

Committee Secretary  
Standing Committee on Family & Community Affairs  
Child Custody Arrangements Inquiry  
Dept House of Representatives  
Parliament House  
Canberra ACT 2600

House of Representatives Standing Committee  
on Family and Community Affairs

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Secretary:

I am writing in response to factors that should be taken into account where there is a presumption of shared care of children post separation, and issues to consider regards children's contact with extended family:

- Findings published in the Australian Domestic & Family Violence Clearinghouse June newsletter (issue 15), by Kaye, Stubbs, Tolmie (2003) Families, Law and Social Police Research Unit, Griffith University, concluding the legal system does not currently respond effectively where there has been domestic violence. These findings are confirmed by domestic violence support workers, and I would like to emphasise the importance and relevance of these findings.
- Suffice to say that this report identifies the common concerns related by women and children receiving support for domestic violence issues, I would like to highlight the need for Family Law service providers, in particular solicitors to receive training and information on best practice when working with clients who have experienced violence. Specifically for service providers to be aware of the unequal power relationship between perpetrator and victim, the likelihood that the perpetrator has not acknowledged responsibility for the violence (and is therefore unlikely to engage in behaviour change), and how this is likely to effect the way in which clients participate in the legal process, and in the implementation of post court orders.
- Prior to any shared care arrangement being ordered in situations where domestic violence is/has been present, the perpetrator of that violence should be required to show sufficient responsibility for ensuring the violence will not continue (including verbal, emotional, sexual and financial abuse). That the perpetrator's ability to interact with the ex-spouse in a non-violent way (for the purposes of shared parenting) be evidenced by his (her) understanding of the dynamics of his (her) own violent behaviour as assessed by appropriately qualified/experienced professionals. **That this evidence is required prior to an order for shared custody being made.**
- The presence of domestic violence, could be better identified by service providers within the legal system, where adequate training is available (highlighting in particular nature of violent relationships as characterised by unequal power between perpetrator and victim), and the likely impact of domestic violence, on both parent's capacity to serve the child's best interests can therefore be more clearly established.

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