

NON-CUSTODIAL PARENTS PARTY (EQUAL PARENTING)

John Flanagan
Deputy Registered Officer,
Non-Custodial Parents Party (Equal Parenting),

Email: noncustod@yahoo.com.au
3 February 2011.

The Committee Secretary,
Senate Legal and Constitutional Committee,
PO Box 6100,
Parliament House.
CANBERRA, ACT 2600.
Fax: (02) 6277 5794
Email: legcon.sen@aph.gov.au

Dear Sir,

Amended Submission

Inquiry into the Australian Law Reform Commission

We thank you for the opportunity to allow us to make a submission to your Inquiry.

We advise that we do not support the view that the ALRC is making a positive contribution to Australian law.

We particularly refer to the two (2) more recent final reports provided by the ALRC to the Australian Government.

These are

1. **Family Violence: A National Legal Response, 2010 (ALRC 114)**
2. **Secrecy Laws and Open Government in Australia 2010 (ALRC 112).**

1. Family Violence: A National Legal Response, 2010 (ALRC 114)

NCPP (EP) comments were referred to seven (7) times (paragraphs **1.71, 1.72, 1.73** (twice), **17.15, 18.22** and **18.244** of the Final Report).

Our concerns were directed at the mis-use of protection orders in family court proceedings. Despite this concern being apparently expressed by a significant number of people and organizations, ALRC Recommendation 17-1 did not appreciate the significance of our concerns. This is also evidenced by the ALRC's comment, immediately before making Recommendation 17-1.

Our concerns also apply to a subsequent recommendation 18-1 on the same issue. Again our concerns, like many others, were simply noted but not acted upon.

2. Secrecy Laws and Open Government in Australia 2010 (ALRC 112).

The NCPP(EP) comments were referred to seven (7) times (paragraphs **6.155, 7.26, 9.125, 10.43, 14.73, 16.73** and **16.159**).

The NCPP(EP) had concerns about the “performance of duties” by Commonwealth officers; the disclosure of personal information through “loopholes” in secrecy provisions and our concern that secrecy provisions prevail over freedom of information requests.

We believe that these are significant concerns.

Many other people and organizations had similar concerns.

These concerns were then glossed over in ALRC Recommendations 7-1, 10-2 and 16-1 of the Final Report, respectively.

We do point out that our concerns about secrecy provisions prevailing over privacy provisions were somewhat considered by the ALRC.

Recommendation 16-7 stated that “*The Australian Government should conduct a Privacy Impact Assessment for a proposed secrecy provision that would require or authorize information-handling practices that significantly detract from the standards set out in the Privacy Act 1988 (Cth)*”

However again, this recommendation did not go nearly far enough to alleviate our overall concerns.

4. The ALRC and A-G Reporting Relationship.

We believe that there should be significant concerns with the ALRC and A-G Department’s reporting relationship.

As such, we see that there is a potential conflict of interest. This is because the same Government Department viz The Attorney-General's Department authorises the allocation of funding to the Australian Law Reform Commission. At the same time, the Attorney-General's Department accepts the reports from the Australian Law Reform Commission.

At the very least, one Government Department should be responsible for funding. The Attorney-General's Department should then be only responsible for accepting the completed reports.

Otherwise it is all too easy for Attorney-General's Department to control what the Australian Law Reform Commission publishes in their various reports to the .Attorney-General's Department, in the first instance.

This is either intentionally or unintentionally.

5. Funding

The terms of reference refers to the structure of the ALRC

However we believe that the Senate inquiry is also about the ALRC budget - whether it is reduced, stays the same or is cut further.

The ALRC has done a background paper to the Inquiry. We wrote our submission after reading the ALRC Background Submission, in detail.

It is submission 2 to the current Senate Inquiry.

As such, it can be found at

http://www.aph.gov.au/Senate/committee/legcon_ctte/law_reform_commission/submissions.htm

We also note that the ALRC Background Submission can be accessed at the ALRC website at

<http://www.alrc.gov.au/news-media/alrc-staff-interns-events/inquiry-australian-law-reform-commission>

Two (2) items in the ALRC Background Paper are

Introductory Item 1.3 states:

1.3 The Committee's Inquiry is timely. It has been 17 years since the last major Parliamentary review of the role and functions of the ALRC.

Moreover, a re-examination of the value of independent law reform bodies, such as the ALRC, is particularly pertinent at this time of diminishing funding.

Item 4.9 then goes onto to state:

4.9 A reduction of this magnitude to a small organisation is significant and has meant that the ALRC has had to reduce its expenditure significantly. Currently 80% of the ALRC's annual expenditure is in salaries (60.31%) and accommodation (19.35%) with little room in the budget to make savings. Other operational costs such as those associated with consulting, publishing reports and other operational requirements constitute a small proportion of the total budget (14%) so that even significant savings made in these areas have little impact on the budget bottom line.

Other comments regarding expenditure are also detailed in the ALRC Background Paper.

Therefore we believe that the provision of funding is important to the ALRC.

This is because the ALRC would not otherwise mention it several times in their Background Submission.

6. Conclusion

We believe that unfortunately the ALRC is currently not providing value for money to the Australian Government. This is because the ALRC is not listening to the concerns of the Australian community.

We have some concerns about the reporting relationship between the ALRC and the A-G Department

As such, we submit that there needs to be a distancing of the ALRC and the provision of funding by the A-G Department

Until this occurs, we submit that any increased funding would be simply a waste of taxpayer's funds.

The current problems with the ALRC in not providing balanced reporting will no doubt continue to occur.

Regards

John Flanagan,
Deputy Registered Officer,
Non-Custodial Parents Party (Equal Parenting),
<http://www.equalparenting.org.au>