Child Protection Party

Submission on the:

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
SENATE LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE
FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA BILL 2019

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SUBMISSION BY – CHILD PROTECTION PARTY

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Introduction

The Child Protection Party (CPP) was founded in South Australia in January 2015. It was established to correct what we believe are systems that are unfair to all participants, that do not achieve the best possible outcomes for children and their families and that lack transparency, equity and fairness. These failures occur in the child protection system in each state and territory, at the Federal level and in the Family Court. We believe that the Federal Government should focus on amending Family Law legislation and not on the structure of the Federal Circuit and Family Courts.

The following submission presented by the Child Protection Party is in two parts.

Part 1 focusses on the Bill before Parliament while Part 2 focusses on what the Party believes that Bill should be addressing.

The submission is based on an abundance of research, case studies, surveys, reports, inquiries, personal experiences and the advocacy work we have undertaken.

References are provided along with a selection of comments received from the public via our website.

Amalgamating the Federal Circuit Court and Family Court into one overarching entity may be beneficial if the recommendations made in Part 1 are acknowledged, addressed and included within the Court amalgamation and restructure.

Submission – Terms of Reference

"The Federal Circuit and Family Court of Australia Bill 2019 (the Bill) would bring the Federal Circuit Court of Australia (the Federal Circuit Court) and the Family Court of Australia (the Family Court) together into an overarching, unified administrative structure to be known as the Federal Circuit and Family Court of Australia (FCFC). These structural reforms facilitated by the Bill would create a framework in the FCFC for common leadership, common management and a comprehensive and consistent internal case management approach." (Explanatory Notes: Point 4) [1]

The Terms of Reference for this submission on the "Federal Circuit and Family Court Bill" were not specified.

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Part 1 – Federal Circuit and Family Court Merger

1. Public Demands a Complete Overhaul of the Family Law System

1.1 Commentary

A multitude of activists and reporters (Emeritus Professor Freda Briggs, Rosie Batty, Hetty Johnston, Jess Hill, The Child Protection Party, Charles Pragnell, Russell Pridgeon, Dr Deborah Wilmoth, and the list continues have publicised, lobbied, petitioned and reported to the Government the prevailing issues that exist within Australia's Family Law system.

The Australian Bureau of Statistics, Australian Institute of Health and Welfare and other educational organisations have publicised surveys and reports that also illustrate the dilemmas within our court system; the media consistently reports multiple horrific family murder suicides, child abuse and domestic violence stories around Australia including the multitude of cracks and inconsistencies within the Child Safety Department and Family Law system, yet the Government continue to procrastinate in addressing and actioning the issues within our Family Law system.

The Government acknowledge the tragedies that emanate from the Family Law system, yet continue to discuss the issue in absence of positive and affirmative action; I question why? It is time for action and prevention; it is no longer the time for inaction and reaction.

While an amalgamation and restructure of the Federal Circuit Court and Family Law Court are required, so too is the "complete overhaul of the entire Family Law system."

Emeritus Professor Freda Briggs, a renowned Child Protection advocate who desperately fought for the protection, safety, best interests of children and child rights, especially within the Family Law system, stated:

> *"What is needed is a massive reform which can only come from Politicians, many of whom (men) continue to believe that mothers concoct allegations of abuse to spite their former partners. This is despite research evidence to the contrary."* [3]

1.2 Recommendation

A complete overhaul of the Family Law system (and law systems) is required, as specified in the content herein.

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2. Inquiries into the Australian Family Law System

In recent years, the following inquiries into the Family Law Court were commissioned:

a) In 2017, the House of Representatives (HoR) inquiry into a "better family law system to support and protect those affected by family violence", made 33 recommendations to the Government; and
b) In 2019, the Australian Law Reform Commission (ALRC) inquiry made 60 recommendations to the government.
c) Presently, the Joint Select Committee on Australia's Family Law system; submissions were due 18 December 2019.

2.1 Commentary

The government has not responded to either reports a) or b) and the recommendations outlined in these reports have not yet been actioned.

The public now demands action from the Government; it is time overdue for the implementation of the appropriate and suitable recommendations outlined by the HoR and ALRC inquiries. I believe the following statement encapsulates the public's perception of the Family Law system:

> *"We do need to hear more about family violence, not less. But we need action, not yet another inquiry."* [2]
>
> *"Family violence must be disclosed, understood, and acted upon. […] The family law system, and each component in it, needs to encourage and facilitate the disclosure of family violence, ensure that it is understood, and act effectively upon that understanding."* [2]

2.2 Recommendation

Address and action the recommendations from the "Better family law system to support and protect those affected by family violence" (2017) and the Australian Law Reform Commission (ALRC) (2019) inquiries.

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3. Family Court Restructure

3.1 Commentary

The current division in administrative, methodologies and procedures between the Federal Circuit and Family Court (and within States and Territories), are disparate and frequently confusing, intimidating and overwhelming, especially to self-representing litigants who are naive to the court processes and procedures. The law, legislation, court officials and registry employees and systems should always focus on accessibility, equality, efficiency and justice for all parties to a case.

3.2 Recommendation

A simple system is in demand so all parties to the case can independently navigate within the Court system to an ease of capacity as a qualified lawyer with the focus on accessibility, equality, efficiency and justice for all.

4. Streamlined and Uniform Processes

4.1 Commentary

It is essential that each court system within each State and Territory, is uniform and streamlined exactly. The common mismanagement of State and Federal Governments is the inconsistency of rules, regulations, procedures, policies between each State and Territory, which is always the bugbear of the public.

4.2 Recommendation

It is imperative that any amalgamation of the court system is uniformed and streamlined so each case can be presented and managed in the same manner in each State and Territory and in the absence of any prejudice.

5. Transparency and Accountability - Judge Selection

5.1 Commentary

As time progresses, the public demands greater transparency and accountability in the entirety of the legal system, including judge selection.

We know from experience that we can confidently state that many females report of the evident bias, inconsistency and injustice they experienced in a Family court case, especially with respect to the judges and the Court processes. This statement can be supported by an Australian National University (ANU) report (19 April 2017):

> *"Judges are appointed by governments of the day, which means that they have a great deal of influence in determining contemporary understandings of justice. If there is no transparency in the appointments process, the decision-makers tend to favour Benchmark Men (white, Anglo-Celtic, heterosexual, able-bodied and male) who look like themselves. The result is that nothing changes. Gender justice, however, requires not just technical expertise, but vision and emotional intelligence, together with a knowledge of and sensitivity to diversity. For this reason, transparency in judicial appointments is essential."* [4]

The ANU further elaborates with the following statement, which in my opinion basically hits the nail on the head for the credibility in establishing a bona fide judge selection process:

> *"As courts are the bulwark of a democratic society, we should not unquestioningly accept the absence of transparency. We must put pressure on Senator Brandis and the Turnbull Government to reinstate formal criteria in deciding appointments to all federal courts. While outcomes cannot of course be predetermined, contemporary society demands that we at least have judges who are sensitive towards and respectful of others in respect of sexism and ableism, as well as racism and sexuality."* [4]

5.2 Recommendation

It is essential that the Court system in Australia function and operate with transparency, including the appointment of judges; all Family Law cases to be processed and managed professionally, efficiently, effectively, appropriately and in an expeditious manner.

6. Panel of Three Judges

6.1 Commentary

The proposed Bill implies that a panel of three judges will be employed to each family law case. From personal experience, The CPP questions how this process will reduce the significant backlog of family law cases and address each case expeditiously? In one case of which the CPP is aware, there was one judge, seven full days were dedicated to the trial of which the trial was split into 2 halves comprising of 3 and 4 days each for June and September respectively. Based on that example, 7 days x 3 judges

equal 21 judge days, how it is possible for the backlog of cases being significantly reduced when three judges are required per case as opposed to one judge? Furthermore, at the time of this case, there were only two judges in the state and a significant shortage of judges in other States and Territories: thereby a difficulty in transferring judges between States and Territories.

6.2 Recommendation

Using 3 judges instead of 1 will significantly and negatively impact the proposed aim of making the Family Court expeditious and inexpensive. The CPP therefore recommends that only 1 judge be assigned to a case.

7. Independent Authority

7.1 Commentary

The CPP believes that in preference to a panel of three judges for each family law case, an alternative is to establish an Independent Authority consisting of a panel of five qualified, skilled and experienced professionals including: legal expert, psychiatrist, medical specialist, financial specialist, mediator, human rights, or similar.

The Independent Authority will review, assess, determine and report if the Court processes and Court proceedings in each case are operating in accordance with the relevant Australian legislation, in absence of any breach, bias and injustice, in accordance with the *"United Nations Convention of Human Rights"* and evaluating if the correct and appropriate judgement was made in each case.

The Independent Authority will also evaluate if the judge, Independent Children's Lawyer (ICL), Family Court Reporter (FCR), Court officials, lawyers, etc., behaved in a professional manner in all respects and if not, then a registry is compiled (available to the public), that records this information and suitable cautionary warnings, probations, sanctions and disbarment are actioned.

7.2 Recommendation

Establish an Independent Authority in preference to appointing three judges to each Family Law case.

Part 2 – The Changes that are Truly Needed

While the CPP understands that the Federal Government believes the Federal Circuit and Family Courts should be merged, with respect to the Family Court, we believe that the merger will change

nothing. We believe that the Federal Government's focus should be on changing the family law legislation.

This part of our submission summarises some of the changes that we believe the Government *should* be focusing on. Much of this is based on extensive interviews with people who consider themselves victims of the Family Court and Child Protection systems.

8. National Approach to Family Law and Child Protection

8.1 Commentary

With Australia being a federation of 6 states and 2 territories along with a federal government, we have a multiplicity of laws that are inconsistent across the states and territories. As a result of this

1. what may be considered child abuse in one state may not be considered so in another;
2. the penalties applied vary in different the states and territories;
3. in the case of a family dispute where children are involved, if one of the parents moves to a different state then problems can – and usually do – lead to further conflict between the parents (which negatively affects the children) and delays in settling the dispute caused by one the parents often having to fight to get their case transferred to/from the other state.

It is our belief that governments should work towards achieving a national approach to family law and child protection.

8.2 Recommendation

The Federal Government should initiate discussions with all state and territory governments with the goal of achieving a unified system of family law and child protection with the system being federally funded and locally administered.

9. Best Interests of the Child

9.1 Commentary

The Government, Child Safety Department and Australian Family Law system, frequently espouse "best interest of the child" but consistently the words fail to correlate with the actions. Children are consistently being placed in the custody (and frequently) sole custody of the abuser, children are being removed from biological parents for no justifiable reason and in breach of the *Child Protection Act 1988* and thereby echoing the fate of the "Stolen Generation", other children are being left in abusive

and violent households with the Child Safety Department and Family Law system aware of this circumstance but neglecting to take action to save the child, increasing rates of suicides, family-murder-suicides, deaths, homelessness and poverty rates continue escalate in Australia with no proactive action from the Government.

In June 2019, Clark and Devoran who authored *"Silenced: Australian children are being placed in harm's way by the legal structure designed to determine their best interests – the family law system"*, note that The Australian Law Reform Commission (ALRC) conducted a wide-ranging review of the federal family court system and found it posed an "unacceptable risk to children".

In the first recommendation, the ALRC recommended that the family law courts should be moved to the states and territories; the same jurisdiction as child protective services:

> *"Federal Family courts often hear allegations of family violence and child abuse, but they have limited powers to investigate them. They rely on state and territory courts and agencies to do that work and to share information about the risks to families and children, according to the ALRC report."* [5]
>
> *"During this inquiry, the ALRC's attention was drawn to numerous examples of the family law system placing children in unsafe situations,"* the recommendation read. [5]
>
> *"The fundamental structural difficulties of the family law system can be remedied only by enabling family law, family violence and child abuse matters to be dealt with in the same place at the same time. One court considering the best interests of the child in totality."* [5]

One must enquire the reasons the Government has refused to accept the primary ALRC recommendation of unifying all systems (Court, Child Safety Department, Police and other Authorities) as a State and Territory responsibility?

9.2 Recommendations

It is imperative that the predominant goals and outcomes of the Family Court of Australia consistently and genuinely reflect the best interests of the child.

10. Meaningful Relationship with the Child

10.1 Commentary

Researchers and reporters note that the Family Court system is more concerned *with "both parents having a meaningful relationship with the child"* as prescribed in the *Family Law Act 1975*, despite and

irrespective of the child being emotionally, mentally, physically, sexually abused and/or neglected by one or both parents. [10, 11]

In 2010, Sydney University education and social work senior lecturer Lesley Laing, stated:

> *"More thought needs to be given to what formed a meaningful relationship when a parent had traumatised a child through domestic violence; there is no requirement that a parent who harmed a child in this way must demonstrate they can offer a safe and meaningful relationship".* [6]

Family Relationships Online; An Australian Government Initiative, state:

> *"Under Australian family law, children have a right to enjoy a meaningful relationship with both their parents, and to be protected from harm. A court is required to give greater weight to the consideration of the need to protect children from harm."* [10]

This statement implies that if the child's relationship with the parent is harmful, it is no longer a meaningful relationship; and the Court is required to give greater weight to protect the child from harm as opposed to provide the parent (abusive, violent or similar parent) with a meaningful relationship at the cost of the child's mental, emotional and physical development.

Justice Benjamin commented; "*a child's development and ability to grow in a caring environment is the central focus when determining what constitutes a 'meaningful relationship.*" [11]

The research consensus is that if a child is in a hostile, abusive and toxic relationship and/or environment, this does not constitute a meaningful relationship, best interest of the child, nor a caring environment.

10.2 Recommendation

All parenting orders should be made with regard to the child's best interest as opposed to the needs and wants of the parents and the Family law legislation that further burdens children by deliberately placing them with dysfunctional parents/carers and or hostile, violent, disruptive and toxic environments.

11. Do Women Concoct Violence Abuse Against Their Ex?

11.1 Commentary

Many researchers, reporters and inquiries have consistently demonstrated that the Australian Family Law system is failing our children by placing them in violent and toxic relationships and environments,

where it is impossible for the child to ever have a meaningful relationship with the parent/carer; such decisions and judgements by the judge and Court system must cease and desist.

Ms. Laing stated that many women in their survey, reported being discouraged by legal advisers and others from raising violence issues in the Family Court for fear of being seen as an 'unfriendly' or alienating parent unwilling to support contact with the father. [6]

Other scholars, reporters and media echoed similar statements and perspectives:

In the "Silenced Epidemic" interview, Dr Emeritus Freda Briggs stated:

> *"Would any mother sell her house to pay legal bills, simply to spite the father? I don't think so… And yet, I have met dozens of women who have paid from $350,000 to over $1m to lawyers in their unsuccessful efforts to protect their children."* [3]

Jess Hill (Investigative Reporter); In 2001, a joint study by the family court and the University of Sydney found that the family law system had:

> *"tilted more and more against women, either by accident or design"*; and
>
> "*but there was a catch: if a parent alleged abuse, they could be labelled a "hostile parent", unwilling to support shared parenting. The punishment for hostile parents could be extreme: they not only ran the risk of losing custody of their children, they could be blocked from seeing or even speaking to them for months."* [7]
>
> *"In an alarming number of cases, no-contact mums who've raised allegations of child abuse* have *had their child removed and placed with the alleged abuser. Court orders have restricted these mothers to a few hours per week with their child at a family centre, where they must pay a stranger to supervise them."* [8]

Charles Pragnell, independent Expert Defence Witness for Child Protection, member of the National Council for Children Post-Separation (NCCPS) and dedicated child advocate, possesses a vast knowledge of the Family Law legislation and the Family Court issues, systems and infrastructures that fail to protect and safeguard the best interest of the children. Mr Pragnell has authored multiple articles including:

a) "Flaws and Deficiencies in the Family Law";
b) "Persecution of Children and Families";
c) "Perverse Reversal of Child Custody";
d) "Captive Children Abused by the Family Law System";
e) "Family Reporters Overstep the Mark"
f) and several other articles, located at: [9]

Our research shows that judges (and commissioned lawyers), will deliberately ignore presented evidence of abuse and violence, by pressuring a party to "uplift" the evidence documentation, deliberately ignoring or avoiding the abuse topic and in many instances, granting the abuser "sole custody", thereby, providing the legal permission for the abuser to continue perpetrating his/her abuse upon the child.

11.2 Recommendation

It is the Court's responsibility to take heed of the Court evidence presented by the custodial parent (maternal or paternal parent) and make decisions, judgements and orders that genuinely act in the best interest of the child as opposed to the frequently unattainable and destructive ideology - parent's meaningful relationship with the child - despite evidence to the contrary.

12. World Health Organisation Definition of Sexual Abuse

12.1 Commentary

It is obvious that both the Family law system and Australia's judicial system in its entirety are failing to protect the "best interest of the child", not only in terms of parental custody disputes but also with respect to the protection and safety of children within institutions including schools, church, childcare and youth centres, etc. Perpetrators to abuse crimes upon children are rarely charged and prosecuted; as a society, we must question, why is this the case? Is it because Australia needs to redefine sexual abuse, or are the issues more complex/multitude of issues as I depict in my submission? Perhaps the Family Law system should base their definition of child abuse and neglect on The World Health Organization ([WHO], 2006, p. 9):

> *"All forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power."* [12]

12.2 Recommendation

Review the definition of child abuse to include the parameters of the WHO child abuse definition and in comparison to international legislation. Ensure that this definition is consistent within the legislation, Child Safety Department and societal institutions

13. Child Rights

13.1 Commentary

It is essential that all legislation, provides the child with rights according to the *"United Nations Convention of the Rights of the Child"* as prescribed at: [13]

The prevailing perspective is to ensure that on all occasions, the Court system and proceedings operate in the "best interest of the child".

All children within the Court system should not be discriminated in terms of age, gender, race, ethnicity, culture, religion, education, socio-economic status, disability, etc; all biases and inconsistencies in these areas are to be permanently eradicated.

All children have the "right to speak" by providing their personal views, perspectives, wishes, input to any and all issues within the Court proceedings.

All children to be appointed with an Independent Children's Lawyer; each session with the ICL is audio and/or video recorded and accessible to all concerned parties; maintaining privacy and confidentiality.

All children to be appointed with a qualified psychologist (not counsellor); each session with the psychologist is audio and/or video recorded and accessible to all concerned parties; maintaining privacy and confidentiality.

All children to be given the right to schedule an appointment with the presiding judge to speak about any issues and/or concerns, again, with the session's audio and/or video recorded and accessible to all concerned parties, maintaining privacy and confidentiality.

13.2 Recommendation

The Family Law system and Child Safety Department to employ and practice all aspects of the *"United Nations Convention of the Rights of the Child"*

14. Role of the Judge

14.1 Commentary

Recommendations have been made that judges play a more significant role in the Family Law proceedings by personally interviewing the child about their wishes, requirements, concerns and issues about both parents in a controlled, private and confidential setting. This methodology enables

the child to have a "voice and rights" in the case, for the child to genuinely provide their views and input and allows the judge to determine first hand if the child has been influenced or pressured to respond in a particular manner by either parent.

In several surveys, children have expressed the desire to speak directly with the judge regarding parenting orders. In a study by Parkinson, Cashmore and Single, the authors interviewed 35 children who had been the subject of parenting matters in Australia. Eighty-five per cent of the children interviewed said that children should have the opportunity to talk to the judge if they wished to do so.

Michelle Fernando states that:

> *"Judges, too, have expressed the view that there are benefits in hearing direct evidence of children's views without filtering by third parties. Many judges see meeting with a child as an important recognition of the child's right to be heard. Having the opportunity to see and interact with a child may better equip judges to focus on the individual child's needs and make a decision that promotes the child's best interests."* [14]

14.2 Recommendation

Ensure that all children in the Family Law (or similar system) have the opportunity to speak (if they so choose) to the judge in the case.

15. Role of the Family Court Reporter

15.1 Commentary

From our research we can attest that the Family Court Reporter does not always act in the best interest of the child, but rather the child abuse perpetrators. As previously stated, the instant a woman mentions abuse either to her commissioned or Legal Aid lawyer or within the judicial system, she is instantly scapegoated, victimised, persecuted and stereotyped with labels such as "mentally ill, drug addict, alcoholic, whore, unstable, too enmeshed and bonded with the children" and the "let's get the focus off me" strategy frequently coined by the narcissistic males in court. During our research, we received frequent allegations that the FCR and ICL will deliberately doctor reports in order to scapegoat and persecute the protective parent and provide sole or majority custody to the perpetrator.

It is the reality of many people in the Australian Family Court system (and international court systems) and it is a reality that the Government must intervene and immediately seek to address and rectify.

Our research shows that, in one case, the opposing party requested a particular FCR in his Affidavit which was contested to the judge in Court against the appointment of this FCR stating that the FCR is not independent and is most likely biased and prejudiced against one of the parties and protective and supportive for the other party. Despite her continued protestations, the judge granted the appointment of the FCR that the other party requested in their affidavit.

This scenario has been repeatedly reported in media and by the activists previously mentioned, by the public on Facebook and support group pages, in inquiries, in surveys; everywhere.

However, despite this endless reporting of this unbelievable scenario that ultimately devastates and traumatises children by placing them in the arms of the abuser, the court system and judges continue to make the same mistake over and over again, to the detriment of the child and to qualify the family law legislation in providing "meaningful relationship with the parent". Why?

In summary, through her surveys and research, Michelle Fernando states:

> *"Children have expressed dissatisfaction with expert reports, commenting that they are not happy with the techniques employed by report writers, the lack of confidentiality and privacy, the feeling that their views were not properly understood or taken seriously, and the filtering and reinterpretation by the report writer of what they had said."* [14]

15.2 Recommendation

An Independent Family Court Reporter is to be commissioned by an Independent Authority of the Law system, never by an applicant or respondent in the Family law case.

16. Role of the Independent Children's Lawyer

16.1 Commentary

Similarly, our research shows the ICL in in a case we are aware of case also deliberately doctored the Chronology of Events to mirror and echo the FCR statements in Court and Court reports.

The ICL deliberately omitted crucial evidence in one party's Chronology of Events to present a particular pattern of events that protected and defended the opposite party and crucified the mother.

The children both reported to the mother that it was obvious to them that the ICL had no intention of listening to their viewpoints, issues and concerns in their interviews.

Once again, in her surveys and reports, Michelle Fernando echoes the mother's personal experiences in the court room. To quote Michelle Fernando again:

> *"Because the ICL is a 'best interests' advocate and not the child's legal representative, if the child's views do not accord with what the ICL believes is in the child's best interests, the ICL must advocate against the child's views. This contradicts the understanding of many children, who expect that 'their lawyer' will represent their views, and children have expressed disappointment and frustration with their failure to do so."* [14]

16.2 Recommendation

An Independent Children's Lawyer (ICL), is to be commissioned by an Independent Authority of the Law system, never by an applicant or respondent in the Family law case.

17. Court Costs

17.1 Commentary

It is a recognised fact that all Family Court proceedings are considerably expensive to all parties involved and frequently, both Federal Circuit and Family Court costs stifle a parties' equal accessibility and opportunity to initiate, maintain and/or resume legal action if and when required.

The Federal and Family Court costs are outlined at: [15].

As you peruse the Court costs, one needs to note these are Court costs only and excludes the additional costs of a reasonably qualified lawyer (Senior Partner or Principal) fees in the range of $600 – $700 per hour (data quoted in 2020) [16]

Considerable research and data document that a high proportion of parties who afford their own lawyer are more likely to win the case than parties in the case who cannot afford a lawyer and consequently, are forced to self-represent in the Court case. This of course means that the legal system only benefits the wealthy who can afford the copious Court and lawyer fees; this is not a fair, just and equitable legal system for an advanced country such as Australia.

17.2 Recommendation

Any amendments to the legislation, the Court processes, Court proceedings, amalgamation and restructure, should place considerable weight to waiving and capping court costs to lower-medium socioeconomic groups and all disadvantaged and vulnerable groups.

18. Legal Costs

18.1 Commentary

It is also the responsibility of the Government to intervene and finally regulate the legal profession.

To quote an article from AustLii:

> *"The Government is committed to reform of the legal profession to ensure greater competition within the profession, as well as increased choice and improved service for consumers."* [14]
>
> *The Government will continue to work with the States and Territories to achieve national reforms in areas that require State and Territory action, including the implementation of competition principles across the legal profession, the achievement of a national legal services market and the freeing-up of restrictive practices."* [14]

To date, we have not witnessed either of these mentioned reforms. Instead, articles continue to report the consistently rising Court and legal costs and the unachievable goal of receiving justice in the Australian legal system.

A report released almost a decade ago, by Community Law Australia (2012), documents that the Australian legal system in its entirety is failing the public, is beyond crisis point and demands urgent attention and action to rectify the situation so everyone who enters the Court system has equal access, opportunity and fairness and justice in all circumstances. To quote Community Law Australia:

> *"Our goal is to raise awareness of the problem and promote action to ensure that every Australian can access the law, regardless of their financial situation, social circumstances or geographic location."* [17]

During our research, we often received allegations that many lawyers and barristers in Family Court, custody, divorce and settlement proceedings deliberately abuse the Court system to finance their new multi-million dollar mansion and sports cars and basically steal these funds from clients who are forced to fire sell their property and all other assets for immediate payment to the lawyer. The client is of course, left with nothing and the lawyer of course gains everything.

A quote one media article (there are of course multitudes):

> *"By the time the property and custody aspects of the bitter court dispute were settled, she and her ex-husband had accrued more than $860,000 in legal fees. It amounted to a form of financial abuse, she feels, and one that was able to happen in the current court system."*

The public and judges have both reported and complained that the legal fees charged by lawyers, barristers and the like as ridiculous and the deliberate ploy used by lawyers to provide voluminous affidavits and Court material that obviously increase legal fees for the opposing party as this material must be read, assessed and addressed. In his judgment, Justice Robert Benjamin noted the large volume of correspondence between solicitors that were attached to the affidavits, including some within the 500 pages of exhibits to the father's affidavit.

> *"Some of those letters were inflammatory and reflected the anger of the parties or one or other of them," he said. "The letters were at times accusatory. They were often verbose and at times involved unnecessary tit-for-tat commentary. Some of the letters served little or no forensic purposes.* [18]
>
> *In the judgment, which Benjamin renamed as Norton v Simic in order to de-identify the parties and their children, he noted he had previously expressed concern about the high charges of lawyers in property and parenting proceedings, but his concerns "have seemingly gone unheeded".* [18]

18.2 Recommendation

Government to intervene and finally regulate the legal profession earnings, charges, fees, etc., and the manner in which the profession engages in scrupulous and underhanded tactics to extract more funds from the client.

19. Court Transcripts

19.1 Commentary

Transparency within the court system with respect to the procurement of court transcripts is also a high priority. In Australia, court transcripts of the court proceedings are furnished by Auscript, these transcripts are extremely expensive to purchase and definitively a financial burden to all parties in a case but most especially the self-representing litigant who is already prejudiced due to lack of lawyer representation and absence of finances.

The amalgamation and restructure of the court system requires transparency and equal opportunity for all parties in the case to procure the court transcripts free of charge. Should it be evaluated that the provision of hardcopy transcripts is financially out of the question for the government to introduce, then it is imperative that all court room sessions are audio and/or video recorded and made available on USB format in the Court House as soon as possible to all involved parties in the case. This will again circumvent injustices in cases when lawyer represented parties are able to employ scribes to

take court notes when in contrary, the self-representing litigant is unable to successfully defend their case and scribe court notes simultaneously.

19.2 Recommendation

Provide all Court transcripts free of charge, or alternatively audio and video record each Court session for each party to access via USB.

20. Jurisdiction in Lodgment of Court Documentation

20.1 Commentary

Another overwhelming issue to self-representing litigants (and also to registry representatives) is the difficulty in establishing the jurisdiction in which the court documents should be lodged as the case may encompass 2-3 jurisdictions. The proposed court amalgamation and restructure must dictate specific and consistent guidelines relating to this issue and registry representatives must be significantly trained to provide accurate information to parties; this should not be a case of the party being obliged to seek legal advice; this is my personal experience and that of an advocate.

20.2 Recommendation

The lodgment of Court documentation to be consistent within all States and Territories and Court registry staff to be appropriately trained.

21. Jurisdiction and Physical Presence at Court

21.1 Commentary

Continuing with the subject of jurisdictions, it is once again a failure of the legal system to dictate that parties to a case are required to be physically present in a particular jurisdiction in a particular State or Territory. This requirement is obviously not a feasible request for any party to a case due to employment reasons, financial issues, childcare issues, accommodation and transport issues, health and medical issues and the list goes on.

21.2 Recommendation

Any amalgamation and restructure of the family court systems must include the opportunity for any party to a case to be present via audio and video teleconference.

22. Teleconference at Court

22.1 Commentary

The current system requires that a party who wishes to attend by teleconference must request permission from the opposing party. It is a recognised fact that the family court system is extremely adversarial, as too are parties in the case; this leads me to the question: "What is the likelihood that a party will agree to another party's request for a teleconference?"

22.2 Recommendation

Any amalgamation and restructure to the court system must provide the opportunity for all parties to be present in a teleconference; neither the opposing party nor the Court can oppose the individual's right to a teleconference.

23. Mediation, Arbitration and Conciliation

23.1 Commentary

The amalgamation and restructures of the Courts must also ensure and demand that prior to the commencement of any Court proceedings in a case, at least three mediation sessions are conducted between all parties in the case, including the Independent Authority, ICL, Family Court Reporter and lawyers.

It is our understanding that it is obligatory that all custody and financial settlement cases commence with some form of mediation prior to setting foot into the adversarial court system. We note, this is not everyone's experience; in one case of which we are aware, the judge refused a party's right to mediation or similar, despite her consistent protestations during the court proceedings.

23.2 Recommendation

All Family Law cases to precede with compulsory minimum 3-6 sessions of mediation, arbitration, conciliation in a safe, private and confidential setting.

24. Court Registry Representatives – Training

24.1 Commentary

Our research shows that the representatives at the Court registry are ill equipped in providing accurate advice regarding the types of Court forms required at a particular stage of the Court process.

The registry representatives frequently provide a one liner comment for any question they cannot respond to or are hesitant in responding for fear of retribution for ill advice: *"I am sorry, I cannot assist, you will need to seek legal advice on this issue"* or words to that effect.

We question if these registry representatives undertook significant training in Court processes and procedures. We further question, if a registry representative has difficulty establishing and providing a self-representing litigant with accurate information and advice on the type of Court forms required, then how does the Court system expect a member of the public to navigate this obviously challenging system with null knowledge? Bear in mind our previous comments about the exorbitant costs of legal representation and court fees.

24.2 Recommendation

All registry representatives are sufficiently trained and equipped to provide an accurate and consistent response and dispense with the "catch-all response" of: "seek legal advice".

25. Education and Upskilling of Judge and Court Officials

25.1 Commentary

A remarkable amount of research indicates that judges, Independent Children's Lawyers (ICLs), Family Court Reporters (FCR), Court officials and lawyers require re-education and upskilling to enable them to recognise the signs, symptoms and indicators of all forms of child abuse, including psychological, emotional, physical, sexual abuse, negligence and neglect.

Additionally, media has also reported that judges require re-education, value and attitude rehabilitation with respect to the definition of "consensual sex" as it has been reported that several judges possess a rather archaic, chauvinistic and biased attitude toward both women and also children who report sexual abuse within the court system. [19]

Mr Bill Eddy, a Californian family lawyer of 23 years and author of "Managing High Conflict People in

Court" and other publications relating to this topic, suggests it is imperative for judges, ICLs, Family Court Reporters, Court officials and lawyers to be educated about "high conflict personalities and narcissistic strategies" frequently employed by these clients in a Court room and to recognise that the paramount goal and priority of high conflict personalities in the court room is to "win a case" as opposed to acting in the "best interests of the child". To quote Mr Eddy:

> *"For the sake of California's children and future citizens, bold moves are required beyond simply adding faster court procedures or more professionals to make decisions for the parties. California has been a leader in reducing the adversarial process of Family Courts by being the first state to adopt "no-fault" divorce in the 1970's and by being the first state to adopt Family Court Services Mediation in the 1980's. It's time to reduce further the adversarial process of family courts, by engaging the parties themselves in learning more skills and by providing time to train the judges in what is really going on in their courtrooms today."* [20]

While this statement is from a Californian judge and novelist, it is obvious that the same patterns within the court room setting also apply in Australian Family Court. Media reports, personal and advocacy experience are testament to this fact.

25.2 Recommendation

Educate and upskill the judges, Independent Children's Lawyers (ICLs), Family Court Reporters (FCR), Court officials and lawyers to easily recognise the signs, symptoms and indicators of all forms of child abuse, including psychological, emotional, physical, sexual abuse, negligence and neglect.

26. Adverse Effects of Abuse and Violence Upon Children

26.1 Commentary

As the Family Court system has repeatedly failed thousands of families in providing judgements that safeguard the "best interest of the child", we believe it essential to note the following adverse effects of abuse and violence upon the child's development and the ongoing aftermath of these effects into the child's adulthood and thereafter:

- "Attachment and interpersonal relationship problems;
- Learning and development problems;
- Mental health problems;
- Youth suicide;
- Alcohol and other drug use;

- Aggression, violence and criminal activity;
- Physical health problems;
- Teenage pregnancy;
- Homelessness; and
- Death" [21]

26.2 Recommendation

The judges, Independent Children's Lawyers (ICLs), Family Court Reporters (FCR), Court officials and lawyers to recognise that each of their decisions with respect to "one child" in the Family Law system subsequently has a massive impact not only upon the individual child, but also upon the entirety of society.

27. Being Proactive in Preference to Reactive

27.1 Commentary

It is essential that the judge and Court Officials are cognisant and learned that their judgement will play a massive impact upon the child's overall development, welfare and safety but also, repercussions upon society's education, health and medical infrastructures and societal issues of increasing ill health, medical illness, suicide, poverty, homelessness, criminal and murder rates and etc.

A judge's judgement in his/her placement of a child with a particular parent/carer (especially one that is abusive, dysfunctional and toxic), will inevitably play a significant role with adverse consequences within society; it is the judge who is responsible and accountable for his/her decisions and actions in child placement in custody battles. We believe that a judge who negligently places a child in the arms of a perpetrator and in instances when the child is raped and/or murdered, then it is the judge who is responsible and accountable for that rape and/or murder.

27.2 Recommendation

The necessity for the judge and Court Officials to be more responsible and accountable in their decisions and judgements in each Court case and that relevant and appropriate repercussions and sanctions are applied by an Independent Authority.

28. Judge Discretion and Behaviour

28.1 Commentary

It is imperative that the amalgamation and restructure of the courts systems address and action the following requirements:

Delete all clauses of the legislation that provides the legal right and enables the judge to make decisions and judgements at their discretion; this will prohibit any judge biases, inconsistencies, etc.

Similarly, delete all clauses of the legislation that enable the judge to utilise bullying, harassment, intimidation and threatening statements and sanctions upon any party in the case; such roadblocks prohibit a party from adequately presenting their case and presenting evidence in the case.

Any bullying, harassment, intimidation and threatening tactics utilised by the judge are to be reported to the Independent Authority and the judge's behaviours appropriately reprimanded and sanctioned.

Any judge who is assessed by the Independent Authority to be biased, unfair, inconsistent, unethical, conflict of interest, misconduct, failing to be impartial, prejudiced, racist, chauvinistic, arrogant, incompetent, harassing, bullying, arrogant, nasty and mean, is to be sanctioned appropriately at first instance and disbarred in the second instance.

Any judge recusal should be actioned by an Independent Authority; not by the judge himself.

28.2 Recommendation

The necessity for the judge to be appropriately sanctioned and that a register is established of judges who received cautionary and/or disciplinary action.

29. Court Official's Behaviour

29.1 Commentary

Similarly, any amalgamation and restructure of the Court systems must also proactively address and action the following issues.

Any judge, ICL, Family Court Reporter, lawyer determined by the Independent Authority as concealing, ignoring, avoiding evidences, particularly emotional, psychological, physical, sexual, neglect, negligent abuse upon the child, is to be reprimanded and sanctioned appropriately by the Independent Authority panel.

Responsibility and accountability is a paramount requirement of the judge, ICL, Family Court Reporter and lawyers in all legal cases involving children. Legal sanctions must be imposed to safeguard the "best interest of the child" from being placed and or given custody to any unsafe parent or carer who abuses and/or murders the child.

Any lawyer employed by the client who does not "fight in the client's case" is to be instantly dismissed from the case and replaced by a suitable lawyer, with a trial date extended accordingly.

29.2 Recommendation

The necessity for all Court Officials (FCR, ICL, lawyers, etc.), to be appropriately sanctioned and that a similar register is established noting all Court Officials who received cautionary and/or disciplinary action.

30. Child Safety Departments and Employees

30.1 Commentary

Various media articles and research report upon the high pressure and demanding roles of Child Safety employees and a recent audit by the Australian Institute of Family Studies determined that the mental, emotional and physical health of Child Safety employees is at high risk because of their requirement to deal with trauma on a daily basis, demanding, stressful and intensive workloads, long and erratic working hours, high staff turnover, judgements by the public, society and the media.

The Australian Institute of Family Studies reported (2018):

> *"Child protection practitioners (CPPs) are struggling to maintain good mental health in their current work environments, according to a recent report published by the Victorian Auditor-General's Office."* [28]

A majority of the public who have dealt with the Child Safety Department have reported these employees as being underhanded and scrupulous in their tactics and consistently engaging in behaviour that contradicts the "best interest of the child". This appears to have been the experience of many of the people we consulted.

We are certain that we do not need to present the multitude of media articles that report Child Safety Department failed again in removing a child from a dangerous, hostile and violent environment; where the child is now deceased through the inaction of the Child Safety Department.

Conversely, the Child Safety Department illegally – in the opinion of many we consulted - steal children from functional family environments who only required and requested medical assistance and/or social support networks.

30.2 Recommendation

All Child Safety Department employees to undergo a complete and comprehensive psychological assessment including the assessment of a high conflict personality and narcissistic behavior; assessments to be initiated on all current and future Child Safety Department employees, on a set 3-5-year basis.

31. Consistency, Fairness and Justice

31.1 Commentary

From our research Family Law Courts state the importance that all Family Court processes and proceedings apply with consistency and fairness to each party in the case. However, our research also shows that many people believe the converse occurs. For example, in case of which we are aware, it was unfair that the opposing party with lawyer, was able to have the court documentation, stamped and signed off at the same time that the documentation was delivered to the court. Conversely, in that person's situation, as a self-representing litigant, she delivered her court documentation on a particular day but her documentation required the judges' permission for admission and consequently, her documentation was not signed and stamped until days later, when she was once again required to be present at the Court for this procedure.

Similarly, during Court procedures, she was required to jump through many hoops scrambling to recite the correct Act, clause and section that enabled her to provide audio recordings of physical abuse as her evidence in the case; this however, was not a requirement for the opposing party's lawyer.

Another example, is that her judge demanded that she "uplift" the court documentation she submitted, stating that if she decide not, he will delete a majority of the paragraphs under "Rules of Evidence", a threat that was never applied to the opposing party. In essence, examples such as these that clearly illustrate preferential treatment, bias and inequality in Court proceedings, must be eliminated in all cases.

31.2 Recommendation

That the Independent Authority (or similar) ensures consistency, compliancy, accessibility, fairness and justice to everyone within the Australian law system.

32. Self-representing Litigants

32.1 Commentary

Considerable evidence both in Australia and at the international level, suggests that the proportion of self-representing litigants is consistently increasing. Research reports guesstimate that the number of self-representing litigants in a Family law case is approximately 35%. [22]

Many scholars have reported the impact of the rising rates of self-representing litigants both to the litigant themselves, but also to the parties in the Court case and for society as an entirety.

The challenges for the self-representing litigant have been repeatedly reported and can be summarised in the following quotes:

> *"A litigant without legal representation is placed at a substantial disadvantage in accessing justice through the court system. The Australian judicial system functions on an adversarial basis – on the assumption that all parties to proceedings will have the expertise to present their case to the Court in a coherent form which conforms to the minutiae of civil proceeding rules. SRLs will often lack the expertise to do this, which inhibits their ability to access justice through their own legal system and hampers the Court's efforts to effectively do its job."*

> *"SRLs enter circumstances in which it is necessary to navigate complex legal concepts and procedures with the same level of proficiency as an experienced legal professional. Some legal concepts can be confusing and obtuse to even the most experienced lawyer, so it is hardly unexpected that SRLs would struggle."*

> *"Even coping with administrative complications (a non-issue with legal representation) can make navigation of the litigation process much more difficult for SRLs. For example, most SRLs are wholly unfamiliar with matters such as what court forms to fill out, or when to stand or be seated in the Court."* [22]

Parliament of Australia, Submissions to the Committee argued that self-representative litigants also impaired the effectiveness of the administration of justice by:

- potentially compromising the role of the judicial officer;
- being less able to assess the merits of their case objectively, or to enforce their rights;
- being less able to adduce relevant evidence and provide cogent argument;
- being less able to comply with accepted procedure without direction;
- forcing opposing counsel to act contrary to their own client's best interests; and
- increasing the likelihood of appeal. [23]

32.2 Recommendation

It is essential that any amalgamation and restructure to the court system addresses the prevailing conundrum of the self-representing litigant and addresses the above issues.

33. Audio and Video Recording

33.1 Commentary

For fairness and justice to preside, it is essential that the amalgamation and restructure of the Court systems permit all court proceedings, mediations and similar and interviews to be audio and/or video recorded and made available in the Court House as soon as possible; all recordings to be made available to all parties in the case, free of charge (USB to be provided).

To enable and ensure transparency and accountability, all conversations with children involved in court proceedings to be audio and/or video recorded in a private setting by an independent authority, with assurances that the recording will remain secure with privacy and confidentiality and in the absence of any editing.

33.2 Recommendation

Audio and video record entire Court proceedings and ensure available of recording on USB, to all parties in the case.

34. Gag (Suppression) Orders

34.1 Commentary

Once again, to ensure fairness, justice and uphold human rights, it is imperative that the court amalgamation and restructure:

1. Delete all clauses of the legislation relating to "any and all gag Orders" (Suppression Orders); these orders are in conflict with both the *"United Nations Convention of Human Rights" and "United Nations Convention of the Rights of the Child".*
2. All Court cases to be and remain transparent and reportable in the public domain and to the media; ensure confidentiality of all parties in the case.

34.2 Recommendation

Delete all clauses relating to gag Orders" (Suppression Orders) while maintaining both privacy and confidentiality and also the right to freedom of speech.

35. Reporting Database

35.1 Commentary

Currently a void exists in the ability for the Court to produce data. The amalgamation and restructure of the Court systems requires a reporting database equipped to report:

a) total cost of each Family law case with a breakdown of actual Court costs for filing each court documentation (Application, Initiating Application, etc.) per party. This data is beneficial as it provides factual evidence to the public on the true Family Law court costs which may subsequently deter parties in a Family law case to reconsider initiating a Court case and to be more amenable to conciliation, mediation, arbitration processes in preference to the adversarial Court system. This will in turn, reduce the number of Family Court cases, workloads and backlogs in the current systems.

b) A breakdown of lawyer/legal counsel versus self-representing litigant data categorised: gender, age range, income, location/region, State/Territory and by month. This data is required to assess the proportion of self-representing litigants within Australia, assess and compare Australian family law data with international data and make assessments with respect to legal accessibility, provision of legal and legal aid services and comparison between lawyer represented and self-represented parties. This data will also depict the lawyer costs for each

party to a case. This data is valuable as illustrates the funds required for a family law case, which may deter potential clients. The data will also confirm studies who evaluated that the party who spends the most money in the case is most likely to win.

c) the proportion of legal cases abandoned resulting from a lack of legal representation and lack of finances; *"Overall, matters involving unrepresented parties are in the system for a shorter time, given that they are more likely to be dismissed or abandoned"* (ALRC 1999: 377: Hunter et. al., 2002).
d) the duration of each case and the ability to assess if the duration of the case is lengthier in cases where one or both parties are self-representing litigants. [25]

The data will also clearly illustrate the inequalities, bias and injustices that currently exist within the legal system which for centuries, has deliberately segregated the socio-economic classes and gender.

From our research we can state that many women are disadvantaged in the Court system either because they were a childminder/housekeeper with no income, or alternatively the man controls the finances and employs suitably qualified and experienced lawyers and barristers while the woman is left with no finances to employ a lawyer and is forced to self-represent. This is a frequent scenario of the Family Court system that must be eradicated to ensure equity, accessibility and fairness in the legal system. [24]

It is critical that the reporting database also has the capacity to derive the following data:

a) the proportion of legal cases abandoned resulting from a lack of legal representation and lack of finances; *"Overall, matters involving unrepresented parties are in the system for a shorter time, given that they are more likely to be dismissed or abandoned"* (ALRC 1999: 377: Hunter et. al., 2002); and [26]
b) the duration of each case and the ability to assess if the duration of the case is lengthier in cases where one or both parties are self-representing litigants. [26]

35.2 Recommendation

Establish a Reporting database that includes the above-mentioned parameters.

36. Royal Commission

36.1 Commentary

Chief Justice John Pascoe agreed that Family Law has become "increasingly complex" and while there have been approximately fifty major inquiries into the Family Law Act, further investigation may be a required. To quote Chief Justice John Pascoe:

> *"A royal commission into family law should be considered if reforms currently underway do not address serious failings in the system, according to the outgoing Chief Justice of the Family Court."* [27]

36.2 Recommendations

It is imperative that a Royal Commission is established into:

1. The totality of systems operating within the Federal Circuit Court and Family Court of Australia; and
2. The Child Safety Department procedures, practices, policies and employees.

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE

FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA BILL 2019

SUBMISSION BY – CHILD PROTECTION PARTY

Signed: Date:

Avery Hilditch

Secretary

Child Protection Party

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SENATE LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE
FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA BILL 2019

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Appendix – Comments Received by the CPP from the Public

Comment from	Comment
DC	We need baseline health assessments for children that are removed. Total psychological support for parents, children and carers. A care plan to be written and enacted with full consultation of parents. No carer should be able to demand to cut any communication with any biological family and the children. And first and foremost, children be put into kinship care above foster care every single time.
S	• Therapy offered to all Children whom present with substantiated injuries, with inquiry continuing until it is clear how harm occurred. • Both parents Psychologically tested, not just One. • The secrecy around Family Courts/ Government Organisations needs to be lifted .
JH	• Public defender for children, 3rd party lawyer to be appointed for the child/children. • Access to legal aid applications, why is this process drawn out, lower the eligibility to access this support. High income earners on 98,000 per year would be the only class that can access lawyers without legal aide. This could lead to financial crisis having to pay for legal representation. • Cross examination of victims of domestic violence should not occur under any circumstances. Family law is yet another method of abuse. Assessment tools should be designed to identify this • Gender based decision process. Neither mother nor father • should have decisions made based on their parent status. Ruling should be made based on the evidence presented at court.
CG	• Domestic violence cases to be appropriately heard with child's safety at the number 1 priority I.e. no forced contact between

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	unsafe parent and child , evidence thoroughly read through and decision made for child safety • Safety of women and children who have been victims of violence I.e. non disclosures of personal information to perpetrators in court documents of whereabouts, addresses , schools or programs the parent or child may attend • Third party opinions such as DCP, Anglicare reunification , SAPOL reports , medical records , women's health services documents and social worker reports to be submitted and considered as evidence and read and considered as factual evidence within family court in cases of domestic violence so the child is placed with the safest parent and the child's wellbeing and safety needs are met. • If the department has been in and removed a child for safety concerns and the appropriate parent has been reunified with the child the other parent should be referred back to the department of child protection to work through programs and requirements to be deemed as safe for the child to be around
L	In the event a victim of violence and/or her children are murdered, all parties involved in the legal matter to be removed from their positions. This includes the legal teams for the victim and the perpetrator, the Judge, the report writers, social workers and ICL's. They are effectively accessories to murder. These parties should have the opportunity to engage in extensive family violence training, in the event they would like to be re-employed within their professions. However, upon re-employment there should be open transparency. The history of these individuals should be made known to future /potential clients. That is, victims of violence should be aware of the history/back ground of these individuals ie their involvement in the death of innocent people; so as to be able to make an informed choice as to whether or not they are agreeable to have these professionals involved with their own case. It must always be remembered that you can "train" people in family violence, but you cannot force them to change their attitudes.

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Received in confidence by the committee

ST	The Evidence Act needs to be made mandatory instead of the Judge's discretion. All court reporter interviews are to be recorded so that they reflect the wishes of the children. The Independent Children's Lawyers MUST meet with the children for discussion and these must be recorded also so they too reflect the wishes of the children. Children know who they feel safe with, their instincts tell them so, yet they continue to be forced to be with the parent that terrifies them. A panel of experts with proven expertise in child development, child protection and domestic violence should be at the forefront of decision making.
SH	According to the Family Court website, one of its tasks is to: "Parenting cases including those that involve a child welfare agency and/or allegations of sexual abuse or serious physical abuse of a child (Magellan cases), family violence and/or mental health issues with other complexities, multiple parties, complex cases where orders sought having the effect of preventing a parent from communicating with or spending time with a child, multiple expert witnesses, complex questions of law and/or special jurisdictional issues, international child abduction under the Hague Convention, special medical procedures and international relocation." Issues involving children should not be resolved in an adversarial environment like the Family Court. Instead, they should be resolved in Child Welfare hearings as is used in New Zealand and as advocated by the Child Protection Party
JT	they should buy a block of units and let the children live with the mother and they have volunteers go in and check on them every day.
BB	The Family Courts are trained to believe that if a child discloses sexual abuse that the Parent whom the child's lives with us an Alienating Parent. Even when there is factual evidence of the abuse. And if the Mother tries to protect the child and asks for supervised visits with the abuser she is told that if she doesn't hands the child over for unsupervised visits she will

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	lose custody. Then children are forced to live with the abusers. You just have to read Abbeys story to see that this law doesn't work.
ET	Chip protection workers and Family law courts victimise the victims of domestic violence as much as the perpetrators do. Victims don't need their children taken off them they need help to get somewhere safe, support to feel strong enough to stay away from abuser. Child protection workers work out of text books when it comes to domestic violence they have no experience in it at all they don't know what it's like to be threatened by the person that's meant to love you, they don't know what it's like to be assaulted by that same person, they would rather sit there and cause victims more trauma by taking children instead of actually helping to escape it. Yes it's traumatic for kids to witness it's also traumatic for the victims too. If a victim takes their abuser to family law court they're not believed they're made out to be the bad one by the perpetrator and their flying monkeys. Yes domestic violence is reported in many cases but many cases go unreported. In the court setting it's one party's word against another's. I'd like to see victims/survivors more support to get away and stay away I'd like to see the perpetrators lose their rights to children when they have been charged and found guilty of domestic violence. Child protection need to understand that there's a number of reasons why victims don't leave they are meant to be there to help and support kids well taking children away from the parent who has been abused isn't helping it's only causing more issues. I don't know how it can be fixed or what should be done but something needs to be. There's so many victims that's had their kids taken but can't speak out about it due to child protection acts and legislations that aren't abided by in the first place. But yea something needs to be done about it
DT	Nothing will change without effective accountability to the community. Here's how we can do that: www.davidthorp.net/justice

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F	I would like the family court to take things more seriously. I went to court for custody agreement and the father was granted 50/50 care even after allegations has been made against him by my oldest daughter. The outcome was they couldn't prove anything physical has happened but definitely think there is grooming. The children should have a voice in who they want to live with. My children hate going to this house. My lawyer has advised it would be costly to go back to court and at the age of 4 and 6 the judge won't even acknowledge their wants and the court doesn't care about the abuse claims
SH	FL ACT 1975-s69VA Declaration of Parentage As well as deciding, after receiving 2 letters of Substantiated evidence, the issue of 'parentage' of a child for the purpose of proceedings, the 'court' may also issue a declaration of 'parentage ' that is conclusive evidence of 'parentage' for the purpose of all laws of the commonwealth. However, by default, because of lack of opposition, police and the judiciary do the opposite. After receiving 2x substantiations of evidence and 2x declarations of parentage Child Welfare declares the mother is the parent deemed to keep the child safe from harm. Police and Family Court refuse to comply and apply the purpose of all laws of the Commonwealth. The child is removed from her safe protective mother and is ordered to live with her unsafe parent she made several disclosures about.
J	Everything that has already been mentioned plus investigating the reality of conspiracy, corruption and cover-ups, with some of the courts, authorities and organisations; especially with their involvement in, and enabling of, paedophile rings. We only need to look at what is happening

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	with the Epstein scandal. This is a universal problem and we need good, strong people to stand up to them.
Ja	There needs to be different complexity levels in residential care so children with high drug abuse and violence aren't placed with children that don't use drugs and aren't violent.it alone needs to be more therapeutic and normal so children feel like everyone child living at home not alienated
JD	The Hague Convention does not work if the parent wanting the children return to Australia if they don't have parental responsibility at the time of the other parent kidnapping the children
WS	Our people supported the Independent MPs who advocated to created what became the Michael Byrne QC Investigation that found endemic child abuse in Qld and advocated to expand the Royal Commission into Abuse in Institutions and into pedophile-enabling banks. There seems to be a problem with "independent expert reports" not being independent or thorough. Our colleagues in family law met with Bravehearts' Hetty Johnson a year or so ago in northern Melbourne about it. The Victorian Ombudsman also found 'guns for hire' in Melbourne's 'independent' psych report sector. 60 Minutes found a 'doctored' report that became a Sentencing factor in R v Fr O'Donnell. Families SA's Mr McCoole was found operating a toddler rape syndicate videoed abuse. And of course there are the infamous coverups in the Churches where, in the USA, the Attorney General in Penn. found that the Vatican received reports and used psych reports in questionable ways. The Inquiry should look at 'gun for hire' medicos: we got a 2nd opinion from US federal agents that went on to prosecute Australian bank executives for example.
K	The state police should have authority to retrieve a child and return them to their primary carer when there is a court order that clearly states the child lives with the primary carer. Having to wait weeks or longer for a recovery order is excruciating for the child and the parent. The parent who is unable to see the child should not bare all of the costs of the court application and legal fees. The parent who withheld the child should be punished in the first offence similar to what happens in other countries. This would then reduce the occurrence of 'Recovery Month' in the Summer holidays. All recovery orders should be ex parte. Why should the applicant get one day to prepare an application and the respondent gets 2

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	weeks and they don't even need to give the response to the applicant until they're in court? The applicant then has no time to gather evidence to defend whatever allegations the respondent has conjured up.