

Submission No. 1378

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Secretary.

SUBMISSION TO THE INQUIRY INTO CHILD CUSTODY ARRANGEMENTS IN THE EVENT OF FAMILY SEPARATION

About me

I am currently in the middle of a PhD at Monash University in Clayton Victoria, researching the long-term effects of prior domestic violence post-relationship. The research centers around a questionnaire (available at 44 neighbourhood houses and community centres around Victoria, as well as online at <http://members.optusnet.com.au/~ilsaevans/surveyv.html> until the end of August. After this time the interview phase will commence, for which there have already been thirty-two volunteers thus far.

As well as this research experience, I am a registered secondary school teacher and have spent quite some time volunteering within the community with regard to social issues. I am also a published author, have been married and divorced twice and am the mother of three children. The eldest, a twenty-year old son from my first marriage, is currently in the Navy, and my two daughters from my second marriage, aged twelve and eight, reside with me.

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Submission

It is with some concern that I read the recommendations provided by the 'Out of the Maze' advisory committee. Whilst the analogy 'maze' is an apt one for the bureaucratic quagmire facing people post-separation, it is my belief that some of the recommendations have the potential to extend this maze-like effect, rather than open it up. One of my greatest concerns is that the stated goal of 'increasing focus on children' is often in direct contrast with another stated goal, that of 'supporting fairness'. My understanding is that by 'supporting fairness', the committee is providing emphasis for introducing the 'presumption in law that children live with each parent on an equal time basis'. It has been my experience, both personally as well as professionally, that the two goals are, more often than not, mutually exclusive mainly because children need continuity, permanency and security – conditions often precluded by the very nature of shared custody.

I would also like to comment on the perceived bias of the family court towards women. It is my belief that this concept is largely a media construct, ably assisted by various men's advocacy groups. If extra funding was to be directed towards male advocacy, perhaps it should be directed to those who are centered on constructive concepts of responsibility and accountability, rather than destructive concepts of blame and ridicule.

Having said that, it is also my belief that the current child support formula is set too high and is therefore prohibitive for many non-custodial parents, mainly men, wishing to rebuild their lives.

I must acknowledge, however, that the majority of my work involves the after effects of an abusive relationship, and this is where the majority of my concerns lie. With regard to relationships characterized by domestic violence, the 'Out of the maze' report states that 'where violence or abuse is present, relationships may be harmful to children and should not continue. In most cases, with the right kind of support, there is potential for maintaining parenting relationships, and for agreement between adults.'

This is an extremely idealistic piece of nonsense that, without extreme changes to the system, is unattainable. Generally speaking, abusive males are extremely manipulative and any examination of their presence within the system, whether in a legal context or otherwise, will highlight their subsequent manipulation of the same system. In my current study, which concerns approximately one hundred female abuse survivors and ten male abuse survivors, this is one of the glaring factors that is evident in the vast majority of the responses. More often than not, the males use custody issues to flex their power and maintain control over the mother as well as the children. They withhold support where possible, stalk, send abusive messages to the mother via the child, disregard consent orders, and undermine the mother's parenting on a continual basis. Verbal abuse of the mother is commonplace, and this abuse, as well as physical in some cases, is often witnessed by the children involved. Interestingly one respondent said that her ex-partner had already used the proposed changes (the focus on shared custody) to try to blackmail her into returning, to him, half of the maintenance payments collected by Child Support – i.e. if you do not do this for me, I shall have no choice but to wait for these new laws and claim shared custody.

The long-term repercussions, on children, of continued access with an abusive parent is well-documented. An examination of my study alone will show extensive long-term effects such as heightened aggression, poor school performance, low self-esteem, anxiety, poor social skills as well as increased alcohol and drug problems. As one adult female respondent stated, after examining her support group (all survivors of prior abusive relationships), and I quote: 'From observation I see both children who have to have access + those who don't + I notice contentment, stability + confidence in those children who don't have access. I notice the opposite in those who are forced to go.'

This is a recurrent theme throughout the responses to date and points to, as your report indicated, major problems within the 'system' with regard to the post-separation treatment of abusive relationships. My concern is that the proposed inclination towards shared custody, whilst detrimental to most children, is one hundred times more so for the children of abusive relationships. If you really wish to make inroads with this area as well pursuing a more holistic approach to better parenting overall, there are three main areas with which to do so:

1. Increased social/gender studies at high school level – whilst this would obviously have little short-term benefits, the long-term benefits would be substantial. A parenting component would demonstrate positive parenting as well as roles and responsibilities. In addition, discussions regarding the power and control foundation of abusive relationships would lead to a greater understanding within the community. Much more could be incorporated into such an addition to the curriculum and would, eventually, flow through to our society as a whole.
2. Mandatory parenting courses – These courses (which could be run at weekends or evenings) should be compulsory for *anybody* either seeking divorce or entering the legal system with regard to child custody issues. Parents should have the choice of whether to attend the same course or, especially with regard to abusive relationships, separate courses.
3. Individual case managers – Anybody entering the system, at whichever entry point, should be assigned a holistically trained case manager who will oversee all dealings throughout the 'maze'. Individuals should each receive such a case manager, rather than as a couple. Whilst this would obviously be an expensive enterprise, it would pay off in the long-term by the reduced confusion, litigation and manipulation of the system by both men and women.

All three of the above suggestions are extreme, time-consuming and expensive. However, if the committee is serious in its stated aims, and not merely trying to placate certain sections of the community, then extreme measures are required to reduce the current confusion, decrease unnecessary litigation, and prevent manipulation of the 'system' by both men and women. Only by relying on extreme measures will the maze become a level playing field for everyone, including the children.

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