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**National Peak Body for Safety and Protection of Parents and Children (NPBSPPC)**

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Senate Legal and Constitutional  
Committees  
Parliament House  
Canberra ACT 2600  
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**Re: Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011**

We are writing on behalf of NPBSPPC to support the Government for the reforms to the Family Law Act proposed in the Draft Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011.

We strongly support the Federal Government's moves to provide better safety and protections for people who have experienced family violence within the family law system and believe that the proposed amendments are **essential to place safety and protection of children** and family members at the heart of the Family Law Act reforms.

We also ask the Senate Committee and the government to find solutions for those children who are struggling and caught up in the system, and to freeing them from ongoing abuse and psychological harm, as we already know from research findings that the lifelong impact on them is in-humane and unacceptable, and a cost to their functioning, wellbeing and happiness. When the children suffer, the whole of society suffers.

We confidently state that playing with motherhood is playing with nature, and whilst we support non-abusive and safe fathers in parenting their children, we applaud the

government to combat family violence and child abuse in the family court system through legislative controls, to ensure this is a way forward to behaviour modification for those who may choose to engage in violent and abusive behaviours towards others and place them at risk of harm and other forms of suffering.

No one is game enough to believe that women can be replaced with anything else to mothering their babies; it is a natural maternal instinct, which is shared by all in the animal kingdom. Children are better off being raised in safe homes and protected from harms than being exposed to abuse and violence. NPBSPPC findings from studies here and overseas indicate that “domestic violence” is not the same as what some describe this to be as “high conflict families.”

Children have themselves expressed that they do not wish to be exposed to violence and harm with ongoing confusion and routine changes as a result of shared care, especially where since 2006, these children have been increasingly subjected to harms caused to them by placing them with abusive and violent parents.

We trust our nurses to provide better social justice and in all honesty, they are doing a fantastic job and their views should be considered, and the founder of NPBSPPC was in fact a Mental health nurse, who has observed the consequences of low risk assessment of separating families and the harmful consequences to the children and vulnerable parents. NPBSPPC is confident that long term therapeutic interventions in the form of supportive counseling means that open and honest disclosures are confirmed, unlike the arguments put by the lawyers that such relationships creates a bias.

Professionals who provide such therapeutic interventions are subjected to professional and ethical practice codes of conduct and are more likely to demonstrate a duty of care, unlike the preferred professionals working in the family courts, who enjoy “immunity provisions” and often leave a gap in assessing risks to families. Of course this is driven by an enmeshed and outdated culture of a lack of scrutiny with weaknesses filtered down at all levels of practice within for the children and families. We feel that much more work needs to be done still, but we support the Gillard government to make an effort to acknowledging and addressing child abuse and family violence in family court cases.

In terms of ensuring safety and protection of children and vulnerable protective parents and in the majority women, risk assessment is an important factor and some of the following areas need to be also scrutinized:

### **EXPERT WITNESSES**

NPBSPPC is strongly urging the government to ensure that all expert witnesses and in particular the psychiatrists are using up to date diagnostic criteria and meeting DSM IV and ICD-10 requirements, also as per W.H.O. agreements. Currently it appears from our member's accounts, anecdotal and researched evidence that some of these experts may be lacking in updated information and expectations of public demand for a more transparent and accountable system to raising the bar on the standards used in other systems of mental health.

### **LAY WITNESSES**

Anecdotal evidence from members suggest that many abusers will and are using friends, colleagues to make **false claims** and allegations on their behalf and these lay witnesses must also be placed under some scrutiny too, to avoid risks to children and innocent people. It is prejudicial to vulnerable mums if they have been on leave from work or using their primary role to be raising the baby to have their evidence dismissed because they may not have colleagues and friends from work supporting their credibility, and in many cases the abuser may be seen as more convincing and the abuse is downplayed or manipulated in a manner that creates a gap in the proper risk assessment in abusive and violent situations. Judges must be open to looking at all the evidence and be competent in identifying risks stated in affidavit or from cross examination, and consider all information from domestic violence services, reports, medical evidence, child protection services. Many women and children are too impaired to take any action to obtain an AVO/DVO for the fears of the consequences, and their evidence provided to the courts must be carefully assessed, with or without such notifications and orders.

**For example** children and women are placed in harms way, when an abusive parent can coerce and abuse the child to tell a private report writer(who may even document as such even if the kid hasn't said anything) to express negative false accounts of a protective parent. NPBSPPC is aware that some report writers collude with each other and make

false claims in their reports to what was said. Then the abuser may find a couple of other people, perhaps work colleagues, for the child to say the same thing. Now this becomes corroborative evidence and this is all the standard of proof used by the abuser to convince a naïve Judge to say something took place, in the absence of any other evidence. See in Astin & Harlow.

An abusive parent could also coerce and train a child not to say or show emotion and adopt a certain behaviour so the center staff can focus fully write this down, as the child being alienated. For example, the child may turn away from hugging, or showing unacceptable behaviours at greeting, this is seen as “the child being alienated”

But the contact center fail to document in instances all the positive and normal interactions thereafter in some cases and this is attributed to under-qualified people supervising contact at centers.

It is apparent that some report writers and centers are writing things in their reports that children may not have said or not observed, but without recording or a third party observing even discreetly, one has to wonder about the process and the secrecy of the documents they produce at the end. This is also relevant to the 65L telling kids about non contact or contact orders, and some children have complained to their mothers, that the 65L had asked them to not tell their mothers what was discussed. NPBPPC has some anecdotal evidence, and children were most concerned and distressed at the 65L behaviours.

### **JUDICIAL REFORMS**

We applaud the government for the judicial reforms to ensure objectivity and the intent of the legislative reforms is not clouded with personal values and views on treating women and children as "goods and chattels" and are now guided by the public expectations of objectivity in protecting children and women and any other vulnerable parents or individuals from harm and death.

NPBSPPC is pleased that the reforms will accept and meet its obligations and agreements under the **UN Human Rights conventions** to protecting women and children from harm and abuse either in personal relationships or through systems abuse.

**Public** demand justice, safety and protection of vulnerable children. Children need to be educated about abuse, and also provided with counseling and support to minimise

psychological harms, and especially those who have been left to suffer in harmful situations and left in the control of abusive, manipulative and self-centered parents, (mainly fathers since 2006 reforms).

***We urge the Senate Committee to provide relief to these children who should be immediately removed from harmful situations.***

1. **Anecdotal evidence from members:** Many members of NPBSPPC have been affected by the family court systems, and are struggling to protect their children and themselves from family violence and abuse, not just by their ex partners, but also from the systems abuse. They are concerned that the following areas will continue to subject innocent people to abuse and violence, and children will remain exposed to harm and violence.
2. **Contact centers lack of standards and skills:** Contact centers and professionals seem to follow the same protocol and mindset and often without proper professional supervision, risks to children are increased including some of the parents.
3. **Psychiatrists:** Psychiatrists are constantly used to label and stigmatize women and this is unacceptable, and in fact amounts to a form of political abuse of already abused women. Some psychiatrists are used to make AXIS II diagnosis of personality disorders and the Family courts then suggest that one has a “mental disorder” which is completely inaccurate.
4. **Women labeled and stigmatized with a personality disorder by abusers:** Axis two assessments are used to assess personality, from one hour interviews which is contradictory to the Diagnostic tool. For one to have a mental disorder, one must meet Axis 1 criteria. Family court seems to be much behind times and using custodial treatment of women, which is contrary to mental health Act, and World Health organisation and DSM IV recommendations. To provide updated reports, preferred family court psychiatrists should not be used unless there is evidence of mental disorder, and State/Territory systems should be used, where a more objective and comprehensive observation is utilized to assess mental illness. Anecdotal evidence suggests that the

Family court may be using its own diagnostic criteria, and in instances breaching diagnostic criteria rules with preferred psychiatrists.

5.       **Definition of psychological harm ambiguous and is being misused:** Family violence must expand its definition to include "psychological harm" and define it, as many members have reported that some practitioners include anything unfavorable to the fathers as being "psychological abuse". This is widely abused by others to claim this and deprive children of maternal input and women have been inaccurately labeled as having a mental disorder, when clearly they are suffering the consequences of abuse
6.       **Family court costs and further vulnerability to women being abused due to a lack of access and financial disadvantage:** Many mums here are struggling financially to support themselves let alone find lawyers to help them to protect their children. The laws can be reformed but how are these protective parents able to access such an expensive court system...is it also a form of financial abuse of mothers where access to justice system is denied, or their children are bought out by the more financial parent?
7.       **Diagnosis:** Are all women subject to domestic violence, and abuse mentally unwell, or is it to be accepted that PTSD(post traumatic stress disorder) is something that can no longer be avoided and that therapeutic interventions maybe more beneficial for all concerned.
8.       **Counseling services must be provided to the children and parents at the initial intake or at access point of family courts:**

Similarly NPBSPPC is aware that children are denied counseling services by the courts, and this must be considered to preventing lifelong impact. This is systems abuse on children. NPBSPPC is aware that some children who are caught in the system for over a decade were never provided any counseling support. The fact that it may muddy the water for some, as when children form therapeutic relationships with counselors, they may form rapport and trusting relationships and really then express themselves and make true disclosures, and this is evidence supported by a team leader of the SCAN or suspected child abuse and neglect team, which NPBSPPC has evidence of. The Mental health nurse founder also supports this from her own experience in working with such

clients. So to say that the child will meet a stranger for the first time and tell them about most shameful, traumatic and sensitive issues is completely incomprehensible. Children will share on the other hand with their protective parents and these are their mothers, as instinctively, children have a natural bonding with their mothers of trust and rapport.

9. **Privately commissioned reports after removal of children from protective parents:** Currently this behaviour of coercion and control is used by many abusive parents, and children are taken to privately commissioned report writers to say and do things against the protective parents, and contacts are completely obstructed and interfered with. This is also a form of systemic abuse of children. A society which boasts itself on sound economy and affluence must also be judged on how the most vulnerable and voiceless are treated, especially during a very traumatic time in their lives. Both these children and their protective parents have been victimized in family law systems under the current laws and it must change. Surely experiencing these tragedies can be only described by those and also understood by those who have been through it. NPBSPPC experiential phenomenological story telling study supports this perspective and we have provided over 300 stories which support our anecdotal evidence.
10. **Community Education a must for anyone to fully participate in family law:** Many women and general public are naïve and not informed about family court processes. As a protective measure, community education should become a standard, as many are naïve about the politics and law of protecting their children. Generally speaking, children don't lie about abuse. Children trust their protective parent and make disclosures to them and often this is supported by further assessments. The type of questioning appears to illicit answers, and may not identify risks under the current system, also discussed in Murphy & Murphy, 2006.
11. **Breast-feeding attacked by family law:** NPBSPPC recommends that breast feeding should be a choice between a mother and her child, and we are aware that under the current legislation, enforced weaning is being ordered. One mother was expected to express her milk every four hours and deliver to the father to feed the very young infant!

12. **Parental Alienation is still used by courts to exclude protective parents, or to promote relationship with an abuser.** More information about this bogus theory or Richard Gardener on the NPBSPPC website, where Gardener was always a pro-pedophilia rorter and claimed that women were mentally unwell to raise these allegations of children being sexually abused. Richard Gardener stabbed himself to death with a knife after a month of creating this bogus theory which the lawyers have used for years. Let us get realistic child sexual abuse and abuse of women is a huge statistical problem in Australia, and structure have kept these secrets hidden since history, and only now we can see (for example Defence force incident) being addressed. Family court still remains secretive under s121 of the Family Law Act. We have seen some exposure of churches of hiding these crimes against children.

So here are the areas we support and applaud the government for and ask that the Senate Committee make such amendments to protect children from harm, and also address ways to freeing those children still suffering and caught up in harmful situations:

13. NPBSPPC applauds the government's decision to repeal of the existing section 60CC (3) (c). Professor Chisholm's review suggested that the 'friendly parent' provision has provided a lack of incentive to the disclosure of family violence.
14. Its interpretation by the courts has failed to support mothers who act to protect children by refusing to facilitate contact with an abusive parent.
15. NPBSPPC agrees with the proposed section 60CC (3) (c). Which were previously in section 60CC (4), is a positive step. However, NPBSPPC is aware of many cases and have been made aware of situations that many mums have been denied contact, or have not been able to have any input in their children's upbringing. One mother was denied all contact, and was told that her contact with the child will affect the father forming a relationship with the father, who was extremely controlling and has a history of abuse, who also breached orders. In another case, the judge wanted to stop all contact and structured orders in such a manner, where the child will have to ask the father to see or communicate with her mother. If Senate can become aware of the accommodation syndrome, same as in the Stockholm accommodation syndrome, one will understand, that children left in these situations will never ask their abusers to have contact with their



protective parent, because the abusive parent only will induce fear in the child's mind, and with the vulnerable and naive mind of a developing child, they will not challenge it for the fear of risking their own survival and safety and ask to see their protective parent.

16. NPBSPPC also applauds the revised definition of *family violence* proposed sections 60CH and 60CI, which aim to share information available to the family courts about child protection matters under State and Territory child welfare laws. We hope the studies conducted by the ALRC on the jurisdictional complexities on definitions of violence and abuse is helpful to reaching a uniform definition of abuse and violence. We hope the constitutional responsibilities of the Commonwealth and the State/Territories are better managed in the future reforms.
17. NPBSPPC supports the proposed changes to the legislation and expects that children currently caught up in the system are also freed, and provided with counseling support, that the members are actively involved with any future evaluations and research, and that information about support services to parents and children are more accessible, and that legal system is more accessible. NPBSPPC supports government in finding alternative systems of dispute resolution for separating families, where more therapeutic interventions are included in the legal process, that professionals are deemed competent, especially the family court judicial officers and the legal professionals in finding solution focused aims for the families, so people are not caught up in the system for years, which causes psychological harm to children, and also to the families and their extended families, which is a great cost to the society.

## SUMMARY OF RECOMMENDATIONS

It is submitted that the Government should:

- In section 60CC that safety and protection of children is given highest priority

NPBSPPC believes that the "protection" leaves a loophole for the professionals to abuse, as they can claim psychological harm which is inadequately defined. Protection alone will not save children, their safety needs to be addressed too.

- Remove the presumption of equal shared parental responsibility from the Act;
- Somehow domestic violence and abuse should not be interchangeably used for "high conflict" unless both defined in the legislation, as many mistakes have been made

and vulnerable women and children have suffered because of the watered down subjective use of the words "high conflict"

- All judicial officers need competence and ongoing education on violence and abuse, and a more simpler process of lodging complaints either through NGO's etc need to be considered if the culture of the family court is to effectively change and meet public expectations, of protecting children.

- **Risk assessment tools should be used at all levels, with or without DVO and AVO, any history of sexual offences or pedophilia needs to be looked at seriously, to protect women and children or any other vulnerable parents and family members**

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The "*friendly parent provision*" must go, as we have come to a common conclusion and share our experiences; we know that forcing us to face our abuser is the worst thing ever could happen to us. We do not wish to face them in courts either; we would like a shield to protect us from facing our abusers. And why should we have to anyway?

- We have learnt from many members in our group that it is becoming increasing a common pattern of stealing kids from innocent protective mums and placing them with abusive and controlling father's, who on many instances have breached orders to withhold our children, then take the kids to a private and corrupt report writers, to say and do things, and then make applications in family courts, and the children are withheld, and not allowed contact with us.

- We are aware several ex parte cases have been filed on this basis, and the reports were not made available to the protective mothers, so we were not provided natural Justice to see what the allegations were, neither were we investigated by any authorities for the allegations, so how on earth something could be that serious that our children were held back and removed from our cares without telling us why. It only boils down to the abusers using various avenues including lawyers to playing mind games and hanging on to the cases. Some lawyers are really manipulative and one father particularly was horrified of learning how he was manipulated to hate the mother and to go and get those kids.

- We feel that shared responsibility and shared care should go in violent situations, as many abusive fathers are abusing this to gain total control of children, and child support reforms should look at this issue. It seems the main concern for many abusive fathers is the need to avoid payment of child support, and as protective mothers, we feel that to minimise triggers for further harm and aggression, that some of these abusive men are freed from child support responsibility as much as possible, so the kids can be protected. We feel that shared care has caused a lot of children to be harmed and some killed by murderous and revengeful fathers, as was the case in Darcy Freeman case. Five of the six psychiatrists said it was an act of revenge and I am sure the sixth one will have to agree. We are concerned that psychiatrists are inappropriately used by family courts to label and stigmatize mothers as mentally unwell and avoiding issues surrounding PTSD from domestic violence and abuse.
- We would like to see a shift in the culture and administration by these professionals. Some of these professionals removal from the system would mean we can head towards a fresher mindset and an improved culture of practice. We would like to see that any professional who is a member of a professional body, and has completed competency based training proposed in the reforms to be able to provide a family report. We are aware and would recommend that appropriately qualified people are hired for the contact centers too, and not to focus on cost cutting.
- We are aware that many kids were harmed because of the way some judges' look at evidence from the parties, and in many instances harms caused to children and women could be avoided. There is no standard of the way evidence is looked at. For example a judge may refuse to place weight on one party's evidence, and miss out on important risk factors; where as other judges will look at all the evidence and weigh up probabilities. For example *prantage & prantag* and *Astin & Harlow*.
- *The discretionary powers used by Judicial officers to not look at one parties evidence over the preferred parties evidence is a real concern and we have evidence of harm caused to children as a result.*
- Repealing s117AB re costs.

- Child abuse notices not being investigated is also a concern. There is a very long time line, delays, when abuse allegations are raised, and children should not be expected to accurately or at all recall incidences, and there is also an actual danger of “false memory” concept. Many mums were asked to not mention abuse and violence and we expect that this is not the case in the reforms.

**International Research on Abusers and Batterers and litigious nature of child custody to support our anecdotal evidence.**

Some International Studies on the batterers accessing custody cases, as we know there is a lack of such evidence here in Australia. Australia or Howard Govt adopted the Florida model from USA and this study can be anecdotally validated here in Australia. NPBSPPC provided data to the enquiries and contributed extensively to all public participation and consultation process.

**International studies on abuse of women and children through the family law and child protection systems. The evidence supports survey studies conducted by NPBSPPC.**

**RATES AT WHICH ACCUSED AND ADJUDICATED BATTERERS**

**RECEIVE SOLE OR JOINT CUSTODY**

Compiled by Joan S. Meier, Esq.

One statement in *Breaking the Silence: Children's Voices* that has provoked controversy was my statement that “the studies are showing” that up to 2/3 of accused or adjudicated batterers receives joint or sole custody in court. While no empirical study can definitively determine a universal statistical rate, the key point is that the research consistently shows that accused and adjudicated batterers receive joint or sole custody disturbingly often. This confirms the anecdotal experience of domestic violence attorneys and victims around the country. The following research supports this perspective.

***I. A History of Domestic Violence is Common among Contested Custody Cases.***

The remarkably consistent research on this issue is compiled in my previously-issued statement, *Research Indicating that the Majority of Cases that go to Court as ‘high conflict’ contested custody cases have a history of domestic violence* (Nov. 9, 2005).

One good example is a study cited by Janet Johnston, a leading researcher of parental alienation, which found that, among custody litigants referred to mediation, “[p]hysical aggression had occurred between 75% and 70% of the parents . . . even though the couples had been separated. . . [For an average of 30-42 months]”. Furthermore, [i]n 35%

of the first sample and 48% of the second, [the violence] was denoted as severe and involved battering and threatening to use or using a weapon.”

- Janet R. Johnston, “High-Conflict Divorce,” *The Future of Children*, Vol. 4, No. 1, Spring 1994, 165-182) citing Depner et al., “Building a uniform statistical reporting system: A snapshot of California Family Court Services,” *Family and Conciliation Courts Review* (1992) 30: 185-206

## II. Domestic Violence Perpetrators are More Likely to Contest Custody than Non- Abusers.

The American Psychological Association’s Presidential Task Force on Violence in the Family, the leading review of the research as of 1996, found that men who abuse their partners contest custody at least twice as often as non-abusing fathers. They are even more likely to contest custody if the children are boys.

- American Psychological Association Presidential Task Force on Violence in the Family (1996) at p. 40.

## III. Accused and Adjudicated Batterers Receive Joint or Sole Custody Surprisingly Often.

The research on this has only emerged in recent years, and most studies have been small and local. Nonetheless, they document disturbing trends, which surprised even me when I first discovered them.

### A. Multiple studies have documented gender bias against women in custody litigation.

Contrary to the conventional wisdom that women are favored in custody litigation, both the experiences of battered women and the empirical research are showing that women who allege abuse are deeply *disfavored* in custody courts.

The Massachusetts Supreme Judicial Court Gender Bias Task Force was one of the first states to document the gender bias against women in family courts. This court-initiated study expressly found that “our research contradicted [the] perception” that “there is a bias in favor of women in these decisions.” Moreover, it found that “in determining custody and visitation, many judges and family service officers do not consider violence toward women relevant.” The Court’s study further found that “the courts are demanding more of mothers than fathers in custody disputes” and that “many courts put the needs of noncustodial fathers above those of custodial mothers and children.”

- *Gender Bias Study of the Court System in Massachusetts*, 24 New Eng.L.Rev. 745, 747, 825, 846 (1990)

More recently, and since the evolution and widespread adoption of “parental alienation syndrome,” a multi-year, four-phase study using qualitative and quantitative social science research methodologies by the Wellesley Centers for Women found “a consistent pattern of human rights abuses” by family courts, including failure to protect battered women and children from abuse, discriminating against and inflicting degrading treatment

on battered women, and denying battered women due process. Histories of abuse of mother and children were routinely ignored or discounted.

- Wellesley Centers for Women Battered Mothers' Testimony Project, *Battered Mothers Speak Out: A Human Rights Report on Domestic Violence and Child Custody in the Massachusetts Family Courts* (Nov. 2002)(hereafter "BMTP"), *Executive Summary* at 2.

A comparable study by the Arizona Coalition Against Domestic Violence found that most of the women surveyed felt the history of abuse was not taken seriously and that they were ignored, disrespected and discriminated against by court personnel.

- Arizona Coalition Against Domestic Violence, *Battered Mothers' Testimony Project: A Human Rights Approach to Child Custody and Domestic Violence* (June 2003), pp. 47, 49, 6.

A study of the Domestic Relations Division of Philadelphia Family Court conducted by the Philadelphia Women's Law Project in cooperation with the court, found that litigants are often denied due process, and that applicable legal standards are "not always observed, particularly in the consideration of abuse in custody proceedings, leaving families at risk."

- Tracy, Fromson & Miller, *Justice in the Domestic Relations Division of Philadelphia Family Court: A Report to the Community*, domestic violence report, Vol. 8, No. 6 (Aug/Sept. 2003), p. 94.

#### **B. Studies show Accused and Adjudicated Batterers Receiving Sole or Joint Custody Surprisingly Often.**

My own survey of the case law in 2001 identified 38 appellate state court decisions concerning custody and domestic violence. The survey found that 36 of the 38 trial courts had awarded joint or sole custody to alleged *and adjudicated* batterers. Two-thirds of these decisions were reversed on appeal. - Meier, *Domestic Violence, Child Custody, and Child Protection: Understanding Judicial Resistance and Imagining the Solutions*, A.U. J. Gender, Soc. Pol. & the Law, 11:2 (2003), 657-731, p. 662, n. 19, and Appendix.

These cases included a case in which the perpetrator had been repeatedly convicted of domestic assault;<sup>1</sup> in which a father was given sole custody of a 16-month old despite his undisputed choking of the mother resulting in her hospitalization and his arrest;<sup>2</sup> in which the father had broken the mother's collarbone;<sup>3</sup> had committed "occasional incidents of violence";<sup>4</sup> and had committed two admitted assaults.<sup>5</sup> More such instances can be found in *Meier, supra*.

A multi-state study found that, even in states with a presumption against custody to a batterer, 40% of *adjudicated* batterers received joint (legal or physical) custody. In states with competing (e.g. friendly parent or joint custody) presumptions, only 4% of courts gave sole physical custody to a mother. Morrill et al, "Child Custody and Visitation Decisions When the Father Has Perpetrated Violence Against the Mother," *Violence Against Women*, Vol. 11, No. 8, Aug. 2005, 1076-1107.

The American Judges Association has found that approximately 70% of batterers succeed in convincing authorities that the victim is unfit for or undeserving of sole custody. Another way of saying this is that 70% of batterers obtain sole or joint custody.

- American Judges Association, "Domestic Violence and the Courtroom: Understanding the Problem . . . Knowing the Victim" <http://aja.ncsc.dni.us/domviol/page5.html> (at "Forms of Emotional Battering. . . Threats to Harm or Take Away Children")

A survey of battered women by the Arizona Coalition Against Domestic Violence found that courts awarded joint or sole custody to the alleged batterers 56-74% of the time (depending on the county). Many of these cases involved documented child abuse or adult abuse.

- Arizona Coalition Against Domestic Violence, *Battered Mothers' Testimony Project: A Human Rights Approach to Child Custody and Domestic Violence* (June 2003), pp. 33-34, 47-49

A study of 300 cases over a 10-year period in which the mother sought to protect the child from sexual abuse, found that 70% resulted in unsupervised visitation or shared custody; in 20% of the cases the mothers completely lost custody, and many of these lost *all visitation rights*.

- Neustein & Goetting (1999), "Judicial Responses to the Protective Parent's Complaint of Child Sexual Abuse," *Journal of Child Sexual Abuse* 8 (4): 103-122.

The Wellesley Battered Mothers' Testimony Project found that 15 out of 40 cases resulted in sole or joint physical custody to the fathers, all of whom had abused *both* the mother and the children.

- BMTP, *supra* at Appendix A.

The Massachusetts Supreme Judicial Court Gender Bias Task Force found that 94% of fathers who actively sought custody received sole or joint custody, regardless of whether there was a history of abuse. While fathers received primary physical custody 29% of the time, mothers received primary physical custody in only 7% of the contested cases. The Study also cited other research which similarly found that fathers who sought custody received primary physical custody 2/3 of the time, with mothers receiving it less than 1/4 of the time; and another study which found that fathers seeking custody received joint or sole custody 79% of the time, with mothers receiving sole custody in only 15% of those cases (compared to fathers' sole custody in 41% of the cases).

- Gender Bias Study at 831-832 and citing Middlesex Divorce Research Group relitigation study and Phear et al., 1983.

It is likely that a substantial proportion of the fathers in this study had committed domestic violence.

- Meier Statement, *Research Indicating that the Majority of Cases that go to Court as 'High Conflict' Contested Custody Cases have a History of Domestic Violence* (Nov. 9, 2005).

See generally, *Violence Against Women*, Vol. 11, No. 8, Aug. 2005 (Symposium on NIJ-funded research studies on domestic violence and custody)

[1](#) *In re Custody of Zia*, 736 N.E. 2d 449 (Mass. App. Ct. 2000)

[2](#) *Kent v. Green*, 701 So. 2d 4 (Ala. Civ. App. 1996)

[3](#) *Couch v. Couch*, 978 S.W.2d 505 (Mo. App. 1998)

[4](#) *Simmons v. Simmons*, 649 So. 2d 799, 802 (La. App. Ct. 1995)

[5](#) *Hamilton v. Hamilton*, 886 S.W.2d 711, 715 (Mo. App. 1994)

NPBSPPC acknowledges author for this article from USA.

- Many children caught up in the system must be freed urgently
- All expert witnesses and other witnesses should be held accountable for any false claims...to make the system a bit more accountable.
- There are too many psychiatrists making false diagnosis, and too many witnesses are also making false claims, to cover up the abuse
- That all abuse notifications are investigated thoroughly and reports provided to the parties
- Use public sector for assessment and diagnosis.
- That this game of going to a private report writer by the abusers and going to court and making an ex parte application to stop contact etc, amounts to coercion, and this game has to be stopped urgently as we are seeing more and more children being deprived of maternal cares.
- Children and women trapped should be freed as soon as possible because of the impact on their lives and their children from abuse.