



Speech for Chief Judge
Family Pathways Network Annual Conference
Pan Pacific Perth
Tuesday, 14 May 2014

I would like to thank Brett Collard for his generous and thoughtful welcome to Noongar country.

And I too acknowledge the Noongar people, the traditional owners of the land on which we meet this morning, and I pay my respects to their elders, both past and present, and also to the elders of the other lands around our state where these proceedings are being broadcast.

I would also like to thank the Family Pathways Network, and your Chair Julie Jackson, for inviting me to open the “2014 Family Pathways Conference; Below the Tip of the Iceberg – Using attachment and trauma informed practices to support families”.

I think it’s safe to say that everyone here today has first-hand experience – at least through their work - of the complexity of the issues that many WA families face in a relationship breakdown. Providing assistance to families, many of whom have suffered the trauma associated with family violence, drug and alcohol abuse, mental health and child abuse, can present significant challenges, and those of us who work at the Family Court of Western Australia are no exception.

By improving our knowledge of trauma informed practice, we should all gain a better understanding that many of the people who present to us have

experienced significant trauma and also understand what that may look and feel like for them. It is also important that not only do we, as professionals, find better ways to assist people who have been affected by trauma, but also ways to keep our own wellbeing in check so we don't burn out.

I think this is particularly important for those of you involved in dealing with the trauma and hurt that has been inflicted on our indigenous people and our refugee population who have in so many cases not only had to cope with the primary trauma which they have suffered but the further trauma of demonization inflicted by some members of a seemingly uncaring and unwelcoming majority population who themselves arrived on boats.

One small but important initiative recently developed by the Family Pathways Network is the "Walk in Their Shoes Tour" at the Family Court. For those who are not aware of this program, it was inspired by the "Walk in Her Shoes Tour" which gave participants the opportunity to experience first-hand the process a victim of family and domestic violence had to follow in order to obtain a Violence Restraining Order. The "Walk in Their Shoes Tour" takes those attending on something very roughly approaching the very real journey that a parent undertakes when applying to the Family Court for orders about their children.

We have had a lot of very interesting feedback from those who have participated in these tours. Some of that feedback expressed surprise about the extent to which the work of the Court is devoted to parenting matters. It would appear there is a perception in some parts of the community that the Family Court predominantly focusses on financial disputes, and more specifically on what are called "big money" cases. In fact, the majority of the work for our Judges, Magistrates and Family Consultants is concerned with disputes about children.

In order to dispel any myth that might exist, I thought I might take a little time this morning to share some statistics to give you an idea of what we actually do around the corner in Terrace Road. By the way if any of you try to use Google to work out where to find us, I should warn you that Google thinks we are at 150 St George's Terrace, whereas we really are at 150 Terrace Road, as a rather annoyed visiting Judge from Brisbane found out recently.

In the financial year ending 30 June 2013, of the Form 1 - Initiating Applications for Final Orders - that were filed, 1633 sought parenting orders. This equates to approximately **two thirds** of all Form 1 applications filed. Quite apart from the judicial time devoted to dealing with these cases, the resources of the entire family counselling and consultancy service at the Family Court exist purely to deal with these parenting applications.

Now breaking down those statistics a little further, it's important to have an understanding of the types of parenting cases we are receiving. As many of you will know, the legislation provides that a person seeking assistance from the court in a parenting dispute must have attended (or at least attempted to attend) some form of mediation or family dispute resolution, unless they fall within one of the exemption categories.

The main categories of exemption are where there are reasonable grounds to believe there has been child abuse or family violence or where the matter is very urgent or where one of the parties is unable to participate effectively in family dispute resolution.

In the last financial year, 53% of applications for parenting orders were filed with an exemption certificate. This means that for one reason or another, the parties came to court without having attempted to resolve their dispute

externally. It would be fair to say that many of these cases involve families where there has been some form of trauma experienced by a member of the family. And in many cases, that trauma will have been longstanding and will have had ramifications well outside the immediate family presenting to the court.

In those cases where mediation has been attempted, and a Family Dispute Resolution Certificate is filed in conjunction with their application, the most common statement in the certificate is that the respondent either failed (or refused) to attend mediation - or the Family Dispute Resolution Practitioner has determined that mediation was not appropriate or could not continue in the circumstances. In many cases, this will have been due to the identification of family and domestic violence, or child abuse.

Our statistics suggest that only about 20% of exemption certificates state that the FDR practitioner considered both parties actually made a genuine effort to resolve their dispute at mediation.

So it can be seen that the cases we are most likely to see at the court are those involving alleged child abuse or family violence or where one party has refused to be involved in an attempt to resolve the case by mediation.

These are therefore likely to be cases requiring intensive resources, sometimes over a period of years, with emotions running high and with a legal decision not necessarily resolving the underlying problem. And, of course, the concern is that the process itself has the potential to re-traumatise those who have already suffered trauma before coming to the court.

When these cases present to the court our immediate thought is not the traditional one of working out the legal answer. Our first concern is to identify

risk factors for the parties and for their children. And what do the statistics tell us about this? Last year, our Family Consultants conducted 1093 Case Assessment Conferences to identify risks. In 53% of those, three or more risk factors were identified. To break that down further, in 69% of matters, issues around family violence were identified. 59% saw issues around substance abuse. 51% dealt with child abuse and in 50% of cases there were concerns about mental health.

Those with math skills will note that these percentages do not add up to 100%. This is explained simply by the fact that when one risk issue is identified, it often means there are others along for the ride. For example, we know that substance abuse issues often go hand in hand with family violence and child abuse. It is therefore rare for one risk issue to stand alone in these parenting matters.

Then add to that the fact that, last year, almost exactly 50% of applications seeking parenting orders were filed by parties who did not have a lawyer. We do what we can to assist parties who don't have a lawyer, and we know that most of these clients can't afford a lawyer and others have chosen not to have a lawyer for what they consider are good reasons. However, unrepresented parties present a challenge for the court, and more importantly they present a challenge for the other party, especially in cases where that party has been either the perpetrator or victim of abuse.

If we then add to this picture the fact that in property cases, we have about one third of parties unrepresented, you will begin to get a picture of the significant strain on the court's capacity to deal with the high volume of work coming before it.

And just in case these statistics have not quite managed to put you to sleep, can I tell you that we have seen a 10% increase in the filing of applications seeking parenting orders in the 12 months to March 2014. We have not yet been able to identify the cause of this fairly substantial increase, however if this is to continue from one year to the next, the stress on the already stretched resources of the Family Court can only increase, unless the court is given additional resources.

It's important to recognise that the cases we see are just the tip of the iceberg. There are many more family breakdowns where the issues are sorted out within the family itself – sometimes unfairly and sometimes unsafely. Many others are dealt with by agencies represented here today. What this means is that every element of the family law system is vitally important because we all deal with different families in crisis.

It's therefore important also to accept that the Family Court should not be seen as the apex in the family law pyramid. The Court certainly sees many of the more troubling cases and we are potentially more visible than some other agencies in the system. But we are just part of the system and we cannot work effectively without the support and cooperation of all the other parts of the system that come together here under the umbrella of Family Pathways.

One of many things we all have in common is that our resources are stretched – and in some cases a lot more stretched after last night's announcements! We also know that giving resources to one area may well mean taking some away from another. But the one thing that unites us in our difficult work is that we focus on achieving the best outcomes for children that we can achieve given the limitations of our resources and given the capacity of some of our clients to behave in a way that ignore the best interests of their own children.

Coming together on occasions like today to improve our understanding of our client base, and learning to appreciate why they behave as they do, is a vital part of our professional development.

The statistics I have mentioned this morning go some small way to showing the extent to which trauma for parents and children is very much engrained in the work we do. I think it is therefore timely that we take the opportunity today to hear from Nancy Poole, Tom Powell and other experts and reflect on our own understanding and practices in dealing with our vulnerable client group.

In our work at the Family Court we rely heavily on the feedback and input from you. We are aware of the wealth of knowledge and experience that underpins the programs you offer to people who are separating. Although we know that sometimes you might think we have not heard you, our decision-making is greatly enhanced by the expert assistance we receive from you, and more importantly that our clients receive from you.

Information sharing is a key issue for all of us. I know this can present a real challenge at times but it is important a message be sent to the community that issues around family and domestic violence must not be shrouded in secrecy, and that safety should trump all other considerations. The work of the Royal Commission that has been sitting in Perth recently reinforces how dangerous secrecy can be for vulnerable people, especially the young. Public discourse about behaviour which inflicts trauma on families can only assist in creating a shift in attitudes and behaviours to make the world a safer place for children and vulnerable people.

I have taken up enough of your time, which will be better spent hearing from the experts assembled today, both local and from overseas.

But, to end on a more uplifting note, I am pleased to announce the commencement of a terrific new project that the Family Pathways Network has been working on in conjunction with the Family Court.

Commencing around June or July of this year, Family Pathways Network will be launching an on-site kiosk service at the Court, to provide clients with referrals to non-government organisations in our sector. These include:

- Family Relationship Centres;
- Family Violence and Anger Management courses;
- Victims of Family Violence programs; and
- The many other services offered by agencies such as ARCS, Anglicare, Centrecare, Communicare and Relationships Australia.

In future, if a client comes to the Family Court, not having had any contact with these non-court based services, the worker assigned to the kiosk will be able to provide warm referrals to the appropriate service and assist with first interviews for intake and assessment.

It is our hope that this new service will greatly assist people who are in need of these programs or services, and I applaud the hard work that has been done by the Family Pathways Network in setting up the initiative.

I am also very pleased to have permission from Family Pathways Network to announce that Cassie Docherty has been appointed as the inaugural Kiosk Information Officer. Although the kiosk is not operational yet, Cassie has already commenced her induction with the Network and has been assisting with preparations for today's conference. I warmly congratulate her on this appointment.

And on a sadder note, Cathryn Williams is leaving her position at the Family Pathways Network and her position is currently being advertised. The first time I heard from Cathryn was when she sent out an email to all Pathways members introducing herself as the new Network officer and providing some information about a workshop. I thought this might be of interest to my daughter who was working at Legal Aid. So I suppose Cathryn got a bit of a surprise when instead of forwarding her email, I replied to it, starting with “Hi sweetie, I thought you might be interested in ...etc” . Anyway, Cathryn said she was very pleased with this rather personal greeting because part of her job description is to maintain close links with the Family Court!!

I know I speak on behalf of everyone when I wish Cathryn the best of luck in all future endeavours and I know she will be missed by everyone at Family Pathways.

In closing, I again thank Julie and the organising committee for asking me to speak at this conference. I won't formally declare it open as I suspect it's going to go ahead anyway! But I want to conclude by saying that it is through the commitment and energy of everyone in this room that we have the very cohesive family law system that we have in Western Australia and I am confident that today's conference will build on that.

*** With many thanks to my Senior Research Officer, Prue Hawkins, for her assistance with this presentation.*