

I want to be there ...to catch you if you fall

We believe that children need both parents.

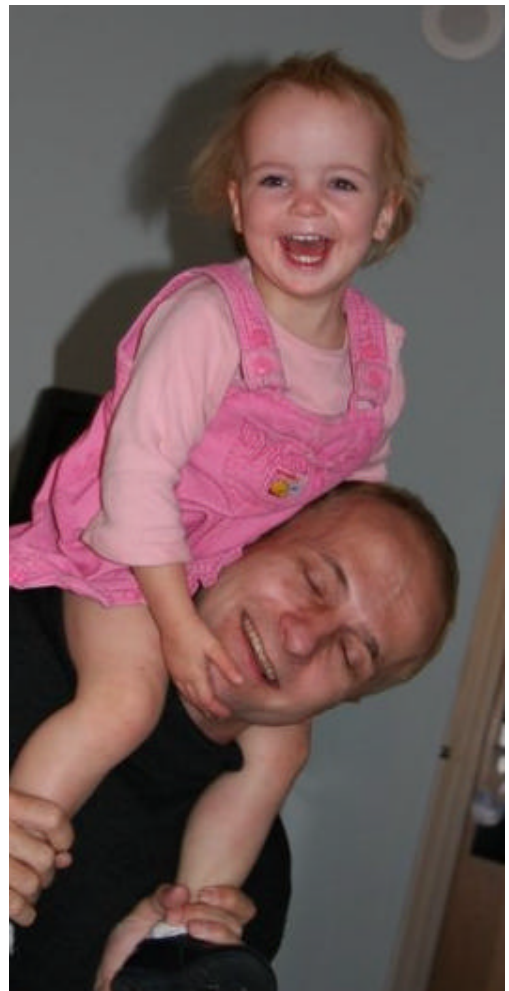
The Federal Government is reforming the Family Law Act. We don't believe the reforms are strong enough to protect children from risk, because children who live with a single parent are statistically at a much higher risk of harm.

The proposed legislation doesn't do enough to protect children and to put the child's right to have a meaningful relationship with both parents above the interests of parents.

Endorsed by the

Non Custodial Parents Party, 2006

Prepared by volunteers



Discussion paper

Children are happiest and do best if they are shared

Most kids see dad, every day

Marriage is a partnership. Sadly hardworking Australian dads do 5hrs a day more 'work'-work than Australian mothersⁱ, so it's impossible for dads to spend the same amount of time doing 'house'-work and playing with their kids as their wives can.

Every child has "the right to know and be cared for by his or her parents"

UN Charter of the Rights of the Child

We believe each parent is equally valuable to the kids, valuable in their differences. One parent makes the sandwiches and the other makes the bread... How will a child develop realistic

attitudes to life and work if they live in a single-parent household where nobody works?

In the annotated bibliography we have found 126 citations where the researcher has concluded that shared residency is best for children, and a further 9 that shared residency reduces conflict between the parents. We have even found two citations to take the brave step and say that there is no research at all that supports sole residency.

On the other side, we have read many of the advocacy documents put out by opponents of shared residence. They don't cite any factual research to back up their ideological positions. They don't cite hard research because THERE IS NO RESEARCH THAT CHILDREN DO BETTER IN SINGLE PARENT HOMES. Children do best if they have both their parents in their lives.

There are 126 citations to published research showing how children have fewer problems and happier lives when they have meaningful relationships with both parents after separation. Further, there are 40 citations to published research which show that Disney-dad parenting (ie: Family Court's one-size-fits-all custody order) frequently destroys any relationship between the child and their non-custodial parent.

Since children in families spend time with each parent every day, surely it is best to ensure that

children live with each parent as often as possible after divorce, in a variety of natural situations – weekends, after school, first thing in the morning.

After divorce most kids see dad, rarely

According to statistics published by the Family Court of Australia shared parenting is allowed only 2.5%ⁱⁱ of the time. The Family Court's "one size fits all" standard ruling is that dad gets the kids every other weekend... meaning that most kids get to see dad only 52 times a year. Or less.

The Family Court has a long-running precedent that says "in cases where there is any degree of conflict between the parties (family court) judges had not embraced the concept of shared parenting."ⁱⁱⁱ Now, think about that for a moment... the Family Court is a court... who goes to court unless there is conflict?

The court forces dad back into the role of breadwinner and burdens the mother a

the Family Court only allows shared parenting only 2.5% of the time.

heavier burden of housework and childcare. It is ironic that many of the groups opposing shared parenting are feminist, and yet they want the law to continue forcing parents into sexist roles.

Real parents make a real difference

Recent, reproduced research shows that girls that grow up without their natural (genetic) dad reach puberty earlier and are more likely to become pregnant as teenagers.

Meanwhile girls who grow up with a step-father reach puberty almost a year earlier than girls who are protected by living with their real dad, often this means they reach puberty in primary school! In the annotated bibliography there are 13 citations to published research showing this newly discovered fact.

As genetic medicine and social research become more advanced, we are seeing new insights that correspond to the fundamentals of our ancestral past. Real fathers protecting their daughters from early puberty is only one of

many factors yet to be discovered. We should follow the natural order unless there is convincing evidence otherwise.

We are familiar with the stories of adopted children struggling to find their natural parents.

There seems to be something fundamental in their plight, it's the way we evolved, how our ancestors lived, it's in our spirits and in our hormones. Children need both parents equally.

Children suffer without their dads

Protecting children from danger

We all hear horrific stories of children neglected and abused. The finger of blame is usually pointed to the pokies, the grog or just the frustrations of minimum-wage existence.

Abuse and neglect happen too often and the problem is getting worse - the number of children in taxpayer-funded care has climbed 70% over the last 10 years.^{iv} Single parents are one of the poorest groups in society and they suffer from all kinds of social, emotional and economic hardship. Too often they can't hold

everything together. Tragically, that's when children suffer.

If there are problems the other parent can be a fail-safe, raising the alarm and protecting the child from harm.

The usual response is "we need more funding for social workers and child protection officers!" But no overworked

social worker can care for and protect a little child as well as it's parents can. A parent is a parent for life, a social worker is there until they take another posting.

There are signs of neglect or abuse... Not just bruises, abuse often leads to dropping school marks, withdrawal, depression. Signs that are hard for a teacher or social worker to see, but a parent who has loved a child since birth can't miss them. Children are put on this earth with two real parents for a reason.

In the annotated bibliography there are 455 citations to published research that mothers are at least as likely to abuse or neglect their children as natural fathers, 24 of these citations confirm that sole custody increases the risks for children.

We have found 11 citations that conclude that mothers are more likely to kill their children and another 11 citations concluding that mothers are more likely to be violent to a child than the child's

natural dad. Struggling single mothers are clearly over-represented as perpetrators of these horrific crimes. ^{v vi vii}

It is hard being a single parent. If a lone parent is going through a hard patch, the other parent should be there to pitch in and help, to take some more of the burden. If there are problems the other parent can be a fail-safe, raising the alarm and protecting the child from harm. It is tragic when there is a loving and heartbroken father who wants to share in his children's lives, while a struggling single mum struggles to make do with the occasional support of an under-resourced social worker.

Children need both parents looking out for them. Shared parenting is the best way of protecting kids from danger.

Domestic violence

We believe strongly that children must be shielded from proven ongoing violence. Violence however is used as a trump-card by groups resisting reform of the Family Law Act.

The myth they repeat is that *only* men are violent, and their *only* victims are women. We believe that neither gender is more virtuous than the other and that men and women are both equally violent in the home. We have found 387

citations to published research which proves that women initiate domestic violence as often as men do.

The myth is that only men are violent, and their only victims are women.

There are many problems measuring rates of violence. But one thing is certain, while women under-report it, men almost *never* report being a victim of violence, and, if they try, they are usually laughed out of the police station. However serious injury statistics confirm rates of violence. Interestingly although men are sometimes stronger, women

are more likely to use a weapon in their assaults, so serious injury rates are similar.

Violence between separating parents usually disappears after they have separated... remember, they are 'separating' after all! Later

*Remember separating
parents are
SEPARATING!
Any violence usually
disappears*

you will read how shared parenting actually *reduces* conflict. Where the court has concerns about violence the court should design drop-offs and pick-

ups to mitigate against violence, such as school pickups or supervision, so the parents do not see each other in a potentially threatening situation.

Violence is not a matter of Family Law. Domestic violence and common assault are matters for the local court!

Today's strong emphasis on violence and the fear of violence between parents also puts the mother's best interest above the child's. It doesn't make sense that that a woman that is afraid of a man who she doesn't need to ever see again is going to be a bad mother because of that fear.

Remember, because they are separated, the opportunity for violence has disappeared so fear of violence is unfounded.

Furthermore, since domestic-violence is almost equally initiated by men and women, this should mean that equal numbers of mothers and fathers are denied access to their children.

Women are more dangerous to their children than natural dads

The combination of traditional gender roles and welfare traps often leave divorced mothers alone for long periods with their children. Looking after a child 24-7 is stressful. The frustrations of the day-to-day grind, of a baby who won't stop crying, of isolation and social detachment can lead to an innocent child being abused.

In the annotated bibliography there are 11 citations to published research which show that most incidences of violence to children the perpetrator is the mother.

Increasing paternity leave and allowing fathers to have a work-life balance will share the load during marriage and reduce violence across the community. 50-50 shared

I want to be there for you

residence after divorce will relieve many of the stresses on single mums and also reduce violence against children.

Mummies-new-boyfriend - Remember Cinderella?

Many parents re-marry and the new partner often becomes a good, loving step-parent to the children. Any step-parent who loves their step-child deserves our greatest respect and support. But some children are not so lucky. Remember Cinderella?

Nobody expects divorced parents to remain celibate. Sadly, awarding children to a single mother after divorce can result in children sharing house with a string of unrelated men – “mummies-new-boyfriends”.

A string of non-committed strangers entering the lives, homes and bedrooms of children is obviously dangerous. What is clear in the research is that violence and abuse of children is almost entirely committed by either the mother or “mummies-new-boyfriend”, and not by the natural father.

Natural (biological) fathers very rarely kill or hurt their children, significantly less of ten than their mothers do. But both natural parents are far safer than other un-related adults. The likely result of sole custody is that that children may end up living with a string of unrelated adults, “mummies-new-boyfriends”.

In the annotated bibliography there are 46 citations to published research which show how the risk for children increase by around 2,000 per cent (20 times) when a child is living with an unrelated adult, typically a boyfriend or stepfather. Strangely the Family court uses a very high yardstick against loving fathers but there is no vetting of “mummies-new-boyfriends”.

Concerns about violence should recognise the vastly increased risk for children in sole parent households and sole custody should be the exception for this reason if for no other. 50-50 shared residence gives both parents time alone without their children for new relationships to develop without putting their children at risk. And then the new boy/girl-friend can slowly and safely develop a healthy relationship with their potential partner and step-children.

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Neglect and emotional abuse

While mothers are just as likely to initiate domestic violence as men, women are more often emotionally abusive. A great deal of emphasis is placed on 'violence', but neglect and emotional abuse are largely ignored in

Mothers are just as likely to initiate domestic violence as men, and they are more often emotionally abusive

discussions about Family Law reform. They are each equally major problems.

It is recognised that emotional abuse is at least as damaging as violence, especially since emotional abuse is likely to

continue for years, while violence is commonly a one-off occurrence. Remember, no gender has a monopoly on virtue. Violence is easier to see – bruises and screams. But only a parent can easily recognise emotional abuse symptoms and raise the alarm.

We didn't look very hard to find 6 citations to published research which prove that mothers are more likely to neglect or emotionally abuse their children.

50-50 shared residence provides a safeguard for kids. If there is abuse, the other parent can see the signs and limit the damage. It also reduces children's vulnerability to emotional abuse as it makes them emotionally stronger in themselves. Leaving a child with only one trusted adult watching out for it leaves a child at unacceptable risk.

Parental Alienation (Malicious mother syndrome)

Children naturally love and want both parents. If you ask a child which parent they want, they almost always answer "Both!!!" However occasionally an abusive parent can coach the children to hate the other parent. This is called Parental Alienation Syndrome (PAS).

This is emotional abuse. The non-custodial parent is ridiculed and degraded, brainwashing a child's natural love of their other parent^{viii}. If a child is being abused in this way, then the court should save the child from this abuse by **reducing** the time that the child spends with their abuser.

Parental alienation relies on the perpetrator having the majority of time with the children. Because that's mostly the mother some American talk shows have called this 'malicious mother syndrome'.

This is the classic example of children being used to hurt the Ex. But even when the Family Court has ordered contact, in the best interest of the child, we have found 18 citations to research showing that the custodial parent abuses their child by obstructing the visits. In a further 6 citations, the hurt inflicted on children when the custodial parent moves is discussed.

50-50 shared residence means that children have meaningful relationships with both parents. This makes it difficult for one parent to brainwash and alienate the kids.

Forcing the children to start new lives

Divorce is hard for kids – it turns their lives inside-out. Minimising the changes reduces the stress on these kids.

Far too often the custodial parent moves away to 'start a new life'. Forcing the children to start new lives as well... a new life without their friends, their school, their home and without their dad. Custodial parents should not be allowed to damage their children in this way, except in exceptional circumstances.

Kids lose their friends, their school, their home and their dad. Custodial parents should not be allowed to damage their children in this way

In the annotated bibliography there are 6 citations to published research which show how damaging relocation is to children and how the relationship with the non-custodial parent is frequently destroyed by a re-location.

The Family Court often justifies giving sole custody to the mother to minimise the disruption, then surely the court should prevent the custodial parent from the massive change involved in taking the children away from their school, their friends and their father? Allowing custodial parents to move away is clearly putting the interests of the custodial parent above the best interests of the child.

Abandoning children

The best way to make a parent act responsibly is to allow them to have a meaningful relationship with their natural children.

We believe that not utilising contact rights is a form of neglect. Where the custody is so limited that a parent can't maintain a meaningful relationship with their child, it is hardly

most fathers have less time with their children than they want, due to the courts, or due to the custodial parent

surprising that some parents give up in despair.

In the annotated bibliography there are 39 citations showing how most fathers want more time with their children than

they get after divorce, either due to the courts, or due to the obstructions of the custodial parent.

The solution is to for the Family Court to order shared residence except in exceptional circumstances. Maintaining a meaningful relationship requires shared residence because alternate weekend visitation.

Perjury is against the best interest of the child

All abuse of children is always totally unacceptable. Abuse of an ex is unacceptable. However denying a child their parents is something that should not be done lightly. Any allegations must be proven beyond reasonable doubt, be significant, and be likely to continue, to justify such a damaging action. A woman's nebulous 'fear' of potential violence is insufficient justification for denying a child their most basic of human rights, their right to both of their parents.

Frequently allegations of violence are simply a weapon to get-at the other parent, or to get the money – the property settlement – if you get the kids, you get everything.

This parent is putting their self-interest above the best interest of their kids. Committing perjury often results in the court making an incorrect judgement of the best interests of the child and so this parent is abusing the child. The court needs to punish these parents, or at least recognise that a parent willing to put their self-interest above their children's is a risk to the

children. It's simple, any parent who commits perjury is abusing their child!

We have found 8 citations to this little-studied area that show that shared parenting reduces conflict. Since

shared parenting actually reduces conflict it is bizarre that the Family Court uses accusations of violence as a justification to

prevent shared parenting. Getting sole custody is the ultimate weapon to hurt your ex, and so shared parenting is often a cure for to violence.

The parent that makes false accusations should be treated as an abuser of the child. Because this parent is putting their interests above the child's. This contravenes the 'paramount principle' of Family Law.

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Treating all children equally

The CSA rules, current and the proposed amendments still leave second children far worse off than first children. Children live in households, yet the rules ignore the income (or the dependency) of a new spouse.

Here is a fairly normal example; A couple with one child divorce and the mother gets majority custody. She later re-marries and so this child now lives in a household with two breadwinners (and only one dependant child).

Her husband also remarries and they have a child. In the

first few years after the birth, this mother doesn't work. So this child lives in a household with only one income earner a dependant child and a more expensive dependant adult. Natural justice would suggest that the CSA payments would go from the rich household to the poor one. But the opposite is the case - money is taken from the poorer child to subsidise the richer one.

Children live in households but the CSA rules only consider the parent's situation. This leads to serious in-justices against children and parents.

Natural justice would mean payments would go from the rich household to the poor child's one. But the opposite is the case

What it means for Australia

Australians demand 50-50 shared residence

The greatest love of all is a parent's love for their natural children. If you betray that love by taking the children away, then hell hath no fury like it!

The justice system should be 'just'. Most people believe that children should be shared equally after divorce. Betrayal of 'natural justice' creates conflict

Sole custody can create violence and also destructive court battles.

The justice system should be 'just'. Most people believe it is best for children should be shared equally after divorce. In the annotated bibliography there are 6 citations to published opinion polls sponsored by TV programs show

that over 90% of Australians believe that children should be shared equally after divorce.

Tragically, the rulings of the Family Court are very different to community standards. This betrayal of 'natural justice' makes people angry. What loving parent would accept being ordered out of their children's life without a fight? The Family Court's standard 'cookie cutter' ruling gives the mother sole residence and the father

Sole custody disadvantages the most needy mothers.

alternate weekends, actually creates conflict.

If the *default* ruling of the court reflected overwhelming community values of Australian's that 50-50

shared residence is both fair and is best for children, then far fewer divorces would end up as ugly custody battles.

Court would still be an option if one parent believed that the other was not a fit parent. Then any accusations of violence, emotional abuse, neglect and any other claim relating to the best interest of the kids could be aired *publicly* and proven. That's why we support 'rebuttable' shared parenting.

Struggling mothers are helped by shared parenting

Children growing up in single-parent families suffer. The fact that the courts usually award custody to the mother not only creates this problem, but it also ensures that mothers are prevented from having a work-life balance, or any balance at all in their lives.

Where both parents are welfare dependant, the financial contribution that a non-custodial parent can make is very small, only \$5 per week. However the contribution of time could be very valuable, allowing both parents to have time with the kids, some free-time and time to find work or improve themselves.

Sole custody disadvantages the most needy mothers.

If you get the kids you get everything (sole custody is about money)

Unlike struggling families, middle class women have a lot to gain from sole custody, money. Including the home and bulk of the family's assets in the settlement and then large ongoing tax-free support payments from the father.

middle class women have a lot to gain from sole custody; money

The current system forces fathers into the role of non-custodial breadwinner and the mother into role of care-giver in a 'comfortable concentration camp'. It is strange that the people most strongly defending the current system claim to be feminists.

It's rebuttable, stupid!

The lobby groups who want to maintain the status quo claim that a preference for shared parenting would mean that kids would be put in danger by violent husbands. However the proposal we seek is "rebuttable 50-50 shared residence". Rebuttable means that if there is violence, abuse, or any other issue that is not in

the child's best interest, then the 50-50 would be refused. It's rebuttable, stupid!

Innocent until proven guilty

The reforms we support are also based on the principle that a person is innocent until proven guilty. Today the Family Court accepts any accusation if there is any 'lingering doubt'. If any accusation is made, there will almost always be a 'lingering doubt'. Effectively the court treats you as guilty unless proven innocent.

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Frequently allegations of violence are simply a weapon to get-at the other parent, or to get the bulk of the property settlement (because if you get the kids, you get everything). This parent is putting their self-interest above the best interest of their kids.

A false accusation may lead to the court making an incorrect judgement of the best interests of the child. The court needs to punish parents who put their self-interest above their children's. It's simple, any parent who commits perjury is trying to abuse their child!

Shared parenting saves marriages

Family law can be summarised by the saying "if you get the kids, you get everything!" The house, any other assets including the super, and ongoing tax-free CSA payments from your ex. Additionally, grabbing sole custody is an extremely effective way of hurting your ex.

In Australia, over two thirds of divorces are initiated by the woman, partly because she has nothing to lose.

*If you get the kids, you
get everything*

Shared parenting means the assets and money are split. This removes the incentives for women to divorce their husbands and so it decreases divorce rates. We have found 3 citations to published research in this difficult to study area.

The stolen generation?

Decades of Australian history are blacked by the 'stolen generation' where aboriginal children were routinely taken away from their natural parents in what was considered their best interest. These children are known as the "Stolen Generation".

Today the same thing is happening. A generation of children is being routinely taken away from their real fathers, in what is argued as their best interest. Another "Stolen Generation" is happening today.

Putting it all together – kids need both parents

The research is clear, shared parenting is best for children. No research attempts to prove that 60-40 is better than 50-50, but anything that does not allow both parents to maintain a meaningful relationship with their child puts kids at risk.

Sadly the Family Court's 'cookie cutter' ruling relegates dad to every second weekend, forcing him back to the role of the 'emotionally detached male breadwinner' that is so destructive for the man, for the mother and especially for the children. Alternate weekend access is clearly insufficient to maintain a meaningful parent-child relationship.

The Family Court takes the approach that shared parenting doesn't work in situations where the parents are in conflict. But think about this... it is a

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court... the only people to go to court are in conflict! This short-term view entrenches conflict, but shared parenting has been shown to reduce conflict.

The best parent is both parents! The default result from Family Court should be 50-50. It's best for kids to have both parents to look after them, *unless* there are proven risks.

Doesn't the new legislation fix it all?

Sadly, the proposed legislation introduced to the House of Representatives in Dec 2005 will fix very little. It does little more than move the deckchairs on the Titanic.

“Shared Parental responsibility”, has been the basis of Family Law since 1975

The Family Law Amendment (Shared Parental Responsibility) Bill 2005, asks the Family Court to “consider” 50-50 shared residence. Sadly with the entrenched culture of the Family Court this will mean “consider and immediately dismiss”. The other change it he much talked about “Shared Parental responsibility”, which has been part of the Family Law Act since 1975. We see almost nothing in this legislation to make us think that this new legislation will help our children.

Divorce doesn’t just happen, it is premeditated, usually by the mother. Mediation will not help if either parent knows that they will get a better result in court. The Relationship Centres are just throwing money at a problem hoping that it will go away. Without **legislation** that truly protects the best interests of children, no amount of money spent on mediation will help our kids.

The only change that does have merit is the tightening of the standard of proof from “lingering doubt” to “balance of probabilities”. We wholeheartedly endorse this change.

Bias of the Family Court

The view of the Family Court is that any stress, disagreement, or concerns that the custodial parent (usually the mother) has will make her a worse parent, and this is not in the best interest of the child. So if the mother wants to uproot the kids and move to Perth, shack-up with another man, or just not open the door when a loving dad turns up for court-ordered visitation... well that’s OK by the Court. She can do what she wants with impunity. The court never enforces its own judgements against custodial parents.

To you and me this sounds like the ‘best interest of the mother’ is being placed above the ‘best interest of the child’. There is no way to correct this perverse mindset. This is just example of the bias of the court... a bias that results in only 2.5% of cases resulting in shared residence. The court seems to believe that it is on a child’s best interest to live in a single-parent household.

Sadly the proposed legislation will not improve this situation. Specifically mandating shared residence

will to ensure that fathers are considered as ‘parents’ too, so the true best interest of the child will (for the first time) prevail.

The Family Court is a court... the only people to go to court are in conflict!

UN Rights of the Child

The Australian Government has ratified the UN Convention of the Rights of the Child. Australia must ensure that children have **“the right to know and be cared for by his or her parents... The right of the child to preserve his or her... family relations... That a child shall not be separated from his or her parents against their will... (and) the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both” parents on a regular basis.”**

Produced by volunteers

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ⁱ Australian Bureau of Statistics. Figures commissioned by the author.

ⁱⁱ Family Court of Australia. Public Interest Statistics. Residence and Contact orders - Any Application 1994/95 to 2000-01
http://www.familycourt.gov.au/presence/connect/www/home/about/business_administration/statistics/statistics_public_interest/

ⁱⁱⁱ JUSTICE ALWYNNE ROWLANDS AO. (Family Court) “Recent Developments in Shared Parenting and Joint Custody; A Personal View From the Court”. The 14th Annual Family Law Masterclass Conference Sydney 10 May 2005

^{iv} Australian Institute of Health and Welfare, Children’s Unit, Bryant, M., cited in The Australian, “Children in Care up 70pc in 10 years” Patricia Karvelas, 18 Jan 2006, p 4.

^v Hamel, J. (2005). Gender Inclusive Treatment of Intimate Partner Abuse. New York: Springer. (Reviews the “most reliable and empirically sound research” and concludes that “men and women physically and emotionally abuse each other at equal rates. . .” Offers a comprehensive gender inclusive treatment approach to domestic violence.)

^{vi} Simonelli, C. J. & Ingram, K. M. (1998). Psychological distress among men experiencing physical and emotional abuse in heterosexual dating relationships. Journal of Interpersonal Violence, 13, 667-681.

^{vii} Angus G, & Hall G (1996). Child Abuse and Neglect Australia 1994-1995. Canberra: Australian Institute of Health and Welfare. (Australian Institute of Health and Welfare Series; no 16)

^{viii} Richard A. Gardner. M.D. American Journal of Family Therapy 30(3):191-202 (2002). Denial of the Parental Alienation Syndrome Also Harms Women Columbia University, New York, New York, USA