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To: Legal and Constitutional Legislation Committee

Dear Committee Members,

I offer, by way of a submission to the current Senate Inquiry into the Federal Government's Family Law Amendment Bill 2005, the following analysis of the concerns expressed by those opposing the government's proposed changes to the Family Law Act:-

In checking some of the sources claimed for certain assertions found in the National Association of Community Legal Centres recent Seeing Families Right document we find a rich crop of errors, exaggerations, misrepresentations and omissions relating to documents many of which themselves deserve the closest scrutiny. For example:-

1) Family violence is a huge problem [page 3]

a) "Sadly, research by the Australian Institute of Family Studies suggests that nearly 1 in 3 divorced women have been the victim of severe and ongoing violence from their partners during their marriage and/or after separation.(6)"

When you check out footnote 6 under References you find no reference whatever to the AIFS. Two documents are, however, cited: the first is titled 'Financial Aspects of the Divorce Transition in Australia'. One is left wondering what this particular source has to do with domestic violence. The second is Rhoades et al, 'The Family Law Reform Act 1995: The First Three years'. This document, we are told, "suggests that court officers estimate that up to 60% of interim contact disputes may involve allegations of violence". After accessing Rhoades we find at 5.47: "Asked to make a 'guesstimate' of the percentage of matters involving allegations of violence, many suggested it was 'more than half' or '5 or 6 out of 10 cases' ".

So, we start with an unsourced assertion that "nearly 1 in 3 divorced women have been the victim of severe and ongoing violence from their partners", but when we look at the source cited we end up merely with many [How many is many?] court officers guessing that "allegations of violence", not the claimed "severe and ongoing violence", occur in between 50 and 60% of cases.

b) "However, even when the father is violent, under existing laws the courts often order in favour of contact, and sometimes even give shared residence to the father.(8)"

When you check out footnote 8 under References you again find Rhoades et al. When you check Rhoades out you find at 1.28: "The research demonstrates that residence orders giving each parent equal time with the children have been made in contested proceedings since 1996, and in circumstances where there is a high level of conflict between the parties."

That's in the Executive Summary. Note that we have gone from "sometimes" to merely "have been made". If we delve further into the document to clarify the issue of the violent fathers having been given equal time residence with the abused mothers we come to 5.75 & 5.76 where one (1) case only is cited. When we examine that we read from an unreported 1998 judgment that a woman who had been found by the judge to have been the subject of her husband's violence prior to 1983, but had experienced an "absence" of same since then had denied contact between a father and son who shared a "close and devoted" relationship.

So, we start with an assertion that "sometimes" shared residence is awarded to "violent" fathers, and progress to the single case of a father who had been found to have acted violently [There are no specifics re the kind or degree or context.] towards his wife prior to 1983, but appears to have behaved himself since then [that is, for 15 years], and who was able to satisfy the judge that he had a "close and devoted" relationship with his son which merited an equal time outcome.

2) Quality not Equality [page 4]

a) " There is no evidence that time shared equally with both parents is actually more beneficial to children."

This assertion ignores the massive 2002 research effort of Robert Bauserman: Child Adjustment in Joint-Custody Versus Sole-Custody Arrangements: A Meta-Analytic Review which concluded that children were better adjusted in the former than the latter.

3) Children want a say [page 5]

a) "Recent interviews with the children of divorced parents tell us that children want to have a say in parenting arrangements. They also greater flexibility in how they spend time with their parents, they don't want to adhere to a rigid formula...We believe the views of children should be heard."

Footnotes 17 to 19 associated with this passage take us to "Parkinson et al (2005) [sic; 2003] Adolescent's Views on the Fairness of Parenting...After Separation." Apparently those who "believe the views of children should be heard" aren't terribly good listeners because, when asked by Parkinson et al how parents should care for children after divorce, the most common answer was equal or half and half.

In conclusion, let me say that the proposed changes do little to inspire me as a father. To water them down further, however, on the basis of the kind of anti-father propaganda contained in the Seeing Families Right document, would be wrong, wrong, wrong.

Sincerely,

Colin Andersen