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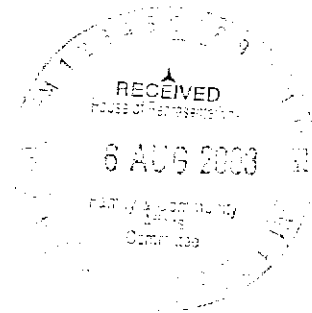
THE ARMIDALE DOMESTIC VIOLENCE STEERING COMMITTEE

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Mrs Kay Hull MP
Chair Person,
House of Representatives Standing Committee
on Family and Community Affairs,
Parliament House,
Canberra ACT 2600.



Dear Mrs Hull,

5.8.03

The Armidale Domestic Violence Steering Committee is a group of health and welfare professionals, both male and female, who represent a broad range of organisations in the Armidale area. Our purpose is to work within the community to identify and address community needs with respect to Family Violence.

I am writing to express the concerns of the Domestic Violence Steering Committee, regarding the current Parliamentary Inquiry into Joint Residence, which we fear has the potential to result in negative changes to a piece of legislation that is currently both fair and effective. Our primary concerns focus on the physical and psychological safety of children, and upon the rights of children to feel safe, and to have their wishes respected in parenting arrangements.

We believe that current Family Law adequately upholds the rights of children. In addition it allows both parents equal opportunity to present their wishes and to assert their ability to provide care for their children. We note, however, that, in most cases, separated parents make a voluntary agreement about post-separation care of their children, without requiring recourse to the law. Families whose cases proceed to the Family Court appear to represent a subgroup of the community where relationships tend to be considerably more conflictual, and where there is a relatively lower capacity for mutual cooperation between separated parents.

While Australian Family Law currently allows for shared custody, these situations are more commonly arranged as part of a voluntary agreement. Indeed, research indicates that the types of families, where joint custody is likely to work well, are precisely the couples who do not tend to need Family Court intervention, ie those separated couples who are spontaneously able to relate to each other in a constructive and cooperative manner.

Recent findings suggests that, unless there is a high level of harmony within the extended family, children in joint custody arrangements may be at risk of psychological harm. Research in the U.K. indicates that children in joint care arrangements tended to feel responsible to ensure that each parent's needs were being met in terms of child access, and that this responsibility was onerous and "oppressive" for the children involved.

The current inquiry into Joint Residency, appears to be the result of lobbying by groups of men who feel that their rights have not been well represented through current legislation, and who indicate their desire to have a greater influence in the development of their children. It is interesting to note that research findings presented at the Australian Institute of Families Studies Conference, 2003, indicated that a large percentage of women actively seek greater parental participation from their ex-partners. This finding is supported by anecdotal evidence, from the New England Area that, despite complex parenting agreements, non-custodial fathers often do not honour arrangements that have been made, and are not available for pre-arranged contact visits. Our clients advise us that they perceive such behaviour as an anger response and, in some cases, as an attempt at manipulation. This behaviour is, understandably, extremely hurtful and confusing for the child and is seen as a willingness, by such fathers, to sacrifice the needs of the child to meet their own ends. In highly conflictual post separation relationships, couples often have difficulty distinguishing between their own needs and those of their children, or may demonstrate a limited ability to act on such a distinction.

We have grave concerns about any "Presumption of Equal Time", as proposed in the current Parliamentary Inquiry, since such an approach appears to present the rights of parents as having precedent over the rights of children. The overriding importance of the needs of the child is a point of fundamental importance, under current law, and we see any deviation from this as a retrograde step, with potentially dangerous implications for the safety and well-being of children.

Thank you for your consideration of these concerns.

Yours sincerely,


Judith Harvey-Nelson,

On behalf of the Armidale Domestic Violence Steering Committee.