationships would be higher than the number of people who were married, for example, if you are interested in that distinction. What was the other one?

CHAIR—Married, de facto and sole parents were the three categories.

Ms Rose—The number of sole parents is very high.

CHAIR—Are they the largest group?

Ms Rose—In terms of the parenting arrangement I would imagine that they would be. I am just trying to find the bit here where it said our total number. My memory of that is that the number of sole parents would be in the region of 80 per cent.

CHAIR—Of the total number coming into the program?

Ms Rose—Of the total number coming into the parenting groups, yes.

CHAIR—Are they largely mother headed?

Ms Rose—Yes, they are largely, but there are some fathers.

Mr McCLELLAND—Do the referring agencies obtain the consent of the people before they refer their circumstances to you?

Ms Rose—Yes, they do. We have a policy of not taking any information about families without the permission of the family.

Mr McCLELLAND—What is your emphasis? Is it on the interests of the children or on the preserving of the relationship or are parenting skills necessarily entwined with the survival of a marital relationship?

Ms Rose—They often are. There was evidence from the family skills conference that we recently attended that the number of people who came to parenting groups and identified marital-de facto problems as being a big issue in their parenting was a very high percentage. I think it was 58 per cent. The family skills trainers reported this as a very significant problem in the groups.

Mr McCLELLAND—Was it more pronounced if there had been a second marriage or a second

relationship and there was a step-parent involved?

Ms Rose—I think it is often more pronounced, but it is difficult to generalise. It is often more pronounced, particularly if there are challenging developmental stages involved in the kids' development, but I do not think you can generalise necessarily.

CHAIR—This may be an inappropriate characterisation and, if it is, please say so. I am interested to what extent the program is preventive, that is, seeking to educate parents about parenting before problems arise, versus dealing with problems after they have arisen—just in terms of your experience?

Ms Rose—Yes, and you would like me to comment on family skills generally or in relation to my program?

CHAIR—Let me say my understanding of the family skills program was that, when it was established, it was meant to be preventive, but the impression I am getting from what you are saying this afternoon is that it is less preventive in a primary sense and more about how we resolve problems that have already arisen in parenting. If you think that is an inappropriate distinction, say so.

Ms Rose—I think it is a difficult distinction because the definition of when a problem occurs is the difficulty really, is it not? We get people who come to family skills who may have all sorts of issues in their own backgrounds in terms of abuse or whatever, but their problems can really vary in the degree of severity. They would perceive it as a problem, but I would still consider that to be preventive work in the sense that there is no suggestion at that point that there would need to be any statutory intervention at all by child protection. It is at a much earlier point, but it is still at the point where it has been identified as a problem. I guess I do not know. You may need to ask other people, but I would assume that family skills is sort of targeted at people, at parents, where there is a problem identified.

Mr McCLELLAND—How intense that is.

Ms Rose—How intense that is and how advanced that is.

CHAIR—I asked that because I am interested in all of these problems, of which family skills is obviously one, and there is a range of other programs aimed at strengthening families, but how do we integrate those programs so that we are reaching people at the earliest possible stage? In terms of parenting, the earliest possible stage is when the first child is born or when a child is born. So I am interested in whether there are any links back into that in your programs. We have education classes for childbirth, which I presume—perhaps not all, but I suspect a high proportion—would be at least first time parents attending. Are there links with the sorts of program, either that you run or your knowledge of the field more broadly, that link back to those sorts of programs that are actually trying to use that as a hook, if you like, to bring people into some sort of education?

Ms Rose—Yes. There certainly are links with, say, maternal and child health nurses. There is quite a good link there, as well as with early intervention programs. I think that the emphasis of parenting services, at least in Victoria, has been very much on linking as much as possible to the more universal sorts of

services. Of course, we could go further with that; we could do more with it. We are always hopeful that we can. Basically, the links do exist, at least in Victoria. My understanding of the other states is that there always has been an emphasis placed on that too, so I assume it happens in other states as well.

Mr McCLELLAND—That is not a bad issue. My wife and I, certainly with our first child, went to prenatal classes, as did our friends—it was very widespread. But there was no offer of a suggestion about the availability of postnatal classes, something which pointed you in the direction of early problems that are going to arise and further problems that may arise. Do you think more resources could be put into that?

Ms Rose—Yes, at that earlier point.

Mr McCLELLAND—And when you are more likely to be enthusiastic about the task ahead.

Ms Rose—Yes, I think so. I think that, in the end, maternal and child health nurses probably can be better resourced to do some of that or be linked more closely with people who do. I guess we are working on it. Later on this afternoon you will be hearing from Pat Jewell, from parent help. She may be able to comment on those links.

Mr SINCLAIR—I do not know whether you have answered this yet; I am interested in the structure of your organisation. How many people are involved, and at what level are they? How many administrators, teachers, nurses and other social welfare professionals are involved?

Ms Rose—Are you speaking of my agency?

Mr SINCLAIR—I am trying to see your capacity to provide the services.

Ms Rose—We are part of a larger organisation. So, when I talk about organised family services, it does not include a lot of family work we do nearby as Anglicare, in a youth program that we have, which is only a couple of kilometres away. When I talk about organised family services, it is in the context of a range of other services that Anglicare provides.

Mr SINCLAIR—So Broadmeadows Family Services is one of many services provided by Anglicare.

Ms Rose—Yes.

Mr SINCLAIR—And, in this Broadmeadows area, other facilities are available?

Ms Rose—Yes, there is foster care, and there is a youth program that also does quite a lot of family work. It has family reconciliation and mediation services.

Mr SINCLAIR—Do you, for example, provide educators in schools?

Ms Rose—No, we do not provide educators as such, but we have a very close liaison with schools. We run a lot of the parenting groups at schools. We do a lot of talks with parents, and we have a very good

liaison with teachers about parenting issues. We have the links, but we do not actually provide educators as such.

Mr SINCLAIR—Do you teach the teachers?

Ms Rose—Yes.

Mr SINCLAIR—And have round table discussions?

Ms Rose—Yes, we do teach the teachers and the pupil welfare coordinators and things. We provide training for them, and we provide consultation when they ring us. We run programs in schools when they say that there is a need, and we advertise in the school newsletters for our parenting groups. That is probably why we have a high percentage of referrals from schools.

Mr SINCLAIR—Just thinking of your Broadmeadows Family Services, who would be involved in that? Can you give me a rough structure?

Ms Rose—We have three program areas. We have parent help, which I mentioned earlier, which is funded by family skills, and it has a state component. That is a region wide position for the northern metropolitan region, which is quite a large region. It is staffed only on a 0.6 basis. It is a very small program. For family skills—the larger program, which is directly funded from the Commonwealth—we employ a coordinator and about four sessional people to run groups. The coordinator would run two or three groups, and the sessional people would run one group.

Mr SINCLAIR—Are each of them full-time?

Ms Rose—No, they work several hours a week while they provide the group work time and do all their preparation and have supervision. It is only a few hours a week for each of those sessionals. I am the manager overall. I manage both the family skills program and a family support program, which involves the employment of about six individuals who, in the main, are case workers and who also do some sort of family group work, but in a slightly different context from the family skills ones. That is another program area.

The other program area that Broadmeadows Family Services is responsible for is the Broadmeadows Women's Community House. There are three coordinators who are working part time on those premises. We also employ a great number of sessional child-care workers. We have to employ bus drivers because a lot of the groups that I have talked about, both at the women's house and the family skills program—in at least one instance—require transport. People cannot get to the groups because they have young children. The transport links in Broadmeadows are very poor in some instances.

So we have about 40 employees on our books when things are running high, but most of those are casual people working a few hours a week doing casual child care, bus driving, sessional work. That also gives the sort of flexibility, I suppose, in running groups when the needs arises, rather than having lots of permanent employees whom we cannot deploy.

Mr McCLELLAND—You, as a manager, make the decision whether you need to engage the casuals.

Ms Rose—Yes.

CHAIR—How many of those programs would you run for schools, say, over a year?

Ms Rose—We traditionally have at least one group per term, so it would be at least four groups in the schools. It would probably be more, probably four to six.

CHAIR—In each of the schools?

Ms Rose—No, just in the schools in Broadmeadows in general. If you would like to include parent help—I am speaking now only of family skills—it is more. It is probably about eight groups, but it varies a lot from year to year. But there would be eight groups in the schools for the year, yes.

CHAIR—Is that on the basis that, for example, someone from the Coolaroo Primary School or someone else will ring up and say, 'Can you come in and run a session for parents of grade 2 students or something like that'? Is that how it works?

Ms Rose—Yes, it works like that mostly, although often we will contact the schools if we know that there is a high need in the area. If other indicators suggest that there is a high need in that area, we will contact the schools and be more proactive and suggest that there might be a need for a group there.

CHAIR—If you go into a school, what do you actually do?

Ms Rose—Different things, depending on the school. Some schools are very well set up and quite organised in this respect. Others require quite a lot of developmental work before a group can happen and parents get access and teachers feel happy about what it is all about. You need quite a bit of education in some instances with some schools. You need to do quite a bit of education about what it is about and how they refer and who it is suitable for.

CHAIR—Assuming you have gone through that, what do you actually do?

Ms Rose—What we actually do is co-facilitate the group. That is often done with the pupil welfare coordinator or some other person who has a similar role in the school.

CHAIR—I am seeking the detail, because I want to understand it. When you say you co-facilitate a group, is that a group of parents?

Ms Rose—Yes.

CHAIR—How many parents would you commonly get?

Ms Rose—The ideal group size is probably about eight to 10, maximum, but occasionally we have

had 17 parents come along. We have not sent them away. We have really had to change the program, the nature of what we provide.

CHAIR—In co-facilitating this group, what do you actually do?

Ms Rose—The facilitation is really about making the parents feel comfortable and able to express what their needs are in the first instance. So it actually means talking to them about the nature and purpose of the group, introducing them to each other, doing various sorts of exercises to make them feel comfortable, getting them to start to think about what their issues and interests are in the parenting area.

Mr SINCLAIR—Do you do this by way of group therapy?

Ms Rose—Yes, it is a group therapy sort of method.

Mr SINCLAIR—So you do not actually have one person who is an instructor, rather you look at everybody's problems and analyse how you deal with those problems?

Ms Rose—Yes, it is hard to categorise as a method. It is not really an educational model; it is a combination of being educational and therapeutic.

CHAIR—So it is experiential?

Ms Rose—It is experiential to some degree, yes. Also, we provide written information, when appropriate. So I see it as a—

Mr McCLELLAND—They know where they can go afterwards if they have problems.

Ms Rose—Yes. We would also give them written information about issues that they have, suggestions of things to try with various problem areas that they have identified.

CHAIR—Is it skills development also?

Ms Rose—Yes.

CHAIR—Obviously some parenting difficulties are founded in some inability of parents to communicate with their child or, possibly, of parents to communicate with each other.

Ms Rose—Yes.

CHAIR—So do you help them to develop better skills? Is that part of what you do?

Ms Rose—Yes, it is very much part of what we do. Communication skills is a good example. We will teach basic communication skills in lots of the groups, if that is appropriate.

Mr SINCLAIR—Do children participate?

Ms Rose—In some of the instances they do, but, in general, I am talking about parenting groups with just the parents. We run different sorts of models. Sometimes we run parallel group models where we actually run a group for the children at the same time as the group for the parents. In the main, in the parenting groups, it is simply the parents who are there. We teach basic skills. Communication skills is one example of that. As I said, it is not only educational and therapeutic but also a support model. A mutuality of openness and discussion of problem areas is encouraged so that people will experience that they are not alone, unique or pathological in the sense that they are having difficulties.

Mr McCLELLAND—What would be the size of your constituency, for want of a better term? How big would the population be that your centre would cater to?

Ms Rose—My memory for figures is very bad indeed.

Mr McCLELLAND—A federal electorate is around 80,000 people for instance.

Ms Rose—Yes, that sounds about right.

Mr SINCLAIR—How many other organisations doing your work would actually be in your area? Obviously, you have some state- and nation-wide services.

Ms Rose—No other organisation is specifically doing this in any large way. Some of the organisations run parenting groups, but one at a time generally and sporadically. We provide the major parenting groups as such in our locality.

Mr McCLELLAND—What would roughly be the size of your annual budget? How much would it cost the centre to service that area?

Ms Rose—Do you want to ask me about the family skills budget or our overall budget?

Mr McCLELLAND—Your overall budget.

Ms Rose—Our overall budget at Broadmeadows Family Services is about $500,000. I believe the family skills component is currently $93,000.

Mr KELVIN THOMSON—In your experience with federal and state funding systems, how would you compare or contrast them?

Ms Rose—Federal funding has always been provided in a very flexible way. Our experience with that has been that we have had quite a bit of local autonomy to decide how to best target the local conditions and the local needs. I have had a very positive experience with that direct funding from the federal department.

The other thing about that, and it may be partly because it has been funded in the last six to seven

years, is that we have been able to cover our costs. There has been a realistic position taken about our actual operational costs in relation to the direct funding from the Commonwealth which is very important in sustaining programs in the long term. That has been a great positive factor whereas the state funded—and I am speaking broadly now—family support programs have been quite a contrast. I am not speaking specifically about parent help but the broader position in relation to family support services which are state funded. The state funding does not realistically pick up the operational costs at all. It is very outdated in that sense. The state funded programs in comparison are poorly funded. That is of great import.

Mr KELVIN THOMSON—Yes, I am sure.

CHAIR—We cannot promise you this, but if you could have your wish for what you would like to see occur over the next five years, what would it be?

Ms Rose—I would like to see some of these things extended. One always thinks that. I am in a position where I see that we cannot meet the needs.

CHAIR—What would you do to extend it?

Ms Rose—I would certainly like to do more programs in my area that are piloted, researched and appropriate for people from non-English speaking backgrounds. That is a big one.

CHAIR—I understood from what you said earlier that you would like to see more research.

Ms Rose—When I say 'research', I guess my ideal is research but piloted programs so we actually test out the models on the ground and then we see what works. We do that within the context of community development work with the communities which we are trying to target.

CHAIR—Is there much discussion with people who run other programs? For example, when we were in Perth we had a presentation by the Institute for Child Health Research which Dr Zubrick and Professor Stanley are involved in. The program which came from that which was developed by the Western Australian health department is a parenting program run in needy areas of Perth. Are you aware of what they are doing, their models and how that has developed? Is there much discussion and integration across the nation where different programs are being developed?

Ms Rose—There is some, but there is never enough. I am certainly never aware of everything that is happening. In the family skills context, family skills programs are often in quite isolated rural set-ups, so I imagine that, in general, in family skills, there is not enough cross-fertilisation.

CHAIR—Is there a national organisation of family skills educators or agencies?

Ms Rose—There are a couple of peak bodies that are relevant. I imagine they will do more of this in terms of arranging conferences and things. What happens in relation to being a service provider actually out there trying to make the services happen is that costs for these sorts of get-togethers are quite often outside our ability to pay. It is very expensive to go to interstate conferences.

CHAIR—Who funded the one that occurred recently in Canberra that you mentioned?

Ms Rose—The department funded that one.

CHAIR—Were there papers presented at that?

Ms Rose—We all presented our work in one form or another. Yes, some of us presented papers and there were several workshops from Victorian participants—we were one of them.

CHAIR—Were there papers by others apart from the people who were providing the programs in various parts of the country?

Ms Rose—Only by the people providing the programs.

CHAIR—Presumably, those papers would be available if the committee wanted to look at them?

Ms Rose—Yes, I am sure they would be available from Barbara.

CHAIR—I thank you for coming along this afternoon for the discussion with us, which has been quite useful.

[2.05 p.m.]

BARBLETT, Justice Alan James, Acting Chief Justice, Family Court of Australia, 570 Bourke Street, Melbourne, Victoria 3000

MUSHIN, Justice Nahum, Judge, Family Court of Australia, 570 Bourke Street, Melbourne, Victoria 3000

BROWN, Dr Carole Anne, Principal Director of Court Counselling, Office of the Chief Executive, Family Court of Australia, 97-99 Goulburn Street, Sydney, NSW 2000

CHAIR—In the circumstances I will dispense with the usual warning about telling the truth. Can I first thank you for your time and for coming back before the committee. This inquiry has become a little longer than we expected for a number of reasons, but we are proceeding. One day we will get to the end of it.

One of the things that I was interested in exploring a little further was this discussion about the role of the counselling and other services within the Family Court because it is a matter for some current discussion. As you know, we are waiting on a paper, which you no doubt are waiting on too, which may clarify at least the thinking in some quarters in relation to that, but we do not know when that is actually going to be released. Had it been released it may have been more useful for all of us to have a discussion about. Even in the absence of it having been released by the Attorney-General, I think at least there might be some aspects of the issue generally that we could look at.

In relation to that, I wonder whether you would perhaps to some extent rehearse the argument again in relation to counselling; whether you have had any further thoughts about that since we met last time—particularly Justice Mushin—and whether you have any views you could share with the committee. Perhaps we could get some discussion going as a result of that.

Justice Barblett—First of all, I would like to convey the apologies of the Chief Justice. I am sure he would much rather be here than in South Africa where he is, so he is definitely the loser for that. I was not here at the time that the Family Court made its submissions.

You mentioned the discussion papers to be put out by the Attorney-General's Department. I think, from the statements made by the Attorney at the Press Club, there is little doubt as to the thrust or aim of that discussion paper which will then be negotiated with all the interested players. Therefore, I think we can usefully address you in relation to some of the matters that may be in there.

I come before you as the old man of the Family Court. I am older than the furniture. In fact, in 1974 I was on the Turner committee, the committee that advised the then Attorney on the provisions of the Family Law Act. In the same year I was on the Marriage Guidance Council legal committee which advised the Attorney on questions of counselling in the Family Court.

I was an acting judge in the Supreme Court of Western Australia, appointed thus only because I was

chief judge designate of the Family Court of Western Australia. That gave me a marvellous apprenticeship in the judging business. What it did mean was that I was there when the court was set up.

This is probably not the place to say it, but I was implacably opposed in 1976 to a court having a counselling service. At that stage I had been a practitioner for 20-odd years and I had been an acting judge of the Supreme Court for 12 months. All I really knew about counselling was the Marriage Guidance Council, which was definitely reconciliation counselling in those days, and also the state welfare department which normally got its reports to the court after the case had been concluded. It took me 12 months to do a Saul-Paul type conversion. The speech I gave after I had been chief judge for 12 months with the counselling service was to describe the counselling service as a jewel in the Family Court's crown.

The Family Court, with its counselling service—and it is not a question of the court on the one hand and the counselling service on the other; the counselling service is absolutely integral and integrated into the whole of the court, its procedures and its philosophy—has been extraordinarily successful. It has won worldwide acclaim. We have delegations annually from various countries to come out and look at it. You only have to ask in London, Toronto, Los Angeles, Singapore—where Dr Brown has been assisting them setting up their court—South Africa, Fiji or Japan. They have all either had some of us go there or have sent out people. With our counselling service, the old adage, 'If it ain't broke, don't fix it', applies.

With respect to those in the Attorney-General's Department, I cannot believe that anybody would suggest that the counselling part, from the application onwards, ought not to be there and to function. I will come to what they do in a moment, but I really cannot see that there could be any argument that would support that. But I do see that there may be an argument in relation to what we call off the street or prefiling counselling, because they have not a got a ticket, as it were, into the court.

To those who have not been associated with the court in any way before that counselling, what the court offers is crisis counselling. We do not pretend to—and we are not staffed to and we cannot—offer long-term counselling. Here are people who do not have just a family problem; they have a family law problem, and they want crisis counselling—quick intervention in relation to children. The prefiling counselling is in relation not to relationships but to children. If they do not have children, there are other agencies to help them with their relationships, and we do not see them nor—at that stage—can we help them, because they want longer-term counselling.

Mr McCLELLAND—Do you refer them to another agency?

Justice Barblett—Yes. We have lists there of the ones most convenient to the people's residences.

We in the Family Court talk about primary dispute resolution. I do not want to use that term because it disguises the point I wish to make, and that is alternative dispute resolution, which is the term used outside the court.

And what are we talking about? What is this an alternative to? There is no doubt about the answer—it is an alternative to litigation. It is a dispute resolution technique that is not litigation. That is exactly what our prefiling counselling can give: an alternative to litigation. If you file an application, you are immediately in

the litigation stream. It is the application that gets you into the litigation stream. What we have aimed to do since the very beginning is to get people who are about to file an application and to commence litigation and give them the options and see if the matter can be resolved. You are dealing with people who cannot talk to one another. You are a communication bridge between the parents of children at that stage—and that is all we are talking about there.

Lawyers, we all know, are a pretty difficult lot. They are steeped in adversarial proceedings. They keep proceedings going so that they can increase their fees—you have heard it all. You read the paper every day.

CHAIR—At least three of us here were lawyers.

Justice Barblett—There are a couple on this side too. I just wanted to tell you what the media tells us. Have a look at the submissions made to this inquiry. Have a look at the Law Institute of Victoria, the Law Society of New South Wales, the Law Society of Western Australia and the Law Council of Australia—each one of them emphasises that the whole philosophy of the Family Court is to settle disputes without litigation. That must be against interests of the three former practitioners here. Of course, it is something the press does not mention about the legal profession. There are four very reputable professional organisations supporting the counselling service of the Family Court because it fits in with the philosophy of the Family Court, and certainly they are submissions against interests which lawyers are not usually renowned for.

Could I come now to the functions—first of all, information sessions. Information sessions, which we have had for only the last three years or so, are used extensively in the United States for people before they commence proceedings. Both the Chief Justice and I got this idea while touring the United States, brought it back and have implemented it. Information sessions are essential so that would-be litigants and new litigants can know not only what the court has to offer but the steps in litigation, the costs of litigation and what alternatives there are to litigation, et cetera. They are extraordinarily successful in that. Those of you who have been to one will know exactly just how they do work. I can remember taking Sir Stephen Brown, the President of the Family Division at the High Court, to one in Brisbane. He really could not get home quick enough to implement that through the Lord Chancellor's policy division.

In particular, with access to justice and the simplified procedures we have put in, more and more persons are going to conduct their own litigation. As legal aid is reduced, we get more in-person litigants. Of course, the information session is absolutely vital to them to know something about the court's case management program. It gives prospective litigants, again, the chance to choose what form of dispute resolution is appropriate.

Then there is court ordered counselling. I need say little about that because the words speak for themselves and, in fact, the Family Law Act makes it that you cannot proceed to a hearing without counselling. But counselling has to be early. If it can be before the application, think of the money that would be saved. If it can be shortly after the application is filed but before people become entrenched and before a great deal of money is spent in the proceedings, then so much the better.

We are always going to have a great number of settlements in any running down case or any family

case. They are discretionary judgments and you are going to have a lot of settlements. The question is: when are they going to settle? At the door of the courtroom, when the parties are probably economically broken for life? No; at the very inception or, if possible, before the proceedings. I will say no more about that.

I did miss mediation. Mediation is something that is offered before and after the commencement of proceedings. That, of course, is a voluntary procedure when the parties can solve their own problems. That really is the motto of the Family Court. It is a sort of do-it-yourself outfit, if that is possible. We must give them every possible assistance to solve their own problems. They are better solutions, they are cheaper and they are less traumatic—everything goes for the parties themselves. We know that 95 per cent of them will settle. And, as I said, the question is: when will they?; it is not, will they?

Everybody who files an application thinks they are going to have their day in court—the cross-examination; the cut; the thrust; the destruction of the other party—and, yet, only one in 20 is going to trial. We are trying to change the attitude of would-be litigants away from the trial to the settlement because, after all, 19 out of 20 of them are going to settle. In the court conciliation program, we are not only talking about the counselling section; we are also talking about the whole of the modus operandi. We have conciliation conferences which are normally conducted by legally trained registrars, but sometimes with a counsellor also present in children's matters. All lawyers know that lawyers can, by and large, settle most family disputes at some stage; hence, the use of the registrar in those conferences.

Then we have court supervision, counsellor supervision, which is not police or hands-on supervision; it is a person to whom each of the parties can turn especially in contact matters. It is good for a judge to be able to say, 'Look, you've had terrible trouble with contact. Here's my order: for the next six months you can have this supervised by a counsellor. You can ring the counsellor who knows all about your problems and who will be able to discuss the best alternatives with you.'

I gave two judgments last week where I said, 'Here is a dedicated person to whom you can turn. You are not out there on your own; there is somebody who can assist you, at least for six months.' We make a time limit because otherwise we will not have the personnel to do it. I certainly felt better about it and, hopefully, it was of assistance to the parties.

We have report writing which is a very important function. These are expert witnesses who have been doing this for as long as they have been with the court. They can bring in things like the children's wishes and the relationships. You have got to realise that in a trial you do not see the child and the mother together or the child and the father together. These sorts of relationships can be reported on by an expert who, in turn, comes along to give evidence if required by the parties. There are pre-hearing conferences—the formal last ditch attempt to settle a matter. These are held three months before the date of hearing.

Mr SINCLAIR—Are they with Family Court supervision or under a registrar?

Justice Barblett—With a counsellor.

Mr SINCLAIR—A counsellor rather than a registrar?

Justice Barblett—No, it is a registrar who is the boss. I will come to the other function of the pre-hearing conference. The pre-hearing conference is with a registrar and, if the registrar thinks that there are children issues, the registrar will call in the counsellor who has been looking after that. That is the last ditch. The second part of the pre-hearing conference is directions as to trial: making sure the matter is ready for trial, as that is one of the bugbears of any court. By doing that, the time can be reduced to the minimum.

Lastly, there is post-litigation counselling. Sometimes when you give a judgment, you give orders. When you look at a mother from whom you have taken the children and she is no more than wet blotting paper because everything has gone from her—that is the most extreme—you may give an order to assist her. But there are other times, too, when you think that someone to assist is going to be of greatest help to that person rather than just sweeping them out of the court door. Post-litigation counselling is quite often a very important role of a court counsellor.

Just to sum it up: the court has developed over 22 years, I think it is, or thereabouts, a multidisciplinary approach. Other courts now and other common law courts are developing mediation and other programs, but almost from day one the Family Court has had this multidisciplinary approach. What we are seeking is a proper, just and timely resolution of family disputes by methods suitable to the particular case.

All cases need some different treatment. There are many where counselling is the answer. There is that five per cent who have to have their day in court. As long as the solution is proper for the case, that is the solution we try to offer those who come to us. In 1995-96—which are the latest figures I could get today—there were 37,000 applications across Australia in relation to children and property finance, what used to be called ancillary matters.

Mr McCLELLAND—Is that 'children and property finance' or 'children or property finance'?

Justice Barblett—There are 67,500 of the particular claims, but these are actual applications. They could be for property only; property and spousal maintenance; property, spousal maintenance and custody; access; non-divorce. We have 75,000 people involved in that litigation. As I say, there are 67,500 different claims for ancillary matters. That is the number you are dealing with.

One of the great reforms of the Family Law Act which is never mentioned is that it made divorce a totally separate proceeding from property, children's matters, et cetera. They are not in the same application and they are different proceedings. Going back to 1974-75, the Marriage Guidance Council considered counselling for every person who applied for a divorce and rejected that not only as being prohibitively expensive and totally beyond Australia's resources but also because the results were not likely to be in any way near worth the output.

Before I came out, I photocopied the principles to be applied by courts, which is section 43 of the Family Law Act. This is something that is implanted right through from the counter where people come in through the counselling section, the registrars and the judges: the need to preserve and protect the institution of marriage as a union of a man and a woman to the exclusion of all others, voluntarily entered into for life; the need to give the widest possible protection and assistance to the family as the natural and fundamental

group unit of society, particularly while it is responsible for the care and education of dependent children; the need to protect the rights of children and promote their welfare; the need—and this has just come in by amendment; when I say 'just come in' I mean 10 years ago—to ensure safety from family violence and the means available for assisting parties to a marriage to consider reconciliation or the improvement of their relationship to each other and to their children. They are the principles that have been set out, most of them since day one, as the Family Court has evolved. Of course it has been an evolution; all institutions are always changing and this is as far as the Family Court has got today.

I really can say that the basic philosophy of the court is the importance of happy, long-term family relationships. If there is a breakdown, if there are legal problems, they are to be treated in such a way as to do as little damage to the parties as possible.

That, Mr Chairman, is the basis of what I want to say. We are here now to assist the committee if we can in any way with any part of that or with anything else in the submissions that you have before you.

CHAIR—Thank you. Going back to the Attorney's speech at the Press Club, he said amongst other things:

I also want to ensure that these services are rationalised and that we eliminate to the greatest extent possible the risk of gaps or duplication that arises when different bodies are providing overlapping services.

To your knowledge, are there areas in which there are overlapping services where there could be some rationalisation?

Justice Barblett—It could be seen that the NGOs have built up programs in areas that the Family Court has been offering. When I was in practice, the Marriage Guidance Council I think had a grant of £500 a year from the state government. As it has built up, it has gone—as have the others that have come along since—to the government for money. They are always putting programs up so they can get money. It happens in all helping services.

But, no, they do not overlap. Basically Relationships Australia, Centacare, Anglicare and Family Services are there for educational programs and to improve relationships. The court counselling service is, as I say, integral to the court service. It is not there—

Mr McCLELLAND—If I could interrupt. Does a court counselling service come in when the breakdown is a fait accompli?

Justice Barblett—The answer is yes, but it is very difficult to define when the breakdown is a fait accompli. There are cases that come into us where they are going to reconcile. They are the people who are sent, if they can be identified, immediately out to those who are skilled in reconciliation counselling.

Mr McCLELLAND—Is that the difference—that the NGOs focus on education and prevention and your counsellors come in at the point where, in the vast majority of cases, the breakdown has occurred and they will remain apart?

Justice Barblett—Yes, but I think the NGOs do even more than you say there. They do some remedial work. It is not only preventive work but remedial work. The answer is it is court oriented.

CHAIR—The division—as I understand it is generally accepted—is that the non-family court agencies are involved in reconciliation counselling and the counselling in the Family Court is conciliation towards separation and divorce.

Dr Brown—And one is very short term—that is, the conciliation counselling in the Family Court. The other one tends to be able to take on more longer-term relationship problems. I do not think the problem solving focus of a court environment is necessarily appropriate for those longer-term interventions, but the community based agencies are.

CHAIR—What about in the area of mediation though? The court provides mediation services at least in some registries, yet you have other groups like Noble Park here in Melbourne and Unifam in New South Wales that provide mediation. Is there some duplication there?

Justice Mushin—The last time I gave evidence, I think I drew a line between prevention and management of relationship breakdown. It is generally regarded that the line can be drawn there. I think we referred to it also in our submission in primary, secondary and tertiary terms. For ease of reference, prevention is the job for the NGOs and the community organisations. We are into management of the consequences of relationship breakdown.

Mediation deals with what are essentially justiciable issues before the court. We will deal with any of the issues that arise under the Family Law Act or related applications. For example, our mediation service can deal with issues relating to children in an ex-nuptial matter but, by virtue of the fact that it is not justiciable for their property matter until they issue, we cannot do that until they are issued.

Can I refer the committee to pages 992 and 993 of our submission. In particular, the lower part of 992 refers to the external evaluation of the court based mediation services in Melbourne and Sydney which were evaluated by Moloney and Love, which is referred to in the footnote at the bottom of page 992. If I can take you to the top of page 993, in particular:

> The evaluations concluded that there was no duplication of mediation services within the Attorney-General's portfolio, that mediation clients tend to approach community or court based agencies with different expectations and that it was important that clients and referring bodies have a choice of agencies available.

What is important also is what we have referred to at the bottom of page 992: the distinctions between the populations with court clients—that is, populations of those who came to the court and those who went to organisations outside the court of whatever nature. In particular, one of those factors was that the court clients were more likely than those who use the community services to be prepared to litigate if mediation proved to be unsuccessful—the very point being that we are mediating justiciable issues, whereas there are wider issues being mediated, and not necessarily directly court based applications. Again, going back to the distinction between prevention and management, we are emphasising the management structure. We do not claim to be set up to do what I would call prevention.

Mr SINCLAIR—We have just had evidence from one community group who said that a number of cases were referred to them by the Family Court. How would cases that presumably have already entered that litigation process be referred back, or would they be cases which a registrar has notice of?

Dr Brown—What were they referrals for?

Mr SINCLAIR—We do not know. We asked numerically, and they said there were a number of cases referred to an NGO by the Family Court. That is where I find this division a little bit confusing.

Dr Brown—Remember I said a little earlier that, when it comes to long-term relationship issues, that would be an instance where the Family Court counselling service or mediation service would refer back to a non-government agency, because of our crisis intervention/problem solving focus.

Another instance may well be where there are property issues in a community like Coffs Harbour, where the court does not have any mediation services. In relation to pre-filing issues in relation to property, we do not have a service in regional centres so we would refer to that service.

Mr SINCLAIR—This was in the heart of Melbourne.

Justice Mushin—I could give you a direct example just from last week. I have just spent two weeks sitting on the Bendigo circuit. It was extremely busy, and there were an enormous variety of child related matters. I have one particular memory—and there were several cases like this—of a situation in which I provided the legal answer to the child problems. I made orders for residence and contact and some injunctions, and restrained somebody from consuming alcohol and those sorts of things. But the real underlying emotional and psychological problems were in the ongoing problems with the relationship between the parties which were clearly impacting on the children on a daily basis. All I could provide were the legal answers. From there I referred them to one of the several very well-known and highly competent organisations in the area to which they would go for ongoing counselling.

Perhaps I may also pick up from something that the Acting Chief Justice said. On that circuit, for example, I made a number of orders under section 65L, which is that section pursuant to which orders are supervised by a counsellor of the court. That is, a counsellor is available to be telephoned or to be visited for the purpose of advice and so on. It does not mean being there for occasions of contact, but rather the availability of advice and general counsel type things. That is the nature of the multidisciplinary approach.

I have been in the Family Court since the day it opened—as a solicitor, as a barrister, and as a judge for the last seven years. I find it unimaginable that it could be considered that our multidisciplinary approach could be removed. I see that as a fundamentally detrimental step in the interests of the child, ultimately. I would go as far as that. I have been sitting there deciding trials and thinking what it would be like if I did not have this counselling service available when I needed it to go to the very issues that I needed and that they are so expert in. All I can surmise is that removing these facilities may well lead to a significant increase in litigation, and ultimately to more dysfunctional families.

Justice Barblett—Going back to the question of duplication of services, I think the real answer to

that is that the court provides family law counselling while the NGOs provide family relationships counselling or family counselling. It is the law element that makes the court counselling totally different. There really is no overlap.

Mr McCLELLAND—Justice Barblett, you have mentioned that in the early days, in 1974-1975, there was an examination as to whether the Family Court should get involved in relationships counselling.

Justice Barblett—No, whether there should be compulsory counselling in relation to divorce.

Mr McCLELLAND—Whether it is too harsh on those involved in marital breakdown is, I suppose, a matter for debate, but let us say there was to be a requirement that the parties to a marriage notify the Family Court that they were commencing their 12-month separation period, and at that point the Family Court or someone in the registry referred them to an NGO for marital counselling which was available to them during that separation period. Is there any utility in such a measure, or do you think once people have come to the point of commencing that 12-month separation period the horse has bolted and cannot be caught?

Justice Barblett—There are a great number of questions in that seemingly short question. There is a new English divorce act which will come in, I think, in about 18 months. That has a notification of separation provision and also what I think is going to be a one-on-one information service. That is going to be hideously labour intensive. I was in London only a few weeks ago talking to the Lord Chancellor's department about this problem, and I think they are going to have an enormous problem there.

On the question of notifying the commencement of the separation, I must point out that nearly all marriages have some form of separation, so you are going to have an enormous number of notifications. Probably every marriage is going to have some notification and in many marriages you are going to have multiple notifications. We have had no problem over the years on the commencement of the separation. In one case in 1,000, probably, they have to prove that they still have separated under the one roof. That was something that happened in desertion cases in England after the war, when there was not any housing and they just had to stay there. Parliament left that in separation in 1975. No, I do not think that notification of the commencement of the separation is practicable.

Mr SINCLAIR—Let me put another dimension to it. If we were to change the law so that before divorce was granted the care and custody of the children had to be resolved, do you think that would be practical? Would that reduce the difficulties and perhaps overcome some of the counselling requirement?

Justice Barblett—I wanted to start by saying that at least 50 per cent of people that get divorced who have children do not come near the Family Court at all, except for the divorce. So, when we talk about five per cent of cases going to trial, it is only 2½ per cent of divorcing couples, because they just do not come near the court. I think it would be wrong to force those people who can agree on what is going to happen to their children after they separate—that is, 50 per cent of people with children—to come to the court. I think it is really too much Big Brother looking into their lives. The extraordinary thing is that, if you live together, you are good parents; if you do not live together, you are suspect parents. As I say, 50 per cent of people do not come to the court.

Mr SINCLAIR—Of the cases that we as members come in touch with, it is custody of the children and the division of matrimonial property that are inevitably the major source of dissent and concern.

Justice Barblett—Yes, that is what the court does.

Mr SINCLAIR—The fact that there are so many disputes there leads, in part, to the problems with counselling. That is why I wondered whether we could avoid some of them, even though they are only such a small percentage. Two parties essentially get to the point where they just badly want to be divorced. It is the children who seem to be the sufferers. I wondered about that alternative. I do not think you could do it with property.

Justice Barblett—Section 55A says that, for a decree nisi to become absolute, the court must declare that it is satisfied that the proper arrangements have been made for the welfare of the children. That is section 55A. So the court looks at the arrangements that the parties have made for their children and makes a declaration that it is satisfied.

Mr McCLELLAND—That is usually done by way of an affidavit, is it?

Justice Barblett—Yes, that is right.

Dr Brown—Most of the disputes about residence and contact matters would be filed with the court prior to a dissolution being sought. Would you agree with that?

Justice Barblett—Yes.

Dr Brown—So, by that stage, there are proceedings in train by the time dissolution comes up. So it will be, as the Acting Chief Justice said, putting an administrative requirement on a lot of people who just do not come near us anyway. The others come to us straight away, demanding our attention, making an application and so on.

CHAIR—Can I come back to Mr McClelland's point about the notification of separation. As I understand from my reading and discussions with those involved in the UK, one of the notions behind the changes in the UK is that of preventing the preventable divorce. Apart from the reconciliation counselling, it seems to me that there is an acceptance of at least the theory in the UK that you can do something at an early stage of separation which may, in fact, be an intervention which will stop parties necessarily proceeding to divorce. Do I take it from what you are saying, Mr Justice Barblett, that you think that notion is ill-conceived in the light of the Australian experience or what?

Justice Barblett—Yes, I do. In an ideal world, you would have them to counselling the moment they notified of the separation.

Mr McCLELLAND—I will interrupt you there. You mentioned that they would be so common, because every marriage goes through a period of strife, but not every partner to a marriage goes into a solicitor's office. Do you think, for instance, that solicitors—in fulfilling their obligation to ensure that the

marriage is beyond reconciliation—should have a further obligation to give positive advice as to the availability of counselling services generally or a specific counselling service within their proximity?

Justice Barblett—I think there is a requirement that they do.

Dr Brown—That is in the act. It has been in the act for the past two years.

Justice Mushin—I would be entirely satisfied that as a matter of course they do. I think they are a very responsible group in that and, I think, in most other respects. I think they would give that advice as a matter of course. Half of our mediation referrals, for example, are from the legal profession, and more than half the referrals to counselling are from the legal profession.

There comes a point in relationship breakdown at which the parties, or at least one of them—and usually the initiating party—crosses the line from the prospect of retrieving the relationship to the point of managing the consequences of the relationship. The point of real dispute is when they are not both at that point, when you have the initiator—and we know that about two-thirds of those are the women in the relationship—who is at the point of saying, 'No, this relationship is finished', but the other is at the point of saying, 'No, I am still committed to this relationship.' That is where so many of the tugs go on.

Personally, I do not think you would achieve anything realistic by requiring a notification. If somehow you could get to them at the point where they were both still of the view that the relationship was retrievable, that would be different, but in most cases I would have thought that at the point of separation—where one has initiated that—the chance of retrieval is pretty small, to say the least.

Justice Barblett—It is the first step in a divorce.

Dr Brown—I was going to add that it is a troublesome question. We know, from our counselling under section 44(1B), which is the mandatory counselling that has to take place before a dissolution will be granted under two years of marriage—

Mr McCLELLAND—Did you mean under two years—

Dr Brown—Yes. That comes when people are thinking about dissolution, which is 12 months down the track. That is far too late. I agree with Justice Mushin—it is too late when somebody takes an emotional step to walk out of a marriage and, worse still, when they actually physically leave. There is anecdotal data—and I am certain there is empirical data: I am aware of one very small study—that shows that, once the parties do not live together any more, the chances of reconciliation plummet.

Mr McCLELLAND—I suppose they plummet even further once they have walked into a lawyer's office.

Dr Brown—That is taking it one step further.

CHAIR—Have there been studies as to when those events occur? For example, do people walk into

lawyers' offices before they physically separate or does it tend to be the other way round—that is, the physical separation has occurred, and then they go to see the lawyer?

Dr Brown—I do not know if there is any data on that. Anecdotally, they walk first, and they go to see their doctor and their lawyer. Their doctor because they are—

Justice Barblett—It depends who walks. The one who walks gets legal advice on what is going to happen if they walk, and the other one does not know there is going to be a walk.

CHAIR—Yes. That is right.

Justice Barblett—I would like to ask Dr Brown what the figure for people coming in for court counselling who have been helped by a non-government agency prior to that is?

Dr Brown—Yes. We did a survey, which we tabled in an appendix to our submission. Fifty per cent of voluntary clients and also 50 per cent of our court-ordered clients—it is just under 50 per cent, it is around about 49 per cent—have been to another agency for either relationship or marriage counselling. That illustrates the point we are making that, once they take that step, they are pretty committed. They have quite often gone through a process of considering the relationship and—what is more—seeking assistance for that.

Mr KELVIN THOMSON—What would be your reaction to a proposition which involved codifying matrimonial property settlements? I raise, for example, fifty-fifty matrimonial property settlements—without regard to contribution and without regard to where the children are going, because you have child support agency and arrangements and so on. I raise that because I am concerned about both the dissipation of matrimonial property in the disputes themselves and also the poisonous nature of litigation and the whole process generally. If a couple agrees—either by way of prenuptial agreement or in the course of a marriage—that they will split property a certain way, then it gets split that way. That agreement is respected in much the same way that the courts and the community respect a will. But, if you do not have such an arrangement, then you have some sort of codified solution to these things.

Justice Barblett—Wherever you have a codified solution, you will have enormous injustice. The child support formula is a good example. There you have a formula which, really, in the extreme cases, causes injustice. If your codification says that you will have fifty-fifty, at the end of the day, if you have a wife who is out practising as a medical practitioner and a househusband who has no income apart from social security and some child support and the only asset is the matrimonial home, fifty-fifty is going to mean that he will never rehouse.

Mr KELVIN THOMSON—But you have a lot of injustice now, don't you?

Justice Barblett—We try to make it as just as possible. Don't forget, only five per cent of cases go to court. That means that only half of five per cent think it is unjust.

Mr KELVIN THOMSON—I would not agree with that. A lot of people would settle now because they are told, 'This is what will happen if you go to court.' I am sure that the way cases are determined in

court influences the settlement in cases that do not go to court.

Justice Barblett—If that is so, it is because of the matters that are to be taken into consideration under the act—that is, you want some formula other than contribution and future needs, if I can put sections 79 and 75 into a nutshell. They are the matters that ought to be taken into account. Certainly, I would think that if you had a straight formula of fifty-fifty, there would be no defended cases except for valuation disputes. In fact, there would be no cases; you would just go in and get your fifty-fifty. That does not mean to say there is not going to be enormous injustice.

Justice Mushin—My view is that the injustice would be vast in that situation. The child support is a maintenance thing. Those factors in section 75(2) which bring what might be otherwise equal contributions over the 50 per cent usually for the primary parent are the capital factors, such as the consequences of being in the home, being untrained, the disparity of earning capacity and the need to house children—those capital sorts of things which are not part of what child support is about.

Mr McCLELLAND—Would it be possible, however, to create a matrix, and the person who wanted to have a different formula applied bore some civil onus to prove that the matrix was inappropriate to their case?

Justice Mushin—A presumption of fifty-fifty, rebuttable in certain circumstances?

Mr McCLELLAND—Yes.

Justice Barblett—Or by predetermination.

CHAIR—Or by agreement.

Justice Barblett—With predetermination, your 18-year-old runs out of the trenches with his platoon because he knows that he is not going to be killed. Your 30-year-old hangs back a bit. He says, ‘Nine out of 10 are going to be killed and I am going to be one of the nine.’ When you get married, you do not worry because you think your marriage is going to last. Don’t forget, two out of three marriages last for life. At the beginning of a marriage, three out of three people think that their marriage is going to last for life so why worry about property.

CHAIR—Isn’t that the problem—that they think that and therefore do not turn their minds to the consequences if they are the one in three?

Justice Barblett—Yes, that is what I am saying.

Mr McCLELLAND—From my point of view, in our electoral offices we usually see the husbands who have tremendous venom against the judges of the Family Court and the politicians because they feel they have been ripped off. If there was a presumption, we could say, ‘Here is the presumption. You have not discharged anything to show that that is inappropriate in its application to your case.’ It is perhaps a small factor in taking away some of that venom that can become so dangerous in exceptional circumstances.

Justice Barblett—I understand the problem and I cannot provide the answer. Don't think for a moment that we do not understand the problem. You must hear about child support in your electoral offices.

Mr KELVIN THOMSON—Yes, every day.

Justice Barblett—There you have it—you have an absolute matrix. There is so little chance of getting out of the child support. You have a mother earning just under the average wage and a father earning well below it and he is shelling out for the children and not finishing up with a living wage. An 18-month-old child gets as much child support as a 17-year-old who pays car expenses as well.

Mr McCLELLAND—Perhaps that matrix is wrong though. Would a presumptive matrix be of any use or not?

Justice Barblett—Whatever matrix you have will produce injustice. Normally it will produce injustice in favour of the one who can least afford it, and the children will suffer. In child support now, not because of the matrix but because of the way people are able to adjust their lives, a lot of people who should pay child support do not.

Justice Mushin—There are those who would argue that there is reason for a rebuttable presumption of a starting point of fifty-fifty based on the proposition that one should see the role of the breadwinner and the role of the homemaker in equal capacity as a starting point. You would need to be very careful about the points on which it could be rebuttable and you would need to leave a wide discretion.

One of the difficulties is that all of these things are complicated. Whether we are politicians or judges, we realise that there is no easy answer to the complicated problem. If we grab it, that is the point at which we are getting into dangerous territory and making for injustice. For example, the matrimonial property reference in the Law Reform Commission in 1985-86 suggested what I think was probably a bit too complicated; nevertheless, it was the sort of thing that might be a rebuttable presumption. There was talk about that under the last government with the bill that was tabled or at least being discussed before the last government fell.

Justice Barblett—And will be, no doubt, either before the end of the next session of parliament or at the beginning of next year.

Mr BARRESI—I have a quick question for Dr Brown, and excuse me if it is already part of the appendix from your previous submission. If it is there, I will certainly read it. I refer to some of the stats that you collect through your department and also to a comment that has been attributed to the Chief Justice in the *Mercury* which says:

> Our counsellors resolve something like 60% of the cases before litigation is even commenced . . . about the same number after litigation has commenced.

Are you able to provide what the ongoing success rate of that is? Is that part of the original submission that you gave us?

Dr Brown—It is, and it is actually higher than that. It is in terms of reference 3. The pre-filing success rate is around 74 per cent. Immediately post-filing before the first directions hearing, it is 73 per cent. Once the directions hearing has taken place and the matter has progressed further into the litigation path, then it drops to 59 per cent.

Mr BARRESI—Do you track that for a period?

Justice Barblett—What about long-term solutions?

Dr Brown—Your question was: is it an ongoing thing? No. These have been studies we have done which we have sampled at various times.

Justice Barblett—Are they long-term solutions? That is the question.

Mr BARRESI—That is right, yes.

Dr Brown—Yes. One of our studies and a number of overseas studies looked at the recidivism rate, so to speak. They are long-term solutions. I can refer you to articles that have looked at that globally.

Mr BARRESI—How does that compare with the success rate of the NGOs? Is there a comparison you are able to make?

Dr Brown—The only study that looked at that issue looked at cases after a three-month follow up. It is reported in the submission of Legal Aid and Family Services to this inquiry. They looked at follow-ups about three months after the agreement had been reached.

Justice Barblett—The NGOs do very little family law, so their agreements are a different type of agreement to the court counselling agreement.

Dr Brown—That was also the Family Court mediation service. Generally speaking world wide, agreement rates from mediation are durable.

Justice Mushin—A few years ago our mediation evaluation established that the quicker we get to them, the higher the rate of settlement and the lesser the rate of recidivism. As it progressed, there was less settlement and a greater rate of recidivism.

Dr Brown—There are much higher degrees of satisfaction too. I think the point to be kept in mind is that once they get to us in the counselling service and they are court ordered, they are pretty entrenched. The fact that they do settle and they stick by that settlement is quite incredible.

Mr BARRESI—Your contention would be, I assume, that by removing the service from the court,

that level of success could be compromised. That is just a hunch.

Justice Mushin—I would certainly want to argue that. I suspect that when people have a legal problem and they do not have the sort of place to go that the court offers, they are more likely to issue proceedings. That is going to set them into the litigation path rather than the settlement path. One of the skills is that they come with a family law problem, as the Acting Chief Justice has been emphasising. They get an early answer through dispute resolution other than a mercurial solution. The earlier they get it, the higher the rate of the settlement and the lower the likelihood of recidivism and, therefore, the less litigation.

Mr McCLELLAND—Is that because they have ownership over the settlement outcome as opposed to an imposed outcome?

Justice Mushin—Partly that—

Justice Barblett—It is pretty unfortunate for the judge but they seem to work better.

Justice Mushin—It is a bit unfortunate. If I have 12 months of waiting list instead of 14 months, it really makes no difference but, ultimately, it is better for them. The less dispute and the more the parties get on where they are arguing about children, the better it is for the children.

Mr McCLELLAND—Certainly.

Justice Mushin—Parents fighting is the most important cause of dysfunctional families.

CHAIR—They come to the court, of course, with litigation in mind, so the court is able to direct them into an alternative resolution. I am just trying to be the devil's advocate or the Attorney's advocate for the moment. Justice Barblett, you outlined eight different information court counselling and mediation services. One could, I suppose—you would probably regard this as extremely radical—say that most of those do not, in fact, involve judicial functions. Why not have an agency that people are directed to in the first place and if, at the end of that process, it has not worked, then direct them to the Family Court? That is the other way around. That seems, on my reading, to be the thrust of the Attorney-General's comments. Perhaps we ought take the opportunity to enable you to answer that directly.

Justice Barblett—I do not want to in any way disparage the Attorney, who I used to tutor long before he ever became famous. In fact, we play in the same hockey club still. The difficulty is to pretend that a family law problem is a family problem. It is like sending somebody who wants a meal to a grocery store or a cafeteria. If it is a family law problem, that is a matter for the court. If it is a family problem, it is a matter for the NGOs and not for the court. It seems to me that it is very hard to answer your question because it makes assumptions that are just not correct.

Justice Mushin—Mr Chairman, I am a little puzzled by the proposal because I am not sure whether it means that a commission or part of LAFS, or whatever it might be, is the administrator of a counselling service which does family law counselling but that the people are still on the spot and available and all that sort of thing or whether it means taking the whole thing away from the court altogether and leaving the court

as the judges and perhaps the compulsory aspects of the conciliation process.

If we are only literally talking about administration, while I am not sure why you would bother doing it anyhow, as long as the court still had immediate availability, control over standards, training and all of those sorts of things so that we can maintain the standards and have immediate availability for the problems as they arose on the spot, I would not necessarily have any problem with it.

Justice Barblett—All you are doing is setting up another Family Court counselling section next door.

Justice Mushin—Another bureaucracy. But if you are going to remove them so that you have them distributed all around with nothing in the court, to my mind there is a fundamental change in that you are taking away the multi-disciplinary aspect of the court—you are just removing it. I cannot see what you are improving by doing it. It is sometimes suggested that if you had a counselling service of the type that you have described, which had both the prevention and management aspects to it in the one thing, such a service could have a homogeneous arrangement so that it could refer between those two functions more readily.

The evidence that we have presented to you suggests that there is no duplication in any event. If it is a matter of improving immediate administrative things within what we are doing, I would have thought it could be better tackled within what we are doing rather than going to this whole thing of taking it away. Otherwise, it seems to me that all you are doing is establishing another bureaucracy, and I am not quite sure why you would do that.

Mr McCLELLAND—As a reality, the mediators are facilitators of case settlements.

Justice Barblett—That is right.

Justice Mushin—Of problems which are justiciable in the court under the Family Law Act or other legislation which we administer.

Mr McCLELLAND—For instance, in the New South Wales Supreme Court, the court delay for a personal injury case was about five years. They introduced mediators, or registrars acting as mediators, and reduced the delay to three years. It is still a long time, but those registrars or mediators were essentially case settlers.

Mr BARRESI—I just go back to my previous question, Dr Brown. Just referring to pages 999 to 1,000 of the submission, it says here that 79 per cent of clients reach agreement on at least one substantive issue. So the figures that you are quoting to me are not necessarily cases that are resolved but at least one substantive matter has been resolved in the issue.

Dr Brown—You will find that that is true of all the data that you will read in any of these submissions and the data that have been prepared by the consultancy groups that have done the evaluations of mediation as well. It is quite common. The truth of the matter is that they go away, however, having settled a substantive issue, then quite often the other things will fall into place. At the time the counsellor decides at the end of the interview whether or not they reached agreement and ticks a box. The thing about counselling

is that the process continues after the parties walk out the door. What you are aiming to achieve is to get the parties to take control. Therefore, that is a fairly conservative estimate when you tick that box when they walk out the door, but you are really trying to prepare them to continue that process after they go home.

Mr BARRESI—That is where you would be referring them to an outside agency?

Dr Brown—No, I am not talking about referring to an outside agency at all. I am talking about what happens as a result of the process that has been started in counselling.

Can I just draw the committee's attention to the Bosier report from New Zealand that looked at the New Zealand system. As you know, the system in New Zealand has been that the work that is done by the Family Court is contracted out to community based agencies.

CHAIR—Mr Justice Mushin has given me the contact of the judge in New Zealand.

Justice Mushin—I think I did do that. In fact, I spoke to him a couple of weeks ago, and he remains only too happy to assist the committee.

Justice Barblett—Judge Pat Mahoney will be in Australia in mid-August.

CHAIR—Would it be possible to notify the secretariat of where he is going to be and for how long? It may be very helpful for us.

Justice Barblett—He will be staying at the Intercontinental. I only fixed that this morning. I will make a note to let you know during what time.

CHAIR—It may be possible that we could actually meet with him and hear from him, because that would be very useful.

Dr Brown—Would it be helpful if I gave you a copy of the report that I have spoken about?

CHAIR—Yes, certainly. We would appreciate that. I thank you for your time and participation in the inquiry again today. I suspect that it may be the case that you wish to place some more material before the committee in the light of when the discussion paper does come forward. We expect that that might occur and look forward to that as well. Thank you very much.

Short adjournment

[3.26 p.m.]

JEWELL, Ms Patricia Anne, Parent Resource Coordinator, Children's Protection Society, West Heidelberg, Victoria 3081

CHAIR—I welcome Ms Patricia Jewell from the Children's Protection Society, West Heidelberg. Do you have any comments to make on the capacity in which you appear?

Ms Jewell—Yes. I am appearing before the committee in the role of a parent resource coordinator. I am one of 14 in Victoria who has family skills funding.

CHAIR—Although the committee does not require you to give evidence under oath, I should advise you that committee hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament.

Thank you for making yourself available to appear before the committee today. We do not have a written submission from you in relation to these matters. The broad thrust of the inquiry is into aspects of family services, with some particular emphasis on those services funded through the Attorney-General's Department: marriage counselling, education on family skills, parent-adolescent mediation and mediation services.

As with the earlier witness this afternoon from the Broadmeadows Family Services, we are interested because we have not had a lot of evidence about the family skills aspects of it. So I am interested in your experience with family skills or related parenting programs and what they are achieving. Are there areas in which you could see that more could be done? The usual answer to that question is, 'Give us more money,' but we would like to know, more specifically, whether more could be done in program areas. If you were looking into the future, say, five years down the line, what would you like to see in place that is not there at present? So I will leave it as broad as that and perhaps invite you to respond.

Ms Jewell—Thank you for the opportunity to speak. I wonder whether a little bit of background on family skills funding in Victoria is useful just to put it all in perspective. In 1988, the state government of Victoria actually looked at parent education itself. The government looked at whether a skill development program would actually help in preventing children being taken away from their families, so it funded what was known as the parent help program. That included eight people on the ground—all with the title parent resource coordinator, which is my title. So those eight people across Victoria were funded through the state government and were auspiced by agencies such as mine, which is the Children's Protection Society.

We were not working just with families within the agency. We all had geographical areas of Victoria to work across in providing those services. The state money actually provided community education. That involved talking to the community about parent education and about parenting skills. It was training facilitators to run parenting groups and it was to resource groups, but there was no direct service delivery.

A couple of years down the track—I think it was the end of 1993—those positions were also given

federal money; that is, funding from the Attorney-General's, the LAFS funding. My particular position actually received two days per week which made it a full-time position. The directive from the federal government was that the funds from the Attorney-General's Department always went through to the state government. That was allocated to the auspice agencies with the state funding as a parcel. So the funding comes through the state government and the accountability, the monitoring of the program, goes back through the state government.

When the funding comes out, I think, six monthly, there is one category of state money and state monitoring. They are quite different forms from the federal forms and the federal monitoring. The program on the ground is very complementary, because the Attorney-General's Department's money is direct service delivery and the state money was resourcing and training, this direct service delivery capacity was very complementary to the whole program.

One of the interesting things that is happening in Victoria with that federal money is that not every parent resource coordinator took on that funding as part of their wage to run groups. In fact, I would say that the majority of the parent resource coordinators have that funding as a pool of money in the community in the geographical area that they work in. What happens then is interested agencies or interested trained people can apply for that money to run specific groups. So they might run a Bosnian group or they might run a Vietnamese parents of adolescents group. Whatever their target group is, they apply for some of that funding. So that is the background of it.

The other thing that is perhaps of interest is that, all of us who are auspiced by agencies, I do not think any of us has other Attorney-General's Department funding. I do not think in Victoria that family skills funding can sit by itself because it is only for direct service delivery for running of groups. So I do not think a person could be in a position with the one or two days funding—because some of us have one day and some of us have two days—and run a program alone. I think it has to be joined on to something else. In Victoria it is joined on to the parent help program in the state. That is complemented by whatever programs are in the agencies. It is very complicated. Does that make it clear?

CHAIR—Yes.

Ms Jewell—What is happening now—you asked a question about what the federal money is achieving—is, I think, the icing on the cake. Before we had a program that was only resourcing parenting groups, and there is a question about one's credibility when you are in a position of resourcing other people to run groups and you are not running groups yourself. I think the federal money has allowed us—and I think it was targeted to quite specific groups, such as parents experiencing domestic violence, parents of young vulnerable infants and non-English speaking background parents—to broaden that to include quite a lot of other groups. I think it has allowed some new initiatives in parent education to happen in Victoria.

One of the examples that I can think of, which I have been involved in myself, is looking at parents with an intellectual disability and looking at adapting programs that those parents can access. For those parents it is about having the resources to present the information in quite different ways, because people with an intellectual disability, of course, take the information in in a different way from us. Across Victoria

there are quite a few parents with intellectual disability type groups. The funding for those has definitely come out of the federal money, as has a large range of groups that have been accessible to parents who do not have English as their first language. That includes parents who have come from war zones, traumatised parents and parents whose children have experienced terrible trauma. All of those new initiatives on direct service delivery on the ground are all through the family skills funding.

I think, when you have a look at the parent education program across Victoria, it is the federal funding that is actually achieving all of the new initiatives because it is the direct service money. It is complemented, of course, by the state money, which is there to educate the community on what parent education is.

While I was waiting to speak, I was thinking about who accesses parent education groups. I think one of my hardest jobs is to educate the community that going into a parenting group is an okay thing. It does not mean you have failed—seeing none of us has a certificate in parent education anyway to say that we have succeeded. In fact, it is the more vulnerable families that feel much happier about coming to a parenting group. That could well be, of course, because they have to. They may be directed by other courts or by, in Victoria, Protection Services or else they will lose their children. Also, it is seen in their community, in their networks, as an okay thing to go to a parenting group. I think that is interesting, because I would suggest that our more middle class families would think that they do not need to come to a group.

Unfortunately, that also means that parents look at parent education groups as something you go to when you are in crisis rather than as a preventive measure. It is supposed to be a preventive model rather than something you do to prevent a crisis. You want parents of pre-adolescents to be ready for that pre-adolescent period, be it a tricky one or not. On the ground, it is actually achieving a lot.

My question with groups and parent education is always, how long can they go on for—as a parent myself, I think you could do with an ongoing class forever, for the whole life of being a parent—and what happens to parents at the end of a group? Do they keep using those resource skills that they gained in the group or do they go back to perhaps the way they were parenting before? I am unresolved about how you actually evaluate what is going on. In a group I often see quite obvious physical changes. You see people becoming more confident in who they are and in their relationship with their children, but I do not think you can ever monitor how long that goes. If you call parents back in after 12 months you do not want them to be using the same strategies that you might have talked about in the group because, of course, their children are older and their situation has changed. I am still to get my head around that.

You have asked the question about what more is to be done in the program area. In other states, the family skills component of the Attorney-General's Department is often in an agency that has other Attorney-General's Department money—either the parent education or mediation. We are a bit different here in Victoria because where I am, at the Children's Protection Society, the other programs do not even look at those issues. The programs at the Children's Protection Society include a family support program, and we overlap quite a bit. But there is a child sexual abuse treatment program and a sex offender treatment program and none of those are looking at parent education, mediation or any of those things. It cannot sit by itself in Victoria with the little bit of money for family skills, but I wonder if it would be more advantageous to actually have it—I hope I am not getting myself out of a job here—to think about the agencies in Victoria

that have other Attorney-General's money. I want parent education to be part of everyone's thinking and for it to be more accessible and more available.

I think for parents of young children that is easier. You have your maternal and child health nurse and parent education goes with that. You have toddler groups often in Victoria and parent education goes with that. In preschools it is still okay to go to a parenting evening, and to go in to do milk and fruit in kindergartens, and also learn about children's development and about parenting. You are starting to get that distance, I think, between parents and children in primary school, although at least you are still allowed in when your children are in primary school to do canteen duty or whatever.

But then you get to parents with adolescents in secondary schools and the gap is just huge; it is just not an okay thing to go to a parenting group. Parents with adolescents are happier to come to forums that just talk about adolescent development, sexuality or a topic, but they are not so happy to come to a group. I often work through secondary schools and, it is funny, the notices just do not get home in the schoolbags of the adolescent to the parents to say that there is a parenting night on.Somehow I think the whole concept of family skills and parent education should be more in the minds of people as an okay thing to do and that you would expect, with whatever thing that your child does, that there is also some parent education going along with it. Half the battle is not understanding children's development and whatever.

CHAIR—Do I take it from what you are saying that a lot of the problems arise when children are at secondary school age? My concern is one which I think you have voiced: how do we normalise this? How can we have it regarded as an okay thing, to use the jargon, that is acceptable?

Ms Jewell—Exactly.

CHAIR—As I have often said in these hearings, it seems to be quite acceptable to attend birthing classes, and every major maternity and other hospital that delivers children provides them. You are not regarded—to use my children's language—as a dork if you go along to a maternity class, but it does not carry through to parenting.

Ms Jewell—No, it doesn't.

Mr McCLELLAND—They probably regard us as dorks anyway.

CHAIR—That is probably right.

Ms Jewell—That is fine. I say to parents about adolescents, 'You are already a dork—if you want to go to an information evening or something, go anyway.' It is getting that information to the parents.

CHAIR—Can I go back a step. In your experience—and tell me if you think it is inappropriate—are there links, for example, into those childbirth classes because it seems to me that that is one peg which you could latch onto?

Ms Jewell—Yes.

CHAIR—Are there sufficient links into the maternal and child health centres, the play groups and the kindergartens, et cetera, or is there more that can be done there? If there is more that can be done, then what?

Mr McCLELLAND—And when?

Ms Jewell—This afternoon before we go.

CHAIR—In about 10 minutes.

Ms Jewell—I agree. That is where it should begin. I was even thinking about the pre-marriage classes—that should just be the beginning of it. Maternal and child health nurses in Victoria are requested to do a lot more parent education than they have been doing before. The school nurses also have been—part of their job description has been changed now to include parent education. Yes, it would be my dream that it becomes part of this. As you say, it is totally acceptable to go to birthing classes but, somehow after that, what happens?

My background is as a kindergarten teacher, so it is in early childhood. Therefore, in the position such as I have moved into in parent education, you tend to target those groups that you know and you understand how they work. So I try to do a session with every new mums group in my geographical area of the north and metropolitan regions. I say to them, 'This is parent education and it is a life long job and you need to seek it out; there are groups around and there are agencies around that are providing it, but it is about you seeking it out.'

In Victoria we have a new initiative that is looking at having a parenting service in each of the human services regions. We have nine regional services and one Victorian parenting centre that is already being set up to actually try and lift the profile of parent education. I am hoping that the Victorian parenting centre, which will be the umbrella group, will look at how to make parent education more accessible and, as you are saying, how to slot it in as an okay thing. When parents have adolescents and the children go to secondary school, they expect that there will be groups for them so that they can see what is happening with their young people and have a look at the developmental issues, and have a look at the relationship things and how to parent an adolescent.

CHAIR—You mentioned mothers. What about fathers? I suspect that fathers probably are the 'dragees', if I could use that expression, to birthing classes. The pregnant woman has a vested interest in being there.

Ms Jewell—It is changing.

CHAIR—It has changed over time, and that has been a cultural change. Are fathers attending parenting classes? Are they reluctant or being dragged along? If so, given that the next person, particularly, that we are going to hear from has been talking a lot about fatherhood and the absence of fathers, is there more we can be doing there?

Ms Jewell—I have been very interested to watch the increase of fathers in groups, but the trend still

seems to be that it is women's work when the children are young. I am interested that I have a lot of dads come to parents of adolescents group. It is all of a sudden as if the child is the same height as them.

However, on the other hand, I have run quite a few groups with dads in Pentridge, which has been closed down now, at the end of their sentence about going back to their families and having a look at what their role will be. There are quite a number of specifically dads groups out there, be it a general fathers group, be it an access dads group. It is specifically for dads, or primary carers, who do not have custody of their children. We have more and more primary carers, as you well know yourselves, who are dads. These are quite specific groups.

For a couple coming to a group, usually the mums come in the early years and then it is often the couple towards adolescence. I find the dads really hard to engage—to actually advertise and get them to come to a group. Quite often they have come along to a group with a bit of kind nurturing. Once they have come, they just say that these should be available all the time and we need to form the content and we need to run them.

Mr McCLELLAND—The Pentridge example is one that I was not aware of. What sort of success—

Ms Jewell—There are good attendances for those groups.

Mr McCLELLAND—I suppose fear almost or compulsion has induced them to go along. What sort of outcomes are you getting, despite the fact that they have had a significant inducement to go along?

Ms Jewell—I am a bit callous when I go in because they have the impression that they will come back to their family that they have not been part of for however many years and they will be Father Christmas and life will go on and they will be so pleased to see them. I really work hard on saying, 'You will need to earn your place back in that family.' At the end of their sentence they have a lot of contact with their family and they have tasks and things that they have to do. They have to find out what their children's teachers' names are and what are the children's interests and who their best friend is—all the things that they do not know but all the things that might help them go back into that family a bit more successfully.

I think it just gives them a sense of reality and a better chance of going back. There is a whole lot of things in the community that they are terrified of, like how to get on public transport and work the EFT machines and the ATMs. At least we are giving them some skills to cope with the reality of going back into a family when you have not been there for a long time. You will not be the one making the rules. The rules have been going on for quite some time. Relationships have been forming that you have not been part of. You will have to ease your way in.

They have been really receptive. They started off challenging me as they started to do some of their homework tasks—for instance, taking up smoking when it is a non-smoking house. I say, 'What are you going to do about that.' They say, 'Well, I'm the father; I'll be going back in and smoking.' I say, 'No, you won't. The rules have changed. You have to abide by them.'

Mr McCLELLAND—It is interesting.

Ms Jewell—Yes, it is a different sort of parenting, isn't it? I don't know what their chances of success will be.

Mr McCLELLAND—That would be the hardest case scenario.

Mr KELVIN THOMSON—Having had some experience of dealing with both federal and state governments in terms of funding arrangements, what would you like to say about the comparison between how they work from your organisation's point of view?

Ms Jewell—It is very complementary. Because we have nothing to do with the administration of it, I cannot comment on that. The forms come straight from the state government to our agency and the amounts are allocated and that is what we work with. Is that what you mean?

Mr KELVIN THOMSON—From your point of view in a consumer sense, I guess, of having to deal with both of those departments, I am asking whether you have views which are either positive or not so positive about the way in which the different programs work.

Ms Jewell—I think they are very complementary on the ground. They are having the resourcing component and the skills component. I wonder if I would not personally like more direct accountability and monitoring straight from the federal government. I feel like we have no contact with the federal government at all because all our forms come through the state government and the covering letter is always from our person at head office. You send your forms back through that person at head office and we presume they send the forms back to Canberra. They do ring if our sums do not add up or our statistics do not add up. We have had a few phone calls. I think there is some sadness there because I think good things are happening with their funding in Victoria, and they never get to hear about it.

CHAIR—Earlier today we were told about a family skills conference. Did you participate in that?

Ms Jewell—Yes, in June. That was very interesting because there were lots of new thoughts there as the agencies had that relationship with the family skills department that we did not and they knew exactly what they were getting and what they were doing with it and we don't. There is that missing link. I am sorry there is nobody here from the department to actually speak to that. I think that is a federal and state government issue.

Mr McCLELLAND—Has there been an absence of coordination and could that area be improved upon?

Ms Jewell—I wonder whether it is maybe just a matter of communication between the state and federal governments. There are some issues there, but on the ground it works fine—they are complementary.

Mr BARRESI—With regard to the current education program that you are running, is there a comparable program being delivered through a government agency rather than through a private agency such as yours?

Ms Jewell—The government takes on the responsibility for all of us in the field. There are a couple of different layers. The government funds us and will speak to us about certain state-wide issues, but they really leave it to the auspice agency to be our employer. There are other programs run by local government, for instance, using only local government funds, and of course there are private practitioners in parent education. The state looks at us as their department, but not in an employee-employer relationship. They prefer us to be employed by the auspice agency.

Mr BARRESI—Do the clients come to you as referrals, or do they simply come off the street, based on the marketing that you are doing?

Ms Jewell—Both. We have lots of phone calls from parents saying that they are having difficulties with their 14-year-old and that they could do with some help. My job is to match them with one of the groups operating in my region.

Mr BARRESI—Are you getting referrals on youth homelessness and adolescent crime from the agencies that deal with those sorts of problems?

Ms Jewell—Yes, and we work collaboratively with them. Some of the youth homelessness programs in the northern region—where I am—will quite often work collaboratively to run parent education groups for those parents who have been identified as having young people on the verge of homelessness. The idea is that, maybe with some parenting skills and communication, we can actually prevent that.

Mr BARRESI—How are you measuring your success rate at the moment?

Ms Jewell—With great difficulty. Not very well.

Mr BARRESI—Not very well in terms of measuring or not very well in terms of results?

Ms Jewell—Not very well in terms of measuring. For some of the really hard to engage families, a measure of success could very well be that they actually come to a group—with a lot of home visits and nurturing along the way. For one parent or one family, it may be coming to a group and then sticking it out; with another family it might be making some major shifts with their children because of a court referral or whatever. It is very hard to gauge human—

Mr BARRESI—Looking at the region in which you operate, you will have cultural problems in the region there.

Ms Jewell—Yes.

Mr BARRESI—How are you managing the cultural issues, the ethnic groups and perhaps even the socioeconomic cultural differences?

Ms Jewell—We would never contemplate running our parenting group without a person that is known

to the community—the Vietnamese or the Chinese community or whatever. Usually I would work in collaboration with an agency that works specifically with the particular target group. It may be that they are the interpreter for the group; it may be that they design a program with me as a resource person that is culturally appropriate—and I am just there as a resource and they run it. It really depends.

CHAIR—Can I thank you very much for coming in this afternoon and for discussing the matter with us. Your comments have been quite useful in terms of the overall inquiry.

[4.00 p.m.]

BLANKENHORN, Mr David George, President, Institute for American Values, 1841 Broadway, Suite 211, New York, NY 10023, USA

CHAIR—Thank you for making yourself available to speak with us this afternoon.

Mr Blankenhorn—I am President of the Institute for American Values located in New York City in the United States. I directed a project called the Council on Families that has done a four-year study on the status of marriage in the United States and produced a report. I am here also representing that body of research.

CHAIR—Although the committee does not require you to give evidence under oath, I should advise you that the hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament.

At the outset, could you please provide us with some background to the project which you have mentioned—the work of the Council on Families in America—what its objectives were and what it has done over that period of time?

Mr Blankenhorn—Yes. In 1990 in the United States there really was not any ongoing interdisciplinary examination of marriage as an institution. There were numerous studies and projects related to the issue of divorce, post-divorce parental arrangements, child support and the various consequences of divorce, but, to the best of our knowledge, there was no effort on the part of scholars to look at the issue of marriage and no interdisciplinary ongoing effort.

We formed the Council on Families to do that job. We brought together 18 leading family scholars from across the human sciences and across the political spectrum to try, for the first time to our knowledge, to have an examination of the status of marriage in the United States from an interdisciplinary scholarly perspective. That was the purpose of the activity.

The council is still operating. Our next meeting will be in September in New York. An important moment for us was that in 1995, after several years of work, we released a report that summarised our work to date called *Marriage in America*: a report to the nation, which was signed by each of these scholars. It sought to summarise what we had done and it made about 70 to 80 recommendations for strengthening marriage. We feel that it was a positive contribution to the debate in the United States.

CHAIR—One of our terms of reference is about the range of views on the factors

contributing to marriage and relationship breakdown. In terms of the work which has been undertaken by the council, can you offer some comments on what the scholarly research and consideration of that is? What are the factors that are leading to marriage and family breakdown?

Mr Blankenhorn—Some scholars have pointed to the economic pressures on contemporary families,

pointing to issues such as the high incidence of joblessness amongst some groups of the population, particularly urban African-American young males—particularly poorly educated young African-American males—and, more generally, the economic pressures on young child rearing families.

A second set of explanations have looked primarily at the effects of public policy on families, that is, what might be called the unintended consequences or effects of misguided public policies on family life such as, for example, the disincentives for responsible fatherhood that were contained in some aspects of United States welfare policies, or the unintended consequences of some elements of our tax code that actually, in effect, taxed or penalised marriage. There have been some efforts on the part of scholars to quantify or examine the effects of public policy in weakening marriage, as against the more economic effects.

In the third and final category scholars have looked more broadly at changing attitudes, a shift in cultural norms, beliefs, values and attitudes. In the view of our council, each of those three areas is contributing. There are economic dimensions, public policy dimensions and cultural dimensions and we address all of them with regard to recommendations and so on, but it is our conclusion that the primary reason for the weakening of marriage is in the area of cultural change, in the area of attitudinal change.

We could discuss this at length if you wish, but just to give you one example: thirty years ago in the United States if you asked people, 'Do you think that a troubled marriage should stay together for the sake of the children?', the great majority of people said, 'Yes, we do.' Today if you asked the very same question to the very same age and income groups, about 82 per cent would say, 'No, we do not feel that a troubled marriage should stay together for the sake of the children.' So in one generation there has been what scholars of public opinion consider a rather breathtaking sea change in attitude which cannot be attributed to economics or to the actions of government. There is a cultural shift going on.

One more example that is quite dramatic: if you ask older Americans, 'Do you feel that there is anything morally wrong or morally objectionable to having a child outside of marriage?' the great majority of Americans over the age of 45 say, 'Yes, we do feel that that is morally wrong.' Among Americans aged between 18 to 29, over 70 per cent say, 'No, we do not feel that there is anything morally wrong about bringing a child into the world outside marriage.' So again we see what in public opinion survey terms is an almost unprecedented change of attitude from one generation. These are kids believing one thing in huge numbers on which their parents' generation believe the exact opposite.

It was with these changes of attitude regarding the meaning of marriage itself and the nature of the marital commitment as a profound shift toward individualism. We think the body of evidence suggests this is the principal reason for the weakening of marriage as a social institution. In the United States we have the highest divorce rate in the world by far. More than half of all marriages with children end in divorce in the United States.

In addition, we have an out-of-wedlock child bearing rate that has now reached 33 per cent. So almost exactly one of every three babies born is born to a never married mother who is not cohabiting. These are single mothers in the actual sense of the word. It is our view that these rather disturbing trends are largely attributable to these cultural changes, although the economic dimension and the public policy dimension are certainly there and certainly important.

CHAIR—Can I ask you about the cultural aspect of that? There has been a view expressed in various ways for some time that marriage is unimportant, and I suppose your figures on the 18- to 29-year-olds' views bear that out to some extent. But beyond public opinion there has been a view expressed by some scholars over time that marriage is unimportant, or that the form of the family that children grow up in is unimportant, provided that a range of social support services and welfare services and government programs and whatever else is in place to support those children. Has part of the work of the Council on Families addressed those issues? Has a scholarly view about that emerged and, if so, what is it?

Mr Blankenhorn—For us the most interesting thing has been that in the last three to five years there has been a discernible shift in scholarly opinion on this subject in the United States. One began to see signs of a shift maybe eight or 10 years ago, but really in the last five years—most recently publicly stated by Professor Norval D. Glenn of University of Texas, probably the nation's leading family demographer—there has been a rather dramatic shift in scholarly opinion regarding the social consequences of contemporary family change.

Prior to the last, say, four or five years the very strong opinion among scholars was that contemporary family change, that is the weakening of marriage as an institution, was primarily adaptive, did not represent decline, did not represent something harmful, did not represent something that one ought to be alarmed about, but instead represented a relatively benign adaptation of the family to modern conditions; and that the issue of family structure involving marriage and so on was secondary to the issue of what would be called family process, that is, what is the actual nature of the relationship? Is the child receiving nurturing relationships with at least one and preferably more caring, competent adults? So in that was the question, rather than are the parents married, are there two parents in the home, and so on.

In so far as there was something for public policy to pay attention to and to be concerned about, it was not correct to seek to reverse the trend of weakening marriage, it was not correct to seek to strengthen marriage as an institution or to in some way seek to push against the trend. Rather, the role of public policy was to change other institutions in order to accommodate the trend. So, for example, there should be more support for single mothers, there should be more cultural acceptance of diverse family forms—the proper change was in the rest of the society, not with the trend itself, which was essentially adaptive and besides which you could not do anything about it anyway.

What has been remarkable is that that no longer describes the views of the leading scholars in the field. I do not think anyone, no matter where their own position is on the issue, would deny that there has been a relatively strong shift in elite public opinion in the United States. It is by no means unanimous—there is still plenty of debate and there are always more studies that are being developed and discussed—but that shift has been led in part by the mounting scholarly evidence and the increasingly clearly stated view of leading family scholars.

First of all, the current view is that the deterioration of the mother-father married couple child raising unit is not merely adaptive and benign, but is in itself a harmful trend to children and to society. Many of the social problems that most concern us in the United States are largely rooted in underlying phenomenon. From adolescent crime to teen pregnancy, from domestic violence against women to child abuse and neglect, many of these problems have a common point of origin, and that common point of origin is the break-up of the

nucleus of the nuclear family system and the weakening of marriage as an environment in which children are raised.

That view would have been considered remarkably regressive, wrong, misguided, possibly racist and many other things 10 years ago. It is my own view, so I am trying to be careful in characterising it as everyone else's view. It is not everyone else's view, but I believe that you could ask anyone—even a person who strongly disagrees with it—and they would say that it has become a quite widely stated conclusion of leading family scholars in the United States based on the accumulated evidence. In the United States now we are about 30 years into what some scholars call 'the divorce revolution' or the 'family structure revolution'. There is a remarkably extensive body of social science data on this trend.

The optimistic assessment of family change which was prevalent especially in the 1970s has essentially been replaced by a pessimistic assessment of contemporary family change, as I have described. I would say, however, that the debate now in the United States is not so much the debate over whether this is a problem, how big the problem is or whether it is really a two-sided issue. I think that debate is essentially over. Both within the scholarly debate and within the broader discussion among American opinion leaders, the question is: what, if anything, ought we to try to do to reverse the trend toward the

deterioration of marriage? What, if anything, ought we to do to seek to increase the proportion of children who grow up with their two married parents?

Mr McCLELLAND—In some ways our terms of reference reflect that view. Our terms of reference are to look at the causes of marital breakdown and what we can do to address that.

Mr Blankenhorn—I would say that there is no consensus at all in the United States among opinion leaders on the answer to the questions of whether we ought to do anything, whether we could do anything if we wanted to and, if we tried to do anything, what it should be. I believe that this uncertainty and dissensus is not only the state among opinion leaders, but it is the state among the general population as well.

I will give you one quite poignant example of the curious moment that we are in in the debate. There has been discussion in a number of states about changing no-fault divorce. If you ask people in those states the following three questions, here are the answers. Question one: is the divorce rate too high? The overwhelming answer is yes. Question two: do you think that divorce is harmful to children and to society? The overwhelming answer is yes. Question three: would you support any measures that would limit or restrict no-fault divorce? Answer: no.

I could go down a number of issues and point to a similar dilemma in terms of our own debate, which is that we have moved off the question of whether this is the problem. That is no longer what people are arguing about. There is some argument, of course. With 260 million people, we do not all agree on anything and there is still much discussion, but the centre of gravity has shifted. I would not use the word 'definitive', but an unmistakable shift has occurred in this debate toward the rough consensus that I am articulating to you right now.

There is not agreement about whether anything can or should be attempted to reverse the trend itself.

If anything, the leading opinion is that there probably is not much that we can do about it, so we should at least try to remediate some of the consequences of the trend, particularly the economic consequences for the children involved. For example, instead of spending a lot of time trying to lower the divorce rate we should try to get the parents to pay child support after the divorce. We will try to remediate some of the economic consequences of the trend because we do not feel confident that we could or even ought to try to reverse the trend itself. That is not my view. I take a different view, but I am trying to characterise for you where I think the general centre of gravity on this issue is.

Mr McCLELLAND—But do you think that telling a father to honour his responsibilities after a divorce through, for instance, paying child maintenance would make resuming a single life less attractive to him?

Mr Blankenhorn—There is not much evidence that it has had such a preventative effect. The record in our country of collecting child support from non-custodial parents has been a very mixed one. In cases where the father and mother are able to make some agreement that the father spends some time with the child, there is a higher likelihood that the father will pay child support. But the growing number of cases are not those.

Mr McCLELLAND—Some states are quite severe, aren't they?

Mr Blankenhorn—Some states are extremely severe, but the severity is not paying off with more child support. They say things like, 'We are going to take away your driving licence,' 'we are going to put you in jail,' 'we are going to put your picture up in the post office under a "most wanted" sign,' 'we are going to put your name on television,' 'we are going to vilify you, track you down, give you a test, fingerprint you, suspend your professional licenses and take away your hunting and fishing license.' They are public enemy number one, deadbeat dads, and yet there has been a spotty, at best, record in producing increased child support payments.

The principle reason, in my view, of why this is the case is the growing phenomenon of the never-married father. In the case of the divorced father, where there was initially some kind of obligation, child support payments are usually more forthcoming.

Child support payments are very small, by the way; on average they are less than $3,000 a year. So even when these guys pay their child support, it does not make that much of a difference in most situations. But, okay, it is a good thing and it is good that they pay.

But the real growth phenomenon in the United States is the never married father and, in probably at least 75 per cent of cases, these fathers are never even legally identified. Their names are never recorded on a birth certificate or recorded in any official document. There is no discussion about child support. They are literally not known. There is just a blank left where it says 'father' on the birth certificate, so you will almost never get child support in these kinds of cases.

I am betraying my bias here in answering your question. My bias here is not to say that we should not try to collect child support; I believe we should; I believe it is the moral and legal obligation of every

father to support his child financially—I want to be very clear about that. But my bias is that I feel that, ultimately, our primary effort should go not towards making divorce work better but having less of it. I think that is ultimately the only way to reverse the deterioration of child wellbeing that we are now seeing.

Mr KELVIN THOMSON—I suspect that in Australia the phenomenon you are talking about is a good deal less prevalent and striking, although I am not sure what evidence we have on that. There was a case determined in Brisbane a few weeks ago where a divorced father endeavoured to prevent his former wife from moving inter-state and taking the children with her, and he did that unsuccessfully. There is quite a lot of angst that it is a bad decision for the children and it is a bad decision for the father. As against that, there is also support for that general libertarian idea, I guess, that you should not be prevented from moving from A to B around the country. I was interested in knowing what you think about a decision like that and, if you think it is wrong, what do think the rule should be. How would you draw a line in terms of mobility of parents after separation or divorce?

Mr Blankenhorn—I read the material in the press about that case. A member of our Council on Families is Dr Judith Wallerstein who is one of the leading authorities in the United States on this very topic. I know that she has visited here a few times and consulted with the people at the Institute for Family Studies and so on. She recently wrote a lengthy article for a law review on this issue of relocation.

My view—as someone informed by her research and her reasoning—is that, if there is a valid reason for relocation, it is very hard to tell a parent that she cannot move. Yes, it would be good to try to look at the issue from the point of view of the child and, where it is appropriate, seeking the actual opinion of the child as to what the child would want and perhaps taking into account the need of a child for stability. So we are here considering the best interests of the child, trying to see what the child wants and trying to look at the question from the point of view of the child but at the same time the mother has custody.

Now it might be a different situation if there was joint physical custody—not simply joint legal custody—when there were actually two homes and the child went back and forth. If this were the situation, it seems to me that a good case could be made that the court should decide in favour of paternal access and against the right to relocation. But in the case where the mother has custody, it seems highly unlikely and unreasonable to tell her that she cannot move somewhere to marry the person she wants to marry.

Having said that, however, to me this illustrates the ultimate futility of this whole way of thinking, which is very common in the United States as well. The idea that we can successfully manage people's post-divorce lives in ways that produce good outcomes—I think that can never really happen. As far as I can see, there were no winners in this case. I think the children lose because they do not see their father any more, and the father cannot see the children. The mother gets to remarry but it is hard to see this as being a big victory for anybody.

I think the attempt, especially through the court system, to imagine that we can promulgate a set of regulations or have the wisdom of Solomon to figure out all these complicated things when the parties themselves are fundamentally antagonistic, and to imagine that we can somehow keep them sort of married—living in proximity to one another, cooperating and exchanging money—is a futile undertaking. That does not mean that we should not seek to do some things that the judge was trying to do in this case. In the United States, we are spending a lot of time and effort trying to manage the post-divorce lives of parents but I think with only fairly limited success. It leads me to conclude that these situations must essentially be viewed as

tragedies, as situations that involve real loss, and that that loss is not going to be eliminated by something a judge says. The way to solve the problem, in my view, and to tackle what really is going on here is to find ways to have less divorce.

Mr BARRESI—There are a couple of things I would like to pick up on: I am just looking at this article entitled 'The death of fatherhood'. I am interested in the connection between abandonment versus death and how they are opposites rather than closer in their effect. Have you done any research in terms of the concept of partial abandonment which is, I guess, is having limited access rights. So it is not total abandonment of the child. What is that doing for the post-divorce life of the child?

Mr Blankenhorn—It is a very good question. The answer seems to be that the more contact with the non-custodial parent, the better. Just to put it in everyday terms: if the child is living with her mother, the more time she can spend with her father and the more the mother and father can cooperate in order to provide economically for the child and to make sure that the child feels loved by both her mother and her father, the better off the child is. Dr Wallerstein has such poignant testimony from her clinical studies on this. These children cry for their fathers.

Mr BARRESI—Isn't that where the courts then can come into it?

Mr Blankenhorn—The courts can do their best and often are doing their best to promote this outcome. I will just speak about the United States experience which I have tried to look at in some detail. The courts are often bending over backwards to try to preserve fatherhood after divorce. That is the whole new idea.

The Supreme Court in New Jersey recently said that if these fathers, who are non-custodial parents, will visit the children more often then they will get a child support credit. It means the fathers can take some money off their child support payments. The idea is that there will be a kind of incentive, as it were, to spend time with the child. It strikes me as a disastrously wrong-headed idea, although doubtless well intentioned. There is some legitimacy to it because if I am spending time with the child, I am spending some money that the mother is not spending and so perhaps I should be able to pay her less money in child support. But it seems to me like a perfect invitation for endless litigation and dispute with everybody having to keep receipts and arguing about how much time was spent on week X. Don't forget these are people who could not get along; that is why they got divorced. Now we are asking them in a fairly complicated way to keep records and to communicate about all this. Also the more time I spend with my child, the less money I have to pay my ex-wife—what is the message of that to the child? They think, 'Every time Daddy visits me, that means I will get less of his money.' The contradictions bubble up at every point in this scenario.

The same regarding relocation: what are you going to do; tell the mother she cannot relocate? There are no good solutions here. The more finetuned we get with our regulations, the more you break one of the first rules of the post-divorce situation. Anybody who has looked at this will tell you that rule No. 1 is to keep it very simple, do nothing that invites the parties to further conflict. Yet most of the solutions, because they are finely tuned and involve a lot of fine print are actually invitations for the spouses to continue in a

conflict situation, which is the worst thing for the child to be caught up in.

So I think it is a catch-22 phenomenon. Yes, of course you want an amicable post-divorce arrangement where the fathers are paying support, spending lots of good time with the children, the parents are not using the child as a pawn with the mother saying, 'Your father is a bum' and the father saying, 'Your mother is a so-and-so.' You do not want any of that. Yet idea that some child support scheme is going to promote that or some Family Court judge is going to enforce that when the two parties are in such conflict and the child is in the middle—I believe it is a fond belief of many people that we can do exactly that. I do not believe in the United States we are doing that. I believe it is actually in some ways aggravating the conflict between the spouses.

Mr BARRESI—I sense from that that you have some fairly strong views on post-litigation counselling sessions and their effectiveness.

Mr Blankenhorn—You mean post-divorce?

Mr BARRESI—Yes.

Mr Blankenhorn—To me, anything that can demilitarise the divorce process, that can produce a more amicable, more cooperative post-divorce arrangement between the spouses, is much to be desired. I do believe there is some minority of couples who are willing and capable of joint custody, and that can be a good solution in those cases. So it is not that this is not a desirable objective; I am simply trying to point out in the United States context the limitations of public policy in achieving this desirable objective.

Mr BARRESI—One last question. Going back to your point that the answer is really to reduce divorces rather than try to manage the after-effects, this committee has heard from a number of people in regard to compulsory pre-marriage counselling. We also heard from one of the witnesses prior to you about the concept of parent education and training. What are your views about their effectiveness, particularly about making the pre-marriage counselling compulsory?

Mr Blankenhorn—To me, the most promising area for the kind of cultural change and social change that I would hope to see in my country, which is more children growing up in stable, two-parent homes—that is my desired goal—is marriage preparation, marriage enrichment and marriage counselling. I think this is one of the most promising

and fruitful areas. There has been some very good work, some of it here in Australia, that shows some terrific results from some of the well designed programs.

In my own country there is a kind of a movement emerging—80 per cent of all marriages in the United States occur in a house of worship and so there is a strong desire across the denominations to pay renewed attention in the faith communities to marriage preparation and then marriage enrichment and marriage counselling in cases of troubled marriage: using mentoring models where older couples in the congregation or the community would mentor the younger couples; requiring a serious course of pre-marital education prior to being married in the particular church; forming community marriage policies where

interdenominational groups are formed so that anybody who wants to get married in a church in this community will have to go through a serious effort at pre-marital education, really thinking concretely about what it means to be married and what is involved.

There has been some very good work done in this area. There has been an interesting marriage—if I may use that word—between some of the secular, social scientific work on marriage skills development on the one hand and the various faith traditions on the other hand. When those two things go together, you can get some very powerful results.

I have spent some time looking at this in the United States. One of the reasons I was so honoured by the opportunity to visit your country this week is that I know of some of the really good work that is being done in this area here and I want to learn more about it. To me, it is one of the most promising areas.

I have to say that, in the American context, I am very nervous or very sceptical regarding requiring it by law or having government funding for it. I know the tradition is different here in that you already have government funding for many of the privately run programs. I have tried to learn a bit about that history, but I do not feel I am competent at all to make any statements about it to you.

I will just say that, in the American context, I would be very reluctant to require it by law. I would be even more reluctant to establish government funding for it because I think in the American context, with such an astonishingly strong insistence upon the separation of church and state, it would really mean the almost complete secularisation of the activity. Even using a word like ‘marriage’ would become problematic. We would have to call it ‘relationship education’, which I think is exactly the wrong way to go. So I think it is much better to leave it to the churches to do this work, but it is extremely promising.

I do think there is one area of legal reform, and I will just be very brief about this because you did not ask me about it specifically. A number of US states are looking at ways to complement the work of the churches in marriage preparation. They want to take

a step toward reform of the excesses of the no-fault system. The no-fault system in most states is very similar to the federal divorce law that you have—12 months and the divorce is granted. In some US states, it is six months.

Recently in Louisiana, a very interesting development occurred. They passed a law that is called covenant marriage, where individual couples can opt out of the no-fault system. They are aided by premarital preparation and training that they can undergo as they choose it, but they can voluntarily opt out of the no-fault system and into what they call a covenant marriage system, which is a much more binding marriage contract. That recently became law in Louisiana.

To my knowledge, this represents the first time anywhere in the world where a jurisdiction that had established no-fault divorce has taken a significant step away from no-fault and toward the notion of a more binding marital commitment. It was explicitly seen as the legal arm, as it were, of an essentially civic and religious renewal movement for taking marriage more seriously at the community level in a way that the law cannot touch. The law was not going to establish this movement but, since it was happening, they wanted a legal opportunity for those couples—in the eyes of the law as well as in the eyes of one another and in their

faith community—to make a more binding commitment.

I will tell you that it is going to cause some very interesting conversations among engaged couples in the state of Louisiana in the coming months—whether they want the no- fault option or the covenant marriage option. I cannot wait to hear how the discussion goes and how many people choose this. This type of reform avoids the actuality of coercion, because it concerns only those couples who voluntarily undertake it. It actually permits them something that a no-fault option has denied them, and that is the right to enter into a binding marriage agreement.

I am sorry to go on about that, but I just wanted briefly to say that, to me in the United States context, this is a very encouraging development. Other states are taking a look at it and it represents one little appendage of what is essentially a movement within the civil society. I do not want to have you believe that I am saying that this is a ground-swell change in America. It is a modest effort, but it is there. It is being discussed, scholars are now looking at it and so on. It is very interesting and I think very promising. With the history that you have here of some of the really good work in marriage preparation and marriage enrichment, I think that that preventive strategy is much more promising than downstream divorce management problems.

CHAIR—I take it from what you have said about the American context of not requiring premarital education as a condition for a marriage licence, and your remarks about the work within civic and religious communities whereby couples bind together on a voluntary basis if marrying within one of the faiths in that city or area, that you are supportive of that approach, rather than the government mandated approach?

Mr Blankenhorn—That is correct and I realise that it may be very different in your situation, so I just want to emphasise that I am speaking in the US context. To have this particular issue played out in the US political arena, given the deep cultural divisions on this and the differences of opinion, would have a kind of watering down effect—a highly politicised effect—on the process. It would invite litigation of all kinds and I think that it would produce a lowest common denominator—a kind of 'dumbed down' result—not because anybody wanted it that way, but because of the conflict of interest and forces in the heterogeneity of the various factors at play. That may not be the case for you, and I do not want to insinuate that I have any opinion at all about whether you should require such a thing. I certainly wish that everyone who is getting married would take such a course and be a part of such a program.

Furthermore, I do believe that there is compelling evidence that the more the skills approach is combined with the religious and moral aspects of it within the faith community, the better the results are. I think that, in the American context, simply making it a completely secularised exercise causes the effectiveness of it to go down in terms of helping to promote a happier marriage. So I want the church communities to take the lead on this. I also worry a bit, again only in the American context, that if you take Caesar's money you do what Caesar says, and, in the area of marriage, I think that is a problem for the heterogeneous religious community that we have in the US.

I would also say, in one final qualification, that a number of people, including some people involved in this report, disagree with me on this, so I am representing only my own opinion on this issue. Other people, whom I highly respect, disagree with me and favour requiring premarital preparation.

CHAIR—I understand the differences between the American polity and the Australian polity in terms of some of the issues you have been discussing but, apart from that move in Louisiana which I understand is being looked at in other states in terms of giving people a choice about which family law system they wish to be in and the movement in some communities to voluntarily have a code, if you like, that encourages things like marriage preparation, are there things, for example, that the federal government or even state governments are looking at which are aimed at that first part—that is, supporting marriage in the first place; stopping people jumping into the creek rather than fishing them out afterwards?

Mr Blankenhorn—Yes. There are some efforts, ranging from the relatively small to the more ambitious. I will give you one example of a relatively small effort but I think an interesting one: there is currently legislation before the Congress that would set aside a certain number of publicly subsidised housing slots for low income married couples. In most housing developments in the United States today, because of the curiosities mostly of welfare law, there are almost no married couples. It is almost completely single mothers and their children who are in public housing. One of the many negative consequences of such a policy is that these often tend to be physically unsafe areas because the only men on the premises are predatory males, who do not do anybody much good. So there was an effort to say, let us keep the low income qualification but let us have some married couples in order to essentially remove the bias against marriage in low income housing. I think it is a modest effort, but I think it really shows an effort to do something.

About 12 states in the past year in addition to Louisiana have had serious inquiries at the state level on reform of their divorce laws. The proposals have included the extension of the waiting period. Some research suggests that simply extending the waiting period could have a modest effect in lowering the divorce rate. Other people, as I mentioned, have proposed requiring premarital counselling. Other people, other states, have looked at legislation that would require marriage counselling prior to obtaining a divorce—not just counselling on how to have a good divorce but actually requiring or providing strong incentives for couples who are in a crisis in their marriage to get some kind of counselling prior to, as we say in the United States, 'lawyering up', prior to the adversarial legal process.

Other proposals have been to reintroduce fault only grounds for contested divorces. Mutually desired divorces would proceed on a no-fault basis but, in the case of a contested divorce—that is, one spouse wants it, one spouse does not—there would be a requirement of either showing fault or having a long waiting period, say five to seven years, that would have the effect of significantly empowering whichever spouse was remaining true to the marriage commitment. None of those efforts has become law; although they have engendered lively debate at the local level and I believe that over the next few years perhaps some of them will.

Two or three years ago, none of these things were on the public agenda at all. The fact that they are now is, in my mind, one more illustration of the shift that I have sought to describe to you today. It really no longer is a debate about whether there is a problem. The real debate now is a debate over solutions. None of these solutions that I have described to you have been adopted, with the exception of the Louisiana 'covenant marriage' law, but a number of them are being debated in the most lively way in a number of states.

Divorce law, as you know in the United States, is the jurisdiction of the 50 states, not of the federal government. In the area of welfare reform, welfare to work programs, programs affecting parenting teens and so on, there has been some effort to reintroduce the notion of marriage and to discourage out-of-wedlock

child-bearing. One tiny example: several school districts have proposed that if you have a baby while you are a student in the school, or if you impregnate someone while you are a student in the school, you are no longer eligible for extra curricula activities. It is something that you would pay a price for.

There are a number of other efforts around the country, where people are saying, 'Let's do what we can to discourage adolescent child-bearing.' Now, 10 per cent of all babies born in the United States are born to never-married adolescent females, and the numbers are growing faster among the white population than among the non-white.

I think those are probably the major efforts. If I had to put my finger on the most vibrant and discussed efforts, it would be, firstly, in the area of marriage preparation and marriage enrichment; secondly, in the area of divorce law reform; and, thirdly, in the area of educational and welfare policy reform.

CHAIR—Thank you for appearing before us today and for the discussion on the details and developments in the United States. We appreciate that and the opportunity to learn more about that.

Mr Blankenhorn—Thank you. It has been a pleasure for me to be with you today.

CHAIR—I thank all those who attended today and thank *Hansard* once again.

Resolved (on motion by Mr Barresi):

That the documents provided by Mr Blankenhorn be accepted as exhibits and received in evidence to the inquiry.

Resolved (on motion by Mr Kelvin Thomson):

That the committee authorises publication of the evidence received today.

Committee adjourned at 4.57 p.m.