Some points, cases, legislation and media that could be used in student responses:

- **Divorce**
  - **Family Relationship Centres** referred to FRCs. One candidate mentioned family centres perhaps leaving out relationships, but not writing anything about them.

**FRCs**

Family Relationship Centres are a source of information and confidential assistance for families at all stages in their lives.

Centres have a focus on providing family dispute resolution (mediation) to enable separating families achieve workable parenting arrangements outside the Court system.

Whether you are going through separation, starting a relationship, want to make your relationship stronger, or having relationship difficulties, the Centres can help.

Sixty-five Centres have been established throughout Australia.

Funded by the Australian Government, the Centres are staffed by independent, professionally qualified staff offering confidential and impartial services in a welcoming, safe and confidential environment.

All the Centres have facilities for children and free internet access to help you find more information online. Many of the services are free or are offered on a sliding scale, according to your level of income.

Where families separate, the Centres provide information, advice, group sessions and dispute resolution to help people reach agreement on parenting arrangements without going to court.


- Grounds for divorce - irretrievable breakdown of marriage

- **Legal consequences of separation** (very few Wenona School candidates referred to this aspect as a problem in families)
  - children
  - property

- **Dealing with domestic violence**
  - Andrea Patrick case – The following bills were put into NSW parliament in 1993 after Andrea Patrck’s death. Crimes (Domestic Violence) Amendment Bill; Bail (Domestic Violence) Amendment Bill. Both became legislation.
Jean Majawali case –
Report on stalking and violence against women:

ADVO breaches
The Family Law Legislation Amendment (Family Violence and Other Measures) Act 2011 is aimed at “provide better protection in family law cases where there is family violence and abuse”. (Source:

Other sources:
http://safetyinfamilylaw.com/
Lifeline by Wayne Gleeson Vol 5 No. 5 2102 article titled: “The ‘Family Violence’ Act 2012 Amendments”.

The Best Practice Principles recognise:

- the harmful effects of family violence and abuse on victims
- the place accorded to the issue of family violence in the FLA and
- the principles guiding the Magellan case management system for the disposition of cases involving allegations of sexual abuse or serious physical abuse of children.


Three main (LEGAL) responses to domestic violence:
- ADVOs’
- Injunctions
- Police charges

The roles of:
- courts and dispute resolution

- Ineffectiveness of DOCs now called Community Services
- Baby Ebony
- CROC Best Interests of Child
- Child (Care and Protection) Act 1998 (NSW)

The Children and Young Persons (Care and Protection) Act 1998 talks about the child protection system in NSW. It explains how children and young people, who are at risk or being abused, should be cared for in NSW and how vulnerable families should be helped.

It outlines the responsibilities of Community Services and other agencies, as well as parents, authorised carers.
The Act covers things such as when to make a report of abuse or risk of harm, what happens when a report is made, and what happens when child or young person can't safely live with their family.

It outlines ways of working with children, young people and families to help them to remain safely at home, and reduce the need for them to enter care.


- **Wood Royal Commission**
  
  
  
  - **BWS – Osland case**
  - **Recent amendments to Crimes (Domestic Violence) Act**
  - **Inheritance**
  - Property settlement 95% of matters sorted without court intervention

50/50% split


John Howard proposed to remove the current two tier property scheme ie married couples under the Family Law Act and non-married couples under State and Territory legislation. However, he proposed that there be a different two tier scheme- married and heterosexual couples under the Family Law Act, but same sex couples arguing over property would remain in the State and Territory jurisdiction.


- **Pre-nuptial agreements**

Couples already married can also have a binding financial agreement, but it is made pursuant to s.90C of the Family Law Act.

The lowdown on prenups
An increasing number of Australians use prenuptial agreements to stipulate how financial assets, such as a house, a business or super, will be divided if they separate. Married or de facto couples can enter a binding financial agreement before marriage or at any time during their relationship.

A prenup can be simple, stating that what each party brings to the marriage is theirs but any future property is to be divided according to the percentage each contributes.

A large inheritance, a business or superannuation can complicate matters. To be legally valid, both parties must have independent legal advice and they and their solicitors must sign off on the agreement.

Solicitors must state that their client has been advised of the advantages and disadvantages of entering into the agreement.

While prenups are legally binding, they don’t affect the rights of children to child support, and the Family Court has the power to overturn them if there is evidence of fraud or unconscionable conduct. They must also be fair.

"Someone might anticipate inheriting $10 million and don’t want their wife to get her hands on it. That’s totally unrealistic if the marriage lasts 10 years, they have children and the inheritance is received early in the marriage," a family law specialist, Katrina Bristow, says.

She says a prenup can cost from $3000 to $50,000 for more-complex agreements. By comparison, a property settlement in the Family Court upon divorce can cost anywhere from $5000 for a hearing to $500,000, where assets have to be valued, finances are complex and conflict is high.


- The Family Law Amendment (De Facto Financial Matters and Other Measures) Act 2008 permitted heterosexual and same-sex relationships to have property settlement occur within the Family Court.

The De Facto Act amends the Family Law Act 1975 (FLA) to confer jurisdiction on the federal family courts to hear and determine matters related to the breakdown of de facto relationships. This will apply to both same sex and opposite sex de facto couples. The De Facto Act creates a uniform and consistent Commonwealth de facto property scheme that applies in all States other than South Australia and Western Australia, and also applies in the Territories.


- FLA (Shared Parental Responsibility) 2006
Methods

Staying at Home Leaving Violence program (SHLV) NSW project
The Staying Home Leaving Violence program helps women and children escaping domestic violence to remain safely in their homes. Services funded under the program work with the police and courts to remove the violent family member so that if she chooses, the victim and children can stay in the home. Clients receive support services ranging from practical assistance such as installing security measures in their homes and help with financial, legal and personal problems.
(Source: http://www.community.nsw.gov.au/docs_menu/for_agencies_that_work_with_us/our_funding_programs/shlv.html)
Other info.:

- Keep them safe (mandatory reporting)
- Magellan Project
  http://www.familycourt.gov.au/wps/wcm/connect/FCOA/home/about/Media/Fact_Sheets/FCOA_mc_Magellan_program

- Non-government organisations
- Dads in Distress
- NGOs Red Cross Salvation Army

- The media
- Re Tracey case (2010)
  http://www.abc.net.au/radionational/programs/lawreport/re-tracey/3665536
Recognition of same-sex relationships

Same-sex de facto couples and their families have the same entitlements as opposite-sex de facto couples and their families.

Removing discrimination

The Government's same-sex law reform package passed through Parliament in November 2008. The reform removed discrimination against same-sex de facto couples and their families in areas such as taxation, superannuation, social security and family assistance, the Pharmaceutical Benefits Scheme Safety Net and the Medicare Safety Net, aged care, veterans' entitlements, immigration, citizenship and child support and family law.

For more information on the same-sex law reform package go to the Attorney-General’s Department website.

Equal treatment

The changed laws mean some same-sex couples and their families are now entitled to receive benefits previously not accessible.

Entitlements may include:

- partner concession card benefits
- bereavement benefits if a partner dies
- exemption of the family home from the assets test when one partner enters nursing home care and the other partner continues to reside there
- recognition as independent for Youth Allowance if in a same-sex relationship for over 12 months
- lesbian relationships recognised as a qualifying relationship for Widow Allowance
- War Widow or widowers pension
- access to the Child Support Scheme
- access to the Pharmaceutical Benefits Scheme and Medicare safety nets as a family
- allowing private sector superannuation trustees to make same-sex couples and their children eligible for reversionary benefits
- enabling reversionary benefits from Commonwealth (defined benefit) superannuation schemes to be conferred on same-sex partners and the children of same-sex relationships
- tax concessions.
Some same-sex couples and their families may have their benefits reduced to the same entitlements received by opposite-sex couples and their families in the same circumstances.

Social security and family assistance

From 1 July 2009 changes to social security and family assistance legislation mean that all couples are recognised, regardless the gender of a partner.

Same-sex couples now receive the same entitlements, are assessed in the same way, and have the same obligations, as opposite-sex couples.

Social security and family assistance payments may be affected depending on individual circumstances and the type of payment received. Most payments are assessed based on the combined income and assets of both partners.

If you are in a same-sex relationship and are living together, or usually live together as a same-sex couple you need to advise Centrelink or the Family Assistance Office. If you don’t advise Centrelink your entitlements might be overpaid and will have to be repaid.

The Centrelink Financial Information Service (FIS) is a free, confidential service that can help you make informed financial decisions. FIS officers can provide information over the phone, at personal interviews, and through financial-education seminars held in a range of locations across Australia. To find out more go to the Department of Human Services website. Centrelink social workers are also available to provide counselling, support and referral services as needed. To speak to a Centrelink social worker call 13 1794 or to make an appointment to see a social worker at your local DHS Service Centre go to Department of Human Services website.

Dad and partner pay

Dad and Partner Pay is a new payment under the Australian Government’s Paid Parental Leave scheme. It’s now available to eligible working dads or partners (including adopting parents and same-sex partners) who care for a child born or adopted from 1 January 2013.

It provides up to two weeks of government-funded pay at the rate of the National Minimum Wage (currently about $606 per week before tax). For more information go to the The Departments website.

Child support
If you are a parent, or non-parent carer, and have children from a previous same-sex relationship you may be eligible for child support.

If you have a child from a previous same-sex relationship you must take reasonable action to obtain child support to get more than the base rate of Family Tax Benefit Part A for that child. If you do not take reasonable action, you may have to repay some of your Family Tax Benefit Part A.

For more information go to the Child Support Agency website.


ACCESSED BY: K Thomas @7.33am on Sun August 9th, 2015.

'The system is failing the children of this state': most child abuse cases closed early, says PSA

June 26, 2013 Julie Power

Only 30 per cent of NSW’s most serious child abuse cases are fully investigated with a visit by a case worker because of staff shortages, says the Public Service Association, which represents social workers.

That means as many as 70 per cent of cases potentially like Kiesha Weippeart's may be closed without a visit from a social worker.

We clearly have a social problem of failing to support families and we are stripping away institutional support.

These cases were usually shut with the note "due to competing priorities", said Robin Croon, an organiser with the Public Service Association of NSW.

"The system is failing the children of this state," she said, while stressing case workers were doing their best with limited resources.

On Tuesday, the government refused to say exactly how many caseworkers were employed, or whether this number had dropped in recent years. Instead, a spokeswoman said there were "over 2000 Community Services caseworkers in NSW, as there have been for a number of years".

The Department of Community Services also refused to comment on the management of Kiesha's case, as did Community Services minister Pru Goward.

Ms Croon said there might be 2000 positions but the real issue was the "number of bums on seats".
In some parts of the state, as many as 20 per cent to 50 per cent of caseworker positions were vacant. In the past two years, not one new social worker had sat the department's entry test, a requirement for any new caseworker.

Ms Croon said if there had been more caseworkers, more may have done more to protect Kiesha.

A report by the NSW Ombudsman Bruce Barbour earlier this year into reviewable child deaths in NSW found two-thirds of the families of the 77 children who died or were suspected of dying of abuse, neglect or in care in 2010 and 2011 had a child protection history.

"In some cases, families had been the subject of frequent reports," he said. "We found that risk was not adequately assessed, or not assessed at all because of competing priorities and gaps in casework."

Minister for Family and Community Services Pru Goward has said caseworker numbers go up and down and has promised more detailed figures later this year.

Court documents revealed Kiesha had only attended school four times in her life and she had suffered repeated bruising and abuse, including cigarette burns inflicted by her mother. "She shouldn't have been out of school for that length of time," Ms Croon said. "And if there were enough case workers, then more children would be in safe placements."

Experts said the sheer number of cases was swamping social workers, causing many experienced caseworkers to leave because they had become burnt out and had been traumatised by the cases they had seen.

Across Australia, there were more than 300,000 calls to child abuse help lines in 2011-12, often concerning the same children.

According to Martha Knox-Haly, who has studied child abuse in NSW for nearly 20 years, everyone is under pressure.

"When you have got this kind of volume, it is hard to keep track and effectively triage," she said. "We clearly have a social problem of failing to support families and we are stripping away institutional support for them."

Dr Knox-Haly, an organisational psychologist who runs MKA Risk Mitigation, said the number of working parents living below the poverty line had increased, the availability of foster care was limited, and more families at risk were slipping through the net as they moved from rental property to rental property in search of affordable housing.

According to Tim Beard, the head of child welfare data with the Australian Institute of Health and Welfare, the number of substantiations (serious cases) rose by nearly 8000 in 2011-12 to 48,000 cases after falling for the previous four years.

A substantiation occurs when an investigation finds there is enough evidence to show a child has been or is at risk of abuse or harm.

He said this jump could indicate caseworkers had got better at identifying children most at risk and were also clearing a backlog of more serious cases.

"There can't be a sudden spate of child abuse and neglect - you don't suddenly see 8000 new cases," he said.


ACCESSED BY: K Thomas @11.50am on Sun August 9th, 2015.
More children than ever not seen by DOCS

September 1, 2014

Anna Patty, Workplace Editor

The number of vulnerable children at risk of serious harm who are not seen by a Department of Community Services caseworker has increased to a record 53,151 in NSW, the latest state government figures show.

While the number of children being reported to the Department of Community Services has also grown by more than 3000 to 72,243 since the last quarterly update, the proportion of children receiving a face-to-face assessment has fallen from 27 per cent to 26 per cent. That is despite an extra 704 children being seen and an extra 86 caseworkers being hired.

A senior NSW casework manager said the figures failed to show the high proportion of temporary staff being hired.

"What the government hasn't said is that the positions are temporary workers who are not yet qualified to assess children," he said.

"And what the statistics don't show is the number of children who are being dealt with over the phone by third parties who close their cases when they are not considered serious enough to warrant a face-to-face investigation.

"Closing cases does not mean these cases are not serious and that they do not need a face-to-face assessment."

Department of Family and Community Services secretary Michael Coutts-Trotter said caseworker vacancy rates have fallen from 9 per cent in the March quarter to 5 per cent this quarter – the biggest decline since mid-2013, when the former minister of his department, Pru Goward, had promised to fill vacancies.

Ms Goward came under fire for inflating the number of caseworkers at the coal face after a series of high-profile fatal abuse cases came before the courts.

Mr Coutts-Trotter said an extra 86 caseworkers had been employed in the past quarter.

Opposition spokeswoman for family and community services Linda Burney said the number of reports of children at risk of significant harm had reached a record high.

"The scale of the problem is just staggering and it keeps growing with each month." She said that "53,151 children isn't just a statistic – it is a human tragedy occurring in our midst and with our silent acquiescence”.

"These are vulnerable children whose basic safety and welfare is not being attended to.

"The Baird government's lack of focus on intensive, targeted programs to prevent child abuse borders on the negligent."

Nine months ago, 64,470 children were reported as being at risk of significant harm. Of those, 46,779 did not receive a face-to-face assessment.

The latest figures show that of the 72,243 children reported to the department, the number who received a face-to-face assessment increased by 704 to 19,092 – which still left 53,151 children who were not seen by a caseworker.
Minister for Family and Community Services Gabriel Upton said the latest figures show a decrease in the caseworker vacancy rate and an increase in the number of children being assessed, but also "highlight where there is more work to be done".

She said the government had increased the budget to boost child protection services.

"We will invest half a billion dollars over four years to improve the system and, most importantly, outcomes. The reforms will help our caseworkers focus on people, not the paperwork," she said.

In April, NSW Ombudsman Bruce Barbour found that the department could not cope with its workload. He was also critical of the department's ability to work with police and the departments of Health and Education to safeguard children.

"There is inadequate capacity to protect children from harm in the system," he said.

ACCESSED BY: K Thomas @11.51am on Sun August 9th, 2015.

DOCS failed Ebony by ignoring all rules

October 18, 2009

A bit of common sense could have prevented the seven-year-old girl’s tragic death.

THINGS seem clearer with hindsight but it’s clear foresight and common sense could have saved Ebony’s life.

The seven-year-old starved to death in her bedroom after years of neglect at the hands of her parents, who are both in jail, and the State Government department responsible for child protection. Community Services Minister Linda Burney has been stating the bleeding obvious when she has repeatedly pointed out that Ebony’s death was down to her parents.

Not all parents are competent and loving. Some are deranged and some downright vicious and that is the very reason Burney’s department exists – to provide a safety net for children at risk of harm.

The discovery of Ebony’s wasted little body in November 2007 sent shockwaves around NSW and put a rocket under the department which failed spectacularly in its duty.

Ebony’s case has been extensively detailed but it is instructive to focus on the unidentified child protection worker who was asked, in April 2007, to visit the home, interview the parents, ascertain the children’s whereabouts, sight the children and interview them if possible.

If necessary, a search warrant was to be obtained.

By this stage, DOCS had been involved, to varying degrees, with the family since long before Ebony was even born.

At the time DOCS sent a staff member to Ebony’s family home in April 2007, they had been told by the Housing Department that the house was filthy and by the Education Department that none of the children were attending school. Ebony had never been to school.

This alone should have alerted the senses of the DOCS worker. For good measure, this person was told by a Housing Department staff member that (to quote the recent report of Ombudsman Bruce
Barbour) “... the father was evasive and would not allow her to sight the children’’ and “‘she was concerned the children may be being kept locked in bedrooms’’.
The alarm bells of anyone with a shred of common sense and commitment would have been ringing by now.
The DOCS officer went to the house but no one was home. When she went back three days later, she bumped into the father as he arrived home. There was some argy-bargy about what was happening with the children and the officer was fobbed off with stories about their pending medical appointments.
A week later, the DOCS worker and a colleague went back to the house where they sighted the two older girls. Those girls said Ebony was next door; the father said she was asleep in her room.
More than a week earlier this worker was told in no uncertain terms to sight the children and speak to them.
But Ebony was completely overlooked.
If you were sent to check on a child who had never been to school, lived in a filthy house with weird parents suspected of locking their kids in their rooms, wouldn’t you absolutely insist on seeing that child?
Wouldn’t you go into the bedroom where she was allegedly sleeping? Wouldn’t you pop next door to the neighbours, where she was allegedly visiting?
Of course you would.
Despite the misery he encounters, Barbour must be an optimistic fellow.
His recent special report to State Parliament on Ebony’s life and death concludes that we are at the dawn of a new age of child protection in NSW.
He confidently predicts the State Government’s acceptance of the bulk of the recommendations of Justice James Wood, who headed a special inquiry into child protection set up after Ebony’s death, “‘will lead to a vastly changed child protection system in this state’’.
The problem is that all the red tape under the sun will not help kids if front-line child protection workers simply ignore the rules, as they did with Ebony.
And new rules and regulations are no substitute for common sense, a vital skill sorely lacking in this tragic saga.
This was a dreadful, obvious case of child abuse. All the signs were there. There were frequent “‘risk of harm” reports made to DOCS but, for some reason, about 10 of them were not on the family’s file.
If DOCS couldn’t get this one right, what hope is there for kids on the borderline?
There has to be a case for the workers’ education to be regarded as less important than common sense, determination and life experience.


ACCESED BY: K Thomas @11.51am on Sun August 9th, 2015.
FADEN & FADEN

FAMILY LAW – CHILDREN – Best interests – Where there are four children of the marriage – Where there is significant hostility and distrust between the parents – Where the two older children have expressed a wish to live with the father – Orders made for each of the parents to exercise sole parental responsibility in relation to two of the four children – Orders made for the two older children to live with the father and the two younger children to live with the mother.

FAMILY LAW – PROPERTY SETTLEMENT IN RELATION TO MARRIAGE – Where the parties cohabited for 13 years – Where there are four children of the marriage – Where the father earned a greater income during the marriage and the mother undertook most of the home-making duties and care of the children – Where the mother made substantial financial contributions through an inheritance received prior to and after separation – Contributions assessed at 73 per cent to the mother and 27 per cent to the father – Adjustment of 2 per cent in favour of the mother to take into account the father’s higher income and the mother’s lack of employment and health problems – Orders made with the agreement of the parties that part of the mother’s entitlements be realised through the mother retaining 100 per cent of the parties’ superannuation.


Kane & Kane [2011] FamCA 480 (22 June 2011)

FAMILY LAW - PROPERTY SETTLEMENT – Determining matrimonial asset pool – add backs – assessment of reasonableness of expenditure – where husband’s superannuation interests have vested – husband’s superannuation interest constitutes divisible property – parties’ superannuation interests included in asset pool

FAMILY LAW - PROPERTY SETTLEMENT – Contributions – contributions assessed with respect to superannuation interests – financial contributions to superannuation made from funds jointly held by the parties – equal financial contributions – husband’s investment skill and expertise greatly increased parties’ superannuation interests – finding that husband’s contribution to superannuation interests greater than the wife’s – contributions assessed with respect to all other assets – parties agree pre-separation contributions were equal – post-separation contributions were equal
FAMILY LAW - PROPERTY SETTLEMENT – Adjustments – husband is retired – husband has access to superannuation – wife has capacity for employment – wife’s income earning capacity inferior to the husband’s – wife cohabits with new partner – wife’s current partner earns comfortable income – financial support of youngest child paid from parties’ joint funds – no adjustment

SOURCE: [Link to Case]

Jonah & White [2011] FamCA 221 (4 April 2011)

FAMILY LAW - DE FACTO RELATIONSHIPS – where applicant seeks declaration pursuant to s 90RD that the relationship was a “de facto relationship” – where parties in a relationship for seventeen years – where respondent married for entire duration of relationship – where relationship was clandestine – where parties lived separately – where parties did not share any property – where parties did not pool resources – where parties only saw each for a couple of days every two to three weeks – whether the parties were living together on a “genuine domestic basis” – the parties’ relationship was not a “de facto relationship”

SOURCE: [Link to Case]

FAMILY LAW – CHILDREN – With whom the children live – where the children are both teenagers – where one child consistently absconds from the father’s care – where the other child does not – where the children live with different parents – where the father asserts the mother undermines his relationship with the child – where child’s time to be spent with father subject to his wishes – where time to be spent between the other child and the mother.

FAMILY LAW – ORDERS – CONTRAVENTION – application dismissed

SOURCE:

DELACROIX & DELACROIX 2015

FAMILY LAW – CHILDREN – Parenting – Where the mother seeks sole parental responsibility for the children – Where the children primarily live with the mother – Where the children are 17, 14 and 11 years old – Where one of the children has indicated a wish to spend more time with the father – Where there are problems with the co-parenting relationship – Whether the father can support the child’s emotional and intellectual needs – Whether the father should have equal shared responsibility for one of the children – Whether the parties should have equal time with the child – Where the youngest child is to spend substantial and significant time with the father.

FAMILY LAW – PROPERTY – Final orders – Adjustment to existing property interests pursuant to s 79 – Whether there should be an adjustment under s 75(2)
Where the wife was employed by the husband’s family business – Where both parties’ parents offered the parties loans during the course of the relationship – Where the wife claims that the husband improperly removed sums of money from the business to produce a lower valuation – Whether a transfer of an interest in a property was a gift or a loan – Where there is a 10 per cent adjustment in favour of the wife – Where the Court is not satisfied that there is a sufficient ground for a child support departure order under s 117(2) – Where the wife’s application for spouse maintenance is dismissed.

SOURCE:

**VOLEN & BACKSTROM [2013] FamCA 40**

FAMILY LAW – PROPERTY – DE FACTO RELATIONSHIP – Dates of commencement and ending of de facto relationship – Declaration made that de facto relationship existed between the parties between December 2005 and 22 April 2010

SOURCE:

**BLAN & FAULCONER BLAN (NO. 2) [2014] FamCA 878**

FAMILY LAW – CHILDREN – BEST INTERESTS OF THE CHILD – allocation of parental responsibility – with whom children shall live - children have lived with mother since separation – where the father was charged with possessing child abuse material – where the charges were dismissed – where allegations of sexual abuse against another member of the family prior to the marriage – where it is found that the father did sexually abuse another member of the mother's family prior to their marriage – evidence that father may lack capacity to provide for the children's psychological needs – presumption of equal shared parental responsibility not applied – sole parental responsibility allocated to the mother – father to spend supervised time with the children.
Kennon v Kennon (1997)

His Honour described further problems associated with assessing damages for psychological suffering, namely, whether it is possible to conclude that the psychological damage is referable to specific assaults (as distinct from other factors) and to distinguish which of a number of proved assaults it is referable to. He stated (Appeal Book vol.1 pp.57-8):-

"On the other hand where, as here, that part of the damage sustained by the (wife) as a consequence of the tortious acts of the (husband) was not insignificant psychological damage for a period, to disregard that entirely by reason of the difficulties to which I refer does seem unjust. I am not persuaded that the (wife) must establish that any psychological damage sustained by her must be proved to be solely due to the (husband's) tortious acts provided that she can establish that any such damage is to some extent causally connected with and not too remote from such acts. Courts exercising common law jurisdiction have apparently not had to deal with multiple claims of assault and battery involving the same parties. Where that occurs, particularly where the parties are cohabiting, and where other factors, as Dr McMurdo suggests in this case, have contributed to the psychological trauma suffered by the (wife), the task which confronts the Court becomes extremely difficult. Ultimately the interests of justice dictate that compensatory damages, under which heading the applicant's psychological trauma falls, must be quantified. In all the circumstances, and without suggesting that the approach attains the clarity and precision for which the common law strives, to fail to reflect as a component of the (wife's) compensatory damages in respect of those claims which I find proved, any allowance for the psychological damage which I find the (wife) sustained would mean that the Court had shied away from doing justice."
His Honour applied this approach to the evidence which he accepted. In relation to the incident in January 1992, he awarded $5000 compensatory damages for both her physical and psychological suffering though "more of that sum being referable to the [wife's] not insignificant psychological suffering than physical suffering" (Appeal Books, vol.1, p.58).

For the first of the three incidents of July 1993, his Honour awarded $3,000 compensatory damages, the "bulk of which" was for the psychological suffering. He regarded the second assault as constituting "vindictive and reprehensible" conduct on the part of the husband causing "considerable" psychological suffering to the wife, awarding $6,000 compensatory damages. He considered that the third incident was "less vicious than the second attack and more severe than the first" because "having committed the previous serious assault, the [husband] should have left the [wife] alone and kept away from her rather than persisting with his violence towards her" (Appeal Books, vol.1, p.59), and awarded $5,000 compensatory damages.


KENT & KENT AND ANOR [2012] FamCA 103

FAMILY LAW – CHILDREN – Magellan matter – with whom a child lives; with whom a child spends time – where there is evidence relating to child abuse or family violence – where it is in the best interests of the children to reside with the maternal aunt.


BRADFORD & BRADFORD [2012] FamCA 393

FAMILY LAW – PROPERTY – INTERLOCUTORY PROCEEDINGS – Husband sought that a commercial shop property being one of three real properties be sold – Wife opposed – In principal proceedings wife seeks that she have the shop property as part of the final property order – Relevant factors considered – Husband’s application dismissed

FAMILY LAW – SPOUSAL MAINTENANCE – INTERIM PROCEEDINGS – Husband sought discharge of consent interim order for spousal maintenance for wife including retrospectively arrears – Wife opposed discharge and sought order for payment of arrears – In the same proceedings by resolution of wife’s application for a Hogan order the parties consented to an order for the sale of a boat with the net proceeds of sale to be paid to the wife and characterised at the trial – Parties agreed also that the wife have net rental moneys
from the commercial shop property as “100% spousal maintenance” – Difficulty on the evidence quantifying wife’s need for ongoing spousal maintenance – Further having regard to the parties’ agreement concerning the shop net rental proceeds not satisfied on the evidence that wife has demonstrated need – In any event not satisfied husband reasonably has capacity to pay ongoing spousal maintenance – Arrears not discharged – Interim spousal maintenance order discharged however from date of hearing

SADBERRY & JABLON [2014] FamCAFC 166
FAMILY LAW – APPEAL – APPLICATION IN AN APPEAL – Application to extend time to file a Notice of Appeal – Where granting of leave is not automatic and involves the exercise of judicial discretion – Where the reason for delay in filing a Notice of Appeal is accepted – Leave granted.

Consistent with the principles set out in cases such as Gallo & Dawson [1990] HCA 30; (1990) 93 ALR 479, this is a proper case for the relief sought, and the appeal will be reinstated.
It will be necessary, however, to attach conditions to the reinstatement so the court and respondent can be confident that the draft appeal index will be presented in a timely way.


HURST & BIGGS [2012] FamCAFC 536
FAMILY LAW – CHILDREN – whether the children should continue spending time with their father – where the father engages in alcohol misuse - where the father refuses to participate in a residential rehabilitation program – where it is held that the father should spend supervised time with the children for a limited time to enable him to participate in certain programs if he changes his mind and chooses to do so – where the father alleges the mother’s new partner poses an unacceptable risk to the children – where the Court accepts the undertakings from the mother and the mother’s new partner

FAMILY LAW – PROPERTY SETTLEMENT – DE FACTO RELATIONSHIP – Where the parties were in a de facto relationship for approximately 11 years – Where there are two children of the de facto relationship – Where it is found that the parties jointly purchased the home even though it was in the respondent’s sole name – Where the respondent refused to allow the applicant to live with the children in the home after separation – Where the respondent refinanced the mortgage over the home without notice to the applicant – Where the respondent sold the home without notice to the applicant – Where the applicant has the full time care of the children – Where the respondent resides in Country E for most of the year – Orders made that the net proceeds of sale from the home be transferred to the applicant.


FAMILY LAW - CHILDREN – Parental responsibility – modified order for equal shared parental responsibility – where order made for a party to have the “management” of a child’s health and schooling issues – ambiguity in the order – reasoning employed to rebut the presumption of equal shared parental responsibility – whether orders did not reflect intentions of judicial officer as expressed in the judgment – appeal allowed – matter remitted for rehearing on the issue of parental responsibility

FIELDS & SMITH  

FAMILY LAW – APPEAL – PROPERTY – CONTRIBUTIONS – Where the appellant argued that the trial judge’s findings as to contributions were inconsistent with his rejection of a class of cases involving “special contributions” and therefore the adequacy of his Honour’s reasons was in doubt – Where the majority found merit in this complaint and confirmed there is no binding rule of “special contributions” – Where the appellant also argued that the trial judge relied on a table of “Comparable Cases” which led him into error because it contained a range of outcomes that acted as an apparent fetter on his discretion – Where the majority accepted that argument and held that the trial judge’s apparent reliance on the table constituted taking an irrelevant matter into account – Where the majority also held that the result of the trial judge was consequently manifestly unjust – Appeal allowed – Order for the respondent to pay the appellant’s costs.

FAMILY LAW – CROSS-APPEAL – PROPERTY – CONTRIBUTIONS – SECTION 75(2) – Where the cross-appellant argued an assessment as to 60 per cent in his favour as to contributions should have been the trial judge’s starting point – Where the cross-appellant also argued the trial judge erred in not making a s 75(2) adjustment in his favour – Where the Full Court rejected both arguments – Cross-appeal dismissed – Order for the cross-appellant to pay the cross-respondent’s costs.

FAMILY LAW – APPEAL – PROPERTY – RE-EXERCISE – Where the Full Court held it was just and equitable to make an order for property settlement – Where the Full Court found equality of contributions pre-separation by the parties – Where the Full Court found the assets of the parties did not alter post-separation due to the efforts of either party – Where the Full Court considered changes in the role of the wife as parent and homemaker post separation and held the changes did not reduce her entitlement to an equal division of the property – Where the Full Court held there should be equal distribution of the parties assets.

TINDALL & SALDO  [2015] FamCAFC 1
FAMILY LAW – APPEAL – AMENDED NOTICE OF APPEAL – CONTRAVENTION –
Where the trial judge found that the appellant mother contravened orders without reasonable
excuse – Where the respondent father was charged with numerous serious criminal offences
in relation to the appellant mother and the parties’ child – Where part-way through the
criminal trial the respondent father pleaded guilty to some of the charges but was released on
bail and was not sentenced until some time later – Where the trial judge found that the
commencement of the criminal trial and the guilty plea did not change the “underlying family
dynamic” and did not provide reasonable grounds for contravening the orders – Where the
trial judge erred as there was a palpable change in the family dynamic by the commencement
of the criminal trial, with lengthy cross-examination of the appellant mother, the father
pleading guilty thereafter, and the delay until his sentence – Where the trial judge erred in
finding that supervised time by the paternal grandmother would have allayed the appellant
mother’s fears of the respondent father spending time with the child – Where the trial judge
erred in relying upon notations on the court file which were not on the sealed copies of the
order provided to the parties – Where the trial judge erred in finding that the appellant mother
was not “bullied” into entering into consent orders as this finding was not open on the
evidence – Where the trial judge erred in finding that the appellant mother had joined in an
agreement for the child to spend time with the respondent father supervised by the paternal
grandmother – Where the trial judge erred in finding that the statements of a police officer to
the mother that she not provide her contact details to the respondent father did not establish a
reasonable excuse to contravene the order – Where there is no merit in the complaint that the
trial judge erred in finding that the appellant mother had failed to arrange an appointment for
an assessment at a contact centre without reasonable excuse – Where there is no merit in the
complaint that the trial judge erred in finding that that contravention manifested serious
disregard of the order and in failing to consider subsequent events on sentencing – Appeal
allowed in part.

FAMILY LAW – APPEAL – COSTS – Where neither the appellant mother nor the
respondent father sought costs orders, but the appellant mother sought a costs certificate
pursuant to the Federal Proceedings (Costs) Act 1981 (Cth) – Where no order for costs should
be made – Where the appeal was allowed in part on a question of law – Costs certificate
ordered for the appellant mother.

judgments/judgment-results?query=tindall+v+saldo&meta=%2Fau&mask_path=au%2Fcases%2Fcth%2FFamCA&mask_path=au%2Fcases%2Fcth%2FFamCAFC&search-judgments=Search
‘Incest’ mum Betty Colt jailed for attempted kidnapping of her children

- by: ANDREW KOUBARIDIS AND WIRES
- From: news.com.au
- 8 months ago November 03, 2014 2:04PM

BETTY Colt, the infamous woman at the centre of Australia’s most shocking incest case has been jailed for 12 months.

She will have to spend nine months in jail before the chance of parole.

Colt, 48, was found guilty in September of trying to kidnap back her children from foster carers. The children had been taken away by authorities after the incest investigation began.

As well as the attempted abduction charges they Ms Colt was found guilty of recruiting another son to commit a criminal act. Police allege she wanted the son, named ‘Bobby’, 16, by the court, to help her abduct his brother Billy, 15, from his foster mother.

She smuggled the children a mobile phone and charger to open a secret line of communication during limited contacts meetings.

This morning prosecutor Sarma Rumbachs asked magistrate Mary Ryan at Moss Vale District Court to consider a jail sentence.

Magistrate Ryan told Colt there was no alternative to jail because she showed little regard for court orders and her children needed to be protected.

She said Colt was willing to allow her children back into an abusive and neglectful environment.

An apprehended violence order (AVO) was also issued against her, banning her from contact with 14 people. It’s thought the majority of those people are her children, who are alleged to have been fathered by close relatives.

Colt was led from the court crying and in handcuffs.

“Betty Colt” is a name given to her by the courts to protect the identity of her children.

In September Magistrate Ryan found her guilty of all three charges, hers being the first criminal conviction to come from the investigation into the incest case that shocked Australia and made headlines around the world.

“Betty Colt took advantage of her sons,” Magistrate Ryan said. “Betty Colt continued assertion that they could leave (their foster carers) when they were 16 was an act of wilful blindness. She persisted in the lie.”

In doing so she had blatant disregard for the decision of the Children’s Court and wanted to restore the “status quo” of the family before authorities intervened, the magistrate said.
Ms Colt’s lawyer Phil Carey argued the plan wasn’t kidnapping as the boy didn’t voice a clear lack of consent.

But the magistrate agreed with the police version of events.

Her plan was to take her children to South Australia and have them work as fruit pickers to earn money.

Doing so was not only trying to use them for financial gain but influence them in relation to the ongoing investigation.

Ms Colt was alleged to have told her son Bobby “not to talk to anyone” and that they “don’t know who your father is”, The Daily Telegraph reported.

The court heard both Billy and Bobby had shown great improvement in both their health and personal hygiene since they were taken away from their mother — but she was determined to get them back, partly to get even with authorities.

Colt was released on bail after that hearing and was supported in court by daughter “Raylene” who allegedly had a child with her relative.

Her real identity has been suppressed and the name ‘Colt’ was given to her by the court to protect the identities of her children.

Police raided the Colt family home in rural south-western New South Wales in July 2012 after a teacher alerted authorities to a conversation overheard in the playground that detailed the incest.

The exact location of their home is suppressed by a court order.

The conversation that shocked the teacher — and triggered the police investigation — was: “My sister is pregnant and we don’t know which of my brothers is the father.”

The raid on the isolated farm was carried out by police and the Department of Family and Community Services and uncovered the most shocking case of incest Australia has ever seen.

The raids found 38 adults and children living in filthy caravans and tin sheds without electricity, town water or any plumbing. They were the result of four generations from grandparents who were brother and sister.

In 2012 after the Colt family were discovered some children were placed with foster families, others put in treatment programs for sexualised behaviour and psychological trauma. They have had some contact with their parents and siblings.

The public first became aware of the shocking case when the Children’s Court, in a rare move, released its findings that led to 12 children being placed in care.
Despite several at-risk reports by authorities into the family it wasn’t until the teacher came forward that action was taken.

When the raid occurred Betty Colt was found sharing a marital bed with her brother Charlie and her children, same only as young as 10, were the result of sex between Ms Colt and her brother, father or another close male relative.

The five family groups comprised of sisters, Rhonda, 47, Martha, 33, and Betty Colt, 46, who slept every night with her brother, Charlie. Two of Betty’s daughters who each had children were proved to be from unions of related parents.

Charlie Colt fled to the UK in June after fearing he would never get a fair trial in Australia. In an exclusive interview he told the Daily Telegraph he’d never abused anyone in his life.

“**I love my whole family dearly, but not sexually. I think it’s absolutely disgusting, it’s wrong, it’s against everything we were brought up with.**”

Despite genetic testing revealing at least 14 Colt children had parents who were related, Charlie dismissed that as “absolute rubbish”.

The Daily Telegraph reported the Children’s Court was told that the sister, given the pseudonym Tammy Colt, 29, gave birth to her baby Sally, who died within two months from a fatal genetic disorder known as Zellweger Syndrome. Sally was born “extremely dysmorphic” with the thick short neck and lowset ears typical of the syndrome.

The father was not named on the birth certificate but Tammy has since told counsellors she had been having a relationship for three years with a younger brother.

Genetic testing on the baby girl showed the genetic abnormalities existed as a result of incest and it is believed both parents are carriers of the genetic disease.

A doctor made an appointment for Tammy and her mother, Betty Colt, to see her to warn them of the dangers but neither of them turned up.
The “Colt” family tree. *Source: Supplied*

**AUSTRALIA’S WORST INCEST CASE**

Eight of the Colt children have parents who were either brother and sister, mother and son or father and daughter.

A further six have parents who were either aunt and nephew, uncle and niece, half siblings or grandparents and grandchild.

Interviews with the Colts revealed the family saga began back in New Zealand, in the first half of last century when June Colt was born to parents who were brother and sister.

June married Tim and in the 1970s the couple emigrated to Australia.

The family would then move, several times, between South Australia, Western Australia, and Victoria, usually living in remote rural communities, shying away from public knowledge about the truth.

Tim and June gave birth to four daughters and two sons.
Three of the daughters — Rhonda, 47, Betty, 46, and Martha, 33, and at least one of the sons, Charlie, form the elder members of the family group in the NSW bush camp.

Betty had 13 children.

She contended their father was a man called Phil Walton, now dead, who was known to the family as Tim.

But genetics show one of her children, Bobby, 15, was fathered either by her father, whose name was Tim, or the brother she was sleeping with.

Four more of Betty’s children were fathered by a close family member.

Betty’s eldest child, Raylene, now aged 30, has a 13-year-old daughter, Kimberly.

Raylene insists Kimberly’s father is a man called Sven, from Sweden or Switzerland.

Testing identifies Kimberly’s father as either her half brother, an uncle or a grandfather.

Betty’s second oldest child, Tammy, now aged 27, has given birth to three daughters, one of whom died from a rare genetic disorder, and all of whom, she eventually admitted, were fathered by her closest brother, Derek, 25.

Betty’s younger sister, Martha Colt, 33, has five children, four of whom were fathered by her own father, Tim, or by her brother, and another who is the product of a union with a close relation.

It was the 10 youngest of Betty and Martha’s children, and Raylene’s daughter, Kimberly, 13, who ran wild in a sexual spree about the property.

Betty’s children, Bobby, 15, Billy, 14, Brian, 12, Dwayne, 9, and Carmen, 8, all have parents who are close family members.

Martha’s children, Albert, 15, Jed, 14, Ruth, 9, and Nadia, 7, are also the product of closely-related parents.

DEPRAVED SECRETS

Court documents obtained by news.com.au revealed the shocking extent of the conditions the family lived in although a court order forbids reporting exactly where they lived.

• Exposed electric wires, bags of rubbish and chainsaws lay about.

• There were no toilets, showers or baths.

• The children were unwashed and wore dirty clothes.

• They were shy and made little eye contact.

• Few were capable of intelligible speech; almost all had fungal infections in their feet.
• Some had oddly-formed features, which scientific tests would later reveal was a result of “homozygosity” or identical gene patterns of both of the children’s parents.

The children were sexually involved with each other and only one, the youngest, a five-year-old girl, had parents who weren’t related.

Police and welfare officers saw a social time bomb exploding before their eyes with one officer reportedly saying she would never get over it or forget it.

**International surrogacy is 'new frontline in human trafficking', says judge John Pascoe; Indian case sparks renewed calls for inquiry**

By Louise Yaxley

Updated 9 Oct 2014, 12:55pm Thu 9 Oct 2014, 12:55pm

There are renewed calls for an inquiry into international commercial surrogacy laws, following the ABC's revelations about another Australian couple having surrogate twins overseas and leaving one baby behind.

The latest case involves twins born to a surrogate mother in India.

The Indian case happened about two years ago and echoes the recent case of baby Gammy, who was born in Thailand to a surrogate mother and whose Australian parents only brought back his twin sister.

Chief Judge of the Federal Circuit Court John Pascoe has been campaigning for an inquiry into international commercial surrogacy.

"I find it almost unbelievable that Australians would be choosing a child on the basis of sex," he told the ABC.

"It's particularly tragic, when you think there are wonderful people out there who would love to have a child of any sex, that someone would choose to leave a baby behind.

"I think international commercial surrogacy is the new frontline in human trafficking. We have enough anecdotal evidence to believe that people are commissioning children willy-nilly without any proper protections for the children or the surrogate mothers."
Attorney-General George Brandis said he listened with respect to Judge Pascoe’s observation at a conference on Wednesday, and noted his call for a Commonwealth inquiry.

A Family Law Council report is also calling on Senator Brandis to ask for a Law Reform Commission inquiry into international surrogacy.

Senator Brandis says the report is a valuable contribution to this complex area, and the Government is considering the recommendations.

But Labor’s shadow parliamentary secretary Graham Perrett urged Senator Brandis to call an inquiry.

"The reality is we’ve had 800 babies come into Australia in the last five years. This is something that is happening right now,” Mr Perret said.

“My understanding is those numbers are ramping up. There’s certainly been a suggestion put to me that in some ways this can almost be child trafficking.

"Get the empirical data. Work out what would be best practice and what would be best for children, for surrogate mothers, for the commissioning parents, and what's in the national interests rather than these ad hoc arrangements that vary from state to territory to the Commonwealth.”

He said there were many issues to examine, including the consent of the surrogate mothers.

“If there is an incredible economic imbalance between the commissioning parents and a poor mother who is being paid expenses to have a child, is that true consent? Is that consent in a legal nature? Because we are talking about a consent contractual arrangement here.”

Chief Justice of the Family Court Diana Bryant said consular officials involved in the Indian case told her there was pressure from Australia to provide a visa to allow the couple to come home with only one baby.

She stressed the consular staff were not at fault, saying they had to operate in a legal vacuum where the laws are far from straightforward or clear.

Other sources have confirmed to the ABC there was concern a senior federal politician had been advocating on behalf of the Australian parents.

Bob Carr, who was Labor’s foreign minister from March 2012 until September 2013, said he did not recall the case.

“I don’t recall surrogacy coming up in terms of our relationship between the bilateral relationship between Australia and India and I did not contact the Australian High Commission about a case,” the former foreign minister said.

Kevin Rudd was foreign minister before Mr Carr. His spokeswoman said: "This case is not familiar to representatives of Mr Rudd's office from the time”.

ACCESSSED by Keith Thomas July 2nd 2015 @ 11.05am

Joint statement from the Chief Justice of the Family Court of Australia, Diana Bryant AO and Chief Judge of the Federal Circuit Court of Australia, John Pascoe AO CVO

Commercial surrogacy contracts entered into overseas often disregard the human rights of the children and surrogate mothers involved and lead to the exploitation of poor and vulnerable women. Commercial surrogacy is not permitted in Australia and Australians should be concerned about the capacity for the basic human rights of people in our neighbouring countries to be violated.

Our concerns include:

The rights of the children being ignored.

☐ What protections are in place when the contracting parents won’t take a child born from these arrangements? Whether due to illness or disability, for example, or because there are twins born when the contract only stipulates one child. The surrogate mother is usually in no position to care for these unwanted children.

☐ The rights of a child to know their genetic heritage is completely ignored.

☐ We, as a society, think it is vital that children know both parents — sperm donation and adoption practices of the past have taught us that — and yet surrogate children are often born by donor egg and that donor is completely unknown. The children born will likely never know about their genetic heritage, including genetic predisposition to hereditary diseases.

The suitability of parents and the safety of the child.

☐ The suitability of parents is assessed when parents are adopting overseas or adopting or fostering children within Australia. There are no constraints or safeguards with overseas surrogacy arrangements.

We are concerned about the inconsistency of Australian laws where overseas commercial surrogacy is illegal in some states but not in others. Where it is illegal to enter into a commercial surrogacy arrangement overseas, governments are apparently unwilling to enforce existing laws. Courts being asked to make parenting orders are placed in a difficult position where there is clear illegality by the Australian “parents” but there is uncertainty about whether any action will be taken by the relevant authorities. Parents who have acted in good faith should not be left in legal limbo where their status as parents is unclear as is currently the case under state and federal laws.

In our view, if governments do not want to enforce these laws, they should be repealed. We understand the powerful desire to become a parent, but it ought not to be at the expense of the welfare of the child or surrogate mother. We believe that children, surrogate mothers and would-be parents could be better protected if commercial surrogacy arrangements were permitted (and thus regulated) in Australia.

Regulation could provide fairness in contractual arrangements; proper provision of health cover for the surrogate mother; and a rigorous eligibility criterion with the appropriate checks and balances for contracting parents.

Sadly, in our experience, the story of baby Gammy is not an isolated one but it provides an overdue opportunity for public debate and to focus on the establishment of a proper legal regime that protects the position and human rights of all parties, especially the vulnerable new-born.

ACCESED by Keith Thomas July 2nd 2015 @ 11.07am

Courting respect - New Family Court Chief Justice Diana Bryant

Cover Story

Diana Bryant's legal career has been characterised by outstanding results gained through hard work and a willingness to lead. As the new Family Court Chief Justice she will need all these attributes to head the country's most controversial court.

By Jason Silverii

The first Chief Federal Magistrate of the Federal Magistrates Court, Diana Bryant, had to build a court from the ground up.

Not only was there a need to develop processes and procedures, forms and fees, there was also the appointment of magistrates, the employment of Court staff and the finding of appropriate lodgings.

Now the new Family Court Chief Justice, Ms Bryant will have to do more building. But this time it will take the form of renovating the way the public and the legal profession view the Court.

According to Chief Justice Bryant, who began her appointment on 5 July, her greatest challenge as the third Chief Justice of the Family Court will be to achieve more respect for the Court.

Speaking at a press conference after her swearing-in on 8 July, Chief Justice Bryant said it was distressing to see a public institution without the respect of the public.

“If at the end of my tenure I could improve the understanding of the Court and have the respect of the public for the Court, that would be something I’d be very proud of,” she said.

“I know that the family law decisions are difficult [and] I know that you can’t expect people to be happy with what happens in decisions in the Family Court.

“But I really would like to see the institution have a bit more respect and understanding.”

Chief Justice Bryant inherits a Court beleaguered by years of public attacks from politicians and disaffected parents, loss of jurisdiction to the Federal Magistrates Court and the possible arrival of another jurisdictional competitor in the form of a Families Tribunal.

The Court is also without its vocal leader of the past 16 years, Alastair Nicholson, who divided the community between those who revered or reviled him for fighting public battles on issues affecting both the Court and Australian society.

While her predecessor divided opinion, Chief Justice Bryant has made it clear that her style of leadership is different.

“It isn’t my natural inclination to be outspoken. I think it’s always important to remember that 50 per cent of litigants are men and 50 per cent of litigants are women and … one has to be
She hopes this style of leadership will mend the Court’s relationship with the federal government, which she describes as being not as strong as it could be.

However, for those who believe that a low profile leader was a government-imposed prerequisite for the job, Chief Justice Bryant has made it clear that she has come to the position “with absolutely no riding instructions at all”.

Announcing the appointment on 24 June, federal Attorney-General Philip Ruddock said that Chief Justice Bryant had gained a reputation as an extremely capable judicial officer and administrator during her four-year tenure as Chief Federal Magistrate.

“Thanks in no small part to Ms Bryant’s outstanding leadership, the Federal Magistrates Court is making an extremely valuable contribution to an improved federal civil justice system,” Mr Ruddock said.

Federal Shadow Attorney-General Nicola Roxon said she was pleased that such an experienced and well-regarded practitioner would lead the Court into a crucial time in its history.

“This will require strong leadership and direction, both qualities that Ms Bryant has ably demonstrated during her time at the Federal Magistrates Court.

“I also welcome a capable woman being appointed to head this major federal court.”

These views were echoed by the legal profession. Law Institute president Chris Dale said it was important to have a head of the jurisdiction with a background as a solicitor, barrister and chief of a court.

“She has had a strong history of family law work and I think she will, in her own way, work wonders in bringing that Court together into a more collegiate Court to work in the new era in family law.”

However, praise is momentary. It is now about results.

On the subject of respect, Chief Justice Bryant admitted she was yet to formulate a way to lift the Court in the eyes of the public, except to say that it would involve “an educational process”.

“I think there’s a misconception in the public about what Parliament’s role is in making laws and what the Court’s role is in implementing laws.”

She also raised the possibility of making decisions more accessible, although she admitted anonymity would be a difficult issue to address.

There are other issues relating to both the public and the legal profession that Ms Bryant will have to tackle.
One of the most immediate is the possible establishment of a Families Tribunal, as recommended by the House of Representatives report *Every Picture Tells a Story* released on 29 December last year.

The report called for the formation of the Tribunal, which could cost as much as $500 million to establish, to handle custody matters without lawyers. The federal government is also considering a lower-cost alternative designed by Sydney University law professor Patrick Parkinson that would offer mediation and counselling to couples before disputes reached the Family Court.

*The Australian* reported on 5 July that Prime Minister John Howard was leaning towards Professor Parkinson’s plan, while government ministers and backbenchers favour the Families Tribunal.

Chief Justice Bryant was diplomatic when asked about the merits of the Families Tribunal proposal.

“I am waiting with interest as I’m sure everyone else is to see what happens with that. But ... the Court will do whatever role the government requires it to do and legislates for it to do.”

Family lawyers are yet to embrace the concept of a Families Tribunal.

Speaking to the *LIJ* in March this year, leading family lawyer and Law Institute Family Law Section’s Children and Youth Issues Sub-Committee chair David Edney said it was unclear whether the House of Representatives committee had taken the opportunity to discover how a Families Tribunal could run a case better.

“It doesn’t necessarily follow that having a tribunal of three people which may or may not exclude lawyers is going to better protect people or indeed provide a better outcome.”

He said there was a role for lawyers to help empower people if there were difficulties with language, disabilities or where power imbalances existed within a relationship.

While that is a challenge stemming from government policy, the other major issues the new Chief Justice must face are rooted in Court processes.

One of those issues is the sensitive and efficient handling of cases involving children.

Chief Justice Bryant said one clear finding of the *Every Picture Tells a Story* report was “that a lot of people are very unhappy about the process as far as children are concerned”.

She said the Family Court’s reform of the way it dealt with children was already underway with the launch by then Chief Justice Nicholson of a pilot program in February this year.

The Children’s Cases Program, which is being piloted in Sydney and Parramatta, shifts the hearing of the case away from the traditional adversarial system. It aims to shorten cases and to make them less combative.

The program requires one Family Court judge to be in charge of the case and to play a leading role in its conduct.
The judge has the power to decide the issues to be determined, the evidence that is called, the way the evidence is received and the manner in which the hearing is conducted. It will also be open to the judge to use mediation techniques to determine the case.

Speaking alongside Chief Justice Bryant at the 8 July press conference, Family Court Deputy Chief Justice John Faulks said early indications were that the program was successful.

Deputy Chief Justice Faulks, who was a Family Court justice, was appointed on 24 June as the Court’s first Deputy Chief Justice since 1998.

He said the program was a logical evolution of the way litigation should be conducted, with lawyers facilitating a resolution to the dispute rather than championing one side over the other.

“It’s a really important thing for children because it’s one thing to allow people to tear each apart about property and financial things. It’s another altogether, when there are children involved, to see the tragedy of people spending a long time and a very bitter process in trying to resolve what are fundamentally heart-wrenching disputes.”

There is also the issue of the Family Court working cooperatively with the Federal Magistrates Court and the state and territory Children’s Courts to efficiently deal with cases involving children. Chief Justice Bryant said it was important for the federal jurisdictions to work closely with state courts and to understand their different functions.

“The Family Court doesn’t have an investigative arm to go out and find out about child abuse and children at risk.

“The Family Court’s role is to determine a dispute between two parents about a child.

“But absolutely there does need to be cooperation. I know very well the president of the Children’s Court [Judge Jennifer Coate] and I’m sure we’ll work closely together to see that that happens.”

Judge Coate told the LIJ that she had already had discussions this year with Chief Justice Bryant when she was at the Federal Magistrates Court about the federal and state courts working better together.

Judge Coate was confident those discussions would continue and would be enhanced by Chief Justice Bryant’s appointment.

She said she had spoken with the new Chief Justice about the formation of a working party to address a number of issues about the transfer of matters between the Courts.

One of these issues relates to child protection application cases in the Children’s Court. When the Department of Human Services withdraws a child protection application in a case that still has custody and access issues – the domain of the Family Court – there is no way to transfer the case.
The same applies for cases that need to be transferred from the Family Court to the Children’s Court. The Courts do not share common terms or copies of orders and do not have access to each other’s computer systems.

Judge Coate said the main reason these problems have been so intractable has been constitutional hurdles caused by the federal/ state structure.

“It tends to mean that governments of the day tend to lose momentum fairly quickly once they hit these knotty legal issues.”

Chief Justice Bryant, who will be based in Melbourne, said she would also examine the relationship between the Family Court and the Federal Magistrates Court.

She said she wanted to examine the processes shared by the two Courts with a view to improving them for family law cases.

“But sometimes [the problems] are to do with funding, sometimes it’s to do with processes, sometimes it’s to do with both. It’s early days for me.

“I want to have a look at the process and try to do better with what we’ve got.”

Another long-term problem for the Family Court has been the increasing presence of unrepresented litigants. According to the Court, about 40 per cent of cases before it contain at least one unrepresented litigant.

Chief Justice Bryant said unrepresented litigants was an issue for all courts, not just the Family Court.

She said that while she enjoyed presiding on cases involving unrepresented litigants and helping them through the process, she was aware that not everyone could act for themselves.

“There are lots of times and circumstances in which you can’t do the best job when people are representing themselves.

“I think it’s time that the Court has to look at different ways of doing things.”

She said the impact of federal legal aid being used only for federal legal issues and its impact on the level of unrepresented litigants was a matter for government.

“I suppose that we don’t live in a perfect world and I guess we have to accept, to some extent ... that not everybody is going to have access to legal aid and not everybody is going to have access to funds and there will be self-represented litigants.

“We have to find good ways of dealing with them in the process.”

The Family Court’s procedures were put under the microscope during the two-year rewrite of the Family Law Rules, which were introduced in March this year.
Then Chief Justice Nicholson said the changes to the Rules was “among the most exciting” initiative in his tenure because “they will make it easier for clients and litigants to deal with the Court”.

Among the changes were the simplification of language and a slashing of the number of forms from 85 to 24.

The payment of costs for non-compliance with certain rules, such as late lodgment of documents, was also introduced.

The overlapping of jurisdiction with the Federal Magistrates Court meant the Rules also applied to that Court. However, then Chief Federal Magistrate Bryant did not introduce all the Rules into her Court because they did not fit the “cheaper, faster, easier” mantra of the Court.

Chief Justice Bryant said there would be an evaluation of the Rules.

She said feedback from the legal profession had produced both positive and negative comments.

Law Institute Family Law Section chair Rose Lockie said many practitioners felt the Rules complicated family law and made it more expensive.

Marshalls & Dent partner and family law practitioner Peter Szabo has been an outspoken critic of aspects of the new Rules, especially the provisions regarding awarding costs for non-compliance.

Mr Szabo said that this provision was a case of using “a sledgehammer to crack a nut”.

“The import of some of the Rules seems to be pushing for a more adversarial approach in relation to document-filing costs,” Mr Szabo said.

“This disturbing trend can hopefully be ameliorated by the new Chief Justice.”

Chief Justice Bryant made it clear at her press conference that she had no concrete plans as yet to tackle any of these problems.

With no plans for the future yet to dissect, it falls to the past to give an insight into how Chief Justice Bryant may tackle these problems.

Chief Justice Bryant, who turns 57 in October, was educated at Firbank Anglican School in Brighton and studied law at the University of Melbourne, graduating in 1969. She was admitted to practice in Victoria the next year.

In 1977, she moved to the Perth office of Phillips Fox where she became a partner practising in family law.

Chief Justice Bryant helped build Phillips Fox’s family law practice into one of the biggest in Australia. However, the firm disbanded the family law practice soon after she left the firm to go to the Bar in 1990.
Mr Szabo, who was a partner at Phillips Fox in Melbourne when Chief Justice Bryant was a partner at Phillips Fox in Perth, said Chief Justice Bryant was “an absolute whirlwind, always has been and always will be”.

“She was a real marketer, a real entrepreneur, a go-getter. She never stays still and is very hard to nail down.”

Mr Szabo said she was always more than willing to help and compare notes with fellow partners.

During her time at Phillips Fox, Chief Justice Bryant was also a director of Australian Airlines from 1984 to 1989, commissioner of the West Australian Legal Aid Commission and president of the Family Law Practitioners Association of WA.

She returned to Victoria in 1990 to become a family law barrister and continued her leadership role among family law practitioners both at a state and federal level.

Between 1990 and 2000, Chief Justice Bryant became a member of the Victorian Bar Council, vice-chair of the Victorian Family Law Bar Association, a director of Victoria Legal Aid and a member of the Bar’s Ethics Committee.

She helped set up Chancery Chambers in 1997, the same year she took silk.

She also became a national executive member of the Law Council of Australia’s (LCA) Family Law Section and assistant editor of the section’s publication *Australian Family Lawyer*.

Despite all this, Chief Justice Bryant also managed to complete a Master of Laws from Monash University in 1999.

It was in her capacity as an executive member of the LCA’s Family Law Section in the late 1990s that she argued against the formation of a Federal Magistrates Court – a court she was appointed to lead in 2000.

She told the *LIJ* in March 2000 that she had no problem reconciling her original point of view with her acceptance of the role.

“Lawyers understand perfectly well that you take a brief for one side and you argue that brief, and the next day you’ve got a brief for the other side.

“I argued for that position and that position was lost. That’s the end of it.”

As Chief Federal Magistrate, she had to build a Court against the resistance of legal bodies such as the LCA and the Law Institute as well as then Family Court Chief Justice Nicholson.

Despite this, Chief Justice Bryant managed to establish and eventually expand the resources and jurisdiction of the Federal Magistrates Court and, in turn, put to rest any doubts about the need for such a court.
She admits it is far different to build new structures than to come into an existing organisation with long-standing processes.

“But I think that from what I can see everyone in the Court is very enthusiastic for us to start a fresh stage and a fresh era ...”

Chief Justice Bryant becomes only the second woman to head a federal jurisdiction along with Elizabeth Evatt, who was appointed as the first Family Court Chief Justice in 1975.

She said her legal career to this point has been satisfying because it has meant working to help people.

“It’s not about working with companies and so forth, it’s people and their problems.

“I guess I like people and that’s why I’ve always enjoyed it and that’s why I’m passionate about it.”

It is this passion, combined with an impressive track record, that has raised hopes within the legal profession of a new era for the Family Court.

ACCESSSED by Keith Thomas July 2nd 2015 @ 11.09am

Family violence

Family violence is a serious social issue that affects the health and well-being of thousands of Australians and has far reaching effects on the Australian community as a whole.

The family law system has a role to play in identifying families at risk of violence and protecting them from harm.

The Australian Government has developed a number of measures to improve the family law system’s response to family violence and child abuse.

The Family Relationships Online website provides the details of a range of services for families affected by family violence.

**Family Law Legislation (Family Violence and Other Measures) Amendment Act 2011**


The amendments do this by encouraging better information about the existence or risk of family violence to be provided to the family courts.

This information helps court officers to assess risks, and make decisions about future parenting arrangements that are safer for children. The amendments will also improve the family courts' ability to identify and respond to cases of violence.

More information on this legislation is available on the Family Violence Act page.

**AVERT family violence: collaborative responses in the family law system training package**

This training package is designed to give professionals a sound and practical understanding of family violence and promote the safety of those involved in the family law system.

Issues covered include the impact of family violence and strategies for responding to it.

The package was created by this department and caters for a range of professionals working in the family law system.

For more information, or to get a package visit the AVERT Family Violence website.

**Coordinated family dispute resolution**

The coordinated family dispute resolution pilot program allows family members who are experiencing family violence (or have experienced it in the past) to access a safe family dispute resolution process.

It brings together family dispute resolution practitioners, legal practitioners, domestic violence and men's support services to assist separating parents make parenting arrangements.
The model was developed by the Women’s Legal Service in Brisbane.

The pilots took place in five locations across the country as part of the former Australian Government’s response to the *Time for Action* report by the National Council to Reduce Violence against Women. The pilots concluded on 30 April 2013.

The Australian Institute of Family Studies was commissioned to evaluate the pilots. The Final Evaluation Report is available on the Family Law Publications page.

**Government Response to the Australian and NSW Law Reform Commissions’: Family Violence - a national legal response**

On 10 October 2010, the Australian Law Reform Commission (ALRC) and New South Wales Law Reform Commission (NSWLRC) completed their inquiry into Family Law and Family Violence.

The report on the inquiry provides a further addition to the existing and expanding evidence base that examines the problems that the family law system faces in adequately addressing allegations of family violence and child abuse. It also highlights the need to enhance collaboration between the Commonwealth family law system and the state and territory child protection systems.

The national response to this report was agreed to by the Standing Council on Law and Justice on 4 April 2013 and can be downloaded below from the Standing Council on Law and Justice website.

The national response dealt with the twenty-four recommendations that relate jointly to the Commonwealth, states and territories.

The Commonwealth response to the recommendations in this report was tabled in Parliament on 25 June 2013. The government response can be downloaded below:


This response deals with the 56 recommendations in the report that have been identified as appropriate for the Commonwealth to respond to, independently of the states and territories.

**ACCESSED** by Keith Thomas July 2nd 2015 @ 11.35am

**SOURCE:** http://www.ag.gov.au/FamiliesAndMarriage/Families/FamilyViolence/Pages/default.aspx
'Divorce tax' in budget as fees to rise significantly

May 14, 2015

Sarah Whyte

Unhappy couples who are planning to get a divorce or families experiencing a breakdown will be hit by a "divorce tax" as federal court fees will dramatically rise under changes in the government's new budget.

The changes, which Labor derided as "mean-spirited", will result in an $87 million increase in revenue from the Family Court, Federal Circuit Court and Federal Court of Australia.

Fairfax Media understands that the fee to apply for divorce will "significantly rise" under the new fee schedule. It is currently $845.

A spokeswoman for the Attorney General George Brandis confirmed the fee increases, but said the full details would not be available until July 1.

"Court fee changes have been announced to assist with streamlining and improving the sustainability of the federal courts," she said.

Labor's family law spokesman Graham Perrett described the increase as a "mean-spirited tax on family breakdowns".

"Senator Brandis should be ashamed that he is taking advantage of a vulnerable sector of society to line the government coffers," Mr Perrett said.

"Only last month a Family Court judge publicly apologised for the year-long delay in delivering judgment due to an over-worked and under-resourced Family Court."

Budget papers say changes to the fee structure of the the Family Court and Federal Circuit Court will bring in revenue of $66.6 million, while the Federal Court of Australia will raise $17.8 million.

Of the $87.7 million revenue from the increased fees, $22.5 million will go to streamlining the three courts, while $30 million will be channelled towards refurbishing the Court buildings. This means $35.2 million will return to the Abbott government.

The Family Court primarily hears cases of family breakdowns, child custody, property settlements and spousal maintenance. According to its website, it allows Australians to resolve their most complex legal family disputes. The Federal Circuit Court was established to relieve the workload for the Federal Court of Australia and the Family Court of Australia.

According to the Australian Institute of Family Studies, 40 per cent of marriages end in divorce in Australia.

ACCESSED by Keith Thomas July 2nd 2015 @ 11.49am

Legislation from this topic

- Family Law Act (1975) + Marriage Contracts (s90A-s90L)
- De facto Relationships Act (NSW) 1984
- Property (Relationships) Act (NSW) 1999
- Matrimonial Causes Act (Cth) 1959
- Crimes (Sexual Assault) Amendment Act (NSW) 1981
- Married Woman’s Property Act (NSW) 1893
- Child Support (Assessment) Act (Cth) 1989
- Married Person’s (Property and Tenants) Act (Cth) 1901
- Family Provisions Act (NSW) 1982
- Minors (Property and Contracts) Act (NSW) 1970
  - Marriage Act (1961)
  - Crimes Act (NSW) 1900
- Children and Young Persons (Care and Protection) Act (NSW) 1987
- Children (Equality of Status) Act (NSW) 1976
- Children’s Criminal Proceedings Act (NSW) 1987
- Education Reform Act (NSW) 1990
- Bail Act (NSW) 1978 – Amendment removing presumption of bail.
- Status of Children Act (NSW) 1996 – Replaces Artificial Conception Act (NSW) 1984
- Adoption of Children Act (NSW) 1975
- Adoption Information Act (NSW) 1990
- Adoption of Children (Amendment Act) (NSW) 1982
- Young Offenders Act (NSW) 1997
- House of Representatives Standing Committee (Recommendations) “Every picture tells a story” 2004

Cases Notes (study) from this topic

- DiMento v. Visalli (1973)
- Hope and Lane v. NIB
- Re W (1968)
- Hyde v. Hyde (1866)
- Duchess of Argyll v. Duke or Argyll (1967)
- Eliades v. Eliades
- Re Gillick (1985)
- Re Marion
- The Cornerstone School Case
- Hogan v. Trustees of the Catholic Church (2001)
  - Re Evelyn (1998)
  - Re Winter
- Davies v. Sparkes (1990)
- Khan v. Khan (1963)
In the Marriage of X and X (1976)
Tye v. Tye

In the Matter of B and B: Family Law Reform Act (1995)
Gronow v. Gronow (1979)

In the Marriage of Grimshaw and Grimshaw (1981)
In the Marriage of C and C (1983)
In the Marriage of M and M (1977)

Media from this topic
ABC's 'Four Corners' – Excuse for Murder (May 1993) – R v. Kina case
'Two mums, few rights' – The Australian, Sydney, 26th February 1996
'Giving fathers a fairer go' – Time Article, Daniel Williams, 2005
'Losing the Children' (Four Corners Transcript)
http://www.abc.net.au/4corners/conte...4/s1178163.htm (thanks to dani_danoz - details below)

Documents from this topic
'Marriage and Cohabitation Contracts' by Prof. John Wade
'Woman and Violence- Domestic Violence' – NSW Government
'Spot it, help stop it- Preventing child abuse and neglect' – DOCS
'Changes in Family Law Rule' – Deborah Harris. 2004
'Hoovering for a Hobby' – Professor Reg Graycar

International mechanisms from this topic
Convention on Rights of Child (CROC, UN, 1989)
HREOC
Donna Deaves jailed for 12 years over daughter Tanilla's death

September 18, 2013

Rachel Olding

Two-year-old Tanilla Warwick-Deaves spent the last two days of her life lying in a pram, bruised, battered and unable to save herself.

Her mother Donna Deaves was sentenced to 12 years in prison on Wednesday for failing to do anything to stop the little girl from dying. Deaves has a non-parole period of nine years, making it the highest sentence ever given to a mother in NSW accused of manslaughter on the basis of criminal negligence.

In pleading guilty to manslaughter on the basis of criminal negligence, Deaves admitted to witnessing a man, who cannot be named for legal reasons, assault Tanilla on August 25, 2011, at a house in Watanobbi on the central coast.

She also admitted to leaving the toddler in her pram for the next 48 hours and failing to seek any medical attention until the early hours of August 27 when she finally called Triple-0.

Tanilla died soon after.

Deaves told a sentencing hearing earlier this month that "of course" she loved her daughter but she was scared and frightened and didn't know what to do after Tanilla was bashed.

"Until you're in that position, it's impossible to say what it's like," the 29-year-old said. "When you're shocked and frightened or scared it's really difficult to do anything."

In sentencing Deaves, Justice Stephen Rothman accepted that Deaves felt "helpless" but she "should have had the courage to take her child to hospital".

He accepted that Deaves never abused the child and had herself been abused by previous partners, contributing to a personality disorder, but said this did not abdicate a mother from her responsibility to protect her child.

"It is difficult to envisage a duty higher than the one society imposes on a parent toward his or her child," he said.

Deaves' explanation for why she did call triple-0 was "inconsistent" and her remorse was more focused on how Tanilla's death had affected her, he said.

The case has reignited debate over under-resourcing within the Department of Family and Community Services with the court previously hearing that 33 welfare reports were made during Tanilla's short life.

Justice Rothman delivered a stinging rebuke on the child protection system, saying it was clear Tanilla's death could have been avoided "by intervention of department officers or family members".

In his victim impact statement, Tanilla's biological father, Adrian Warrick, said that on the few occasions he had been allowed to take Tanilla, she was bruised and malnourished but he was told by caseworkers that Deaves was fit to have custody of the child.

"Eight months later she is murdered ... I never saw Tanilla again until the day we buried her," he said.

"This is how I got my baby girl back - dead."

Outside court, Tanilla's stepmother, Brooke Bowen, said the family was happy with the sentence.

Deaves' brother Nathan said he was "okay" with the sentence and said: "My sister will learn from this".
Her mother Margaret broke down as she said Tanilla was now in a better place.

"When I go I'll join her and I'll be in a better place with that little child," she said.

**ACCESS** by Keith Thomas July 2nd 2015 @ 1.06pm


---

**Kids who leave care kept in the dark**

- by: *Annette Blackwell*
- From: *AAP*
- June 29, 2015 6:15PM

**THOUSANDS of young people who spent their lives being shunted between refuges and foster carers can't find out why they were taken from their parents in the first place.**

AND their plight is no different to tens of thousands of older people who were once in care in Australia who are still battling to learn their real identity and what happened when they were children.

Four young care-leavers who now work as youth advocates told a royal commission examining Australia's out-of-home care system that many children are moved from care homes multiple times and this increases the risk of sexual abuse.

Kate Finn from the Youth Movement Initiative said on Monday the biggest risk for children in care was "instability".

She said one boy in Victoria was moved 22 times to different placements and his story was a common one.

"He was moving every six months at one stage and he was never able to form a support system with a carer and with an agency worker or with a school even," she said.

"When you are feeling isolated you reach out to anyone in friendship, which is why I suppose you have sexual abuse, especially through the internet."

The commission heard on Monday there are more than 50,000 children in out-of-home care across the country - the majority are in kinship or relative care and about five per cent are in group homes.

In the second part of a hearing which began last March the commission is examining the policies and practices of agencies which provide care for children.

Tash Dale, a youth consultant with the Create Foundation, spoke of how children in care were fearful of reporting abuse.
They feared not being believed and being moved on, especially if they liked where they were living.

Young people just out of care also had great difficulty getting access to their case files.

Ms Dale said she was still going through the process of trying to get full details of what happened in her family from state agencies in Western Australia.

She found it very hard to get a straight answer as to why she and her brothers and sister were taken into care.

Because she is only allowed to request information for a defined period of time she has to submit a stream of applications one after the other, she said.

A lot of young people are frustrated.

"They are asking: why can't we get the file - it's our life," she said.

Many give up.

Also on Monday, Leonie Sheedy, the CEO of Care Leavers Australia Network, whose oldest member is 99, said their situation was the same.

"Nothing has really changed. It's pretty sad to hear those kids talk about their experiences," she said.
Family Drug Treatment Court

What is the Family Drug Treatment Court?

The Family Drug Treatment Court (FDTC) has been established as a three year pilot program in the Children’s Court of Victoria. The aim of the FDTC is to:

- help parents stop using drugs/alcohol; and
- promote family reunification.

The FDTC is chaired by a Children's Court magistrate and is supported by a multi-disciplinary team. The team comprises drug and alcohol clinicians and a dedicated social worker.

The FDTC works with agencies providing services for parents in the program. They include:

- residential treatment;
- drug and alcohol counselling;
- mental health counselling;
- parenting programs; and
- housing programs.

Professionals also work with children to help them with the journey to family reunification.

Accessed by Keith Thomas July 2nd 2015 @ 2.10pm

Baby Gammy: Biological father David Farnell tries to access donations raised for child's medical costs

By Irena Ceranic

Updated 19 May 2015, 1:45pmTue 19 May 2015, 1:45pm

The biological father of Gammy, the baby at the centre of a surrogacy dispute last year, is trying to access donations raised for the child's medical costs, a charity says.

The case made international headlines last year after convicted sex offender David Farnell and his wife Wendy Li abandoned their son in Thailand because he has Down syndrome and took only his twin sister back to Australia.

Gammy lives with his Thai surrogate mother, Pattaramon Chanbua, who depends on the money donated to charity to cover his medical costs.

The founder of the Hands Across The Water foundation, Peter Baines, told the ABC that Mr Farnell was now trying to access the money raised.

"It's perplexing. I don't understand it on any level," Mr Baines said.

"The funds were donated by everyone because of the alleged actions of Mr Farnell, and to think he believes he has some right of claim over it ... I find it perplexing."

Mr Baines said more than 6,000 people had donated around $235,000 to the foundation since details of the Gammy case were made public.

He said he was not certain how much of the money Mr Farnell was seeking.

"The money was donated through the goodwill of people from not just Australia, but across the world, for the immediate care and for the long-term care of Gammy," Mr Baines said.

"We've taken all steps we can as a charity to ensure that 100 per cent of those funds that we donated go directly to Gammy now and for the future."

Speaking to the ABC, Ms Chanbua asked if Mr Farnell had "gone insane to think like this".

"He does not deserve or have any rights to the fund as he abandoned Gammy in the first place," she said.

"People donated money for Gammy and not for anyone else.

"Even though I am Gammy's mother, I don't have any right to take it.

"I want to ask him: 'Who do you think you are? What made you think you have the right to take it?'"

So far the money donated has been used to buy a home for Gammy's impoverished family and monthly payments are made to his mother for his ongoing medical and welfare needs.

Mr Baines said it was estimated the remaining funds would cover Gammy's expenses for another five or six years.

"I certainly don't think [the funds] were donated by anyone thinking that Mr Farnell would at some point have access to them, and we'll do all we can to prevent that," he said.
Family Law Council

2 July 2015: *No excuse for Government’s failure to replace retiring family court judges*

The Law Council of Australia has called on the Federal Government to make a clear public commitment to immediately replace retiring judges in the Family and Federal Circuit Courts, with recent replacement delays causing unacceptable hold-ups in justice for at-risk children and families.

Ms Goward said the role of the NSW Domestic and Family Violence (DFV) Council is to advise the NSW Government on all aspects of domestic and family violence policy and programs.

"The Liberals and Nationals Government have established the Council to include members from both government and non-government to ensure that all stakeholders can work together in a more collaborative fashion," Ms Goward said.

"The Council is directly connected to, and aligned with, the ‘It Stops Here’ Reforms we are implementing in the domestic and family violence sector. One of our main priorities under the Reforms is a more proactive and collective response to domestic and family violence, with a strong focus on early intervention and prevention.

"For this to happen, strong collective leadership is required between service providers like NSW Police Force, the courts, NSW Health and the non-government sector to ensure the changes introduced are effective, sustainable and consistent across NSW.

"Between them, the eight new non-government members have many decades of experience working not only with women, children and families affected by domestic violence, but with perpetrators, men’s groups and in male behaviour change - both at the front-line in services, as well as in policy, advocacy and reform," Ms Goward said.

The eight new non-government members of the council are:

- Anne Hollonds, Chief Executive, The Benevolent Society
- Susan Smith, Solicitor/Coordinator, Sydney Women’s Domestic Violence Court Advocacy Service;
- Elizabeth Davies, Chief Executive Officer, White Ribbon Australia;
- Dr Jo Spangaro, Lecturer, School of Social Sciences, University of New South Wales.
- Tracy Howe, Chief Executive Officer, Domestic Violence NSW;
- Karen Willis, Executive Officer, NSW Rape Crisis Centre;
- Greg Telford, Managing Director, Rekindling The Spirit; and
- Dr Eman Sharobeem, Director, Immigrant Women’s Health Service.

The non-government members will join six senior executives from various NSW Government agencies on the council.
Child not bride campaign to end underage forced marriage

27 Jan 2015

The NSW Government today announced that a new advertising and community engagement campaign will begin next month to raise awareness about the illegality of underage forced marriage.

Minister for Women Pru Goward said the state-wide advertising campaign will feature the phrase "Child not Bride" and will appear in culturally and linguistically diverse print, radio and digital media to encourage communities to report suspected cases.

"The campaign is aimed at educating parents and community leaders that underage forced marriage is illegal under NSW law," Ms Goward said.

"Underage forced marriage is against the law in Australia and we rely on community members to report children who may be at risk.

"The Child Not Bride campaign reinforces that every girl deserves a childhood and the chance for a bright future, including the right to choose who, when and if she wants to marry."

Ms Goward said the Child Not Bride campaign has been focus tested on young women and community leaders from culturally and linguistically diverse communities, and will be supported by fact sheets in a number of languages.

Minister for Citizenship and Communities Victor Dominello said the advertising campaign would be bolstered by a community engagement and social media strategy.

"A network of community advocates will be established to support the 'Girls Right to Choose' message, which will be spread across social media platforms, including Facebook and Instagram, and through a new website," Mr Dominello said.

"The Advocates program will draw from the expertise of healthcare professionals, multicultural peak bodies, religious leaders and organisations like the Forced Marriage Network.

"Community leaders have a vital role to play in helping to raise awareness about the prevalence of underage forced marriage in Australia and reinforcing the legal and moral standards which exist in NSW."

Mr Dominello said the NSW Government had responded to concern about underage forced marriage by expanding the child protection helpline to make it easier for people to report their suspicions and for victims to seek help.

"This initiative is providing a first point of contact, linking across government agencies to ensure girls seeking to escape these circumstances can do so safely.

"The helpline encourages reporting and creates broader awareness about the issue, ensuring NSW Government agencies respond quickly and appropriately."

Members of the community who wish to report suspected underage marriages should call the 24-hour Child Protection Helpline on 13 21 11.
The *Child Not Bride* campaign runs from 1 February to 22 March 2015, with community engagement activities continuing thereafter, helping to bolster its impact.

**ACCESSED** by Keith Thomas July 2\(^{nd} \) 2015 @ 2.56pm