



## [FamilyRules] DNA, CSA and other 3 letter words like law and pay ???

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**Topic:** Family Feuds

Last Friday, in Court 2.8 of the Victorian County Court, an expert witness confirmed the devastation wrought upon one man by the Child Support system. Psychiatrist Dr David Chong detailed the case of a man paying child support for three children and the toll exacted by that burden. His client had recurrent nightmares of being harassed by the Child Support Agency and suffered depression and anxiety due to the stress of having to live on just \$132 per week. When his client found that only one of the three children he was paying for was actually his, his condition became even worse.

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Dr Chong confidently stated that if Liam Magill had been required to pay only for the one child he had fathered, he would be a well person today instead of being disabled by illness. Whilst none of this would surprise any paying parent, it should set big bells ringing within the Agency and the broader community. The silent toll of men who have taken their own lives as a result of their entanglements with the CSA remains largely unacknowledged but now there is the ominous prospect that the CSA could be held accountable for the damage it does to its clients. A child whose father committed suicide as a result of actions by the CSA could have a very interesting and expensive claim.

Whilst Liam Magill is pursuing his former wife for damages, in some future case a victim might argue that the Child Support Agency had a duty of care to its payers to ensure that they were indeed the biological father. The accuracy of paternity testing is virtually certain, the technology is readily and economically available, and the collection of samples from children is no more complicated than brushing their teeth. Why then should the CSA rely exclusively upon the mother's word as to who is the father? After all, some states have mandatory collection of DNA samples from the inmates of their jails, why not mandatory paternity testing when a mother registers for Child Support?

In NSW a new scheme has just been announced where prisoners can pay a token \$20 for DNA testing if it may clear them of the crime for which they were incarcerated. The reason for such largesse is not a burning desire for justice on the government's part, but somewhat more practical. Every innocent person held in jail is a burden on the taxpayer, not only for the costs of their incarceration, but the potential for future compensation claims. On the other hand, any CSA payer who proves not to be the father receives no recompense from the CSA, not even the return of his payments. The public purse will pay the mother more as a result of her loss of child support and the government would be further out of pocket. Far better to lumber some poor patsy and deny him any means of escape.

It is open to speculate that the CSA suspects that widespread paternity testing would

snow what private testing has demonstrated over the past few years, that 20% of children are calling the wrong person dad. Or to put it another way, well over twenty percent of payers are paying for someone else's child.

Predicably, the government response to such alarming statistics is to try and ram this particular genie firmly back into its bottle. The Chief Justice of the Family Court of Australia, Alastair Nicholson has berated men who have private testing performed. He invites any man with doubts to apply to his court for an order for testing. If the experience of one recent hapless applicant who was not only refused the orders but required to pay the wife's costs is anything to go by, such an invitation is unlikely to be attractive.

The second arm of Justice Nicholson's embrace is to make private testing without the consent of both parties a criminal offence, not only for the father, but also for the testing laboratory. The Australian Law Reform Commission in a recently completed study has also advocated such sanctions. And of course, any mother who has doubts as to the paternity of her children will consent by sheer curiosity, won't she, and then hand back the payments with nothing more than a shy smile

The Family Court, which has the power to order paternity testing under the Child Support acts is very reluctant to exercise that power. In a recent judgment (OP and HM, 2002) the Court confirmed a judge's dismissal of an application for paternity testing. The applicant's grounds for seeking the order crumbled when the Full Court decided that its own determination in the case of Duroux and Martin which set the average period of gestation at 280 days was in error, and that the correct figure was actually 266 days. That error had persisted for ten years. Nonetheless, the Full Court proceeded to rely upon other parts of the same flawed precedent in order to refuse the application.

The case of Liam Magill is the first of a handful of similar cases winding their way through the disparate legal systems of at least two other states. A win for Liam in Victoria will not ensure success for the others, but should he be denied justice, then that would not necessarily derail cases in other states.

Being able to put these issues behind him will also be a win for Liam, an important milestone on his road to wellness. But if we ignore the issues that he has fought to make public, then we may well condemn a significant number of men to the depths of despair from which he has just emerged.

Brian Taylor  
Vice Chairman Reliable Parents Inc  
Chairman, DNA sub-committee.

*"The world is a dangerous place to live; not because of the people who are evil, but because of the people who don't do anything about it."*

Albert Einstein

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There are no problems... only solutions and opportunities, but the last bastion of discrimination is in Family Law, with the target being WHITE, HETEROSEXUAL, SINGLE, FATHERS WHO LOVE THEIR CHILDREN yet have been usurped of as a parent.

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To air these grieves and find solutions try some of the following forums.

[www.FamilyMending.net](http://www.FamilyMending.net) PAS is CHILD ABUSE [www.StopPAS.info](http://www.StopPAS.info)

[www.FatherStatus.org](http://www.FatherStatus.org) Fathers ARE important [www.FatherFigure.info](http://www.FatherFigure.info)

[www.OzyDads.com](http://www.OzyDads.com) If we sit quietly we're sitting ducks Quack Quack !! but if we STAND (united as one) then we stand a chance [www.OzyDads.net](http://www.OzyDads.net)

[www.JointParenting.net](http://www.JointParenting.net) CHILDREN NEED BOTH PARENTS [www.spc.org.au](http://www.spc.org.au)

[www.CSAclients.net](http://www.CSAclients.net) [www.SelfRep.net](http://www.SelfRep.net) [www.MaleVictim.net](http://www.MaleVictim.net)

[www.disenfranchised.net](http://www.disenfranchised.net)

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