

# Speech to the Family Law System Conference

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(Slide 1 – Background slide with logo/name)

## **Acknowledgements**

I would like to begin by acknowledging the traditional custodians of the land on which we meet the Ngambri and Ngunnawal people, I pay my respect to their elders past and present.

I would also like to thank the Attorney-General for bringing us together for this historic conference and acknowledge Ian Govey as Chair of this panel as well as my fellow panel members Diana Bryant and George Turnbull.

It is an honour, if a little daunting to be addressing a gathering of so many respected leaders from the family law and broader family support sectors. I am delighted that family relationship services are now recognised as a central part of the family law system and very pleased to have been invited to speak as the Chairperson of Family Relationship Services Australia.

## **Introduction**

What I have to say generally aligns with the comments on the Blueprint by the previous speakers. I would like to start with the question - 'Do we need a National Blueprint?' I think we do. We need a common purpose and logic that articulates the roles of all

the organisations and practitioners involved in responding to families going through separation. We need to recognise that we are part of a system underpinned by legislation, supported by public funding and responsible for protecting people, particularly children, when they may be vulnerable. This conference in itself is a significant step.

## **Common ground**

The Draft Blueprint contains some excellent groundwork. There is much we are likely to agree on including the principles for an effective family law system

(Slide 2: Principles)

These and the other six principles in the Blueprint are a good starting point, with scope for further enhancement. For example could we go beyond child focused and become child inclusive? This is perhaps one of many conversations we can have over the next two days.

While I am confident that we will reach agreement on the broad principles, agreement on the best strategies to achieve some of these is likely to be more contentious.

There are differences between us; we bring different skills, ideologies and strategies for responding to the needs of families. Family relationship services work with people in a way that is very

different from the Family Courts. Recognising, understanding and accepting these differences is important.

We can transcend these differences if we respect our common purpose. Collectively our work is focused on the safety and wellbeing of children and their parents. Read any of our statements of vision, mission and professional codes and we will find this is the common denominator. We can use this like glue to bind us together, providing us with common ground to come back to if we start to diverge. It is fine to sometimes disagree on the best method, most appropriate strategies or relative worth of different approaches; we can work through those differences because we have a shared commitment to children and families.

Just as we need to continually remind parents to focus on their children and keep an open mind, this can also help us to navigate through our discussions.

(Slide 3 – Cartoon parental differences (borrowed from Ian Kennedy’s presentation at the FRSA conference))

I do not mean to imply that the task before us is a simple one or that all we need is a bit a good will. Far from it, the task before us is a serious one that warrants every ounce of the combined expertise in this room. I don’t need to tell you that family separation is often complex, difficult and rarely without trauma. It is sometimes dangerous and tragic as recent cases in the media

have brought into sharp focus. And sadly these are not extremely rare events.

Safety is a key theme in the Draft Blueprint and rightly so. It is an issue at the forefront of my mind. Just a fortnight ago in our organisation we had to cancel change-overs because it was reported that the father had threatened the mother. It then came to light that he was arrested for trying to obtain a weapon which he allegedly planned to use to shoot the mother when she arrived to use our service. Such situations remind us that making assessments on the safety, mental health and wellbeing of all those concerned in separation is a significant responsibility.

I support the proposal to develop system-wide assessment frameworks and better tools for identifying risk factors. I also believe that more case management, training and longer term support are important strategies to enhance safety. I would however, like to caution against narrowing our concept of risk to focus exclusively on violence or specifically the presence or absence of a past history of violence. Behaviour patterns such as obsession, stalking, depression, control, retaliation, inability to let-go and attitudes of ownership towards children are equally important in risk assessment.

In her 2005 review of child murder-suicides after separation , Carolyn Johnson<sup>1</sup> suggests that a history of domestic violence was but one of the danger signs in these cases. In some cases the violence was implied rather than explicit or became overt only after separation. In each of the cases reviewed by Johnson there were many danger signs such as threats of harm, rehearsal, stalking behaviour, refusal to accept the separation and proprietorial attitudes to children. Yet the risk to these children was tragically unrecognised and no action taken.

(Slide 4 – Risk and safety factors)

We can learn from child protection in relation to assessment of risk and safety factors. There is so much more we can do to identify early warning signs if we all know what to look for and have the capacity to respond. This needs to be a priority for the research agenda and a point of connection to developments in systemic responses to child protection and family violence where many family relationship services are also working.

### **Complex needs**

Another research priority is the impact of complex needs. Our clients are presenting with increasingly complex family structures, as illustrated in this genogram, and issues such as mental health,

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<sup>1</sup> Come with Daddy, Child Murder-suicide after family breakdown, Carolyn Harris Johnson 2005, University of WA press

drug, alcohol and gambling problems. We need to be able to respond in the most informed possible way.

(Slide 5– diagram of stepfamily relationships across 3 generations and 3 homes)

To make the best use of research our practitioners need the skills to apply new knowledge. This means not only adequate initial training but ongoing training and supervision. Our service models also need to be adaptable and responsive, which is best achieved by being properly resourced.

Having made that point, I also want to respond to a theme in the Blueprint regarding duplication and efficiency. We work with a very diverse population of people and what might look like duplication may actually be legitimate alternatives that have been developed to respond to different needs.

In similar vein, the multiple entry points to the family law system is characterised in the Blueprint document as a problem to be addressed. I am not sure that it is a problem, as long as people get the support that they need. The question we should be asking is how do people know where to go and does the system respond appropriately whatever the entry point?

If we use the health service system as a comparison there are good reasons for having:

- General Practice
- Hospital emergency departments
- Ambulance and rescue services
- Youth health clinics
- Flying doctor service ... and so on

Which entry point is appropriate is dependent on the circumstance of the illness or injury as well as the characteristics of the person affected.

Rather than reduce or restrict entry points or pathways perhaps it is better to focus on the development of systemic responses – the family law system version of assess, triage, treat or refer.

Staying with the health service analogy; what the medical profession has learnt in recent decades is that a stronger focus on post discharge treatment and follow up has a very substantive impact on long term health outcomes, reducing re-admission rates, allowing shorter hospital stay and maximising the effectiveness of interventions.

I strongly endorse the comments of the Chief Justice on the benefits of more support to separated parents after a court order or parenting agreement has been put in place.

One of the most significant changes that I can see reflected in the Blueprint is that we are coming to recognise that family separation is a process that takes place over months and years. Shared parenting relationships are long term and will often go through many permutations as children grow, new partnerships are formed and some stepfamilies created. Families are dynamic; relationships evolve and change over time.

Australia already leads the world in its response to family separation because our family law system has recognised that separating parents need more than a decision; they need support through the transition and a range of supports that can respond to situations as they unfold.

I want to share an example with you. For those who don't know, in my day job I am the CEO of Relationships Australia (RA) Tasmania. During January our organisation had staff on leave and I was the nominated senior practitioner, the 'go to' if senior input was required. One of the staff of a Children's Contact Service (CCS) we run asked me to approve a letter written by RA for the mother, who is self represented, to take to court on Monday. She had brought in a letter from her ex-husband's lawyer stating that as she had refused to use the CCS he would be seeking full costs from the court event. The mother had in fact been to the CCS for assessment, the father was involved in the assessment process (by telephone as he lived interstate) and staff were negotiating the terms of supervising initial contact by letter

as his young daughter did not know him. The mother was also attending a Parenting Orders Program (POP) education group to help her understand the positive aspects of her daughter establishing a relationship with her Dad. While staff were waiting to hear back from the Dad he wrote a letter directly to the child introducing himself, saying how keen he was to see her and that soon she would be able to go to live with him in Western Australia. This of course, caused the child great distress.

Naturally I authorised the letter stating the mother's actions in complying with the directions, the organisation's role in delaying contact until there was satisfactory agreement about how to develop the relationship and the mother's attendance at a parenting course. We also rang the private practitioner representing the father to explain the situation and told him about the letters and suggested the threat about costs was counterproductive. The practitioner didn't know about the content of the dad's letter, or that we had been negotiating to screen the letters, nor how upset the child was as she believed she was going to be taken away. After a couple more phone calls and emails the practitioner let us know his client would not be seeking costs on Monday and that his client would be encouraged to resume negotiations on how to establish contact.

While this is a good example of how we work with our colleagues and share a commitment to the outcomes for the child, this case also highlights how the needs of every family go beyond the

resolution of isolated disputes or decisions. For a child to get to know a parent they have never met, for a mother to trust a partner they have long since parted from and for a father to understand the needs of a child they have not had contact with – these are complex matters. This is why post separation services need to be integrated not just with courts and legal services, but also with the early intervention and family support programs that can help people to develop skills and prevent problems recurring in future relationships.

An exciting development in the family relationship services program is the introduction of services specifically for children.

(Slide 6 – SCAP)

The Supporting Children after Separation program will allow services to provide counselling and therapeutic programs directly to children.

Collaboration and service integration is another important theme in the Draft Blueprint. I am glad that it is acknowledged that there are many examples of collaborative relationships at both local and national levels. As the other speakers have noted we are not beginning from scratch

The Family Pathways Networks that operate across the country have been a really valuable opportunity to bring people together

at the local level. Relationships across the service networks, between the peak and professional bodies are also very co-operative. This was a theme explored at the FRSA Conference last November where we found a good deal of consensus on some key approaches to continuing and expanding cooperation including:

- Better understanding of our respective roles and skills; and
- Opportunities for cross-professional development and information sharing.

One of the challenges is to move beyond the stereotypes and the competition for resources that have been present in the past. This requires leadership from government and policy makers and recognition of the very real structural barriers that work against service integration.

Service integration is not something that just happens because everyone thinks it is a good idea. The development of common case management tools, agreement on responsibilities, protocols for sharing information, clear procedures for data collection and reporting – these all require substantial investment and time.

Family Relationship Services are not trying to do the work of the Courts or Legal Aid services. We work with a different level of evidence. As our primary obligation is the best interests of children, in a timeframe of today, next week, next month our main

tools are listening, observing and developing relationships. These are skills we have to hand and they are backed up by quality assurance frameworks and policies informed by sharing information on best practice. We see our role as part of a continuum of services respecting the important role that others play.

### *Cooperation*

One of the major themes in family law which is less apparent in the Draft Blueprint than I would have expected is the need for broader culture change in public attitudes towards family separation. Dispute and conflict are not a necessary part of the process of separation. While it is the highly conflicted cases that are reported in the newspapers and magazines, celebrities at war and average Joes going to extremes to inflict harm on the ex, this is not the norm. Where there is high conflict we need to ensure there are adequate responses immediately available but we should be seeking to lower the demand for these responses by encouraging people to avoid and resolve conflict wherever possible.

In 2007 44,000 children were affected by parental divorce and that does not include all of the children of parents in de facto relationships that separated that year. How many were exposed to parental conflict? How do we work to reduce the proportion of families in dispute?

We can as a community discourage parental conflict that is harmful to children and instead 'normalise' the development of cooperative parenting relationships after separation.

This sort of culture shift requires changes in attitudes and behaviours. That is never easy but it is possible. We need to think of the impact of public education campaigns concerned with smoking, drink driving and breastfeeding... remember this...

(SLIDE 7 Vintage Ad)

and where we are now.

(SLIDE 8 Anti-smoking)

The Family Law System is doing more than reforming itself, it is working to achieve a substantive change in societal expectations and we all have a role in this.

The implementation of Family Relationship Centres (FRCs) over the last three years has had a substantial impact on this and I believe that the culture shift has begun. This has created services that are more accessible, more affordable and more focused on the family rather than the individual.

This culture change was supported by the national advertising that went with the first two rounds of the FRCs. This helped to raise

the profile of family and relationship support. Immediately we saw an increase in the number of people voluntarily seeking help with conflict and disputes, including groups previously hard to engage – men, grandparents and young people.

One of the essential components that I think is missing from the Blueprint developed is a focus on community education and something like a public health approach to promoting the wellbeing of children. We need to raise awareness in the general community about the destructive impact of parental conflict and family disputes over children and the positive benefits of supporting healthy relationships between children, parents, grandparents and extended family whenever it is safe to do so.

I have some suggestions to everyone thinking about what messages we would like to see.

To finish I would like to suggest that each of us, as part of the system, consider whether our own practices ensure the best outcomes for children.

Thank you.

(Slide 9-10 – Mock up of an ad about cooperative parenting)

SUSAN HOLMES