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House of Representatives Standing Committee
on Family and Community Affairs

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Secretary:

Ms Joanna Gash, MP
Federal Member for Gilmore
Berry Street
NOWRA NSW 2541

Dear Ms Gash

I would like to take this opportunity and put forward my thoughts to you on the Child Custody Inquiry. I came and saw you some time ago in regards to the last changes with the Child Support Agency and whilst you sympathised with me you said I was in the minority group. I hope my thoughts I'm now putting forward will reach a bit further this time. I have tried to address areas of interest from the terms of reference of the inquiry.

1. Childs best interests are paramount:-

Firstly, I would like to say that I believe that the current system rarely makes decisions in the best interests of the child. This is not a bitter statement but rather one that is sadly fact as I have worn the shoes. The children are not heard in our current system and do not even have the right to be properly represented by a Solicitor at a hearing, however both parents are represented if you can afford it. Our children are only sometimes appointed a Legal Aid Solicitor which is not usually beneficial to them because the legal aid solicitor is not aware of the past issues or familiar with the parties involved. They make a judgement on the parents legal representatives submissions and do not even speak or meet with the child.

Prior to any hearing we have a system that often sends parents and children off for a Family Report to be done by a Family/Child Psychiatrist. This is a very awkward and intimidating experience for children. The psychiatrist usually sees the parents, sometimes relatives, and usually speak with one side for a lot longer then the other. They ask the children a couple of questions (usually nothing related to the hearing) and then this supposedly very experienced (usually divorced or childless) psychiatrist sends a report to the Courts and Orders are made off this Report. What this report does not address are the very issues of fear and problems that children may have. More importantly, children will not open up to a person with no people or interpersonal skills whatsoever who base their decision on a couple of visits. This Report is so out of date and is not assisting the Courts in any way to come to a decision based on the best interests of the child. If we are going to get to the bottom of childrens problems then it has to be with a Counsellor or Psychologist that the child is familiar with and has built a rapport with over several weeks or months. Even when there is strong evidence of bias in a Family Report a Judge will not over rule this Report. Again this sounds bitter but believe me I have walked the miles in this very frustrating system and this Report needs to be stopped.

So clearly our current system, if we are ever going to get it right for the kids needs to change and change dramatically. My daughter is now nearly 9 years of age and clearly knows what she wants. Her fun and free toddler days were stripped from her and as a result of family law court decisions. As a result she now has a lot of emotional problems and immature social skills that I still deal with every day and will no doubt continue to deal with until she is a lot older.

If we are ever going to get it right for children we need some experienced judges that are children orientated and we need to get the children into a friendly room (without the parents) where they can tell a Judge or independent person what they want without the fear of them being the meat in the sandwich or too frightened to speak up. We do not give our children enough credit, they know what they want, who they want to live with, visit and most of all they will get it right and at an early age before one parent might have the time to poison or frighten them. We constantly are told in the media that we have systems to look after our children and the child's best interests are paramount, yet we still have strangers telling them and their parents what is best for them.

My daughter in the past has told family psychiatrists some things that upset her or what she wants - yet because she was a child - her comments were dismissed. In the past I have promised her (on DOCs advice) that her father won't hurt her again or I have told her that it will all be okay. Yet every time I have had to back track and try and re-assure her that next time it might be better. All this results in is the child losing confidence in speaking up because no-one listens to them or believes them. In my child's case she feels it must be okay for dad to do that to her because the Courts have allowed it to happen and even more sadly even Mum can't help her, which she has stated in the past. I have a 9 year old that has no confidence, like I, in the court system because it has failed to protect or hear her. Please if we are ever going to make it better for kids - bring the kids in to talk and throw the parents out.

2. Shared Custody

I am a single mum and have raised my daughter on my own for nearly 9 years. My first thoughts on the shared custody are that this could only work if both parents were amicable and in agreement and more importantly, the child or children would blossom under any such agreement, which in turn would mean this is what the children want. For some families where the separated parents live close by and the children can still attend the same school I see this as a plus for everyone involved. Both parents would have to be equally financially responsible and both parents would get the equal hard work and breaks.

In my case, however I do not see how this could work. Unfortunately we are not amicable and I live at least 2 ½ hours from my former husband. I have my daughter in a private school and would have to pay the school fees whether she was there or not. Emotionally my daughter would not cope with living with her father for any period of time. Under present Orders she now spends half the school holidays with her father and has contact every 3rd weekend.

Like many single parents I have a situation that is a vicious circle, for two weeks I provide, routine, discipline and support to my daughter. For these weeks she lives a reasonably happy and normal life but the third week before contact is due, I walk on egg shells and find her behaviour difficult both at home and at school. On her return from her father you have to gently reassure and re-inforce your rules and your expected behaviour and the merry-go-round starts all over again.

Whilst for 5 years now I have obeyed the Orders and she has not missed a weekend of contact that I can recall, I do not believe that this contact has been beneficial to anyone. The Courts seem to believe by making the child go to the other parent that the child will build a relationship with them. In my case I have not seen any evidence of this. Now she is older she accepts the decision that she has to go but if she had a choice then I know she wouldn't go as often as the Orders state. In my situation my former husband has created this situation himself. He is inflexible and does not care if the child misses a significant event like a tennis grand final, wedding or special birthday. He will not swap a weekend to allow her to participate in anything and often will not even have the decency to give her an answer one way or another so she spends her young life hoping he will say yes to a special request which at the last moment is always declined.

I feel this issue on shared custody needs to be very carefully considered and it needs to be explored on a case by case basis with lots of input from the children in the first instance.

I think where shared custody cannot be done, for example due to geographical reasons or other difficulties, then children should still be having input into how much time they wish to spend with the non-custodial parent. If a marriage has broken down but both parents have always played a positive and loving part in their child's life commonsense tells you that a child will still want to be a part of each parent's life.

I also feel that where shared custody is not in place that the custodial parent should have some rights especially when giving full emotional and financial support. In my case I am the custodial parent and yet have no rights to make a decision for my daughter based on her best interests because you're too afraid that you will be taken back to court for breach of an Order. In other words, I do all the hard yards emotionally and financially yet the part-time parent has all the say and calls the shots.

3. Grandparents contact

I feel this is a mother and/or father parent decision and again the child should have input. However, if a parent wants their own parents to see their child then surely this can be done when they have their child or on the weekends that they have contact with the child. Otherwise, you are going to have a situation where the child goes to school all week and then spends every weekend visiting relatives, be it young or old. Let's face it kids don't want this. They want and should have the freedom (**like any other child living in a 2 parent family**) to play with their friends and/or be involved in sporting events of a weekend. They should have the right to do this. My daughter is very athletic, yet has experienced very little team sports or events because teams find it hard to find subs for when they are away. I feel that team sports and socialising is still very important to every child growing up and such experiences should not be missed.

4. Child Support

This would have to be the biggest disaster of a system for most. If a man is employed then he has no option but to pay, and usually a ridiculous amount, that hinders him ever having a fresh start to any new life. Then you have the likes of my former husband who gives up paid employment so he doesn't have to pay child support. He lives like a king as a self employed plumber yet pays nothing or very little for his daughter. On the other hand, I have worked hard to improve myself, gain a promotion only to find out that what I earn actually benefits my former husband rather than my daughter. It lowers the amount he has to pay which is outrageous. I emotionally and financially support my daughter on my own. I have sent her to a private school this year which I receive no assistance with and she was also diagnosed with epilepsy last year which again I bear all the costs with no offer of assistance. To make matters worse it also costs me for my former husband to have contact with his daughter. It costs me petrol and running costs to meet him half way both ways and it also costs me a meal on the Friday and Sunday evening so she can have her medication. I also provide medication, suncream and other personal accessories for her comfort whilst at her father's contact. Financially I bear 90% of the cost and he just sits back and laughs.

I believe the only fair way to deal with this issue is to work out (on average) what a child's expenses are a week and make all non-custodial parents pay a standard amount whether they are employed, self employed or unemployed. Under the current scheme some parents are making money on unfair arrangements whilst others receive nothing. This is why a standard amount needs to be decided on. I.e. Our unemployment benefits or pension amounts are set, so surely an average child amount could also be worked out on the age of the children. I don't feel it

matters if the parent is earning \$18,000 or \$118,000. It should be the same for everyone. In example for equity I feel it should be something like below:-

Age: birth - 5	\$30 per week	5 - 10	\$60
10 - 15	\$80	15 - 18	\$90

I also feel that if this amount is continually unpaid then (unless extra ordinary circumstances arise) the unpaying parent should not have rights to see their children. When you choose to become a parent you commit to financial and emotional responsibility for that child. These responsibilities do not stop once that child no longer resides under your roof. This would sort out the ones who really do have their child's best interest at heart and the ones that don't. I would even go further to say, that in my situation, if I bear nearly all the cost of raising a child then surely I have the right to say to her father that if you want to see your daughter then you come and collect her from her home and return her at your cost. This would also sort out the real parents from the vengeful parents. Some of these parents want their rights but shrug off all other parental responsibility. Yet the parents who are doing the right thing, the system is not rewarding them. I.e: if one earns some overtime or gains a promotion, then we hit them again. This is why I am passionate about setting a standard amount for everyone. I believe this would be a fairer system for those families who have custody and contact Orders. For Shared Custody then perhaps the parent with the child pays and then financially has a break when the child stays with the other parent.

Lastly, I know I have called a spade a spade in this letter and at times been cynical. This is because it is a frustrating and an emotional roller coaster system that takes all one's dignity and trust away, not to mention faith in our legal systems. My last comment would be instead of fathers rights or mothers rights - **lets hear it for children's rights and give it back to them.** I have always said for a father or mother to have rights then they have to be a father or a mother first.

All this will be too late to assist my daughter or myself but I hope in time things will dramatically change for the better and that no child has to go through what my daughter has gone through from the age of 3. Emotionally she will carry scars for her life, where up until the age of 3, I shared a very normal and happy life with my daughter as her father did not access his contact Orders. Thanks to the Family Law Courts we now have to live our life day by day. My daughter and I don't have a right to a normal life - we are still governed by a bully of a father (former husband) and unbending Family Law Court Orders.

Fortunately, unlike some other children I know, at least my daughter is one of the luckier ones. For the majority of her life when with me she does not have to endure a situation where she is not happy and content. We can only hope that there is a light at the end of the tunnel and that things will change for the better so my daughter and other children who find themselves in a family breakdown do not have to wait until 16 years of age before they are heard.

Yours faithfully

