

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
ATTORNEY-GENERAL'S PORTFOLIO

**Program:** Family Court of Australia & Federal Circuit Court of Australia

**Question No. SBE16/078**

**Senator Lambie asked the following question at the hearing on 18 October 2016:**

1. The teachings and pro-paedophile messaging of Richard Gardner, an American doctor who self-published non-peer reviewed books for profit, completely discredited as junk science (known as PAS Parent Alienation Syndrome, Parent Alienation and Enmeshment) this man committed suicide with a large carving knife, has significant currency in Family Law despite being banned by the Chief Justice of the Family Court in 2007.  
Unfortunate and ill-informed mothers who wrongly believe they are expected to protect their children from foreseeable harm caused and with continuing, foreseeable risk by the children's father are losing children to the perpetrators.  
Have the courts become anti-mother, rejecting attachment theories and child development needs?
2. Considerable issues are being presented at the *Royal Commission into Institutional Responses to Child Sex Abuse.*, the Institution of the law has been identified as having significant gaps in the way it has managed cases and their reporting methods.  
This includes state and federal jurisdictions including Family.  
I request the Institution of the law to be included in the *Royal Commission into Institutional Responses to Child Sex Abuse.* What is needed for this to occur?
3. There are continual issues with Family Report Writers in Family Law managing issues of Family Violence poorly as highlighted by Senator Nick McKim in Senate estimates 9 February 2016 and by Rosie Batty (Included in her 5 points to improve the management of Family Violence in Family Law.)

Jess Hill also documents that some of these reports are altered and disclosures of violence are not documented or marginalised it has been presented to myself and others in the senate that mandatory reports which would be obligatory under state child protection are not made by Family Report Writers when children disclose abuse and violence in these assessments.  
Very few formal assessment tools are used to measure issues of violence.  
What would it take to record (Video/Audio) these meetings as proof and record to protect the report writer and manage claims that disclosures are ignored by the court?

**The answer to the honourable senator's question is as follows:**

1. No.
2. This is a matter for Government.
3. Several important factors are relevant to the issue of recording of forensic assessments undertaken with parents. In particular, in addition to the logistical and financial impact, the process of recording has significant potential to alter the quality of reports, and it needs to be

appreciated that a large number of reports are prepared by professionals external to the Courts.

The conduct of family assessments and the subsequent development of family reports play a critical role in the decision-making process of judicial officers when dealing with family law disputes that are before the Courts. To record the interview has a real potential to inhibit reporting in family assessments in family law matters which is an essential element of determining the 'best interests of the child' in a large number of parenting cases.

Independent professionals external to the Courts, both those appointed as Regulation 7 experts and those providing reports directly to parties, work on their own premises where there would be practical issues limiting the ability of those practitioners to record consultations. Storage and retention of the recordings would be a further practical issue.

Currently, Court appointed Family Consultants undertake a screening procedure during interim assessments to identify any potential risks to children in a given matter. They do so using a set of eight (empirically derived) risk domains, asking each parent (and children where appropriate) a series of screening questions that may relate to ongoing risk.

The eight domains relate to: identification; threats; current spousal violence; history of violence; nature of injuries; indicators of escalation; child abuse; and psychological abuse. The Consultants include this screening information in their memoranda and oral evidence, and submit it to the courts during interim hearings.

For family reports prepared for final hearings, Family Consultants will complete a more thorough risk assessment, comprising a detailed analysis of the typology and pattern of violence; assessment of power and control dynamics; estimation of future likelihood of violence on a continuum; hypothesise future risk scenarios; and identification of protection options. They will also put, where relevant, future treatment or therapeutic options.

Recent Pilot and Evaluation:- During 2015 and 2016, the Child Dispute Service developed and piloted an advanced family law specific screening approach for use with separating families at the interim stage. The results of the pilots, completed in Melbourne and Brisbane, suggest high utility and sound psychometric properties.

The process involves parents completing a series of 32 behaviourally based questions on line, seeking information about violence across different time periods (e.g., during the relationship / since separation / in the recent past) prior to the assessment with a Family Consultant. This information provides a profile of the family violence allegations to the clinician before they meet the parties, which allows for the Family Consultant to better structure the assessment interviews and therefore elaborate in greater detail on the salient risk indicators identified by the parties when reporting to the Court at the interim stage.

Planning to implement this process in 2017 has commenced.