

15th August, 2003

Committee Secretary
Standing Committee on Family and Community Affairs
Child Custody Arrangements Inquiry
Department of the House of Representatives
Parliament House
Canberra ACT 2600
Australia

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Dear Committee members,

**RE: INQUIRY INTO CHILD CUSTODY ARRANGMENTS IN THE EVENT OF
FAMILY SEPARATION**

I write to you on behalf of the Hume Domestic Violence Network to express our opposition to the presumption of joint residence.

The Hume Domestic Violence Network is made up of a number of local workers representing organisations in Broadmeadows, an outer metropolitan suburb of Melbourne. The focus of this Network is to raise awareness in the community of the issues surrounding domestic violence by means of community education to the general public and other workers. Our work is determined by the experiences of the women that access our individual agencies that include; housing, counselling, legal and family support services.

Police division 2 which includes Broadmeadows has the second highest incidents of reported cases of domestic violence in the state of Victoria¹. It is through our knowledge of women's stories that we raise our concerns and wish to put forward our objections to the presumption of joint residence.

In this submission we will be focusing on the Terms of Reference:

- (a) **Given that the best interest of the child are the paramount consideration:**
- (i) **What other factors should be taken into account in deciding the respective time that each parent should spent with their children post separation?**
Whether there should be a presumption that children will spend equal time with each parent?

It is the concern of the Network that this inquiry is an attempt to curb the growing rate of divorce and the adverse affects this has on children. Overseas data in USA has shown that since the introduction of the presumption of joint residence in some states that the divorce rate has indeed been lower. Our Prime Minister has taken this to be a positive step in keeping families together.² What needs to be examined is why American women are staying? Was the presumption of joint residence a much more

¹ Victoria Police Data- Reported Incidents and Comparison of Family Incidents 2001 -2003

² "Why Howard suddenly started to talk about custody battles" The Age 21 June 2003, pg 1

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difficult situation for some people to deal. Therefore making staying a somewhat easier option?

There is no argument that where parents have their child's best interest as a priority and both share similar parenting abilities and desire to reduce the impact on their children of their decision to leave, that joint residence can be a positive option.

If we head towards the presumption of joint residency then the result could lead to more women remaining in violent and abusive homes. Statistics indicated that more women are initiating divorces than men. Why do women leave the home? For many of us who work with women in violent relationships we ask the question- why don't women leave?

Data from Australian Bureau of Statistics 1996 national benchmark study showed that 23% of women who had ever been married or in a defacto relationship had experienced violence in that relationship. This means that one in five women have experienced violence by a former or current partner³.

Victoria Family Violence Database show that in the period of 2000-2001 there were 21,618 incidents reported with 19,933 children 16 years or under being present at the incident.⁴ These are alarming figures and cannot be dismissed in assessing the benefit to children and the impact that a *presumption of joint residence* would have on families.

The definition of domestic violence includes not only physical violence, but psychological, sexual and financial abuse. Domestic violence takes on a number of different forms with perpetrators using one or more methods of control their partner and/or their children.

Physical abuse is the most recognised and acknowledged form of domestic violence. It includes any type of physically violent behaviour by one person against another to cause a person to feel intimidated and frightened. This form of abuse is generally accompanied by elements of emotional and financial abuse.

Psychological abuse refers to the behaviour designed to intimidate, threaten and undermine a woman's sense of worth. This form of abuse erodes away a woman's self esteem and it is the implied threat of violence which instils fear and therefore enables the perpetrator to maintain control over the family. Psychological abuse is difficult for women to articulate and is impossible for women to provide the type of evidence required to seek the legal support through the courts or police that is needed to protect herself and her family.

Financial abuse is present when women are deprived of economic power in a relationship. Withholding money, forcing women to sign documents which disadvantages her, having to show receipts for any money spent. All these factors contribute to control a woman's movements and keeps her financially tied to the abusive partner.

It must not be assumed that if families stay together that a happy health environment is the added bonus of that action. Local support groups for older women who have been victims of domestic violence have said they stayed in abusive, unhappy relationships generally because they believed it was best for the children, only to

³ Australian Bureau of Statistics 1996

⁴ Victorian Community Council Against Violence: Victorian Family Violence Database-First report August 2002

finally leave after the children have grown up and left home. Living in a tense and often volatile home or in a situation where there are no expressions of love or communication cannot be positive for children. If this is the type of role models that children are exposed to, then the risk of these children as adults re-creating this negative behaviour in their relationships is increased.

The impact of Children witnessing violence both in the short term and long term effects in the home can not overlooked. A study conducted by Australian Domestic & Family Violence Clearinghouse showed that there was a pattern which suggested that the most severely violent men were both witnesses and victims of abuse and violence as children⁵. The study also found that there was often a similarity between how men saw their parents' behaviour towards each other and their own behaviour towards partners.⁶

CONCLUSION

The current system allows for parents to develop a number of flexible arrangements to ensure the best interest of the child. It is this premise that is the determining factor in dealing with residence issue following separation. For many, decisions are made without the assistance of the Court using mediation, parenting orders or consent orders to reach agreement.

More consideration needs to be given to the reality of domestic violence in all its forms and the impact that living in such an environment has on children, both in their personal development and how they formulate relationships as they grow older.

A *presumption* of joint residence would be detrimental to many families and potentially place many women and children at risk of further abuse.

The Hume Domestic Violence Network **opposes** the *presumption of joint residence*.

Yours faithfully,

Flora Culpan
On behalf of the Hume Domestic Violence Network

⁵ James K, Seddon B and Brown J, "Using it' or 'Losing it': Men's construction of their violence towards female partners" Australian Domestic Violence & Family Violence Clearinghouse Research Paper 2002

⁶ *ibid*, pg 12