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**WOMEN'S
LEGAL SERVICE INC.**



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| House of Representatives Standing Committee on Family and Community Affairs. | |
| Submission No: | 1684 |
| Date Received: | 28-10-03 |
| Secretary: | |

Ms Beverly Forbes
 Committee Secretary
 House of Representatives
 Standing Committee on Family and Community Affairs

24th October 2003

Dear Ms Forbes,

**RE: INQUIRY INTO CHILD CUSTODY ARRANGEMENTS IN THE EVENT
 OF FAMILY SEPARATION: GOLD COAST FORUM: 4TH SEPTEMBER
 2003**

We refer to your letter dated 13th October 2003 and confirm that we have not made any corrections to the transcript of evidence provided to us.

We have outlined our responses to the questions on notice below.

- 1. Do you accept the statistics that one of the previous submissions [Mrs Sue Price from Men's Rights Agency] provided on violence among biological fathers compared with other partners? Have you looked at that evidence about assault of children and other violence?*

In relation to the first part of the question, we do not accept the statistics provided by Mrs Sue Price. We are disappointed that the statistics seem to have been dishonestly presented to the committee by Mrs Price to support her argument that children are safer with their father after separation.

Much of Mrs Price's evidence was subsequently reported in the Courier and the relevant article sparked a response from Richard Madden the Director of the Australian Institute of Health and Welfare. Mrs Price's evidence misused statistical information published by that Institute. Please find enclosed a copy of the article and the letter in response which was published on 9 September, 2003.

The letter outlines the way in which the figures have been taken out of context. For your further information we also enclose a copy of pages 21-23 of *Child Protection Australia*, the Report of the AIHW from which Mrs Price obtained her statistics. There are two vital points she omitted to make:

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- i. "a family member with whom the child was residing may not have been the person responsible for the abuse neglect or harm."

Therefore, there can be no conclusion drawn that children who are found to be abused who live with their mothers were abused by that mother or even another person in that home. The figures also include children who have been abused by someone outside of that home – including their natural father whom they may visit for contact.

- ii. "While children of female sole parents accounted for a relatively high proportion of substantiations, they represent only a small proportion of all children on these families".

We recognize that mothers sometimes also abuse their children and this social tragedy can only be addressed by working with mothers 'at risk' and providing them with resources, education and information to assist them to nurture. However, one of the contributing factors to abuse of children by their mothers is the violence with which that woman has lived – perhaps with the children's father, perhaps in her family of origin or other situations.

Many of our clients have lived with domestic violence perpetrated upon them by the father of the children. It is critical for this Committee to understand the connections between child abuse and domestic violence during its deliberations.

Firstly, there is a "growing body of evidence to suggest that different types of violence may occur simultaneously in the same family, and that the presence of one form of violence may be a strong predictor of the other ...".¹ Therefore when a mother who has been abused by the children's father fears his propensity for violence may be directed against the children, her fears will sometimes be very well founded.

Secondly, there is much research now about the affects on children of witnessing domestic. Children who have seen and/or heard violence perpetrated by one of their parents upon the other may suffer serious consequences including increased likelihood of becoming involved in a violent relationship themselves, emotional and behavioural problems, peer conflicts, social isolation and other issues which will affect their well-being in the short and long term.

We note that at the hearing at Blacktown on 1 September, the Chair asked 'witness 1' "What is there is a history of violence between the parents, the two adults, but there is no history of violence with the parent and the child – the parent has never been violent or abusive to the child?"

It would be most unfortunate if the Committee proceeded on the basis that violence between parents ends at separation and that there are no on-going long term

¹ Tomison, A (2000) *Exploring family violence: Links between child maltreatment and domestic violence* in National Child Protection Clearinghouse, Issues Paper 13, Australian Institute of Family Studies, Melbourne, available at <http://www.aifs.org.au/nch/issues13.html> at p 1

consequences. In 2000 the Court of Appeal in the United Kingdom heard four appeals which had been grouped together so that the court could look at the issue of contact where there had been violence in the home.² In delivering her judgment, the President of the Court of Appeal, Dame Elizabeth Butler-Sloss, makes the following telling statement linking domestic violence and parenting:

... violence to a partner involves a significant failure in parenting – failure to protect the child's carer and failure to protect the child emotionally.

2. *Of the 6000 women our Service assisted, how many went to court?*

Our statistics' system does not collect this information and we therefore are unable to answer this question. We are primarily an advice and information Service and women contact us when and if they need to at various stages of their matter. We may see a woman for a one-off advice or provide detailed and ongoing support and assistance. Unlike a solicitor in private practice we rarely see a woman from the absolute beginning of her matter at the time of separation until it is finalized. We see women at all stages – before separation, after separation as well as before, during and after they have engaged in informal processes to resolve disputes (negotiations, mediations and conferencing) and formal processes such as a court.

We are unable to 'track' our clients through the various processes they may engage in to resolve disputes after separation.

3. *Of the 6000 women assisted how many of them are grandmothers seeking access to grandchildren?*

Again our statistics do not collect this information and we are unable to answer the question more fully.

4. *How many are women from second marriages come to us because they believe the child support their husband is paying is too high*

This is not an issue about which women seek advice from us.

If you have any further queries about any of the matters discussed please do not hesitate to contact Ms Zoe Rathus on 3392 0644.

Yours faithfully,

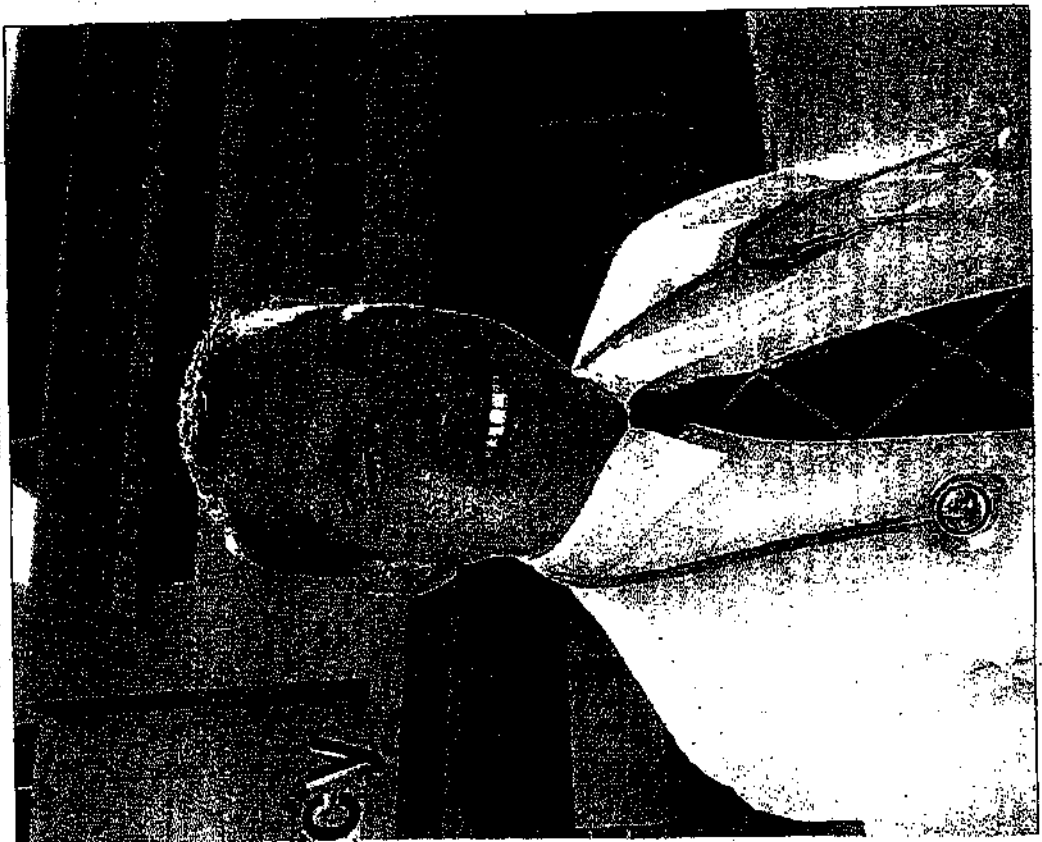


Zoe Rathus
Coordinator

² Re L, V, M and H (Contact and Domestic Violence) [2000] 2 FLR 334

The Courier Mail Fri. 5th Sept. 03
thecouriermail.com.au 74

... death a nice change



Portrait after switching from a police forensic career. Picture: Nathan Richter

Break-up kids' 'safer with dads'

Phil Bartsch and Margaret Wenham

A FEDERAL parliamentary inquiry into child custody arrangements was told yesterday that children were safer living with their biological fathers.

Co-founder of the controversial Men's Rights Agency, Sue Price, told the inquiry despite the "maternal preference" of the Family Law Court in custody battles, statistics showed children were more likely to be abused, or even killed, when in the custody of their mothers.

"The research shows children are safer with their biological fathers," she said.

An Australian Institute of Health and Welfare report had found 42 per cent of substantiated abuse - including physical, emotional and sexual abuse - happened in single-female-parent families, she said.

The report said only 4 per cent of abuse occurred in single-male-parent families.

Mrs Price also said mothers had been identified as the primary

suspect/perpetrator in 25 of 40 deaths deemed family murders in NSW between 1986 and 1988.

The studies exposed the myth that most child abuse was perpetrated "by all these violent men out there".

In her submission to the inquiry on the Gold Coast yesterday, Mrs Price said men were often the victims of false allegations in the Family Law Court where there was "very little testing of evidence and no penalties of perjury".

But she said as many women as men supported charges to child custody arrangements in favour of shared parenting.

She also called on parental rights to be reinstated into the Family Law Act.

"Shared parenting is much better for children," she said.

"Where you've got two perfectly decent parents, why should a court be saying to either of those parents that they can't see their children or restricting the time they have with them.

"We hope that, if they bring this in, families will then make their own arrangements to see their children as much as possible."

Mrs Price said parental rights had been removed from the Act in the mid-'90s "leaving the Family Court as the sole arbiter of what happens to children".

The inquiry was also told of a growing number of children being cared for full-time by grand parents and other relatives and that there was a need for recognition and legal rights for custodial grandparents in the Family Law Court.

Submissions to the inquiry have been dominated by claims of court delays and a questionable formula for calculating child support payments. One of the subjects under examination is the concept of 50-50 shared parenting - equal residency for children with separated parents.

Sandra Bray, of the Pine Rivers Neighbourhood Centre, said 60-80 per cent of shared parenting would only work where the parents could make arrangements amicably. If that was not the case, she said children could be placed in untenable situations.

A record number of 1500 submissions have been made. Hearings continue in Cairns today. The committee is to report to Parliament by December 31.

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Best moment in life's walk

I REFER to William McInnes' article "Enough to bring a tear to the eye" (Perspectives, Sept 8). I, indeed, had tears in my eyes after reading the heart-warming story of a father and son sharing special moments while walking to school each morning. I, too, have a 10-year-old son who loves to do things with me and his dad. He also has put a stop to the hugs and kisses at the school gate, yet we know it's only for show. We have big shoulders, but, oh, it is hard to watch them grow up!
Julia Buch, Coorparoo.
September 8

MCINNES' column brought a tear to my eye and it was one of joy. Nothing can equal the happiness that the words "love ya mum" bring as your sons bound out the front door with their mates or end a phone conversation. The fact that mine are in their twenties only adds to the value.
Lyn Stevens, Carindale.
September 8

MCINNES' article shows that his family has produced an Australian boy whom anyone would be proud to have. Tolerance, humour and maturity beyond his years (to be able to tell his father that he loved him in the presence of his mates) will make him stand tall in any gathering of his peers. Well done.
M.C. Riches, Balmoral.
September 8

MY Sydney-dwelling

What child abuse data didn't show

live in male-single-parent families. The data don't show this. First, the figures describe the situation in which the child was living, either at the time of the abuse or neglect or at the time of investigation into allegations of abuse or neglect. They do not describe who is doing the abusing or neglecting. It is not necessarily the resident parent. Second, using ABS census figures on family characteristics, 88 per cent of children living in single-parent families are in female-single-parent families. So, statistically, you would expect the vast majority of abuse or neglect substantiations in single-parent families to be parent families than if they

live in female-single-parent families. The data we have show that the rate of abuse substantiations between the two types of single-parent families is similar. For example, in Victoria in 2000-01, there were 163 substantiations per 1000 children in female-single-parent families and 15.5 substantiations per 1000 children in male-single-parent families. AIHW is keen to ensure its statistics are correctly reported and interpreted, especially in sensitive areas of active community debate.
Richard Madden, director, Australian Institute of Health and Welfare, Bruce, ACT.
September 8

Levy keeps doctor paying

SOON, I will be 70 years old. As a reward for having seen other doctors have received. I am told that if I do not pay taxation-type penalties will apply. Even if I drop dead, my estate still will have to pay. To pay this, I will have to continue to work for another five to 10 years, hoping that I do not drop dead or get sick or lose my marbles. Of course, I will have to increase my fees, despite the vain cries of the politicians, "What has happened to bulk-billing?"
R.M. Tracey, Broadbeach.
September 7

Indemnity insurance. This amount is small by comparison with the amounts that other doctors have received. I am told that if I do not pay taxation-type penalties will apply. Even if I drop dead, my estate still will have to pay. To pay this, I will have to continue to work for another five to 10 years, hoping that I do not drop dead or get sick or lose my marbles. Of course, I will have to increase my fees, despite the vain cries of the politicians, "What has happened to bulk-billing?"
R.M. Tracey, Broadbeach.
September 7

Managing potential critics

So who is to blame?

IN the age in which we live, men go to the moon, doctors save the lives of unborn children and DNA catches felons years after a crime is committed. Surely we have the technology to turf a sports field successfully in one attempt. In Melbourne (where it is cold and grass does not like growing), they seem to have a beautiful lawn at the MCG. We could have drawn on the knowledge of these greenkeepers to grow a quality, lush lawn for Suncorp Stadium at the outset. A million dollars would go a long way in developing our sporting youth who are the future of all Australian sport. Instead, we see it

Pregnant and sick

DISAGREE with the findings of the two Canadian doctors (C-M, Sept 5) who say that morning sickness is mostly in the mind. I find this quite insulting. As someone who suffered from nausea, extreme tiredness and a general spaced-out feeling for at least 15 weeks, morning, noon and night, with both of my pregnancies, I wouldn't describe this awful feeling as "feeling low because of a sense of isolation". The symptoms were serious enough to make me question whether I could handle having a third pregnancy and there are women who suffer far worse than me. Hopefully, no one experiencing morning sickness read this article or they definitely would have vomited up their dry toast and tea. My sympathies are with those women, feeling to wretched and still trying to get through the day, going to work, looking after other children and the home, at a stage in their pregnancy when they probably haven't told many people they are even pregnant. What next? Will a bunch of smug researchers be telling us that labour pains are only in our imagination. Tracey Hall, Yeronga.
September 8

Caught napping

I HAD a bit of a chuckle

IS there office where a statement not to chat stolen? I'd instrument death. - Jo jonagier@com.au

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CHILD WELFARE SERIES

Number 32

Child protection Australia 2001–02

Australian Institute of Health and Welfare
Canberra

AIHW cat. no. CWS 20

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Table 2.12: Finalised investigations, by source of notification and State and Territory, 2000-01 (per cent)

| Source of notification | NSW | Vic | Qld | WA | SA | Tas | ACT | NT |
|-----------------------------|------------|------------|------------|------------|------------|------------|------------|------------|
| | Per cent | | | | | | | |
| Subject child | 1 | 1 | 3 | 4 | 3 | 2 | 1 | 2 |
| Parent/guardian | 11 | 9 | 16 | 13 | 11 | 18 | 9 | 10 |
| Sibling | — | 1 | 1 | — | — | 1 | — | — |
| Other relative | 6 | 7 | 12 | 10 | 10 | 5 | 10 | 8 |
| Friend/neighbour | 9 | 6 | 16 | 6 | 13 | 5 | 9 | 12 |
| Medical practitioner | 3 | 3 | 2 | 2 | 5 | 3 | 2 | 5 |
| Other health personnel | 4 | 5 | — | — | 3 | 7 | 1 | 2 |
| Hospital/health centre | 7 | 4 | 5 | 12 | 4 | 9 | 5 | 7 |
| Social worker | 7 | 2 | 4 | — | 7 | 4 | 2 | 4 |
| School personnel | 22 | 16 | 11 | 11 | 19 | 15 | 14 | 12 |
| Childcare personnel | 1 | 1 | 1 | — | 1 | — | 3 | — |
| Police | 19 | 20 | 13 | 14 | 12 | 2 | 10 | 18 |
| Departmental officer | 1 | 5 | 3 | 14 | 3 | 12 | 8 | 5 |
| Non-government organisation | 2 | 13 | 4 | 4 | — | 10 | 18 | 7 |
| Anonymous | 3 | — | 3 | 1 | 3 | 7 | 4 | 2 |
| Other | 3 | 6 | 6 | 7 | 8 | — | 4 | 6 |
| Total | 100 | 100 | 100 | 100 | 100 | 100 | 100 | 100 |

Notes

1. 'Other' category may include the maltreater.
2. Refer to Table A1.4 for numbers for this table.

Family type

Data on the type of family in which the child who was the subject of a substantiation was residing were available from most jurisdictions, although it is important to note that a family member with whom the child was residing may not have been the person responsible for the abuse, neglect or harm.

Compared with the distribution of family types in the Australian population, a relatively high proportion of substantiations involved children living in female-headed one-parent families and in two-parent step- or blended families, whereas a relatively low proportion of substantiations involved children living in two-parent intact families. For example, in Victoria 35% of substantiations involved children from female one-parent families, 12% involved children from two-parent step- or blended families, 5% involved children living in male sole parent families, while 34% involved children from two-parent intact families (Table 2.13). In comparison, in 1997, 16% of all Australian children lived in female one-parent families, 8% lived in two-parent step- or blended families, 2% lived in male sole parent families and 74% lived in two-parent intact families (ABS 1997).

While children of female sole parents accounted for a relatively high proportion of substantiations, they represent only a small proportion of all children in these families. In Victoria, for example, the rate of substantiations for children in female sole parent families was 16.8 per 1,000 while the rate for children in male sole parent families was 15.5 per 1,000 (Table 2.13, ABS 1997).

There are likely to be a number of reasons for the over-representation of one-parent families in substantiations. For instance, sole parents are more likely to:

- have low incomes and be financially stressed;
- suffer from social isolation; and
- have less support in their immediate family.

These are all factors that have been associated with child abuse and neglect.

Table 2.13: Substantiations, by type of family in which the child was residing, for selected States and Territories^(a), 2000-01

| Family type | Vic | Qld | WA | SA | Tas | ACT | NT |
|----------------------------|--------------|--------------|--------------|--------------|------------|------------|------------|
| | Number | | | | | | |
| Two parent—intact | 2,413 | 2,039 | 339 | 466 | 30 | 50 | 127 |
| Two parent—step or blended | 856 | 1,767 | 214 | 446 | 24 | 36 | 45 |
| Single parent—female | 2,481 | 3,486 | 430 | 855 | 36 | 80 | 111 |
| Single parent—male | 331 | 474 | 64 | 108 | 2 | 18 | 20 |
| Other relatives/kin | 404 | 194 | 84 | 65 | 6 | 2 | 18 |
| Foster | 116 | .. | 25 | 5 | 2 | 1 | 4 |
| Other | 488 | 416 | 15 | 35 | 3 | 3 | 7 |
| Not stated | 520 | 19 | 20 | 18 | — | 32 | 17 |
| Total | 7,608 | 8,395 | 1,191 | 1,998 | 103 | 222 | 349 |
| | Per cent | | | | | | |
| Two parent—intact | 34 | 24 | 29 | 24 | 29 | 26 | 38 |
| Two parent—step or blended | 12 | 21 | 18 | 23 | 23 | 19 | 14 |
| Single parent—female | 36 | 42 | 37 | 43 | 35 | 42 | 33 |
| Single parent—male | 5 | 6 | 5 | 5 | 2 | 9 | 6 |
| Other relatives/kin | 6 | 2 | 7 | 3 | 6 | 1 | 5 |
| Foster | 2 | .. | 2 | — | 2 | 1 | 1 |
| Other | 7 | 5 | 1 | 2 | 3 | 2 | 2 |
| Total | 100 | 100 | 100 | 100 | 100 | 100 | 100 |

(a) New South Wales could not provide these data.

Notes

1. For Victoria and Queensland, family of residence was categorised as where the child was living at the time of investigation. For other jurisdictions it was where the child was living when the abuse or neglect occurred.
2. Queensland does not have a category for 'foster parent'—these have been included in 'Other'.

Relationship of person believed responsible

The data on the relationship to the child of the person believed responsible for the abuse, neglect or harm to a child who was the subject of a substantiation highlight some of the differences in the approaches to child protection across jurisdictions. For example, in Queensland, the focus of the child protection system is on the identification and investigation of harm to the child and on the child's protective needs. In situations where harm has occurred and the person responsible is outside the immediate family, parents can still be seen to be responsible if they have failed to protect the child. In Queensland the natural parent was believed to be responsible in 84% of substantiations and a step-parent in a further 4% of the substantiations (Table 2.14).

In other jurisdictions, such as New South Wales, there is a greater focus on identifying the person who committed an action or who caused the harm to the child. Thus, those outside the family, such as friends or neighbours or strangers, are more likely than in Queensland to

be regarded as responsible. In New South Wales, natural parents were believed to be responsible in 57% of substantiations, friends or neighbours were believed to be responsible in 12% of substantiations and strangers (included in the 'other' category) were believed to be responsible for a small proportion of substantiations.

Table 2.14: Substantiations, by relationship to the child of person believed responsible, for selected States and Territories^(a), 2000-01

| Relationship | NSW | Qld | WA | SA | Tas | ACT | NT |
|----------------------|----------------------|--------------|--------------|--------------|------------|------------|------------|
| Number | | | | | | | |
| Natural parent | 2,760 | 6,944 | 733 | 1,574 | 39 | 169 | 227 |
| Step-parent | 353 | 370 | 73 | 123 | 6 | 4 | 19 |
| De facto step-parent | 289 | 298 | 46 | 92 | 7 | 25 | 9 |
| Sibling | 176 | 102 | 18 | 33 | 2 | 8 | 8 |
| Other relative/kin | 339 | 222 | 80 | 98 | 11 | 1 | 11 |
| Foster parent | 69 | 140 | 12 | -- | 1 | 2 | 2 |
| Friend/neighbour | 593 | 18 | 68 | 21 | 7 | 4 | 1 |
| Other ^(b) | 274 | 144 | 74 | 57 | 5 | 4 | 6 |
| Not stated | 2,646 ^(c) | 157 | 87 | — | 26 | 5 | 4 |
| Total | 7,501 | 9,395 | 1,191 | 1,998 | 103 | 222 | 287 |
| Per cent | | | | | | | |
| Natural parent | 57 | 84 | 66 | 79 | 51 | 78 | 80 |
| Step-parent | 7 | 4 | 7 | 6 | 6 | 2 | 7 |
| De facto step-parent | 6 | 4 | 4 | 5 | 9 | 12 | 3 |
| Sibling | 4 | 1 | 2 | 2 | 3 | 4 | 3 |
| Other relative/kin | 7 | 3 | 7 | 5 | 14 | — | 4 |
| Foster parent | 1 | 2 | 1 | — | 1 | 1 | 1 |
| Friend/neighbour | 12 | — | 6 | 1 | 9 | 2 | — |
| Other ^(b) | 6 | 2 | 7 | 3 | 6 | 2 | 2 |
| Total | 100 | 100 | 100 | 100 | 100 | 100 | 100 |

(a) Victoria could not provide these data.

(b) This category may include other person with duty-of-care responsibility, guardians, other child, strangers and those people who have no particular relationship with the child.

(c) This category includes cases where the person believed responsible was not applicable.