Senate Committee on Legal and Constitutional Affairs

Inquiry into the Family Law Amendment (Shared Parenting Responsibility) Bill, 2005

The Lone Fathers' Association (Aust.) Inc.

February 2006

Contents

The Lone Fathers Association (Australia) Inc. (LFAA) 3

The Inquiry 3

Amendments proposed by anti-change groups to the Bill 3

The need for strong families 7

The current situation

- The key issue – fatherlessness 7
- Unbalanced current state of family law in Australia 7
- Advocacy and politics 8
- The adversarial model and the Family Court 9
- Current presumption in favour of sole parenting in Australia 9
- Inconsistency between the Family Court approach and the views of the Parliament 10
- Male suicide rates 11

Shared parenting

- The new paradigm 11
- Shared parenting versus sole parenting 12
- Shared parenting and child financial support 13
- Protection of children from abuse 13
- Significance of domestic violence 15
- Experience of other countries with shared parenting 17
- Ideologically-based arguments against joint physical custody 19
- Opposition to shared parenting by the legal establishment 20
- Criticism of gender-ideological arguments by authorities in US states where joint physical custody is currently in force 20

Comments on some arguments raised by groups opposed to shared parenting 21

Summary of studies of violence between partners 28

Further questions 36

The Lone Fathers Association (Australia) Inc. (LFAA)

This submission to the Inquiry is being provided by the Lone Fathers Association (Australia) Inc. (LFAA).

The LFAA is a peak body at the Commonwealth level. It represents a broad cross section of Australians, namely men and women who wish their children to be loved, nurtured, and supported to adulthood by both parents - even where the parents are separated - and also by step-parents, grandparents, and other members of the children's extended families where appropriate.

Women make up 30% of the membership of the LFA, and 50% of the office bearers at the national level. The LFAA is a non-sexist, non-ideological, and non-sectarian organisation. It takes 30,000 calls a year from people seeking help and advice on family law matters, and many of the callers are women or children.

The Inquiry

The task of the Senate Committee is to inquire into the provisions of the Family Law Amendment (Shared Parenting Responsibility) Bill, 2005, in the light of a number of concerns that were listed in the terms of reference.

The Shared Parenting Responsibility Bill, although it fails to fully support the principle that both parents are of equal status in the bringing up of their children, does at least represent a significant advance on the present very unsatisfactory state of affairs in family law in Australia.

The LFAA wishes to thank Ministers, other Members of Parliament, Departments, and the Family Court for their helpful inputs into the process of developing the Bill.

In the interests of Australian children, it is essential that there be no "back-sliding" on the legislation as a result of the present Inquiry. Scare tactics and misinformation by gender-ideological groups which regularly blackguard fathers should be recognised for what they are, and put to one side.

Amendments proposed by anti-change groups to the Bill

An addition to the Bill since its consideration by the House of Representatives stipulates that in making orders the Family court should, inter alia, take into account the time spent by fathers with their children *before* the separation. This will mean that many fathers who have worked hard to earn a good income for their families, and as a result have had less time available to spend with their children, will in future be compelled, against their wishes, to spend only limited time with their children - when the whole situation of the family has changed completely because of the divorce.

While such an arrangement might suit the convenience of some custodial parents, it would be at the expense of the children and the other parent, and would represent a major attack on the spirit of the new legislation.

As remarked by Andrew Schepard in his perceptive recent work on "Children, courts, and custody":

> "(Men view) the unequal division of caretaking responsibilities between parents as part of an agreed upon division of labour, and (feel) that they should not be penalised for working outside the home for the benefit of the wife and the child" (page 17)
>
> "… the research findings confirm that the partnership model of parenting not only symbolises the legal equality of the sexes, but also the emotional needs of most children" (page 18).
>
> "If marriage is an economic partnership regardless of the role a partner plays in creating the family's economic wealth" (i.e., it makes no difference that the wife has earned no income outside the home), "it is also a parental partnership regardless of the role each parent actually plays in raising the children" (i.e., it should make no difference that the husband may have played only a small role in actually raising the children) (page 17). (Our additions in brackets.)

Shown below is a summary of amendments being proposed by anti-change groups to the Shared Parental Responsibility Bill, 2005, together with LFAA comments on those amendments shown in italics.

The amendments are being put forward by groups who appear to be unconcerned about the present situation in which over 1,000,000 Australian children have little or no contact with one of their parents.

Groups opposed to change:

- wish the fundamental concept in the new legislation to be "joint shared parental responsibility" rather than "equal shared parental responsibility". *That would be a fundamental attack on the legislation, and would be unacceptable to the great majority of separated fathers, and damaging to their children. The Family Court should be removed from a judicial role in determining the precise scope of such responsibilities as far as practicable;*

- wish to make "safety" the main subject matter of the Bill, and water down the shared parenting aspects to little or nothing, i.e., in effect, to maintain the status quo. *But the Bill is not supposed to be primarily about domestic violence, which is already extensively covered in State legislation. The legislation is supposed to be about making it possible for children to have an ongoing healthy relationship with both their parents;*

- wish to bring the concept of "entrenched conflict" back into the legislation. *Again, this is an attempt to undermine the whole purpose of the legislation. It is unacceptable to fathers;*

- claim that "equal time" with children is not important. *But the research clearly indicates that substantially equal time with both parents is vitally important to the happiness and sound development of the great majority of children. The idea that substantially equal time means that time must be shared on the basis of exactly 50.0%/50.0% has always been an "Aunt Sally" put up by opponents to discredit the real point by trivialising it. The Bill should in fact be strengthened to require judges to give reasons in cases where they have decided not to award substantially equal time with both parents, in order to lessen the scope for judges to base their decisions on personal opinions or prejudices;*

- oppose the listing of primary and secondary criteria in relation to the best interests of the child. *However, such a listing is fundamental to the legislation. The result otherwise would be a continuation of the status quo - fundamentally unsatisfactory as it clearly is;*

- claim that "42% of previously partnered single women report experiencing violence, mostly from their ex-partners. *This and other claims by gender-ideological groups are readily refutable by reference back to the claimed sources. The fact (now established beyond any shadow of a doubt by well over a hundred professional studies) is that domestic violence is contributed about equally by both men and women, and that this is the case for both physical violence and emotional harassment and for the situation both before and after separation. Also, significant violence is only a real factor in a small proportion of separations;*

- claim that the proposed changes will significantly increase the risk of further violence and abuse to "women and children" escaping from violent relationships. *Anti-change groups claim that the new legislation will not provide adequate safeguards when mediation is made compulsory. In fact, clear evidence of violence will continue to preclude mediation, as it does now;*

- wish would-be custodial parents to be excused from being involved in mediation on the basis of a mere claim that they are "afraid" of violence. Anti-change groups wish the definition of domestic violence to remain unchanged - except that it should be made even more subjective and allegational than before. They also want a "consistent definition of domestic violence" Australia-wide. *But many of the present definitions in State legislation are unbalanced and subjective, and those unbalanced definitions should not be extended to other jurisdictions. It should be noted that there are many provisions in the Bill which safeguard the safety of children in different ways, and the Family Court is itself reviewing its procedures in cases where domestic violence may be suspected;*

- oppose the use of an objective test of domestic violence. *But there has to be such a test. Laws affecting the rights of a person cannot in justice be based on a subjective state of mind of another person. The description of domestic violence needs, in fact, to be tightened up, as it is at present too all-embracing,*

and could be taken to include trivial incidents such as a raised voice or a slammed door, which are clearly not violence;

- oppose "new tests and fines for victims of violence". *However, there will not, under the legislation, be fines for victims of violence. There will be fines for persons who falsely accuse others of violence - as indeed there should be.*

- claim that very few false allegations of child sex abuse are ever made by mothers. *In fact, the evidence is quite clear that false allegations are frequently made;*

- claim that the new legislation would "silence the voices of children". *On the contrary, the voices of those children who wish to have an ongoing relationship with both their parents (i.e., the vast majority of children) will under the new legislation be listened to effectively for the first time;*

- wish to make equal shared parenting in any individual case depend on a test on whether a parent "has taken or failed to take the opportunity to participate in making decisions…" in the past. *Such a provision would be very likely to be abused (see above) and is fundamentally against the spirit of the legislation. There is also another provision in the proposed amendment that talks about "has facilitated or failed to facilitate the other parent (in) … spending time with the child". But the section as a whole is unlikely to be helpful, and would be unacceptable to most fathers, because contrary to the interests of the children;*

- wish to omit the provision that all attendees "make a genuine effort to resolve the issue or issues". *Anti-change groups evidently want it to be acceptable for a person* not *to make a genuine effort to resolve the issues. That would vitiate the whole purpose of the legislation*;

- wish contraventions of court orders not to be punishable if the person "genuinely believed" that they had to contravene the order for safety reasons. *Subjective criteria are here involved, in this case encouraging disobedience of a clear direction by a court. Such a provision would make it very easy to circumvent court orders at will - which is the very mischief that the new legislation is intended to prevent.*

- wish AG's to consult about the suggested amendments to the Bill with women's legal services. *Given the large amounts of funding given by government to women's legal services and the absence of corresponding funding to assist men with legal services, such consultation would be seriously unbalanced unless there was corresponding and equally extensive consultation with men's groups - for example, the honorary legal service provided by the LFA in the ACT, and other fathers' groups.*

The families and especially the children of Australia would be poorly served by the above proposed amendments. The LFAA opposes all of the amendments in question.

The reasons for this position are spelt out in the remainder of this submission.

The need for strong families

The LFAA considers that strong families are the basis of a sound and successful society, and that the current divorce rate in Australia is an indication of a society which in major respects is dysfunctional and failing its children.

There have been many cases where families separated in part as a result of misguided government and judicial policies could, with better policies and administration, have been reconciled, in the interests of both the children and the other members of the family. The failure to do this has damaged the lives of many children and other members of their families.

The present Bill will help the cause of stronger Australian families, provided there is no "roll back" now in the form of unnecessary and damaging further amendments.

The current situation

The key issue - fatherlessness

The key issue is that over the last 30 years or so a huge increase has occurred in the number of fatherless families in Australia.

As a result, Australia now faces a situation where:

- very few children of divorced parents now experience the type of care they would prefer, namely equal care by both parents;

- a large number of boys, in particular, are growing up without suitable male role models. Also, girls are growing up without male heterosexual role models that will be important to them in adult life; and

- many children in one-parent families, by the time they are 14-15 years old are using drugs, alcohol, and being abused by themselves or others in other ways. A great many do not manage to get jobs when they reach working age, and where they marry those marriages often end in divorce.

A host of problems have arisen as a result of the approach (until now) of the Family Court. These problems will be greatly reduced by the implementation, in cases of separation and/or divorce, of an effective understanding that shared parenting is necessary for a child's proper development, and that the children are entitled to it as basic human right.

Unbalanced current state of family law in Australia

The present unbalanced state of family law in Australia provides a strong encouragement to women, in particular (but also to some men) to separate from their spouses, to the disadvantage of their children, if there are any problems in the

marriage. Approximately 70% of divorce applications are currently being made on the sole application of female partners.

Kuhn and Guidubaldi, 1997 expressed the view that:

> "If one spouse can anticipate a clear gender bias in the courts regarding custody, they can expect to be the primary residential parent for the children. If they can anticipate enforcement of financial child support by the courts, they can expect a high probability of support moneys without the need to account for their expenditures. Clearly they can also anticipate maintaining the family residence, receiving half of all marital property, and gaining total freedom to establish new social relationships. Weighing these gains against the alternative of remaining in an unhappy marriage may result in a seductive enticement to obtain a divorce, rather than to resolve problems and remain married.
>
> "Sole custody allows one spouse to relocate easily and to hurt the other by taking away the children. Potentially higher child support arrangements with sole custody may provide a motive for divorce as well. With joint physical custody" (by contrast), "both social and economic motives for divorce are reduced, so parents may simply decide it is simpler to stay married".

In the same context, a retired Victorian Family Court judge Geoffrey Walsh was quoted (1996) as saying:

> "...the woman has had all the power, the man almost none. More often than not, that power is exercised unreasonably... The court's decision to award sole custody of children to the primary care giver, almost invariably a woman, has meant many fathers have been denied regular contact with their children."

Advocacy and politics

Shared parenting as the preferred result in cases of family breakdown is an objective that the LFAA has been pursuing for at least 20 years. Unfortunately, many parliamentarians have been reluctant to actively consider such a change. The members of Parliament in question have apparently feared that support for such a move would alienate the female vote.

That fear is, in reality, misguided. In the experience of the LFAA, whose members have spoken personally and individually to literally hundreds of thousands of men and women, the great majority of both men and women would appreciate any changes that would bring greater commonsense into family law. They do not see a great deal commonsense in the law as at present administered, even though individuals will often exploit that law where they see a personal advantage in doing so.

It would be politic to reflect on the reality that the great majority of men unjustly prevented from sharing fully in the lives of their children have their own mothers still living, and often also sisters and female cousins and friends who share their pain. These women vote too, and they number in the millions.

The adversarial model and the Family Court

The Shared Parental Responsibility Bill 2005 is right to be facilitating a move away from the present adversarial model in family law and towards greater use of mediation.

Families do not cease to exist on separation. Divorce is between the parents, not between the parents and their children. The love between the parents and the children does not come to an end, unless parent/child alienation, a very serious form of child abuse, is allowed to occur.

The adversarial model traditionally employed by the Australian legal system is partly to blame, in many cases, for unnecessarily encouraging the conversion of parental conflict into emnity and loss. Mediation should be the main process adopted in resolving parental conflict. The adversarial model, by causing both parents to fear that they will lose the children, effectively compels many parents to fight hard, where they can, through the legal system. This then tends to give the judicial authorities the appearance of parents in sharp conflict – although this conflict would usually subside when the more natural arrangement of shared parenting was granted.

The Family Court has effectively encouraged and implemented a model of sole parenting. This has created a "win-lose" mentality on the part of parents. The "loser" often becomes a mere transient in the lives of his/her children, and this is almost invariably bad for the children.

The current Family Law Act stipulates that "Children have the right to know and be cared for by both their parents" *(Section 60B 2(a), Family Law Act).* The Family Court could make shared parenting order even without parental consent now. But it has largely ignored this opportunity. The Court has, in fact, over the last decade or so gone in the reverse direction, as the proportion of shared parenting orders granted has steadily declined.

The legal profession has a strong vested interest in the continuation of existing arrangements, for similar reasons to some custodial parents, with whom they tend to make common cause, as evidenced by by both groups requesting the present (further) Parliamentary Inquiry. The vested interests of the legal profession in the issue may, in fact, be even stronger than the personal interests of the above group of parents, because there is no offsetting disbenefit to legal professionals arising from the deterioration in the welfare of the families concerned as a result of unjust and unenlighted procedures and decisions.

Current presumption in favour of sole parenting in Australia

The question needs to be asked as to why there is in Australia an effective rebuttable presumption in favour of sole parenting.

The answer lies partly in history. A policy approach in favour of "maternal preference" in the custody of children was developed in the US during the nineteenth century, and a similar approach was adopted in Australia. The US policy was

subsequently developed into an approach based on the supposed best interests of the children, and that approach also taken up in Australia.

What "the best interests of the children are" in complex family situations, however, is often to a large extent a matter of personal opinion. The best interests of the children cover a multitude of issues which can be resolved in a various different ways, including according to philosophical or ideological notions - as, regrettably, frequently occurs at present in Australia. Asserting that judicial judgements were arrived at on the basis that the decisions were "best interests of the children" does not necessarily make them so, or produce satisfactory results.

The maternal preference/sole custody approach is now well out of date, if indeed it was ever appropriate. In the US, maternal preference was declared in the 1960's to be unconstitutional. If Australia had a Bill of Rights similar to the US it seems almost certain that maternal preference would have been declared to be unconstitutional in Australia too. Maternal preference arose from the situation that in earlier times most mothers stayed at home and looked after children, usually in large families. That situation has not applied in Australia for many decades.

Inconsistency between the Family Court approach and the views of the Parliament

The policy being pursued, *de facto*, by the Family Court on sole parenting has not been endorsed by the Australian Parliament, and is, in fact, in conflict with the stated view of the Parliament.

The statement was made by Senator Missen in 1974 on behalf of the Liberal Party, for example, that the intention of the new Family Law Act 1975 in Australia was to:

> "create the concept of *joint custody* under the law".

Mr Peter Duncan, Labor Minister, in his Second Reading Speech explaining the 1995 Bill to the legislature stated that:

> "The original intention of the late Senator Murphy was that the Family Law Act would create a *rebuttable presumption of shared parenting*, but over the years the Family Court has chosen to largely ignore that. It is hoped that these reforms will now call for much closer attention to this presumption and that the Family Court will give full and proper effect to the intention of the Parliament."

Comments coming from the Family Court in relation to shared parenting have suggested that the Court has been so disinclined to follow instructions by the Parliament that it had forgotten that those instructions were ever made, or did not care.

What the LFAA considers to be a significant failure of the Family Court to keep up to date is exemplified by the statement made by the previous Chief Justice that "in the 21st century … almost one in three marriages end in divorce …" (e.g., approximately 30%).

The divorce rate in Australia has not, when expressed as the ratio between the number of divorces and the number of marriages, has not been approximately 30% for nearly 30 years. It is currently running at more than 50%. That figure takes into account that the marriage rate has markedly declined since the Family Court was established in 1976 - in part reflecting the effect of Family Court decisions seen as prejudicial to fathers and their children. The analysis by the Court is suggestive of a lack of interest by the Court in the *overall outcomes* of its judicial decision-making processes. This lack of interest has not been beneficial to the administration of family law in Australia.

Male suicide rates

The suicide rate for Australian men in the prime fathering age groups, the 20's and 30's, is now amongst the highest in the world, and continues to increase rapidly. The ratio of male to female suicides in Australia rose from 2.1 in the 1980's to 4.1 times in the 1990s. It is worth noting that the suicide rate for men in the ACT in 1998 was 15 times the rate for women. Rates of drug taking by men have also greatly increased.

A large proportion of male suicides are associated with family law-related problems. This proportion was estimated, in recent research, to be about 70%, or 1,750 men a year. That is the equivalent of a Bali bombing every fortnight. And there are always children involved as well, children who have lost their father for ever.

The LFA receives at least 5 calls a fortnight from the parents or wives of men who have suicided as a result either of being pursued by the CSA or as a result of the non-enforcement of Family Court access orders (and 30 calls a fortnight from potential suicides). If the Parliament, including the Senate, continues to allow these things to go on happening year after year, when it is aware of the situation, it will deserve to be held culpably negligent.

Shared parenting

The new paradigm

"Shared parenting" includes both shared parenting responsibility and joint physical custody. Shared parenting responsibility embraces equal guardianship and equality between the parents in decision-making on matters such as religion, education, and health. Under joint physical custody, the children have something approaching equal time (not less than 30-40%) with each parent.

Joint physical custody would not be awarded where there was significant ongoing child abuse, e.g., as a result of mental disabilities, drug or alcohol addiction, or other major problems, although "one-off" problems could often be overcome through counselling and appropriate self reflection.

Shared parenting versus sole parenting

Children in sole parent families, in general, do less well than children in shared parenting families.

Empirical evidence clearly indicates that children raised by a divorced single parent are significantly more likely than average to have problems in school, run away from home, develop drug dependency, and/or experience other serious problems (Amato and Keith, 1991, Guidubaldi, Clemishaw, Perry, and McLoughlin, 1983, Hetherington and Cox, 1982).

Prima facie, the community should, in the interests of children, avoid having them living in sole custody arrangements wherever practicable. In a large proportion of cases the alternative of joint physical custody would be practicable, if it were not discouraged by the authorities.

The greater cooperation between parents which necessarily occurs under a shared parenting model improves parental attitudes, in many cases out of sight, and results in great benefits to the children.

In summary, shared parenting would:

- privilege the rights of the children over the rights of the adults, by requiring each parent to recognise the rights of the child to parenting by the other parent;

- allow full scope for consideration of the needs and wishes of the children, through the inclusion, so strongly desired by the vast majority of children, of both loved parents in their lives;

- be firmly based on a large body of research that clearly shows that children in shared parenting and joint physical custody are better off than children in sole parent families. The preference in some quarters for sole parenting is, to a large extent, based on ideology and political self-interest;

- recognise that children would, in general, be much better protected from physical or sexual abuse in shared parenting families than in sole parent families;

- recognise that sole parents who before the separation/divorce had stayed at home will under shared parenting and joint physical custody be able to both share the responsibility of raising the children and join/rejoin the paid work force to pursue their careers outside the home.

- recognise that there would in most cases would be only a relatively modest effect on existing child support payments, because child support is principally calculated on the basis of relative income rather than time spent with the children;

- enable fathers to help their children by doing more of what fathers traditionally do to support the lives of their children in intact families. In addition to providing most of the family's income, and doing housework as appropriate, fathers would be able to continue maintaining house, vehicles, garden, and other property in good repair, dealing with tradespeople, government authorities, neighbours, schoolteachers, medical professionals, clergy, and others, helping the children with homework, sport, and cultural activities, and transporting the children to and from activities and services;

- ensure that an assumption in favour of shared parenting would not apply in cases where this would cause risk or disruption for the children on a scale sufficient to cancel out the benefits; and

- recognise that, as established in other places where an assumption of joint physical custody has become the effective rule, the assumption leads to a reduction in litigation, not an increase.

Shared parenting and joint physical custody, even when awarded against the wishes of the mother, has been shown to lead to more involved fathers and better adjusted children.

Shared parenting and child financial support

The reports from studies which also investigated child support issues have showed that when joint custody was awarded, much more child support was paid than when sole custody was the arrangement.

One US study, for example, showed that when sole custody was the arrangement, 64% of child support was paid (by mother's report), while when joint custody was awarded despite the mother's preference, there was almost perfect compliance (94% by mother's report). Results of a similar nature could be confidently expected in Australia.

It is well-known that, human nature being what it is, willingness to cooperate often depends as much or more on the way in which a decision is taken as on the content of the decision itself.

Protection of children from abuse

Some groups opposed to shared parenting claim that children and mothers would, under such a regime, be at risk of violence from their fathers.

The LFAA believes that it is extremely important that children should be protected from violent adults, including parents. However, the evidence clearly indicates that that is, in general, a powerful argument *in favour of* a rebuttable presumption of joint physical custody, not an argument against it.

The issue of violence needs to be properly analysed and understood by defining who is actually committing most abuse against children. The fact is that the leading abusers of children are *not* the biological fathers of the children. An Australian

Health and Welfare Report shows that most substantiated abuse takes place in single parent households, followed by blended family households. In the case of sexual abuse, also, children are *least* likely to abused by their biological father, with less than 1% of this type of abuse being attributable to those fathers. The problem of violence in fact lies, mainly, not in joint parent families but, rather, in sole parent families.

Men tend to be discriminated against in family law matters as a result of a community perception, fed by gender-ideologues, that domestic violence is overwhelmingly perpetrated by men. This community perception is, in fact, completely incorrect (see also below). Domestic violence is, in reality, not a gender-based phenomenon, but rather a phenomenon reflecting individual personality and cultural attitudes, and the way in which it is recorded is greatly influenced by the actions of agencies and law enforcement authorities.

Children living in a single-parent household headed by their mother are *ten times* more likely to be abused than children living in an intact family. Living in a single parent household can therefore be a dangerous place for a child to be.

A comment from one Australian father:

> "The most mean-spirited opposition to joint custody is that it should be barred or restricted for the population at large because of the risk of domestic violence among some families. The opponents argue from a presumption of pathology, and urge a rule that would assume that the worst behaviour of the most extreme individual is the norm. Immoderate mothers rights activists working to persuade parliamentarians against joint custody are pushing even more so to prevent fathers from being involved in their children's lives, based on the myth of fathers being a potential for domestic violence.
>
> "Policy cannot be made by anecdote, and the law should not be based upon this presumption of pathology. The law should serve the vast majority of the fit and loving parents who simply want to be with their children. What is clear from the available evidence, is that children in joint custody have a much better prognosis for positive post-divorce adjustment than children in sole custody. The accumulated evidence suggests that children who are not forced to divorce a caring parent are more likely to be better adjusted after divorce" (Y. Joakimidis).

Discrimination against fathers also applies to community services as well. For example, there are estimated to be, at present, about 300 refuges for women and children in Australia. There is, however, only one such refuge for men and children. This latter was established by the LFA in the ACT, and then handed over by an incoming government to an organisation which included individuals who had previously proclaimed their "feminist" ideological credentials and asserted that there was no need for such a service.

Significance of domestic violence

Experiences of men

The experience of many men in Australia is that Domestic Violence Protection Orders (DVPO's) are employed as a routine separation procedure, with the focus of the process being on effecting a forced separation rather than any actual violence.

Surveys of magistrates in both New South Wales and Queensland and a recent Parliamentary Inquiry into shared parenting have confirmed that this is the case.

Opposition to violence

The LFA is very strongly opposed to domestic violence. This opposition applies to violence against children, women, and men, and is not confined, in either principle or practice, to one gender.

It includes the utmost respect for the view that women should receive special consideration, sympathy, and protection in relation to domestic violence. However, such a view does not need to be (and should not be) bolstered by false information about the nature and distribution of domestic violence.

Reports to the Australian Government

The recent report on "The costs of domestic violence to the Australian economy", prepared for the Government by Access Economics and commissioned by the Office of Women, is of very limited value as a guide to policy.

The report does not provide a proper evaluation or study of violence against men or the effect of that violence. The report appears to the LFAA to cater to a particular ideological view of the nature of relationships between the sexes. The report has in effect assumed (completely wrongly) that in domestic violence cases there is only ever one perpetrator and one victim.

The report makes the absurd claim that 98% of perpetrators of domestic violence are men, while men comprise 13% of victims. The true figures, as demonstrated in many scientific and official statistical surveys, indicate that male victims account for at least 50% of violence between adults. See the summary tabulation at the end of this submission.

The claim in the report in question was essentially based on just *one* survey, namely a survey of domestic violence against women in the US (i.e., as distinct from men in Australia), and the authors have misinterpreted and misused that USA study, which did not come to the conclusion that the authors claimed.

The figures of 98% and 87% are absurd even in simple arithmetical terms. If, as the report implicitly assumes, there is in each individual case of domestic violence only one victim and only one perpetrator, and abstracting from same-sex abuse, the figures

in the report indicate that 2% of women are victimising 13% of men. That would mean that, on average, every female abuser was abusing 6 men. And, given that that is an *average* figure only, for every one female abusing only one man there would on average be another woman victimising 12 or 13 men. That would indeed be a remarkable effort.

Other surveys

There has been a large body of professional social-scientific work done in English speaking countries over the last 30 years on the nature and distribution of domestic violence. This includes both official statistical surveys and a large number of academic studies. Of particular interest and relevance is a major official statistical study conducted in Canada in 1999, with a total sample size of 40,000 individuals. There have been over 100 other major academic social-scientific and official statistical studies that have been conducted over the period, with a total combined sample size of over 100,000 individuals, all surveyed in depth. The statistical validity of the results for such a large number of respondents is extremely high, meaning that the results on average are almost certain to be very close to the actual population values.

The 1999 Canadian Survey, which was conducted within a public service structure similar to the one in Australia – and therefore unlikely to be exaggerating the extent of domestic violence against men - came to the conclusion that women and men are about *equally likely* to be perpetrators of domestic violence. The Survey showed that the percentages of women and men reporting violence by a current spouse over a five year period were, *for female victims 3.7%*, and *for male victims, 4.3*%. These figures are statistically significant at the 99.9% level. "Emotional abuse" was reported in the Canadian survey at nearly three times this rate for *both* men and women. Physical violence was also considerably higher for separated couples, and this was the case for *both* men and women.

The other 100 or so academic and official studies, on average, came to the conclusion that women are approximately 60% more likely than men to be perpetrators of domestic violence. The principal study done in respect of Australia also arrived at a similar figure of 60%.

Propagation of myths about domestic violence

The incorrect statement that domestic violence is "overwhelmingly perpetrated by males" is continually repeated by domestic violence crisis services and other similar institutions, which sometimes have explicitly ideological charters. This continual repetition leads to a general suspicion and lack of sympathy for men who are victims of domestic violence, and also to a great reluctance on the part of men to declare their victimhood, because they expect that they will receive little help and may even be automatically blamed for the violence.

That then results in the suppression of information about domestic violence against men and violence against children by their mothers, leading to further distortion of government policy and administration.

The repetition of the falsehood then encourages a general assumption in the community that if there is violence in a family the man must be the perpetrator, and that after a separation he should not be a participant in a shared parenting arrangement with his children.

How domestic violence is dealt with

Statistics for the ACT in Australia indicate that while (on the above basis) the number of male victims of domestic violence is similar to the number of female victims, the number of female perpetrators prosecuted is only 8% of the total prosecuted. In other words, the vast majority of female perpetrators of domestic violence in the ACT are not reported, or if reported are not prosecuted. Numbers of prosecutions and convictions for domestic violence assaults are therefore a seriously misleading indication of the actual distribution of domestic violence, and this situation is strongly encouraged by the continual propagation of the myth about the male predominance in this area.

Damaging effect of misinformation on families

The truth about domestic violence is highly pertinent to the current consideration of the provisions of the Shared Parental Responsibility Bill. *Misperceptions of the gender distribution of domestic violence will strongly influence the actual outcomes from the proposed new legislation*. This influence will be exerted through the Commonwealth, State, and Territory police forces, the Family Court, magistrates' courts, victim assistance services, womens' legal services, and domestic crisis services, as well as the proposed new Family Relationship Services. The misperception will therefore be a crucial obstacle to proper shared parenting in those cases where no such obstacle should exist. It is essential, therefore, if the new legislation is to work properly, that the misperception be corrected, and the true position established and understood.

Experience of other countries with shared parenting

In shared parenting, the US appears in some States to be twenty years ahead of Australia, and has proved that shared parenting not only works but has beneficial effects on children and families generally. The US has also proved that there are large financial benefits to governments though reductions in single parent pensions and family payments. A number of other countries have also implemented shared parenting, including Scandinavian countries and some provinces in Canada.

US states differ widely in their policies towards joint physical custody. Joint physical custody is usually defined as a schedule where the child has at least a 30% time share with each parent. In some US states with no preferred custody option, judges have favourable attitudes towards joint physical custody and frequently grant it.

Awards of custody, by type of custody, selected US states, 1989-1990

State	Joint physical custody (%)	Father (%)	Mother (%)	Total (%)
Montana	44	8	48	100
Kansas	42	8	50	100
Connecticut	37	5	58	100
Idaho	33	10	57	100

Source: Kuhn and Guidubaldi, 1997.

For the 19 States in a sample employed in a study by the US Department of Health and Human Services, the average rate of joint physical custody awards in 1990 was 15.7 % and in two States joint physical custody was awarded in nearly half the cases.

Divorce rates, by joint custody level, US sample of 19 States

Shared parenting level	Year (per thousand)				
	1980	1989	1990	1993	1994
High	5.42	4.74	4.76	4.54	4.36
Medium	6.06	5.04	5.04	4.94	4.84
Low	5.25	4.88	5.02	4.92	4.87

Source: Kuhn and Guidubaldi, 1997.

As the above table indicates, divorce rates have declined over 15 years *nearly four times faster* in High shared parenting states in the US, compared with States where joint physical custody is rare. As a result, the states with High levels of joint physical custody now have significantly lower divorce rates on average than other states. States that favoured sole custody also have more divorces involving children. These findings indicate that public policies promoting sole custody appear to be contributing to the high divorce rate.

Australia, if placed in the above company, would be at the bottom end of the Low group for the percentage in joint physical custody, and would be the worst performer in terms of trends in the divorce rate – which, for, Australia continues to increase rather than decline.

Ideologically-based arguments against joint physical custody

The largely ideological and anti-male claims that have been made against shared parenting to date in Australia - see, for example, claims by the Association of Women's Legal Services - include the following:

- fathers already have as much contact with their children as they need, or should have;

- some fathers do not make use of the contact they already have;

- many fathers do not deserve the contact they already have;

- fathers are having more contact now than they were in the past,

- it is not natural for fathers to have more contact than they are currently having;

- if fathers deserved more contact they would already have it;

- we do not know how to predict when fathers should have more contact;

- children will not like having more contact with their fathers;

- mothers work harder than fathers, do not receive enough child support, and are sometimes the victims of violence by their ex-partners; and

- some fathers are not good role models for their children.

In the LFAA's view, there is no general basis for claims 1, 3, 5, 6, 7, and 8 above, and claims 2, 4, 9, 10 are largely irrelevant as arguments against shared parenting in general.

The LFAA believes that it would be much more true to say that:

- many children need more contact with their fathers;

- the level of contact made by some fathers reflects their deep traumatisation by their experiences with the Family Court;

- existing Family Court policies are effectively biased against men as a result of their *de facto* maternal preference/sole parent approach;

- the rate of increase in contacts between children and their fathers in recent years has been very small;

- it is not natural for children to be artificially restricted in seeing their fathers;

- children usually love to see their fathers;

- fathers work at least as hard as mothers, especially when caring for their children. By far the majority of child financial support is paid where there is proper contact between the parent and the child. Many men are victims of violence by their partners; and

- some mothers (and their subsequent partners, male or female) are not good role models for the children.

Opposition to shared parenting by the legal establishment

The maternal preference/sole custody approach has continued, nevertheless, to be supported by most of the legal "establishment" in Australia, including, pre-eminently (up until now) the Family Court itself.

The reasons for this may include that many of the present generation of lawyers have grown up under the present system, and/or have helped to create it, understand it and are comfortable with it, in many cases have been overly influenced by the philosophy/ideology behind it, and have a personal investment, both intellectual and financial, in it.

Commentators with a legal establishment background often have a problem in seeing the issues in this area in the same way as ordinary members of the community, because their work experience usually brings them into contact only with the problem cases, and not the cases where joint residency works well - or would work well if it was given a chance. They tend to have a jaundiced view of joint physical custody, and little experience with the benefits of this type of care.

Criticism of gender-ideological arguments by authorities in US states where joint physical custody is currently in force

The attitudes towards shared parenting coming from ideologues in Australia and other English speaking countries have been well described by a top California family court judge, who strongly criticised the efforts of these people to *undermine the state's child-centred joint custody law* (Lectric Law Library).

Los Angeles County Superior Court Commissioner Judge Richard Curtis in a 4,500 word statement urged the California Legislature to turn down bills violating the principle that children need the love and nurture of both parents. He described AB2116, one of three pending bills, as a "mean spirited attack on joint custody brought on behalf of angry embittered parents who are incapable of cooperation in their children's best interest and who only wish to bend the court system and our healthy child-centred body of law to their end of controlling their children and controlling the other parent through their children."

Although unnamed, his target in part was NOW ("National Organisation of Women"), leader of a drive aimed at destroying the state's strong joint custody law that serves as a national model.

The anti-joint-custody amendments to Californian law being promoted by NOW would stress the supposed importance for the children of the "primary caretaker". But "primary caretaker" is the code phrase", Judge Curtis indicated, "for a lot of inappropriate public policy statements they wish to promulgate". Using it, NOW's ultimate goal is to transfer custody determinations from judges to administrators. "They don't want equality, they don't want justice, they don't want individuals dealt

with as unique people with individual needs … They would be perfectly satisfied with an administrative system which delivers cookie cutter results as long as they're playing with a deck stacked in their favour", he said. However, as Judge Curtis pointed out, studies have shown that single custodial fathers are every bit as capable of nurturing their children in their own way.

"Passage of the bills" (i.e., rolling back shared parenting), according to Curtis, "would intensify litigation and nullify current practices' success in persuading couples to mediate and settle …". "… it is very important that the trial court *has the power* to impose joint custody on the far larger majority …who come to court … tightly wrapped" (i.e., basically rational) "but in an uncooperative frame of mind…most such parents will learn to put aside their differences for the sake of giving their children a peaceful life and benefits of having two involved parents".

Curtis warned, "if the backers manage to hornswoggle the Legislature into passing this bill, they will have succeeded in getting you to say, 'The public policy is …to discourage parents to share the rights and responsibilities of child rearing.'"

"They will have succeeded in putting the child right back into the middle of their petty personal conflicts". "The bill backers, he concluded, "like all zealots, victims, and self-righteous people, have a peculiar warped view of reality which prevents them from seeing the other side…They are very, very dangerous one-sided and unbalanced people from whom to take policy suggestions."

The above strictures by the judge apply as much in Australia as in California and elsewhere, and the implications for Australia are clear. The best interests of the vast majority of children require shared parenting, i.e. the continuing love and involvement in their lives of both their parents.

The same way of thinking that is seeking to turn back the clock in California is seeking to prevent the clock going forward in Australia. The Australian Parliament should not allow itself to be influenced by that mentality.

The Senate now has a historic opportunity to move the Australian community forward into a better world for families. It will have much to answer for if it does not seize that opportunity.

Comments on some arguments raised by groups opposed to shared parenting

Ref	Arguments raised by groups opposed to shared parenting	Comments on arguments
1	A large majority of men who are separated (stated to be 64%) have contact with their children.	This contact in a large majority of cases (80%) is only very limited, and well below what is possible and beneficial for most children. Hence the need for shared parenting.

2	There is no Australian research showing why more contact does not occur.	If this is true, it is not an argument for not taking action to implement shared parenting. Lack of research in question would appear to reflect a lack of interest in the issue on the part of status quo-oriented bodies, organisations, and individuals operating in the family law and families research areas. There is no shortage of primary information from "non-residence" fathers about the problems they experience in relation to contact with their children.
3	A recent study on contact arrangements showed that 25% of mothers believe that were was not enough contact between father and child.	Some fathers are so grieved and traumatised by their experiences with the family law system that they cannot bring themselves to have further contact with their family. There remain the vast majority of separated fathers/children who want and could provide more contact if it was effectively permitted. This contact should in future be encouraged, including through an assumption of shared parenting.
4	Where fathers have good relationships with their children mothers are keen for contact to occur.	Any implication that many fathers do not have good relationships with their children and therefore should not be encouraged to spend more time with them is incorrect. Fathers spending more time with their children is something that should be strongly encouraged, including through an assumption of shared parenting.
5	The rate at which fathers are awarded residence of their children is increasing.	The rate is increasing far too slowly, and the rate itself is far too low. More fundamentally, the whole presumption underlying the argument, namely that residency should be sole rather than shared, is inappropriate.
6	20% of orders for residence are (now) made in favour of the father.	An improvement from 1.5% to 2.0% of total cases, including those by "consent", over 20 years is not a cause for celebration.

7	Shared care is the least common post-separation arrangement, with only 3% of children from separated families in shared care.	This discloses a poor state of affairs. In other comparable countries it has proven possible, with enlightened legislation, to achieve much higher rates of shared care. Any implication that there is very little shared care in Australia because no-one wants it is incorrect. Most fathers want shared parenting, and this is, in general, in the interests of the children.
8	US studies have shown that where shared residence couples make these arrangements they do so voluntarily, often without legal assistance and irrespective of legal provisions.	Not an argument against changing the law in Australia. Shared parenting arrangements made in the US, as also in Australia, are made "in the shadow of the law" Because the law in relation to shared parenting in the US is different from the law in Australia, different arrangements will tend to be made in the US. This is the main reason why the rate of joint residency is much higher in the US than in Australia. If the law was altered in Australia as proposed, there would be many more voluntary arrangements made in Australia of the American type.
9	These studies have also shown that the relationship between shared residence parents are commonly characterised by cooperation between the partners and low conflict prior to and during separation.	Not an argument against shared parenting. The same result could be expected to occur also in Australia if the law was changed. This result would be assisted by an understanding on the part of all persons embarking on marriage in future that they could expect in the great majority of cases to be able to develop close relationships with their children, secure in the knowledge that marital separation would not cut them off from continuing contact with the children.
10	There is to date no Australian research looking at predictors of successful shared residence arrangements in separated families.	The present administration of family law in Australia strongly discourages shared parenting, so that there are relatively few examples of it occurring. However, this is a fault in the law and the administration of family law rather than anything else. The absence of research of the kind indicated is not an indication that there is not a major problem.

11	Children in shared parenting arrangements have "emotional and psychological space to traverse" as well as physical space.	Not a valid argument against shared parenting. Children in sole parenting arrangements will lose vital emotional and psychological benefit if prevented from having the experience of living for extended periods with each loving and supportive parent.
12	Women do most of the domestic work in relationships prior to separation.	Caring for children embraces considerably more than cooking, laundry, and cleaning. It also embraces other work that fathers typically do for the benefit of the family. This work by fathers includes, in addition to helping with the housework, keeping house, car, garden, and other property in good repair, liaising with tradespeople, government authorities, neighbours, schoolteachers, medical professionals, and others, helping children with sport, and transporting children to and from activities and services.
13	Women spent twice as long as men caring for children.	If this is true, it would not necessarily indicate that women were more effective than men in caring for children. It would probably mean that women were doing less of other things that men typically do for the benefit of their children (see above).
14	Of "single parent families", 75%-85% are headed by single mothers.	There should, as far as possible, be no such thing as "single parent" families. The vast majority of children have two living parents, not just one (single) parent. The existence of a large majority of "single parent families" headed by single mothers is not the manifestation of an inexorable law of nature. The existence of this majority is the deliberate result of legislation as interpreted by the Family Court. The situation can and should be changed.

15	In a 1993 study, wives' income levels (post separation) had dropped by 26%.	In two-thirds to three-quarters of cases, wives make the decision to leave the marriage. That indicates a degree of acceptance on their part of likely consequences. Part of the reason for wives' incomes falling, where this does happen, is their choice to be "single parents". The 1993 study referred to is considerably out of date. According to Minister Vanstone, there has been a significant improvement in child support payments to residence parents since 1993. The consideration that, in a 1993 study, wives' income levels, post separation, had fallen is not an argument against shared parenting. It may be an argument in favour of it, given that shared parenting would both reduce the divorce rate and increase the reliability of child support.
16	The degree of financial disadvantage experienced by women post-separation may be exacerbated by a number of factors.	Spousal violence is at least as likely to be initiated by women as by men. The argument about domestic violence therefore also applies to men as victims. There is no evidence that women are disadvantaged by the division of marital property. If anything, the evidence is the other way. Disadvantages that women might have in earning lower incomes tend to be counterbalanced by high percentage rates of child financial support levied on their ex-husbands.

17	Many women are victims of violence. One in five Australian women have experienced family violence by their current or former partner, representing a total of 1.4 million women.	There have been something like 100 professional scientific studies done in English-speaking countries of the incidence of family violence. Virtually all of these studies have concluded that women are at least as likely as men to both initiate and engage in family violence. These studies indicate that, if it is true that one in five Australian women have experienced family violence by their current or former partner, then it is also true that one in four Australian men have experienced family violence by a partner. The criticism of men in the statement referred to is, therefore, at least equally applicable to women. It is not an argument for men in general to be discouraged or prevented from having greater residency of their children.
18	There is a high incidence of domestic violence in cases going to the Family Court. A 2002 study found that 86% of resident women described violence during changeover or contact visits.	The sample was tiny. The informants may have been self-selected. (See also above.)
19	Role models are not always good for young men. …	This applies particularly to women attempting to operate as role models for boys whose fathers have effectively been removed from their lives. The great majority of children can usually, with some guidance, make up their minds as to the appropriateness of particular models. Boys have a particular need for an adequate masculine model, and girls a particular need for an adequate feminine model. The apparent implication that because some male potential "role models" might be unsuitable we shouldn't have any of the good ones is unsupportable. Not an argument for not having shared parenting.
20	Some boys grow up with neglectful or abusive men	Equally, some boys grow up with neglectful or abusive women. This is the reason there will often be a major need to have the second parent there as well, to provide a necessary positive role model and other emotional support for the children.

Summary of studies of violence between partners

The 130 or so leading professional studies into the gender distribution of domestic violence in the English-speaking world in the last 20 years or so are as follows:

Author	Country	Type of violence	Violence by women	Violence by men
Heady, Scott, and de Vaus, 1999	Australia	Slap, shake, or scratch partner during previous twelve months	5.1	3.2
	Australia	Hit partner with fist or with something held in hand or thrown during previous twelve months	4.1	2.5
	Australia	Kicked during previous twelve months	2.1	1.4
	Australia	Any physical assault during previous twelve months	5.7	3.7
Monash University Accident Research Centre	Australia	Assault on partner causing hospitalisation, e.g. through attacks to the head with a knife	More than men	Less than women
NSW Bureau of Crime Statistics and Research	Australia	Homicides involving victims under ten years of age	53 (a)	47 (a)
NSW Youth and Community Services	Australia	Physical abuse of children	55 (a)	45 (a)
NJ (study of all individuals born in Dunedin in 1972)	New Zealand	Minor forms of violence against partners, such as slapping and hitting	37	22
	New Zealand	Severe forms of violence against partner	19	6
Ehrensaft, Moffitt, and Caspi, 2004	New Zealand	Clinical abuse of partner	9	9
Magdol et al, 1997	New Zealand	Physical violence	37.2	21.8
	New Zealand	Severe physical violence	18.6	5.7
Moffitt, Robbins, and Caspi, 2001	New Zealand	At least one act of physical violence towards partner	50	40
Archer and Ray, 1989	UK	Physical violence against partner	More than men	Less than women

Carrado, George, Loxam, Jones, Templar, 1996	UK	Violence against partner	18	13
Russell and Hulson, 1992	UK	Overall violence against partner	25.0	25.0
	UK	Severe violence against partner	11.3	5.8
Mirrlees-Black, 1999	UK	Said likely to hit partner	4.2	4.2
Russell and Hulson, 1992	UK	Violence to partner	11.3	5.8
Bland and Orne, 1986	Canada	Engagement in and initiation of violence	More than men	Less than women
Brinkerhof and Lupri, 1988	Canada	Violence towards partner	10.7	4.8
Daly and Wilson, 1988	Canada	Parent-child murders	54 (a)	46 (a)
Grandin and Lupri, 1997	Canada	Violence against partner	25.3	18.3
Kwong, Bartholomew, and Dutton, 1999	Canada	Physical violence	12.3	12.9
Pedersen and Thomas, 1992	Canada	Aggression against a dating partner	40.5	22.0
Sommer, 1994	Canada	Violence against partner	39.1	26.3
	Canada	Slapped, punched, or kicked partner	23.6	15.8
	Canada	Severe violence against partner	16.2	7.6
	Canada	Struck partner with a weapon	3.1	0.9
Bland and Orne, 1986	Canada	Engaging in and initiating violence	More than men	Less than women
DeKeseredi and Schwarz, 1998	Canada	Physical violence in intimate relationship since leaving school	Higher rate (46.1%) than for men	Lower rate than for women
Sharpe and Taylor, 1999	Canada	Partner physical violence	Twice the rate for men	Half the rate for women
Sommer, Barnes, and Murray, 1992	Canada	Physical aggression against partner at some point in the relationship	21	13
Mwamwenda, 1997	South Africa	Violence as seen by children	18	2

Tang, 1994	Hong Kong	Violence against partner	Same as men	Same as women
Archer, 2000	USA	Acts of physical aggression	More than men	Less than women
Aizenman and Kelly, 1988	USA	Courtship violence	Same as men	Same as women
Arriaga and Foshee, 2004	USA	Adolescent dating violence	38	33
Arias, Samos, and O'Leary, 1987	USA	Aggression in dating history	49	30
Arias and Johnson, 1989	USA	Aggression against partner	19	18
Basile, 2004		Overall level of psychological and physical aggression	Same as men	Same as women
Bernard and Bernard, 1983	USA	Dating violence against partner	21	15
Billingham and Sack, 1986	USA	Initiation of violence	9	3
Bohannon, Dosser, and Lindley, 1995	USA	Military couples, physical aggression	11	7
Bookwala, Frieze, Smith, and Ryan, 1992	USA	Initiating of violence	22	17
Bookwala, 2002	USA	Victims of partner aggression	55.9	34.3
Brush, 1990	USA	Violence towards spouse	Same as men	Same as women
Brutz and Ingolby, 1984	USA	Violence towards partner	15.2	14.6
Burke, Stets, and Pirog-Good, 1988	USA	Violence towards partner	Similar to men	Similar to women
Caetano, Schafter, Field, and Nelson, 2002	USA	Violence towards partner	More than men	Less than women
Capaldi and Crosby, 1997	USA	Psychological and physical aggression, young people	36	31
Capaldi and Owen, 2001	USA	Frequent physical aggression against partner	13.2	9.4
Capaldi and Owen, 2001	USA	Inflicting hurt in aggression against partner	13	9

Carlson, 1987	USA	Dating violence	Same as men	Same as women
Cascardi, Langhinrichsen, and Vivian, 1992	USA	Violence against partner	Same as men	Same as women
Clark, Becket, Wells, and Dungee-Anderson, 1994	USA	Physically abused a dating partner	41	33
Caulfield and Riggs, 1992	USA	Slapped	19	7
	USA	Kicked	13	3
Coney and Mackey, 1999	USA	Violent behaviour between adult partners	Same as men	Same as women
Cunradi, Caetano, Clark, and Schafer, 1999	USA	Aggression against partner	Similar to men	Similar to women
Deal and Wampler, 1986	USA	Dating violence, other than reciprocal	Three times the rate for men	One third the rate for women
DeMaris, 1992	USA	Violence in current or recent dating relationships	The usual initiator of violence	Not the usual initiator of violence
Ernst, Nick, Weiss, Houry, and Mills, 1997	USA	Current physical violence, partner	20	19
Felson, 2002	USA	Violence, partner	Same as men	Same as women
Flynn, 1990	USA	Violence against partner	Compara-ble to men	Compara-ble to women
Follingstad, Wright, and Sebastian, 1991	USA	Dating violence	Twice the rate for men	Half the rate for women
Ferguson, Horwood, and Ridder, 2005	USA	Initiation of partner assaults	34	12
Fiebert and Gonzalez, 1997	USA	Asaaults initiated within the last 5 years	n.a.	29

Flynn, 1990	USA	Violence in intimate relationships	Compara-ble to men	Compara-ble to women
Foo and Margolin, 1995	USA	Physical violence, dating partners	38.5	24.3
Foshee, 1996	USA	Dating physical violence	27.8	15.0
Gonzales, 1997	USA	Physical aggression, partner	55	n.a.
Goodyear-Smith and Laidlaw, 1999	USA	Initiations and use of violent behaviours	At least as often as men	The same or less than women
Gray and Foshee, 1997	USA	Adolescent dating violence	29	4
Gryl, Stith, and Bird, 1991	USA	Violence in the current relationship	30	23
Hamel, 2005	USA	Physical and emotional abuse	Same as men	Same as women
Hampton, Gelles, and Harrop, 1989	USA	Violence against partner	20.4	16.9
Harders et al, 1998	USA	Physical aggression, particularly pushing, slapping, and punching	Signifi-cantly more than men	Signifi-cantly less than women
Hendy et al, 2003	USA	Violence, current partner	26	16
Henton, Kate, Koval, Lloyd, and Christopher, 1983	USA	Violence in dating relationships	Similar to men	Similar to women
Hines and Saudino, 2003	USA	Physical aggression in relationship, college students	35	29
Hoff, 1999	USA	Serious attack by being hit with an object, beaten up, threatened with a knife or being knifed	More than men	Less than women
Jouriles and O'Leary, 1985	USA	Violence between partners	Similar to men	Similar to women
Kalmuss, 1984	USA	Severe aggression against partner	4.6	3.8
Katz, Kuffel, and Coblentz, 2002	USA	Violent partners	73	58
Lane and Gwartney-Gibbs, 1985	USA	Courtship violence	Same as men	Same as women
Laner and Thompson	USA	Violence in dating relationships	Similar to men	Similar to women

Langhinrichsen, Rohling, and Vivian, 1994	USA	Severely aggressive towards partner	53	36
Lo and Sporakowski, 1989	USA	Violence against partner	More than men	Less than women
Lottes and Weinberg, 1996	USA	Violence by partners in the preceding 12 months	31	31
Makepeace, 1986	USA	Courtship violence	Similar to men	Similar to women
Malik, Sorensen, and Aneshensel, 1997	USA	Dating violence	Three times as much as men	One third as much as women
Malone, Tyree, and O'Leary, 1989	USA	Violence against partner	More than men	Less than women
Margolin, 1987	USA	Violence against partner	41	39
Marshall and Rose, 1990	USA	Pre-marital violence	More than men	Less than women
	USA	Premarital violence against partner	More than men	Less than women
Mason and Blankenship, 1987	USA	Violence against partner	Same as men	Same as women
McCarthy, 2001	USA	Physical aggression during the previous year	36	28
McKinney, 1986	USA	Dating violence	47	38
McLeod, 1984	USA	Use of weapons as percentage of total assaults	86	25
McNeely and Robinson-Simpson, 1987	USA	Violence against partner	More than men	Same as women
Merrill, 1998	USA	Physical violence from intimate partner	46.9	31.9
Milardo, 1998	USA	Likely to hit partner	83	53
Morse, 1995	USA	Violence against partner	48	37
	USA	Severe violence against partner	22.8	9.5
Murphy, 1988	USA	Kicked, bit, or hit with a fist	20.7	12.8
Nichols and Dutton, 2001	USA	Intimate assaults	Same as men	Same as women

O'Keefe, 1997	USA	Physical aggression against dating partners	43	39
O'Keefe, Brockopp, and Chew, 1986	USA	Teen dating violence	11.9	7.4
O'Leary, Barling, et al, 1979	USA	Physical aggression against partner during the course of the year, at 18 months after marriage	35.9	24.6
	USA	Kicking, biting, or hitting partner during the course of the year, at 18 months after marriage	10.4	3.9
O'Leary, Barling, Arias Rosenbaum, Malone, and Tyree, 1989	USA	Violence against partner, at premarriage	44	31
	USA	Violence against partner, at 18 months of marriage	36	27
Pillimer and Finklehor, 1986	USA	Abuse of elderly partner	52(a)	48(a)
Plass and Gessner, 1983	USA	Slap partner	Three times the rate for men	One-third the rate for women
	USA	Kick, bite, or hit partner with fist	Seven times the rate for men	One-seventh the rate for women
Riggs, O'Leary, and Breslin, 1990	USA	Violence against partner	39	23
Rollins and Ohenaba-Sakyi, 1990	USA	Severe violence against partner	5.3	3.4
Rouse, Breen, and Howell, 1988	USA	Cause injury to spouse requiring medical attention	More than men	Less than women
	USA	Dating and marital relationships violence	More than men	Less than women
Ryan, 1998	USA	Physical violence	40	34
Sack, Keller, and Howard, 1982	USA	Violence against partner	Same as men	Same as women
Saenger, 1963	USA	Violence against partner	11.3	5.8

Schafer, Caetano, and Clark, 1998	USA	Intimate partner violence	18.2	13.6
Shook, Gerrity, Jurich, and Segrist, 2000	USA	Physical force against a dating partner	23.5	13.0
Sigelman, Berry, and Wiles, 1984	USA	Violence in dating relationships	More than men	Less than women
Simonelli and Ingram, 1998	USA	Physical aggression against a dating partner	40	23
Simonelli et al, 2002	USA	Physical aggression against a dating partner	33	10
“Social Work”, 1989	USA	Violence in adolescent dating relationships	More than men	Less than women
Sorensen and Telles, 1991	USA	Hitting, throwing objects, initiating violence, and striking first against partner	More than men	Less than women
Sorensen, Upchurch, and Shen, 1996	USA	Hit, shoved, or threw something at spouse in the previous year	More than men	Less than women
Spencer and Bryant, 2000	USA	Partner physical aggression	30	25
Statistical Abstract of the United States, 1987	USA	Child maltreatment cases	57-61	39-43
Steinmetz, 1977	USA	Violence against partner	More than men	Less than women
Stets and Henderson, 1991	USA	Aggression against partner	40	22
	USA	Severe aggression against partner	19.2	3.4
Stets and Pirog-Good, 1987	USA	Violence against partner	Similar to men	Similar to women
Stets and Henderson, 1991	USA	Physical aggression in relationships	19.2	3.4
Stets and Straus, 1990	USA	Violence against partner	52.7(a)	47.3(a)
Straus, 1985	USA	Assault on partner	12.4	12.2
Straus, 1993	USA	Severe violence against partner	4.0	1.9

Straus, Hamby, Boney-McCoy, and Sugarman, 1996	USA	Violence against partner	4.9	3.1
Straus, 2005	USA	Initiation of physical assault on partner	Same as men	Same as women
Sugarman and Hotaling, 1989	USA	Violence in dating relationships	39.3	32.9
Szinovacs, 1983	USA	Violence against partner	More than men	Less than women
Thompson, 1990	USA	Violence against partner within the last two years	28.4	24.6
US Justice Department, 1995	USA	Slayings of offspring (defendants)	55	45
Vivien and Langhinrichsen-Rohling, 1996	USA	Frequency and severity of assault	Same as men	Same as women
Waiping, 1989	USA	Physical abuse of partner	35.3	20.3
White and Kowalski, 1994	USA	Aggressive acts committed in the family	Equal to or more than men	Less than or equal to women

(a) Percentage of total women and men combined.

Based on a paper by Martin Fiebert PhD, California State University, first presented as a paper to the American Psychological Society Convention in Washington DC in May 1997, as subsequently updated to 2005. Some further studies, e.g., for Australia, have been added.

Further questions

The LFAA hopes that the above submission will be useful to the Committee, and proposes to follow it up with further supplementary material on a number of aspects of the above.

The LFAA will be very happy to follow up on any further questions that the Committee may wish to ask.

Barry Williams MBE JP
President

J B Carter
Adviser

27 February 2006