

Submission to the Family Law Council

- 1) The DOCS and JIRT interviewers are not adequately trained in child psychology.
- 2) The courts are taking 'unsubstantiated' to mean it didn't happen. This adds considerable weight to the prevailing view that mothers are just vindictive people who make up false allegations.
- 3) Children under five do not act out sexual behaviours or disclose sexual actions being done to them unless it was true. They do not have that knowledge and when very young they do not know how to lie.
- 4) The popular notion that there are all these 'vindictive women' out there who make these things up to gain advantage in court is ridiculous. A young child would immediately make it clear if they had been coached. It is hard to imagine anyone being sufficiently 'vindictive' to choose to go through several years of nightmare in the family courts, fearing every day that her child will be taken from her and given to the perpetrator – as has happened so many times to other women.
- 5) The suffering of protective mothers in the court system is extreme. The continual fear and uncertainty means that it is extremely difficult to plan, or even to hold down a job. The financial losses are substantial but nothing compared to the emotional anguish. It takes an extremely strong woman to cope and I fear many just give in because they cannot take the strain any more – and this only adds to the belief that they must have been making it up all along. There is very little support for mothers caught in the system. And once again, if you can't cope, you risk losing the child.
- 6) Children in these situations are being ordered to have 'protective behaviours training', as if this is going to protect them from Daddy next time – a sort of 'just say no' approach. The child is told to tell a trusted adult. Sadly, when they do, the authorities then fail to act to protect them, and the mother, who should be the most trusted of all, is forced to completely negate that trust, because she is forced to say in a jolly voice 'Off you go and have a lovely time with Daddy!' The splits being caused in the child's psyche are profound.
- 7) Many men egg each other on via online support groups, which are sickening and quite frightening in their misogyny. Widely disseminated are claims that a psychiatrist had claimed that 90% of allegations by women were false. There was a program about this on ABC some while ago, where these claims were made and it has been doing the rounds of fathers' groups ever since. It is obvious that, in a world where we know that 1 in 3 girls and 1 in 6 boys are abused, and that the prime perpetrator is the father, that this 'statistic' is absolute rubbish – but again it seems to be being widely believed. In fact the true figures are that only 5 % of claims are false – and even then, although the claims were later proved incorrect, they were actually made in good faith at the time. Because of this small number of incorrect claims, the huge majority of women who are actually right are being maligned, accused of 'parental alienation' and risk losing their children –straight into the hands of the perpetrator.
- 8) It is well known that paedophiles 'groom' not just the child but the family and wider community prior to abusing the child. They then present all these great character references in court. Courts need to be wary of accepting these at face value.
- 9) DOCS /FACS and JIRT do not find the child to be at 'immediate risk of serious harm' if the courts are involved, especially if access is supervised. They leave it to the judge to assess risk, but the judge takes it that DOCS / JIRT have 'unsubstantiated' and that there is not therefore an unacceptable level of risk. Meanwhile the father parades this as 'proof' that he has been 'found innocent'.

- 10) Mothers who are going to DOCS with reasonable concerns are then painted by the opposing lawyers to be liars and malicious and 'unfriendly' and unsupportive of the relationship with the other parent, which is then treated as a high risk to the welfare of the child.
- 11) The mother basically has the unenviable choice of not reporting to the proper authorities - or going to DOCS and risking losing their child if they are not believed. If you go 'too soon' you are accused of jumping to conclusions and just trying to make a case against the father. If you don't go soon enough you are accused of making up the whole thing - because surely a truly concerned mother would go straight away? It also seems to be perfectly possible to be guilty of going too soon and not soon enough *at the same time!* Either way it does not lead to help.
- 12) Even though the 'unfriendly parent' provisions were removed in the 2012 Family Law Amendment, they are still operating strongly. Because of this attitude, lawyers are still telling mothers to not report the abuse, or at the very least to do their utmost to promote the contact regardless of the abuse, because the risk of having their children removed otherwise is so high.
- 13) I know of mothers who have been told that if their children disclosed any more sexual abuse from the father, they were not to report it, or the children would be removed and given to the fathers.
- 14) Some so called 'experts' even advocate sending a young child back to the perpetrator in the hope they will be then able to disclose more information as they get older.
- 15) At a public meeting for child protection week last year, local police were very upfront that they cannot protect children under five or six, or even older, because they are not reliable witnesses. Paedophiles know this, and the targeting of children too young to be credible witnesses is very low risk for them..
- 16) It is enshrined in immigration law that a person may leave their partner even during a waiting period for a partner visa, without losing their right to the visa, if they are experiencing family violence. This is because the law recognises that no-one should have to stay in a violent situation to get a visa. However women experiencing family violence from the father of their child have to make a no-win decision: Leave him and find that the courts order that he has the children unsupervised, and run the risk that he will get custody of the children altogether, or she can stay with him because that way at least she has the opportunity to see what is going on and have a chance to protect the children.
- 17) The Family Courts have an 'ideal' outcome that they try to uphold. It includes, if not shared parenting, then 'equal or substantial' time. It seems to me that judges select from the available evidence that which could be twisted to fit this 'desirable' outcome. This is not in the best interests of the child. It may be that this practice is so widespread because it looks like what the courts consider a 'successful' outcome and is less likely to lead to an appeal which is detrimental to the career of a judge.
- 18) Courts are not taking into account that where there is high conflict, children have the worst outcomes. Forcing parents to 'cooperate' over contact is only going to lead to high levels of tension, distress, fear, malice, hostility and ever more conflict which has an extremely detrimental effect on the child. The jolly idea of shared parenting just does not work when there is evidence of such high conflict and / or Domestic Violence or Sexual Abuse and the requirement for judges to order contact should be shelved in these cases.

19) Contact centres are not impartial. Indeed, although the leaflets they give to their clients promise fair and unbiased treatment, their job advertisements tell a different story: they have an ethic of giving special consideration to men. Most of their non-residential-parent clients are men, and the workers obviously get to form alliances with those men, (who may be extremely charming). Contact Centres also have a vested interest in the sessions going ahead (to justify their funding and uphold their 'success' rates) and will resort to physically dragging screaming, unwilling children from their caregivers. This adds yet more traumas to an already traumatised child. As a protective parent, it feels like the height of betrayal to take the child there at all, but of course they have you over a barrel – they can take the child and give her to the perpetrator.

In summary, the services and family courts are not protecting children from incest.

Family violence is on the increase. Sexual abuse of young children by the father is also on the increase. This is obvious cause for concern, yet mothers face an impossible choice: They either have to stay with the perpetrator to keep the children as safe as possible and try to never leave them alone with him, or they can leave but accept this will mean leaving their children unsupervised with him, probably up to 50% of the time. Or they can report to the authorities who are supposedly there to protect them / their children, but then they face the high likelihood of being accused of parental alienation /making false accusations, which will result in years of trauma via the court system with quite a high likelihood of the children being given into the perpetrator's sole custody.

Child sexual abuse cases should be in a special court, staffed by childhood / child development experts well versed in child sexual assault, assisted by a lawyer. Judges do not have the training to distinguish between sound and unsound advice from inadequately trained ICLs, psychiatrists and report writers.

In particular, anyone dealing with the welfare of young children in court needs to be trauma informed. They need to understand that the impact of trauma at an early age isn't only emotional and psychological but also causes physical changes in the brain structure and is associated with long term effects including much higher rates of mental health issues, and negative outcomes in almost every area of life. These effects are much more serious and should be given far higher legal weighting than concerns such as the potential for the child to feel disadvantaged as a teenager through not having a father, which is one 'risk' commonly put forward. At other times, risks such as a fatherless child having statistically a higher rate of poverty, are applied generically without taking the individual child or situation into account at all.

It also needs to be understood that an abused child may not show fear of her father – indeed she may seem happy to see him. It is a natural psychological defence to 'appease' someone one is afraid of, especially where the defences of 'fight or flight' are not an option, such as in a contact centre. Often too the child is bribed by presents to see the father and this appears to be completely acceptable – standard practice even. I imagine that if the mother bribed the child with presents to *not* see the father, the child would be removed in no time!

Children with special needs need to be given special consideration and protected from trauma even more than those who are within the 'normal' range of mental and physical health.

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Thank you for reading my submission,

Yours Faithfully,

Beccy Summers