

**Forbes, Bev (REPS)**

**From:** [REDACTED]  
**Sent:** Friday, 8 August 2003 6:17 PM  
**To:** Committee, FCA (REPS)  
**Subject:** Child Custody Arrangements Inquiry

House of Representatives Standing Committee on Family and Community Affairs	
Submission No:	968
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Secretary:	[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

Committee Secretary  
Standing Committee on Family and Community Affairs  
Child Custody Arrangements Inquiry  
Department of the House of Representatives  
Parliament House  
Canberra ACT 2600  
Australia



Dear Committee

**This letter is a submission to the Committee's Child Custody Arrangements Inquiry.**

I work as a Children's Support Worker at a refuge for women and children escaping violence, in Brisbane. I am also the full time, single parent of a boy.

**Re: (i) what other factors should be taken into account in deciding the respective time each parent should spend with their children post separation, in particular whether there should be a presumption that children will spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted**

**I am strongly opposed to the proposed rebuttable presumption of 50/50 parenting post-separation.** The proposed arrangement gives emphasis to the rights of a parent rather than 'the best interests of the child.' (FLA section 65E) The Family Law Act already sets out that children have the right to know and be cared for by both parents. (FLA section 60B{2})

I urge the committee to also consider the following points.

The Family Law Act (FLA), section 68F, already identifies matters to be considered when determining the best interests of the child, including;  
"any other fact or circumstance that the court thinks is relevant."

**My principal concern is that such a proposal will further endanger women and children escaping violence and abuse.** Where domestic violence is an issue there should be a rebuttable presumption of no contact, as there is in the New Zealand Guardianship Act.

17/08/2003

Research by the Justice Research Centre (Hunter R. June 1999) shows that there is a higher incidence of domestic violence in Family Law cases that go before the court. Will issues affecting the safety and wellbeing of children and their protective parent be given proper consideration when interim orders for contact/residency are made? It is my understanding that judges are already reluctant to deny contact in interim orders as matters of violence or abuse cannot be properly heard until the final hearing.

Through my work at our refuge with children who have been sexually abused, it seems that the substantiation of sexual abuse is especially difficult, particularly with young children. Children are most likely to disclose sexual abuse once they have left the abusive situation and feel safe. They are also most likely to disclose to their non-abusing parent, the adult who will have the least credibility in these circumstances. However, it is in this context of post separation that a child's disclosure is least likely to be believed in the eyes of the court and child protection workers.

Although section 68F of the FLA identifies domestic violence as a factor to be taken into account when determining a child's best interests,

"g) the need to protect the child from physical or psychological harm caused, or that may be caused, by:

(i) being subjected or exposed to abuse, ill-treatment, violence or other behaviour; or

(ii) being directly or indirectly exposed to abuse, ill-treatment, violence or other behaviour that is directed towards, or may affect, another person;"

and

"(i) any family violence involving the child or a member of the child's family;

(j) any family violence order that applies to the child or a member of the child's family;"

there appears to be little understanding of the impact and effects of domestic violence on women and children. As the Brisbane Women's Legal Service Report "an unacceptable risk" states; *"The AFC research tends to suggest that the post separation attitude of the mother towards the father's ongoing relationship with his children may be given more weight by decision-makers than his violence and abuse towards herself and the children both before and after separation"* (Rendell et al, 2000 p.109).

**In terms of grandparents having court ordered contact with children,** I can only relate my own experience. My son's name is [REDACTED]. His father was deported in [REDACTED] and subsequently died in [REDACTED], when [REDACTED] was six years old. My own parents died in the 1960's and I was raised as a ward of [REDACTED] since the age of 6. [REDACTED] paternal grandparents have shown no interest in keeping in touch with their grandson. While I would welcome their contact with [REDACTED] I would be cynical of any application for court ordered contact on their part.

**Child Support Payments** should be about parents being responsible for the financial commitments involved in caring for their children. Child Support Payments should not be used to buy time with children or as an indication of a parent's appropriateness for contact or residency. Decisions regarding contact and residency need to be properly heard in court.

If fathers wish to spend more time with their children, then the question arises 'why don't they spend more time with them before separation?' Although I realise the answer to this is complex, I believe that our upbringing in terms of gender roles and expectations play some part.

**While I believe all children benefit from being exposed to positive role models of both genders, I believe it is more important for a child to feel safe, secure and loved by adults regardless of gender.**

[REDACTED]  
For further information: [REDACTED]