

NATIONAL ABUSE FREE CONTACT CAMPAIGN



NAFCC is a national (and international) Feminist coalition of organisations who have formed to advocate on behalf of women and children going through the Family Court system with concerns about domestic violence and child abuse.

Marie Hume
National Abuse Free Contact Campaign

28th September 2009

The Inquiry into the impact of violence on young Australians

Dear Committee

Please find attached a submission from the National Abuse Free Contact Campaign to *the Inquiry into the impact of violence on young Australians*.

The National Abuse Free Contact Campaign would be pleased to provide further oral submission if required.

National Abuse Free Contact Campaign recommends the following actions:

1. There is a need for more effective investigations and increased prosecutions in order to protect children and prevent the occurrence or recurrence of child abuse.
2. The need for well trained staff working in the area of child protection is essential.
3. Improve the criminal justice response to child abuse and domestic violence.
4. Promote gender equality
5. Understand, discuss and explicitly condemn violence against women and children;
6. Promote women as equal and active participants in intimate relationships and public life;

7. Ensure women have equal access to secure employment, salaries and financial independence;
8. Promote notions of masculinity that are non-violent;
9. Hold perpetrators accountable and challenge their use of violence
10. Demand media and internet standards to prevent glamourised images of violence and negative sexualisation and denigration of women (and children);
11. Promote education about respectful relationships.

Recommended changes to family law:

1. In cases where violence or abuse is alleged, all evidence held by all state agencies pertaining to the family should be subpoenaed, collated and assessed. Section 69ZW reports should be routine in all cases where violence or abuse are alleged.
2. We also recommend the establishment of a child protection investigating system in the family law system as per the recommendation from the Family Law Council or provide specific federal funding for state child protection agencies to deal with family law issues.
3. Child protection and domestic violence investigations should have knowledge and experience of research into post separation violence and its impact on children.

Support Services for Children and Young People who have been exposed to Violence and Abuse

1. Therapeutic services to children and young people affected by family violence be significantly expanded with universal access for victims.

Yours Faithfully

Marie Hume
National Abuse Free Contact Campaign

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NAFCC is a national (and international) Feminist coalition of organisations who have formed to advocate on behalf of women and children going through the Family Court system with concerns about domestic violence and child abuse.

The National Abuse Free Contact Campaign was initiated because of concerns relating to the exposure of women and children to ongoing male violence, following separation as a result of unsafe contact arrangements, usually ordered by the Family Court.

We are a coalition of people and organisations from throughout Australia, with a number of members from New Zealand, England, and Ireland.

We consist of people who are frontline workers in domestic violence services, health services, sexual assault services, women's services, legal and social science academics and researchers, legal profession, feminist organisations, victim support services, single mothers' organisations, counsellors and therapists.

Our major aim is to lobby and advocate for change in the family law system to adequately protect women and children from ongoing abuse and violence.

The group works to eliminate all forms of violence and to minimize the impact of gendered violence by:

- Raising awareness among the community, including decision makers, about the extent, nature and impact of gendered violence and the rights of women and children to live safely;
- Dispelling myths and stereotypes about gendered violence and women and children who experience violence;
- Monitoring policies, services, programmes and laws that impact upon the extent of gendered violence and advocating for change;
- Monitoring policies, services, programmes and laws that impact upon people who have experienced gendered violence and lobbying for improved and appropriate responses to all people who experience or have experienced gendered violence;
- Campaigning to reduce the glorification and justification of gendered violence in the media;
- Providing a forum for discussion, debate and the development of strategies in relation to the elimination of gendered violence;
- Promoting and contributing to study and research on matters related to gendered violence; and

- Networking and working in collaboration with other organisations and individuals with a common purpose.

The National Abuse Free Contact Campaign was established in 2003. We were involved in making submissions to the national inquiry into the Family Law Act and making oral submissions to the inquiry committee.

Violence in the Home

Young people are more at risk of exposure to violence in the family home, than in any other setting. One in four young people had witnessed violence against their mother by a father or father figure. (Indermaur 2001)

The Personal Safety Survey (2006) identified that 49% (111,700) of people who had experienced violence by a current partner had children in their care at sometime during the relationship and an estimated 27% (60,700) said these children had witnessed the violence. This survey also identified that 49% (111,700) of people who had experienced violence by a current partner had children in their care at sometime during the relationship and an estimated 27% (60,700) said these children had witnessed the violence.

The Personal Safety Survey also identified that 10% of women (779,500) and 9.4% of men experienced physical abuse before the age of 15. 12% of women (956,600) and 4.5%(337,400) reported sexual abuse before the age of 15 (ABS 2006,p.12).

Children also experience violence in utero. 59% (667,900) of women who experienced violence by a previous partner had been pregnant during that relationship; of these 36% (239,800) said violence occurred during pregnancy, and 17% (112,000) experienced violence for the first time when they were pregnant.61% (822,500) of those who experienced violence by a previous partner had children in their care during the relationship and 36% (489,400) said the children had witnessed the violence (ABS 2006, p.11).

Domestic violence has been identified as the single largest contributing factor to illness, injury and premature death amongst Victorian women aged 15 to 45 (Heenan et al 2004). Children experience domestic violence as direct targets of assault; accidental targets of assaults on the mother; being used to distress mother by injuring or threatening the child; or by the perpetrator refusing to allow

mother to attend to the child; or by recruiting the child to join in abuse of the mother (Bancroft and Silverman 2002).

Children living in violent households also experience the gendered role modelling of men as abusive and women as victims of abuse, raising the risks for them of recreating abusive relationships later in life.

Children are also exposed to child sexual abuse. Child sexual abuse in the home is perpetrated by fathers, father-figures, other family members, family friends and neighbours and is likely to be repetitive, due to ease of access. Girls are more likely to be victims of intrafamilial sexual abuse than boys. The child victim is at much greater risk of being disbelieved or blamed for the abuse (Morris 2003). Child sexual abuse is linked to serious mental health, behavioural and relationship problems in later life (Beitchman et al 1991; Yellowlees and Kaushik 1994; Zlotnick et al 1996).

Children are also at risk of sexual violence from those outside the home such as neighbours, family friends and community members whose activity brings them into contact with children (Smallbone and Wortley 2001). Children who experience extra-familial sexual abuse are more likely to have a smaller number of episodes of offending against them, to be believed and to be supported by family members.

Young Australians' perceptions of violence and community safety begin from their experiences of home and family. Where home and family have been characterized by physical, sexual and/or emotional abuse, young people are much less likely to feel safe either at home or in their communities.

Our current child protection responses are inadequate. State-provided child protection systems are seriously under-funded and under-resourced. The need for well trained staff working in the area of child protection is essential. There is a

need for more effective investigations and increased prosecutions in order to protect children and prevent the occurrence or recurrence of child abuse.

The National Framework for Protecting Australia's Children 2009-2020 (Council of Australian Governments) has identified the need to improve the criminal justice response to child abuse and domestic violence.

An understanding of the gendered nature of domestic violence is vital in addressing this serious problem. Promoting gender equality is one important aspect of ensuring a reduction of domestic violence in the future.

'Time for Action: the National Council's Plan for Australia to Reduce Violence Against Women and their Children, 2009-2021 (March 2009) has highlighted that:

"...community and societal ideas of what it means to be a man and to be a woman can contribute to the problem of violence by supporting the traditional gendered power-imbalance. Attitudes and beliefs about gender are learned, and society often teaches deeply held sexist views. Evidence shows that communities increase the risk of violence against women when they show norms that support men's controlling attitudes and behaviour over women, or attitudes that support the notion of male privilege." (p.37)

We would support the recommendations of the National Council which suggest the following actions within our communities:

- Understand, discuss and explicitly condemn violence against women and children;
- Promote women as equal and active participants in intimate relationships and public life;
- Ensure women have equal access to secure employment, salaries and financial independence;
- Reject definitions of "being a man" or notions of masculinity that are associated with violence;

- Promote notions of masculinity that are non-violent;
- Hold perpetrators accountable and challenge their use of violence
- Demand media and internet standards to prevent glamourised images of violence and negative sexualisation and denigration of women (and children);
- Promote education about respectful relationships. (p.39)

Recommendations

12. There is a need for more effective investigations and increased prosecutions in order to protect children and prevent the occurrence or recurrence of child abuse.
13. The need for well trained staff working in the area of child protection is essential.
14. The need to improve the criminal justice response to child abuse and domestic violence.
15. Promote gender equality
16. Understand, discuss and explicitly condemn violence against women and children;
17. Promote women as equal and active participants in intimate relationships and public life;
18. Ensure women have equal access to secure employment, salaries and financial independence;
19. Promote notions of masculinity that are non-violent;
20. Hold perpetrators accountable and challenge their use of violence
21. Demand media and internet standards to prevent glamourised images of violence and negative sexualisation and denigration of women (and children);
22. Promote education about respectful relationships.

Family Law

The current family law system needs to be changed to support the safety of mothers and children leaving violent and abusive fathers. Current laws provide outcomes of children being placed in the regular care of their perpetrators of abuse. Mothers are unable to leave violent men because the family law system will require them to place their children alone in the care of these men. The law needs to assert an unequivocal and inescapable commitment to safety. Where there is evidence of a risk of violence or abuse, all decisions should be directed toward preventing the risk of abuse.

Research examinations of child abuse allegations in the family law system have identified that most allegations are true (Brown et al 2001).

When disclosures are made or allegations are received, the court generates system responses which prompt referrals of allegations to state child protection systems. State child protection systems investigate only a tiny minority of referrals, with the result that most referrals are designated 'unsubstantiated' (Hume 1996; Foote 2006). In 2007, the South Australian authorities investigated two of 30 referrals from the Family Court (Advertiser 2009).

The Family Law Council's report "*Family Law and Child Protection*" from 2002 highlighted the significant problems in the protection of children from ongoing abuse. The report demonstrated that the division between state responsibilities for child protection and federal family law has meant that many cases of child abuse within the family law system do not get investigated, are poorly investigated or evidence provided by the state system is disregarded in the family law system.

Responding to child protection and family violence is constitutionally a state responsibility (Fehlberg & Kelly 2000) but parents who have separated due to

violence and abuse comprise the majority of court cases in the family law system (Family Law Pathways 2001; Brown Frederico, Hewitt & Sheehan 2001). There is ample research (Humphreys 1999; Rendell, Rathus & Lynch 2000; Rhoades, Graycar & Harrison 2001; Brown et al 2001; Kaye, Stubbs & Tolmie 2003; Kaspiew 2005; Moloney, Smyth, Weston, Richardson, Qu & Gray 2007) demonstrating that the family law system has persistently responded poorly to the protection of mothers and children leaving abusive men.

Mothers report being advised by state child protection services that they will lose their children to foster care if they do not end violent or abusive relationships. Once they leave, the current family law system ordinarily requires them, by order or agreement, to provide the children for contact and exposure to continuing abuse by the perpetrator. State child protection systems around Australia are experiencing difficulties in responding to the number of child abuse reports and family law referrals are not prioritized ahead of other reports, and may in fact be downgraded due to the presence of family law proceedings (Brown et al 2001).

The Magellan project approach was designed to provide an improved coordination between state child protection and federal family law, however only four percent of cases are admitted to the project (Higgins 2008) and research has identified that Magellan judgments still discount violence and abuse and require children to have contact with their perpetrator (Shea-Hart 2008).

The changes to the Family Law Act (2006) do not address the inherent problems in the interaction between family law and state child protection agencies. Research has shown us that many cases of child abuse are not investigated by state authorities because of proceedings in the family court, and that myths that false allegations are made by parents (usually mothers) in the context of separation and divorce impact on the investigative process.

Recommendations from the Family Law Council and the “Every Picture Tells a Story” report have not been implemented, and in fact the current family law creates further barriers to raising concerns about child abuse.

Recommendations

1. In cases where violence or abuse is alleged, all evidence held by all state agencies pertaining to the family should be subpoenaed, collated and assessed. Section 69ZW reports should be routine in all cases where violence or abuse are alleged.
2. We also recommend the establishment of a child protection investigating system in the family law system as per the recommendation from the Family Law Council or provide specific federal funding for state child protection agencies to deal with family law issues.
3. Child protection and domestic violence investigations should have knowledge and experience of research into post separation violence and its impact on children.

Support Services for Children and Young People who have been exposed to Violence and Abuse

Currently there are very few services for children who have experienced serious trauma. State government services for children with mental health and behavioural problems – both of which are consequences of serious traumatisation – are typically over-subscribed, with long waiting lists and a minority of clinical staff has expertise in child trauma. Private services are also scarce, expensive and come with waiting lists.

Recommendation

1. Therapeutic services to children and young people affected by family violence be significantly expanded with universal access for victims.

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