

# **STANDING COMMITTEE ON LEGISLATION**

## **PARENTAL SUPPORT AND RESPONSIBILITY BILL 2005**

**TRANSCRIPT OF EVIDENCE TAKEN  
AT PERTH  
WEDNESDAY, 8 MARCH 2006**

### **SESSION FIVE**

#### **Members**

**Hon Graham Giffard (Chairman)  
Hon Giz Watson (Deputy Chairman)  
Hon Ken Baston  
Hon Peter Collier  
Hon Sally Talbot**

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**Hearing commenced at 2.26 pm****BELL, SUPT DUANE****Acting Director, Corporate and Community Development, WA Police, examined:**

**CHAIR:** Thank you for attending today to assist the committee with its inquiries. I have to quickly address the formalities before discussions commence. You have signed a document titled "Information for Witnesses". Have you read and understood that document?

**Mr Bell:** Yes, I have.

**CHAIR:** Today's discussions are public. They are being recorded. A copy of the transcript will be provided to you. Please note that until such time as the transcript of the public evidence is finalised, the transcript should not be made public. I advise you that premature publication of the transcript or inaccurate disclosure of public evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not covered by parliamentary privilege. If you wish to make a confidential statement, you can ask for the committee to consider taking your statement in private. If the committee agrees, the public will be asked to leave the room before we continue.

I now invite you to make an opening statement if you wish. We have seen the former commissioner's submission to the Office of Crime Prevention - which is a document dated early 2004 - during the consultation phase of the parenting orders concept. In making an opening statement you could address whether there has been any deviation from or progress on the views that were outlined in the document.

**Mr Bell:** The police face special challenges with young people, particularly in Northridge and at large in other suburbs. We welcome any initiatives that address that. We acknowledge the great amount of work that has already been done with other programs and is intended in the draft state community violence prevention strategy. In relation to our earlier submission on the discussion paper, in the main I think our views have been taken into account in the development of the legislation. There are a couple of areas, though, that perhaps might still benefit from further consideration, such as the definition of a "responsible entity" and what is a "parent" given that some families we are dealing with have more complex relationships than might be included in the scope provided by the definition of a "parent". Some of the other matters mentioned, including powers for courts and the monitoring of the orders, seem to be clarified by the later discussions with the Office of Crime Prevention about its practicalities rather than the legislation itself. In the final part of the submission we discussed resource implications. However, during those further discussions with other agencies we have clarified what may be expected of the police in relation to investigations. It seems, at this stage, that we would not be conducting investigations, case management or prosecution on behalf of those other agencies.

The other matters in relation to information sharing we are quite pleased to see because it is our experience that one of the main barriers to effective cross-government working relationships between agencies is the ability to exchange information. We would be keen in the later development, which does not relate specifically to the legislation, for the guidelines to reflect the particularly sensitive nature of some of our information or intelligence holdings. We may have information that we are not able to release because it may be necessary to protect particular people by not releasing it. The only other part in relation to the specifics of the legislation relates to the taking of evidence from children. I note that whilst there is mention about reducing trauma on

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children, there was not any reference to the ability to take video evidence from children, which might be an additional safeguard and measure that could be taken to reduce the trauma on children.

[2.31 pm]

**The CHAIRMAN:** The submission refers to the concept of parenting agreements and orders and other case management tools that are similar to the Strong Families Program. Will you briefly tell the committee how the Strong Families Program works and whether it carries any penalties for non-compliance?

**Mr Bell:** That program is a Department for Community Development program. It is not a community policing program, although we are partners in that. From my experience of working in the districts, district or regional committees are set up through a coordinator and the agencies work together. In a similar manner, the proposed legislation provides for agreements. The Strong Families Program is a voluntary process whereby more than one agency deals with a client. If a family agrees to engage in the process, the agencies can work together and, within the available legislation of information sharing, and subject to the memoranda of understanding we have in place, the police provide some limited information sharing. The idea is that the agencies can focus their work for particular clients. The difference between that program and the provisions of this legislation is that this legislation caters for families who do not wish to participate in such a program. Matters can then be elevated to the next level, and an order can be made that compels the family to attend a program.

**CHAIR:** On the question of moving from the DCD umbrella into the criminal justice area, does the WA Police Service believe there is some merit in shifting the program for assisting parents into the criminal justice arena?

**Mr Bell:** When the provisions of this legislation provide for an order for parents who do all they can to ensure that they attend programs and those types of matters, it is a case of providing stronger encouragement for parents to take on that responsibility. The police are not particularly keen to get involved in the prosecution side of that. Western Australia in particular suffers from an unfortunate legacy regarding the relationship between the police and Aboriginal people. The carrying out of government policy has impacted severely on relations between the police and Aboriginal people. We are keen to not get involved in similar matters that would involve the police in the criminal prosecution of people for bad parenting or for failing to parent properly. We do not consider that to be a police role in a criminal sense. Indeed, an application for an order by other agencies requires authorisation from an agency before a prosecution can be brought. That makes it quite different from the police enforcement of other legislation of its own volition. It is quite separate from us. We can see the benefit in assisting parents to help in their parenting obligations.

**CHAIR:** Do you have any information about the impact of the parenting responsibility laws of New South Wales, particularly on Aboriginal families in regional towns?

**Mr Bell:** No, I do not.

**CHAIR:** The submission states that neither the Children's Court nor the Magistrates Court has the power to order parents to attend court. Is notice of an interim parenting order sufficient? What is the advantage of issuing a summons in that case?

**Mr Bell:** In which case?

**CHAIR:** In the case of ordering parents to attend court. The interim parenting order can carry a summons. I will rephrase the question. The stakeholders have told the committee that one of the difficulties they had with the interim parenting orders is the ability of parents to know of them in full detail and to prepare a defence to an application of a parenting order. They felt that the provisions in the bill were insufficient for parents to adequately prepare themselves for natural justice. Do you agree or disagree with that view? Are the provisions within the bill sufficient for people to adequately defend themselves?

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**Mr Bell:** I liken it to the provisions for interim violence restraining orders or misconduct orders. In those cases, the provisions for interim orders are made without the typical opportunity for the respondent to prepare a defence because the seriousness of the case warrants early intervention. Consideration must be given to whether the behaviour of a child had reached the stage at which immediate intervention by a court was required. Given the threshold of behaviour, it seems to be a systematic course of conduct. I am not convinced that we would need to take urgent action that would prevent a parent from receiving notification and from being prepared to present his or her case to a court. That is a long way of saying that the provisions of this bill should be weighed against similar provisions. I do not necessarily consider them to be equal. In this case it is in the child's best interests and it is beneficial for a court to have more information.

**Hon GIZ WATSON:** I will expand on that slightly. It seems to me that if the danger to the child was critical and imminent, an application would be made for either a restraining order or to have the child removed from danger.

**Mr Bell:** That is right. An application could be made for a restraining order to stay away from a place.

**Hon GIZ WATSON:** Other options could be applied if the situation was dependent upon time constraints.

**Mr Bell:** That is right. If a child was at risk, other legislation would be used. You have captured it.

**Hon GIZ WATSON:** The arguments for the need of urgency are not particularly strong in the case of an interim order.

**Mr Bell:** I have yet to see sufficient evidence that they equal those that warrant that provided by the restraining order legislation.

**Hon SALLY TALBOT:** My question picks up on a similar point. You are aware that the new Children and Community Services Act came into force a week ago. Various stakeholders have suggested to the committee that the provisions of the bill that we are considering today could be adequately picked up under that act. Do you have a view about that?

**Mr Bell:** I have not had sufficient time to get across the provisions of the act in its final form.

**Hon SALLY TALBOT:** Would you be prepared to take that question on notice and provide the committee with a response?

**Mr Bell:** Certainly.

**The CHAIRMAN:** That concludes the questions that the committee has for you today. Thank you very much for assisting the committee in its inquiry.

**Hearing concluded at 2.41 pm.**

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