Australian Domestic & Family Violence Clearinghouse

INTERSECTION OF FAMILY LAW AND FAMILY AND DOMESTIC VIOLENCE

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Key texts

Attorney-General's commissioned reports

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INTRODUCTION[1]

In November 2011, the Commonwealth Parliament enacted reforms[2] that amended a number of key sections of the *Australian Family Law Act 1975* (Cth). The genesis of the new Act emerged from a growing unease among researchers and practitioners across several disciplines, following the radical revision of family law undertaken by the previous government in 2006.[3] In particular, there was substantial concern about the ways in which families experiencing domestic and family violence were being managed within the new family law system (Alexander 2006; Chisholm 2006; National Council for Reducing Violence Against Women and their Children [NCRVWC] 2009; Women's Legal Services Australia [WLSA] 2011).

The 2006 amendments had provided statutory architecture to the policy interests of the growing and vocal 'fathers' rights' pressure groups, creating one of the first legally enshrined shared care regimes in the western world (Fehlberg *et al*. 2011, pp. 3-5, 11). Along with these significant changes to laws around parenting 'time' (previously known as contact or access), the 2006 changes promoted mediated agreements and less adversarial court trials, as well as cooperative, non-litigious approaches to problem solving of child contact issues. Although on the face of it, the new laws recognised the negative impact of domestic violence on children's wellbeing (at least in relation to direct harm and safety concerns), the construction of the legislation was confusing and contradictory (Chisholm 2009).

With the election of a new federal government in late 2007, the Commonwealth began to engage with issues arising from growing ground level concerns, particularly those relating to negative outcomes for children affected by domestic violence, which practitioners felt had become more prevalent through the courts and other decision making pathways. In response, the government commissioned a number of key studies to examine the impacts of these changes, both generally and where there was family violence. In addition, independent studies were also commenced, focusing on concerns for children's wellbeing and safety that emerged after the 2006 legislative reforms.

Several important reports have been published in response to these commissioned and independent investigations. This Thematic Review examines key themes of these reports that are relevant to work with family and domestic violence. It provides snapshots of the new 'evidence base' pertaining to family law system practice where there is family violence. The paper includes discussion of issues and difficulties experienced by domestic violence victims and their children identified in this new body of research. These difficulties arise from the laws, systems and practices implemented since the commencement of the 2006 legislation but also reflect ongoing attitudinal and cultural changes that pre-date (and contributed to) changes to the legal system (Hunter 2008; Rhoades *et al*. 2000; Rathus *et al*. 2000).

METHODS USED IN KEY REPORTS

The reports addressed in this review employed a range of methods to arrive at their findings.[4] Several of the studies were based on an extensive longitudinal study of Australian families by the Australian Institute of Family Studies (AIFS), known as the Longitudinal Study of Separated Families (LSSF). The LSSF is a qualitative and quantitative study examining a cohort of over 10 000 parents of children under eighteen years old who separated after the 2006 changes to family law in Australia and who were registered with the Child Support Agency in 2007[5], as well as the outcomes of their parenting arrangements.

The report by Kaspiew *et al*. (2009) evaluating the 2006 family law reforms drew on extensive quantitative and qualitative data sources, including the LSSF, examining the experiences of parents, grandparents and family relationship service, legal and court professionals involved with the family law system. This study also considered court and government program data.

The study by Lodge and Alexander (2010) also drew on the LSSF, specifically data collected through the AIFS Family Pathways: Adolescent study (within the larger LSSF project). This component involved telephone interviews with youth aged twelve to eighteen years old whose parents had separated after the 2006 reforms.

McIntosh *et al*.'s (2010) research includes two studies. The first examined interviews from 133 families (including parents and children) experiencing 'significant conflict over post-separation parenting arrangements' over four years (p. 27). The second study used data from the Longitudinal Study of Australian Children (LSAC) to examine separated parents' overnight care arrangements and the psycho-educational outcomes for infants and preschool children up to age four. Both studies reviewed current literature.

The study by Cashmore *et al*. (2010) examined shared care using both qualitative and quantitative data from the LSAC and other longitudinal studies; a postal survey of 1028 parents and forty follow-up parent interviews; four follow-up child interviews; an online survey of 136 children and youth; and a review of mail sent by children to the National Children's and Youth Law Centre.

The study by Qu and Weston (2010) examined the second wave of the LSSF, drawing on more than 7000 parents from the first wave of the study and providing a follow-up to the study by Kaspiew *et al*. (2009), noted above.

The Australian Law Reform Commission (ALRC) and NSW Law Reform Commission (NSWLRC) (2010) report reviewed the intersection of family violence, child protection and family laws[6] based on an extensive process of research including: review of the relevant legislation; multi-faceted consultations; and the release of a consultation paper and call for submissions. The review did not specifically examine family law but considered aspects of the intersection of family law with state and territory laws.

The Chisholm (2009) report examined the appropriateness of the *Family Law Act 1975* (as amended in 2006) and courts' practice and procedures in cases of family violence through consultations, submissions, reviews of legislation, analysis of court procedures and guidelines, and related research.

The Family Law Council (2009) report considered the intersection of family violence and the family law system through stakeholder consultations and reviewing research and reports, case law and legislative frameworks.

The Bagshaw *et al*. (2010) study examined qualitative data collected from approximately 1100 separated parents and children across Australia. Participants who had experienced a 'parental relationship breakdown, with or without family violence' were interviewed online and by telephone.

Independently conducted research on family law and family violence also provided important evidence relating to the experiences of victims of domestic violence engaging with family law systems. Findings of four independent studies are considered in this review.

Alexander's (2010) study examined judicial determinations both before and after the 2006 amendments, where family violence was raised. The study considered cases from both the Family Court of Australia (FCA) and the Federal Magistrates Court of Australia (FMCA).

Naraqi's (2008) study similarly examined reported judicial determinations, in this case, those which related to the family violence exception to shared parental responsibility (s 61DA), post 2006 reforms.

Laing's (2010) qualitative study was based on in depth interviews with twenty-two women in New South Wales who had experienced domestic violence and had engaged with the family law system. The sample had high rates of engagement with the state protection order system. A thematic analysis was employed.

Parkinson *et al*.'s (2010) study of lawyers' understandings of family violence used qualitative interviews of forty-two lawyers from Sydney in New South Wales.

KEY THEMES

Violence and abuse experienced by families engaging with the family law system

The studies revealed the extent of domestic violence across families engaging with both legal and non-legal pathways within the family law system. Domestic violence was raised as an issue confronting many families both before and after separation.

In one study, where women had ended the relationship, 65% of women had done so because of violence (Bagshaw *et al.* 2010, p. 4). Where there was physical harm prior to separation, the majority of parents in the AIFS study indicated that the children had seen or heard some of the violence (Kaspiew *et al*. 2009, p. 26). Bagshaw *et al*. (2010) reported that women frequently observed that their children had felt frightened or terrified by the abuser, as did the women themselves.

The violence did not end after separation. Several studies reported ongoing experiences of violence (Bagshaw *et al*. 2010; Kaspiew *et al*. 2009; Laing 2010; Macintosh *et al*. 2009) and ongoing exposure of children to violence, even after separation (Bagshaw *et al*. 2010; Laing 2010; Macintosh *et al*. 2009). Qu and Weston (2010, p. 25) found one in five parents held safety concerns relating to their children or themselves as a result of ongoing contact arrangements. Further,

one in ten parents indicated that the relationship remained highly conflicted or fearful, several years after the separation (p. v). In the AIFS evaluation, family court files indicated that over half contained an allegation of family violence on the written file and nearly 20% had a highly conflicted or fearful relationship (Kaspiew *et al*. 2009, p. 5).

Bagshaw *et al*. (2010) found the majority of women they surveyed who reported family violence post-separation experienced violence against themselves, particularly during decision-making about parenting arrangements. Women rated harms arising from violence much higher than men reporting experiences of violence, with one in three women reporting extreme physical or sexual violence (p. 78); additionally, only women reported life-threatening acts against them. Threats after separation (against themselves or their children), including threats to murder, were most commonly reported by women. Women were also more likely than men to report continuing and unabated fear, before, during and after separation. In Laing's (2010) study of women's experience of the family law system, child abuse by perpetrators of partner abuse (often serious) and abuse of mothers was common and interconnected.

Concern about violence continued around post-separation care arrangements. Kaspiew *et al*. (2009, p. 32) found one in five parents reported safety concerns related to ongoing contact with the other parent and 90% of these had experienced either physical or emotional abuse. For one in six parents, concerns were expressed for their children's' safety (p. 28). A significant proportion of children now in shared care arrangements have a family history of domestic violence and are exposed to 'dysfunctional behaviours and inter-parental relationships' (p. 11). Bagshaw *et al*. (2010, p. 166) found nearly three times as many children reported feeling not at all safe when with their fathers than when with their mothers.

In a number of studies, post-separation conflict between parents often stemmed from[7] financial concerns (such as inadequate child support) or generalised animosity towards the other parent (Bagshaw *et al*. 2010; Kaspiew *et al*. 2009; Lodge & Alexander 2010; McIntosh *et al*. 2009). More mothers than fathers reported this (Lodge & Alexander 2010). Ongoing financial abuse was also identified (Bagshaw *et al*. 2010; Laing 2010). Lodge and Alexander (2010) found mothers with majority care of their adolescents were at highest risk of living in financial hardship and experienced diminished financial capacity, along with the burden of the majority of child-related expenses.

Women's experiences of financial abuse often went hand-in-hand with experiences of legal bullying, with perpetrators of violence reported as manipulating the family law system through repeated litigation, strategic self-representation and refusal to negotiate (Laing 2010).

Screening and risk assessment for family violence

Several studies reported concern with the capacity of the family law system to screen effectively for family and domestic violence or to assess risk. Professionals within the system did not always screen for violence or assess risk or danger (Kaspiew *et al*. 2009; Parkinson *et al*. 2010). Lawyers did not routinely ask clients about family violence, yet nonetheless felt largely confident of their ability to screen for and identify violence, as did family dispute resolution practitioners (Kaspiew *et al*. 2009).

Conversely, studies found that parties experiencing family violence did *not* feel that their lawyers or mediators created an effective environment for disclosure (Kaspiew *et al*. 2009; Laing 2010). Kaspiew *et al*. (2009, p. 13) found between a fifth and a quarter of parents reported feeling fearful of the other parent at family dispute services and 35% of these parents felt that the service did not address these fears or respond adequately. This confirms the findings of earlier Australian studies (Kaye, Stubbs and Tolmie 2003; Kirkwood 2007).

These problems were exacerbated by inadequate processes for facilitating the exchange of information about family violence (ALRC & NSWLRC 2011; Chisholm 2009; Family Law Council 2009). Problems include the inadequacy of the processes for notification of violence to the courts, the inconsistent use and follow-up of certificates of exemption from mediation; and limitations on information exchange resulting from confidentiality provisions in the Act (s 10D, s 10H) (Chisholm 2009; Family Law Council 2009).

A 'climate of disbelief'[8]

Central to the effectiveness of any screening process is the creation of an environment that supports disclosure and enables victims to feel comfortable raising issues around their concerns for their safety or that of their children. Both the 'friendly parent' provision (s 60CC [2]), which considered the willingness of a parent to encourage a relationship with the other parent, and the costs provision for false allegations (s

117AB) were found to potentially deter victims from disclosing violence (Chisholm 2009; Laing 2010). Victims felt that applications for no contact with an abuser might lead to even greater contact with the perpetrator (Chisholm 2009; Laing 2010). One study reported that 18% of women had been advised by their lawyers not to raise domestic violence, as it would be detrimental to their case (Bagshaw *et al*. 2010, p. 80). In a positive response to these findings, these two provisions were removed from the Act in the 2011 reforms and the government initiated the AVERT training package for family law personnel, aimed at changing this culture of non-reporting.

In addition to legislative disincentives to disclosure, many women frequently reported that family law professionals failed to recognise or understand the subtle, complex and controlling aspects of family violence (Bagshaw *et al*. 2010; Laing 2010). Many victims felt that their allegations of violence were not taken seriously by the family law professionals they encountered (Bagshaw *et al*. 2010) and that there was a 'climate of disbelief' around their disclosures of violence (Laing 2010, p. 92).

Courts were found at times to be slow to understand and acknowledge the endemic nature of family violence and to recognise their need to make orders that protect children from its effects (Alexander 2010). Two judicially based studies (Alexander 2010; Naraqi 2008) found that courts did not address allegations of violence and abuse consistently, nor prioritise safety; this confirms findings of earlier studies by Maloney *et al*. (2007) and Brown and Alexander (2008). Courts may downplay evidence of allegations of violence in ways that can undermine provisions for children's safety to be considered when determining children's best interests.[9]

Common beliefs and myths about domestic violence were found to have influenced the system's response to family violence and these undermined safety and protection. These include widespread beliefs, as reported by Laing (2010), that:

- women fabricate allegations of violence, are too emotional and/or try to alienate children from their fathers
- children need relationships with fathers, even when those fathers have been abusive (fathers are seen as 'essential' to children's wellbeing, whereas the importance of mothering is often unrecognised)
- shared care or some contact is inevitable
- men's abusive or threatening behaviour can be excused; for example, 'he just wants to see his kids' (p. 10).

Another key finding was the limited understanding of domestic violence among many family law system professionals (Chisholm 2009; Laing 2010; Family Law Council 2009). Laing's study (2010) demonstrated a limited understanding of:

- perpetrator tactics and grooming behaviours designed to build allegiance with family law professionals
- women's post-trauma presentations
- the difficulty victims face with ongoing exposure to perpetrators because of family law processes and outcomes (including the stress faced by mothers who have to force their children to spend time with their fathers in the face of obvious distress and fear on the part of children)
- the varying types of violence and abuse that underpin control.

The research points to a need for more experience and expertise in family violence within family law system agencies (Chisholm 2009). Several reports outlined an urgent need for up-skilling and ongoing training (ALRC & NSWLRC 2010; Chisholm 2009; Family Law Council 2009), along with a need for a 'common knowledge base' of expertise around domestic violence to inform practice in the family law system (Family Law Council 2009, p. 36).

Difficulties arising from the legislation

Several of the studies identified difficulties arising from 2006 amendments to the *Family Law Act 1975*. The legislative provisions to be considered in determining children's best interests (s 60CC) arose as an issue of concern in many of the studies (Bagshaw *et al*. 2010; Chisholm 2009; Family Law Council 2009). The law was found to be confusing, leading to artificial technical distinctions that have been difficult to apply to individual circumstances (Chisholm 2009; Kaspiew *et al*. 2009). Family law system professionals felt that the system was better at ensuring children spend time with both their parents than it was at ensuring children are protected from harm and family violence (Kaspiew *et al*. 2009). Reforms to the Act passed in 2011 may address some of these inconsistencies, namely the contradiction between the 'twin pillars' of promotion of a child's 'meaningful relationship' with both parents and safety, but will not address the confusing multi-tiered and often contradictory 'considerations' in

determining children's best interests found in section 60 (Chisholm 2009).

The provisions relating to parental responsibility were also found to have created an inappropriate nexus between parental responsibilities for decision making and care arrangements, in turn causing confusion and undermining safety focused outcomes (Chisholm 2009; Kaspiew *et al*. 2009). In the Act, once the threshold determination of parental responsibility has been made (which presumes that this will be shared unless rebutted), then courts are directed to consider equal or substantial and significant time arrangements with both parents (ss 61B, 61C, 61DA).

The research showed a subsequent high level of confusion about the difference between 'shared parental responsibility' and 'shared care' among parents (Bagshaw *et al*. 2010). Reports noted a problematic focus on 'parental rights' (Chisholm 2009; Kaspiew *et al*. 2009; McIntosh *et al*. 2009) that was found to relate to these misunderstandings around shared parental responsibility and time (Kaspiew *et al*. 2009). Since the 2006 amendments, lawyers felt that the focus of negotiation and litigation around parenting arrangements has been focused on parents' (particularly fathers') rights and entitlements, rather than children's needs. Many lawyers believe that the Act now favoured fathers over mothers and parents over children (Kaspiew *et al*. 2009, p. 219, chapter 9).

Indeed, there has been an increase in shared care arrangements since the 2006 reforms, particularly among judicially determined cases (Kaspiew *et al*. 2009, p. 133, summary report). Parents who went through to court to determine parenting arrangements were the least satisfied of all with the family law processes (Kaspiew *et al*. 2009) and children's wellbeing was also reported as being lower where care arrangements were imposed by a court (Cashmore *et al*. 2010). However, shared care arrangements were also frequently privately negotiated, with this being the main pathway to shared care in the study by Cashmore *et al*. (2010) In another study, ongoing shared care was associated with significantly higher levels of parental conflict, as reported by children, four years after mediation (McIntosh *et al*. 2010). Many lawyers reported that care time applications, particularly for fathers, were often driven by child support obligations and property matters (Kaspiew *et al*. 2009) In contrast, children's wellbeing was found to be linked to whether post-separation financial arrangements were equitable and needs-based (Cashmore *et al*. 2010). Interestingly, the extent to which shared care arrangements remained durable is uncertain given the paucity of focused research in this area. Yet, if shared care is not sustained there can be significant financial repercussions where property divisions and child support obligations are locked in.[10]

These issues have not been addressed by the recent reforms to the Act.

Care time in cases involving family violence

As noted, the number of shared care arrangements has risen (Kaspiew *et al*. 2009). Of concern is the finding that the presence of family violence or ongoing safety concerns did not reduce the likelihood that children experience shared care, time regardless of whether arrangements were made through courts, lawyer-led negotiation, family dispute resolution (FDR) or private arrangements (Kaspiew *et al*. 2009; Qu & Weston 2011).

Contact remains the norm for children exposed to violence, even where there is not a shared care arrangement (Kaspiew *et al*. 2009; Family Law Courts 2009). Termination of contact is rare and restrictions on violent parent contact are usually temporary, gradually building up to unsupervised and substantial time (Alexander 2010).

Conversely, domestic violence, along with other complexities, was the 'back story' behind outcomes for older children (adolescents) who *never* saw their other (non-resident) parent (Lodge & Alexander 2010). Where there had been violence, adolescents expressed relief at the separation, and the least desire for parental reunion (Lodge & Alexander 2010).

Impacts of care time arrangements in the context of violence and abuse

One of the key issues to emerge from the literature is that the trend towards increased contact and care time has not benefited children where there has been a history of domestic and family violence. Additionally, the view that children benefit from a relationship with a parent who has been abusive or, indeed, that such a relationship can be made 'meaningful' by more time with that parent has not been borne out by the research. Given that the legal changes introduced in 2006 were designed to increase time spent with the non-custodial parent (Chisholm 2009), the effect of this outcome on children's wellbeing and interests cannot be overlooked.

The quality of children's relationships with a parent prior to separation and the quality of parental inter-relationships post-separation (Cashmore *et al*. 2010) is more likely to influence wellbeing than the amount of time spent with a parent, particularly fathers (Cashmore *et al*. 2010; McIntosh *et al*. 2009; Smyth 2009). Greater amounts of overnight time with fathers did not equate to feelings of fathers' emotional availability for children, but it did if time with mothers was increased (McIntosh *et al*. 2010).

Thus, in situations of family violence where parental inter-relationships are defined by ongoing abuse (often construed as 'conflict') (Laing 2010; McIntosh & Chisholm 2008) and the history of the parent-child relationship is marked by fear (Bagshaw *et al*. 2010; Laing 2010), there seems little likelihood that increased contact (particularly where it is ordered by the courts) will benefit children. Increased father care time was not shown to equate with better outcomes for children regardless of whether there was a history of violence (Fehlberg *et al*. 2010). Where there has been fear, safety concerns, acrimonious conflict or harm, more time with the abusive parent was not beneficial to children (Kaspiew *et al*. 2009). Indeed, shared care time has been equated with poorer outcomes for children where there are safety concerns (ibid) or high levels of conflict or acrimony (McIntosh *et al*. 2009). The mental health, behaviour, attention and cognitive development for these children, as well as their reported wellbeing, is impaired (McIntosh & Chisholm 2008; McIntosh *et al*. 2010), which is unsurprising given the parallel findings that have emerged in recent years in relation to the impact of family violence on children (Laing 2010; Perry 2004).

Where post-separation arrangements involved rigid, inflexible shared care (usually through resolution of the dispute through judicial or pre-judicial mechanisms):

- mothers frequently reported feeling threatened by their partners
- litigation levels were high
- fathers had low regard for mothers' parenting skills and high levels of acrimony
- children and mothers became significantly more distressed over time
- children experienced higher levels of depressive and anxiety symptoms (McIntosh *et al*. 2010; Smyth 2009).

On the other hand, even where negative impacts on children's wellbeing were acknowledged, fathers felt shared care, particularly rigid shared care worked well for *themselves* (McIntosh *et al*. 2010).

Mothers also felt that the significance of their protective behaviours and safety-focused actions were undervalued and at times viewed with suspicion or negativity (Bagshaw *et al*. 2011; Laing 2010). This reduced children's capacity to overcome the difficulties caused by their exposure to domestic violence (Bagshaw *et al*. 2011).

Generally, violence, conflict and safety concerns had a greater impact on children's wellbeing than did care arrangements (Kaspiew *et al*. 2009). However, where there were serious concerns about safety, negative outcomes for children were higher for those in shared care arrangements than for children in primary mother care (Cashmore *et al*. 2010). Where mothers have expressed safety concerns, shared care arrangements were associated with lower child wellbeing (Kaspiew *et al*. 2009, pp. 270-271). This suggests that the destructive impact of ongoing exposure to domestic violence is increased when share-time arrangements are implemented.

The studies suggest that shared care has a negative impact on young children's wellbeing (Kaspiew *et al*. 2009; McIntosh *et al*. 2010). While increased contact or share time can be beneficial to some children (Smythe *et al*. 2009), such children come from families who do not engage with the legal system and whose parents have a history of cooperation, equality and mutual respect (McIntosh *et al*. 2010). The families where shared care works do not require laws to bring their parenting arrangements into being (Fehlberg *et al*. 2011).

System disjuncture

System fragmentation within and across jurisdictions has led to inconsistent or inadequate responses to family violence (ALRC & NSWLRC 2010). It also leads to practice fragmentation.

The following issues have emerged from the research:

- unwieldy and inadequate processes for information and file exchange, particularly in relation to policing and child protection information (ALRC & NSWLRC 2010)

- lack of coordination or discrepancies between state protection order systems and family law orders, that lead to heightened risk (ALRC & NSWLRC 2010; Family Law Council 2009; Laing 2010).

Women and children were found to often remain trapped within a service roundabout, between disparate state and territory agencies (courts, police, child protection), post-separation services and family law systems (ALRC & NSWLRC 2010; Laing 2010). Inadequate coordination was found to impact adversely on children's safety and wellbeing (Kaspiew *et al*. 2009).

Laing's (2010) study concluded that there has been a shifting of responsibility for child protection away from the state and into the realm of private (family) law. Protection of children from harm becomes contingent on the emotional and financial resources of protective parents, who have been required to take action themselves to attempt to provide their families with protection from abusers (ibid).

CONCLUSIONS

Several key conclusions emerge from this review of Australian studies on family law and family violence. The studies show that children who have experienced domestic violence remain exposed to contact with the perpetrator of violence after separation. Therefore, there is concerning potential for ongoing exposure to fear, trauma and harm for a growing number of children and their protective parent (upon whom their wellbeing is intertwined). This not only undermines safety but also reduces the capacity for women and children to recover and heal from abuse; yet such recovery is vital if children are to thrive and develop emotional, social and cognitive health (Australian Childhood Foundation 2011).

The research indicates that protective measures within the 2006 Act have not appeared to be effective in protecting or providing safety and recovery pathways for victims of family violence, in part because of their overriding 'success' in entrenching a pro-contact imperative into parenting outcomes. Decision making in the courts has substantiated concerns raised in these studies.

In addition, studies suggest that the family law system provides an additional layer of complexity and struggle for victims of family violence. Victims of family violence are not encouraged to disclose to family law system professionals and, when they do, they are often not believed. Information exchange across systems that might have supported and validated victims' experiences was found to be weak and ad hoc. Rather than assisting protection and recovery, engagement with family law makes life harder for victims. This can only be an additional deterrent[11] to women contemplating leaving an abusive relationship.

Finally, it is clear from the research considered for this review that separation cannot be relied upon as a pathway out of a violent relationship, given that contact arrangements provide a framework for potential ongoing interaction of victim and abuser that is sufficient to enable patterns of abuse to continue. The studies also indicated that ongoing litigation provides an avenue for emotional and financial abuse for many perpetrators. The impact of the ongoing potential for abuse (resulting from family law system processes) on the effectiveness of community education (prevention) activities, criminal justice system and protection order responses, as well as on domestic violence support work, has yet to be fully explored.

The 2011 amendments to the *Family Law Act 1975* have addressed some of the concerns emerging from the new evidence base by prioritising safety within the 'twin pillars' of meaningful relationship and safety, and removing some of the legal disincentives to disclosure (see above). However, the rich seam of knowledge provided by the research summarised in this paper has not yet been fully mined. Many issues of concern have not yet been addressed (WLSA 2011). Given ongoing pressure from 'fathers' rights' groups, this evidence base will prove valuable to policy and law makers for many years to come.

An extended review of the practice implications of this paper is found in the complementary Clearinghouse Research and Practice Brief 2 *Family law and family violence: research to practice* that can be accessed at **http://www.adfvc.unsw.edu.au/researchandpractice.htm**

FURTHER READING

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ENDNOTES

1 The author would like to thank Dr Rochelle Braaf for her comments and reviews during the preparation of this paper

2 Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011 (Cth)

3 *Family Law Amendment (Shared Parental Responsibility) Act 2006 (Cth)*

4 The author would like to thank Megan Sety for the methodological summaries (Sety 2011)

5 This consortium project is ongoing. For information and access to project reports, see: http://www.aifs.gov.au/growingup

6 Including state and territory protection order and child protection order legislation

7 Or was reported by lawyers to have stemmed from this concern

8 Laing 2010, p. 92

9 Although the new laws directly address conflict between issues of children's safety and their relationship with an abusive parent, the issues raised in this research are unlikely to be addressed, given that the stumbling blocks were around evidentiary issues

10 Along with the inadequate financial support available through current social security and child support regimes

11 See Cashmore *et al*. 2009; Qu & Weston 2010

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