STANDING COMMITTEE ON LEGISLATION

PARENTAL SUPPORT AND RESPONSIBILITY BILL 2005

TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
WEDNESDAY, 22 MARCH 2006

Members
Hon Graham Giffard (Chair)
Hon Giz Watson (Deputy Chair)
Hon Ken Baston
Hon Peter Collier
Hon Sally Talbot

Hearing commenced at 10.05 am

SILBURN, PROFESSOR SVEN
Director, Centre for Developmental Health,
Curtin University of Technology and Telethon Institute for Child Health Research, examined:

CHAIR: On behalf of the committee, welcome to our meeting this morning. You will have signed a document entitled "Information for Witnesses". Have you read and understood that document?

Professor Silburn: I have.

CHAIR: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of the hearing for the record. Please be aware of the microphones and try to talk into them. Ensure that you do not cover them or make noises near them. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you may request that the evidence be taken in a closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised it should not be made public. I advise you that premature publication or disclosure of public evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege. Professor Silburn, I invite you to make an opening comment, after which I will ask you a few questions.

Professor Silburn: I prepared a response to the parental responsibility orders discussions paper in February 2004, which was included as an appendix with the submission that came from the Telethon Institute for Child Health Research. What I had hoped to be able to do was to speak to that paper and to draw the committee's attention to some implications that my comments have on the draft bill. My response was prepared on the basis of my 15 years' clinical experience with the state's child mental health services and my 10 years' experience as a researcher at the Telethon Institute of Child Health Research. I was asked specifically to look at the strength of the evidence of the United Kingdom experience of similar proposals and to give some thought as to how that might be applied in a Western Australian context. My submission makes some general comments and states that the bill is almost guaranteed to be a controversial piece of legislation because it will violate strongly held assumptions on both sides of politics about what is good for children and the role of families in supporting their development. The United Kingdom experience has provided an example of a third way that tries to move beyond traditional views about what is right and wrong in addressing the problem of young people moving along a path that increases their risk of being involved with the justice system. I think the United Kingdom experiment is something that should be looked at very seriously.

However, there are some important differences between the way the United Kingdom model was implemented and the proposed process for Western Australia. There are two major differences. Firstly, the United Kingdom parenting orders have been implemented with the goal of strengthening parental responsibility through measures that recognise that families, schools and communities have a shared responsibility for caring and protecting children and that it is hard for families, schools and the justice system to do this on their own. That is the first important difference. As I read the draft bill, it is very strong on the responsibilities of parents. The bill lists two objects. The first is to acknowledge and support the primary role of parents and to safeguard and promote the wellbeing of

children. The second is to reinforce and support the role and responsibility of parents to exercise appropriate control over the behaviour of their children.

I would recommend the addition of a third object, which would go a long way to helping the general community be more accepting of the bill, particularly the disadvantaged sectors of the community. The third object would be to recognise that families, schools and communities have a shared responsibility for caring and protecting children, and that it is hard for families, schools or the justice system to do this on their own.

[10.12 am]

There is a mutual responsibility that belongs to the whole community in supporting the families who struggle with children who are running out of control. It would go a long way towards this proposal being perceived as a measure that supports families rather than punishes them.

The second difference from the UK experience is that when those measures were introduced, there was also a major state investment in early developmental prevention through the Sure Start program. It is important, obviously, to address the upstream causes of behavioural and conduct problems and the risk of offending. Again, in putting this across to the community, a similar effort must be put into early developmental prevention. Until those programs are in place, society has the issue of what to do about children at the point of last resort before they enter the criminal justice system.

The other aspects of my submission look at the rationale for supporting parental responsibility in this way. Our research through the WA child health survey and, more recently, the Aboriginal child health survey shows that there is strong evidence that one of the major pathways into offending is through the aspects of parenting that are probably best described as more neglectful. This legislation will be useful in sending a strong message to society that parents of children who get themselves into trouble can be supported and can have access to appropriate support. In the past, there has been a major breakdown between schools, DCD and the mental health system in dealing with these multiproblem children. It has been very easy for all those agencies to pass children who have these sorts of conduct problems from one agency to another. One of the early benefits of the unit that has been set up to trial some of these processes in the southern metropolitan area has been to get a much better level of collaboration between schools, DCD and mental health services in particular. A lot of children who simply would have disappeared from all those systems are being held much better.

Another issue in my submission to which I draw your attention is the evidence that the Home Office documents cite in support of the efficacy of the programs. The results of the 2002 national evaluation report were surprisingly promising in terms of the experience of parents who were required to undergo these contracts and orders, whether the parents entered them voluntarily or were compelled by the courts. Although most of the parents were quite antagonistic towards the idea of having to attend one of the group parenting sessions, the vast majority found it to be a beneficial experience and more than 90 per cent would recommend that other parents avail themselves of what the sessions offered. However, the evidence from court records and police records about the rates of re-offending is much less conclusive, largely because of the incompleteness of record keeping in the UK system. They had complete data on only a small proportion of cases to make this assessment. Nevertheless, we could see no systematic biases between those on whom they had full information and the overall number of people who went into the system. The 50 per cent rate for the prevention of re-offending could be misleading, because we know that from the age of 14, as kids get older and leave school and go to work, rates of offending drop off anyway. That reinforced the point that if it is being set up in WA, we need to ensure that a careful evaluation is built in and that some of the limitations of the evidence from the UK experience are not repeated.

To summarise, the major challenge in how this is implemented will be getting community acceptance and support. I recommend appropriate social marketing that uses electronic media and local community media as a way of getting information to parents that parenting and setting limits are important and that society feels it is important to support parents when children are at a particularly vulnerable point in their life. Some behavioural approaches are very effective with this age group, but those families that need it the most need to be able to get into the system.

Our key concern is the cultural appropriateness and acceptability of this proposal for Aboriginal families. We see this as the main challenge to this proposal being used properly. Of course, only a relatively small proportion of all the children coming into the system would be Aboriginal but, nevertheless, they might be the very ones whose needs will not be met by this. I understand that the experiment in the south west metropolitan region of Perth has involved the appointment of a number of Aboriginal staff. They certainly have been liaising with service agencies, but I am not sure that the liaison with Aboriginal organisations has been sufficient. The proposal will probably work reasonably well in the metropolitan region, but how it will work in remote areas of the state needs to be worked out very carefully with organisations such as the Aboriginal Legal Service and local community councils. If the design and form of these parenting supports take account of local and cultural ways of effectively supporting those families, it could produce the benefits that are hoped for.

[10.20 am]

One last point is that in setting up the trial service in the Perth southern region, it seems that they were initially flooded with a backlog of cases of hard-to-deal-with children, frequently referred at much earlier stages of problem development than the "last resort" stage. Although that is desirable to some extent, it is really not sustainable in the long term because of the sheer number of cases. A different kind of intervention is needed for service providers to be in a position to compel people to attend treatment. It really needs to be at the point of last resort, so their case selection and screening processes probably need to be carefully scrutinised.

CHAIR: Thank you. You have given us a good account of the general proposition that is contained in the bill. I do not know how familiar you are with the bill, but I would ask if you would like to comment on whether any of these strengths and weaknesses that you have identified occurs within the bill itself.

Professor Silburn: I have already commented on the need for a third object to the bill. I refer also to clause 8 titled "Principle of cultural and religious sensitivity". Those four lines seemed to me rather flimsy, and could be strengthened considerably.

CHAIR: You spoke before about the efficacy of the UK model. In your paper, you say that it is promising but not at all conclusive. You have given us a good context for that and explained it quite well, but I notice that you said it was "surprisingly" promising. I am interested, for the sake of removing ambiguity, to find out what you meant when you dropped in the word "surprisingly".

Professor Silburn: I think the surprise came from the level of support from families who had been through the experience. They were much stronger in their endorsement of this as being actually helpful to them, rather than being an imposition.

CHAIR: Was that from the perspective of families who had not anticipated that they would actually benefit so much?

Professor Silburn: Yes.

CHAIR: You also make reference in your paper to the UK model to the program being worthy of serious consideration for parenting programs. I assume this relates to what you referred to as the major investment in the early intervention programs. Do you have any comment to make about the extent to which the bill matches the positive outcomes of the UK model, with particular reference to the comparative merits of parenting orders?

Professor Silburn: The major merit is in assisting parents to cross the threshold into a therapeutic relationship that can improve key aspects of family functioning that will reduce the likelihood of behaviours getting out of control. It is critically important that these orders produce a requirement of accountability of services to meet the needs of these children. It has been too easy for services to get off the hook with this and to neglect their responsibilities. There may need to be some sort of assurance that if people are compelled to attend one of these groups, the legislation greatly strengthen the likelihood that services would meet their side of the social contract.

Hon GIZ WATSON: Surely it is possible to argue that legislation is not needed for that sort of assurance. In legislative terms, there are not many bills that express the government's obligation to provide services. I can think of very few. That is not normally where that imperative comes from. It seems to me that that is the carrot to disguise the stick.

Professor Silburn: A lot of that is in our unwritten bill of rights - that we expect certain rights to access of services, but nowhere is that really enshrined.

Hon GIZ WATSON: Maybe a bill of rights is a better idea.

Professor Silburn: Yes.

Hon GIZ WATSON: That is a recommendation I can see.

CHAIR: Professor Silburn, you have been given an extract, numbered 7 and 8, of two short excerpts from another submission that the committee has received. You will note that there are questions included by the committee for your consideration. Are you in a position to offer any comment to the committee on those two quotes?

Professor Silburn: The first excerpt relates to the Australian Psychological Society's position on request of clinical records by psychologists who may be employed by a government agency. That is currently the position. From my own experience of working in the WA child and adolescent mental health service, we generally did not release any reports without client consent unless there was a court direction or notes were subpoenaed.
[10.30 am]

To take a blanket position on whether the records of people who are working in the public service should be made available to other parties does not take account of the conditions governing the release of the information. What currently happens in situations of urgency when there are child abuse concerns, is that it is a question of weighing up whether the level of risk involved constitutes sufficient reason for this information to be made available to other parties. I must admit I have not really thought that through, and I would be happy to go away and give you a more considered response. The other claim is that the use of force and the application of sanctions by government agencies involved in securing compliance will raise new problems for organisations which must now deal with involuntary clients. Psychologists do deal with involuntary clients in the mental health system. Again, it is simply a matter of being very clear about what the parameters of the relationship are, and making sure that people are apprised of what the situation is. However, I do not believe that is an insurmountable problem.

CHAIR: You are talking about levels of risk, too.

Professor Silburn: Yes.

Hon SALLY TALBOT: You say on the second page of your submission -

> However, those families most needy of such intervention are generally the least likely to avail themselves of such services for reasons of shame or lack of understanding that such assistance could make a difference.

From my reading of it, the conclusion that can be drawn from that premise, particularly in the case of the models that are being applied in the United Kingdom and in this bill, is that we need legally

enforceable parenting orders or contracts to get those people to avail themselves of these services. Am I reading that correctly? Is that the correct inference?

Professor Silburn: It is not the only way, but it is one way that has been shown to be effective in the UK. Sweden has a very interesting approach to drug treatment, because people are compelled by court to attend treatment, and there are sanctions if people do not comply. However, the vast majority of people do comply. It actually works surprisingly well in that context. However, the culture in Sweden is very much centred around compliance and a civic society.

Hon SALLY TALBOT: Is that a valid comparison to make? I am not a clinician, but it occurs to me that in the case of drug abuse one of the prerequisites for successful treatment is that the person must concede that he or she has a problem. Is it slightly different in the case of parenting dysfunction, when the abhorrent behaviour is being manifest by someone other than the person who is the object of the parenting order?

Professor Silburn: Legislation is used in all sorts of ways. Under the Education Act, if children do not attend school, in theory, sanctions can be applied to parents. In the past parents were prosecuted if they did not send their children to school. Society has regarded that as a valid way of reinforcing the message that parents have a responsibility to send their children to school.

Hon SALLY TALBOT: I turn now to what I affectionately refer to as your "noodle" diagram from Weatherburn and Linde. You note that it is based on data available from non-Aboriginal youth aged 12 to 16 years. You referred earlier to the fact that the institute has subsequently conducted an Aboriginal youth survey. Are you in a position to comment on whether that kind of data would still be applicable to the Aboriginal community?

Professor Silburn: In general terms the answer would be yes. I do not have the specific analysis and data at my fingertips to give to you now. We are in the process of reporting that data, and those findings should be published early next year.

Hon SALLY TALBOT: You would not expect it to be significantly different?

Professor Silburn: No. We certainly looked very closely at the issue of non-attendance at school. On Friday we will be releasing a report on the third-volume findings from the WA Aboriginal child health survey. That details very carefully what are the major drivers of non-attendance at school. Certainly they are to do with the generalised disadvantage of Aboriginal people and the alienation of families from school. However, the role of parenting is a major predictor. The extent to which parents have high expectations, and monitor and set limits and so on, is an important predictor of that.

Hon SALLY TALBOT: That is interesting. I want to make sure that we have understood correctly what the inferences of the diagram are. Is it your suggestion, based on these figures, that government has historically been concerned with the abuse link between disadvantage and offending?

Professor Silburn: yes.

Hon SALLY TALBOT: Is it also your suggestion, along with the authors of the diagram, that we should be focusing on the neglect?

Professor Silburn: Yes, very much so. A lot of that needs to be happening earlier in the preschool and early primary years, because the patterns and the principles of parenting that are learnt during those years generally apply all the way through. Although they modify slightly in the adolescent years, the entrenched patterns of response tend to be set very early. If we can get the more constructive principles of parenting across - they are not complicated - they can produce some significant results. We did a major study in Perth with 1 400 very disadvantaged children, including quite a number of Aboriginal families, and applied an intervention at the ages of three and four for the parents of these disadvantaged children. Two years on we saw something like a 30 per cent

reduction in serious behavioural problems. We have been following that up since. I am sure that those lessons in basic parenting skills continue to be used both as the children grow older and for other children that come into the family.

Hon SALLY TALBOT: Is it your understanding of the diagram that the abuse and neglect circles would overlap; and, if so, to what extent? Does that alter the conclusion?

Professor Silburn: Not necessarily. We had a measure of parenting, and we could identify those families in which there was a much more neglectful style of parenting versus those in which harsh and inconsistent punishments were the predominant way of dealing with problems. The greater proportion of children who end up in trouble are those who come through the more neglectful pathways.
[10.40 am]

Hon SALLY TALBOT: My last question is a question that we have put to all of our previous witnesses. You will be aware that the new Children and Community Services Act came into effect on the first of this month.

Professor Silburn: Yes.

Hon SALLY TALBOT: It has been suggested to this committee, as you may be aware from reading other submissions, that many, if not all, of the measures in the parenting orders bill are more appropriately serviced by the new legislation. Do you have a view about that? If you do not, would you be prepared to take that question on notice?

Professor Silburn: I would be prepared to take that question on notice.

CHAIR: Will you clarify for the committee what you mean in terms of the question of neglect? It has been put to us a couple of times that the notion of neglect is problematic, particularly in terms of the cultural differences. For example, we may view Aboriginal children in regional areas and country towns who wander around at dusk and into the evening as neglect, but in that Aboriginal culture context that is not regarded as neglectful behaviour. It seems to me that it is a difficult thing to define and there would be lots of different standards. How do you address that?

Professor Silburn: In what context?

CHAIR: How do you determine that children are being neglected, given that it has been put to us that there are different views of what constitutes neglect. How do you make that judgment?

Hon GIZ WATSON: And definite views of parenting.

CHAIR: Yes.

Professor Silburn: Again, it depends on for what purpose you are making that judgment. For example, in the research that this diagram came from, we described some very distinct patterns of how parents respond to their children. One of the questions put to parents about adolescents was: are your children allowed out of the home at night? Another was: do you follow through on limits that they have set? The questions include a whole series of behaviours that are clearly understood and defined across any culture. The patterns or response showed that some parents do not closely monitor what their children are doing and do not set expectations of behaviour, the general evidence is that the children do not internalise those values or effectively develop the ability to regulate their own behaviour. However, we get into quite dangerous waters in assuming that different styles of parenting that may be culturally sanctioned are necessarily helpful or harmful in terms of the outcomes that they are associated with. The position we have tried to take in the Aboriginal child health survey is to look at describing behaviours in ways that are very close to how they occur and then look at how they pan out. If the Aboriginal community, for instance, is trying to understand what aspects of culture are currently working well in twenty-first century Australia and what aspects are not working well, it is important information to act upon.

Hon PETER COLLIER: I refer to the notion of one size fits all as it relates to this bill and whether the vast array of cultural expectations and differences throughout the Western Australian community will be favourably improved upon as a result of this bill. I guess you have already answered my question. I think that is what the chairman was alluding to.

Professor Silburn: Wherever the court is sitting, it must take advice from people with local knowledge on what is appropriate and what is not appropriate, I would think.

Hon GIZ WATSON: My question is related and it assumes that we will go down the path of having the courts involved in this - certainly the bill suggests that. One of the specific things that other witnesses have mentioned in regards to the bill specifically not applying to, for example, grandparents is how that will work in most Aboriginal families. That is at odds with their practice and cultural background.

Professor Silburn: That is fair comment. We are involved in a study at the moment in a parenting program in the Tiwi Islands. The study is looking at adapting things that we developed in Perth for that circumstance. You certainly could not call it a parental program; it is a family program. The primary caregiver, the person who has guardianship or whatever for the responsibility for that child, is the person that you have coming to the sessions as often as they can. However, they are likely to be accompanied by other adults - an aunty or grandparent. All of them may attend each session or some of them may attend some of the sessions. The program is designed to be able to equip the primary or other caregivers in that household so that there is some consistency with what is being done with the children.

Part of the problem is calling the bill the "Parental Support and Responsibility Bill". I would much rather see it called the "family support and responsibility bill".

CHAIR: Thank you very much for your evidence today. I look forward to the release of the third report on Friday.

Hearing concluded at 10.46 am