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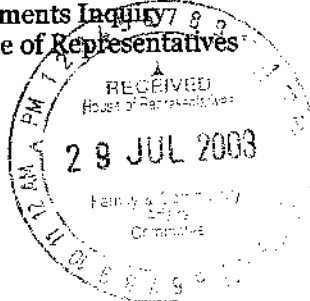
Secretary: .....

**Sent:** Monday, 28 July 2003 7:19 PM

**To:** Committee, FCA (REPS)

**Subject:** Committee Submission

Committee Secretary  
Standing Committee on Family and Community Affairs  
Child Custody Arrangements Inquiry  
Department of the House of Representatives  
Parliament House  
Canberra ACT 2600  
Australia



Dear Committee

This letter is a submission to the Committee's Child Custody Arrangements Inquiry.

*(a) given that the best interests of the child are the paramount consideration:*

*(i) what other factors should be taken into account in deciding the respective time each parent should spend with their children post separation, in particular whether there should be a presumption that children will spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted;*

The best interests of the child can only be paramount when each child is entitled to unique consideration of its interests and circumstances, rather than any presumed model of parental division of the child. I am therefore opposed to any presumed division of children of separated parents.

The factors listed in Section 68F of the Family Law Act to define a child's best interests should be weighted towards safety as the threshold determinant of a child's best interests. The Government should establish a national child protection service for the family law system to assist the courts in the investigation of safety issues where violence or abuse is alleged. Where violence or abuse is established on the balance of probabilities, there should be a rebuttable presumption of 'no contact' with the person who has used violence until they demonstrated how contact would not pose a threat to the safety of the child, or other family members. The service should also be able to investigate and review the outcomes for children following orders which allegedly expose the child to the risk of violence, abuse or other harm arising from the orders.

In my own case which began in the early 1990's when our children were 9 years and 2 years. The court determined that our children could see their father **when they choose, where they choose and with a supervisor of their choice, if they choose to have a supervisor**. This empowered our children and started the healing process for them. As healing from violence and verbal abuse can only start to occur when the violence has stopped. By the court empowering our children it gave the children support and reinforced, through action, the premise that violence in our society will not be tolerated. This empowerment has ensured that both our daughters have grown up to be wonderful well adjusted young people.

I believed throughout the court proceedings that our children had the right to be free from harm and valued as worthwhile human beings. It was not my rights or my ex-husbands rights as parents that were paramount but our children's right to be safe at all times that was paramount.

I now realise that I was lucky with the court decision. Our children were even more lucky. And my ex-husband was lucky. Yes he was upset about the decision but the decision forced him to take responsibility for his violence and abuse of others. He is a very well spoken, well bred and well educated man but he needed the court to point out to him that his behaviour will not be tolerated and the decision did that.

At first the children would not speak to him. Then after six months they had a meeting where they chose with a supervisor of their choice. As they continued to heal and feel safer the meetings became more frequent and

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after two years they were meeting without supervision as his behaviour had changed.

Now they chat all the time to him and see him most weekends they are aged 22 years and 15 years and love their father. He is no longer violent and has had counselling.

If there was the presumption of shared care he would not have changed his behaviour and the effects on our children would have been deleterious indeed.

As a counsellor I see the effects of violence first hand. Families are torn apart by unfettered violence and there are many of my clients who have nothing to do with their violent parent/s. Consequently, they and their children have no family support and they are isolated and living in poverty. The violence continued throughout their childhood unrestrained because there was no court or societal pressure to change their parent/s ways.

It is not the parents rights that need protection but the children's rights. Children's safety needs to be of paramount importance. Family violence needs to be addressed head on with action and what may seem an inpalatable response initially but may well be the long term solution.

Stopping my ex-husband from seeing our children initially may seem harsh. However, it forced him to change his behaviour and accept responsibility for his actions and isn't that what adults are suppose to do in our society?

The only reason he changed his behaviour is because he was forced to and the outcome for him and our children has been wonderful. If he had been granted access initially both his relationship with the children and the children would have suffered due to his violence.

I urge the Committee to ensure the rebuttable presumption of 'no contact' with the person who has used violence until they can demonstrate how contact would not pose a threat to the safety of the child, or other family members.

I would also urge the Committee that where the care of a child is shared evenly each parent should be eligible for Parenting Payment Single and Family Tax Benefit A and B should be increased by 40 percent to reflect the limits on parental earnings, higher needs and costs of providing care across two households.

*(ii) in what circumstances a court should order that children of separated parents have contact with other persons, including their grandparents.*

Current family law provisions enable grandparents to make applications with respect to their grandchildren when they cannot make arrangements without court intervention, ergo the provisions do not have to be changed.

*(b) whether the existing child support formula works fairly for both parents in relation to their care of, and contact with, their children.*

The existing child support formula imposes requirements on the payer parents after exempting a self-support component and capping the income to be considered and it should therefore remain. The percentage formula does not reflect the actual costs of raising children, but child support makes a valued contribution, which, when it is paid, reduces child poverty and improves outcomes for children of separated parents. The percentages of payer contact used to calculate changes in the formula should not fall below the current definition of substantial care as there is no proportionate reduction in costs to the primary care parent. Closely tying child contact and financial outcomes for parents also directs parental focus away from the children's needs and interests to dollar outcomes and therefore functions in practise against children's best interests.

To reduce child poverty in single parent households the threshold of the maintenance income test should be increased by 50 percent and the FTB taper rate on child support received should be reduced from 50 cents to 30 cents in the dollar. The payee's income should be disregarded as a factor in calculation of child support payable because that income does not change the payer's obligation to contribute to the support of their child.

Thank you for your time and the opportunity to submit.