



## Joan's Place Women's Refuge

House of Representatives Standing Committee  
on Family and Community Affairs

Submission No: 595

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Secretary: .....

6th August, 2003.

House of Representatives Standing Committee of Family and Community Affairs  
Parliament House  
Canberra  
ACT 2600.



To whom it may concern,

RE: Parliamentary Inquiry into **Joint Residence Arrangements** in the Event of Family Separation.

Joan's Place operates as a high security refuge catering for women and children escaping domestic violence. **Joan's Place Women's refuge is opposed to a legal presumption of joint residence for separating families.**

*Joan's Place is opposed to this presumption of Joint Custody, because we are concerned that it is not always safe.* This particularly legal presumption does not acknowledge family violence. The 1996 Australian Bureau of Statistics reveals that one in five Australian women have experienced family violence by their current or former partner, thus representing a total of 1.4 million women.

Post-separation can represent a vulnerable and dangerous time for women and children. The violence does not stop when the woman leaves, often it continues and is sometimes even exacerbated. Often we see contact issues to be yet another place where the man can exercise power and control over the woman and the children.

In domestic violence situations it is not always safe to have contact. The legal system needs to acknowledge and have some sense of understanding of the cycle of violence. In our practice there have been a number of cases where our clients have experienced post-separation violence (see case study). A recent case has seen a woman agree to contact, based on a court decision which has compromised the safety of the woman and her children. Under these conditions contact can be a situation where the woman and children may be exposed to further risk.

*Joan's Place Women's refuge is opposed to the Joint Parenting bill because it is not child focussed and thus privileges the rights and interests of the adults over those of children.* The concept of joint custody attempts to work for the child, however without asking the child. In family violence situations often the child has not felt safe for a long time. It is imperative for the child to be protected from physical and psychological harm. To expose the child again to an unsafe situation in terms of contact is dangerous and not therefore in the interests of the child.

The presumption that it is safe for the child to spent equal time with both parents is misinformed and shows ignorance of the issues of family violence. From cases we have experienced from the refuge the children are often scared of the perpetrator. The violence

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DOMESTIC VIOLENCE IS A CRIME



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is rarely just experienced by the mother. Often we see the children experiencing or witnessing large levels of violence whether it be physical, emotional, psychological or sexual. All types of violence affect the children including forced unwanted contact with a violent person- even if he is their father.

### Case studies

The below are some case studies just from this year which presents a number of examples of unsafe contact.

#### Case Study Mother J, children M, M, & F: CHILDREN RETURNED INTERSTATE DESPITE MOTHERS FEARS OF VIOLENCE

Mother fled interstate with children due to continual harassment of self and children by ex-husband around contact visits. Children disclosed physical abuse by father, while at his home. Mother reported considerable harassment by ex-partner at handovers. While in refuge, workers supervised phone contact with father. Older children displayed great reluctance to even speak to father, who often abused workers over the phone. Child Protection involvement in state of origin did nothing to sway court decision to force family to return to home state. Mother's fears and reports of violence totally disregarded. Father had private solicitor, Mother had Legal Aid.

April 2002

#### Case study Mother T and child G: MOTHER HAS TO PROVE FATHER'S SEXUAL ASSAULT OF CHILD. FATHER HAS RESIDENCY

Mother T fled interstate with her child because of fears of sexual assault of daughter by the child's father, on unsupervised contact visits. Previous flights had resulted in father having residency of child. Little investigation had been made even though mother feared recurrence of previous patterns of paternal abuse upon older children. Mother and child were returned to state of origin while awaiting trial. The case took over 12 months to get to court, during which time father had residency of the child. Awaiting mother's trial.

May 2003

#### Case Study Mother M and child F: UNSAFE INTERIM CONTACT ORDERS

Mother entered refuge because of ex-partner's violence. Father's desperation to maintain relationship with mother became an issue when previously informal handover occurred. Father had previously threatened mother with a gun. Father had private legal representation and Mother had Legal Aid. Mother's application for Intervention Order was held over month of hearings. During this time father's legal representation harassed mother for child contact. After extensive advocacy, only contact arrangements were informal handover at a neutral point.

June 2003

#### Case study Mother A, children M & F UNSAFE INTERIM CONTACT FOR MOTHER

Mother and children arrived in refuge due to fear ex husband would remove children from country, while awaiting final orders. Even though contact provided father an opportunity for extensive harassment of mother and continuous interrogation of children about mother's activities, Court refused to reconsider appropriateness of father returning to mother's home to collect and return children. Children were often drawn into stressful



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scenes of mother's fear and resultant distress. Awaiting final orders.

*Record of Child Support Worker conversations with children.*

In this particular case study the children were court ordered to go to contact when they did not want to. This in turn violated the children's trust in the legal system. These children, aged 7 and 5, had been exposed to large levels of physical, verbal, emotional and social violence. Mum had an IO out on the perpetrator, however, the children still had contact with Dad. Contact turned out to be a time of interrogation of the children. The children were used as an instrument to find out what Mum was doing, who she was calling and any friends who were visiting. The children recounted stories of being asked questions over and over again about mum. When I asked the 7 year old how he felt about seeing Dad he said "I don't want to go", and when I tried to assure him that Dad still cares for him even though Mummy and Daddy will not live together, he laughed and said "all he ever asks is about mum, he never asks anything about me!" and when he asked why he had to go and see Dad even though he did not want to and he felt unsafe about the visit, I had to answer "because the court ordered it."

It is clear from this case study how the children can be subjected to continuous emotional abuse by having to keep contact with Dad. There are also countless stresses on either side of the contact. That is, the anxiety before the contact, as well as the after effects. In this particular case, mum recounts how both children were in bad moods after, very angry or unusually quiet. Mum said one time she came across the children role playing both parents out, which included put downs, slandering and physical violence. It is clear the trauma was prolonged through the children being continuously exposed to an unsafe situation.

It was unfair that the children were put in this situation as contact was not appropriate in this case. This legal presumption takes no account of the individual wishes and needs of the children. Children are a marginalised group because they only have a little voice in any debate and often are not listened to. If this legal presumption comes from the intention of being child friendly it must also, be child-centred. It must honestly address what the children want and what is truly best for the children.

Yours Sincerely,

Monique Buggy  
Family Violence Child Support Worker  
on behalf of Joan's Place Women's Refuge.