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Australian Institute of Family Studies

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New administration arrangements

Following the election of the new Government and associated administrative changes to Commonwealth departments and agencies, the Institute has joined the Prime Minister and Cabinet portfolio. The Institute remains a statutory agency and retains its strong links with other departments and agencies, including the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) and the Attorney-General’s Department (AGB).

Several departments have changed their responsibilities and names following the change of government, including the Department of Families, Community Services and Indigenous Affairs (FaCSIA), which is now the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA). In this edition, the previous names are used, which reflects the situation at the time of the writing of the articles.

Family relationships

The British philosopher John Macmurray (1961) observed that “the personal is constituted by the relation of persons” (p. 51). In large part, who we are reflects the relationships that have influenced our lives. Relationships affect us both directly through their behavioural and emotional impacts as well as through the ways in which we interpret and reflect on them, over time. As a social species, humans are vitally sensitive to the quality of their relationships and the contents of their interactions. The focus on relationships is both perennial and timely. Relationships can be the glue that binds us together and the wedge that cleaves us apart. Strong family relationships are fundamental to the cohesiveness and character of a society: fractured family relationships can be the source of damage and distress that spans lifetimes and crosses generations. The contemporary focus on supporting family relationships is welcome. A growing emphasis on early intervention and prevention is balanced by a practical recognition of the need to minimise harm to all concerned, but especially to children, when relationships break down. I congratulate Rae Kaspiow, Catherine Caruana and Ruth Weston for the excellent executive editorship of this themed issue of Family Matters. It is a theme that is central to the Institute’s work and the assembled articles provide a fresh set of insights into the state of contemporary Australian family relationships, their prospects, problems and current approaches to their support.

Relationships and family law reform

National evaluation

As I have previously indicated, the Institute is conducting an evaluation of the family law reforms. The elements of the evaluation include an examination of the new service delivery model funded from the Australian Government’s Family Relationship Services Program (FRSP). This program provides expanded funding for a range of existing services, as well as the establishment of 65 new Family Relationship Centres, designed to provide family dispute resolution services, a single-entry point to other services that families may need to build strong, healthy relationships, and assistance with child-focused arrangements in the event of separation. The team has been consulting widely with the family services sector, advising them of the evaluation, and getting their feedback on the proposed methodology. This consultation included attendance at the second biennial FRSP conference in Melbourne on 1–2 August.

The evaluation will also examine the impacts of the changes in the law in this area, as set out in the Family Law Amendment (Shared Parental Responsibility) Act 2006. This Act introduced far-reaching changes to both the process and the substantive legal principles for resolving parenting disputes and is integral to the policy objectives of shared care, protection from violence and abuse, and non-court-based resolution of parenting disagreements.

Another key element is the Longitudinal Study of Separated Parents. This large-scale survey will provide insight into the pathways that family relationships take following separation. It will also examine the impacts of the recent changes to the Child Support Act 1997 on separated families. Other related studies will include surveys of parents who separated prior to the new family law reforms coming into effect on 1 July 2006, and of adolescents from separated families.

Family violence report

The report, Allegations of Family Violence and Child Abuse in Family Law Children’s Proceedings: A Pre-Reform Exploratory Study (by Lawrie Moloney, Bruce Smyth, Ruth Weston, Nicholas Richardson, Lixia Qu and Matthew Gray) has stimulated a great deal of interest from policy makers, practitioners and the public. Institute staff have been invited to present the results to a range of meetings, seminars and conferences, including the Annual Judges Conference (Melbourne, 11 August), the Legal Aid Commission of NSW Family Law Conference (Sydney, 3 August), and the Relationship Support Network Meeting (Australasian National University, 17 July).

Magellan Project

This project was commissioned by the Family Court of Australia and examines the effectiveness of the Court’s Magellan case management system for responding to allegations of sexual abuse or serious physical abuse of children. The project’s final evaluation report (Higgins, 2007) was completed in October. This too is an important project that will inform the way the Court manages allegations of sexual and physical abuse of children. This is another example of how the Institute’s research informs the development of policy and practice.

The Australian Family Relationships Clearinghouse

The Institute’s national clearinghouses are a vital part of fulfilling the key objective of informing the Australian community about research into family issues. They have successfully met this objective. In 2006–2007, the Institute added a fourth clearinghouse – the Australian Family Relationships Clearinghouse (AFRC). It specifically aims to improve the wellbeing of families and children by supporting practitioners, service providers and policy makers in the development and delivery of family and relationship programs, ranging from prevention and early intervention to post-separation services. The AFRC became fully operational in September 2006 with its website launch. The material disseminated by the AFRC will enhance understanding of research into family relationships, and will inform the development and evaluation of high-quality family services.
programs to support Australian family relationships. It is a very significant addition to the Institute's capacity, and one of the most exciting changes to its profile this year. Interest in the clearinghouse has been impressive, with more than 80,000 pages downloaded from its website in its first nine months of operation.

**Stronger Families in Australia**

The evaluation of the Stronger Families and Community Strategy, including the Communities for Children (CfC) program, involves a multifaceted approach undertaken by the Institute in collaboration with the lead agency, the Social Policy Research Centre at the University of New South Wales. A core component of the evaluation of the CfC program is a longitudinal study of families, the *Stronger Families in Australia* (SFIA) study, which the Institute manages.

The SFIA study is following 2,202 children, aged two years at the time of the first wave of the survey, and their families. Approximately 145 parents of two-year-old children in each of the fifteen communities were interviewed at Wave 1. Interviews for the first wave were conducted over the period June to August 2006 (baseline). This was prior to the CfC program being implemented. The second and third waves of interviews are being conducted after the implementation of the CfC program. The second wave has been conducted over the period March to June 2007, with a response rate of 92 per cent of families that participated in Wave 1. The third wave is scheduled to commence in February 2008.

As part of the survey, the primary carer of the child (usually the mother) is interviewed. Primary caregivers are asked a range of questions on the wellbeing of the child and the family. Questions are also asked about the use of services. The measures of wellbeing that have been included in the survey relate to the four priority areas of the Stronger Families and Communities Strategy: healthy young families; supporting families and parents; early learning and care; and child-friendly communities.

Given the complexity of the study, a principled approach to the statistical analysis is being used to evaluate the CfC program using data from SFIA. A report outlining the data considerations and statistical methods to be employed has been completed. Preliminary data analysis on Waves 1 and 2 is currently underway.

**FaCSIA Family Wellbeing Framework**

The Institute hosted a series of family wellbeing workshops with the Australian Government Department of Families, Community Services and Indigenous Affairs (FaCSIA), from 16–18 July, 2007.

A draft Family Wellbeing Framework is being developed by FaCSIA as a departmental tool to provide a better understanding of the influences on family wellbeing, the changing nature of Australian families, and the impacts of interventions.

The key principles that underpin the draft FaCSIA framework include:

- a primary focus on families and, in particular, measuring the things that families do that are distinct from measures of individual, community and societal wellbeing;
- a need to understand families as agents in the wider environment;
- recognising that families help to shape social and economic life; and
- understanding that families are defined by what they do rather than what they are.

The series of workshops hosted by the Institute provided an important opportunity to discuss and reflect on the empirical evidence describing the factors that impact on families in Australia.

**Partnerships and networks**

The Institute places priority on developing stronger partnerships and networks across government and with the community. Strategic partnerships extend the research capacity of the Institute, and enable more effective knowledge transfer to those with prime responsibility for the development of policy and services for Australian families. Recent examples include the strengthening of our partnerships with FaCSIA and the Attorney-General’s Department, signing a Memorandum of Understanding (MoU) with the Australian Institute of Health and Welfare (AIHW), and developing closer working relationships with the Australian Centre for Child Protection at the University of South Australia and Odyssey House. These add to our collaborative links with the University of Melbourne, La Trobe University, the University of Adelaide and the Social Policy Research Centre at the University of New South Wales. A new relationship is being developed with the Department of Prime Minister and Cabinet, particularly the newly established Office of Work and Family and the Social Inclusion Unit.

**New Zealand Families Commission**

In March 2007, Matthew Gray and I travelled to Wellington, New Zealand, to take part in collaborative exchanges with the New Zealand Families Commission. This partnership opportunity provides a valuable extension of the Institute’s capacity and influence, as well as exciting prospects for staff exchanges.

**Collaboration with the Australian Institute of Health and Welfare**

In 2006, the Australian Institute of Family Studies signed an MoU with the Australian Institute of Health and Welfare. This year, the Institute and AIHW commenced what we hope will be the first of many fruitful collaborations between the two organisations with the joint undertaking of the *Comparability of Child Protection Data* project. The project is being conducted by staff from the National Child Protection Clearinghouse at the Institute, in collaboration with staff from the Children, Youth and Families Unit at AIHW, and under the guidance and direction of the National Child Protection and Support Services (NCPASS) Working Group. Prue Holzer from the Institute has completed a four-week placement at AIHW where she worked collaboratively to scope the project, determine the methodology, and develop the data collection materials. The project provides an excellent example of the way in which the complementary skills and knowledge held within the Institute and AIHW can be paired through collaboration to enhance the outcomes of projects in which we are involved.

**Director’s activities**

**National Families Week:** The week 13–19 May 2007 was National Families Week. To mark this occasion, and to inform the community about its work, the Institute developed and distributed a Facts Sheet that provided a snapshot of the way Australian families spend their time. This information sheet supported the aim of the week, which was to encourage families to spend more time together. I was delighted to take the role of Ambassador for Families Week 2007, to help in promoting the vital
importance of the family in Australian society, and to high-
ligh the Institute’s role in supporting the needs of Australian
families.

**Australian Social Policy Conference:** In July I attended
the Australian Social Policy Conference, held at the Uni-
versity of New South Wales. The conference was excellent
and the Institute had a strong presence. I was delighted at
the extent of interest in the Institute and its publications.

**Wellbeing Symposium:** Matthew Gray, Daryl Higgins,
Leah Bromfield and I attended the National Family Well-
being Symposium held in Canberra from 20–21 June 2007.
The Symposium was an initiative of Families Australia, in
conjunction with the National Centre for Epidemiology
and Population Health at the Australian National Univer-
sity College of Medicine and Health Sciences.

**Inquiry into Impact of Illicit Drugs on Families:** On 19
June, Daryl Higgins, Matthew Gray and I appeared in Can-
berra before the House of Representatives Standing
Committee on Family and Human Services in relation to
the Inquiry on the Impact of Illicit Drug Use on Families.
The Inquiry was chaired by the Hon. Bronwyn Bishop, MP.

**National Work and Family Awards:** On 18 July, I
attended the Work and Families Awards Dinner in Syd-
ney, at which the winners of the 2007 National Work and
Family Awards were presented by the then Minister for
Employment and Workplace Relations. Michael Alexander
and I are on the Judging Panel for the Awards. The site vis-
its provide an invaluable window into the innovative
practices developed by workplaces to ensure that they are
family friendly.

**Australian Families and Children Council:** On 24 July,
I attended the inaugural meeting of the newly formed Aus-
tralian Families and Children Council (AFCC). The role of
the AFCC is to provide expert and strategic advice on pol-
icy and program development to the Minister for Families,
Community Services and Indigenous Affairs, with a view to
improving outcomes for children, families and the com-
munities in which they live.

**International visitors**

During her recent July visit to Melbourne, the Institute
had the pleasure of welcoming Professor Jeanne Brooks-
Gunn, the Virginia and Leonard Marx Professor of Child
Development at Teachers College and the College of Physi-
cians and Surgeons at Columbia University. Professor
Brooks-Gunn attended the Institute on 2 July 2007, where
she met with researchers from the Family Law Reform
Evaluation team and from the *Grooving up in Australia:*
the Longitudinal Study of Australian Children (LSAC)
team.

On Friday 17 August, I was delighted to welcome Mrs
Ismail Ellias, Deputy Director, Family Services Division,
Singapore Ministry of Community Development, Youth
and Sports (MCYS); and Mr Lau Khee Pheng, Assistant
Director/Guidance, Singapore Ministry of Education.

Other recent visitors included Karen Wong, Policy and
Research Manager from the Families Commission of New
Zealand, and Professor Beckie Adams from Ball State
University, Indiana, USA.

**Conference**

**Longitudinal Study of Australian Children (LSAC)**

The inaugural Longitudinal Study of Australian Children
(LSAC) Research Conference was held from 3–4 Decem-
ber 2007 in Melbourne at the Oaks Hotel on Collins Street.
The aim of the conference was to provide a forum for the
discussion of research based on LSAC data and to highlight
its research potential, and was an excellent opportunity for
us to showcase our LSAC work and to share the work that
colleagues are doing using LSAC data. Attendance at the
conference was open to all persons interested in LSAC, and
longitudinal survey research in general. It was an out-
standing event.

The aim of the conference was to:
- promote the use of LSAC data;
- build a community of users;
- encourage policy-relevant research;
- improve the quality of research undertaken by using
  LSAC data; and
- provide a forum for the discussion of research based on
  LSAC data.

**Information and communication**

The Institute’s commitment to communicating its research
to the broader Australian community continues through a
very active program of publication, the dissemination
capacity of its four clearinghouses, its Internet presence
and engagement with the media.

The Institute’s work consistently informs media debate
about family and broader social issues in a productive way.
Again this year the media profile has been high, with a mix
of media mentions that are directly about the Institute’s
research, combined with contributions to the general pub-
lic examination of family trends and related issues. The
total media mentions in the last financial year was 972,
and these were exclusively positive. Coverage was truly
national, with our comment being sought from Townsville
to Albany, Melbourne to Perth, Darwin to Devonport, and
many cities and towns in between. Interest in the Insti-
tute’s work grew steadily and the impact of its publications
was again demonstrated through substantial increases in
the use of its website, and through the extensive media
coverage of Institute research.

**Concluding thoughts**

The focus on relationships has been central to the Institute
since its inception. As our work for the national evaluation
of the family law reforms proceeds, it highlights the
significance of Australia’s commitment to strengthening
and supporting family relationships. The investment in
greater capacity within the Institute to undertake this
work has been a key strategic priority. The results of the
ground-breaking evaluation will be progressively shared
with readers of *Family Matters* and a range of other Insti-
tute publications.

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Family relationships: Change and complexity

RAE KASPIEW

This edition of Family Matters focuses on one of the most fundamental yet complex aspects of human experience – family relationships. The articles in this edition demonstrate this complexity in some depth in presenting research on a range of different relationship issues, including family violence, stepfamilies and parent–child relationships.

The social and demographic backdrop to such research is an environment where the concept of family and the meaning of family relationships have been undergoing significant changes. The proportion of families that fit the ‘standard’ configuration of a couple with children has decreased from 48.4 per cent in 1976 to 37 per cent in 2006. The decrease in this family type is matched by a steady increase in couple-only families (37.2 per cent in 2006, compared with 28 per cent in 1976) and one-parent families with dependent children (10.7 per cent in 2006 compared with 6.5 per cent in 1976). Another significant trend is an increase in the proportion of cohabiting couples with de facto relationships now representing 15 per cent of all people in couple relationships, compared with 6 per cent in 1986 (all data from Weston & Qu, 2007). These developments suggest increasing complexity in the meaning of ‘family’ and pose significant challenges for formulating policy across a range of areas, including law.

Family relationships and the new family law system

Over the past three decades, significant legal changes have been the companions of the social and demographic shifts outlined in the preceding paragraph. Most recently, the Family Law Act 1975 (Cth) has undergone reform through the enactment of the Family Law Amendment (Shared Parental Responsibility) Act 2006 (Cth), which has strengthened legislative support for shared parenting after separation and given increased prominence to the need to protect children from exposure to abuse, neglect and family violence. It has also introduced compulsory family dispute resolution for most disputes over parenting arrangements. A key aim of these changes is to ensure that...
family relationships – especially those between parents and children, and grandparents and grandchildren – can be sustained despite changes in couple relationships, as long is it is safe to do so, with the over-arching intention to strengthen family relationships. In the case of children from Aboriginal and Torres Strait Islander communities, the legislation recognises the need to maintain a wider range of familial and cultural connections.

A number of the articles in this edition address issues relevant to the new family law environment. Among the more difficult questions is that of family violence. Increasingly, family violence is being recognised as a factor in relationship breakdown (e.g. Sheehan & Smyth, 2000), an issue that impinges on parenting capacity (Edleson & Williams, 2007) and a potential predictor of child abuse (e.g. Tomison, 2000). A 2004 report by Access Economics estimated that family violence cost the Australian economy $8.1 billion in the 2002–2003 financial year, with about half of that cost being borne directly by the victims.

In the context of post-separation disputes over parenting arrangements, a history of family violence has a range of implications, including whether a family dispute resolution-based pathway is the most appropriate one, and how such a history should be taken into account in determining parenting arrangements. In a context where there are multiple potential pathways for parenting disputes, including having family dispute resolution available from many different providers and two different court systems – the Federal Magistrates Court and the Family Court of Australia (which has a special pathway for cases involving child abuse) – the identification and assessment of cases involving family violence are crucial to ensure they are dealt with in the most appropriate forum.

Landmark research featured in this edition, the Australian Institute of Family Studies Allegations of Family Violence and Child Abuse in Family Law Children’s Proceedings report, provides an empirical basis for starting to untangle some of the issues surrounding allegations of family violence and disputes over post-separation parenting arrangements. The report examined 300 Federal Magistrates Court and Family Court of Australia files in parenting matters that concluded in 2003, and provides the best empirical data we have had to date on the issue. It found that allegations of family violence (most often falling into the ‘severe’ category) were present in more than half the files across the sample, but were supported by firm evidence in a much smaller proportion of cases. It was only in this smaller proportion of cases that the allegation appeared to have an effect on the type of parenting arrangement made.

In view of the significance of the issues raised, Family Matters invited relevant organisations to submit responses considering how future practice could better address such allegations. The invitation was accepted by the Family Court of Australia (FCoA), the Federal Magistrates Court (FMC), Relationships Australia (RA), and the Domestic Violence and Incest Resource Centre (DVIRC). Each of these organisations articulated, in different ways, the challenges the new family law system faces in dealing with cases involving family violence. Both the FMC and the FCoA responses outlined more focused and streamlined approaches to dealing with the issue, with a particular emphasis on ensuring that cases end up on the pathway to the most appropriate court.

The issue of what pathway cases involving family violence should take was also the focus of the response from Alice Bailey of the DVIRC. She made the important point that the legal culture has to change if the issue is to be dealt with more effectively. The responses of the courts suggest that efforts to produce deeper understandings of family violence among court personnel are underway.

A key point made by the Allegations of Family Violence report is that evidentiary support for many allegations of family violence is lacking, reflecting a range of factors, including, probably most importantly, that it is a phenomenon that occurs in private and may have actively been concealed by the target for a range of reasons. This poses particular difficulties in a legal context, as there may be no basis for a finding of fact, yet these ‘unprovable’ facts are germane to determinations about parenting arrangements. The thought-provoking response provided by Relationships Australia suggests that in such situations family dispute resolution may well be capable of producing better outcomes, because it avoids a forensic focus and may be a context better suited to encouraging people to take responsibility for their behaviour.

In the context of this discussion about dispute resolution processes and the new family law system, it is also impor-
tant to recognise the significance of the changes to court processes introduced as part of the Family Law Amendment (Shared Parental Responsibility) Act 2006. As discussed in an article by former Family Court judge Professor Richard Chisholm in this edition, the Less Adversarial Trials process represents a new model that has the potential to offer real benefits and a more child-focused process. Another aspect of the new family law system is dealt with in Catherine Caruana’s article on Family Relationships Centres (the new ‘gateway’ to the system), which provides a window of insight into their operations through interviews with centre managers.

**Research on programs to help: Stepfamilies and pre-marriage education**

One of the most challenging family forms, from both a policy and individual perspective, are those where adults are forming new partnerships and children from previous relationships are involved. As the article by Murdoch Childrens Research Institute principal research fellow, Jan Nicholson, and her colleagues, points out, such families involve particularly complex dynamics, reflected in a heightened risk of separation.

In addition to a useful review of research on programs to assist stepfamilies, Nicholson and colleagues present the findings of a study involving participants in the StepPrep Program in Brisbane. Illustrating the complexities of re-partnering with children, the research highlights a range of motivations for participation in the free program, including the desire to learn how stepfamilies function and how to achieve greater harmony in stepfamily relationships. The authors use the findings of the study to reflect on how services in the new family law system, such as Family Relationship Centres, might develop strategies to address the needs of stepfamilies.

An article by Institute researcher Robyn Parker on research into pre-marriage education in the United States also highlights the positive role that relationship support programs can play. A large-scale study spanning four American states (Stanley, Amato, Johnson, & Markman, 2006) described by Parker found that participation in pre-marriage education had positive impacts on levels of marital satisfaction, conflict and commitment, especially in the short term.

**Parent–child relationships: Empirical snapshots**

Moving away from a focus on issues related to marriage and separation, a final research article examines another aspect of family life – father involvement with 4–5-year-olds. Institute research fellow Jennifer Baxter analyses data from Wave 1 of Growing Up in Australia: the Longitudinal Study of Australian Children (LSAC), and provides an interesting and varied picture of relationships between fathers and 4–5-year-olds in the LSAC cohort. This piece sheds interesting light on one of the big contemporary questions, the issue of work–life balance and the extent to which work commitments impede the development and maintenance of healthy family relationships. Baxter’s analysis shows that working long hours results in a small decline in father involvement but significant variations exist in the cohort, suggesting other issues, possibly including motivation, may play a role.

**Conclusion**

The research featured in this special edition canvasses a diverse range of issues, but leaves many more topics in this complex area untouched. In selecting the content, we have attempted to address issues of current concern and make available research that is timely and relevant. One of the unifying threads running through the edition is the nexus between research, policy and practice. This can be seen particularly clearly in the Allegations of Family Violence report, which provides more comprehensive insight into what has been a particularly poorly understood topic than has been available before. In providing responses, the FCA, FMC, RA and DVIRC have opened the door for deeper understanding of the practical challenges that allegations of family violence raise, and of the steps being taken to address them more effectively. Similarly, Nicholson and colleagues’ study of the StepPrep program provides pointers for further policy development and effective service delivery.

In this regard, it is also pertinent to draw attention to the Institute’s “Evaluation of the family law reform package”, (see page 39). In commissioning this research, the Australian Government has responded to the observation of the Parliamentary Committee that produced the Every Picture Tells a Story report that there was a dearth of empirical data on the impact of separation on families and their progress through the family law system (Recommendation 19, Australia. Parliament. House of Representatives Standing Committee on Family and Community Affairs, 2003). This research will help fill the gaps that currently exist in collective understandings of how the family law system operates, and what impact it has on the experiences of families undergoing separation.

**References**


Dr Rae Kasparek is a Research Fellow at the Australian Institute of Family Studies.
the establishment of 65 Family Relationship Centres around the country, the rollout commencing in July 2006 and concluding in July 2008;

- expansion of a range of early intervention services;
- the establishment of the Family Relationships Advice Line;
- the passing of the Family Law Amendment (Shared Parental Responsibility) Act 2006 (Cth); and
- significant amendments to the existing child support legislation.

Many commentators have noted that two core objectives of the reforms stand in some tension with each other. On the one hand, there is the aim to support the right of each child to grow up with love and support from both parents, even if they have separated. On the other hand, there is a further aim to ensure that children in separating families are kept safe from harm, especially
the harm caused by inter-parental violence and child abuse.

Changes to the Family Law Act introduced through the Family Law Amendment (Shared Parental Responsibility) Act 2006 aim to ensure that cases in which violence or abuse are alleged are handled quickly, fairly and properly. At the same time, there is a recognition that alleged violence and abuse cases are among the most difficult within the family law system.

Difficulties in implementing an effective family violence strategy are further exacerbated by the fact that there has been ongoing debate about the 'real' extent of violence and abuse allegations in family law cases, and whether or not most of them are 'true'. There has been an increasing acceptance that family violence and child abuse allegations have become or have come to be recognised as 'core business' within the Family Court. However, a difficulty with most of the key studies that have made such claims is that they have not been tied to clear definitions of violence or child abuse and/or descriptions of what is being alleged.

It can of course be legitimately argued that instead of being overly concerned with definitions or descriptions, an acceptable starting point is to record cases with allegations, regardless of the circumstances in which these allegations are made. From this point of view, all allegations matter because violence and abuse are never acceptable. A responsible default position from this perspective might also be to assume that allegations are much more likely to be 'true' than 'false'.

From a research perspective, however, an ongoing tension in this field has been in the capacity to distinguish between scholarly research and advocacy. According to Johnston, Lee, Olesen, and Walters (2005), many North American writers on the subject need no further convincing that:

the extent of real abuse suffered by children and their mothers has been largely ignored, dismissed, or greatly minimized by family courts. For this reason, they believe that the safety of mothers and children has too often been placed at grave risk by custody and access arrangements awarded by the court that favour a controlling and manipulative abuser. (p.283)

Conversely, Johnston et al. (2005) have noted that some fathers’ groups frequently claim that separated mothers routinely make false accusations of family violence and/or child abuse for revenge or to gain a tactical advantage in child custody disputes, with the aim of reducing their former partners’ involvement in their children’s lives or of cutting them out altogether. Johnston et al. suggest that those who hold this view often support Gardner’s (1999) formulation of a ‘parental alienation syndrome’ to buttress their claims. Gardner claimed to have produced evidence that ‘vindictive parents’ (mainly mothers) commonly pressure their children to make false claims of mistreatment, especially of sexual abuse in child custody cases.

Though now largely debunked by the research community (see, for example, Faller, 1998, 2003; Garber, 2004) and ruled inadmissible in a number of North American courts (Shields, 2007), some of the thinking that informed Gardner’s largely self-published views continue to strike a popular chord. In Australia, for example, a recent telephone survey of 2000 people in Victoria (VicHealth, 2006) found that 46 per cent of respondents agreed with the statement that “women going through custody battles often make up claims of domestic violence to improve their case” (p. 24). Men and women in the general population were equally likely to hold this view, while men from certain cultural groups were more likely than women in those groups to believe that women fabricate allegations to gain a tactical advantage in custody disputes (Taylor & Mouzos, 2006).

Popular perceptions such as these can persist irrespective of factually based evidence. But as the literature review in the Allegations of Family Violence report (Chapter 3) demonstrates, Australia has produced little in the way of sound empirical evidence that might assist family law policy makers move forward with confidence. Indeed most of the research to date has reported on small and/or non-probability samples. Provision of reliability and validity tests is unusual and, with some exceptions (e.g. Kaspiew, 2005), reporting on how the data were gathered and analysed has tended to be opaque. It must be said that again with some exceptions, the review of the international literature (Chapter 2) revealed a similar pattern of findings.

When convincing reliable data are unavailable, there is a tendency for the ‘loudest voices’ to dominate (Smyth, 2004). The ‘loudest voices’ may of course be correct, partially correct, or in serious error. While the existence of solid empirical data will not in itself re-direct erroneous attitudes, without such data it is likely that entrenched positions are simply likely to persist.

**Aim and method**

Thus a core aim of the research reported here was to examine as objectively and dispassionately as possible (a) the prevalence and nature of allegations of family violence and child abuse in family law children’s proceedings; (b) the extent to which alleging parties provided evidence in support of
An innovative aspect of the study was the development of an electronic coding frame. This meant that coders could enter data directly from the court files into laptop computers. (Reliability and validity data on the development and subsequent use of the codes are described in the full report.) Background information from the file was entered and any allegation of violence or child abuse was noted. If an allegation was raised, information was entered on:

- the nature of allegations, including the frequency and amount of detail provided;
- what, if any, corroborative evidence was supplied;
- any involvement by relevant state human services departments;
- responses to allegations and the nature of those responses;
- evidence or recommendations from family reports; and
- case outcomes.

**Key findings**

Set out below are key findings from the study with respect to:

- prevalence of spousal violence and child abuse allegations;
- type of alleged spousal violence;
- co-occurrence of spousal violence and child abuse;
- type of alleged child abuse;
- apparent severity of allegations;
- evidence in support of allegations;
- the nature of the responses;
- level of detail of allegations and responses;
- outcomes; and
- findings from those cases that resulted in written judgements.

These findings relate to allegations of spousal violence and parental child abuse in the context of ‘couple cases’ only – that is both the applicant and the respondent were the parents of the child. (There were only a small number of ‘non-couple’ cases in the samples, and only a small number of cases involving allegations of ‘other family violence’ that did not overlap with allegations of spousal violence.)

With respect to prevalence of allegations, it was found that more than half the cases in both samples of the FCoA and FMC contained allegations of spousal violence or child abuse. Allocations of spousal violence were much more common than allegations of child abuse. Cases that progressed to a defended hearing were the most likely of all cases to contain allegations; these were also more likely to involve allegations by both sides.

Key details with respect to prevalence can be found in Figure 1.

With respect to the type of violence alleged, it was found that the most common forms, in order of frequency, were physical abuse (actual or threatened), emotional/verbal abuse, and property damage.
Figure 2 provides more detail on the issue of types of alleged violence.

The co-occurrence of spousal violence and child abuse has been noted in the general population studies. In the present family law samples, it was found that allegations of child abuse were almost always accompanied by allegations of spousal violence. Figure 3 provides further details.

Figure 4 demonstrates that allegations of child abuse are mainly related to physical abuse, with only a relatively small number of sexual abuse allegations being noted.

It will be seen that a higher proportion of allegations of child abuse were found in the Family Court's judicial determination sample. This suggests that these allegations are more often formally litigated than dealt with at a pre-court negotiation stage. Interestingly, no case of alleged sexual abuse was heard in the FMC. This suggests that the Family Court is probably recognised as better resourced in this regard, especially with its capacity to oversee the Magellan program, which is designed to deal as expeditiously as possible with such allegations (see Higgins on p. 40 in this issue).

Figure 5 addresses the alleged witnessing of spousal violence by the children and compares this with the actual allegations of spousal violence figures presented in Figure 1.

It can be seen from Figure 5 that these allegations were more likely to be made in the judicial determination sample than in the general litigants sample. Indeed, in the general litigants sample, parents in only half the cases in which violence was alleged went on to allege that the violence had been witnessed by the children.

Aside from distinguishing between different types of spousal violence and child abuse, the research team also classified each party’s set of allegations and each case’s set of allegations according to how abusive or potentially injurious the overall alleged situation was likely to be. (The typology developed for this appears in Appendix B of the full report.) Clearly, any attempt to code cases along these lines is fraught with conceptual and philosophical difficulties. Nonetheless, imagining being in the ‘shoes’ of legal representatives, judges or federal magistrates, having to sift through the many complex and varied pieces of information surrounding allegations of family violence, we reasoned that we should attempt to draw out some notion of the severity of the alleged situation. The grounded theory approach to building the typology, including a description of the reliability checks, is described in Section 5.1.2 of the full report. To make our approach as transparent as possible, each case was also summarised and placed in its respective category (see Appendix C of the full report).

This process led to the conclusion that many of the allegations appeared to be at the severe end of the spectrum. Moreover, this finding was not confined to the Family Court cases. The Federal Magistrates Court, too, dealt with a substantial proportion of cases involving allegations of apparently severe violence. Further details are presented in Figure 6. The three categories in this figure represent allegations from the potentially least serious (Category A) to the potentially most serious (Category C). Cases in which there was a mixture of categories were classified according to the more (or most) serious category.

![Figure 3: Co-occurrence of spousal violence and child abuse: Court by sample](image)

![Figure 4: Most common types of parental child abuse alleged: Court by sample](image)

![Figure 5: Extent that spousal violence was alleged to have been witnessed by children compared with prevalence of allegations of spousal violence: Court by sample](image)
Consideration of the findings related to prevalence (Figure 1) and apparent severity (Figure 6) reinforces previous research-based and anecdotal accounts of violence being or having become ‘core business’ in the Family Court. In addition, the finding that the Federal Magistrates Court was also dealing with a substantial proportion of allegations at the severe end of the spectrum presents a significant challenge to notions of this court being a court that aims to expedite hearings and outcomes.7

On the question of the apparent strength of evidence accompanying allegations (Figure 7), it was found that with respect to allegations of both spousal violence and child abuse, most commonly the allegations contained no information.

It can be seen from Figure 8 that by far the most common response to all allegations, both from mothers and fathers and across all samples, was ‘no response’. The next most common response was denial of the allegation, though in the judicial determination sample, a mixture of denials and admissions was equally common. Full or substantial admissions were relatively rare. Figure 8 provides further details of this pattern.

When the levels of detail of allegations and responses to these allegations were combined, the most common finding was a pooling of low detail in the allegation and low detail in the response. Next most common was medium level of detail in the allegation accompanied by low level of detail in the response. Allegations and responses containing high detail appeared to be rare. Figure 9 outlines this pattern.

These three layers of ambiguity surrounding the allegations – that is, relatively few allegations with evidence of strong probative weight or high level of detail, plus relatively little in the way of detailed responses – suggest that decision-making by judicial officers or agreements made (mainly) with the assistance of clients’ legal representatives, are likely to be taking place in the context of widespread factual uncertainty.

How, then, did allegations appear to impact on outcomes? Regardless of the apparent severity or probative weight of allegations, it remained unusual for some form of contact7 between the child and the alleged perpetrator to be denied.

As Figure 10 suggests, however, the making of allegations of spousal violence or child abuse that were judged by the research team to be at the severe end of the spectrum, appeared to impact on the proportion of cases in which overnight contact occurred.9

A similar pattern can be seen with respect to allegations, at least one of which had evidence of strong probative weight.10

In summary, in the general litigants sample, allegations of spousal violence or parental child abuse appeared to make a difference to case outcomes if they were supported by evidence that appeared to have strong probative weight; the proportion of cases with orders for overnight stays decreased, and the proportions of cases with orders for daytime only and no contact increased. A similar pattern emerged where the sets of allegations were classified as serious (Category C). In addition, the report found (Chapter 6, Table 6.13) that cases classified as containing the most severe allegations of spousal violence were more likely than other cases to be accompanied by evidentiary material of a strong
probative weight. (Most allegations of child abuse were classified into the Category C grouping.) This means that there was some overlap between the apparent severity of allegations and the apparent weight of evidence in support of such allegations. In the end, however, overnight contact remained the most common of orders, irrespective of the apparent severity of the allegation and the apparent weight of evidence that supported these allegations. And regardless of the weight of evidence or the apparent severity of allegations, daytime-only contact was more likely to be ordered than no contact.

**Judicial findings concerning violence**

It will be recalled that the original sample was divided into the general litigants sample and a separate sample of 60 cases that went to judicial determination. The report produced a flow chart (Figure 7.1) that shows (a) the proportion of the original 240 ‘general litigants’ that proceeded to full judicial determination and what proportion of these had written judgments; and (b) the proportion of the judicial determination sample of 60 cases that also continued on to written judgments.

In the general litigants sample, 6 of the 109 couple cases in the FCoA and 4 of the 116 couple cases in the FMC proceeded to full litigation. Thus, the percentage of this group that proceeded to litigation is broadly consistent with previously cited FCoA data that suggest litigation rates with respect to all applications of approximately 5 to 6 per cent (FCoA, 2006). Of the 55 couple cases in the judicial determination sample, 18 FCoA and 4 FMC couple cases were fully litigated (that is, both parties contested the case).

For a variety of reasons outlined in the report, not all litigated cases resulted in written reasons for judgment. In the end, the final grand total of written judgements on couple disputes in which allegations had been made, was 24 (18 FCoA and six FMC). Of the 18 FCoA alleged violence cases that contained written reasons, 11 made findings about allegations of family violence and/or child abuse (while in one other case, findings were made about mental health issues). Of the 11 cases where findings were made, 10 cases resulted in a finding that violence had occurred, with a link between violence and the court orders evident in 9 of these 10 cases.

Of the six FMC alleged violence cases that contained written reasons, five contained findings about allegations of family violence and/or child abuse. In four of these five cases, violence was found to have occurred, with a link between violence and the court orders evident in three of these four cases.

Thus, of the small select sample of 24 fully contested cases containing allegations and written reasons behind the judgment, the final court order appeared to take into account the allegations raised in half these cases (n = 12). These data can, of course, be approached positively or critically. Is the glass half full or half empty? From a critical perspective, the following questions can be asked: Why were there no findings in eight cases? What led to a finding that an allegation was unfounded? Where there was a finding that violence had occurred, why was this finding unrelated to the outcome in two cases?

A key aspect that appeared to differentiate between cases in which allegations were and were not addressed was the level of evidentiary material in support of the allegations. In all eight of the cases where allegations were not addressed, the court file contained no evidence or only evidence of lower

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**Figure 9** Level of detail of each allegation by level of detail of response: General litigants sample

<table>
<thead>
<tr>
<th>Allegations: no evidence</th>
<th>Allegations: at least one with strong probative weight</th>
<th>Allegations: no evidence or evidence of a less probative weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allelogies high &amp; responses high</td>
<td>1</td>
<td>6</td>
</tr>
<tr>
<td>Allelogies high &amp; responses medium</td>
<td>9</td>
<td>14</td>
</tr>
<tr>
<td>Allelogies medium &amp; responses high</td>
<td>52</td>
<td>25</td>
</tr>
<tr>
<td>Allelogies medium &amp; responses medium</td>
<td>58</td>
<td>25</td>
</tr>
<tr>
<td>Allelogies medium &amp; responses low</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Allelogies low &amp; responses high</td>
<td>0</td>
<td>0</td>
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<td>Allelogies low &amp; responses medium</td>
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<td>Allelogies low &amp; responses low</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

**Figure 10** Apparent severity and case outcomes: General litigants sample

- No allegations: 19
- Categories A & B: 16
- Category C: 11

**Figure 11** Apparent probative weight of evidence: General litigants sample

- No allegations: 18
- Allegations: no evidence or evidence of a less probative weight: 19
- Allegations: at least one with strong probative weight: 27
It is also interesting to note that in all but two cases in which allegations were addressed, allegations were made by both the applicant and respondent; one case that was the exception was (albeit unsurprisingly) undefended. Three of the eight cases that involved ‘unaddressed’ allegations were made by one party only, compared with 14 of the 16 cases in which allegations were ‘addressed’. In addition, three of the eight cases contained emotional abuse exclusively, compared with none of the 16 cases in which allegations were addressed. This suggests that those cases in which allegations were addressed were more complex and/or perhaps involved more tangible allegations.

**Discussion**

These data, which reveal the existence of a considerable number of concerning allegations of violence and abuse accompanied by low levels of specificity, low levels of corroborative evidence, and either denials or a complete absence of responses, inevitably pose challenges with respect to assessing outcomes. When specific allegations with evidence of a high probative weight were fully litigated, the courts’ orders were much more inclined to reflect the concerns that were raised. For example, they may have demonstrated signs of caution (such as daytime parenting arrangements only) or built in stronger protective qualifiers (such as supervised parenting). In addition, when specific allegations with evidence of a high probative weight led to consent orders, these orders also tended to be similarly responsive to the allegations.

As we have seen, however, most of the allegations in all four court sub-samples lacked supporting evidence and specificity. In addition, when responses were made, they were mainly (and overwhelmingly) in the case of child abuse allegations) in the form of full denials. In cases involving allegations that lacked evidence or specificity, the outcomes, whether fully litigated or not, were much more similar to the outcomes in the cases in which violence or abuse was not alleged. It would appear at first glance, therefore, that if the parenting outcomes for many of the alleged violence cases were indistinguishable from the outcomes in the cases in which no violence or abuse was alleged, then both categories (alleged violence and no alleged violence) were being treated, on average, as if they were the same.

In considering these findings, it should of course be appreciated that this study cannot adequately tap into the subtleties that accompany the weighing of probative weight in support of allegations. In contrast, 9 of the 16 cases where allegations were addressed had supportive evidence of higher probative weight in support.\(^{13}\)

Perhaps, too, amidst the ongoing controversies surrounding ‘false allegations’ and ‘false denials’ in family law disputes, practitioners and researchers may underestimate the extent to which it is no trivial matter for many litigants to make any allegations against a former partner with whom one has had children, and with whom one probably wanted to share a lifetime.

Evidence when cases are judicially determined. Nor can it analyse the informal admissions, concessions or, perhaps, promises that might be made during the negotiations that take place with a view to resolving a matter without the need for a fully defended hearing. In other words, the data do not permit us to assess the possibly more nuanced nature of the determinations or of the negotiating processes that may be taking place on behalf of each litigant and on behalf of their children.

In addition, on the data presented, we can only speculate about the circumstances, thinking, motivation or advice that led the majority of litigants to make so many non-specific allegations which, in turn, often elicited no response. The issues that influenced litigants’ behaviour may have included the well-recognised difficulties experienced by those who have been in a victim role in simultaneously breaking free, asserting their rights, detailing the nature of the violence or abuse and gathering evidential support. More speculative is the idea that legal processes within a settlement-oriented family law ‘culture’ might inhibit the making of fully fledged allegations or responses.\(^{14}\)

Perhaps, too, amidst the ongoing controversies surrounding ‘false allegations’ and ‘false denials’ in family law disputes, practitioners and researchers may underestimate the extent to which it is no trivial matter for many litigants to make any allegations against a former partner with whom one has had children, and with whom one probably wanted to share a lifetime. The data may therefore be reflecting some ambivalence on the part of some of the litigants – perhaps a desire to set a tone that speaks of violence or abuse without being totally condemning of the other party.

A further way of approaching this issue is to consider that the fact that violence in the home has become a criminal matter does not in itself address the highly complex meaning of the behaviour. Bala, Jaffe, and Crooks (2007), for example, cite a prosecutor in a Toronto domestic violence court who describes the situation this way:

> it’s a crime. But you can’t tell me a stranger hitting you is the same as your husband hitting you. There are just not as many factors involved. A stranger doesn’t pay the mortgage; he isn’t the father of your children and he’s sure not someone, rightly or wrongly, that you love. (p. 22)

At this stage, the data suggest that to the extent that the information that informs litigation processes is a reflection of the information contained in the court files, much of the decision-making and negotiating in family law children’s cases in which violence is alleged in Melbourne and Adelaide appears to be taking place...
in a climate of considerable factual uncertainty. This could mean that courts and negotiators are generally struggling to make transparent links between many of the violence-related allegations and the final outcomes. One possible explanation for this is that allegations of violence were simply so ubiquitous and, on average, so difficult to assess in detail, that the impact they had on the outcomes became ‘blunted’. It could, on the other hand, mean that negotiations and decisions are being based largely on material that is not formally recorded on court files. If the first of these hypotheses is the case, one way forward would be to explore ways in which this material can be made clearer and more informative. If the second hypothesis has more weight, then the focus of future research would need to move further in the direction of understanding decision-making processes within the courts themselves, and decisions being made at the level of pre-trial negotiations conducted mainly, though not exclusively, by legal representatives.15

But in either case, it is difficult to see how persisting with such a paucity of information attached to core sworn documents can be helpful. We suggest that where uncertainty predominates in a set of such core documents, its impact is most likely to be in the direction of a relative downgrading of the violence and child abuse allegations. We suggest this because if allegations of serious violence or abuse were to be reflected in the details of the parenting arrangements ordered or agreed to, one would expect these arrangements to look somewhat different to the parenting orders in the sample in which no allegations were made.

Endnotes
2. Johnston (2005) is among those who have provided more sophisticated analyses of the phenomenon of the rejection of a parent by a child.
3. The survey was administered to two random samples: (a) 2000 Victorians 18 years and over; and (b) an over-sample of 800 adults from specific culturally and linguistically diverse (CALD) backgrounds.
4. The clients in this sample were referred to as ‘litigants’ because they had made formal applications requesting the court to grant them certain orders with respect to their children. In many of these cases, however, disputes are resolved before any significant litigation takes place. Typically, negotiations take place with the assistance of clients’ legal representatives, sometimes aided by advice given at preliminary hearings and/or meetings with court-appointed mediators (now called ‘Family Consultants’). This complex process conducted ‘in the shadow of the law’ (Mooorkin & Kornhauer, 1979) is sometimes referred to (see Galanter, 1984) as ‘litigation’.
5. A further possibly unique feature of this study was that (a) the researchers were engaged in the development of the coding by an experienced barrister; and (b) the transfer of material from the court files into the coding frame was done by this and another experienced barrister.
6. We acknowledge that lawyers, judges and federal magistrates would have access to more information than is available in the file material that forms the basis for this analysis.
7. This refers to the general litigants sample. There were too few Federal Magistrates’ judicial determination cases for the percentages to be meaningful.
8. Parenting arrangements in 2003 were called ‘residence’ and ‘contact’.
9. It is important to note that this figure only focuses on specified orders for overnight stays, daytime-only contact and ‘no contact’, and excludes ‘other orders’. ‘Other orders’ mostly concern parental decision-making responsibilities, but also includes orders that were recorded as ‘as agreed’ or ‘as specified’, changeover arrangements and scheduling of parenting time.
10. As with Figure 10, this figure only focuses on specified orders for overnight stays, daytime-only contact and ‘no contact’, and excludes ‘other orders’.
11. See Step 2 of Figure 7.1 in the full report.
12. Step 4: 18 FCOS, 6 FMC – Figure 7.1 in the full report.
13. See definitions of ‘lower’ and ‘higher’ probative weight in Chapter 6 and Appendix E in the full report.
14. Though such speculation has support. See, for example, Kimm (2006), who has written on lawyers’ settlement conventions in the context of Australian family law.
15. See previous studies in this regard, such as Ingley (1992) and Eekelaar, Maclean, and Beinart (2000).

References

Lawrie Moloney is an Associate Professor in the School of Public Health at La Trobe University, and is employed on a part-time basis with the Institute; Bruce Smyth is an Associate Professor at the Australian Demographic and Social Research Institute parent decision-making research team; and Ruth Weston is General Manager of Research and a Principal Research Fellow at the Australian Institute of Family Studies. Nick Richardson is a Senior Research Officer at the Australian Institute of Family Studies; Lexia Qu is a Research Fellow at the Australian Institute of Family Studies; Matthew Gray is Deputy Director Research at the Australian Institute of Family Studies.
Implications of the Australian Institute of Family Studies Allegations of Family Violence and Child Abuse in Family Law Children’s Proceedings report: Response from the Family Court of Australia

The Australian Institute of Family Studies Allegation of Family Violence and Child Abuse in Family Law Children’s Proceedings report is a groundbreaking study that advances our understanding of the frequency with which allegations of violence and abuse are raised – and denied – in parenting disputes and how such allegations are responded to by family law courts. In so doing, the Institute has made a significant contribution to legal, academic and community discourse surrounding this essential area of inquiry. The baseline data contained in the report will be invaluable for future research, particularly in the assessment of the effect of the shared parenting reforms in protecting vulnerable children and families. Judges decide individual cases, and while there may be plenty of anecdotal evidence and some impressions of an overall picture, it is only with the kind of research done by the Institute that an accurate picture emerges. This is of enormous value to the system as a whole and all those who operate within it.

The issue of family violence, particularly as it affects children, has long been of concern to the Family Court. This has been evidenced in myriad ways, including the Court’s development and implementation of its over-arching Family Violence Strategy and the Magellan program, a national case management system for disputes involving serious allegations of physical or sexual abuse of children.

The report is particularly timely in an environment of growth of the Federal Magistrates Court and in which the Family Court of Australia is entrenching its position as the superior court in family law matters, dealing with the most complex and difficult disputes. In parenting proceedings, these are disputes that often involve allegations of serious violence or abuse involving or affecting children.

As the report found, parenting disputes that were not amenable to resolution and required judicial determination were those most likely to contain allegations of violence and abuse, and those allegations were likely to be at the ‘serious’ end of the spectrum.

The recent reforms to the family law system seek to encourage parties to resolve their disputes outside the court system where possible. The establishment of the network of Family Relationships Centres is the centrepiece of the reform agenda.

The implications for the future are that those parenting cases that enter the Family Court and proceed to final hearing will be the most complex and difficult cases, and be even more likely to raise highly troubling allegations that, if proven, would have a determinative effect on the outcome of the case.

The Family Court is undertaking a range of initiatives to assist it in responding to this challenge, both in the context of hearing and determining parenting disputes, and in promoting the safety of families affected by violence. These are detailed below.

The value of reliable evidence

The report emphasises the importance of reliable evidence in making assessments as to the credibility of allegations and the level of risk of violence and/or abuse that a child may be exposed to if particular parenting arrangements are put in place. The study emphasises that without such evidence, the Court is unable to make positive findings about the allegations, and therefore the evidence cannot be given significant weight in the ‘factual matrix’.

It is of course not the role of the Family Court to investigate allegations of violence and/or abuse. That responsibility lies with State and Territory governments. However, the amendments to the
Family Law Act 1975 have the effect of imposing specific obligations on courts to identify matters in which violence or abuse is raised at an early stage and make appropriate orders, both as to the collection of evidence and the protection of parties and children (s 60K Family Law Act).

Parties who raise issues of violence and/or abuse in children’s cases will be required to file a ‘Notice of Child Abuse or Family Violence’ and supporting affidavit. Immediately upon filing the notice, it goes to the Duty Registrar, who decides where it should be listed. Urgent cases requiring interim orders such as protective injunctions go directly before a judicial officer. Orders can also be made at an early stage in order to assist the court in testing the veracity of the allegations. These could include orders for the preparation of an expert report, the appointment of an Independent Children’s Lawyer, or the intervention of a state welfare agency.

Since 1 July 2006, the Court can also make orders for a state or territory agency to provide information and documents to the Court relating to child abuse or family violence (s 69ZW Family Law Act). These include notifications of suspected violence or abuse of a child and any assessments of investigations into a notification. The Family Court, in tandem with the Federal Magistrates Court, has been undertaking nationwide consultation with state authorities to develop protocols for the production of these reports.

The new processes provide for these steps to be taken at the beginning of a matter so that the evidence collection commences at an early stage.

The issue-based focus of the Less Adversarial Trial and the greater control exercised by the trial judge over the conduct of proceedings, including the evidence to be relied upon, enables the Family Court to bring a more structured and purposive approach to its consideration of allegations of violence and abuse. The Child Responsive Model, which the Court is in the process of introducing nationwide, similarly refines the issues in dispute in a supportive environment where early disclosure of dysfunctional behaviour is encouraged and the effects of that behaviour addressed.

Decision-making

Decision-makers will be assisted by the use of family violence guidelines, which the Court is currently developing. The guidelines are the final part of the implementation of the Court’s Family Violence Strategy. The guidelines have been designed so that they do not fetter judicial discretion, but instead provide some context, legislative and otherwise, to the task of a judge considering a highly complex and nuanced issue such as family violence and its effects on children’s wellbeing.

The report’s analysis of research literature over the past thirty years reveals an increasing emphasis on the importance of ‘differentiation’ in understanding the effects of family violence. There are different patterns of behaviour that fall under the rubric of family violence, and it is essential that individual features are identified in each case to aid judicial decision-making. The Court, through its professional development program, provides judges with information about recent research into the typology of family violence.

Although the report highlighted the lack of expert evidence in particular cases, the new Less Adversarial Trial process will allow the judge to identify issues of violence or abuse at an early stage and direct the appropriate evidence to be put before the Court.

Other initiatives

Evidence-based research is essential to the Family Court’s understanding of its current functioning and ways in which its processes, policies and procedures can be improved to better protect children and those who care for them who are affected by violence. This commitment informed the Court’s decision to begin collecting data about the outcomes of parenting proceedings where parties reach agreement and where matters are judicially determined.

Evidence-based research is essential to the Family Court’s understanding of its current functioning and ways in which its processes, policies and procedures can be improved to better protect children and those who care for them who are affected by violence.

The Court will be able to report on the kinds of orders that are made. Where orders are made after a judicial determination, the Court will also record whether or not violence or abuse was the main reason for making that order. This data will be of significant benefit to future research into violence and abuse, and builds on the work of the Institute. Research in this vital area of inquiry will also enable an assessment of the effectiveness of the Family Court’s various reforms in delivering greater protection of families affected by violence, and more rigorous and timely identification and collection of corroborative evidence with respect to allegations.

Better securing the physical safety of litigants who have experienced violence is also a priority area of activity for the Court. All Family Court non-judicial staff have now received dedicated training in assisting clients whose safety may be at risk. This training has been augmented by the screening and risk assessment pilot, which was successfully tested and evaluated in 2005–2006. The screening and risk assessment process is being introduced on a national basis.

The Family Court congratulates the Institute for producing a thoughtful, considered and challenging report. The Court looks forward to working cooperatively with research bodies to further knowledge of the complex issues of family violence and child abuse and their impact in parenting disputes.
Federal Magistrates Court response to the Australian Institute of Family Studies Allegations of family violence and child abuse in family law children’s proceedings report

The research by the Australian Institute of Family Studies is of significance to the Federal Magistrates Court (FMC) in that it highlights the prevalence of family violence and child abuse raised in children’s proceedings that come before the Court.

One of the key findings was that more than half of the cases in both the Family Court of Australia (FCoA) and FMC samples contained allegations of adult family violence or child abuse. The prevalence of allegations in cases across both of the courts is of particular significance to the FMC, in view of the move towards a ‘single point of entry’, with most family law proceedings ultimately commencing in the FMC and the majority being determined in the FMC. Equally significant is the finding that the FMC cases that were examined included a substantial proportion involving allegations at the severe end of the spectrum, with allegations of actual physical spousal abuse more likely to be raised among the FMC cases than in cases from the FCoA general litigant’s sample.

These findings confirm previous studies that suggest such cases are the ‘core business’ of courts exercising family law jurisdiction. As noted in the Allegations of Family Violence and Child Abuse in Family Law Children’s Proceedings report:

That the resolution of allegations of family violence (including child abuse and neglect) is a highly challenging and complex task is beyond serious debate. Lacking to date have been reliable data on the extent and range of allegations made when parents make formal applications to the FCoA or FMC, how the allegations are supported, how they are responded to and how they are handled by the family law system. (p. 15)

Other key findings of relevance to the Court are:
- the analysis of the types of violence and child abuse alleged; and
- the severity of the violence alleged.

The challenge for the courts is the difficult decision-making process that such cases present where there is often little, if any, corroborating evidence to support allegations of violence or abuse.

The findings highlight the need for collaborative relations between the courts, state and territory agencies, and other professionals who have the skills to undertake the investigative and therapeutic needs assessment. In identifying the prevalence and types of allegations raised in family law proceedings, the report provides policy-makers with a clearer understanding of the difficulties such cases pose.

The analysis concentrates on allegations made in the formal legal system and, as highlighted in the report, future research might usefully focus on the ‘bigger picture’, including the percentage of separating couples who do not institute legal proceedings despite violence or abuse being alleged. The need for more comprehensive research is acknowledged by the authors, who note that this might include state and territory child protection agencies who are “at the front line for dealing with allegations of family violence and child abuse in Australia” (p. 128).

From the perspective of judicial decision-makers, the findings raise questions about the impact of the different case management practices of the courts. For example, the authors note that cases in the FCoA that progressed to a defended hearing were the most likely of all cases to contain allegations of violence or abuse. In this regard it may be of some significance that the FMC operates a docket system of case management in family law proceedings. This means that applications filed with the Court are allocated to a federal magistrate who has the conduct of the proceedings from the first court date to resolution. The emphasis on more ‘up front judging’, which is a hallmark of the docket system, may be of some relevance in this finding. The report highlights the significance of early intervention and ‘triage’ assessment in dealing with such allegations, with an early determination of the most appropriate type of dispute resolution and professional support to aid the decision-making process:

Early intervention means paying formal attention to processes of triage at key points of entry into the family law system that normally take place prior to interim determination by judicial officers. (p. 123)

Another distinctive feature of the FMC case management process is the requirement for supporting affidavit material at the very outset. This assists in the early identification of cases involving allegations of abuse and violence, and the development of appropriate directions for the conduct of the proceedings. Such early consideration has now been made a legislative imperative by provisions such as section 60K of the Family Law Act 1975, which imposes specific time limits on courts in cases where allegations of violence or abuse are raised.

Members of the profession will also benefit from the key findings in gaining a better understanding of issues of violence or abuse in family law proceedings. There is a real need for an improved focus in the drafting of affidavit material presented to the courts in such cases. The report will provide practitioners with a more nuanced understanding of the nature of family violence and abuse, which is likely to lead to better evidence being collected and provided to the courts. This is likely to lead to more settlements on appropriate terms, and an increasingly sophisticated analysis in cases that proceed to judgement.
The findings of the Allegations of Family Violence and Child Abuse in Family Law: Children’s Proceedings report in relation to the different types of violence alleged will assist the courts to provide greater flexibility in the dispute resolution processes according to the needs of the particular case. While the docket system facilitated a move away from a ‘one size fits all’ model, further refinement of pre-trial processes will be an ongoing task. For example, greater reliance upon the skills of a number of professions might assist in a triage assessment process at an early stage.

The authors of the report discuss an ‘inventory or checklist’ that psychologists use to assess potential risks of violence in the short term. A better understanding of such an assessment tool could be of assistance to judicial decision-makers, family lawyers and professionals working with families where violence or abuse is an issue.

In addition to recognising the various forms and varying degrees of family violence and child abuse, the report also highlights the need to carefully assess the impact of the alleged violence and abuse on the particular parties to each case, based on each party’s individual experience of and reaction to the alleged violence and abuse. The skills of such professionals can assist the courts in considering the dynamics of a relationship and a party’s personal resilience and ability to manage post-separation parenting arrangements when making orders in any particular case.

Both the FCoA and FMC have implemented a Family Violence Strategy, one aim of which is to ensure the safety of parties where there are concerns raised in the context of proceedings before the courts. The strategy is the result of considerable consultation with the legal profession, the community, clients and other service providers.

There is extensive information on family violence, and information about the Family Violence Strategy, on the Family Law Courts’ website. As part of the strategy, Court staff who have direct contact with Court clients have been trained in dealing with family violence. The courts are guided by the following principles in responding to family violence concerns:

- safety is a right and priority for all who attend and work at the courts;
- family violence affects everyone in a family, including children;
- family violence can occur before, during and after separation, and it may affect the ability of people to make choices about their family law matter and to take part in court events;
- the courts have a particular concern about the immediate and possible longer-term adverse impacts on children who experience or witness family violence; and
- even if children do not directly witness the violence, they are often very aware of it.

In providing help, court staff do not make a judgement about whether family violence has occurred or not. Their aim is to ensure that all people feel safe when coming to court.

Court clients who have any fears about attending a court appointment at the same time or in the same room as their former partner are advised to tell the Court before they attend. The Court has safe rooms available in many registries, and provision can sometimes be made for separate entry and exit points. The Court can also facilitate attendance by phone or by video.

In many cases the Court refers clients to community-based organisations for counselling, parenting programs, behaviour management programs and dispute resolution services. All these services are designed to alleviate conflict and resolve issues of family violence. The Court only makes referrals to organisations that are contracted to provide such services to the Court. The contracts require the organisations to meet specific safety and security standards to ensure the safety and security of the Court’s clients. The Court is currently building a database of family services providers to assist the Court in making referrals that are effective in meeting parties’ needs at locations that they can access.

The Court recognises the importance of seeking expert advice in cases where violence and abuse is alleged.

The Court recognises the importance of seeking expert advice in cases where violence and abuse is alleged. In the majority of these cases the Court will order a family report to be prepared by an appropriately qualified and experienced social worker, counsellor or psychologist. The report writers are also available to be called on to give oral evidence to the Court.

Conclusion

The Allegations of Family Violence and Child Abuse in Family Law: Children’s Proceedings report is a significant milestone in the development of our understanding of family violence and abuse. In particular, it will assist in:

- opening the minds of readers as to the various types and varying degrees of family violence;
- educating readers as to the very serious impact that family violence, even low-level violence, has on the welfare and development of children;
- assisting the court to develop and deliver further family violence training to court staff;
- directing legal practitioners, particularly in relation to preparing affidavits that include allegations of family violence and child abuse; and
- assisting the Court’s ongoing development of its procedures and protocols for identifying family violence and child abuse.

The Court acknowledges the challenging and complex issues embraced in the Institute’s research and congratulate the authors on their enlightening report.

Endnotes

1. The Federal Magistrates Court operates a docket system for the case management of its cases. Under that system cases are allocated to a federal magistrate on filing and that federal magistrate is then responsible for the supervision of the case from the first court date until its ultimate resolution, including any final hearing and judgement. This system enables the docket federal magistrate to gain familiarity with the case earlier and have more direct supervision and involvement in the preparation and conduct of the matter; facilitates the early identification of the key relevant issues in the case, as well as necessary witnesses and other evidence; supports early judicial intervention on any issues that require urgent or early determination or direction; and avoids the necessity for repetition of evidence or arguments before different judicial officers who may otherwise deal with different aspects of the case.
Implications for family dispute resolution practice: Response from Relationships Australia (Victoria) to the Allegations of Family Violence and Child Abuse in Family Law Children’s Proceedings report

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Allegations of Family Violence and Child Abuse in Family Law Children’s Proceedings illustrates how prevalent family violence allegations are in court proceedings. It is argued that the family dispute resolution (FDR) sector is also experiencing increased family violence presentations, and that many family-violence-affected clients are now passing through FDR services on their way to the court system. It is therefore critical that FDR services and practitioners deliver high-quality assessment, referral and, where appropriate, dispute resolution services to this client group. It is concerning that the court outcomes are not responsive to cases where family violence allegations are not corroborated. In some cases, the non-adversarial and confidential nature of FDR may be better equipped to elicit acknowledgement of family violence and produce appropriately modified and safe outcomes. This will require FDR practitioners to be more advisory, less neutral and, at times, to take responsibility for the safety of outcomes. For the majority of cases where the court processes are the more appropriate arena to determine outcomes, the courts need to be equipped to properly respond to family violence allegations. This may require the forensic capacity of the courts to be enhanced and/or for a number of existing initiatives to be expanded and resourced.

Family violence and family dispute resolution

As stated in the report, family-violence-affected cases, or at least cases in which violence has been alleged, have come to be recognised as core business of the courts. This trend towards an increasing proportion of family-violence-affected cases is also being reflected within the community FDR sector. Clearly there are likely to be differences in the types and severity of family violence presenting to the community-based FDR sector and to the courts; however both, I would argue, are experiencing a concurrent increase. Clinical experience across a variety of service providers within the sector (as discussed in clinical forums) is clearly indicating an increasing proportion of clients presenting who are affected by family violence (Bickerdike, 2006). While this trend may be evident to practitioners (practice-based evidence), it must be acknowledged there is no independent research (evidence-based practice) that can conclusively confirm this shifting client base. While it is clear that the field has become more sensitive to detecting family violence (discussed below), it is proposed by the present author (FDR clinical supervisor across 10 FDR sites, including four Family Relationship Centres (FRCs)) that there is also a proportionate increase in family-violence-affected presentations. While perhaps not core business, family violence has certainly become common business within FDR services.

This proposed shift towards an increasing prevalence of family violence presentations to FDR is due to a number of related historical and contemporary factors. Firstly, however, it must be understood that FDR services have for many years been dealing with cases affected by family violence. There has been a prevailing myth in the wider community that FDR (or family mediation as it was known) screened out family violence cases. In reality, FDR has always provided services to clients affected by family violence (Gribben, 1994). In 1996 Keys Young’s research identified that almost three-quarters of a sample of 101 women reported that they had experienced some type of violence during their relationship (Keys Young, 1996). Unfortunately, practitioners only reported family violence in a third of cases, a disturbing finding that galvanised the FDR sector to improve its screening and assessment for family violence.
Since that time the practice of FDR has also improved its capacity to provide specialist FDR services to family-violence-affected clients (Bickerdike, 2005; Cleak, Bickerdike, & Moloney, 2006).

At the time of the Keys Young report, community-based FDR was voluntary and, in most cases, fee-based. As a consequence, many family-violence-affected clients chose not to present for FDR and/or encountered professionals who were reluctant to refer them to FDR (Cleak et al., 2006). In recent years FDR has been at first promoted, then encouraged and now mandated for many disputing separating parents. From July 2007, all separating parents wishing to issue new proceedings in court must first attempt FDR. While there are exceptions to this rule, particularly in cases where there has been family violence, it is reasonable to assume that the expected increase in usage of FDR services by separating parents will also include a concurrent increase in presentations by clients affected by family violence. This is because FDR is increasingly available to all clients (whether they wish to proceed to court or not) and because these expanded FDR services are now free of charge and, most importantly, because the significant government-funded information programs have made both the nature and availability of FDR widely known in the community. Only time will tell whether there will be a continuing proportionate increase in family violence-affected presentations to community-based FDR.

Quality assurance and FDR

The FDR sector, and in particular the Australia-wide network of 65 FRCs, is regarded as the gateway into the family law system, including the court system. Despite a large community education campaign, many separating clients may remain under the impression that FDR is compulsory for all, not just for those who might want to proceed to court. Similarly, family-violence-affected clients may not be aware that they could be exempt from attending FDR. As a consequence, many of the cases that do end up in court are likely to pass through the community FDR system first. It is critical that the expanded FDR services are able to assess and screen for family violence, make quality decisions about the appropriateness of FDR, and provide timely and effective referrals to the courts and other support services for those cases deemed inappropriate. Most importantly, FDR services need to provide safe and effective processes to those affected by family violence but judged as capable of being assisted by FDR.

Considerable effort has gone into developing comprehensive tools for risk assessment, particularly in the new FRC services, to ensure that appropriate policies and procedures are implemented and adhered to. For example, a comprehensive screening and assessment framework has been developed and is compulsory under the operational guidelines of all FRCs (Attorney-General’s Department, 2006b). The FDR services offered in other approved organisations through the Family Relationships Services Program (FRSP) are also subject to a comprehensive performance framework that is designed to ensure that services adhere to quality standards of practice, including appropriate screening and assessment, supervision, professional development and ongoing training (Department of Family and Community Services and Indigenous Affairs, 2005). Despite these checks and balances, the rapid expansion of the FDR services will place enormous stress on the community sector to maintain quality standards. Although the appropriate tools for assessment and screening are available for all, they will need to be delivered by competent and skilled practitioners with appropriate training and supervision.

While these conditions will present challenges for the nationwide network of approved community providers of FDR (FRCs and FRSP), it is not clear how these standards will be maintained in the private sector. Private FDR practitioners can now register themselves to be approved to provide FDR and issue certificates that a court will accept as evidence that FDR has been attempted (or indeed that someone has failed to attempt FDR). There are many highly skilled and experienced practitioners working privately. However private practitioners can currently be accredited under the old Family Law Regulations, which do not necessarily require any specific training in screening, assessment and/or family violence. Nor do they require any form of ongoing supervision of casework. A new competency framework is under development for all FDR practitioners and is planned to be introduced in 2009, but at this time it is not clear (at least to the current writer) how easy it will be for currently accredited private practitioners to be ‘grandparented’ once the new standards are adopted. If competencies around assessment of family violence are compulsory, as well as other important FDR competencies, then these concerns could be relieved. However, in the meantime one would hope that family-violence-affected clients will choose, or be referred to, approved organisations that are more likely to be equipped to deal with these issues.

Responsive outcomes

The most concerning finding of the report is the degree to which family violence allegations influence outcomes. Allegations of spousal violence and child abuse frequently lacked supportive evidence and specificity. In those cases where there is corroborative evidence, specificity and/or admissions, the parenting arrangements appear to take concerns about safety and wellbeing into account (for example supervised and limited contact). However, the outcomes of cases without such evidence or specificity were similar to cases in which there were no allegations. That is, the outcomes were not responsive to family violence allegations. If it is
assumed that most allegations are false, then this is of no concern. If it is assumed that some or the majority of allegations have partial or significant validity, particularly those with concurrent allegations of child abuse, then this finding is of considerable concern. Unfortunately, as the report itself outlines, research suggests that false allegations are relatively uncommon. If so, it is probable that some outcomes are putting parents and children at risk.

Recent Australian research into the long-term outcomes of 134 survivors of family violence demonstrates the detrimental effects of inappropriate contact arrangements (Evans, 2007). The participants in this study had left an abusive relationship at least 12 months prior – most for considerably longer (mean 10.6 years). The majority of participants (all mothers) reported ongoing abuse and control by the perpetrator that was exercised through contact arrangements with children. “As a result, the majority of participants in this study felt that ongoing contact was inappropriate, and often dangerous. Nevertheless, the women indicated that ideally they would prefer contact to continue, but only if safeguards, such as supervision and compulsory parenting courses, were put in place to ensure emotional and physical safety for all concerned” (p. 35).

The issue is whether the courts are able to properly identify cases that are affected by family violence, so that they can respond appropriately and design safe outcomes.

The study recommends that the courts develop protocols and practices to ensure the safety and quality of contact arrangements in cases where abuse is identified. These cases are reflective of outcomes that may have been determined many years ago, and it is arguable that court processes are now much better equipped to deliver safe outcomes in such circumstances. The issue is whether the courts are able to properly identify cases that are affected by family violence, so that they can respond appropriately and design safe outcomes.

The apparent absence of outcome responsiveness to family violence allegations in the courts is likely to be of concern to FDR practitioners. When family-violence-affected clients are assessed as inappropriate for FDR, practitioners need to feel confident they will be handled effectively by the legal processes. If the FDR sector is to experience increasing presentations of family-violence-affected cases, it is critical that there is a viable alternative referral system for resolving parenting disputes. Practitioners must not feel compelled to undertake FDR with clients who need a legal intervention simply because the courts are unable to provide a proper forensic assessment of family violence allegations. Both those who claim family violence allegations are false, and those who claim denials are more likely to be false, should be in support of the courts being able to examine the veracity of these allegations and denials. The courts need to be properly resourced to work in conjunction with state police, state courts and other relevant agencies to ensure the forensic examination of all cases where family violence is alleged.

A number of key objectives are identified in the report, The Family Law Violence Strategy (FLVS) (Attorney-General’s Department, 2006a). These include:

Objective 1: To gain a better understanding of how family violence and child abuse issues arise in family law proceedings and how these issues are dealt with (p. 2);

Objective 2: To work collaboratively with the States and Territories to ensure that family violence and child abuse allegations are properly investigated once they arise in family law proceedings (p. 7); and

Objective 4: Work with courts to improve processes for dealing with cases where allegations of family violence and child abuse are raised (p. 9).

The first objective would appear to have been well dealt with by the Allegations of Family Violence and Child Abuse in Family Law Children’s Proceedings report itself. The latter two objectives require urgent attention. The FLVS outlines a number of possible responses, including expanding a number of existing specialist court programs including Project Magellan (Brown, 2003) in the Family Court of Australia and the Columbus Project in the Family Court of Western Australia (Murphy & Pike, 2003). Mention is also made of the screening pilot in the Brisbane Registry and the ‘Child Responsive Model’ first piloted in the Melbourne Registry. Another promising proposal suggests expanding the scope of Family Reports to “explore the allegations of both parents in the context of the overall dynamics of their relationship and separation issues” (p. 9). All of these initiatives have the potential to improve court responses to family violence allegations if appropriately resourced and evaluated.

FDR as an alternative to litigation

Some cases included in this report may have achieved safer outcomes had confidential FDR been attempted before litigation. FDR processes may be better equipped to produce appropriate outcomes where there is no likelihood of corroborating evidence or admissions. Of course, the absence of evidence or admissions is not a criterion for deciding FDR is appropriate. That must only be determined via a careful assessment of safety, willingness and capacity, and it is likely that the majority of cases that were included in the report would have been assessed as inappropriate for FDR.
However, when such an assessment concludes FDR is appropriate, the FDR process itself may be better equipped to produce safe outcomes. In confidential FDR there is potential for parents to accept the invitation to take into account past family violence experiences when formulating a parenting plan. Since the report, the Family Court has changed its model such that all counselling and mediation carried out by the Court’s Family Consultants is reportable. The confidential or privileged counselling (mediation, conciliation, FDR) must be done outside the court (unless specifically ordered otherwise). While this change has brought about some significant benefits, including clarifying for clients the role and function of court processes, it has removed the possibility of clients discussing issues around family violence without those discussions being available to the court processes.

**Allegation versus disclosure**

Supporters of the adversarial process for these cases would argue that the level of conflict and bitterness between parties makes any cooperative decision-making impossible. Parties are caught up in battles about the time children are to spend with each parent and this conflict overlays any capacity to engage in constructive conversations about the wellbeing of the children. This may indeed be true for the most entrenched cases; however, it is likely that for some the adversarial experience has itself caused or at least amplified the antagonism between parties.

It is interesting to contrast the language of family violence in the courts and the FDR sector. In the courts, family violence is ‘alleged’ and can result in an ‘admission’, a denial and/or a counter-allegation by the other party. In FDR, family violence is ‘disclosed’, not alleged, and the other party may ‘acknowledge’, minimise or indeed deny. Obviously the language is shaped by the dispute context. Litigation is an adversarial process concerned with competitive arguments about the truth. Parties find themselves engaged in a combative process where moves are orchestrated for strategic effect. In this context, what is the benefit of making an admission of family violence if there is no corroborating evidence? If there are issues of shame and retribution there would seem minimal incentive for making a public declaration of guilt or responsibility.

FDR, in contrast, is a facilitated conversation designed to elicit both disclosure and acknowledgement of family violence. In FDR, practitioners are deliberately trying to elicit disclosure in order to inform decisions about the appropriateness of the process. FDR is for the most part confidential and privileged (with the exception of child abuse and safety issues) and thus clients can discuss events without fear of initiating some strategic disadvantage. This is a much more fertile ground for an informed discussion about the nature and impact of family violence. Most crucially, it is a more productive ground for a discussion about how a family violence incident or history needs to have an influence on the outcome. It may be surprising to those immersed in the legal system to hear how willing clients are to incorporate concerns about safety into a parenting plan. If there has been an incident where a party has been physically threatened and intimidated it can be discussed in FDR. One client may argue that the description ignores the degree of mutuality of the event but is still able to hear that it has had an effect upon the other and the need for that to be taken into account in the outcome. The practitioner can then be tailored to ensure the frequency and context of changeovers takes into account the impact of past family violence. If such a case ended up in litigation, it may well become caught up in an allegation and denial cycle for which there is no corroborating evidence and hence take no account of the risk in the outcomes.

Of course, it may well be that such a case does not end up in FDR because the practitioner judges that the incident has made the recipient incapable of participating due to concerns about safety or trauma. On the other hand, a comprehensive assessment by an experienced practitioner, taking into account safety, capacity and willingness of each party, may conclude that a specialised FDR process is viable. Such a specialist service could include co-mediation, short multiple sessions, shuttle FDR (where the parties never meet or even attend on the same day), supportive coaching, legal representation in or between sessions, and safety planning. In these circumstances, family-violence-affected clients may benefit from FDR and reach outcomes that are more likely to be attuned to the needs of parents and children and take into account the carefully elicited ‘disclosure’ and ‘acknowledgement’ of past family violence.

**Acknowledgement of violence**

The capacity for FDR outcomes to be influenced by family violence presupposes both disclosure and acknowledgement. Critics of FDR are concerned that practitioners may not always be able to elicit disclosure and therefore will (a) incorrectly assess a couple as appropriate for FDR; and (b) fail to recognise the need to incorporate issues of safety and risk into the outcomes. Thus, quality screening and assessment is critical to ensure disclosure. For FDR practitioners to be able to ensure outcomes are influenced by family violence, there must also be acknowledgement. The degree of acknowledgement is particularly problematic. It is easy for policymakers, academics or other professionals to espouse crystal clear positions in regard to the requirement of acknowledgement of family violence.
violence, but for the practitioners who put themselves in the middle of parental disputes on a daily basis, the world frequently takes on a distinctly grey hue. Many couples will disagree on the seriousness, impact and mutuality of family violence. The FDR practitioner’s position cannot be neutral in this discussion. All family violence is serious and the impact is always of significant concern. In the end it is a matter of clinical judgement as to whether the acknowledgement of the violence is sufficient to allow for FDR to proceed and to allow for safe and appropriate outcomes. It needs to be remembered that acknowledgement is not an end in itself. FDR is not primarily concerned with restorative justice, nor is it designed to be a therapeutic process whereby one client is able to finally explain to the other the pain and suffering they have experienced due to the other’s behaviours. Clients are usually referred to other specialist services to deal with these issues. FDR is concerned with providing parents with a safe and effective environment for them to make decision about the future parenting of their children that is in their children’s best interests (and where possible made with direct consultation with the children). Acknowledgement of violence is a necessary means to that end.

**Practitioner neutrality**

If FDR is to provide effective services to family-violence-affected clients, the practitioners cannot be neutral in the traditional sense. A practitioner must take an interest in, and perhaps hold some responsibility for, the quality and safety of outcomes. In FDR a practitioner carefully searches for the presence of all types of family violence and, if disclosed, takes both the description and perceived impact by the recipient as real. The subjective (not objective) experience of the recipient is the primary criterion that determines the course of action. The practitioner then looks to the other party (in a separate session) for acknowledgement of the violence. Can a practitioner remain neutral while deciding whether the degree of acknowledgement is sufficient to allow for FDR to proceed, while exercising some responsibility for the safety and quality of the outcome? I suggest not. It is true that practitioners have always seen their role as testing the viability of proposed outcomes. But this has usually involved a ‘What if?’ line of questioning to ensure clients are making informed decisions about their future. What if a parent is late for a changeover? What if a child becomes ill? In this type of questioning a practitioner usually takes a position of curiosity rather than advocacy. However if, for example, a practitioner feels that a couple is likely to be in conflict in front of their children when they meet in private to effect a changeover, should she or he suggest, advise, advocate for or insist upon a public or supervised changeover? A skilled practitioner will encourage the parents to consider the consequences of their proposed outcomes. If parents are unable to accept the risks to their children, then most practitioners would feel comfortable advocating for the children, to produce an outcome that is in the best interests of children. Partiality is easier to argue when it is framed as advocating for children.

It is more difficult to consider the responsibilities of a practitioner when the proposed outcome may put one parent at risk (for example, at changeover). If the process has been properly carried out, the ‘at-risk’ client would be assessed as being able to represent herself (or if not, an advocate or support person would have been involved in the process in some way). The conditions be set up to allow for a safe discussion (perhaps shuttle or co-mediation, with separate waiting rooms and exits) and there would be an acknowledgement of the family violence sufficient to allow for a discussion of the consequences of any proposed outcomes (Will it be safe? Is there any risk of a repeat incident?). However, it may be the practitioner who needs to initiate and sustain these discussions. Not all practitioners will be comfortable with taking such an active stance. Furthermore, what happens if the outcome is regarded as unsafe by the practitioner, despite efforts to influence that outcome? In property mediation, some mediators refuse to write up an agreement they consider to be too one sided (particularly if the disadvantaged party refuses to take legal advice). Should an FDR practitioner decline to assist in writing up a parenting plan that would put a parent or children at risk? When all else fails, an ethical practitioner with duty of care concerns may well feel the need to be less facilitative and more advisory in order to promote safe outcomes.

**Definitions of family violence**

The discussion in the report of the different types of family violence is of relevance to FDR practice. The typology approach is challenging for some because it can be used by those seeking to deny or minimise the very existence of gendered violence. If violence is categorised into types, there is concern that this implies a gradient of severity of violence, which in turn is interpreted as minimising or negating the impact of those judged by some to be at the less severe end of the spectrum. Emotional abuse can be just as debilitating and damaging as physical abuse. A single violent incident can be extremely dangerous. Mutual violence can be particularly dangerous and debilitating for the party who is weaker, and mutual violence is difficult to distinguish from aggressor–defender violence. For this reason, categorising violence is fraught with risk, as the type of violence does not identify the risk to the recipient. All categories of violence can be severe, and even apparently less severe violence can be highly traumatising if issues of control are involved.

FDR has always made distinctions around types of violence, but has largely done so in functional terms. The FDR practitioner is interested in the consequences of violence. Has there been violence in this relationship? If so, how recently, what transpired,
The sector needs to maintain its focus on making sure the wrong people do not get into FDR, but not at the expense of neglecting what to do with the right people who do get into the process. This is particularly important if FDR is to fulfill its promise of being able to produce quality processes and outcomes for clients affected by family violence but capable of engaging in safe constructive decision-making about the future needs of their children.

In the newly reformed family law system, family dispute resolution practitioners must ensure they have the capacity to properly assess and screen clients. This is a challenging objective in a rapidly expanding service system, particularly as part of that expansion includes a minimally regulated private sector.

**Endnotes**

1. It is interesting to note that the Act has changed the definition of FDR from one facilitated by a neutral third party, to one facilitated by an 'independent' third party. It is also perhaps significant that FDR practitioners come under the category of 'advisers' in the Act – the same title given to family lawyers.

**References**


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“Bold new path on domestic violence” (Horin, 2007), and “Exposing the anti-male myth” (Arndt, 2007) are examples of the headlines that the Australian Institute of Family Studies Allegations of Family Violence and Child Abuse in Family Law Children’s Proceedings report (Moloney, et al., 2007) generated. A recent radio interview heard the principal researcher, Lawrie Moloney, trying to highlight key findings, only to be steered towards a discussion about the notion of ‘situational violence’ (Moloney & Bagshaw, 2007). It seems that while a mass of data has been examined to try and make sense of allegations of family violence and child abuse in family law proceedings, what is newsworthy is the idea that there is a need to differentiate forms of domestic violence. It is important, therefore, that the domestic violence sector responds not only to the key findings in this research, but also to the debate about definitions of family violence. This essay will begin with a review of some of the central findings in the report and their implications for improved practice in responding to allegations of family violence, and will then consider the reinvigorated debate about when domestic violence is really domestic violence.

Allegations of family violence and implications for parenting arrangements

The report found that more than half the cases sampled contained allegations of family violence and/or child abuse, and that in most of these cases allegations were considered by the researchers to be severe. In the relatively few cases in which strong evidence was provided, it was more likely to be supplied by mothers. Importantly, in most cases where family violence was alleged, there was either no response, or respondents made denials but provided no evidence. Contact was rarely denied by the Family Court, and orders for overnight stays were common, even where there were serious allegations of family violence. However, where there was strong evidence of severe violence, contact was more likely to be restricted to daytime only.

These findings are important, given the context in which this research was commissioned. There is a widespread belief in the community that women frequently make up allegations of family violence to influence family court proceedings (VicHealth, 2006, p. 24). Fuelled by fathers’ rights groups, and despite research to the contrary, even federal politicians have accepted the myth that in many cases allegations of violence are false. According to Jaffe and colleagues, this is an internationally widespread belief which, although erroneous, has significant implications for the way in which domestic violence allegations are dealt with in the family law system (Jaffe, Crooks, & Bala, 2006; Jaffe, Lemon, & Poisson, 2003). The Institute’s research, while not able to assess the veracity of allegations, reviews research (e.g. Bala, Jaffe, & Crooks, 2007) that concludes that in most cases allegations are true, and that in many more cases denials of family violence are likely to be false. Of most concern in this report are the findings that suggest that, even where violence is alleged, unless it is accompanied by strong evidentiary material it has little impact on post-separation contact arrangements. While the data in this research were collected before the Family Law Amendment (Shared Parental Responsibility) Act 2006, there is clearly concern that when some form of shared care is considered the default position, allegations of family violence will continue to be minimised and overlooked.

This report clearly identifies that where there is any risk of violence or abuse to children or a caregiver, safety must take precedence over contact, particularly in interim hearings. It suggests that “the core need here is the clarity identified in those cases that suggest a significant present or future risk to former partners and/or their children. Once identified, such cases require the speedy endorsement … of interim arrangements that, in the short term, prioritise safety over parent–child relationships” (p. 121). Within the current legislation, the obvious dilemma is how to balance the two primary considerations of a child’s right to know and be cared for by both parents, with a child’s right to be safe from harm when, in many of the cases before the Family Court, these two considerations may be incompatible.

Differentiating family violence

More widely, this report has already generated great interest in its discussion of discriminating between forms of family violence. For workers within the domestic violence sector, the notion that domestic violence includes many different kinds of behaviour, which have widely diverse and individual impacts on victims, is well understood. There are tensions that this debate will touch on that are extremely important. In the context of a strongly pro-contact culture that often minimises safety considerations, and vociferous lobbying by various men’s groups that insist on de-gendering family violence, any discussion about how to differentiate between kinds of violence is one in which the domestic violence sector must be involved. Furthermore, it is clear that the theoretical and empirical lack of differentiation of family violence in all aspects of the legal system, including screening, risk assessment and judgements made, compromise effective and sophisticated responses to family violence when determining parenting arrangements.

The authors of this report examined US sociologist Michael Johnson’s typology, which discriminates between ‘situational couple violence’, ‘violent resistance’ and ‘domestic terrorism’ (Johnson & Ferraro, 2000). We understand that family violence comes in different shapes and sizes, but we know that in everyday relationships power can shift between partners and, in some relationships, men and women may act abusively on occasions. This behaviour does not generate the kind of ongoing power imbalance, fear or risks to safety that we understand to be the defining features of ‘domestic violence’. According to Johnson (1995), ‘situational couple violence’ is largely non-gendered, and arises in specific situations of stress or conflict. It is often reciprocal or ‘mutual’. This category has been useful to help us understand the results of large-scale
population surveys, such as the 2005 Australian Bureau of Statistics (ABS) Personal Safety Survey (ABS, 2006), which often find that women and men equally may commit occasional acts of physical aggression in relationships. However, to use the category of ‘situational violence’ in practice to determine parenting arrangements is complex and highly problematic.

For a start, situation and mutuality are not always linked. There may be incidents of violence during separation, for example where a woman may be savagely assaulted when announcing her decision to leave a relationship. It may be prompted by the context, and may be in fact a one-off assault, but it is not mutual and may have a profound impact on the woman’s sense of safety post-separation. Put simply, she does not know that it is a one-off event, and in fact the fear ensuing from the assault may have a profound impact on her future behaviour and security. In the context of a court assessment, it is likely that this incident would be seen as ‘situational’, whereas the impact is not confined to the situation but is more lasting and profound. Furthermore, it is likely that in many cases of assessment, the perpetrator will be arguing that the violence is ‘situational or mutual’, while the victim may understand the violence as ‘terrorising’. Having to establish that they have been subjected to ‘intimate terrorism’ increases the burden of proof on women, within a conservative culture in which the law is likely to be reluctant to use a term like ‘terrorism’ to describe family violence. There is a danger that most allegations of violence will be scaled to a lesser categorisation. This is particularly likely given the well-recognised difficulties for victims in providing evidence about domestic violence.

**Moving beyond the ‘situational’: A more complex differentiation of family violence**

Discrimination between forms of violence must include a range of dimensions that extend beyond physical types and the frequency of incidents. It must include assessments of non-physical forms of abuse, aspects of power and control, levels of restriction, levels of fear, the impact of violence on partners and children, and the client’s own assessment of future risk. In the context of determining post-separation parenting arrangements, a thorough understanding of future risk is imperative. Furthermore, any classification of family violence must take into account the context in which the violence occurs, that family violence is both a gendered and an individual experience. These nuances are understood in non-legal disciplines, but as Behrens (2006) argues, “we need to… find better ways to translate that knowledge into legal decision-making, legal processes and legal instruments” (p. 232).

The work of Jaffe et al. (2006), cited extensively towards the end of the report, is extremely useful in thinking about complex ways of differentiating violence in the context of developing parenting arrangements. Jaffe et al. argue that in fact there are three broad dimensions that need to be considered in parenting arrangements after family violence. The first is a continuum measuring the nature, frequency and severity of family violence. The second continuum that must be also be assessed is that of ‘resources available’. The authors highlight the need for a highly integrated systemic response to domestic violence that recognises the need for highly trained and skilled staff to be assessing clients about family violence, and a well-resourced, integrated and coordinated system of responses to support clients with subsequent parenting arrangements. The third continuum concerns the ‘evaluated risk in children or caregiver’, which ranges from high to low and will determine the kind of parenting arrangement, from co-parenting through to no visitation. What is clear in the Institute’s report, and is recognised internationally, is that there needs to be a more formally structured approach to information gathering, with the use of well-recognised and validated assessment protocols (p. 122). Alongside this, a wide range of professionals working in the family law system, including those in Family Relationship Centres and other Family Dispute Resolution Services, require training and skills development in understanding family violence and assessing risk.

To conclude, the Institute’s report provides evidence that challenges some community misconceptions. It reviews evidence that suggests that false denials are considerably more common than false allegations. It demonstrates that where violence is alleged, within a climate of pro-contact, it had only a very modest bearing on determinations of parenting arrangements. It also highlights the fact that allegations of family violence are not an aberration, but are the core business of the Family Court. As the report argues, “the core challenge facing the response of contemporary family law to matters involving children is this: can non-adversarial, child-sensitive dispute resolution and decision-making processes that begin with a presumption of sharing post-separation parenting arrangements work in tandem with the formal assessment and management of the risks associated with family violence?” (p. 121). DVIRC strongly support the need for different paths through the legal system for families where violence is alleged (Jaffe et al., 2006). Behrens (2006) argues that we need separate pathways for cases involving what she calls “controlling domestic violence”. A separate pathway should be one where the “pro-contact ethos” has no place … and where women’s and children’s safety is given the highest priority” (p. 233). To do this, we need appropriate screening, training and expertise, a well-resourced and integrated systemic response, and a cultural shift that recognises that allegations of violence and the experience of violence must be paramount when considering parenting arrangements.

**References**


‘Less adversarial’ proceedings in children’s cases

The adversary system

Among the many changes to children’s law made by the Family Law Amendment (Shared Parental Responsibility) Act 2006 was the introduction of Division 12A of Part VII, containing provisions that “provide for a less adversarial approach to be adopted in all child-related proceedings under the Act”.2

The words ‘less adversarial’ have become familiar in family law. They refer to court proceedings that depart in significant ways from the distinctive, traditional common law model of court proceedings, generally referred to as the ‘adversary system’. So let’s first look at that system.

In the adversary system, the initiation and control of the proceedings is largely in the hands of the parties. They essentially control what happens. There will be no proceedings, of course, unless someone — the ‘applicant’ in family law cases — starts a case, seeking some remedy against another party (‘the respondent’). It is for the applicant to decide what orders to seek, and what evidence and argument to put before the court. Similarly, it is for the respondent to decide whether to defend the proceedings, and what evidence and arguments to use. The judge’s task is essentially to let each party put their respective cases, ensuring that the rules of evidence and procedure are adhered to, and then, when they have finished, decide the case on the basis of the relevant law and the evidence and argument the parties have chosen to put before the court. Traditionally there is a single trial, or hearing, in which the evidence and arguments are presented, at the end of which the judge makes orders that dispose of the case and delivers a judgement that makes the necessary determinations of fact and applies the relevant rules of law, and thus contains the reasons for the orders.

Such proceedings are characterised as ‘adversarial’ because the conduct of the case is in the hands of the adversaries, the parties. It is sometimes said that the adversarial system is not really a search for the truth, only for the better of the two stories presented to the court. There is some substance in this. Because the judge does not conduct any independent inquiry or investigation, the court is indeed limited to hearing the stories the parties tell and, while its task is to assess the plausibility of these stories, it has no way of knowing whether either is true: the court will never know whether there might have been other evidence, not called by either party, that would have led to a more accurate result. Thus, if neither party presents the true facts, the judge might perform the task imperfectly, judging the two cases presented to the court, but reach a result that does not reflect what is actually true.

On the other hand, those who favour the adversary system would say that although in this system judges are concerned only with choosing between the cases presented by the parties and not with finding the objective truth, the system is, in fact, well designed for discovering the truth. They would say that the best way to discover the truth in a dispute between two parties is to hear what each party has to say. There are some other things that can be said, too, in defence of the adversary system. In particular, it appeals to liberal democratic notions, in that it is for the individuals concerned, not the state, to investigate the matter. Arguably, it is easier for the judge to be impartial if the judge does not conduct an inquiry into the facts.

All this is about the model, or pure form, of the adversary system. In reality, the contemporary practice of courts in our system departs significantly from it in various ways. But it is still a useful guide to the basics. And it has been profoundly influential. It affects, for example, the way we think about lawyers and judges. Lawyers have a duty to their client, to present the client’s case, albeit subject to various constraints, including the lawyer’s duty to the court. Their fundamental duty is not to conduct their own investigation into the truth. Similarly, the appointment of judges has reflected their traditional role in the adversary system: we tend to look for people who would be good at being impartial, assessing evidence, ensuring that rules of evidence and procedure are adhered to, and being able to know and apply the relevant rules of law.

Why are we now departing from it, seeking a system that is less adversarial?

A nice coincidence: Court experiment and parliamentary report

The inclusion of the new ‘less adversarial procedures’ in the legislation is the immediate result of a remarkably nice coincidence between two events.

Firstly, when Parliament was considering proposals for the reform of Part VII, a committee had recommended the creation of a new tribunal (in which the parties were to be unrepresented) to deal with most children’s cases (Every Picture Tells a Story). That proposal did not find favour, but there was political support for the view that something needed to be done to improve the way children’s cases were conducted. What, though?

Well, as it happens the Family Court had been experimenting with a pilot project, the Children’s Cases Program, in which, with the consent of the parties, children’s cases were dealt with in a new way, a way that
involved the judge taking much greater control of the proceedings than was possible under the traditional, adversarial approach.

It was a nice coincidence because the Government – and the Parliament – seized upon the Family Court’s experiment as the solution to the problem. There would be no tribunal, but there would be a new approach: the legislation would provide that the courts should apply something like the less adversarial approach developed in the Children’s Cases Program to all children’s cases, not just those cases in which the parties had consented to the less adversarial approach. And this is what the legislation does.

The Family Court’s Children’s Cases Program

The program and its background have been fully and expertly documented by Margaret Harrison, whose recent booklet is an authoritative treatment of the subject. For present purposes, it is necessary only to sketch the key features.

One of the many strengths of Margaret Harrison’s work is that, while she rightly emphasises that the scheme marks a striking departure from the traditional approach, she also shows the continuity between the program and certain ideas and modifications that had previously been made in children’s cases. Over the years, the adversarial system had been considerably modified in children’s cases. Under the Family Law Act, children were often represented, there were often independent family reports or other expert reports on the children’s needs, and some exceptions had been made to the rules of evidence. Even with these modifications, however, judges often expressed disquiet about the underlying adversarial structure of the litigation. Before and after the Family Law Act, judges had often remarked emphatically that cases in which the child’s best interests were paramount were not strictly adversarial:

…it is well established that proceedings in relation to the best interests of children are not strictly adversarial. The wellspring for departure from a strictly adversarial approach to proceedings is found in the Court’s obligation to treat the best interests of the child the subject of proceedings as the paramount consideration.

These were pointed comments, but it was never very clear exactly where they pointed. Looking back, we can see that they seem to express a yearning for a different system, but not a clear idea of what such a different system might be like. The Court still had no investigative arm, and procedural fairness seemed to limit the extent to which the Court could depart from traditional procedures. The quest for a better system gained urgency because of cuts in legal aid and growing numbers of unrepresented litigants. Whatever merits the adversary system might have, it is a system that depends absolutely on both parties being able to present their cases properly, something that, in my experience, hardly any unrepresented parties can do.

The model for a different system emerged from the vision of the previous Chief Justice, Alastair Nicholson, and O’Ryan J, who conducted a study tour on the subject and came back much influenced by continental models, especially the German model. This led to an experiment: the Children’s Cases Program.

As the words ‘less adversarial’ suggest, the scheme departed significantly from the adversarial model. There have been some differences of practice over time and perhaps between one judge and another, but the key features, as developed by the Family Court prior to the 2006 amendments, may be described as follows. The judge had a more controlling role, and became heavily involved in the way the case was presented. By the first day of the hearing the parties would have filed their affidavit evidence and the judge would have read it, and on that first day the judge would discuss in some detail how the case would proceed, and work out with the parties what evidence would be of most assistance. Indeed, the judge could legally prevent the parties from calling evidence that, although relevant and legally admissible, was considered by the judge to be unhelpful. In practice, this rarely happened: more often, the parties and their lawyers accepted the judge’s suggestions about what evidence should be called. The more controlling role of the judge was linked to some other changes. Normally, even when the parties were legally represented, the judge invited them to make a brief (10 minutes or so) opening statement, explaining their case in their own words. Although the lawyers were involved in the discussion, and of course made submissions and led evidence in much the same way as usual, the more controlling role of the judge required a somewhat different role from them.

There were two other ways in which the judge was liberated from the constraints of the traditional system. The judge could dispense with the application of the rules of evidence. And the hearing was treated as being extended over a series of court occasions – the parties were sworn in on day one, so that everything they said from then on was on oath, and the judge could make binding rulings about particular issues at various stages of the hearing; a contrast to the traditional system where all the rulings come at the end.

Finally, another big change, which I think developed in importance as the system was put into practice, was that a ‘Family Consultant’ – previously known as a Family Court counsellor or mediator – was involved from the start and acted as a kind of advisor to the court and to the parties, and as an expert witness. The judge engaged the Family Consultant in discussion, in open court, about the needs of the children and the best way to deal with issues.

How was it possible, you may ask, for judges, in the absence of any new legislation, to liberate themselves from the rules of evidence and procedure to the extent necessary to conduct trials this way? The answer, under the Children’s Cases Program, was consent: the new approach was used only where the parties had consented to having their cases dealt with in this way.

The new system was an experiment and, as was always the Court’s intention, it was evaluated. To date, two evaluations have been conducted, one by Professor Rosemary Hunter and the other by Dr Jennifer McIntosh.

The idea of a pilot program, reviewed and fine-tuned over a period of time, was somewhat caught up by events: the political imperatives of the time led to the scheme (or something like it) being embraced and built into legislation, although the scheme was still in an experimental stage. However, no harm seems to have been done by this, since there was...
An evaluation of the prototype: The Children’s Cases Program

The less adversarial trial procedures contained in Part VII, Division 12A of the Family Law Act 1975 were closely modelled on the Children’s Cases Program (CCP), an opt-in pilot program run in the Sydney and Parramatta registries of the Family Court from 2004 to 2006. The program, a Family Court initiative conceived under the stewardship of the former Chief Justice of the Court, the Hon. Alistair Nicholson, was evaluated separately by Professor Rosemary Hunter (Hunter, 2006a), Professor of Law, Griffith University (now at the University of Kent), and Dr Jennifer McIntosh of Family Transitions (McIntosh, 2006). A summary of both reports follows.

The key aims of the Hunter study were threefold: to determine whether the CCP was meeting its objectives; to assess its resource impacts; and to identify a best practice model for the wider roll-out of less adversarial measures in children’s matters in the Family Court. The main issues explored in the study included: the types of cases participating in the CCP pilot; whether the CCP procedures produced better outcomes for children; the financial costs and legal aid implications of the program; and the new roles required of judges, lawyers (including children’s representatives) and mediators involved in the proceedings. The McIntosh study focused on how the program affected parental relationships and children’s adjustment.

Following 168 cases from the CCP and 168 control cases (matters using mainstream court processes) that had been finalised by December 2005, the Hunter evaluation provided a statistical analysis of the processes and outcomes involved in the two samples, surveyed the parties involved in both, and included interviews with a range of stakeholders.

Dr McIntosh used telephone interviews with parents from both samples (with a total sample size of 84 adults1) to assess the impact of the two different litigation streams on parenting capacity and children’s wellbeing three months after court proceedings had concluded.

The authors found a number of clear differences between those matters where parties elected to participate in the Children’s Cases Program and the control cases. Professor Hunter found that the former were more likely to have one or both parties self-represented. They had significantly fewer issues in dispute and fewer disputes relating to residence than the control group. The McIntosh study found that control group cases were more likely to be involved in chronic serial litigation over their children than those in the CCP. The two groups were involved in matters of similar complexity, and the parents presented with similar levels of ego maturity and post-separation conflict.

The pilot was found by both studies to have been successful in a number of key indicators. Cases in the pilot program involved shorter proceedings (less court time), and the more flexible and responsive processes allowed for a greater ability to focus on the needs of children. However, while the median time to finalisation of matters was around half that of the control cases, Professor Hunter noted that the level of resources available for the pilot was unlikely to be sustainable in the long term, and that greater delays will be inevitable when the procedures become part of mainstream practice.

There was also some cause for cautious optimism in relation to outcomes for children. Dr McIntosh found that in the CCP sample litigation caused ‘no further harm’ to the co-parenting relationship and to their children’s post-court adjustment, and was associated with greater protection of parental capacity. The CCP sample reported significantly lower levels of acrimony and conflict and better emotional functioning of their children. The findings also indicated greater parental satisfaction with the legal processes and outcomes associated with the CCP stream. However, according to findings in the Hunter study, this did not equate with greater durability of arrangements, as a higher proportion of CCP cases involved subsequent litigation, in particular for contravention or variation of orders. Neither is it clear that the positive results found would remain under a system in which greater delays were experienced.

The report highlighted the fact that cases involving allegations of domestic violence may prove the most problematic for Div. 12A proceedings. According to Professor Hunter, the very premise of the CCP, based as it is on the objective of parents setting aside their (presumed mutual) conflict and working cooperatively with a future focus to achieve a (preferably) shared parenting arrangement, may work against the interests of the party escaping violence. The report stressed the need for careful screening for violence at an early stage of proceedings and, where domestic violence is identified, a swift factual determination as to the veracity of the allegations. The author suggested that the less adversarial procedures need to be modified to allow for a greater focus on the safety of children and other parties, and to ensure the disempowered party has the capacity to engage effectively in the process.

The Hunter study found that while the CCP proceedings were objectively cheaper for parties, this did not necessarily translate into greater satisfaction for parties regarding costs. In relation to the cost in judicial time, the CCP was found to be, at worst, cost neutral and, at best, resulted in savings. However, this was not presented as a robust finding given the differences between registries and the great variation in the approach of individual judges participating in the pilot. Judicial style and personality attained particular importance in the CCP cases. One recommendation arising from the report is for the standardisation of proceedings in line with the approach taken at the Parramatta Registry, which was found to represent judicial ‘best practice’. It remains to be seen how the ‘bare bones’ of the amendments introducing less adversarial procedures are put into practice on the ground in registries across the country. The report also suggested that clearer boundaries needed to be formulated regarding judicial interviews with children.

Endnote
1. Note the caveat in the Hunter study (Hunter, 2006b) that, given the small sample size, the McIntosh study is unlikely to be representative and, as is evident from the title, is an exploratory study only.

References


already good reason to think that there were benefits in the scheme, and because the legislation is so flexible that there is plenty of room for modification and development of practice, as everybody learns from experience.

**The background of civil procedure reforms**

Even though the new approach has a specific history and rationale in the Family Court’s efforts to find a more child-focused approach, understanding the change also requires brief reference to a wider reform background, relating to civil procedure generally. Changes famously championed by Lord Wolfe in England in the 1990s involved increased judicial case management and, more generally, required the courts to take on a greater responsibility for the swift and efficient disposal of cases. These changes challenged the old idea that the judge’s responsibility is simply to sit quietly and let the parties slog it out for as long as they choose, and then to decide the case on the basis of what the parties have chosen to put forward. Instead, the judge has a responsibility to ensure that public and private resources are not wasted by inefficient conduct of litigation. The use of single expert witnesses is an example of this approach. These ideas, in their turn, had been much influenced by European systems.

In Australia, similar ideas have been explored and similar developments have occurred, in various jurisdictions. In the Family Court, numerous efforts have been made over the years to avoid inefficiencies and delays, with some success.

I suggest, therefore, that it is easiest to understand the place of the less adversarial procedures in the *Family Law Act* if we look at both the history that is specific to children’s cases, and also the more general reforms that have been going on in relation to civil procedure. This explains the otherwise startling idea, now embedded in the legislation, that the less adversarial procedures might be valuable not only for children’s cases, but also for other cases.

**Less adversarial proceedings under the new legislation**

The legislative provisions relating to the new approach, contained in the *Family Law Amendment (Shared Parental Responsibility) Act 2006*, came into effect on 1 July 2006. They are contained in Part VII, Division 12A, under the title ‘Principles for Conducting Child-Related Proceedings’. They apply to proceedings in the Federal Magistrates Court as well as proceedings in the Family Court of Australia.

**Application to non-children’s cases**

The title of Division 12A is actually misleading, because the less adversarial provisions can apply to other cases as well. It is not necessary in this article to describe the detail of the legislation. The bottom line is very simple. *The less adversarial procedures apply to children’s cases, and to other cases if both parties consent.* How the new approach will work in non-children’s cases is a fascinating and largely unexplored question. And it will remain unexplored for the moment, because the focus of this article is on children’s cases.

**The less adversarial proceedings principles and duties for the court**

The Act sets out five ‘principles’. They are, in brief:

1. The court should “consider the needs of the child concerned and the impact that the conduct of the proceedings may have on the child in determining the conduct of the proceedings”.

2. The court should “actively direct, control and manage the conduct of the proceedings”.

3. The court should conduct the proceedings in a way that will safeguard the children concerned against family violence, child abuse and child neglect; and safeguard the parties against family violence.

4. The court should, as far as possible, conduct the proceedings “in a way that will promote cooperative and child-focused parenting by the parties”.

5. The court should conduct the proceedings without undue delay and with as little formality, and legal technicality and form, as possible.

The Act then imposes a set of duties that reflect much of the thinking of the Children’s Cases Program. The court must:

(a) decide which of the issues in the proceedings require full investigation and hearing and which may be disposed of summarily;

(b) decide the order in which the issues are to be decided;

(c) give directions or make orders about the timing of steps that are to be taken in the proceedings;

(d) in deciding whether a particular step is to be taken, consider whether the likely benefits of taking the step justify the costs of taking it;

(e) make appropriate use of technology;

(f) if the court considers it appropriate, encourage the parties to use family dispute resolution or family counselling;

(g) deal with as many aspects of the matter as it can on a single occasion; and

(h) deal with the matter, where appropriate, without requiring the parties’ physical attendance at court.

**Rule of evidence modified**

There are also provisions relating to the law of evidence. Some of them are specific, such as enabling the Family Consultants to perform the role previously indicated. There is also a more general provision to the effect that most of the rules of evidence, such as the hearsay rule, do not apply unless the court, in exceptional circumstances, decides that they should. This rule has been the subject of controversy, but my own view is that it is actually a fairly unexciting change, for two reasons. First, by and large the things that were excluded by rules of evidence were the sorts of things that judges would disregard or consider of minimal importance, and the judges can still disregard or...
attach minimal weight to such material under the new system. Indeed, they have additional powers to control evidence. Second, there are longstanding examples of legislative provisions that exclude the rules of evidence in relation to other types of children’s proceedings, such as adoption and child welfare, and the sky does not seem to have fallen in.

Making it work

Will the new system lead to improvements? There are good reasons for optimism. Firstly, as I have tried to indicate, for all its novelty the system continues, and develops ideas and changes that seem to have made the adversary system a little better adapted to the needs of children, and are consistent with a wider reform movement relating to civil procedure generally. Secondly, the evaluations of the Children’s Cases Program to date, by Dr Jennifer McIntosh and Professor Rosemary Hunter, are encouraging while being sensibly cautious and circumspect.

I believe that the new system has potential for providing real benefits for children and families. We have a new model, and the real challenge now will be to make it work. Its success will depend, to a large extent, on resources and training. As Margaret Harrison (2007) rightly emphasises, it involves a modified role for judicial officers, and no doubt some will take to it more readily than others. It will be important to have sufficient resources for helping judicial officers develop the skills and understanding that the new role requires. This is particularly so in relation to the important and challenging task of making children’s cases more child inclusive – a development that has, I think, great potential to help children, but also some dangers. The legal profession, too, will need continuing assistance in learning how to combine the proper representation of their clients with the new approach to children’s cases. The profession and the Family Court did a lot of valuable educational work as the new program was introduced, and this will need to continue.

There is to be an evaluation of the 2006 reform package by the Australian Institute of Family Studies and the relevant government departments, and the Child Responsive Program that is linked to the less adversarial trial will be implemented; a necessary thing, because the scheme requires substantial input from Family Consultants. Getting the words into the legislation was the easy bit. The safety and healthy development of many children will depend on whether there is to be a collaborative effort by government, courts, and legal and other professionals in family law to make the new system work.

Endnotes
1. BA, LLB, BCL; Hon. Professor of Law, University of Sydney, Visiting Fellow, College of Law, ANU; formerly a Judge of the Family Court of Australia. This article draws somewhat on material first published in the Lexis/Nexis family law service, Australian Family Law (looseleaf, online and CD-ROM).
2. Revised Explanatory Memorandum (Senate) to the Family Law Amendment (Shared Parental Responsibility) Bill 2005, p. 2.
4. Harrison uses the words “revolutionary” (p. 58), “radical” (p. 56), and “bold” (in the title).
5. Section s 68L. The origins stem, at least in part, from the unreported decision of Selby J in Deces v. Deceis to allow children to be represented at the request of the children’s rights organisation Action For Children (nominated at (1973) 47 ALJR 548–549). The children’s counsel in that case, Ray Watson QC (later Watson J), was to play a significant part in the drafting of the Family Law Act 1975.
6. Section 62G
7. Section 69ZV (formerly s 100A).
8. Re Lyntette (1999) 25 Fam LR 352; FLR 92–863 (FC). The early influential comments were made in Reynolds v. Reynolds (1973) 1 ALR 318 were later taken up by the High Court, notably in M v. M (1988) 166 CLR 69. These were followed by the Full Court of the Family Court, e.g. in In the Marriage of D and Y (1995) 18 Fam LR 662; FLRC 92–881. See Harrison’s thorough treatment of these cases at 9–15.
14. The ideas I have mentioned are reflected in the Family Law Rules 2004. Again, Harrison’s work provides a detailed account.
16. Section 69ZN.
17. This principle essentially repeats, less succinctly, s 97(3), a proviso that was in the original 1975 Act and which continues to apply to all proceedings.
18. Section 69ZQ.
19. Sections 69ZW, 69ZV, 69ZW.
20. Section 69ZT(3).
21. This is made explicit by s 69ZT(2).
22. Section 69ZX.
23. See e.g. Adoption Act 2000 (NSW) s 126.
24. Briefly described by Harrison at 52.
25. See the column ‘From the Chief Justice’ in the Family Court’s newsletter Courtside, May 2007.

References


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he forty Family Relationship Centres (FRCs) now spread across the country from Darwin to Hobart and from Lismore to Joondalup, are set to become the ‘face’ of the family law reform package. One year after the first fifteen services opened their doors for business, we sought to find out more about the centres, the people running them, and some of the regional differences in the services they provide.

Following are excerpts from interviews with Gai Campbell, Senior Clinician at Ringwood FRC, and Paula Washington and Steve Hackett, Managers of Townsville and Penrith FRCs respectively, by Institute researcher Catherine Caruana.

Townsville FRC

According to Paula Washington, Manager of the Townsville Family Relationship Centre, Townsville has a largely transient population. This is due to the influx of people servicing the mining industry, many of whom live on the coast and are flown in to the mines, and defence personnel at the nearby military base. The city is also a major port that serves as a transport hub for the outlying agricultural industry, especially the cane fields. Paula believes the centre’s client base reflects the demographics of the area, which includes significant communities of Aboriginal, Torres Strait Islander and South Sea Islander people, as well as those of Italian and Greek descent – a legacy of the sugar industry.

The Townsville FRC is located on an arterial road, about 10 minutes’ drive from the CBD and 100 metres from one of Townsville’s major shopping centres. Unlike many FRCs, which are run by a consortium, the Townsville FRC has a sole auspice arrangement, with Centacare as the parent body. They share the ground floor of an office block with that agency.

The centre currently has eight staff, including two information referral officers (who are the first point of contact for clients), three family dispute resolution (FDR) practitioners (or mediators), an FDR team leader, an Indigenous adviser, a librarian, a resource officer and a café assistant. The café, small bookshop and library (from which the public can access phones and the Internet), located within the centre, aim to create a welcoming environment.

In their first year of operation, Paula estimates that they have seen approximately 2000 clients, and held around 320 individual and 150 joint sessions. Outreach services are currently provided to Burdekin, Charters Towers and Ingham. They have no waiting list as such, but have bookings listed three months in advance.

Q. What are the main services your centre provides?

A. As a gateway service, a large part of our work consists of information provision, both in relation to resources useful for families, via public and supported access to the library and Internet, and referral to other services. Of course our core business is the provision of family dispute resolution (FDR) services. We have recently started providing information sessions on FDR, and these are open to the public, as well as to clients of the centre.

Q. What form of dispute resolution do you use?

A. We are not prescriptive about the processes we use, but ideally we follow a co-mediation model,1 which is both child-focused and child-inclusive, where appropriate. The ethos of child-focused practice permeates all levels of service delivery. We have an in-house child consultant who is one of the FDR practitioners. This person’s role is to help bring the voice of the child into the discussion, but their involvement is not intended as a therapeutic intervention.

Q. How many cases have required more than the initial free three-hour session?

A. In the last six months, I would estimate that around 10 per cent of cases have required more than a three-hour FDR session.

Q. How long does it take most clients to reach some kind of resolution?

A. We find that it takes about two months from first contact to some kind of resolution, but our timelines may be a bit skewed as, by necessity, we work around mine rosters and army deployments.
In the first 12 months, the centres conducted 17,536 interviews and people visited a centre for assistance with family relationship issues. Relationship Centre. Of these, 47,913 contacted by phone and 9,860 in the planned locations for the next 25 centres, go to Family Relationship Centres.

For contact details relating to the 40 centres currently operating and applying to all applications, including those seeking changes to an existing parenting order. As of 1 July 2007, parties seeking a court determination in a dispute over children (which has not previously been the subject of proceedings) must first attempt family dispute resolution. Registered family dispute resolution practitioners at a range of organisations, including those employed at Family Relationship Centres, can issue certificates to confirm that an attempt at family dispute resolution was made. It is expected that, from 1 July 2008, this requirement will apply to all applications, including those seeking changes to an existing parenting order.

For contact details relating to the 40 centres currently operating and the planned locations for the next 25 centres, go to Family Relationships Online at http://www.familyrelationships.gov.au

Family Relationship Centres

Family Relationship Centres are being promoted as the first port of call for families seeking information about relationship and separation issues. They provide information and referral for people starting relationships, those wanting to make their relationships stronger, and those having relationship difficulties and experiencing separation.

When families separate, the centres provide information, advice and dispute resolution, such as mediation, to help them negotiate parenting arrangements for their children. Individual, group and joint sessions are available. The first three hours of dispute resolution are provided free of charge.

The first 15 Family Relationship Centres were established in July 2006. A further 25 FRCs opened for business on 2 July 2007, bringing the total to 40 centres in cities and towns around the country. The remaining 25 centres are scheduled to start operation on 1 July 2008. The majority of centres are run by a consortium of local family relationship service providers.

As of 1 July 2007, parties seeking a court determination in a dispute over children (which has not previously been the subject of proceedings) must first attempt family dispute resolution. Registered family dispute resolution practitioners at a range of organisations, including those employed at Family Relationship Centres, can issue certificates to confirm that an attempt at family dispute resolution was made. It is expected that, from 1 July 2008, this requirement will apply to all applications, including those seeking changes to an existing parenting order.

For contact details relating to the 40 centres currently operating and the planned locations for the next 25 centres, go to Family Relationships Online at http://www.familyrelationships.gov.au

In the first 12 months of operation, 57,773 people contacted a Family Relationship Centre. Of these, 47,913 contacted by phone and 9,860 people visited a centre for assistance with family relationship issues. In the first 12 months, the centres conducted 17,536 interview and intake sessions and 7,125 family dispute resolution sessions.1

Family Relationship Advice Line

The Family Relationship Advice Line is a national telephone service established to complement the information and services offered by Family Relationship Centres.

The Advice Line provides information on family relationship issues and advice on parenting arrangements after separation. It can also refer callers to services that may be able to assist, and can be accessed on 1800 050 321.

In the first 12 months of operation, from 3 July 2006 to 30 June 2007, staff members at the Advice Line answered 100,457 calls. Callers to the service fitted the following profile:

- 58% of callers were female and 42% were male;
- 87% were parents;
- 7% were grandparents;
- 0.5% were children under the age of 18;
- 90% of callers were separated;
- 5% of callers were considering separation;
- 5% of callers were from intact families; and
- 2% of callers identified as Aboriginal or Torres Strait Islander.2

The remaining callers fell into the ‘other’ category, which included extended family members and step-parents.

Family Relationships Online

This website provides information and advice about family relationship issues, the government-funded services available to assist families with these issues, and information on the reforms to the wider family law system. In the first 12 months of the website’s existence there have been a total of 320,321 visits to the site, 1,229,053 ‘hits’ and 862,210 page views.3 The website can be accessed at http://www.familyrelationships.gov.au

Endnotes

counselling and other support services, such as Lifeline, Relationships Australia, Centacare and domestic violence services.

Q. How prominently have allegations of family violence or child abuse figured in the cases the centre has dealt with so far?

A. If you are talking about the number of cases with a history of violence, I would say that close to half our clients are in that category. We spend a lot of time in the assessment stage to assess risk and to address safety issues. Often one or both parties need additional support, by way of counselling, legal advice or amendments to domestic violence orders before they can proceed.

Q. From your knowledge of other FRCs, what are some other unique characteristics of the Townsville FRC?

A. We’ve found there is quite a bit of diversity across FRCs. It’s been a definite advantage to have the flexibility to develop services that reflect the demographics of the communities we service.

In terms of the client’s pathway through the service, we do things a little differently here. What seems to be important in rural areas is consistency in the contact with staff and our model reflects that. We don’t have separate intake workers – the family dispute resolution practitioners do most of the assessment in the individual sessions and then they go on to mediate with the clients in the joint session.

Perhaps another difference is the degree of reviews of parenting plans that we provide. It is our standard practice to set a review date in all parenting plans negotiated at the centre, whereby the parties come back to see us 3, 6 or 12 months after the plan is drawn up. This is an inbuilt way of establishing a forum or structure for resolving future disputes. We find that we have a pretty high level of client re-engagement.

Given the transient nature of our population, we have started to understand at a practice level the effects of parents living far apart. This has been one of our challenges. We have held FDR sessions via teleconference with other FRCs in Australia. That has allowed us to establish bonds with FRCs elsewhere and draw on our collective wisdom.

I’d have to say however that the café has been an unexpected star at our FRC. We get ongoing feedback from clients who say that it contributes to the sense of welcome and comfort and helps them feel looked after.

Q. What are your overall impressions of the first 12 months of operation?

A. It’s been an extremely challenging year, particularly in relation to the very tight timeframe to establish the service from scratch. For the first months we were operating out of a training room at Centacare. The refurbishment of the building was delayed as the majority of the tradespeople were busy rebuilding Innisfail after cyclone Larry.

However I wouldn’t have changed the experience for the world. It’s been invaluable through the first year to have staff members who are so committed to supporting families. It’s been obvious in the past year what a high level of generosity and goodwill exists between FRC staff, and in particular between the managers. It is important for us to extend this same support to the new centres as they open up.

Ringwood FRC

Ringwood FRC is an outer-eastern suburb of Melbourne, approximately 25 kilometres from the CBD. In the past, this eastern metropolitan region was considered to be affluent and would probably have been best described as middle-class, with most people being from English and European backgrounds. However, now there are more people of Asian background, particularly Chinese, and also a significant community of South Sudanese people in the catchment.

According to Gai Campbell, Senior Clinician at the FRC, there is a growing number of young people with children in the area who are dependent on government support. There is now severe disadvantage throughout the region, in one area in particular. The centre’s geographic boundary is broad, and also encompasses Indigenous groups in Healesville and surrounds.

The Ringwood FRC is currently located in a small, stand-alone, weatherboard house near Eastland Shopping Centre, in the same street as the Family Assistance Office and Centrelink. The centre moved to temporary, more suitable premises at the end of August, and a purpose-built FRC is being erected on the current site.

The centre is managed by Eastern Access Community Health (EACH) as the lead agency in a consortium also made up of Relationships Australia – Victoria (RAV) and Regional Extended Family Services. Staff members at the centre include a senior family dispute resolution practitioner, who is in charge of clinical services; three additional family dispute resolution practitioners, one of whom is full-time; three family relationship advisers; one intake worker; one community development worker; an office administrator; an administrator’s assistant; and several part-time receptionists.

Gai’s estimate is that approximately 2,400 people have attended the service in its first year. During high-peak periods they receive up to 50 new phone queries a week.

Q. Do you use a co-mediation model?

A. In some cases we offer co-mediation, where a male and female FDR practitioner will conduct a joint session to address any perceived gender imbalances. This strategy is also employed with couples in high conflict. The type of FDR we offer is more facilitative in nature.
than it might have been in the past. The Family Law Act 1975 now places obligations on us to provide legal information where appropriate, and to also fulfil the role of adviser on occasion. This continues to be a challenge, given the traditionally neutral role of mediators.

Since 1 July 2007 all parties wishing to take their dispute to court in relation to new parenting orders are required to attend FDR unless they meet one of the exceptions. As a result, our procedures are currently changing to meet this new demand. Given the new compulsory regime, we also anticipate challenges in engaging clientele in the process in future.

Q. Describe the early days of the service.
A. Initially four workers were accommodated in one small room, cheek-by-jowl so to speak. This was very cosy and ensured there was lots of discussion about how each of us dealt with the phone enquiries – a good learning experience. Two workers had to work in the kitchen – a trap if you had no willpower.

In the first six months, approximately 50 per cent of the cases we dealt with were single assessment appointments and referrals only. An interesting observation is that approximately 75 per cent of matters in those early months involved separation issues, whereas in the last six months I estimate 95 per cent of the cases have been related to separation.

Q. What kinds of people are using the service?
A. There is a wide and varied presentation of potential clients; all at different ages and stages in their relationships, including concerned grandparents, aunts and uncles, who all want to navigate the complex situations around the children of separated couples. However, over the last three months we have found no children or teenagers have called or presented at our centre.

Q. Does your client base reflect the demographics of the area?
A. We've had some representation from every cultural group in our local region. However, we are conscious of the need to work harder in this area. It is part of our brief to provide outreach to the outer eastern metropolitan region, in particular to Healesville and Yarra Junction. There are pockets of severe hardship for many people in the region.

Our ultimate goal is to provide an accessible and community-friendly outreach space to engage Indigenous clients. As part of this process we are liaising with Indigenous service providers in the local area, with the hope of fostering improved two-way communication with Indigenous people and service providers. We are also looking to establish community-based connections at Yarra Junction.

Q. What percentage of the centre's work relates to information provision and referral?
A. Anecdotally our perception is that about 20% of callers appreciate a general explanation regarding what our centre offers and the recent legislative changes to the Family Law Act.

Q. What are the main issues people are seeking assistance with?
A. Our observation at this stage would be that the majority of clients now presenting are seeking help in relation to issues about parenting after separation.

We are finding as word spreads in the local community about our service, there does seem to be a steady increase in clients presenting with domestic violence concerns. We can only surmise at this stage that this is happening because our reputation and credibility is growing in the local area. We are also seeing more complex high-conflict cases presenting at the centre.

Q. How are the interests of children taken into account in work done with separating parents?
A. Like other FRCs all our services are 'child-focused' in that clients are constantly encouraged to consider the needs of their children. We also offer 'child-inclusive family dispute resolution'. Our practice in this regard is based on Dr Jennifer McIntosh's work. The feedback will relate to how the children are 'experiencing' their parent's separation and it is emphasised to the parents that children will not be asked to 'choose'.

We offer a group Children in Focus session on a weekly basis, once again based on Dr McIntosh's material. All clients are strongly encouraged to attend one of these sessions before proceeding to FDR. These sessions have been run weekly since we opened last year.

Q. What work are you doing to engage with the local community?
A. We have been running monthly information sessions for the last three months and these will continue indefinitely. These are designed to inform local service providers and any other interested parties about the Family Relationship Centre and how it runs.

We also regularly attend forums conducted by other service providers to provide information about our services. For example, we have participated in Child Support Agency forums conducted in the eastern region, and we are working with Child First and Child Protection. We were also guest speakers at the Domestic Violence and Incest Resource Centre (DVIRC) annual forum in June.

Earlier this year we ran a forum for legal practitioners and provided a panel for discussion, which included representatives from the Attorney-General's Department, the Family Court, the Aboriginal Legal Service and DVIRC, together with members of our staff.

Our community development worker has also worked tirelessly during the year to raise our profile at local community fairs and seminars. She has tried to take advantage of every opportunity to tell people about us. We have hosted groups at the centre on a regular basis so that we can also be informed about the services offered in the eastern region.
Q. Do you make provision for the review of parenting arrangements negotiated at the centre?

A. Most clients are entering into short-term parenting arrangements that recognise the changing developmental needs of their children. In the circumstances, they tend to reach substantial agreement in the initial free three hours but there is an expectation that they may need to review their agreements in perhaps six months, 12 months, or possibly two years. If they cannot review their agreements by themselves then the expectation would be that they would return to the centre at that stage.

Only a small percentage of clients have entered into formal parenting plans.

Q. How prominently have allegations of family violence or child abuse figured in the cases the centre has dealt with so far?

A. No specific data is available at this stage but staff report anecdotally that family violence issues are prominent and potential child abuse is of concern in a number of cases. A high percentage of callers present with domestic violence concerns and wish to gain an understanding of the support services available to them in their local city.

Our intake worker will make an initial screening and assessment for family violence. The Family Relationship Advisor (FRA) will then make an assessment as to whether the matter is suitable for FDR, and will continue to screen for family violence or any other issues which may make a joint session unsuitable. An invitation to FDR will be sent to the other party if the initial assessment suggests that a joint session may be appropriate.

Where there has been family violence but the parties still want to try FDR we offer a variety of forms of FDR to meet their needs. Some parties may participate in ‘shuttle FDR’ with the practitioner moving from one room to another without the parties actually coming into contact with each other. We can also provide shuttle FDR on separate days, or one party can participate via the telephone. The emphasis is on providing a safe, supported environment for people to attempt to resolve issues, with a focus on the needs of their children. The safety of the parties is always a priority. We have separate waiting rooms and parties can be escorted to their cars after a session if necessary.

Q. How have the last 12 months been for you and your staff?

A. It has been a steep learning curve for everyone in terms of establishing the centre and developing and implementing the service model, ensuring we meet the requirements under the Act, while ensuring we are responsive to the needs of clients. The service model continues to be a work in progress.

Critical areas for the service have included the importance of clarity around service model, protocols and procedures, integrated systems development and team building, and supervision to support staff dealing with both the confronting and complex issues on a day-to-day basis and the inadequacy of the current premises.

We had no benchmark at the start, and all the centres have developed differently. Our staff members have experienced the pressure of ambiguity and constant change. It has been a daunting task sometimes to establish appropriate protocols and procedures while simultaneously dealing with high demand from clients dealing with complex issues. It has been a year of constant changes and this is ongoing with the introduction of compulsory FDR. Currently, only two of the original staff members remain and we are currently recruiting more staff. The needs of the centre have changed since its initial opening, and we are now consolidating some of the lessons learned in the first year.

Postscript

Gai was proud to include this example of recent feedback received from the Family Relationship Advice Line:

I’d just like to provide you with some feedback I have just received from a very satisfied client who dealt with Ringwood FRC. Whilst she was calling to get contact details for FRCs in WA for her brother, she mentioned that last year she separated from her husband and found the assistance of Ringwood to be very beneficial, making the transition into single parenthood much less scary for her and giving her a more positive outlook on all matters regarding the children and parenting. This obviously is the reason why she’s so keen to refer her brother to a FRC.

Penrith FRC

Penrith is an outer-urban suburb of Sydney, located approximately 55 kilometres west of the Sydney CBD at the foot of the Blue Mountains. The Penrith FRC services the communities of Penrith and surrounds, the Blue Mountains extending to Lithgow, and the Hawkesbury Shire, including Windsor and Richmond. The population of the area is made up of a broad mix of different socio-economic and cultural backgrounds.

A consortium known as The Resilient Families Group, and made up of Relationships Australia – NSW (RANSW) and Uniting Care Unifam, have the service contracts to operate six FRCs in NSW, including Penrith. RANSW is the lead agency at the Penrith centre.

The Penrith Family Relationship Centre is situated on the ground floor of an office building on a busy street surrounded by shops, close to Westfield Shopping Centre. It is just three blocks from a railway station and main bus routes. The centre is located within walking distance of a range of other community services, including the Children’s Contact Centre.

Apart from the manager, the centre is staffed by three first-point-of-contact administration staff, four full-time family advisors and four family dispute resolution (FDR) practitioners. RANSW as the parent organisation also provides a group leader for the Kids in Focus group, and clinical supervision for both the family advisors and the FDR practitioners.
In the first 12 months of operation, the centre has offered over 1,700 individual face-to-face or phone interviews with a family advisor, and conducted nearly 150 (co-mediated) joint mediations. They have held over 370 individual pre-FDR sessions and around 30 group sessions. Almost 1,200 people were ‘walk-ins’, i.e. clients who drop in without an appointment seeking information and advice. Staff members have fielded over 9,000 incoming phone calls.

Q. What services are currently provided at the centre? Are there plans for expansion of these services?

A. Perhaps our most important role is that of providing a gateway to support services for individuals and families in the area, and collaborating with local community service providers to facilitate access to those services. We don’t presume that the best or only thing clients need from our centre is family dispute resolution. Having said that, we have probably offered some aspect of specific family dispute resolution service to approximately one-third of all clients registered with the service. A lot of people think that dispute resolution is all that we offer, and so education about our role has been a big part of our work over this first 12 months.

Our family advisors undertake extensive intake, screening and family assessment (see below). We offer child-focused and child-inclusive family dispute resolution services using a co-mediation model.

General information on family relationship issues is provided by way of group sessions, classes, short courses and counselling. We distribute lots of printed material on the needs of children in separating families.

We also run two six-week programs, one called ‘Focus on Kids – Parenting after Separation’ and the other entitled ‘Building Better Relationships’ (helping couples to strengthen their relationships). We also run a relationship and social skills workshop for children during each of the school holidays called ‘Kids Skills’.

We are about to commence a Family Advisor outreach service one day per fortnight to the Upper Blue Mountains and Lithgow, as well as to Richmond in the Hawkesbury shire, later this year.

Q. Can you walk me through a client’s likely trajectory through the centre’s services from initial contact?

A. Initial queries are fielded by our reception workers. If clients need further assistance, appointments are booked with a family advisor who provides a one-hour minimum, holistic face-to-face interview (or by phone if preferred), to get a broad picture of the family story, paying particular attention to what’s happening for the children. Family advisors take time to check out issues to do with the individual client’s physical, mental and financial wellbeing and safety, as well as that of their children. There may be referrals to other services at this stage.

On the client’s instructions, the family advisor may then write to the other party and invite them into the FRC. If both parties wish to move through the service to family dispute resolution, they are booked into separate sessions of the Kids in Focus seminar, before attending a one-and-a-half hour pre-FDR information group session. Following this, clients will have an individual pre-FDR session with an FDR practitioner during which issues, including issues of safety, are explored further. If it is appropriate for the matter to proceed, then a date is booked for a joint FDR session.

If it is judged that child-inclusive practice (CIP) would be helpful to both the children and the parents, and again with the parents’ consent, a RANSW child consultant will conduct a separate session with the children and then provide feedback about the children’s experiences of the separation, initially to the practitioners and then to the parents. This is often a very powerful way for parents to more fully understand the impact of conflict on their children.

Practitioners then work with both parties in a joint session to try and develop a workable interim and/or final parenting plan agreement that is responsive to the developmental age of the child or children and the capacity of both parents.

Q. What percentage of matters relate to disputes about parenting between separated parents?

A. The majority of our clients over this initial 12 months have been separated or separating parents, possibly because of the widespread government advertising about FRCs and the changes to the Family Law Act. Through our community education work and involvement in community service network meetings, we are creating more awareness of our broader role of assisting people with their relationships while still together, and expect visits from these families to increase.

Q. What has been the most challenging aspect of the last 12 months?

A. As one of only two FRCs in the broader Sydney metropolitan area, and west to South Australia, north to Lismore and south to Wollongong, the most challenging aspect of this first 12 months has undoubtedly been the strong and constant client demand for service. We had planned to be offering outreach to the Blue Mountains and the Hawkesbury within the first six months, and have simply not been able to get out of the centre, given the sheer numbers of clients coming into the service at our main location, often from far afield.

Endnotes

1. Under a co-mediation model, two mediators, often of different genders and with different skill sets, assist the parties.
he reform package includes changes to
the law, in the Family Law Amendment
(Shared Parental Responsibility) Act
2006, and funding for new and expanded
services to help families deal cooperatively
and practically with relationship difficulties
and separations.

Amongst other things, the legislation introduces a
presumption in favour of shared parental responsi-
bility, makes family dispute resolution compulsory
before taking a parenting matter to court (with
some exceptions, including cases of family violence
or child abuse), and provides for more child-centred
court processes for parenting matters. New and
expanded services include the staged rollout of 65
Family Relationship Centres, which provide a new
‘gateway’ to the family law system, in addition to
providing other family support services. The re-for-
mulated service package is intended to assist
families in enhancing their relationships and resolv-
ing difficulties cooperatively.

The AIFS evaluation will assess the impact of the
reforms on families and across the family law sys-
tem, using multiple studies and a mixture of
methodologies. Key foci of the multi-layered, three-
year research program are separated families, the
operation of the family support programs, the
impact of the shared parental responsibility legisla-
tion, and the shift to child-focused processes in
family dispute resolution and court proceedings.

The policy context

The core objectives in introducing the reform pack-
age were fourfold:

1. to help prevent separation and build strong,
   healthy family relationships;
2. to encourage more meaningful involvement by
   both parents in their children’s lives after sepa-
   ration, in an environment where children are
   safe from violence and abuse;
3. in the case of separation, to provide information,
   advice and dispute resolution services to help
   parents agree on what is best for their children,
   rather than contesting parenting proposals in the
courtroom; and
4. to have a new entry-point that provides a door-
   way to other services that families need, and
   which facilitates access to those services.

A combination of service provision (see text box)
and legislative measures is being used to achieve
these objectives. The key legislative initiative, the
Shared Parental Responsibility Act, contains a new
template for post-separation parenting, and articu-
lates a limited role for court-based decision-making
in parenting matters. Four of the main changes it
contains are:

1. a presumption in favour of equal shared parental
   responsibility;
2. an increased emphasis on child safety;
3. compulsory family dispute resolution from July
   2007 (except in certain circumstances, including
   where there are concerns about family violence
   or child abuse); and
4. less adversarial processes for Family Court
decision-making in children’s matters (and in
property matters by consent).

New services include the Family Relationship Cen-
tres, the Family Relationship Advice Line, and
Family Relationships Online. These services are
designed to streamline access to the family law sys-
tem, and enable parents and other family members
experiencing difficulties regarding family relations-
ships to obtain relevant information more quickly
and easily.

The evaluation research

The evaluation research program comprises three
separate components (each including a number of
separate studies) designed to measure the impact of
the changes in both broad and specific ways. The
three components focus respectively on separated
families, the service provision system, and the
implementation of the legislation and the changes
The Australian Institute of Family Studies has conducted an evaluation of the Family Court of Australia’s Magellan Project. The Court has identified allegations about child abuse in the context of parental separation and divorce as part of its ‘core business’. In order to better manage post-separation parenting disputes (previously known as residence and contact disputes) involving serious allegations of child abuse, the Court established the Magellan case-management system (Brown, Sheehan, Frederico, & Hewitt, 2001).

Magellan is a world-first experimental project, designed to address the needs of children and families where allegations of sexual abuse or serious physical abuse are raised during parenting disputes (disputes over how the child’s time is divided between parents – if at all) in the Family Court of Australia. A consortium of agencies in Victoria developed and implemented the new approach in a pilot project of 100 cases. This was evaluated in 2001 before progressively rolling out the case-management approach nationally (Brown et al., 2001). Like the eponymous Portuguese-born explorer whose voyage became known as the first successful attempt at world circumnavigation, Magellan is about charting new waters and exploring new territory in the service of better outcomes for vulnerable children and families.

The system consists of a team of judges, registrars and mediators (now called Family Consultants) who handle the cases from start to finish, with a central focus being the level of inter-agency co-operation (particularly with the statutory child protection department, which is responsible for investigating allegations, and providing focused reports to the Court on their activities and current concerns). Significant resources are directed to the case in the early stages with an aim to resolve the case within six months. Child representatives (now known as Independent Children’s Lawyers) are appointed, and for those who qualify for legal aid, the usual cap is lifted. As well as hearing cases, a key component is that judges play an active role in managing cases at all stages through the Court, assisted by a dedicated Magellan registrar.

Magellan evaluation 2006–2007

The purpose of this evaluation was to examine the effectiveness of the Magellan case-management system. The project involved two types of data analysis: qualitative data from stakeholders, and a quantitative case-file comparison of cases finalised prior to 1 July 2006. As well as assessing the perspectives of relevant stakeholders as to whether Magellan is achieving the desired outcomes, cases subjected to the Magellan process were compared with cases from other registries of the Court where Magellan was not yet in place.

The qualitative research, which commenced in December 2006, involved conducting interviews and focus groups with key stakeholders to examine both how Magellan is being implemented, and their perceptions of its effectiveness. In addition to interviews with judges assigned to Magellan cases, focus groups were used to understand the views of the key stakeholders involved in the Magellan case-management system. These included representatives from the state/territory statutory child protection department and police service, the Family Law Council, the Bar, Legal Aid, and children’s legal representatives (Independent Children’s Lawyers). The focus groups also included relevant Family Court staff, such as Magellan registrars, Regional Registry Managers and Family Consultants (the Court’s mediation staff who work with the families, and provide a Family Report to the Court).

For interviews and focus groups in NSW (where Magellan was only rolled out in mid-2006), the focus was on the Family Court’s usual method for processing family law cases involving allegations of child sexual abuse or serious physical abuse – and how participants believe this compares with their understanding of the Magellan process.

Fifteen separate consultations were conducted, involving interviews with nine judges, and focus groups with more than 40 other key stakeholders.

Quantitative data analysis was also undertaken, based on a file review of 80 finalised cases from three registries that had gone through the Magellan process. These were compared with 80 Magellan-like cases (i.e. those involving similarly serious allegations of physical abuse or sexual abuse) in two NSW registries that proceeded through the Court’s mainstream processes, prior to the introduction of Magellan.

The key component of the quantitative methodology is a naturally occurring opportunity for comparison. Due to the later implementation of Magellan in NSW, the 80 cases from NSW (Sydney and Parramatta registries) that would have been included on the Magellan list had it been operating in NSW at the time are being compared with 80 Magellan cases (drawn from Melbourne, Adelaide and Brisbane). The selection criteria for obtaining the comparison sample of Magellan-like cases were applied retrospectively by an experienced Magellan Registrar, using the information on the file that would have been available to the Court when it was first made aware of the allegation of sexual abuse or serious physical abuse of the child.

Quantitative data were collected about processes that are believed to be critical to the success of Magellan (such as the number of judicial officers involved, and the number and type of expert reports, particularly timely reports from the statutory child protection authority). Data about the outcomes also were measured (such as the duration of the entire matter, the number of different court events, and whether the final orders broke down, as well as the number of cases proceeding to judicial determination and the length of the trial). One of the limitations of the evaluation is that it did not include the perspectives of children or families (due to timeline, funding and ethical constraints).

Collection of the case file review data was completed in April 2007, and the draft final report was provided to the Court in July. The Family Court of Australia released the final report of the Institute’s evaluation in October 2007.

Reference

to the court system. They are closely linked in the sense that they will track the impact of the key themes in the package – strengthening family relationships, shared parental responsibility, child safety and child focus – on the practices and attitudes of parents, service system providers and legal system players. Issues of particular concern, such as family violence and child safety, will be addressed in each component of the evaluation. A mixture of quantitative and qualitative methods using multiple data sources will be applied across the evaluation program as a whole, enabling a composite picture based on multiple perspectives to be developed.

Some aspects of the research program will build on baseline research that has already been conducted by the Institute to allow pre- and post-reform package comparisons to be drawn. Others will be conducted on a longitudinal basis, allowing the impact of the reforms to be assessed as they unfold over time. Current funding arrangements cover the period from June 2007 to June 2009.

**Evaluation of changes to the law and court processes**

This part of the evaluation focuses on the response of the legal system to the family law reform package. The *Shared Parental Responsibility Act* made significant changes to the substantive law governing the resolution of parenting matters, and the processes for dealing with them. In addition to the presumption in favour of equal shared parental responsibility, there is an increased emphasis on the need to protect children from exposure to family violence, abuse and neglect. Whilst the ‘best interests of the child’ remain the paramount consideration, the provisions that guide the court in determining what arrangements might meet this test have been changed considerably. New elements include the obligation on judges and federal magistrates to consider orders from a starting point or presumption of equal shared parental responsibility. This does not mean that the child should spend equal time with each parent. Rather, it means that both parents have an equal role in making decisions about important issues that affect their child.

In process terms, since July 2007 it has become compulsory to attend family dispute resolution (FDR, previously referred to as mediation) prior to making an application to the court for a parenting order, except in a specific range of circumstances, including cases involving family violence or abuse. In these cases the Court retains the discretion to hear a matter even though the parties have not attended FDR. Further, the *Shared Parental Responsibility Act* has enshrined in legislation a series of case-management processes initially trialled by the Family Court of Australia in its Children’s Cases Program (see article by Richard Chisholm in this issue). These are the foundation of the new less adversarial trials program operating throughout the system. Significant aspects of this program include an active case management imperative for judges and magistrates, and an expanded role for Family Consultants, who maintain their involvement with the family throughout the process.

**Significant aspects of this program include an active case management imperative for judges and magistrates, and an expanded role for Family Consultants, who maintain their involvement with the family throughout the process.**

This component of the evaluation program has three main parts. The first part will be a series of interviews and focus groups with key system players – judges, federal magistrates, registrars, Family Consultants and lawyers. Data will be gathered on how these professionals view the impact of the *Shared Parental Responsibility Act*, including its influence on their role, and factors that may impede the fulfilment of its aims. The second part of this component will focus more specifically on the implementation of the Act, and the methodology for this part is still being developed. Thirdly, the Family Lawyers Survey, initially conducted by the Institute as a pre-reform benchmark study in 2006, will be repeated in 2008 to gauge the extent to which changes have occurred in attitudes and practices among this key group of system players, and the nature of these changes.

**Service Provision Project**

A different aspect of the system will be examined in the Service Provision Project (SPP), which will focus on the services funded by the Australian Government that are intended to provide more intensive relationship support programs. These include the Family Relationship Centres, which have two key roles – as both a ‘gateway’ to the new system and providers of family dispute resolution – and other services. Services to be included in this component of the evaluation are:

- Family Relationship Centres (FRCs);
- Family Relationship Advice Line (FRAL);
- new and expanded early-intervention services (including Mensline);
- new and expanded post-separation services; and
- Family Relationships Online.

The SPP will track the first three years of the reforms, collecting data at the end of each financial year from *July/August 2007*. It comprises four separate studies, including a qualitative study involving interviews and focus groups with service
The second series of studies, the Separated Families Project (SFP), aims to examine how the impact of the family law reforms on separated parents and their children unfolds. This will be achieved through a longitudinal study of separated parents, retrospective surveys of separated parents who separated before and after the reforms were introduced, and possibly a study of adolescent children in separated families. Together, these studies will provide unique insights into the effectiveness of policy changes that aim to produce significant and enduring changes in separated families in Australia, including the effects of accessing new and expanded family relationship services.

A key strength of the SFP design will be the evaluation of the extent to which different pathways through the new family law system enhance coparental relationships; encourage greater parental involvement after separation; and resolve parental disputes. The longitudinal study of separated parents, which involves the collection of data from the same group of parents on more than one occasion.

The SFP will be an essential tool for examining:
- personal health and wellbeing;
- family relationships and parenting practices; and
- attitudes among members of separated families in Australia and factors affecting their wellbeing.

Vital evidence on the health, social and economic circumstances of families will be collected, and together with the analysis of existing large-scale national data (e.g. HILDA and LSAC), will feed into a broad, integrative evaluation of the family law reform package.

**Overall approach**

Although the evaluation incorporates three separate components and a range of individual studies, a coordinated approach will ensure that the components are capable of producing an integrated picture of the impact of the reforms. The separate components share important thematic threads, and together, the studies will provide detailed insight into how the system operates as a whole and the contribution made by its individual parts. In gathering data from legal system players, service providers and families, a comprehensive assessment covering all relevant perspectives of the reforms will be developed. The report for this phase of the evaluation will be finalised in 2009.

**Footnote**

1. Beyond this funding period, it would be valuable to do a retrospective study of parents who separated after the reforms were introduced to allow a comparison of pre-reform and post-reform cohorts.
Changes to the federal family law system

This family law update finds us midway through the phased-in reforms to the wider family law system. The first anniversary of amendments to the *Family Law Act 1975* and the establishment of the flagship Family Relationships Centres provide a welcome opportunity to pause, catch breath and take stock of the rapid rate of change.

For an overview of the reform package, including the provisions yet to come into effect, see the summary on page 39.

Legislative interpretation

The full court of the Family Court of Australia handed down its first decision on the application of the *Family Law Amendment (Shared Parental Responsibility) Act 2006* in December 2006. In the case of *Goode and Goode* (2006) Fam CA 1346, the primary consideration for the Court was whether the new provisions, in particular the presumption for shared parental responsibility and provisions relating to equal time with children, applied in interim proceedings, or only in the making of final orders.

Prior to the amendments, the courts, following the principle outlined in the case of *Cowling (In the Marriage of C) (1998) 22 Fam LR 776*, were reluctant to change the existing arrangements for the care of a child at the interim stage of proceedings unless there were compelling reasons to do so. This was based on the view that it is usually in the child’s best interests to maintain the status quo until a final determination is made.

The case of *Goode and Goode* affirmed that the new provisions must be applied in interim proceedings. The court held that the operation of the presumption for shared parental responsibility is triggered whenever the court is making a parenting order, including an interim order, and even where neither party is seeking an order for shared parental responsibility. Once an order for shared parental responsibility is made, the court must then consider ordering the child to spend either equal time or ‘substantial and significant’ time with each parent, even if only on an interim basis.

Their Honours held that while the stability afforded by the continuation of existing living arrangements remains a relevant consideration in assessing what is in a child’s best interests, and the child’s best interests remain the paramount consideration, the intent and scope of the amendments is clear. A primary objective of the new provisions – the promotion of greater parental involvement in children’s lives following separation, subject of course to their safety and higher welfare – must inform all decision-making in parenting disputes and be applied from the outset.

The reasoning in the decision also explored how this finding sits with the long-accepted practice, approved by the Full Court, of keeping interim hearings to a two-hour limit. The Court determined that this practice still holds and that s 61DA(3) provides the courts with the discretion to decline to apply the presumption where evidence is limited and, as one commentator extrapolated, cannot be adequately tested in the restricted time available. Guidelines currently being formulated by the Family Court of Australia to assist judges in dealing with allegations of violence or abuse may help to ensure that these difficult issues are addressed with the degree of care and attention they deserve, within the truncated timeframe.

The decision provides further useful insights into other aspects of the amendments. In its interpretation of the word ‘consider’ in s 65DAA, whereby the court is directed to “consider making an order … for the child to spend equal time” or substantial and significant time with each parent, the court left no room for doubt that this question must be determined in the positive where such an arrangement is found to be both in the best interests of the child and reasonably practicable. So while not imposing
a presumption for shared care, it appears that as long as these two conditions are satisfied, such an order would ordinarily follow swiftly on the heels of an order for shared parental responsibility.

The decision also highlighted the fact that two different legal definitions of parental responsibility now co-exist under the Family Law Act 1975. The first is the parental responsibility that both parents enjoy simply by virtue of being parents, whether they are separated or not and before any intervention by the courts. The legal parameters of this right (and duty) remain unchanged by the amendments and can be exercised independently by either parent, with no requirement to consult the other (see s 61C). Where the court orders that the parents have ‘equal shared parental responsibility’, however, decisions about the long-term care of the child must now be made jointly by the parents and in consultation with each other (see s 65DAC).

**Family Relationship Centres**

The first 15 Family Relationship Centres have been open to the public for over eighteen months, with the second batch of 25 having opened their doors on 1 July 2007. The remaining 25 are expected to commence operation in July 2008. For a snapshot of how the centres are operating, along with an indication as to their caseloads, client base, services provided and regional differences, see the profiles of three centres on pages 33–38.

Since 2004, the family law rules have required that parties must make reasonable efforts to resolve matters between them before litigating (the penalty for not doing so being a possible order for costs). However, recent changes have seen the introduction of a stronger version of this requirement. From 1 July 2007, anyone wishing to make a new application to the court about disputes over children must first attempt to resolve the matter by way of mediation, evidenced by a certificate from a registered family dispute resolution practitioner. This requirement will be extended in the following year to all parenting matters, including applications seeking to amend existing orders.

New regulations outlining the implementation of compulsory dispute resolution at Family Relationship Centres and other services and the accreditation of family dispute resolution practitioners are also being phased in. A Family Dispute Resolution Register, accessible via Family Relationships Online and the Attorney-General’s website, provides the public with a list of approved organisations and independent practitioners offering family dispute resolution services.4

The Australian Institute of Family Studies was contracted by the Attorney-General’s Department and the Department of Family and Community Services and Indigenous Affairs (FaCSIA) to conduct an evaluation of the first three years of the reforms, including an evaluation of the services provided by the Family Relationship Centres, the Family Relationships Advice Line, and Family Relationships Online, as well as the new and expanded services from the Family Relationships Services Program.

**Less adversarial trial procedures**

An integral aspect of the reform package is the introduction of less adversarial trial procedures in children’s matters. The article by Richard Chisholm on p. 28 provides an overview of these modified adversarial proceedings. An overview of the evaluation project can be found on page 39.

**Family violence**

As outlined in the summary of the amendments at p. 39, the provisions in the Family Law Act relating to family violence, while not greatly changed in substance, have been given greater prominence in the amended act. As a result of this shift in emphasis, the Family Court of Australia, as part of the court’s Family Violence Strategy, is formulating guidelines to assist decision-makers in matters where a notice alleging violence or the risk of violence, and/or abuse or the risk of abuse, has been filed. The guidelines have been modelled on those prepared in the United Kingdom by the Lord Chancellor’s Advisory Board on Family Law.

On 12 May 2007, the Institute released the report Allegations of Family Violence and Child Abuse in Family Law Children’s Proceedings: A pre-reform exploratory study. The report was commissioned by the Attorney-General’s Department and will provide baseline data5 for the Institute’s wider evaluation of the family law reforms. A summary of the findings of that report and a range of responses to it can be found earlier in this issue.

**The roll-out of child support reforms**

As indicated in previous editions of Family Matters (Caruana, 2006; Smyth, 2005), the Commonwealth has also embarked on changes to the child support scheme, which complement the wider family law reforms and also aim to address community concerns about the operation of the scheme.

The reforms are expected to be implemented in three stages over a two-year period, from July 2006 to July 2008. Two of the three components of the reform package, which arose from the recommendations of the Ministerial Taskforce established to undertake a review of the scheme and headed by Patrick Parkinson (Parkinson, 2005), have now been implemented.

The changes introduced on 1 July 2006 include:

- measures that reflect the cost of contact for non-resident parents in receipt of government benefits. The higher ‘with child’ rate of Newstart and other welfare payments is now payable to parents with care of their children for at least one night a week (i.e. 14%, rather than the original 30% of the care of a child);
- the opportunity for payees to allocate a greater percentage of their assessed child support by way of direct payments towards their children’s costs, e.g. school fees and medical costs, rather than solely by way of a set periodic amount (increased from 25% to 30%);

...
The introduction of a new formula that is more closely tied to the costs of children (providing for higher child support for older children), treats the incomes and living costs of both parents more equally, factors in the cost of contact, and equalises the position of children from first and second unions as far as possible;

excluding the extra income earned by non-resident parents from overtime and second jobs from child support calculations in the first three years following separation;

increased flexibility for parents to capitalise their child support, e.g. to transfer ownership of the family home to the resident parent in lieu of periodic payments; and

the recognition of the obligation to provide for otherwise unsupported stepchildren in the calculation of child support.

The Child Support Legislation Amendment (Reform of the Child Support Scheme – New Formula and Other Measures) Act, the legislation containing the second and third stages of the package, was subject to a Senate inquiry by the Standing Committee on Community Affairs. The Committee’s report, released in October 2006, while critical of the limited timeframe, allowed for consideration of this complex piece of legislation and recommended that the Bill be passed without amendments. The key issues raised in submissions to the inquiry largely concerned the operation of certain aspects of the formula, in particular the impact of changes to the formula on low-income families; why income foregone by resident parents who stay at home to care for pre-school children was not taken into account in the calculation of the costs of children; why the exemption of non-resident parents’ income from overtime for the first three years was not also extended to resident parents; and why the research that informed the amendments did not take into account the impact of the Welfare to Work legislation. Notwithstanding these concerns, the Act received assent on 6 December 2006.

More information on changes to the Child Support Scheme can be found at http://www.csa.gov.au and http://www.facsia.gov.au

How well do mediators and lawyers work together?

(prepared by Rae Kaspiew)

Working relationships between mediation professionals and lawyers in the family law system have recently been the subject of empirical research (Rhoades, Sanson, Astor, & Kaspiew, 2006). The research focused on the roles that mediators and family lawyers play in relation to the operations of four different services within the family law system. It has highlighted positive and negative aspects of the interface between these two groups of professionals, and identified features that facilitate and impede the development of strong working relationships.

The empirical basis of the qualitative study was interviews with 29 family dispute resolution practitioners and 30 family lawyers associated with the four services, each of which occupies a different niche in the system. The services included in the study were:

- Relationships Australia’s Family Mediation Service in Victoria, which provides private mediation for couples undergoing separation. Mediators in the service work with members of its Lawyer’s Panel to achieve durable outcomes for clients;
- UnitingCare Unifam’s Keeping Contact Program (Sydney and Parramatta), which is a dispute resolution and parenting support program that helps separated families (often court-mandated to attend) comply with parenting orders;
- Roundtable Dispute Management Program, operated by Legal Aid Victoria, which runs a mediation program that attempts to settle disputes without court action, but with assistance from a conference chairperson in a process where each party has legal representation. Thorough case management takes place to identify the needs of the parties and screen for family violence; and
- Family Court of Australia’s Magellan Program (Melbourne Registry), which is a dedicated pathway within the Family Court system for cases involving allegations of child abuse and violence.

Key issues explored in the interviews, in the context of the particular service with which the participant was associated, were: the nature of contact between mediators and lawyers; the issues that arise in the way the two professions work together; and negative and positive aspects of the working relationship between the two groupings. In light of developments in the system,
the development of protocols by professional bodies for lawyers and family dispute resolution practitioners concerning communication and feedback about mutual clients; and

- mechanisms for developing better understanding of family violence and its impact on children, child development and child-focused dispute resolution among both family dispute resolution practitioners and lawyers.

The research was conducted as the first phase of a two-stage study funded by an Australian Research Council grant held by Ms Helen Rhoades (Law School, University of Melbourne), Professor Ann Sanson (Department of Paediatrics, University of Melbourne) and Professor Hilary Astor (Faculty of Law, Sydney University). The second quantitative phase of the research will examine the attitudes and practices of family lawyers and family dispute resolution practitioners in larger numbers.

Miscellaneous state developments

Recent developments regarding same-sex relationships

The legal status of same-sex domestic relationships remains inconsistent across the states. The Civil Unions Act 2006 (ACT), allowing for formal recognition of marriage-like relationships, regardless of the gender of the parties, was passed in the Australian Capital Territory in May 2006. The Act sought to equalise the position of non-married couples with that of married couples in relation to the application of ACT laws dealing with a range of issues, including wills and probate, adoption and discrimination. The legislation, seen by the then Federal Attorney-General as creating “confusion over the distinction between marriage and same sex relationships”, was strongly opposed by the Commonwealth. Notwithstanding a number of amendments aimed at addressing Commonwealth concerns, the Act was disallowed in its entirety by the Governor-General exercising the power conferred by s 35(2) of the Australian Capital Territory (Self-Government) Act 1988 (Cth). The incoming Prime Minister has indicated that if the ACT Government were to re-introduce the bill, the Commonwealth would not intervene to veto the legislation. Prime Minister Rudd told reporters that “on these matters, state and territories are answerable to their own jurisdictions” (“Rudd”, 2007).

Meanwhile, a private member’s bill along similar lines to the ACT Act, has been introduced to the Victorian Parliament, but has not progressed beyond the second reading speech on 13 September 2006. The Civil Unions Bill 2006 (Vic.), like its ACT counterpart, extends rights and obligations to non-married domestic partners similar to those applying to married couples.

Tasmania is the only other jurisdiction to have ventured down this path, having created a relationship registration scheme in 2003.

Referral of powers in de facto property matters

Tasmania has now joined all other states, except South Australia, in initiating a referral to the Com-
monwealth of the power to legislate over property disputes between separating de facto couples. Like legislation in sister states, the Commonwealth Powers (De Facto Relationships) Act 2006 (Tas.), which received royal assent on 10 November 2006 (No. 18 of 2006), includes same-sex couples in the referral.

The position of the Howard Government had always been to decline the states’ referral relating to same-sex couples. The legislation necessary to activate the referral in relation to heterosexual couples only, and taking effect in states that have provided a reference of powers, was drafted by the then Commonwealth Government prior to the 2007 federal election (Family Law Amendment [De Facto Financial Matters] Bill [Cth]). Watch this space for any developments under the Rudd Government.

Western Australia has gone one step further to consolidate its unique position as the only state with family laws relating to property that apply equally to married couples and de facto couples, regardless of sexual preference. Legislation passed in June 2006 in that state seeks to enable the Family Court of Western Australia to also deal with the superannuation of de facto couples in dispute in the same manner as married couples. It will take effect upon proclamation.

**Victorian Charter of Human Rights and Responsibilities**

Following the lead of the Australian Capital Territory, with the passage of its Human Rights Act in 2004, Victoria has enacted a Charter of Human Rights and Responsibilities. The charter combines in one document the various civil and political freedoms, rights and responsibilities that had previously been embedded within a number of pieces of domestic legislation and the common law. Incorporating the provisions of the International Covenant of Civil and Political Rights, the charter enshrines civil liberties such as the right to recognition and equality before the law; freedom of thought, conscience and belief; protection of families and children; and freedom of expression.

The charter became law on 25 July 2006, and came into effect on 1 January 2007. New Victorian legislation must now be accompanied by a Statement of Compatibility that highlights any potential impact on human rights, and courts will be required to interpret existing legislation in line with the charter wherever possible (to the extent that such an interpretation is not inconsistent with the purpose of the legislation). As of 1 January 2008, public authorities will be bound by the charter and will need to ensure that their decisions, policies and procedures comply with it. For more information, go to http://www.justice.vic.gov.au/humanrights

The Western Australian Government announced in May 2007 that the development of a similar scheme is on the agenda in that state.

**Endnotes**


2. Given the results of the recent Allegations of Family Violence report, that may be a significant number of cases. For a synopsis of the findings of that report, see p. 8.

3. See commentary by Richard Chisholm in the LexisNexis family law service at https://www.lexisnexis.com/au. This commentary was invaluable in the preparation of the update on the legislative interpretation of the amendments.


5. However, the data relates only to the three registries from which the court files were derived.

6. The Magellan Program has recently been evaluated by Daryl Higgins at the Institute. For a summary of the report, see p. 40.


8. Territories do not refer powers; however, by virtue of s 122 of the Constitution, any move by the Commonwealth to accept the referral from the states will apply in the territories.

**References**


Gilbert and Tobin Centre of Public Law, University of NSW, Faculty of Law. Available at http://www.gctcentre.unsw.edu.au


Rudd won’t overrule ACT’s same sex unions. (2007, 7 December). Australian Associated Press.


Catherine Caruana is a Senior Researcher at the Australian Institute of Family Studies.
Stepfamilies are challenging environments that can threaten the health and wellbeing of family members. Yet the reluctance of stepfamily members to seek assistance through family interventions has been well documented. This paper reviews research on interventions for stepfamilies, and examines Australian data from a stepfamily program designed to promote healthy stepfamily relationships. It explores the reasons why some stepfamilies seek help and the gains they report from stepfamily interventions.

Stepfamilies are an increasingly common family structure within Australia and most western countries. The term ‘stepfamily’ refers to a heterogeneous group of families that are characterised by a couple relationship, where at least one partner has children from a former relationship who are not biologically related to their current partner. To be considered a stepfamily, the couple are usually cohabiting, may be legally married, may have joint children to the relationship, and one or both partners have children who reside with them on a regular basis or visit the household. Many stepfamilies are formed after divorce or separation and children often have ongoing contact or reside with their other biological parent.

Stepfamilies may be defined in a number of ways. ‘Stepfather families’ are those comprised of a biological mother, her children and her partner. ‘Stepmother families’ are those comprised of a biological father, his children and his partner. ‘Simple’ stepfamilies are those with children from one partner’s former relationship only, while ‘complex’ stepfamilies are those with children from more than one relationship – either both partners’ former relationships and/or joint children from the new relationship.

While couples enter relationships with considerable optimism about their future together, living in a stepfamily is challenging. Compared with first-time married couples, couples in stepfamilies report more rapid declines in relationship satisfaction over time (Booth & Edwards, 1992) and have a heightened risk of separation (Booth & Edwards, 1992; Tzeng & Mare, 1995). Poor relationship outcomes are related to the presence of stepchildren. Remarried couples with stepchildren have lower marital satisfaction (White & Booth, 1985), more rapidly increasing levels of relationship distress over time (Kurdek, 1991),
and greater frequency of disagreements and perceptions of relationship instability (Stewart, 2005) than remarried couples without stepchildren.

It is also clear that children have considerable difficulties adjusting to living in a stepfamily (Coleman, Ganong, & Leon, 2006). The relationship between children and their stepparents is particularly problematic, and there is evidence of deteriorating relationships between children and biological parents (Cartwright, 2005; Cartwright & Seymour, 2002). Children in stepfamilies are more likely than those from intact families to exhibit disruptive and delinquent behaviours (Breivik & Olweus, 2006; Carlson, 2006; Ganong & Coleman, 2004; Hetherington, Bridges, & Insabella, 1998; Kirby, 2006; Nicholson, Ferguson, & Horwood, 1999). They have increased levels of internalising symptoms, lower self-esteem and report more psychological distress than children in intact families (Barber & Lyons, 1994; Carlson, 2006; Falci, 2006). Academically, children in stepfamilies perform more poorly at school and leave school at an earlier age than children in intact families (Ganong & Coleman, 2004; Nicholson et al., 1999). Differences across these outcomes are typically small (Jeynes, 2007). Nonetheless the proportion of stepfamily children experiencing adjustment problems is twice that of children in intact families (Bray & Berger, 1993; Hetherington et al., 1998).

This evidence, combined with the increased risks for couple relationship distress and separation, presents a clear case for the development and provision of interventions for stepfamilies to facilitate healthy relationships and positive individual adjustment.

**Interventions for stepfamilies**

Despite the increasing prevalence of stepfamilies, and the widely acknowledged problems these families experience, there has been surprisingly little research into interventions for stepfamilies. A review of the international research in 1994 identified only nine published studies of stepfamily interventions (Lawton & Sanders, 1994). A follow-up review in 2007 indicated a doubling of this effort, with twenty studies (Whitton, Nicholson, & Markman, in press) and another study in press (Nicholson, Sanders, Halford, Phillips, & Whitton, in press).

As summarised in Table 1, the majority of evaluated stepfamily interventions (86 per cent) were preventive, designed to promote healthy stepfamily relationships, and to prevent adjustment problems. Three programs were explicitly preventive and excluded families who were experiencing significant problems (Bielenberg, 1991; Michaels, 2006; Stroup, 1982). Fifteen programs recruited

<table>
<thead>
<tr>
<th>Authors (year)</th>
<th>Program type</th>
<th>Format</th>
<th>No. sessions</th>
<th>No. families</th>
<th>Comparison±</th>
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* Unpublished dissertations
± R = Participants randomised to intervention program versus no-intervention control or alternate program
a broad range of families, including those with and without significant difficulties. The remaining three interventions were designed to address existing problems, all of which focused on children’s behavioural problems. Across the programs, there was considerable similarity in the content provided. Most (86 per cent) included an educative component about stepfamilies that attempted to normalise and explain the reasons why stepfamilies experience problems. Components on parenting, stepparenting, communication and the couple relationship were also common. The majority of interventions (81 per cent) were delivered in a group setting rather than to individual stepfamilies.

The timing of delivery, content and format of these interventions are consistent with the broader literature on stepfamilies. Clinicians working with stepfamilies have long proposed that the elevated risks for poor outcomes in stepfamilies result from the challenges inherent in forming a stepfamily (Visher & Visher, 1979). Stepfamily formation is widely regarded as a developmental process (Mills, 1984; Papernow, in press; Webber, 1994). Stepfamily relationships progress through a series of predictable stages (determined by the length of time the family has been together, the structure of the family and the age of the children), with opportunities at each stage for subsequent positive or negative relationship pathways. Consequently, it has been proposed that the provision of information about typical stepfamily functioning might prevent problems by preparing stepfamily members for the family stages they will encounter (Papernow, in press). Additionally, the group format has been advocated as a potentially effective means of normalising stepfamilies’ experiences and providing social support (Whittton et al., in press).

However, the typical duration of the reviewed programs raises concerns. All but two of the programs reviewed were relatively short in duration: 16 involved six or fewer sessions, and three programs were eight sessions in length. Given that stepfamily problems span the parenting, stepparenting and couple relationships, programs of six or fewer sessions appear limited in the extent to which they may be able to effectively address these issues.

The evaluations of these interventions produced mixed results. In the preventive interventions, stepfamilies reported reductions in family conflict (Brady & Ambler, 1982; Cuddeby, 1984) and improved knowledge of stepfamily issues (Cuddeby, 1984; Higbie, 1994) when compared to stepfamilies not receiving an intervention. There was evidence of improved stepfamily environment in two studies (Cuddeby, 1984; Trone, 2002), but not in three other studies (Brady & Ambler, 1982; Higbie, 1994; Nelson & Levant, 1991). Also, while several non-controlled studies reported that couples’ relationship satisfaction improved over the course of the intervention (Ellis, 1984; Gibbard, 1998; Stroup, 1982; Webber, Sharpley, & Rowley, 1988), these gains were not significantly different from controls in studies that included a control group (Higbie, 1994). In the treatment studies, two of three evaluations demonstrated strong treatment effects in comparison to controls, including improved parenting, reduced child behaviour problems (Forgatch et al., 2005; Nicholson & Sanders, 1999) and reduced couple conflict over parenting (Nicholson & Sanders, 1999). The quality of the evaluations that assessed the effectiveness of these programs was generally poor. Sample sizes were typically small (59 per cent involved fewer than 25 participants), limiting both the extent to which it is possible to detect effects, and the ability to generalise the results to a broader stepfamily population. Half the studies (52 per cent) did not compare the outcomes for their intervention participants with either a control group or an alternative intervention, and only six studies (29 per cent) applied the optimal research design involving the random allocation of participants to intervention or control conditions. There was also a lack of assessment of long-term outcomes, which means that it remains unclear whether any treatment gains are maintained over time.

Intervention research with stepfamilies is clearly still in its relative infancy. The challenges that arise in trying to engage stepfamily members in interventions may be a key factor limiting the amount and quality of clinical stepfamily research. Almost universally, the reviewed studies reported difficulties recruiting and retaining stepfamily members to their programs. For example, despite extensive outreach, Nicholson and Sanders (1999) and Nicholson et al. (in press) reported that it took four years to recruit 70 stepfamilies into their programs. Of these families, 14 per cent did not commence the program, 26 per cent dropped out during the program, and a further 31 per cent of those invited to complete a six-month follow-up assessment declined to do so. The authors concluded that stepfamilies were often reluctant to identify themselves as needing assistance and delayed seeking professional assistance (Nicholson et al., in press). Before intervention commenced, high levels of distress were also apparent. One in seven stepfamilies broke up during the assessment period, either through the couple separating or removal of the focus child from the home.

In this context, it is important to understand more about the reasons why some stepfamily members self-select to participate in stepfamily interventions, and the gains that they report as a result of their participation. Given the high rates of drop-out reported in these studies, it is important to ensure that there is a good match between the expectations of stepfamilies presenting for interventions and the nature of the program they receive. Provision of a service that does not match needs may impede further help-seeking, and the opportunity to provide assistance may be lost. To date, no Australian data have been available on why stepfamilies seek intervention or the specific areas of stepfamily relationships that are causing concern. Information about these issues may be used to identify strategies that can promote the more effective design and dissemination of stepfamily interventions.

**Why do couples participate in preventive stepfamily interventions?**

Data were collected from 73 stepfamily couples who volunteered to participate in a free preventive intervention program (StepPrep) designed to promote healthy couple, parenting and stepparenting relationships (Nicholson et al., in press). The study was conducted in Brisbane, Australia. Stepfamilies were eligible for the intervention if the couple was in a committed relationship of at least six months’ duration, during which they were dating, living...
together or legally married. All couples had at least one child from a former relationship, aged between 7 and 12 years (average age of 9.6 years, equal proportions of boys and girls) who lived for two or more days per week with the presenting biological parent. Couples were randomly allocated to an education program that comprised either an initial group meeting followed by a five-week supported self-directed learning program, or a six-week group intervention program based on behavioural parenting and couple intervention strategies that had been shown to be effective with general (non-stepfamily) samples (Halford, Markman, Stanley, & Kline, 2003; Halford, Moore, Wilson, Dyer, & Farrugia, 2004; Morawska & Sanders, 2006; Sanders, Bor, & Morawska, 2007). Program materials had been extensively rewritten to be relevant for stepfamilies, and participants in both programs also received a popular Australian text, *Living in a Stepfamily* (Webber, 1994) as additional reading. Sixty-six couples completed the interventions (90 per cent), and data were provided at a twelve-month follow-up assessment by 43 couples (59 per cent).

At the intake interview, parents were on average 38 years old, had been separated from the child’s other biological parent for 5.3 years, and had been in a committed relationship with the stepparent for 2.6 years. Stepparents were on average 39 years old and 69 per cent were male. Sixteen couples maintained separate households (22 per cent), 33 were cohabiting (45 per cent) and 24 were married (33 per cent). Families were large (average family size was 3.7 children), 14 per cent had a joint child from the relationship and parents were well educated (67 per cent had completed high school, and three-quarters of these had post-high-school education).

**Reasons for taking part in a stepfamily intervention**

Couples’ reasons for participating in the intervention were elicited during a semi-structured interview prior to commencing the program, using the prompts: ‘Why did you decide to participate in this program?’ and ‘What do you personally want to get out of this program?’ The first question was asked of the couple during their joint intake interview, while the second was asked of each participant during a separate interview. Participant responses were recorded in the form of interviewer notes, which were collated and scanned to identify recurrent themes, and then coded by theme.

Table 2 summarises the main reasons that were given by 72 parents and 72 stepparents for deciding to participate in the StepPrep program. Most respondents gave multiple reasons for participation. Parents provided between 0 and 6 reasons each (mean = 3.1) and stepparents provided between 0 and 7 reasons each (mean = 3.2). Four out of five participants indicated that they were aiming to prevent the development of future problems and to enhance their stepfamily knowledge and skills. In particular, they wanted to learn more about stepfamily life, gain a greater understanding of other’s viewpoints within the family, develop parenting skills, and improve relationships with their partner and children. These goals were largely consistent with the program’s promotional brochure mailed to participants prior to their first assessment. This indicated that the program aimed to help provide participants with a better relationship with their partner, a greater understanding of their partner’s needs, more confidence discussing difficult issues, and more confidence dealing with children and discipline issues.

Blending of families was the next most common reason for participation, cited by 26 per cent of participants. Specifically, there was a high desire to be harmonious, feel like one family, improve communication and overcome clashes between the children. A desire to improve the stepparent–child relationship was cited by 17 per cent of participants. Eight per cent of stepparents reported wanting assistance with their role as a stepparent, and 7 per cent of parents wanted to improve their own relationship with their child. Fewer than 5 per cent of participants indicated that the resolution of child behavioural problems was a reason for participating. This was almost exclusively reported by stepparents rather than biological parents.

Couple relationship issues that participants wanted to address included communication problems, fighting over children, and lack of time together. These issues were reported by nearly 15 per cent of participants. In a related area, 10 per cent were seeking assistance with coparenting, including issues such as differing expectations and views of parenting, and difficulties balancing parenting roles in relation to children who visit the household (rather than residing with the couple).

Some gender differences were apparent. Men appeared more likely than women to be seeking a harmonious family environment, and were more likely to report that they were only attending the program because their partner wanted them to. Women were more likely than men to report seeking help with their parenting skills and their relationships with children/stepchildren. For stepmothers there were also some concerns about how to avoid being perceived as a ‘wicked’ stepmother. Other reasons for participation that were cited by only small proportions of participants included difficulties managing relationships with ex-spouses; being recommended to complete the program by a partner and/or friends; and to contribute to research that would promote a better understanding of stepfamilies.

**Table 2 Parents’ and stepparents’ reported reasons for participating in a stepfamily prevention program and benefits attained at the end of the intervention**

<table>
<thead>
<tr>
<th>Reason/benefit</th>
<th>Pre-intervention (% n = 144)</th>
<th>Post-intervention (% n = 132)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prevention and education</td>
<td>72.2</td>
<td>72.7</td>
</tr>
<tr>
<td>Blending of family</td>
<td>25.7</td>
<td>15.9</td>
</tr>
<tr>
<td>Stepparent-child relationship</td>
<td>17.4</td>
<td>14.4</td>
</tr>
<tr>
<td>Couple relationship</td>
<td>13.2</td>
<td>25.8</td>
</tr>
<tr>
<td>Coparenting</td>
<td>9.7</td>
<td>9.8</td>
</tr>
<tr>
<td>Stepparenting role</td>
<td>4.9</td>
<td>9.1</td>
</tr>
<tr>
<td>Child behaviour problems</td>
<td>4.1</td>
<td>0.1</td>
</tr>
<tr>
<td>Parent-child relationship</td>
<td>3.4</td>
<td>3.8</td>
</tr>
<tr>
<td>Social support</td>
<td>0.0</td>
<td>22.7</td>
</tr>
<tr>
<td>No benefits reported at post</td>
<td>–</td>
<td>3.8</td>
</tr>
</tbody>
</table>

* Data missing for one couple
What are the benefits of stepfamily interventions?

At the end of the StepPrep program, participants were asked individually: ‘What have you personally achieved from this program?’ The benefits for the 66 parents and 66 stepparents who completed the program are summarised in Table 2. On average, parents and stepparents reported three benefits each from the program (parents: mean = 2.8, range 0–5; stepparents: mean = 2.7, range 0–7). A high proportion of participants (73 per cent) reported benefits in terms of education and prevention. The main areas of improvement were an increased understanding of stepfamily life, the issues faced by their partner and children, and parenting roles. The next most commonly reported benefit was in terms of the couple relationship. A quarter of participants reported better communication and generally feeling happier or closer within the couple relationship.

Gains in blending and family harmony were reported by 16 per cent of participants, and were more commonly cited by stepparents than biological parents. These participants reported better family communication, with stepfathers in particular reporting feeling more relaxed and less stressed about the blending of families. A similar proportion reported benefits in terms of the stepparent–child relationship (14 per cent), with the main changes being greater stepparent involvement with the children, and stepparents feeling happier with the stepparent–child relationship and reporting that they know how to relate to the stepchild more effectively. Improvements in coparenting were reported by 14 per cent of parents and 6 per cent of stepparents. Changes included the biological parent taking a greater role in the discipline of the children, a more cooperative approach to parenting, provision of greater support to each other in their parenting, and biological parents reporting having more realistic expectations of the step-parent’s role.

There were two areas where the proportions of participants that reported benefits from the program exceeded the proportions who initially indicated the area as being a reason for participation. Notably, nearly a quarter of participants (27 per cent of stepparents and 18 per cent of parents) reported that they gained benefits from meeting other stepfamilies. Comments about social support received from the program included that it helped to normalise their experience of stepfamily life, that in meeting others they realised that they were doing okay, and that it was good to get encouragement and support from others. Lack of social support and the desire to meet other stepfamilies were not cited by anyone as a reason for participation at the commencement of the program. It also appears that stepfamily couples may have underestimated the potential for their relationship to improve as a result of the intervention. While few couples (13 per cent) indicated goals for the couple relationship, twice as many reported benefits in this area.

The one area where the proportions reporting benefits was notably lower than those seeking assistance prior to the program was in terms of family blending. While 26 per cent indicated that this was an area in which they were seeking assistance at the commencement of the intervention, only 16 per cent reported gains in this area. Three parents and two stepparents reported that they had not gained any benefits from participation (4 per cent overall). In addition, six families (all from the self-directed intervention) did not attend the post-intervention assessment. These families indicated that they were either unable to complete the program or had failed to gain any benefits from it.

The benefits reported from the intervention varied according to how long the family had been together. Compared to families who had been together for longer than two years, those who had been together for less than 2 years were twice as likely to report benefits in terms of stepfamily education, social support, stepfamily blending, stepparent–child relationships, couple relationships and coparenting. Stepfamily complexity was also related to reported benefits. Higher proportions of parents and stepparents in simple stepfamilies reported benefits to the stepparent–child relationship, the couple relationship and coparenting than parents and stepparents in complex stepfamilies. While men appeared to be more reluctant to participate in the intervention, there were no differences in the proportions of male vs female participants reporting benefits. Similarly, there were few differences in reported benefits when comparing the two intervention approaches (group vs self-directed).

Changes in stepfamily relationship concerns

To assess the extent to which couples held specific concerns about the state of relationships within the stepfamily, parents and stepparents were asked the following questions prior to commencing the program (pre), immediately upon completion (post), and twelve months later (follow-up): ‘Do you have any current concerns about … your relationship with your partner?’ (partner concerns); ‘… your relationship with your child/stepchild?’ (child concerns); and ‘… your partner’s relationship with your child/stepchild?’ (partner-child concerns). Participants’ responses indicated that parents and stepparents held more concerns about family relationships prior to the intervention than was evident from their responses to the questions about their goals for intervention. As shown in Figure 1, between 12 per cent and 44 per cent of parents and stepparents held concerns about relationships within the stepfamily, as compared to the 3 to 13 per cent who nominated assistance with these relationships as a reason for participation (see Table 2).

At the commencement of the intervention, similar proportions of parents and stepparents reported concerns over the stepparent–child relationship (41 per cent and 44 per cent respectively), and this was the largest single relationship of concern. Concerns about the impact of the stepfamily on the couple’s relationship were also common, reported by 37 per cent of parents and 33 per cent of stepparents. In addition, concerns about how the couple jointly managed their parenting roles (coparenting) were reported by 26 per cent of parents and 34 per cent of stepparents. Concerns about the biological parent–child relationship were less prevalent, reported by 23 per cent of parents and 21 per cent of stepparents. Three parents (4 per cent) and 13 stepparents (18 per cent) reported no concerns for any relationships in the stepfamily.

For biological parents, data collected at post and 12-month follow-up indicated that the prevalence of con-
Concerns decreased across all stepfamily relationships. The proportions reporting concerns about the stepparent–child relationship and their own relationship with the child were approximately halved after completing the program, with these lower levels maintained to follow-up. The proportions of parents expressing concerns about the couple relationship and coparenting were also substantially lower at post and follow-up. While the proportion of parents expressing concern about the couple relationship appeared to be higher at follow-up (27 per cent) compared to post (20 per cent), this was still lower than the prevalence of these concerns at pre (37 per cent).

For stepparents, the results were more varied across relationships. There was a very large drop in the proportions reporting concerns about the stepparent–child relationship from pre (44 per cent) to post (17 per cent), which was maintained at follow-up (17 per cent). Concerns about the biological parent–child relationship remained consistently low across all times (12 to 14 per cent). The proportions of stepparents expressing concerns about the couple relationship increased from pre (33 per cent) to post (47 per cent), but then reduced at follow-up (23 per cent). In contrast, the proportions reporting coparenting concerns declined from pre (34 per cent) to post (20 per cent) and follow-up (11 per cent).

In response to the questions about relationship concerns within the stepfamily, a substantial proportion of parents and stepparents reported concerns about their child’s adjustment, without specifically linking this to stepfamily relationships. At pre, 36 per cent of parents expressed concerns about their child’s adjustment, which reduced to 26 to 27 per cent at post and follow-up. For stepparents, 21 per cent expressed concern about the child’s adjustment at pre, 27 per cent at post, and 11 per cent at follow-up.

Caution is required in interpreting these results, especially for the follow-up data. While the majority of parents and stepparents who commenced the intervention provided data at post (90 per cent), two-fifths of couples did not provide data at follow-up. Reasons for non-participation at follow-up were not formally assessed. However, nearly half of these couples had separated by follow-up (n = 13), and many of the remainder indicated that the intervention had provided them with few long-term benefits. Thus, the follow-up data may substantially underestimate the true prevalence of stepfamily relationship concerns for the original sample 12 months after the intervention.

The results presented here highlight the diverse reasons and concerns of stepfamily couples presenting for a preventive intervention. Even in this study, which was limited to stepfamilies with children in middle childhood, there was a wide range of reasons for participation. The single most common reason for presentation was to learn more about normative stepfamily development and processes. In addition, the majority expressed concerns about relationships within the family (primarily the stepparent–child relationship) and a quarter of families were seeking greater family harmony and ‘blending’. The data collected at post indicate that the majority of participants reported benefits from participating in the intervention, with an average of three benefits cited by each participant. The benefits appeared to be well matched to cited reasons for seeking the intervention. However, it was also clear that not all families benefited from the intervention, and concerns about relationships were still evident at post and follow-up.

**Implications for promoting healthy stepfamily relationships**

The findings presented here have several implications for the development and provision of services for stepfamilies. Clinicians working with stepfamilies have long stressed the importance of having a sound understanding of normative stepfamily development, and avoiding applying implicit beliefs about how families should function based on nuclear family models (Papernow, in press). A survey of 267 members of an American stepfamily association who had accessed a family intervention revealed that half...
of those who found therapy to be unhelpful, cited the therapist’s lack of training and knowledge about stepfamilies as the key problem (Pasley, Rhoden, Visher, & Visher, 1996). In Australia, a recent development has been the establishment of Family Relationship Centres, which aim to act as a ‘one-stop-shop’ for accessing family-related assistance (http://www.familyrelationships.gov.au). These new centres are an obvious place for stepfamilies to seek assistance. The data presented here highlight the importance of such centres being able to provide stepfamily-appropriate educational resources and ensuring that workers have a sound knowledge of the normative development of stepfamily relationships.

Additionally, in our clinical work with stepfamilies, we have found that stepparents often feel blamed by other family members (their partner and stepchildren) for the difficulties experienced (see also, Papernow, in press). It is essential that counsellors are not seen to ‘take sides’, but to work with all family members to achieve an appropriate balancing of needs and concerns. We have found that when conflict over parenting existed, both parent and stepparent appeared to be seeking validation that their own approach to childrearing was the correct one. Programs need to acknowledge that differences in parenting practices are inevitable, and help couples find mutually acceptable and effective parenting styles.

One area of stepfamily development where it is particularly important to avoid the application of nuclear family models concerns coparenting roles. Papernow’s work (1994; in press) has highlighted the differences between joint parenting by two biological parents and joint parenting by a biological parent and stepparent. There is now a growing evidence base suggesting that the optimal stepfamily coparenting arrangement is one where the biological parent takes primary responsibility for discipline, while maintaining high levels of warmth and positive interactions with children, in combination with the stepparent focusing their role around the development of positive, mutually respectful relationships with the child (Bray & Berger, 1993; Bray & Kelly, 1998; Ganong, Coleman, Fine, & Martin, 1999). These relationships evolve over time. However, while some stepparents may develop close relationships with their stepchildren, stepparent–child relationships rarely achieve the closeness or perform the same functions as a biological parent–child relationship. The different but complementary parenting roles within the stepfamily need to be clearly negotiated, with parent and stepparent agreeing about the expectations and limits to be set around children’s behaviour. Ensuring that couples have the understanding and communication skills to establish agreements around coparenting is clearly a priority within stepfamily interventions.

Couples in stepfamilies are at elevated risk for relationship difficulties, conflict and separation (Kurdek, 1991; White & Booth, 1985). To avoid the well-known harmful effects of family conflict and instability on both adults and children, it is essential to ensure a healthy couple relationship within the stepfamily. Of the couple relationship interventions that are currently available, the clearest evidence of effectiveness exists for interventions such as the Prevention and Relationship Enhancement Program (PREP; Halford et al., 2003; Stanley, Blumberg, & Markman, 1999). In this approach, the key strategies for promoting healthy couple relationships include developing couples’ communication and problem-solving skills, and ensuring positive time together to build relationship quality.

For stepfamily couples, the promotion of a healthy couple relationship needs to be balanced with the maintenance of the parent–child relationship. Children experience a number of losses when their parents establish new relationships, and child adjustment difficulties may reflect their sense of displacement and alienation within the family (Cartwright & Seymour, 2002; Lawton & Sanders, 1994). It is therefore important to ensure that some parent–child activities and routines are maintained, at least initially, to protect this relationship and the children’s personal adjustment. Poor child adjustment is a key factor undermining the stability of the stepfamily (Whitton et al., in press). Our interviews revealed that biological mothers in particular reported feeling trapped between the happiness of their partners and that of their children. These parents expressed concerns that they may have to choose between maintaining the couple relationship or providing their child with a happy home environment. Thus, at least for the biological parent, the welfare of the child may be an important determinant of future relationship stability that should be addressed in interventions.

Our review of stepfamily interventions revealed two programs that had successfully addressed children’s adjustment (Forgatch et al., 2005; Nicholson & Sanders, 1999). These studies were the only ones to report large gains in outcomes, and both used modifications of evidence-based parenting programs for the treatment of children’s behaviour problems (e.g. Sanders et al., 2007). Modifications of traditional couple relationship interventions such as PREP may hold considerable promise for promoting healthy couple relationships within stepfamilies. Unfortunately, there are not yet any published studies assessing the effectiveness of this type of intervention with couples in stepfamilies.

The way that family support organisations such as Family Relationship Centres promote their services to stepfamilies also needs careful consideration. In particular, men living in stepfamilies appear to be more reluctant than women to seek assistance with stepfamily difficulties. It seemed that a number of these men felt blamed for the problems in the family, and perhaps thought that the
program would subject them to more criticism. However, at post-intervention, men were just as likely as women to report benefits from participation. Service organisations may need to highlight those of their resources that are potentially attractive to men (e.g. the availability of male counsellors), and emphasise the services in which stepfamilies express the greatest interest (e.g. provision of education and assistance in developing family harmony).

The duration and timing of stepfamily interventions also need consideration. Most evaluated programs have been fairly limited in their duration, and the data presented here from a six-session program indicate that gains achieved after the completion of the program may not be maintained over time. Stepfamilies go through a number of developmental stages that can fundamentally alter family relationships and roles (Papernow, in press). For example, parenting arrangements between households may change as children move from preschool to school, and from primary school to high school. The birth of a new child can alter family dynamics, providing a unifying focus for the couple, but potentially making children from former marriages feel more marginalised. As children move into adolescence, new challenges emerge and this transition is recognised as a particularly high-risk time for stepfamily conflict. The changing nature of the stepfamily, combined with our data suggesting that the perceived gains from intervention may decline with time, indicate that stepfamilies may benefit from interventions that are structured to be delivered at different points in the life of the stepfamily. Families may benefit from booster sessions or new educational resources as they move through key transitions.

There is also a need for greater consideration of alternative formats for providing education and support to stepfamilies. While none of the families participating in our study identified social support as a reason for seeking intervention, a quarter subsequently reported this to be a benefit they had received. However, parents are increasingly time-poor in contemporary society, and may have difficulties attending a clinic-based service. There has been an upsurge in the use of the Internet as a source of parenting information. For example, the Raising Children Network, a parenting resource supported by the Australian Government (http://raisingchildren.net.au/) received over 1.2 million visits in its first year of operation. At present, the stepfamily resources on this site are fairly limited (a single page). Such sites offer considerable potential for providing quality family relationship information to stepfamilies. However, whether resources have any measurable impact on family functioning remains unknown, and evaluation research is needed.

There is some evidence that well-structured, supported self-directed programs and Internet resources offer an effective means of providing interventions to stepfamilies. Effective self-directed programs have been highly structured and often include individual contact (e.g. through telephone support). These have been associated with positive improvements in parent–child relationships and couple relationships for families generally (Hahlweg, Heinrichs, & Kuschel, in press; Halford et al., 2004; Morawska & Sanders, 2006; Sanders et al., 2007) and for stepfamilies specifically (Nicholson & Sanders, 1999; Nicholson et al., in press). For example, in their evaluation of two alternative forms of stepfamily intervention, Nicholson and Sanders (1999) found the self-directed educational program to be as effective as the therapist-directed intervention, and better than a no-intervention control.

The review of stepfamily interventions presented here highlights substantial limitations in the current evidence base. However, knowledge about what makes for healthy stepfamily relationships has been growing. There are now a number of excellent resources available for stepfamilies (e.g. Webber, 1994) and for professionals who work with stepfamilies (e.g. Pryor, in press). In this context, the key challenges ahead are to ensure that resources provided to promote healthy Australian families also provide advice and information that is relevant and appropriate to stepfamilies, and that individuals who work with stepfamilies have a good understanding of the normative development of stepfamily relationships. Investment in research also remains a priority to guide improvements in the content and dissemination of effective approaches to supporting stepfamilies.

References


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However their structure, content and underlying rationale, marriage and relationship education (MRE) programs in general aim to prevent relationship distress and breakdown by providing information about, and increasing couples’ awareness of, the factors contributing to relationship difficulties, and raising the relational skills of couples – whether they are preparing to marry or are already married. Research evidence demonstrates that participating in a marriage and relationship education program, particularly those that address the management of conflict, can benefit couples through improved communication and conflict management, and better overall relationship quality. However, whether MRE actually prevents divorce is unclear. Benefits have been found to persist for between six months and three years; however, longer-term follow-up of couples who have participated in particular programs is rare (Carroll & Doherty, 2003; Halford, 1999). Hence, the case for the effectiveness of MRE in reducing the incidence of divorce stems from the capacity of programs to improve couple communication and conflict, leading to a more satisfying and stable relationship (Carroll & Doherty, 2003). In this article, a recent analysis of survey data exploring the possible link between couples’ participation in MRE and their subsequent chances of divorce is reviewed.

Research in marriage and relationship education

Stanley, Amato, Johnson, and Markman (2006) pointed out that research assessing whether marriage and relationship education has any beneficial effects on its participants tends to be relatively small-scale, and often does not include the elements of random assignment and control or comparison groups. These elements of research design allow for conclusions to be drawn about the nature, magnitude and cause of any differences found between those who participated in the program and those who did not. They typically have high internal validity but limited external validity. Other research designs, such as surveys, do not generally allow for conclusions to be drawn about causality, but their findings may be extended to a broader population, provided the sample is representative of that population.

In a large-scale survey, information about a wide range of respondent characteristics can be obtained, allowing for comparisons of respondents...
from a range of diverse groups, such as those with different income levels, years of education, relationship and family types, experiences of certain life events, cultural or ethnic background, or religion. The contribution of these characteristics to outcomes such as relationship satisfaction or stability can also be controlled statistically in surveys where there are large numbers of respondents, so that the effects of various factors can be isolated.

Using a telephone survey of a nationally representative sample of 3,344 respondents from four American states, the researchers sought to identify whether and how the experience of premarital education was related to marital quality and stability. As part of the telephone interview, married (or previously married) respondents were asked whether they had participated in “premarital preparation,” such as educational classes, a workshop, or counseling designed to help you get a good start in marriage. Those who responded in the affirmative were then asked about the setting in which the preparation took place (“inside or outside of a religious setting”) and the duration of the program (number of hours). With this information, the researchers could address several questions:

- **Is participating in MRE related to marital quality and stability?**
- **Are the links between participating in MRE and marital outcomes moderated by certain characteristics of the respondents themselves, such as their race, education, age at marriage and being in receipt of welfare?**
- **Are the setting or the duration of the MRE programs related to marital outcomes?**

The researchers measured respondents’ marital satisfaction, level of marital conflict, commitment, their experience of divorce, whether they married in a religious setting, whether they lived together before marrying, had children from the marriage, the year and length of the marriage and their age at marriage. Their education, gender, race and whether they had ever relied on welfare support were also recorded.

**The sample**

Just over half the sample were women (54%). Over three-quarters (78%) had been married in a religious setting, and 77% had children. Less than one-third (31%) had attended some form of MRE, cohabited prior to marriage (31%), or been married previously (30%). On average they had married at 26 years of age, and the mean duration of marriages was 21 years.

**Characteristics of MRE participants**

Those who had attended some form of MRE were most likely to have been married in a religious setting, have higher levels of education, be Latino (rather than white) and been married in the latter rather than the earlier decades of the 20th century. Being black or having been in receipt of welfare support decreased the likelihood of attending MRE.

**Main findings**

**Does participating in MRE affect the likelihood of divorce?**

The analyses showed that reduced likelihood of divorce was associated with participating in MRE, having a religious marriage ceremony, having children and marrying at a later age.

Respondents more likely to have experienced divorce were those who had lived together prior to their marriage or who had received welfare support. Compared to those married in the 1930s or 1940s, those who had married in the 1960s, 1970s or 1980s were more likely to divorce, with the odds rising slightly with each successive decade until the 1990s. This pattern is consistent with the divorce trends in the United States, which began to decline slightly across the 1980s and 1990s.

**Does participating in MRE affect marital quality?**

Only two variables – participating in MRE and living together before marriage – were significantly related to all three measures of marital quality. Those who had experienced MRE were more likely to report high marital satisfaction, low levels of marital conflict, and high levels of commitment. Living together before marrying was related to reporting less marital satisfaction, more marital conflict and lower levels of commitment.

The researchers also examined whether some respondent groups were more likely than others to be affected by participating in MRE. They found that the effect of participating in MRE on levels of marital conflict was stronger for those who had been married for shorter periods compared to those in longer marriages, suggesting a deterioration of the impact of MRE over time. The impact of participating in MRE on the likelihood of divorce was negligible for those who did not finish high school, however the effect increased as the number of years of education increased. On its own, this finding might suggest that participating in a MRE program would have little value in terms of reducing the odds of divorce for couples with lower levels of education. However it must be noted that education was not related to any of the measures of marital quality: satisfaction, conflict or commitment. Thus, while MRE would seem to be particularly beneficial in terms of the likelihood of divorce for couples with moderate or high levels of education, it also has a positive impact on the quality of couples’ relationships, regardless of spouses’ levels of education.

**Does the MRE setting (religious or non-religious) matter?**

Comparisons of participants and non-participants in MRE showed that the two groups differed only with respect to marital conflict. At first glance, it appeared that those who participated in MRE in a religious rather than a secular setting reported significantly less conflict in their marriage. However, when factors such as cohabitation prior to marriage, age at marriage, education, sex, race, etc., were taken into account, the differences
does not depend on the setting in which it is provided.

Discussion

The study examined in this article adds to a growing body of evidence attesting to the effectiveness, at least in the short term, of MRE programs. While there are many questions yet to be answered in researching this field, obtaining findings that suggest such programs are beneficial via a variety of research methods helps strengthen the view that such preventive efforts can benefit couples from a range of backgrounds.

Participating in an MRE program was related to spouses’ reporting higher satisfaction and commitment and less conflict in the relationship, and with reduced odds of divorce. Although the relationships found in this study are not as strong as those found elsewhere (Carroll & Doherty, 2003), they are important, given they are consistent with previous research. The authors argued that the findings are also important because they were obtained through survey methods. They also acknowledged the possible effects of selection – that the differences they found between those who participated in MRE and those who did not were due not to the program but to other characteristics of the participating couples that predispose them to higher-quality marriages. However, given the methodological and statistical techniques used and the nature of the findings regarding the effects on conflict and satisfaction, the authors considered it likely that the relationship between MRE participation and marital quality demonstrates a real, preventive effect of MRE.

The positive effects of participating in an MRE program on marital quality do not appear to vary for subgroups of married couples, although there was one finding of note regarding the effect of participating in MRE on the likelihood of divorce. While marital quality appeared to be positively affected by participation in MRE, regardless of the respondents’ level of education, the likelihood of divorce was reduced for respondents who had at least finished high school, but not for those without high school education. As the authors noted for this latter group, barriers to improving the odds of a stable marriage through MRE may stem from a range of factors associated with poor education, and clarifying the relationship between such factors and marital stability, and the potential benefits to be derived from MRE, requires the collection of more detailed data. Nevertheless, these findings indicate that the potential for MRE to contribute to improving the long-term stability of marriages for some couples may depend on adapting programs to couples’ education, employment, economic and other family circumstances.

Nonetheless, this study provides further evidence as to the possible benefits to be derived by couples’ participating in some form of MRE, and complements the findings of prior research that takes place within the context of the program itself. While there is a great deal more research to be done, these findings reinforce the view that participation in some form of MRE can contribute to better and more stable marriages.

Endnotes

1. In Australia, the term ‘marriage and relationship education’ is used to describe the range of programs available to couples preparing to cohabit or marry or who are seeking to enhance their relationship, and is used throughout this paper. In the United States, terms such as ‘marriage preparation’, ‘premarital education’ or, as used by these authors, ‘premarital preparation’ are among those used.

References


How work hours are associated with fathering 4–5-year-old children

When Dad works long hours:

The role of the father is multifaceted, with fathers often undertaking the breadwinner role in couple families, spending time with children, and providing support and assistance to the mother. This paper uses data from the Longitudinal Study of Australian Children to examine relationships between fathers’ hours of paid employment and the extent to which they undertake these roles in families with children aged 4–5 years.

**Introduction**

The conflict between work and family is a subject more often discussed in relation to women’s employment than it is to men’s. But fathers too suffer from trying to juggle the demands that work and family place on their time. When children are young, fathers’ work demands are often particularly great, given that, on average, work hours are at their longest at this stage of the life cycle (Baxter, Gray, & Hayes, 2007). This paper uses the Wave 1 (2004) data from *Growing Up in Australia: The Longitudinal Study of Australian Children (LSAC)*¹ to examine relationships between work hours and some aspects of fathering for fathers of 4–5-year-old children, and whether these aspects of fathering are more difficult to fulfil when working longer hours.

One factor related to the long work hours of fathers is that, in many families, and especially when children are young, the expectation remains that the father be the economic ‘breadwinner’, or the main income earner, for the family. In addition to this role, there is an expectation – and desire by many fathers – for fathers to be involved in their children’s lives, and for fathers to share the parenting tasks with the child’s mother. These different aspects of fathering have been identified in the work of many researchers. For example, Lamb, Pleck, Charnov and Levine (1987) discussed father involvement with children in terms of three interrelated aspects: fathers’ interactions with children (direct contact through caretaking and shared activities), their availability to children (being present or accessible, whether or not interaction is occurring) and their responsibility for children (ensuring that the child is taken care of and arranging for resources to be available).

In the eyes of fathers and children, spending time with children is an important element of being a father (Hand & Lewis, 2002; Pocock & Clarke, 2005; Russell et al. 1999). The notion of quality time together is seen to be important, as is being available for children. Clearly, paid employment can get in the way of fathers having sufficient time to spend with children. Russell et al., in the *Fitting Fathers into Families* study, found that many fathers felt that paid employment was a major barrier to their ability to fulfil the fathering role the way they would like to. Research also shows that longer hours of work are associated with diminished shared time between fathers and children (Baxter, Gray, & Hayes, 2007; Bianchi, 2000; Bryant & Zick, 1996; Yeung, Sandberg, Davis-Kean, & Hofferth, 2001), with more perceived negative spillover from work to family (Alexander & Baxter, 2005) and a more heightened sense of time pres-
They also comment on the fact that mothers are provider and still be a ‘good father” (pp. 12–13).

These pressures may have consequences for fathering (Hand & Lewis, 2002; Pocock & Clarke, 2005). Working longer hours, say 55 hours or more rather than 35 to 44 hours, may result in differences in levels of father involvement or the extent to which the father has a cooperative parenting relationship with the child’s mother. However, work time is just one indicator of fathers’ availability to their children. How fathers spend their non-work time and the degree to which they make themselves available to help with childrearing tasks or to interact and develop father–child relationships is likely to vary with factors other than those measured by this simple measure of time (Dermott, 2005). Lamb et al. (1987) suggested that father involvement was likely to be greater when fathers had the motivation to be involved with their children, the skills (or perceived skills) to do so, and appropriate supports in place (e.g. from the child’s mother) to enable this. They also expected institutional factors, such as employment, would contribute, but only in a small way relative to the other factors, such that these institutional factors need not always make a large difference to fathering when higher levels of motivation, skills and supports are in place. A similar conclusion was reached by Doherty, Kouneski, & Erickson (1998). It is therefore possible that working longer hours does not make a large difference to some aspects of fathering.

Further, being the main income earner, as occurs in many families, is not an insignificant role undertaken by fathers. Bianchi, Robinson, & Milkie, (2006), commenting on fatherhood in the United States, noted that men “also see their paid work as a powerful way to become more involved with their children. Paid work hours ‘count’ as good parenting for them. This pushes men to work more, not fewer, hours outside the home when they first become fathers. To the extent that providing is the essence of good parenting for men, and to the degree that they make themselves available to help with childrearing tasks or to interact and develop father–child relationships is likely to vary with factors other than those measured by this simple measure of time (Dermott, 2005). Lamb et al. (1987) suggested that father involvement was likely to be greater when fathers had the motivation to be involved with their children, the skills (or perceived skills) to do so, and appropriate supports in place (e.g. from the child’s mother) to enable this. They also expected institutional factors, such as employment, would contribute, but only in a small way relative to the other factors, such that these institutional factors need not always make a large difference to fathering when higher levels of motivation, skills and supports are in place. A similar conclusion was reached by Doherty, Kouneski, & Erickson (1998). It is therefore possible that working longer hours does not make a large difference to some aspects of fathering.

It is important to note, however, that fathers’ work hours may be a consequence of their attitudes towards fathering and towards paid employment. Fathers whose identities are very strongly determined by their work and who feel less confident in their role as father may put their efforts more firmly into work. Even in the presence of a relationship between long hours and fathering, we therefore cannot say for certain that long work hours cause lower father involvement, especially using empirical cross-sectional work such as in this paper.

**Data**

LSAC comprises two cohorts of children, randomly selected from across Australia, who are to be followed as they grow older. In the first wave (2004), children in the younger cohort were aged between 3 months and 19 months, and those in the older cohort were aged between 4 years 3 months and 5 years 7 months. This analysis uses data from the older cohort, referred to here as children aged 4–5 years. The study collected extensive information about the children, their family and their environment. Many details were collected from the child’s primary carer, defined as the parent (or other carer) who was most knowledgeable about the child. In the vast majority of cases, this was the child’s mother. In addition, the child’s other parent was asked a range of questions in a self-complete questionnaire, capturing details of frequency of selected activities done with children and perceptions of co-parenting. In the majority of cases, the respondent to this questionnaire was the father, and the responses of these men are used in this analysis. Of the personal inter-

<table>
<thead>
<tr>
<th>Table 1: Indicators of work pressure on fathers by fathers’ hours, couple families with 4–5-year-old children</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fathers’ responses</strong></td>
</tr>
<tr>
<td>Family time is less enjoyable because of work responsibilities (% agree or strongly agree)</td>
</tr>
<tr>
<td>Missed out on family activities because of work responsibilities (% agree or strongly agree)</td>
</tr>
<tr>
<td>Prefer to work fewer hours (%)</td>
</tr>
<tr>
<td>Fathers’ weekday time with 4–5-year-old children (average hours per day)</td>
</tr>
</tbody>
</table>

Source: LSAC 2004, 4–5-year cohort
Note: The total for weekday time with children includes not-employed dads (4.6 hours per day).
views conducted for this cohort, 78 per cent of fathers returned this self-complete questionnaire, resulting in a sample size of 3,268 (although small amounts of non-responses to particular items reduced this further). Further details of the data used are given in the sections below. Data from other sources, such as the primary carer’s interview and self-complete questionnaire, were also included in the analyses. The analyses of income data is based on the primary carer’s interview, with a sample size of 3,843. Children in couple families only are considered, where the mother and father (not necessarily biological) are the primary carers of the child.

To analyse the effects of working long hours, employed fathers’ usual work hours were categorised as 1 to 34 hours, 35 to 44 hours, 45 to 54 hours and 55 hours or more. In the majority (87 per cent) of couple families with a 4–5-year-old, the father was employed full-time. A considerable proportion of these fathers (24 per cent) worked 55 hours or more per week. Just 7 per cent of fathers were not employed, and 6 per cent were employed part-time.

While this analysis focuses on the hours of employment, it is important to note that other job characteristics varied with hours, as shown for a selection of characteristics in Table 2. The most significant difference across hours was the incidence of occasionally working weekends, evenings or nights, which increased progressively as work hours increased. Also, fathers working at least 55 hours were the most likely to be self-employed, followed by fathers working part-time. As the only feature of employment incorporated into this analysis was hours of employment, some of the factors that appear to be related to work hours may be due to scheduling or other job characteristics that vary with work hours.

In addition to exploring relationships between fathering and fathers’ hours worked in cross-

### Table 2: Selected job characteristics by hours, employed fathers in couple families with 4–5-year-old children

<table>
<thead>
<tr>
<th></th>
<th>1 to 34 hours</th>
<th>35 to 44 hours</th>
<th>45 to 54 hours</th>
<th>55 hours or more</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Self-employed (%)</td>
<td>35</td>
<td>14</td>
<td>27</td>
<td>44</td>
<td>27</td>
</tr>
<tr>
<td>Cannot change start/finish times (%)</td>
<td>13</td>
<td>14</td>
<td>13</td>
<td>15</td>
<td>14</td>
</tr>
<tr>
<td>Sometimes works nights/evenings (%)</td>
<td>52</td>
<td>55</td>
<td>75</td>
<td>88</td>
<td>64</td>
</tr>
<tr>
<td>Sometimes works weekends (%)</td>
<td>55</td>
<td>61</td>
<td>78</td>
<td>90</td>
<td>68</td>
</tr>
<tr>
<td>N</td>
<td>244</td>
<td>1,411</td>
<td>1,130</td>
<td>992</td>
<td>3,533</td>
</tr>
</tbody>
</table>

### Table 3: Sample characteristics by fathers’ hours, couple families with 4–5 year old children

<table>
<thead>
<tr>
<th></th>
<th>Not employed</th>
<th>1 to 34 (part-time)</th>
<th>35 to 44</th>
<th>45 to 54</th>
<th>55 or more</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fathers’ education level</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Incomplete secondary only</td>
<td>28</td>
<td>21</td>
<td>17</td>
<td>13</td>
<td>14</td>
<td>16</td>
</tr>
<tr>
<td>Incomplete secondary and diploma/certificate</td>
<td>39</td>
<td>31</td>
<td>30</td>
<td>33</td>
<td>31</td>
<td>32</td>
</tr>
<tr>
<td>Complete secondary only</td>
<td>9</td>
<td>9</td>
<td>10</td>
<td>8</td>
<td>8</td>
<td>9</td>
</tr>
<tr>
<td>Complete secondary and diploma/certificate</td>
<td>11</td>
<td>16</td>
<td>17</td>
<td>16</td>
<td>18</td>
<td>16</td>
</tr>
<tr>
<td>Bachelor degree or higher</td>
<td>13</td>
<td>23</td>
<td>26</td>
<td>30</td>
<td>29</td>
<td>27</td>
</tr>
<tr>
<td>Family size</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 child</td>
<td>9</td>
<td>10</td>
<td>10</td>
<td>7</td>
<td>7</td>
<td>8</td>
</tr>
<tr>
<td>2 children</td>
<td>32</td>
<td>47</td>
<td>53</td>
<td>51</td>
<td>48</td>
<td>49</td>
</tr>
<tr>
<td>3 or more children</td>
<td>59</td>
<td>43</td>
<td>38</td>
<td>42</td>
<td>45</td>
<td>42</td>
</tr>
<tr>
<td>Other child and family variables</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Boy *</td>
<td>54</td>
<td>47</td>
<td>50</td>
<td>55</td>
<td>49</td>
<td>51</td>
</tr>
<tr>
<td>Biological father (a)</td>
<td>94</td>
<td>95</td>
<td>97</td>
<td>98</td>
<td>98</td>
<td>97</td>
</tr>
<tr>
<td>Step-father</td>
<td>6</td>
<td>5</td>
<td>3</td>
<td>2</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Married ***</td>
<td>68</td>
<td>81</td>
<td>88</td>
<td>89</td>
<td>91</td>
<td>87</td>
</tr>
<tr>
<td>Cohabiting</td>
<td>32</td>
<td>19</td>
<td>12</td>
<td>11</td>
<td>13</td>
<td>13</td>
</tr>
</tbody>
</table>

### Table 3 continued

<table>
<thead>
<tr>
<th></th>
<th>Not employed</th>
<th>1 to 34 (part-time)</th>
<th>35 to 44</th>
<th>45 to 54</th>
<th>55 or more</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Father’s weekly income (gross $)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mean (c)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Age of child (months)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Age of father (years)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Happiness with relationship (b) (1 = extremely unhappy, 7 = perfectly happy)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>N</td>
<td>247</td>
<td>244</td>
<td>1,449</td>
<td>1,151</td>
<td>1,013</td>
<td>4,104</td>
</tr>
</tbody>
</table>

(a) Includes 4,027 biological fathers and nine adoptive fathers.
(c) Differences in distributions of categorical variables across groups of fathers’ hours were tested using chi-square. Differences in the mean were tested using one-way analysis of variance. While the results suggested differences for income and fathers’ age, the variance was unequal across the groups.

*** p < 0.001, ** p < 0.01, * p < 0.1
tabulations and charts, multivariate techniques (ordinary least squares) were used to investigate whether relationships between fathers’ hours and fathering persisted after other differences were taken into account. Multivariate analysis of the breadwinner aspect of fathering was not conducted. The other characteristics included were selected because, based on prior research, they were expected to be associated with the amount of father involvement. These were: mothers’ work hours, fathers’ highest level of education, fathers’ income, gender of the child, father–child relationship (whether biological or other), family size, parents’ relationship status (whether married or cohabiting) and relationship quality. For reviews of fathering in which these variables are discussed, refer to Bronte-Tinkew, Carrano, & Guzman, (2006), Doherty et al. (1998), Marsiglio, Amato, Day, & Lamb (2000) and Pleck (1997). These variables are shown, cross-tabulated by fathers’ hours, in Table 3 and, for mothers’ hours, in Table 4.

**Fathers as breadwinners**

The concept of ‘breadwinning’ is often understood to mean being the main income or wage provider, or the main labour market participant within a family (Warren, 2007). Applying the labour market definition, fathers continue to fulfil the role of breadwinner in many families with young children, as they are much more likely than mothers to be working full-time hours, while the mothers are most often either not employed or working part-time hours (de Vaus, 2004; Drago, Black, & Wooden, 2005).

The existence of ‘breadwinner’ families was evident in these couple families with a 4–5-year-old child. In around 40 per cent of families with a full-time employed father, the mother was not employed. This percentage was somewhat higher for fathers working 45 to 54 hours (44 per cent), rather than 35 to 44 hours (41 per cent) or 55 hours or more (40 per cent), although the variation was not substantial. A higher proportion of mothers were employed when the father worked the longest hours, which was at least partly explained by the role of self-employment in these families. In these families, 44 per cent of fathers and 27 per cent of mothers were self-employed.

Dual-working couples made up the majority of couple families, but the mother was much more likely to be working part-time hours rather than full-time hours. As a result, the father’s income was, on average, proportionately greater than that of the mother. When there is considerable disparity between the mother’s and the father’s time devoted to paid employment, it is likely that the parent contributing the most time to paid employment, or perhaps the parent earning the greater income, is considered to be the family’s ‘breadwinner’, even though the role is not so clearly defined. When the father works full-time hours and the mother part-time hours, the father’s contribution of earnings from full-time work may be highly valued, particularly if it enables the mother to limit her hours to part-time work.

When fathers were not employed, their non-employment did not usually appear to be related to a reversal of the breadwinner and carer roles as, in 73 per cent of families with a not-employed father, the mother was also not employed.

Thinking about a definition of ‘breadwinner’ based on income rather than hours of employment, these total income data show that fathers’ income increased with increased hours of work, suggesting that fathers working longer hours were more successful at fulfilling this breadwinner role. As a proportion of total couple income, full-time

<table>
<thead>
<tr>
<th>Table 4 Fathers’ employment and income and mothers’ employment, by fathers’ hours, couple families with 4–5-year-old children</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fathers’ weekly income (average gross $)</strong></td>
</tr>
<tr>
<td><strong>Combined parental weekly income (average gross $)</strong></td>
</tr>
<tr>
<td><strong>Father’s income/parental income (%)</strong></td>
</tr>
<tr>
<td><strong>Mothers’ work hours (%)</strong></td>
</tr>
<tr>
<td>Not employed</td>
</tr>
<tr>
<td>1 to 15 hours</td>
</tr>
<tr>
<td>16 to 34 hours</td>
</tr>
<tr>
<td>35 hours or more</td>
</tr>
<tr>
<td><strong>Mother self-employed (%)</strong></td>
</tr>
<tr>
<td><strong>Per cent of fathers in each group (weighted)</strong></td>
</tr>
</tbody>
</table>
employed fathers contributed, on average, 70 to 75 per cent of the income received by the couple, with the 70 per cent referring to families in which the father worked 35 to 44 hours. There was no difference in this proportion when comparing fathers working 45 to 54 hours to those working 55 hours or more. However, the income data include income from all sources, include government assistance, and since family assistance is usually paid to the mother as the primary carer of children, this can distort these calculations. It is likely that fathers’ earnings, as a proportion of total couple earnings, would be higher than indicated from these data.

According to either a labour market or an income-based definition of breadwinning, there is considerable evidence that the breadwinner role exists for the majority of the full-time employed fathers in this study. Whether or not this is valued as an important part of fathering by the fathers, mothers or children is not clear; however, Pocock and Clarke’s (2005) qualitative study of children (who were somewhat older than the children in LSAC) looked at the question of whether children would prefer more time with parents, or more money but less time. They found that having a parent (usually the father) who worked long or unsociable hours “drove a preference for time over money” (p. 69). Similarly, Russell et al. (1999, p. 63) noted the conflict between money and time in their study of children’s perceptions of their fathers, stating “male employment remains a major defining characteristic of fatherhood. While this is recognised in its economic contribution by children themselves it also reduces time for contact between most fathers and children”. This relationship between hours of work, income and fathers’ involvement with children is explored further below.

**Fathers’ activities with children**

This section focuses on fathers’ involvement in a range of children’s activities. It does not cover all possible ways fathers can be involved with their children. Involvement in specific childcare tasks, for example helping the child to get dressed or taking children to school, are not included here, as details of father involvement in such tasks were not collected in LSAC. This analysis focuses largely on fathers’ involvement in children’s recreational activities. This shared time between fathers and children is central to how fathers and children define and develop their relationships, perhaps more so than the time spent in the less ‘fun’ aspects of childrearing (Dermott, 2005). In Russell et al.’s (1999) study, they noted that “play was the overwhelmingly evident characteristic of how children constructed fatherhood” (p. 53). They also demonstrated that it was rare for children to depict fathers in terms of domestic activity, or nurturing or caring tasks, except in relation to bedtime rituals for younger children.

The activities covered in this analysis were (as written in the questionnaire) reading to a child from a book, playing with toys or games indoors (like board or card games) and playing a game outdoors or exercising together (like walking, swimming or cycling). It also included fathers’ involvement with children in everyday activities at home (such as cooking or pet care). Fathers were asked on how many days over the previous week they had undertaken these activities with their child. Possible responses were none, 1 to 2 days, 3 to 5 days and 6 to 7 days.

Figure 1 shows that the majority of fathers, at some time in the week, shared in reading to their child, playing indoor or outdoor games with them and involving them in daily activities. However, they were most likely to do this on only one or two days a week, with a substantial minority (14 to 24 per cent) not doing these activities with their child at all. Only 6 to 12 per cent undertook these activities on 6 or 7 days a week.

Averaging these data (calculated from the grouped data by substituting the midpoint of each range),
fathers who worked 55 hours or more per week spent the least amount of time playing indoor games, playing outdoor games and involving children in everyday activities (Figure 2). They spent less time than other full-time employed fathers reading to their child. There was virtually no difference between fathers working 35 to 44 hours and those working 45 to 54 hours in the frequency of participation in any of the activities.

The similarity of father involvement for the categories of 35 to 44 hours and 45 to 54 was also indicated in the figures on average amount of shared weekday father–child time, shown in Table 1. Fathers working the longer of these hours spent on average 12 minutes less with their child on a weekday compared to fathers working more standard hours. The loss of shared time between father and child on a weekday was greater when fathers worked 55 hours or more, with a difference of 30 minutes between those working 45 to 54 hours and those working 55 hours or more. It is not surprising then that it is working these longer hours that results in a more substantial decline in father involvement.

These data were analysed using multivariate techniques to explore variations in father involvement according to a range of other factors (as listed in Table 3, along with mother’s work hours, in Table 4). The relationships between fathers’ work hours and amount of father involvement remained similar to those described above, although differences in time reading with the child did not differ significantly by fathers’ hours.

Table 5 shows the extent to which fathers’ hours and other factors explained the variation in father’s involvement with children. In fact, very little of the variation was explained by fathers’ work hours, with considerably more explained by the other factors (described in more detail below). The lack of strong association between fathers’ work hours and their involvement with children is explained somewhat by looking at the diversity of responses given within each of the groups of fathers’ hours. For example, considering the number of days fathers involved their children in everyday activities, the average varied from 2.5 days a week for those working 35 to 44 hours per week, to 2.3 days a week for those working 55 hours or more – a small but significant difference. Looking at the underlying data, even among those working 35 to 44 hours per week, 20 per cent of fathers reported not having involved children in everyday activities at all (compared to 25 per cent of fathers working 55 hours or more), 39 per cent did so on one or two days in the week (and also 39 per cent of fathers working 55 hours or more), 29 per cent did so on two or three days (compared to 26 per cent of those working 55 hours or more), and 12 per cent did so on six or seven days in the last week (10 per cent of those working 55 hours or more). These distributional differences are not large, but the diversity of responses even within each hours group suggest that there may be other characteristics of fathers or families associated with different degrees of father involvement.

The multivariate analysis showed some evidence of greater father involvement when mothers spent longer in paid employment: When mothers worked full-time hours, fathers spent more time with their children in everyday activities. Were fathers who had higher incomes more or less involved as fathers, after controlling for hours of paid employment? This was tested by the inclusion of father’s income (and a squared term, to allow for non-linearities) in the model. The results showed that fathers on higher incomes spent more time reading to their child (with diminishing returns at very high incomes), but spent less time involving their children in everyday activities.

Other associations were evident: more highly educated fathers and those with fewer children spent more time reading and playing indoor games with their child. Fathers spent more time with boys than girls.
These results have focused on very specific aspects of father involvement, which may not capture the full extent of father–child relationships. We can briefly examine another view of these relationships through two other items that refer to some of the warmth in the father–child relationship. Fathers were asked “How often do you have warm, close times together with this child?” and “How often do you enjoy listening to this child and doing things with him/her?” Table 6 shows the proportion of fathers who responded ‘often’ or ‘always/almost always’, rather than ‘never/almost never’, ‘rarely’ or ‘sometimes’. These data are tabulated by the father involvement item on ‘involved child in everyday activities’, and clearly shows that fathers who spent more time doing these everyday activities with their child during the week reported more often having these warm experiences with the child. There was, however, a significant proportion – the majority of fathers – who reported always or almost always having these warm experiences with their child, even amongst those who spent no time involved with their child, as measured using this item on father involvement in activities. Similar relationships were observed with the other father involvement items and these measures of warmth.

While these ‘warmth’ data are not explored further here, it is important to note that fathers’ involvement in activities is just one measure of father involvement. It is not a comprehensive measure of the quality of the father–child relationship.

Providing support to mother

Relationships between a father and his children do not exist in isolation from relationships with other family members, especially the mother. The extent to which the mother and father encourage and support each other as parents is an important aspect of parenting. The support that either parent gives to the other could include providing emotional support, having a greater involvement in or taking more responsibility for childcare tasks, or providing financial support. What form this support takes within families may be different for mothers and fathers, and for families with different employment arrangements.

Two related questions were asked in LSAC of mothers and fathers: “How often are you a resource or support to your partner in raising your children?” and “How often is your partner a resource or support to you in raising your children?” Responses to these questions have been attributed to mothers and fathers, and compared in Table 7. First, looking at the extent to which fathers were a support to the mother in childrearing (the first two columns), fathers were less positive about the support they provided than mothers were about the support they received. Just 35 per cent of fathers thought they were always a support to the mother in childrearing, while 59 per cent of mothers thought the father was always a support. Looking then at how mothers supported the fathers (the final two columns), mothers and fathers had equal distributions on the degree to which the mother was a resource or support. Some 78 per cent of mothers and fathers said they were always a support to their partner in childrearing.

These responses are subjective, and mothers and fathers may have taken different aspects of parenting into consideration when responding. For
example, was the provision of income by a ‘breadwinner’ husband viewed as a form of ‘a resource or support’? The more positive responses of mothers in the support received by fathers may indicate that mothers value breadwinning as a form of support more than fathers do. Some parents, in considering degrees of co-parenting support, may have been thinking more specifically of the sharing of child-rearing tasks, which is addressed next.

Time-use studies consistently show that mothers do more household and child-rearing work than do fathers, regardless of either parent’s employment status (Bittman, 1992; Craig & Bittman, 2005). While this survey does not collect information on the actual amount of child-rearing done by either parent, it does ask, of both parents, whether they believed they did more or less than their fair share (“Do you think that you do your fair share of the child-rearing tasks [both physical and emotional care]?”). This measure is not likely to alone reflect the relative amounts of actual time spent doing child-rearing tasks, as men’s and women’s responses to questions of fairness tend to be answered in contexts of different gender role attitudes.6

Mothers were more likely than fathers to say that they did at least their fair share of child-rearing, with 60 per cent of mothers and 12 per cent of fathers saying they did more or much more than their fair share (Table 8). Fathers, on the other hand, were more likely than mothers to say they did less or much less than their fair share (20 per cent compared to one percent), although two-thirds of fathers thought they did their fair share.

To look at relationships between father hours and co-parenting, responses to four of these questions were analysed: fathers’ reports on the perceived level of support they give to their partner, mothers’ reports on the perceived level of support fathers give to them, and the perceived fairness of child-rearing tasks, as reported by fathers and mothers. Each of these measures was analysed on a scale of one to five. For perceived support, a rating of one indicated low support, and a rating of five indicated high support. For fairness of child-rearing tasks, one indicated much less than fair share and five indicated much more.

The more hours fathers worked, the less child-rearing support they gave to their partner (Figure 3), according to both fathers’ and mothers’ reports. Also, fathers who worked longer hours were more likely to report doing less than their fair share of child-rearing tasks. Conversely, mothers did more of their share of child-rearing when fathers worked longer hours. Again, though, the differences were not large, with a difference of less than half a point between the average score of those working standard (35 to 44) hours and those working longer hours (55 hours or more).

While there were some differences in these co-parenting measures according to fathers’ work hours, as with the fathers’ involvement in activities there was also considerable variation within each of the groups. Even amongst those working the longest hours, there were fathers who rated themselves (and were rated by the mother) highly on the support given to the mother. According to the fathers, of those working 55 hours or more, 27 per cent were always a support to the mother, and according to the mothers, 51 per cent were always a support. About two-thirds of these men also thought that they did at least their share of the childrearing. The mothers were somewhat less likely to agree, with 70 per cent saying they did more than their fair share of the childrearing, but this left 30 per cent who thought the sharing of child-rearing tasks was fair.

Fathers’ work hours are clearly not the only factor explaining variation in co-parenting. This is confirmed in the multivariate analysis, in which fathers’ hours were found to explain between one and three per cent of the variation in these co-parenting measures (Table 9). While small, the effects of fathers’ hours were nevertheless significant, with the results described above remaining after controlling for other factors.

Through the inclusion of fathers’ income in these analyses it was possible to ascertain whether mothers or fathers might have taken the father’s financial contribution into account when considering the degree of support provided by the father. The multivariate analyses showed that fathers saw themselves as providing less support to the mother, the more income they contributed. So, it appears that, to fathers, fulfilling the breadwinner role, whether through working longer hours or providing more income, did not lead them to feel that they were a better support or resource in matters of childrearing. In fact, it led to the opposite view. However, fathers’ income did not have a significant association with mothers’ views on the amount of

Figure 3  Average co-parenting scores, couple families with 4-5-year-old children, by father hours

Note: Perceived support, 1 = never provides support, 3 = sometimes provides support, 5 = always provide support in childrearing. Fairness of childrearing tasks, 1 = much less than fair share, 3 = fair share, 5 = much more than fair share.
support fathers provided. This indicated that mothers also didn’t necessarily associate more income (as provided by the father) with more support.

The multivariate results also showed that fathers were more supportive of their partner in childrearing and perceived they did more of their share of childrearing, as reported by mothers or fathers, when the mother worked longer hours. Other factors associated with these co-parenting measures were that fathers with greater relationship happiness provided more support to their partner and did more of their fair share of the childrearing (as reported by mothers and fathers). Also, mothers were more likely to say the father was supportive in childrearing when he was more highly educated.

To check whether father involvement, as indicated by the father’s involvement in activities, was associated with a heightened perception of father-provided support, this model was re-estimated, but including the number of days fathers undertook reading, playing indoor or outdoor games and involvement in everyday activities. These measures were strongly associated with the perceived level of support provided by the father, as reported by the father and the mother. Fathers who spent longer in any of these activities were perceived to be a more supportive father.

### Summary

In summary, small but significant associations were found between fathers working longer hours and their involvement with both children and co-parenting. Working longer hours reduced fathers’ involvement with their children (except for reading) and reduced the provision of support to their partner and the sharing of childrearing responsibilities.

Despite the significant effects, the differences amongst full-time employed fathers were quite small. Even among those working fairly standard hours, there were some fathers who were less involved in their children’s activities and less supportive as a co-parent. Further, among those who had more employment-related constraints on their time, there were fathers who were heavily involved in their children’s activities and supportive as a co-parent. Clearly, some fathers ensured their family time was not compromised by their work demands, even if those work demands were significant. This is consistent with the work of Lamb et al. (1987) who suggested that institutional factors need not always make a large difference to fathering when higher levels of motivation, skills and supports are in place.

There are clearly other factors that differentiate fathers according to the amount of time they spend with their children, what they do with that time and to what extent they share in parenting tasks and responsibilities. In addition to those differences relating to skills, motivations and supports, differences are also likely to exist within different cultural and social groups. Other aspects of employment, in addition to hours worked, might also have an association with father involvement. For example, fathers in jobs that are more stressful might have reduced father involvement.

Fathers who worked longer hours, however, contributed a larger amount financially to the parental income, both in total and as a proportion of parental income. It is hard to imagine that this income would not be valued within the family, although, as found by Poock and Clarke (2005), if children’s opinions were sought, it might be that these children would prefer more time with their father.

### Table 9  Summary of multivariate analyses of co-parenting measures

<table>
<thead>
<tr>
<th></th>
<th>Variation explained by father hours (%)</th>
<th>Additional variation explained by other measured variables (a) (%)</th>
<th>Total explained variation (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Father – frequency of father being a support to mother</td>
<td>2.1</td>
<td>6.4</td>
<td>8.6</td>
</tr>
<tr>
<td>Mother – frequency of father being a support to mother</td>
<td>1.2</td>
<td>5.9</td>
<td>7.1</td>
</tr>
<tr>
<td>Father – fair share of childrearing</td>
<td>3.3</td>
<td>2.1</td>
<td>5.4</td>
</tr>
<tr>
<td>Mother – fair share of childrearing</td>
<td>1.5</td>
<td>2.8</td>
<td>4.3</td>
</tr>
</tbody>
</table>

Note: Variation is as measured with the R-square statistic. See notes to Figure 3 for scales used.
(a) Other variables are mothers’ hours, fathers’ education level, family size, sex of child, relationship satisfaction, father’s income, father-child relationship, and marital status.
Conclusion

For fathers of 4–5-year-old children, working longer hours is associated with a higher income, that is, a greater fulfilment of the breadwinner role, but results in a significant, although small, reduction in the amount of father involvement and co-parenting. Importantly, fathers’ involvement with children and co-parenting was only partially explained by differences in work hours, suggesting that there are possibly other avenues for increasing fathers’ participation in their children’s lives, even given the constraints that work hours impose.

Fathering is, however, complex and multifaceted and there may be aspects of fathering other than those covered here that are more affected by working longer hours. Also, the nature of fathering will change with children’s age and with changes in family circumstances. An extremely valuable aspect of LSAC is the longitudinal nature of the data, and with future waves of LSAC data, such changes can be observed. Perhaps more importantly, it will be possible to examine whether different patterns of fathering at one age are reflected in differences in child outcomes or family relationships at a later time.

Endnotes

1. LSAC was initiated and is funded by the Australian Government Department of Families, Community Services and Indigenous Affairs (FaCSIA). For a detailed description of the design of LSAC, see Soloff, Lawrence, and Johnstone (2005).

2. Full estimation results are not provided, but are available from the author. On some measures, different model specifications were tested, but the results were similar to the OLS results, so these were retained, given they were simpler to interpret.

3. Estimations were also compared without fathers’ income, as were different specifications in which the couples’ total income was included, or both the couples’ income and the proportion of income contributed by the father. Differences between these results were minor.

4. The income data shown in Table 4 include income from sources other than earnings and, most importantly, include income from government pensions or allowances. This is an important source of income for families in which the father is not employed. Of the fathers who were not employed, 82 per cent reported that government pensions or allowances were their main source of income. Families with young children also often receive government assistance, which supplements the parental earnings. This assistance is often paid to the mother, as the primary carer of the child. For example, of the couples who said they received Family Payment (Tax Benefit) A, 95 per cent said it was paid to the mother.

5. Some indication of father involvement in those tasks can be determined from the LSAC Time Use Diaries. Further analysis of these data is underway. Wave 2 of LSAC contains different measures of father involvement, which focus more on involvement in childcare tasks.

6. For a full discussion of this refer to Baxter and Western (1997). The question was also repeated for domestic tasks (housework, home maintenance, shopping and cooking), but this aspect was not examined for this paper.

References

INSTITUTE ACTIVITIES

FILMING LIFE AT 3

The ‘Life’ series was first launched in 2006 with the Life at 1 website and two televised episodes. Eleven Australian families took part in the series that operates on two platforms – film and the World Wide Web. The second installment of the series, the Life at 2 website, was launched in July 2007, and filming for the next part of the series, Life at 3, is underway. Throughout the series, the families take part in a variation of Growing up in Australia: the Longitudinal Study of Australian Children (LSAC).

Part of the Institute’s contribution to the ‘Life’ series has been in conducting the Growing up in Australia study with the families. Institute staff Carol Soloff, Anna Ferro and Ren Adams conducted interviews in Life at 1 and all were pleased to get the chance to see the same families again for the filming of Life at 3. The families also appreciated seeing the same faces and this, along with the rapport developed with ‘Life’ series Director Catherine Marciniak, contributed to a relaxed and enjoyable atmosphere. Interviews were computer-assisted in this wave of the study, which helped shorten the interview times and assisted with data management. The time saved was welcome, as the study children are now 2–3 years old, so measurements such as height and girth sometimes required considerable patience and creative thinking by interviewers! Life at 3 is expected to screen on ABC TV in the latter part of 2008. For the Life at 2 website, go to http://blogs.abc.net.au/lifeat2

The Institute’s Carol Soloff measures the height of Daniel, one of the Life at series’ children

FACsIA FAMILY WELLBEING FRAMEWORK

The Institute hosted a series of family wellbeing workshops with the Department of Families, Community Services and Indigenous Affairs (FaCSIA), 16–18 July 2007. A draft Family Wellbeing Framework is being developed by FaCSIA that recognises the new pressures placed on families in the 21st century and the need for policy to reflect the changing character of families in Australia.

Facilitated by Dr Jodie Lodge (AIFS), the workshops were held over three days, with FaCSIA representative Emma Cooper and several research staff from the Institute.

The primary aim of the framework is to provide a tool for the department to better understand the influences on families, the impact of interventions and how families are changing.

The key principles that underpin the draft FaCSIA framework include:

1. a primary focus on families and, in particular, measuring the things that families do that are distinct from measures of individual, community and societal wellbeing;
2. a need to understand families as agents in the wider environment;
3. recognising that families help shape social and economic life; and
4. understanding that families are defined by what they do rather than what they are.

An important objective for the framework is to accommodate, but at the same time simplify, the complexity inherent in understanding family wellbeing. The workshops held at the Institute generated much discussion around a conceptually comprehensive framework that would allow a wide range of disparate issues, policies and programs to be thought about in relation to one another. Participants contributed to the workshops by exploring and categorising the range of factors, activities and measures that relate to family wellbeing.

The draft framework describes family wellbeing as relating to the prevalence, perceptions and results of behaviours that can be characterised as what families do. The series of workshops hosted by the Institute provided an important opportunity to discuss and reflect on the empirical evidence describing the factors that impact on families in Australia.
On 3 May 2007 Prue Holzer attended the Australian Council of Children and Youth Organisations’ launch of the Safeguarding Children Program. The Australian Council of Children and Youth Organisations’ mission is “to achieve the development of standards, and the implementation of a transparent accreditation process, for all organisations working with children and young people” (http://www.accyo.org.au/index_flash.htm). Consequently, ACCYO developed the Safeguarding Children Program, which is a training program designed to educate people in the areas of: implementing best practice policies and standards to protect children in their care; identifying possible signs of abuse or neglect; reporting suspected abuse or neglect; and advancing the development of a supportive and child-safe culture in organisational settings and the wider community. The program can be undertaken face-to-face with ACCYO staff, or as a virtual series of educational seminars accessed through the ACCYO website. With the assistance of their music teacher, children from the Fitzroy Primary School choir opened the launch with two lovely jazz songs. Professor Fiona Stanley AC, Patron of ACCYO, commenced the formal proceedings. Professor Stanley discussed the vital importance of ensuring that children are safe within organisations, as the consequences can be dire if professionals are complacent in this respect. Andrew Blody, Chairman of ACCYO, explained the genesis of the program and ACCYO’s broad aims. Following Andrew’s address, Kathryn Sullivan, ACCYO Chief Executive Officer, described the rationale behind the Safeguarding Children Program. To close, Linda Franco, Policy Development Manager, walked through the online training program and demonstrated how learning modules operate in the online training forum.

In summary, the readiness of the Safeguarding Children Program for broad application in the sector represents a significant achievement for ACCYO staff, who have invested considerable time and energy into the development of the program. However, it is also a pleasing development for organisations that work with children to know that there is a comprehensive training program available with the express purpose of safeguarding the children in their care.

As well as providing a summary of the research, the website has hosted interactive discussion sessions with Professor Ann Sanson (LSAC’s Scientific Advisor and a leading investigator on the ATP) and Sebastian Misson (Data Manager for Growing Up in Australia). Professor Sanson answered questions about the research findings and their implications. The topics covered ranged from the effects of childcare on children to whether there were differences between children from urban and rural areas, and whether ‘hot housing’ might be giving today’s children a better start in life. Mr Misson took part in a discussion about the importance of grandparents in the lives of young children.

Transcripts of the sessions can be viewed on the ABC Life at 2 website in the Message Board section.
The inaugural Growing Up in Australia: Longitudinal Study of Australian Children (LSAC) Research Conference was held on 3–4 December 2007, in Melbourne at the Oaks Hotel on Collins Street.

The aim of the conference was to provide a forum for the discussion of research based on LSAC data and to highlight its research potential.

LSAC was initiated and is funded by the Australian Government Department of Families, Housing, Community Services and Indigenous Affairs as part of its Stronger Families and Communities Strategy. The study began in 2004 and is following the development of two cohorts of children, aged 0–1 years and 4–5 years. LSAC is designed to identify policy opportunities for improving support for children and their families and for early intervention and prevention strategies.

With the 2nd wave of LSAC data having been collected, more in-depth analyses can now be conducted and the results so far have been exciting and challenging.

A number of leading researchers presented at the LSAC Conference, including Lyndall Strazdins, who presented the first keynote, “Can we make jobs really family friendly?” (co-authored with Megan Shipley); and Stephen Zubrick, who presented the second keynote, “Parenting quality and the developmental status of young Australian children: Contexts and pathways” (co-authored with Ann Sanson, Jan Nicholson and Grant Smith).

Other papers were presented over the two days in parallel sessions, covering a wide range of themes, by researchers from the Institute and external organisations. Papers by Institute staff included “Working Families’ Use of Child Care” by Jennifer Baxter, Matthew Gray and Michael Alexander; “Pathways of Neighbourhood Influences through the Family” by Ben Edwards, Michael Sawyer and Sara Pfeiffer; “Do Today’s Australian Children Have More Problems Than They Did 20 Years Ago?” by Diana Smart and Ann Sanson; “The Financial Consequences of Relationship Breakdown and Repartnering Among Families with Young Children” by Matthew Gray and Jennifer Baxter; and “Family Structure, Quality of the Co-Parental Relationship, Post-Separation Parenting and Children’s Socio-Emotional Wellbeing” by Jennifer Baxter, Lixia Qu and Ruth Weston.


The LSAC Conference enjoyed extensive media coverage, before, during and following the event and feedback from delegates was universally good.

A data training workshop was held on the day following the conference. The focus of the training was to assist users of LSAC data, those considering becoming users, or those who are interested in learning more about the data to gain confidence in understanding and navigating the LSAC datasets. The training covered a range of topics designed to give a comprehensive overview of the conduct of the study, its datasets and supporting documentation.

The conference was organised by the LSAC Project Operations Team, Ha Du, Robert Johnstone, Linda Tsourdalakis, Siobhan Quinn, Anita Emmanouilidis, Carole Jean, Joan Kelleher and Gillian Lord.

A forthcoming issue of Family Matters will focus on the LSAC, the conference, and the research conducted so far from the study.
The 10th Australian Institute of Family Studies Conference, *Families Through Life*, will be held in Melbourne on the 9–11 July 2008.

This national event offers a forum for extensive debate surrounding a wide range of family issues that are of key relevance to national and international researchers, policy makers and practitioners, providing an opportunity for delegates to discuss recent family research, contribute to ongoing debates and explore key policy implications.

The conference will revolve around five major themes:
- Family Relationships;
- Children, Youth and Patterns of Care;
- Families and Work;
- Families and Community Life; and
- Violence and Protection Issues.

These are the themes around which the Institute’s current work is organised. They are closely related to national policy priorities and areas of particular research interest. Within the framework of these broad themes, there are sub-themes covering an extensive range of topics related to families that allow a broader scope for discussion.

While the five themes will be the focus of the conference, there will also be an open stream for papers that do not directly fit into these themes. The Institute also welcomes papers exploring research methodologies and problems (especially longitudinal work), theory relating to family and gender, comparative research, policy and program evaluation, and historical scholarship.

### Keynote speakers

In 2008, we have again secured eminent keynote speakers who will no doubt arouse interest and inspire debate within their areas of expertise:

- **Peter Whiteford** – Principal Administrator, Social Policy Division, Organisation for Economic Co-operation and Development (OECD), Paris. Peter is an expert in welfare reform, and other aspects of social policy, particularly ways of supporting the balance between work and family life.

- **Andrew Cherlin** – Professor of Sociology and Public Policy, Department of Sociology, Johns Hopkins University, Baltimore, Maryland, USA. Professor Cherlin has published widely on the sociology of families and public policy, and is an eminent scholar on many aspects of family life and relationships, and issues such as the wellbeing of parents and children in low-income families and the changing nature of marriage and family life over the past century.

- **Ruth Weston** – General Manager (Research) at the Australian Institute of Family Studies, Melbourne, Australia. For more than 25 years, Ruth has been conducting research extensively at the Australian Institute of Family Studies on family transitions and wellbeing in Australia. This has included couple and family formation, fertility decision-making, parent-adolescent relationships, and relationship breakdown.

### Call for papers

The Institute is currently calling for the submission of abstracts for papers to be considered for inclusion in the conference. The closing date for submissions is **15 February 2008**.

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For more information about the conference, visit the conference website at [http://www.aifsconference08.com](http://www.aifsconference08.com)
INSTITUTE AND ATTORNEY-GENERAL’S DEPARTMENT MEET ABOUT THE FAMILY LAW EVALUATION

On 31 July 2007, the Evaluation and Research Development Section within the Family Pathways Branch of the Attorney-General’s Department visited the Institute to speak with the Institute team undertaking the evaluation of the family law reforms. During half a day of discussions, the evaluation team was able to brief the AGD representatives on where each of the multiple components of the evaluation was up to, and what was being planned for the coming weeks and months.

FORUM ON SEPARATED FAMILIES PROJECTS

It was with great pleasure that we welcomed a small group of external academics and professionals to the Institute on 31 July 2007 as participants in a research forum on separated families. The forum was part of development and consultation phase being undertaken for the Separated Families Projects, which are a core component of the evaluation of the family law reform package.

Convened by Dr Jodie Lodge, this forum provided an important opportunity for members of the academic community to contribute their expertise and to help inform the development of our projects.

Participants included Professor Shirley Feldman from Stanford University. Dr Feldman was Director of the Stanford Center for the Study of Families, Children, and Youth (1991–1995) and is currently Associate Director of the Human Biology Program and Director for the curriculum on Children and Society. She has conducted longitudinal studies that span two important transitions – from childhood into early adolescence, and from mid-adolescence into adulthood – in which she focuses particularly on family influences on both normal and pathological development. Dr Feldman co-edited (with Glen R. Elliott) the influential volume *At the Threshold: The Developing Adolescent* (Harvard University Press, 1990). Her participation, along with others, made for a stimulating research forum of great benefit to the Institute’s evaluation of these groundbreaking reforms.
PROFESSOR BROOKS-GUNN’S VISIT

During her July visit to Melbourne, the Institute had the pleasure of welcoming Professor Jeanne Brooks-Gunn, the Virginia and Leonard Marx Professor of Child Development at Teachers College and the College of Physicians and Surgeons at Columbia University.

Professor Brooks-Gunn attended the Institute on 2 July 2007, where she met with Director Professor Alan Hayes and researchers from the Family Law Evaluation Team of the Institute, Jodie Lodge and Ruth Weston. Dr Brooks-Gunn also had the opportunity to meet with several researchers from the Longitudinal Study of Australian Children while at the Institute.

During her visit, Dr Brooks-Gunn was able to share insights into her research on family and communities. The occasion also provided a valuable opportunity to communicate some of the Institute’s research findings in the Australian context.

SPRC CONFERENCE

Social Policy Through the Life Course: Building Community Capacity and Social Resilience was the theme of the 10th Australian Social Policy Conference held in Sydney from 11–13 July, 2007. A delegation of nine Institute staff attended the bi-annual event, hosted by the Social Policy Research Centre at the University of New South Wales. Keynote speakers included Jeanne Brooks-Gunn (Columbia University), Barbara Pocock (University of South Australia) and Fiona Williams (University of Leeds).

Professor Brooks-Gunn presented research that outlined the disparities in the wellbeing of children from different social and ethnic backgrounds, and discussed ways to improve outcomes for children living in poverty. Professor Pocock examined Australian policies impacting on the work–life balance and called for an ‘ethic of care’ to accompany Australia’s ethic of work. Professor Williams identified trends in European child care provision and discussed the ethics and changing responsibilities and roles in this sector.

Papers presented by Institute staff were well received, and included Jennifer Baxter’s and Michael Alexander’s paper on young mothers’ work–family strain in single and couple parent families. Ben Edwards presented two papers: one on the social lives of carers in Australia, which he co-authored with the Institute’s Daryl Higgins and Norbert Zmijewski (FaCSIA); and another providing evidence with HILDA data on neighbourhood influences on young children’s behaviour, co-authored with the Institute’s Leah Bromfield. Carol Soloff presented the latest information from the Growing Up in Australia study, and Ruth Weston spoke on the financial circumstances of divorced mothers relative to married mothers, a paper co-authored with Institute staff Lixia Qu and Robyn Parker. Expanding on the consequences of divorce, Lixia Qu gave a paper on divorce and the wellbeing of older Australians, based on the recent Institute Research Paper No. 38 by David de Vaus (La Trobe), Matthew Gray (Institute), Lixia Qu and David Stanton (ANU and ex-Institute Director).

As in past years, the representation from Institute staff extended beyond the provision of papers. The Institute’s exhibition area (staffed by Carole Jean and Ren Adams) proved popular with conference attendees, with a large number of Institute publications being distributed. A strong contingent of ex-Institute staff members also attended the conference, contributing a number of papers. Staff (both past and present) enjoyed the hospitality and networking opportunities provided by a truly enjoyable and informative conference.
EXPERT GROUP MEETING ON ENHANCING SOCIAL SERVICES POLICIES TO STRENGTHEN FAMILY WELL-BEING IN ASIA AND THE PACIFIC

In October 2007, Dr Matthew Gray represented the Institute at the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) Expert Group Meeting on Enhancing Social Services Policies to Strengthen Family Well-Being in Asia and the Pacific, held at the United Nations Conference Center in Bangkok, Thailand.

The meeting reviewed family-related social services policies in the Asia-Pacific, particularly within the context of demographic, social, economic and political issues that affect the region.

The meeting recognised that it is important for policies and programs to be implemented to benefit families as a social unit rather than just the individuals within the family.

Many of the papers highlighted the impact that demographic and social changes are having on families in the region and the implications of these changes for the delivery of social services to families. While there are major differences between countries in the region, many of the demographic and social changes that are occurring are common across countries, including ageing of the population and falling fertility rates.

The meeting confirmed that the primary responsibility for social services must rest with governments, who should provide enabling legislation and institutional infrastructure, develop appropriate policies and programs, set standards and provide monitoring services. However, it is essential that a broad range of non-government service providers also be involved in the delivery of services.

Participants included representatives from Hong Kong, India, Indonesia, South Korea, Malaysia, the Philippines, Qatar, Singapore, Sri Lanka and Thailand.

INTERDISCIPLINARY SYMPOSIUM: RAINBOW FAMILIES

The Rainbow Families Council held an Interdisciplinary Symposium, titled Legitimising Lesbian and Gay Parented Families, on 29 June about social and legal issues confronting lesbian- and gay-headed families.

Dr Mel Irenyi of the Institute attended the symposium, as well as a public lecture by Professor Charlotte Patterson of University of Virginia. Professor Patterson’s lecture, ‘What are the needs of the children of gay and lesbian parents?’, prefaced many of the themes that emerged during the symposium’s keynote speeches and roundtable sessions.

Professor Patterson reported research findings from a US survey of adolescent children being raised by two women in a relationship. The original data was obtained from a National Longitudinal Study of Adolescent Health (Add Health) conducted by the Carolina Population Centre. The study found that focusing on parental sexual orientation gives little or no indication of outcomes for children. Instead, the key determinant of positive health outcomes for children was the quality of parent–child relationships. Children of women in same-sex relationships measured well on this scale. Professor Patterson concluded that children of lesbian- and gay-headed families had the same needs as children parented by opposite-sex couples, that is, they need positive and strong relationships with the adults who are parenting them.

An outcomes paper from the symposium is available on the Rainbow Families Council website at www.rainbowfamilies.org.au/pages/research/symposium.php
INSTITUTE ATTENDS FAMILY RELATIONSHIPS CONFERENCE

Celebrate, Integrate, Innovate and Inform were the themes of the Second Biennial Family Relationships Services Program (FRSP) Conference held from 1–2 August in Melbourne. The Attorney-General opened the conference, which featured keynote addresses from journalist and broadcaster Dr Norman Swan, the CEO of Our Community Dr Rhonda Galbally AO, and Penny Ryan from RPR Consulting. The conference was attended by Institute staff, along with some 500 family relationships service providers and policy-makers from across the country, providing an excellent forum for networking and sharing of knowledge.

Institute staff were well engaged in the two days of the conference and the pre-conference network meetings, held on Tuesday 31 July. Kelly Hand had two opportunities to present on the Institute’s evaluation project examining recent changes to the family law system – at the pre-conference network meeting and in the Research workshop facilitated by Professor Lawrie Moloney. Michael Alexander and Suzanne Vassallo, also involved in the family law evaluation project, attended various conference sessions and workshops.

The Australian Family Relationships Clearinghouse (AFRC), located at the Institute, had representation from Robyn Parker and Ren Adams. Robyn provided information on the role and functions of the clearinghouse during a discussion facilitated by conference compere Julie McCrossin, and contributed to further discussions throughout the meeting.

The Institute also hosted a conference exhibit that proved very popular. Library staff Carole Jean and Joan Kelleher assisted with the exhibit and were hard pressed to keep up with the number of publications (and free sweets on offer) snapped up by conference delegates.

INTERNATIONAL VISITOR TO THE INSTITUTE

Professor Beckie Adams is in Australia on sabbatical from Ball State University, Indiana, and was a visitor to the Institute for several weeks in August and September. Professor Adams is interested in general relationship issues, and her current focus is research on attitudes to incest. While in Australia she was interested in finding out about Australian family policy and service provision, and was very keen to learn more about the Institute and its work. Professor Adams presented a seminar to Institute staff on 4 September entitled Family Policy Developments in the USA and Australia: Some Observations.
In 2007 the Australian Institute of Family Studies continued its series of public seminars presenting contemporary research on national and international issues related to the family.

**Tax-welfare churning: The government giveth, and the government taketh away**

*Seminar held at the Institute on 6 July 2007*

Professor Peter Saunders is the Social Research Director at the Centre for Independent Studies. He is also Professor Emeritus of the University of Sussex in England. In this seminar, Peter discussed how the Australian welfare state might be transformed to give ordinary people more control over key areas of their lives, which are currently managed for them by government. Peter argued that we tend to think of the welfare state as a system for redistributing resources from rich to poor, but many people who receive government benefits and services pay for most or all of what they receive through their taxes. Peter suggested that this ‘tax-welfare churning’ is most conspicuous in the middle of the income distribution (where people are paying a lot of tax and are eligible for many benefits), and in families with children (because so much government expenditure is directed at family support and education), but over a lifetime even relatively poor people also end up financing many of their own benefits. Peter claimed that churning erodes people’s independence and politicises civil society. To conclude, Peter outlined a strategy that would allow people to retain more of their own income in return for reducing their demands on government benefits and services, while still supporting those who cannot provide for themselves. The seminar closed with presenter and audience discussion around the implications of such a policy.

**Long work weeks in Australia**

*Seminar held at the Institute on 16 August 2007*

Professor Mark Wooden is a Professorial Research Fellow and Deputy Director of the Melbourne Institute of Applied Economics and Social Research at the University of Melbourne. Professor Wooden is also the Director of the Household Income and Labour Dynamics (HILDA) Survey Project, which is Australia’s major national household panel...
In 2007 the Australian Institute of Family Studies continued its series of seminars presenting research on national and international issues related to family. The seminars, designed to promote a forum for discussion and debate, are free and open to the public.

Seminar coordinators for 2007 were Institute researchers Prue Holzer, Siobhan O’Halloran and Cameron Boyd.

The seminar program will continue in 2008. The presentations are usually held on the third Thursday of each month, at 11.30 am, and run from one to one and a half-hours. They are held in the Seminar Room at the Institute, Level 20, 485 La Trobe Street, Melbourne 3000.

People wishing to attend a particular seminar should email the Australian Institute of Family Studies: aifs-seminars@aifs.gov.au

To be notified about forthcoming seminars or the availability of presentations or papers, subscribe to aifs-alert: www.aifs.gov.au/institute/lists/aifs-alert.html

The full text of seminar papers and information relating to them are available at: www.aifs.gov.au/institute/seminars/seminars.html

For further information on upcoming seminars, please refer to the Institute website: www.aifs.com.au

Professor Mark Wooden
dr s. caroline taylor

survey. In this seminar, Professor Wooden drew on HILDA data collected over the first five waves to examine long working weeks in Australia. Specifically, Professor Wooden examined: (a) trends in working long hours; (b) how Australia compares internationally; (c) the extent to which long hours of work are in accord with worker preferences; (d) the degree to which long hours of work is persistent; and (e) the consequences of long hours of work, particularly with respect to job and life satisfaction, and marital separation. Professor Wooden explained that about 16 per cent of all employed Australians work 50 or more hours per week. Close to another 10 per cent work at least 45 hours per week. Professor Wooden outlined the differences in work patterns between men and women, noting that approximately 25 per cent of all working men work 50 or more hours each week. In contrast, approximately 8 per cent of working women work 50 or more hours per week. Of all adults working 50 or more hours each week, just over 50 per cent reported wanting to work fewer hours. Professor Wooden categorised working adults as either volunteers (people who opt-in or volunteer for their long hours of work) or conscripts (people who are reluctant to work the hours they do, but who have to for various reasons, such as household debt). Professor Wooden compared volunteers and conscripts of various working hours on measures of job, life and marital stability, with interesting results. Self-reported rates of life satisfaction were relatively similar across working hour categories, and there was no evidence that long working hours by men leads to marital separation. Although a tentative conclusion (due to the limited number of people reporting such circumstances) the most vulnerable marital relationships were those where the female worked more than 50 hours each week while the male worked between 35–49 hours, and where the female did not work and the male worked between 1–35 hours each week.
BOOK NOTES

The following selection of books on family-related topics are recent additions to the Institute’s library. They are available from the Institute’s library via the Inter Library Loan system, or for purchase from good bookshops. Prices are given as and when supplied.

CAROLE JEAN


This edited collection of papers explores global poverty and inequality, then focuses on aspects of Australian poverty. Chapters 2 and 3 focus on the global context, looking in particular at neo-liberal policies and women in poverty. Subsequent chapters focus on individual and structural explanations of poverty; the way in which poverty is conceptualised and measured; Australian poverty in a historical context; poverty and Aboriginal people; the impact of government policies on vulnerable groups in Australia; mental health and poverty; poverty and crime; the welfare of people with a disability; and the provision of emergency relief in Australia. The final chapter examines anti-poverty strategies. This book would make thought-provoking reading for students and others concerned with poverty in Australia.


This booklet is intended as a guide for family, friends and carers of people with a mental illness. It covers the following topics: maintaining a positive attitude; finding support for yourself as a carer; practical ways of giving support to those with a mental illness; looking after other family members; planning for the future; and what to do in a crisis. The information is presented in a practical and straightforward way. A list of useful contacts is also included. This guide would be of interest to everyone concerned with mental illness.


Australia is confronting the issue of a steadily ageing population. This collection of papers is intended for students and policy makers so that they can gain an understanding of the issues surrounding ageing. The book begins with a discussion of the dimensions and implications of the ageing Australian population, followed by chapters on: the health of older Australians; Indigenous Australians; gender and ethnicity and ageing; age and employment; health policy; retirement incomes; housing; aged care policy; the politics of ageing; lifelong education and learning; family and intergenerational relationships, and ageing and the law. Chapters are written in a clear, easy-to-understand style, and each chapter finishes with a list of references for further reading.


This British publication examines multi-agency approaches to working with children. As its backdrop is recent UK government initiatives in the provision of services to children, with the stated overall aim of improving the outcomes for children from their early years onwards. One of the key ways of achieving this will be the establishment of 3,500 Children’s Centres that will integrate the provision of education, care, family support, child protection and health services to families. Chapters cover the historical background to the development of multi-agency working; child protection; leadership in multi-agency work; and collaboration with parents. Case studies are also provided. This book would make informative reading for all of those who work in the early childhood field.


The author of this book challenges the social work profession to...
pursue a better and more informed way of meeting the needs of Indigenous people and communities. Part One gives the background and context necessary for an understanding of the issues facing Indigenous people, for example colonialism and racism. The accomplishments and resilience of Indigenous people is also discussed. The second part of the book looks at ‘practising’ social work. It covers: the organisational constraints that confront social workers; the role of social workers in influencing policies and programs; social workers as advocates and activists; engaging in practice-based research; and community development work. Section Three of the book looks at specific fields of practice that are of ongoing concern to Indigenous communities, for example child welfare, youth, family violence, health and criminal justice. The final section of the book, entitled ‘Talking Points’, examines issues of continuing concern to social workers, for example land rights, reconciliation and mutual obligation. A detailed bibliography is also included. The book would be essential reading for all practising social workers (and social work students) who have an interest in Indigenous issues.

One gives an overview of child protection and family support practice in Australia. It also discusses how child protection has been conceptualised differently in different places and times. Child abuse theory is the focus of Chapter Two. The features and benefits of an outcomes focus are discussed in Chapter Three. Concepts of risk, harm and needs assessment, case planning and intervention are covered in subsequent chapters. Out-of-home care and the need to involve children in the decision-making that affects them are also discussed. Additional features of the book include case studies and ‘practice reflection’ sections in each chapter that allow students to develop practical skills in reflecting upon, planning and discussing practical examples of situations they may come across in work situations. Suggestions for additional reading are also given at the end of each chapter.

The Same-Sex: Same Entitlements inquiry commenced in April 2006. The Inquiry initially spent three months holding public hearings and community forums around Australia to gain first-hand evidence about the discriminatory laws that impact upon same-sex couples. Over 680 written submissions were also received. The focus of the Inquiry was how Australian laws (at federal, state and territory levels) discriminate against same-sex couples in the areas of financial and work-related benefits. Some of the laws discussed included employment, tax, social security, health care, family law, superannuation and migration.

The detailed findings of the Inquiry conclude that 58 federal laws discriminate against same-sex couples, and that many of these laws also discriminate against the children of same-sex couples and breach the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child. The Inquiry recommends that the federal government should amend the discriminatory laws to ensure that same-sex and opposite-sex families are treated equally, and that the laws should also be amended to ensure that the best interests of children in both same-sex and opposite-sex couples are protected.
This short selection of forthcoming family-related conferences is taken from the Australian Institute of Family Studies website conference listing, which is updated regularly. For the complete, up-to-date list, refer to www.aifs.gov.au/conf/confmenu.html

14–16 April, 2008
1st National Indigenous Family and Community Strengths Conference
Newcastle, NSW
The conference will focus on the strengths of Indigenous families and communities. Recognising that connection to community, country and culture is central to Indigenous family wellbeing, delegates will explore how Indigenous cultures strengthen families and communities. The conference will present stories from those working to strengthen Indigenous family and community engagement. Convened by the Family Action Centre at the University of Newcastle in partnership with the Secretariat of National Aboriginal and Islander Child Care Incorporated (SNAICC).

Further information:
Email: family@pco.com.au.
Phone: (02) 4964 2554.

16–18 April, 2008
5th Australian Family and Community Strengths Conference
Newcastle, NSW
This conference will explore strengths-based community engagement in relation to: building child-friendly communities; developing sustainable social enterprises and community programs; providing care, connection and belonging; promoting ownership and control; valuing diversity, culture, creativity, spirituality and meaning; furthering research on strengths-based practice; the role of schools and other educational organisations.

Further information:
Email: family@pco.com.au.
Phone: (02) 4964 2554.

30 April – 2 May, 2008
10th International Paediatric and Child Health Nursing Conference
Darwin, NT
Paediatric and child health nurses face multiple challenges and barriers in everyday practice. Through the implementation of the theme ‘Crossing barriers’, this conference aims to illustrate that barriers can and must be crossed to improve health outcomes for children and young people. Areas covered are: clinical practice; child safety; nursing/health policy and services management; nursing education; nursing/research and informatics; ethics; and workforce issues.

Further information:
Email: info@ipchncconference.com.au.
Phone: (07) 3858 5503.

21–23 May, 2008
5th National Homelessness Conference – New Horizons: Practice, Research and Emerging Issues
Adelaide, SA
This conference from the Australian Federation of Homelessness Organisations (AFHO) aims to create a framework for ending homelessness through increasing public understanding of its social and economic impacts.

Further information:
Web: www.afho.org.au.
Email: beverley.atkins@afho.org.au.

Bianca Dobson is Web Development Officer at the Australian Institute of Family Studies.
INSTITUTE PUBLICATIONS

AVAILABLE NOW

Allegations of family violence report

Research report No. 15 (2007, 174 pages) by Lawrie Moloney, Bruce Smyth, Ruth Weston, Nicholas Richardson, Lixia Qu and Matthew Gray is titled Allegations of Family Violence and Child Abuse in Family Law Children’s Proceedings: A pre-reform exploratory study. The Australian Institute of Family Studies has released this major new research report commissioned by the Australian Government’s Attorney-General’s Department as part of the Australian Government’s Attorney-General’s Department as part of the Family Law Violence Strategy. The report is a benchmark study based on data relating to a period prior to the 2006 reforms to the family law system, and will be used to assist in evaluating aspects of the reforms. It provides some challenging findings about the frequency of allegations of violence and abuse, and the amount of supporting material around those allegations.

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ACSSA Wrap 4 (September, 2007, 14 pages). Feeling Heavy: Vicarious Trauma and Other Issues Facing Those Who Work in the Sexual Assault Field, is authored by ACSSA’s Zoe Monson. This paper is about vicarious trauma, a normal response to repeated exposure and empathetic engagement with traumatic material. It describes what vicarious trauma is, how it may be experienced, and what may predict it occurring. It also discusses how individuals and organisations may address vicarious trauma and the broader social context this work takes place within. While addressing the challenges of this work, the paper also considers some of the uniquely rewarding aspects of working with the issues of trauma and sexual assault.

ACSSA Aware 15 (September, 2007, 39 pages). This newsletter contains two feature articles by ACSSA staff. Perspectives on the treatment of men and boys who sexually abuse, by Cameron Boyd, explores literature on the treatment of men and boys who have been sexually violent, and therapy and interventions that place gender and power at the centre of working with these men. Considering elder abuse and sexual assault, by Antonia Quadara, reviews the research on the nature and impact of Australian Centre for the Study of Sexual Assault

Australian Family Relationships Clearinghouse

Two new publications are available online from the Australian Family Relationships Clearinghouse (AFRC). AFRC publications are available in electronic formats only.

AFRC Issues No. 1 (2007, 23 Pages). The first AFRC Issues paper, authored by Dr. Jennifer McIntosh, is entitled Child inclusion as a principle and as evidence-based practice: Applications to family law services and related sectors. Dr. McIntosh discusses the shift in family dispute resolution practices, away from negotiation models founded in neutrality and empowerment and towards models that actively seek to facilitate the often unspoken developmental agendas of the children affected by the dispute. Outlines of the paper are two successful applications of the child-inclusive model, with their data confirming the potential of

new research paper

A new research paper is available from the Australian Institute of Family Studies.

Research paper No. 40 (2007, 22 pages) by Jennifer Renda is titled Employment aspirations of non-working mothers with long-term health problems. In recent years there has been considerable government concern about the growing number of Australian mothers who spend long periods of time in receipt of income support payments. Long-term receipt of income support payments often equates to extended absences from the labour force, making re-entry into paid work increasingly difficult. Instead of leaving the welfare system for paid work once children are older, increasing numbers of recipients have been transferring from Parenting Payment (PP) to other income support payments, such as the Disability Support Pension (DSP). In response, policy initiatives have been introduced, with the aim of increasing the workforce participation of PP recipients. Such policies tend to focus on increasing financial incentives, improving job-related skills and enhancing levels of motivation to work. Considering the magnitude of the barriers that those with long-term health problems often face, these factors may have little influence on their employment decisions. Women with long-term health problems may not need incentives or motivation to work, but rather supports and opportunities tailored to their individual needs. In order to explore this further, this paper compares the employment aspirations and expectations of mothers with and without long-term health problems.

Australian Family Relationships Clearinghouse


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