

The Committee Secretary
Standing Committee on Family
and Community Affairs
Department of the House of Representatives
Parliament House
Canberra ACT 2600

8th August 2003

Submission to the Inquiry into Shared Parenting

The Fatherhood Foundation aims to help turn the tide of fatherlessness in our nation by strengthening and supporting Australian fathers.

To this end it convened a national Fathering Forum at Parliament House, Canberra on 10th February 2003. The many delegates, representing a diverse range of organisations, agreed on a 12 point plan (enclosed). Included in this plan was:

Point 6: Acknowledge that after divorce or parental separation, every child has a fundamental right to equal contact with both the mother and the father, unless there are proven mitigating circumstances, and,

Point 7: Examine all current and future legislation both federal and state in terms of how it impacts on fathers, marriages, families and children and make adjustments accordingly. This includes such things as the Family Law Act, tax reform for families, child support legislation and much more.

The Fatherhood Foundation is concerned that 1 million Australian children are living without their fathers. The social and economic consequences of this for our nation are catastrophic. The personal impact of this on the well-being of children, mothers and fathers is devastating and often overwhelming:

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| Fatherlessness | - | increases poverty |
| | - | lowers educational performance |
| | - | increases crime |
| | - | increases drug abuse |
| | - | increases mental health problems |
| | - | together with family breakdown costs Australia \$13 billion per year |
| | - | increases child abuse |

Fatherlessness and family breakdown are the major social problems of our society. This crisis is escalating and cannot be ignored.

(For further details see The Facts on Fatherlessness – the Appendix in the National Fathering Forum’s 12th Plan)

The Fatherhood Foundation believes that the legislation underpinning the Family Court of Australia and the Child Support Agency has been a major factor contributing to this crisis of fatherlessness.

This legislation and the organisations enacting the legislation need to be scrutinized and reviewed by a Commission of Inquiry with a view to it being either abolished or radically overhauled. The outworking of the Family Law Court and the Child Support Agency are based on unsound ideological underpinnings and invalid or false economic, social and behavioural theories. Whilst much of the legislation is based on a genuine desire to help minimize conflict, the actual practice has been devastating for all concerned. This includes fathers, mothers and children.

We commend to you the scholarly and detailed research on the CSA undertaken by John Flanagan and included in the submission to you from the Fairness in Child Support group. This research is unsurpassed and needs to be treated seriously. It confirms our own carefully considered view that the CSA is poorly managed, has failed both fathers and mothers and has done little to alleviate the poverty that characterizes post-separation families. The child support formulas are seriously flawed and unworkable. Mothers are receiving less now than they were when the CSA was first established. Not only have the children’s relationship with their fathers being impaired but the children also bear the brunt of lower support.

In fact John Flanagan’s Fairness in Child Support submission (refer appendix p26) proves that children would be 37% better off today if the CSA did not exist. The other reality of the Child Support Agency is that it is a massive waste of precious government resource. The basis and justification of the Child Support legislation was the belief (not supported by well-researched evidence) that there was a low level of payment and a low collection rate. The CSA in its booklet ‘Child Support Scheme Facts and Figures 2000-2001’ states that ‘Child support compliance prior to the introduction of the Child Support Scheme was poor. It was estimated that only one third of parents in Australia who were ordered to pay child support did so regularly’. This claim is wrong and unfounded (see pages 23-24 of John Flanagan’s analysis of the CSA which is annexed to the submission from the Fairness in Child Support group).

On the basis of this ‘estimate’, the Child Support (Registration and Collection) Act 1988 was introduced. This legislation gave the Commissioner of Taxation the responsibility, authority and power to collect child support payments. As a consequence 41% of all Child support payers are now effectively unemployed and 76% of all unemployed men over the age of 20 are payer clients of the CSA. Displacing the authority of Australian fathers with that of government officials has had the effect of non-compliance.

The Child Support (Assessment) Act of 1989 introduced the method of determining the exact amount to be paid in Child support. This effectively deems each and every father,

from the very moment of separation, to be incapable of making independent and fair decisions regarding the financial support of his children. Prior to separation this responsibility was undertaken without any government 'assistance' or involvement.

If fathers were not systematically deprived of their children post-separation, the perceived 'need' for authoritative intervention in the financial support of children would fade into irrelevance.

The introduction of shared and equal parenting after separation would provide the opportunity for a fresh and workable solution to the issue of child support.

The Fatherhood Foundation believes that shared parenting, that is, the rebuttable presumption of joint residency, in cases of family breakdown, would solve many of the problems and conflicts associated with child support and child custody and access. It would result in happier children, mothers and fathers and ultimately a greater level of fiscal support for mothers and their children.

To achieve this, the introduction of shared parenting needs to be partnered with a thorough and comprehensive overhaul of arrangements for the financial support of children. The CSA deprives fathers of the opportunity to take responsibility for the care and financial support of their children. It deprives mothers of the assistance that they need. Fathers need to be both encouraged and allowed to exercise the role, the duty, and the responsibility of providing for their children with the reciprocating joy of equal access as they exercise this responsibility.

Under the current system the parent who wins custody of the children wins the assets and the financial support of the other parent. Whilst it is important to ensure that those parents who bear the major cost of child raising whether the mother or father receives the higher level of support, it is also important that custody of the children is not driven by financial gain. The Fatherhood Foundation acknowledges that divorce or separation is a painful process and that both the mother and the father need maximum support from the community if that separation goes ahead.

The Fatherhood Foundation believes the emphasis on government spending should be on prevention rather than cure. It is more important that children and teenagers are educated in relationship and conflict resolution early in life. Parenting marriage courses should be compulsory at school. Pre-natal fathering / mothering courses and relationship courses should be mandatory for all couples expecting children. Governmental family benefits should be given only after people have completed relationship enrichment and parenting courses. The Fatherhood Foundation believes that excellence in fathering should be the goal of the social Security system to help reduce the 13 billion annual cost of fatherlessness to our nation. Our children need both fathers and mothers, not just mothers, or just fathers. To quote from The 12pt Plan as formulated by the Fathering Forum, (page 1), 'The overwhelming conclusion of current social science research has shown that the best environment for children is a close, warm, sustained and continuous relationship with both biological parents. The best way to ensure strong families is to

ensure strong families is to support strong marriages. This traditional family unit – a loving father, mother and their children is the best way to nurture, educate and protect children. This is the best social security system the world has ever known’.

The Fatherhood Foundation believes that the greatest thing a man can do for his children is to love the children’s mother. Whilst marriage is a shared partnership between a man and a woman, the Fatherhood Foundation believes that marriage is deeper than a mere partnership, and that it is a unique spiritual expression of a love covenant that actually says, ‘what’s yours is mine and what’s mine is yours’. The sexual union is a deep freewill expression of this covenant love commitment by both parties. For this reason the Fatherhood Foundation is deeply committed to a preventative course of action in relationship breakdown through marriage counselling and pre-divorce counselling. These measures should be mandatory in relationship breakdown, because the cost to children, mothers and fathers of relationship failure is more than any possible monetary valuation. Money can’t buy love, nor will all the money in the world mend a broken heart. Whilst the Fatherhood Foundation fully supports a rebuttable presumption of shared parenting and radical reform of the Child Support Agency, the Fatherhood Foundation reserves the right to also stand equally for the best interests of the mother and children in separation. The children’s right to equal access to both natural father and mother should always be upheld.

Shared parenting and massive reform of the Child Support Agency, including the Family Law Court, are the only reasonable options available.

Warwick Marsh
Fatherhood Foundation