

**CHILD CUSTODY INQUIRY  
PUBLIC HEARING – DARWIN NT  
THURSDAY, 25 SEPTEMBER 2003-09-24**

House of Representatives Standing Committee on Family and Community Affairs	
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Secretary:	

My name is Tony Howden, I have read some of the submissions to this enquiry which I have downloaded from Hansard and I would like to point out what can only be regarded as deliberate attempts to mislead the committee by some of the stakeholders in the ongoing continuance of the current anti-child system.

Extracts from Robert Bausermans "Child Custody in Joint-Custody vs Sole Custody arrangements: A Meta-Analytical Review" Journal of Family Psychology 2002, pages 92-102 have been referred to in several submissions citing "studies" that have "shown that the relationship between shared residence parents are typically characterised by co-operation between the parents and low conflict prior to and during separation".

Arguing from the above some submissions therefore maintain that shared residence can only work in low conflict separations.

However if one turns to Bausermans study one finds the following:

**In those studies that did examine conflict, joint custody couples reported less conflict at the time of separation or divorce. This is consistent with the argument that joint-custody couples are self-selected for low conflict and that better adjustment for their children may reflect this lack of conflict...** However, some research that has controlled for pre-existing levels of conflict continues to show an advantage for child adjustment in joint-custody (Gunner & Braver, 2001). The fact that joint-custody couples also reported less current conflict is important because of the concern that joint-custody can be harmful by exposing children to ongoing parental conflict. **In fact**, it was the sole-custody parents who reported higher levels of current conflict... Conflict was highest at middle levels of visitation and lower when father contact was high (as in joint Physical custody) or very low.

Therefore the proposal that shared residence can only work in low conflict separations as contended in these faulty submissions are incorrect and it would seem deliberately deceptive. In fact the opposite holds true with higher contact as in shared or joint physical custody reducing the incidence of conflict, which is really only to be expected as the children around whom such high emotional energies are spent are removed from the equation and no longer regarded as property, pawns or weapons – perceived or otherwise - in the hands of either parent.

I must also take exception to Mr Duggan of the Attorney Generals Department who before this committee on the 15<sup>th</sup> September when asked by Mr Chris Pearce if there were any measures of how a judge was advised of changing community attitudes responded that the court provided a range of education measures for judges. In fact Mr Duggan would be struggling to substantiate his claim of the court having regular contact with father's representative groups, particularly in comparison to the court's level of involvement with organisations sympathetic to women. He should be put under scrutiny over this statement.

I would now like to refer the committee to the "Family Law Practitioners Association of Western Australia 14<sup>th</sup> Weekend Conference 2003. whose conference report states the following (refer pages 4 & 5 item 3):

Kelly & Lamb make a strong argument that current decision making in family law has not kept up with more recent research on child development. This emanated from an earlier paper in which they had suggested a presumption that infants form a single relationship that remains pre-eminent in a later paper Kelly & Lamb advise that this was never supported empirically and was in no way central to attachment theory. Never the less, they assert, the notion gained "credibility in popular mythology and has continued to mislead judges, clinicians and custody evaluators. They point to the more contemporary research demonstrating that most children in two-parent families form attachments to both parents at roughly the same age, despite the fact that most infants spend much less time with their fathers than with their mothers.

Kelly & Lamb go on to argue forcefully that children "are more likely to attain their psychological potential when they are able to develop and maintain meaningful relationships with both of their parents, whether the two parents live together or not. They argue, therefore, that infants and toddlers should have multiple contacts each week with both parents to minimise separation anxiety and maintain continuity in the children's attachments.

Consider now please that under the current family law system 21% of children live in lone parent, step or blended familys and that 36% of these kids rarely or never see one of their biological parents, only 5% are blessed with a shared or joint residency lifestyle, the rest live under a mixture of the family court norm ie every second fortnight etc.