

From: [REDACTED]  
Sent: Tuesday, 5 August 2003 6:26 PM  
To: Committee, FCA (REPS)  
Subject: submission to Joint Residence Inquiry

House of Representatives Standing Committee  
on Family and Community Affairs

Submission No: 707

Date Received: 5-8-03

Secretary: .....

5th of August 2003

House of Representatives Standing Committee on Family  
and Community Affairs  
Parliament House  
Canberra  
ACT, 2600

Dear Committee members,

I am a domestic violence support worker at [REDACTED]  
Women's refuge, one of the DHS funded refuges in  
[REDACTED]. The opinions expressed in this letter are my  
own and do not necessarily reflect those of my  
co-workers or Committee of Management.

Given my experience working with women and children  
escaping domestic violence I have a number of concerns  
about Terms of Reference (a) and (b) for the Inquiry  
into Joint Residence Arrangements, which I also refer  
to as 'shared parenting'.

Presumed joint residence with the child spending equal  
time with both parents contains a tension, a tension  
which I believe, makes the concept unworkable. In  
Australia women are overwhelmingly the victims of  
domestic and family violence. At the same time mothers  
have been and are the main caregivers of children.  
Presumed shared parenting therefore disadvantages  
mothers who are living with or escaping domestic  
violence. These proposed changes to residence also  
probably reward perpetrators of domestic violence  
which is an unacceptable position.

My concerns with 'shared parenting':

-presumed joint custody based on equal time makes the  
task of leaving a violent relationship that much  
harder for the abused partner. It puts up a mental  
barrier to a person who is already traumatised,  
probably has low self-esteem and may be very  
unconfident about negotiating the legal system. In my experience it takes a lot of  
courage for a victim of domestic violence just to take the first step to go to family  
court. They are often terrified of just seeing the partner. How much more stressful is  
it going to be for the abused person if they know that if the abusive partner gains  
joint residence that partner will use hand over of the children to to harrass or  
assault them. Just knowing that her partner could gain equal time with the children  
could dissuade the abused parent from leaving such are the feelings of hopelessness  
about the situation that person may have. The abused parent and the children will  
remain with the abusive partner exposing them to continued harm.

-As things stand now I do not believe court staff  
always show an adequate understanding of domestic  
violence issues when making decisions about a family's  
future. Some magistrates are very aware, however some magistrates do not have an  
appreciation of how domestic violence can impact negatively on an abused partner's  
ability to function in court. The perpetrator on the other hand may be quite confident  
in arguing their case.

-Presumed shared parenting presumes equal or as near  
as, parenting competence within a couple. This is not

always the case, especially where domestic violence is present. Decisions about who a child resides with should be made on a case-by-case basis, looking at that particular family's situation. Surely this is more in a child's interest than presuming something that may or may not exist.

I believe presumed joint residence will only make the situation for the victim of an abusive relationship where there are children, more difficult at all stages of the relationship, including whilst they are with the abuser, when they leave and after they have established themselves without the abuser.

The status quo of magistrates deciding on a case by case basis should remain. In addition there should be greater safeguards built into family law for the victim of domestic violence so that they are not exposed to further violence through residence arrangements.

Yours Sincerely,



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