Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs
PO Box 6100
Parliament House, Canberra
ACT, 2600

Dear Committee Secretary,

The NSW Women's Refuge Movement Inc (NSW WRM) welcomes the opportunity to comment on the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011. The NSW WRM has for many years been acutely aware that the family law changes of 2006, and the interpretations of the law by legal practitioners have acted as an enormous barrier for women and children experiencing domestic and family violence and other abuse to live a life free from ongoing violence and abuse. In many cases family law interventions have been detrimental to women's ability to protect their children. Another contributing factor that women and children's safety and wellbeing is compromised through by the family law system is the systems lack of coordination with State based authorities such as child protection agencies and Police. It is the experience of our members that the two jurisdictions are often working at cross purposes. One of the key referral pathways into our refuges is through child protection services who often advise women that if they don't leave the Department will remove their children due safety concerns for children living with family violence. In many cases women then have to engage in family law proceedings which often results in decisions that facilitates contact between the perpetrator of violence, the children and the mother.

Yours Sincerely

Catherine Gander
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About the NSW Women's Refuge Movement Inc

The NSW WRM has been operating for over 30 years. The organisation is a state-wide representative body of specialist domestic violence services. Member services aim to respond to community needs by providing a continuum of services to women and children who are homeless or at imminent risk of homelessness particularly when this is due to domestic and family violence. Since the introduction of the 2006 Family Law changes, the length of time that our services are required to support women and the their children has increased significantly.

The NSW Women's Refuge Movement:

- Provides a supportive network and forum for refuge workers to discuss and promote best practice and exchange skills and knowledge;
- Undertakes projects to facilitate the work and effective operation of member refuges;
- Develops and provides resources and information about women and children's homelessness, domestic violence and related matters for refuge workers, the sector and the community;
- Advises and informs Government about issues relating to domestic violence and sexual abuse, women and children's homelessness, and the needs of women and children as clients of SAAP and other services; and
- Works with government and community groups to improve responses to women and children escaping domestic violence, sexual assault and other forms of abuse.

The Women's Family Law Support Service (service of the NSW WRM Inc)

In recognition of the increased support needs and the significant barriers faced by women and their children who have experienced domestic and family violence or child abuse in family law processes the NSW WRM established, in partnership with the Family Law Court's Sydney Registry, the Women's Family Law Support Service (WFLSS). The WFLSS enables a holistic response for women by facilitating communication and coordination between the client, solicitor, court staff and other organizations. It aims to assist the diverse and often complex support needs of women and make the court system is more accessible.

The service has provided over 1000 periods of support to women going through family law processes. The vast majority of the women supported have experienced family violence. The provision of this service has given our Organisation enhanced knowledge and

understanding of the detrimental impact that the current legislative and family law practices legislative are having on children and women, in cases where family violence and other abuse is present.

NSW WRM support for Legislative Amendments aimed at improving the safety of children and families at risk of violence and abuse

The NSW Women's Refuge Movement made a submission to the consultation on the Family Law (Family Violence) Bill 2010. The submission outlined our support for many of the proposed changes in that Bill. The NSW WRM Inc commends the Commonwealth Government on their commitment to improving the safety of children and their families at risk of violence and abuse. Prioritising children's safety over the rights of abusive parents should rightly be the main concern of the Parliament and the community.

The NSW WRM Inc gives full support to many of the proposed amendments to the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011, however makes further suggestions within this submission.

Specifically the WRM Inc supports the following:

1. The inclusion of the new object in the Act that gives effect to the United Nations Convention on the Rights of the Child.

2. The proposed new definition of Family Violence is supported by the WRM, as it recognises broad range of behaviours that constitute family violence. Critically, the proposed Bill acknowledges family violence that "coerces and controls" (Subsection 4AB). Family violence is an insidious cycle of coercion and control, that frequently extends beyond one-off incidents.

   It is the position and experience of the WRM that *"Those who perpetrate domestic violence often believe they have a 'right' to control and coerce women and children."*

   As stated in our submissions to the Family Courts Family Violence Inquiry and the Australian Law Reform Commission's Family Violence Inquiry, the current definitions of Family Violence and Child Abuse within the Family Law Act (Section 4) do not take into account the past 30 years of learning with regard to violence and abuse within families. It does not take into account the myriad of behaviours other than physical

abuse that can lead to emotional and psychological harm, which can be just as damaging and incapacitating in the long-term as physical trauma, if not more so in many cases.

The NSW WRM is also pleased that the proposed definition removes the test of "reasonableness". As noted in our previous submission to Family Law Courts Violence Review:

> *"the terminology used within the definition relating to family violence may in fact facilitate the undermining of acceptable evidence.*
>
> *The Family Law Act, Part I Section 4, provides a definition of family violence and guide for assessment of risk of harm that emphasises "reasonable" in establishing grounds for fear of a family member's personal wellbeing or safety. The definition also requires that the grounds for fear can only be established if a "reasonable person" in the same particular circumstances would also fear for their physical wellbeing or safety.*
>
> *The lack of clarity around what constitutes reasonable enables broad interpretation by the Court and its representatives, enabling any bias to impact on the Court's interpretation of acceptable evidence and fear of harm. This includes what information a Court Report Writer or Court ordered psychologist deems to include in their report, and in the process of making Court orders. Moreover, the definition also has the effect of exacerbating any reluctance women may have in disclosing violence and abuse, and discouraging women from maintaining their assertion that a real threat of harm exists.*
>
> *Women may be unsure of Court requirements under the "reasonable" condition due to a lack of good legal representation, as well as familiarity with legal language and their rights. As such, they are either persuaded by their legal representatives (for various reasons) into not disclosing to the Court that violence or abuse is an issue, or pushed into dropping their allegation by the Court, or do not disclose in the first instance while self-representing because*

they believe that they did not have the evidence required and/or believe that their claim would be perceived as unreasonable."[1]

3. Changes to the definition of child abuse

As noted in previous submission the NSW WRM supports the inclusion of 'exposure to' family violence in the Bill's definition of child abuse. It is the informed opinion and experience of the NSW WRM that the two issues cannot and should not be considered in separation, particularly with regards to the making of parenting orders, as violence to a parent causes harm to their child/ren who either directly or indirectly witnesses this.

Children who experience or are exposed to family violence can suffer severe trauma and have very specific needs. Workers in the NSW WRM were among the first in Australia to identify this trauma effect in 1982 and began at that time to develop improved recognition and responses .

Children who have experienced domestic violence frequently suffer from feelings of guilt, powerlessness, fear and uncertainty. The observations of refuge workers have been confirmed by research. It is now widely accepted that infants, children and adolescents who experience or are exposed to violence can suffer severe psychological trauma, and that this trauma may have far-reaching and long-term implications. However, this trauma can be significantly reduced when appropriate supports are put in place early.

Both the family law system and stated based agencies have an important role to play in addressing and responding to the harm children can suffer as a consequence of experiencing and being exposed to domestic and family violence.

Recommendation 1

The definition of 'exposure to family violence' be strengthened by:

- An explicit acknowledgement that exposure to family violence means by the persons who perpetrate family violence. This will further inform Family Law

[1] NSW Women's Refuge Movement Working party Inc, 2009, Submission to The Family Courts Violence Review, p.27

practitioners, that victims of family violence must not be held responsible for their victimisation or that of their children. A Family Law system that prioritises the safety of children is one that seeks to hold the perpetrator accountable and supports the child/ren and the non-offending care giver (usually the mother).

Suggested Improvements to the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011

Retention of the Presumption of Equal Shared Parental Responsibility

The Act's presumption of equal shared parental responsibility, and the emphasis on shared parenting arrangements over and above other parenting outcomes, place children and other family members who have experienced family violence in danger. The proposed amendments fail to address the safety risks posed by the presumption of equal shared parental responsibility and the subsequent emphasis on shared parenting arrangements.

The presumption does not account for the fact that majority of families engaging in the family law system, particularly the family courts, there is high incidence of family violence, child safety concerns and other complex issues such as mental illness and substance addiction. The Australian Institute of Family Studies Evaluation of the 2006 family law reforms, found that 60% of separated parents were in friendly or cooperative relationships[2]. Most separated parents are able to make parenting arrangements with little use of family law services or lawyers. For those families, however where complex issues such as family violence, child safety concerns, mental illness and substance addiction exist there is a high use of the family relationship service system, courts and lawyers[3].

It is not appropriate that the default position of the family law system (courts and formal family law services) be a presumption of shared parental responsibility when a significant proportion of the families engaging with family law services and the courts are the very families to which the legislation states this presumption should not apply.

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[2] Kaspiew, R., Gray, M., Weston, R., Moloney, L, Hand. K., Qu, L., 2006, Evaluation of the 2006 family law reforms: Summary Report, Australian Institute of Family Studies, p.34

[3] Higgins, D., Kaspiew, R, 2011, 'Child Protection and family law.... Joining the dots': National Child Protection Clearinghouse Issues, No.34, Australian Institute of Family Studies, p.2

The current legislation, has placed several exceptions on presumption of shared parenting, including where there is 'reasonable grounds' to believe that the parent has been abusive to the child or where family violence is present (Shared Parental Responsibility Act 2006: 61 DA (2)).

The evidence suggests that these exceptions are not well understood by a majority of parents and a proportion of family law practitioners much less applied in many family law decisions[4] . The AIFS Evaluation noted that despite the exceptions in the legislation the courts are only removing parental responsibility in cases where it considers that there is 'very serious circumstances' of family violence, child abuse and substance misuse and mental illness[5]. Given the broad consensus and large body of research indicating that children's development and wellbeing is significantly compromised by experiences of family violence and child abuse, only removing parental responsibility in cases where the court consider there are 'very serious circumstances' is not in the best interest of children.

Parenting arrangements, including parental responsibility should be in the best interests of each child, worked out on a case-by-case basis. The safety and well-being of families is too important to not take the time to judge each case on its own merits, especially when issues of family violence and abuse are involved.

Recommendation 2

2.1 The NSW Women's Refuge Movement recommends the removal of the presumption of Equal Shared Parental Responsibility. The Family Law Courts should be assessing each case on its own merits without any presumptions.

2.2 If the presumption is to be retained in the legislation then it should not apply at the interim hearing stage, as the Courts do not have the resources to properly consider and hear evidence in relation to family violence and child abuse.

The Proposed Amendment to section 60cc – Primary Considerations in determining a child's best interest

[4] Kaspiew, R., Gray, M., Weston, R., Moloney, L, Hand. K., Qu, L., 2006, Evaluation of the 2006 family law reforms Australian Institute of Family Studies, p.209

[5] Ibid, p.209

The Family Law Amendment (Family Violence and Other Measures) Bill prioritises safety only in cases where the court considers there is 'an inconsistency' between achieving a safe outcome for a child and a child having an ongoing meaningful relationship with both of their parents. Whilst the proposed amendments prioritising children's safety is welcome, the WRM still does not consider this to be sufficient.

The WRM has continually sought to highlight through previous submissions that our experience and that of our members is that in the vast majority of cases we are aware of there is a lack of consideration of family violence issues in the making of parenting orders. The emphasis on the rights of parents to contact with children often overrides the rights of children to safety and protection as well as the safety and protection of mothers. We have witnessed repeatedly parenting arrangements where ongoing violence to the mother and the children has been prevalent.

There is much evidence, that suggests that the current legislation has failed to provide a framework that facilitates safe outcomes for children and their families in cases where family violence and abuse is present. An extensive evaluation of the 2006 Reforms found that parents that indicated safety concerns for themselves or their children were no less likely to indicate that they had shared care arrangements than those that had not identified safety concerns[6].

The safety of children should not be compromised by the courts needing to identify 'an inconsistency'. Given the high number of cases within family courts involving family violence and child abuse the NSW WRM agrees with Professor Chisholm's finding that "it would be unrealistic to treat issues of violence as if they were exceptional[7]". Requiring the courts to identify an 'inconsistency' places another layer of complexity that can, compromise children's safety. The ability of the courts to identify 'inconsistency' is an even more troubling prospect when one considers that the bulk of family law matters that proceed to courts are handled by the Federal Magistrates Courts which has no requirement that Magistrates be trained or experienced in Family Law matters[8] and the objective of the

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[6] [6] Kaspiew, R., Gray, M., Weston, R., Moloney, L, Hand. K., Qu, L., 2006, Evaluation of the 2006 family law reforms:, Australian Institute of Family Studies,

[7] Chisholm, R, 2009, Family Vourts, Family Violence Review, Commonwealth Government, p.54

[8] Ibid, p.65

Federal Magistrates Court is for it to be "informal, fast and cheap, and is to encourage settlement"[9].

Requiring the courts to identify 'an inconsistency' will be even more difficult in interim hearings where judicial officers will have even less resources available to consider allegations of family violence, as noted in Professor Chisholm's report[10].

A clear statement in legislation making children's safety and the safety of other family members a priority. Children's emotional and physical safety and safety of other family members should be a priority in family law. Safe outcomes in families should not be jeopardised by other considerations.

The NSW WRM, therefore makes the following recommendation in order of preference:

Recommendation 3

3.1 – Amendment to the proposed Bill to include only one primary consideration. That is, 'the need to protect the child from physical or psychological harm from being subjected to, or exposed to, abuse, neglect or family violence'. The other primary consideration of the 'benefit of the child having a meaningful relationship with both of the child's parents' should become one of the 'additional considerations' within the Bill.

3.2 If both primary considerations are to be maintained then section 60CC (2a) should be amended as identified by Women's Legal Services Australia, to:

"in applying the considerations set out in subsection (2), the court is to give greater weight to the consideration set out in paragraph (2)(b)."

Below are some case studies form the Women's Family Law Support Service that highlight the inadequacies of the Family law courts to respond to family violence and abuse.

Case Study 1

[9] Ibid, p.52

[10] Ibid, p.80

Case Study 2

Legislative Amendments that remove barriers to disclosure of family violence and other abuse

It is the experience of the NSW WRM that some provisions in the current legislation act as barrier to some victims of family violence disclosing their experiences to the court. When victims of violence do disclose violence their disclosures are often responded to with disbelief and disregarded. This disregard for disclosure of family violence is aptly demonstrated in the above case studies.

These problems have been noted in many reports and Inquiries on the Family Law system. Recent research that examined the effect of family violence on post –separation parenting arrangements, which surveyed 931 adults found that 40% of separated parents who had

used the family law system post 1996, were two afraid to tell anyone of their experience of family violence[11].

Of the parents that had disclosed family violence only half believed their allegations were taken seriously, this number reduced significantly for parents who separated post the 2006 reforms with only 28% of women reporting that their allegations had been believed and taken seriously[12].

The Proposed Amendment to section 60cc – Additional Considerations in Determining a Child's Best Interests

The NSW WRM supports the removal of the consideration "the willingness and ability of each of the child's parents to facilitate, and encourage, a close and continuing relationship between the child and the other parent" (60cc3(c).

This part of the Act as detailed in many of the Inquiry and Research findings has acted as a significant barrier to disclosure of domestic and family violence and quite possibly acted as a significant contributor to court decisions that have placed children's safety at risk (as detailed in case study one – above). As noted in a previous Inquiry:

"With good reason, women leaving a violent or abusive relationship are highly unlikely to seek or encourage an unsupervised relationship between their child and the perpetrator. However, a woman who has taken measures to protect her child/ren from harm, such as restricting physical contact with their father or moving to a distant location with her child/ren, can be interpreted by the Court as obstructive to the relationship between the child/ren and the father.

Within this context, the NSW WRM also points out that an abusive party is more likely to seek contact with his ex-partner, including through contact visits with children, in order to

[11] Bagshaw, D., Brown., T., Wendt, S., Campbell, A., McInnes, E., Tinning, B., Batagol, B., Sifris, A., Tyson, D., Baker, J., Ferbnandaz Arias, P., 2010, The effect of family violence on post-separation parenting arrangements: The Experiences and views of children and adults from families who separated post 1995 and post -1996, cited in *Family Matters: Family Law*, Australian Instittute of Family Studies, No.86, 2011, p.54

[12] Ibid, p.54

continue the abuse. Under the current legislation, this can be assessed as positive behaviour that works in the abuser's favour in the making of parenting orders." [13]

Removal of Section 117AB –Costs Orders

This section of the Act stemmed from concerns in some parts of the community that false allegations of family violence are made often by women against men during family law proceedings[14]. The proposed removal is very welcome by the NSW WRM.

There is no evidence supporting these claims, indeed many women are unlikely to disclose family violence.[15] Two studies of allegations of family violence in the context of family law proceedings have found that allegations have been substantiated in 63 to 74 % of cases, with the remainder of allegations unable to be substantiated[16]. It is important to remember women who have been in abusive relationships are likely to have difficulty in disclosing and/or reporting violence, regardless of the environment. A number of research reports relate the reasons for this, including the stigma associated with being a victim of domestic violence, fear of legal consequences, fear of escalation of violence, fear of not being believed, believing that no one can assist, not knowing of available services, and victims not recognising acts as violence or abuse[17].

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[13] NSW Women's Refuge Movement Working party Inc, 2009, Submission to The Family Courts Violence Review, p.39

[14] Chisholm, R, 2009, Family Courts, Family Violence Review, Commonwealth Government, p.117

[15] Australian Bureau of Statistics, 2006, Personal safety Survey, 2005

[16] Flood, M, 2010, The myth of women's false accusations of domestic violence and rape and misuse of protection orders, http://www.xyonline.net/content/fact-sheet-2-myth-women%E2%80%99s-false-accusations-domestic-violence-and-misuse-protection-orders

[17] Examples of research include: Mouzos, J & Makkai, T 2004, "Women's Experiences of Male Violence: findings from the Australian component of the International Violence Against Women Survey (IVAWS)", Australian Institute of Criminology, Research and Public Policy Series, vol. 56., available http://www.aic.gov.au/publications/rpp/56/ ; Garcia-Moreno, C, Jansen, AH, Ellsberg, M, Heise, L & Watts, H, 2006, "Prevalence of Intimate Partner Violence: findings from the WHO multi-country study on women's health and domestic violence", The Lancet, Vol. 368, pp. 1260 – 1269, available http://search.ebscohost.com/login.aspx?direct=true&db=aph&AN=22569743&site=ehost-live

The NSW WRM welcomes the proposed amendments to the 'friendly parenting' provisions and repeal of section 117AB as they will remove some of the disincentives of disclosure of family violence. However, these problems are only in part caused by the legislation itself. These problems also point to the need for cultural shift required within the family law system and the broader community so that the prevailing belief is not that women fabricate stories of family violence in order to get the upper hand in the family law courts. More education and training of family law practitioners is required to address these misconceptions.

60D Adviser's obligations in relation to best interests of the child

The NSW WRM supports the proposed new obligations on advisers. However, as recommended above the Bill should be amended to have only one 'primary consideration', we also recommend that the proposed section 60D1(b) be amended to reflect recommendation 3.1 of this submission.

It is the experience of the NSW WRM that many women have had legal representatives actively discourage disclosure of family violence. The WRM assumes this is in part due to the current emphasis in the Act on the child having a meaningful relationship with both parents. However, the WRM believes it is also due to a continued prevailing presumption by a significant number of Family Law practitioners and advisers that allegations of family violence or child abuse are false, as already discussed above. This is despite a significant body of research to date and experience of legal practitioners showing that false allegations of violence and abuse are not widespread[18].

Recommendation 4

Given that some advisers for example Family Consultants, have additional roles that extend beyond the provision of advice and assistance to litigants, to the provision of reports and evidence to the Courts, it is imperative that changes to the Act are accompanied with

[18] Examples of research: Bron T, Frederico M, Hewitt L, and Sheehan R, 2000, "Revealing the existence of child abuse in the context of marital breakdown and custody and access disputes" , Child Abuse and Neglect, V.21, No.6, pp.849-859 as cited in Laing L, "Australian Domestic Violence Clearing House Topic Paper: Domestic Violence and family law", 2003; Bron T, Frederico M, Hewitt L, and Sheehan R, 2001, "Resolving Family Violence to Children", Monash University as cited in Laing L," Australian Domestic Violence Clearing House Topic Paper: Domestic Violence and family law", 2003

comprehensive and regular training on the dynamics of family violence and abuse. This training should be provided to all advisers within the family law system and judicial officers.

Requiring parties to disclose involvement of child welfare authorities

The NSW WRM supports this proposed amendment as it provides further impetus for the Family Law Courts to consider evidence from state based child protection authorities. It is the experience of the NSW WRM that evidence and involvement of state based authorities such as child protection agencies and Police are often overlooked.

It is the experience of our members that the two jurisdictions are often working at cross purposes. One of the key referral pathways into our refuges is through child protection services who often advise women that if they don't leave the Department will remove their children. In many cases women then have to engage in family law proceedings which often results in decisions that facilitates contact between the perpetrator of violence, the children and the mother.

The Australian and NSW Law Reform Commission Family Violence Inquiry report also found significant problems with coordination between the family law system and state based authorities, such as child protection agencies[19]. This position is supported by numerous other research reports that have found the lack coordination between these two systems to be very problematic. Some of the key problems identified are:

- That State based authorities are reluctant to investigate and respond to family violence and child abuse when family law courts are already involved despite, the Family Law courts not have any investigatory function or capacity[20];
- Evidence from State based authorities not being provided to the Family Law Courts or considered by the Family Law Courts[21]

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[19] Australian Law Reform Commission & NSW Law Reform Commission, 2010, *Family Violence: A National Legal Response*, 19.87 -19.100

[20] Australian Law Reform Commission & NSW Law Reform Commission, 2010, *Family Violence: A National Legal Response*, 19.87 -19.100 & Laing, L, 2010, No way to Live: Women's experiences of negotiating the family law system in the context of domestic violence,pp.92-3

[21] Ibid

The case studies below demonstrate how Judicial Officers may dismiss state based interventions as additional protection that negates their obligation to strengthen federally the safety of the child.

Case Study 3

Case Study 4

It is the experience of the WRM that Community Services are often commonly reluctant to be involved in Family Law proceedings. Provisions within the Act that facilitate improved coordination between the Family Law system and State based authorities are supported by the WRM.

Our member's experiences are further supported by evidence provided by Community Services to a 2006 NSW Parliamentary Inquiry into the impact of the Family Law reforms, where a senior Community Services staff member reported that he would have concerns about Community Services assisting women to prove family violence as this would lead to increase in workload of Community Services staff[22].

Recommendation 5

Given the reluctance of child welfare authorities to become involved in family law proceedings the WRM reiterates it support to the ALRC and NSW LRC recommendation 19-1:

"**Recommendation 19–1** Federal, state and territory governments should, as a matter of priority, make arrangements for child protection agencies to provide investigatory and reporting services to family courts in cases involving children's safety. Where such services are not already provided by agreement, urgent consideration should be given to establishing specialist sections within child protection agencies to provide those services."[23]

Protecting the safety of primary carers to make children safer

The legislation and the proposed changes does not sufficiently address or articulate the need family Law courts to protect primary carers who have been victims of family violence. A report by Dr Lesley Laing found that women's disclosure of family violence was very often met with disbelief and that in some cases women's concern for the safety of their children lead to the court labelling them as anxious. The women's perceived 'anxiousness' then became the court's focus and not the safety risks caused by history of family violence[24].

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[22] NSW Parliament, Legislative Council Standing Committee on Law and Justice, 2006, *Impact on the Family Law Amendment (Shared Parental Responsibility Act2006,* p.34

[23] ALRC & NSW LRC, 2010, *Family Violence: A National Legal Response*, Commonwealth of Australia, p.59

[24] Laing, L, 2010, No way to Live: Women's experiences of negotiating the family law system in the context of domestic violence, p.66

This apparent focus on the protective parent's capacity instead of the perpetrators actions and violence is concerning and not in the best interest of children. It defies logic that in legal practice 'a parent who is violent to their partner can be considered a bad partner but a 'good parent'. The experience of the women from this study perhaps may shed some light on statistics on shared parental responsibility collected by the Family Court of Australia which shows that in the 9% of litigated cases where the court has ordered that the child spend less than 30% of the time the mother the reason for this was 'mental health' issues[25]. For orders where children were to spend less than 30% of time with fathers mental health was only recorded as the main reason in 3% of cases[26]. It makes sense that if the primary carers of children are emotionally and physically safe from violence and abuse then this will improve the safety of their children. Family Court interventions should support and nurture the relationship between the protective parent and the child and should seek to improve the safety of both the child and the protective parent.

When there is family violence, the legislation should recognize and support the significant role that primary carers have in protecting the lives and wellbeing of children.

Beyond Legislative Reform

Improving the safety of women and children through the Family Law system requires more than legislative change.

Increased Supports services for victims of violence during Family Law proceedings

Additional information and support services must be made available to women in the Family Law system on Court premises. This should be in addition to increased access to Legal Aid. The experience of the WFLSS and the women it has assisted since being established in 2007 makes it clear that such services are essential for ensuring better case representation, use of court time, and better outcomes for women and children. Such services are also essential for supporting the emotional and psychological well-being of women who are dealing with the trauma associated with domestic violence and child abuse, and the intimidating nature of the Court system itself.

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[25] Family Court of Australia, Shared Parental Responsibility 2008/09 –statistics, p.4 http://www.familycourt.gov.au/wps/wcm/resources/file/eb409800c58b93b/SPR_08_09.pdf

[26] Ibid, p.3

An interim evaluation of the service undertaken by Dr Lesley Laing has also highlighted the value of the service to both clients and also to Family Law Court Staff. As noted by Dr Laing in the Interim evaluation, the WFLSS makes the..

> *"Family Law system more accessible to a vulnerable group of women through the provision of support, advocacy, information and referrals. For women who have experienced abuse and violence, the cost of the reduction in distress as they negotiate multiple, complex systems to rebuild their lives, is incalculable".* [27]

Professor Chisholm in the Family Violence Courts Review highlighted the need for support services for victims of domestic and family violence, such as the WFLSS[28].

Monitoring the Court's Performance

Performance Indicators for the Court should not focus on expediency and reducing court costs through measurement of the number of cases settled through mediation and time taken for proceeding to conclude. While these are important for ensuring an efficient system, they are not necessarily the measures of a just system. Additional indicators should also be developed that enable some measure of performance with relation to quality outcomes particularly around those cases regarding children's matters. Such indicators could incorporate the number and frequency of related proceedings that pertain to contravention of orders (indicative of quality orders that can be policed and reflect the real nature of family dynamics).

Risk Assessment

The onus on disclosing family violence and abuse to the Court needs to a shared responsibility and not reliant solely on the victim, who in many cases may be fearful of disclosure. A Court Risk Assessment Screening Tool should be implemented together with

[27] Laing, L., 2009 Interim Report on the Evaluation of the Women's Family Law Support Service,p.11

[28] Chisholm, R., 2009, Family Courts Violence Review, p.151.

effective training to assist in identifying Domestic Violence and Child Abuse, which involves client services staff and other Court personnel that come into contact with women attending the court, at the first point of contact.

Increased Training of Family Violence and Child Abuse

It is imperative that legislative amendments that aim to improve the safety of children are accompanied by extensive and regular training for family law practitioners on the dynamics of family violence and child abuse. If this does not occur it will undermine the intention of the legislative amendments as the prevailing bias in family law system that preferences the need for 'meaningful' relationships with both parents over the safety of women and children will remain.

Increased resources to Family Law Courts

It is critical that the Family Law Courts have sufficient resources to be able to assess each case on an individual basis and that the safety of children and other victims of family violence is not compromised because of the courts lack of capacity to properly consider each case.