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Senate Finance and Public Administration Committee,  
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Dear Sir/Madam

**Parliamentary Inquiry into the Domestic Violence.**

We thank the Senate Finance and Public Administration Committee for allowing us to present our submission to the Inquiry into Domestic Violence.

We note that the Committee's terms of reference refers to "*the prevalence and impact of domestic violence as it affects all Australians*". (underlining added).

The terms of reference then refers to "*women*" in four locations and "*children*" in one location. It does not specifically refer to "*men*" at all.

Our submission relates to all men, women and children.

We abhor genuine cases of domestic violence. This is, in relation to all men, women and children.

## **Family Violence**

Domestic violence is about power and control. There are many ways this control can be expressed. Domestic violence can also happen in many forms, including physical, emotional, economic and psychological violence. One form of psychological violence is withholding access to children.

Family violence is simply a form of domestic violence.

An easily-made family violence allegation will give one parent, normally the mother, a significant advantage. This is both in terms of custody and also financial benefits.

There is a direct and significant link between an application for a family violence order\* (AVO, protection order, restraining order or intervention order – please see below for more details) and the contact and residence arrangements later made for children of separated families.

Sole custody then brings with it significant financial gains. These financial gains include increased social security payments, child support payments and property settlements.

## **Procedure to Obtain Sole Custody of Children and to Cause Psychological Violence.**

The procedure to obtain sole custody of the children and to cause psychological violence is as follows:-

1. An application for a family violence order\* is made in the local court in NSW (or in the magistrates court in the other states and territories) or at the local police station.
2. The police with their limited resources will usually not investigate the allegations. As a result, the allegations will usually remain unproved during later court proceedings.
3. When the matter comes to court, the police prosecutor will then pressure the alleged offender to accept a family violence order "without admission". This is a trap.
4. Once an order for a family violence order has been made, the initiating parent will then make an application for residence and contact orders in the Family Court/Federal Circuit Court.
5. Under section 60CC of the *Family Law Act 1975*, any issues of violence will be sufficient reason to restrict or, in some cases, prevent all contact by the Family Court/Federal Circuit Court.
6. This establishes effective sole custody of the children for the custodial parent. This

then goes “hand in hand” with increased child support payments and larger property settlement payouts.

## **Conclusion**

As stated above, we abhor incidents of genuine domestic violence. The perpetrators of these incidents, once proven to be guilty, should be strongly dealt with by the due process of law.

However the temptation to misuse a family violence order is very often too great for some parents.

We believe that children from separated families should have the right of contact with both parents.

Our legislators are doing nothing about this problem - that is with regard to the implementation of a rebuttable presumption of equal time shared parenting into the Family Law legislation.

Therefore, the real reasons for domestic violence are often disguised behind more significant problems in our overall system.

## **Recommendations.**

Our Recommendations are:

- 1) Implement the rebuttable presumption of equal time shared parenting into the Family Law legislation.
- 2) Initiate a series of strategies around data collection & awareness of men and women experiencing domestic violence.
- 3) Include in any hospital data collection, to include fathers or husbands, who are abused or have attempted suicide.
- 4) Have the Police Intervention Team collect similar data within the suicide and self-harm programmes.
- 5) Arrange for the state health departments to have fathers being asked about domestic violence – similar to women.
- 6) Have the Family Court/Federal Circuit Court and the Child Support Programme (formerly known as the Child Support Agency) recognise, as psychological violence, withholding access to children.

Yours faithfully,

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\* Family violence orders have different names in different states and territories.  
These names are as follows:-

- Queensland - Protection orders
- New South Wales - Apprehended violence orders
- Victoria - Intervention orders
- Australian Capital Territory - Protection orders
- Northern Territory - Domestic violence orders
- South Australia - Intervention orders
- Western Australia - Violence restraining orders
- Tasmania - Family violence orders