

Dads in Distress Support Services
4 Duke St
Coffs Harbour NSW 2450
02 6652 8113
enquiries@dadsindistress.asn.au
29 May 2015

Dads in Distress Support Services (DIDSS) would like to thank the Victorian Government for establishing the Royal Commission into Family Violence. DIDSS believe that a concerted effort to address the issues is essential for the safety and personal security of Children, Men, and Women - and future generations. DIDSS have been working in this area with the separated Mums and Dads that attend our program since 1999, and have witnessed the impact of family violence across all age and gender spheres.

DIDSS is headquartered in Coffs Harbour NSW with staff based in Melbourne, along with over 40 volunteers in Victoria assisting to facilitate weekly peer support meetings in Frankston, Ashburton, St Kilda, St Albans, Bayswater and Geelong. We have a Mums in Distress (MIDSS) group in Parramatta NSW.

Key Recommendations:

1. **Early Intervention Strategies** adopted to deal with privacy concerns and risk assessment, followed by case management of those that are at significant risk of becoming lost in “the system”, the impact of which can be extensive costs to society and the individual.
2. **Increased confidence in “The System” to be an aim**
 - a) Improved court reporting. DIDSS finds that if clients are psychologically able to cope and therefore engage with the system, the results are generally balanced. Tactics adopted by various parties have also been reported - such as those by Justice Collier (Attachment A below). While reported to be largely gender biased, we have seen false allegations in many cases and have witnessed the practice to not be gender exclusive. From our experience this is a serious problem within the court system, delaying inevitable outcomes (when evidence is tested) and the fundamental purpose of the court (ability to act in the best interests of the children) which to achieve this aim needs to be done promptly. Such issues must be dealt with for the courts to be seen as being “fair and impartial” without bias.
 - b) Research on how to make the Family Law system seen to be impartial is required immediately. The system allows people to be incentivised by ‘taking the first strike’ which will put them at an advantage (such as making false accusations or by not sharing care of the children). Negative actions and consequences flow from that outcome, which are likely to result in people opting out of the system and failing to engage, sometimes with devastating consequences.

- c) Address other perceptions and actual gender bias. A high level of gender bias is perceived by many people when they engage with us, and some have virtually given up to the detriment of the children. Gender bias is also perceived (and in some cases justified) within Child protection units and other government departments. Such bias must be systematically eradicated so that all future parties have confidence to engage with them.

3. Longer term privacy and structural amendments

The federal Family court to be given a Registration and co-ordination role for all domestic relationship matters. The administrative arm (Registrars) to notify all court systems that the two parties are being case managed, which compels both parties to attend mediation, obtain a secure family report, affidavits etc. without the need for court appearances (such as mentions). Attendees to be provided information on the relevant services available in the respective areas, for example Family Relationship Centres, Legal Aid, Dads in Distress, Mensline Australia, and Women's Support Services

1. Background to Key Recommendation: Early Intervention Strategies

DIDSS have been involved with domestic violence perpetrators and victims of both genders, and find little difference to how they present when faced with the same situation. We have both men and women present with the emotional scars and long term issues with self-esteem when psychologically or physically attacked (with or without weapons).

DIDSS participants enter the program on a voluntary basis, and so we rarely see the recidivist violent people as they may not believe there is anything wrong with their behaviour. While we aim to rehabilitate recidivist violent people that do attend, the majority of people that come to us are involved in situational violence associated with Family Breakdown.

Upon family breakdown most parents are thrust into a legal world that is new to them, that they have never been prepared for, and may experience a flight-fight-freeze response:

- A fight response can be physical and acting in a way that is unacceptable to society. Early intervention and providing options tends to lower the tension with the situation and agreement to mediation can be the result. However this requires both parties wanting this avenue to work so court actions can be avoided.
- A flight response to escape imminent danger, often with their children, but if that is not possible attempts to recover the children can be emotionally, physically and financially draining.
- The freeze response often occurs "I cannot believe he/she did this" and they are unable to process what has occurred, often lose confidence in their identity, their employment, experience depression, homelessness and become a burden to society. It also reduces their capacity to be present for their children's needs.

- Or a combination of all of the above, and they may be in a situation where they cannot leave the relationship because their sense of self is their house and children along with an intact family.

Early intervention and engagement results in men and women quickly becoming equipped to deal with their situation, and minimises the likelihood and impact of irrational actions such as physical violence.

DIDSS clients present from all levels of society with no discrimination based upon income, ethnic background or religious persuasion. This does not mean that their individual needs are all the same, and they can be individual. Those that suffer the family breakdown can revive memories and emotional traumas of past horrors, whether they are childhood sex abuse, car accidents or war atrocities that impact their reaction to this new stress and potentially their ability to function.

DIDSS experience is that when people are engaged, can see a pathway forward, then this can eliminate the socially undesirable and community crippling behaviours evident though police statistics, homelessness and stress related illnesses which can prevent people from effectively participating within the work force. If short term issues are allowed to become long term and expensive as we regularly witness, then workplaces can be heavily impacted, or even close down as a result of entrenched trauma associated with family violence, including when physical injuries are not present.

DIDSS peer support group meetings are a combination of therapeutic and informational sessions led by accredited facilitators. While it is not appropriate to provide the lengthy details of the program in this submission, it should be sufficient to outline the statement that facilitators report that:

- No participants have been found guilty of a breach of an intervention order
- They are able to keep clients engaged and focused on the children
- Attendees stay calm while contesting false allegations (many of which are proven to be fraudulent)
- There is a high rate of participants reconnecting with their children

Some parents have experienced prolonged cases where the allegations are found to be driven by malice, mental health or other issues. In some cases the primary custodian changes, or shared care is implemented after due process occurs.

2. Background to Key Recommendation: Perceived bias in “The System”

DIDSS often ask their client base to participate in Academic surveys and research through surveys, and they regularly display a willingness to participate in personal interviews (often for a PhD study). Recent studies provide evidence of high levels of suicidality amongst both the displaced parent and children, particularly where high conflict and perjury were seen as acceptable behaviour through the court system.

DIDSS recognise that data collection issues and the lack of desire to report violence can distort statistics, however consider credited research put forward by organisations such as “One In Three” to be compelling. This is especially so when

experiencing first hand that police officers practices are convincing men to “not report” and hospital admissions where the cause of incident is concealed. The official police statistics which outline the numbers of each gender killed or injured in “Intimate Partner Violence” should prove to be a better indicator.

DIDSS has recognised that the majority of practicing psychologists tend to be gender neutral when it comes to the treatment of victims - “violence is violence”. Practical books such as those written by Dr Elizabeth Celi “Breaking the Silence” - a renowned psychologist and researcher in Domestic Violence outlines some of the statistics. A victim of domestic violence is a victim and there is a need to recognise and deal with all perpetrators and victims.

DIDSS (and MIDSS) observe that both genders experience the same issues when in similar circumstances, and a gender neutral approach should be adopted by the Commission. This will ensure that any procedures implemented will stand up in court and not be perceived to be biased. This will enhance the engagement by community sectors that may consider themselves marginalised by the system.

We note that even when a male calls the police to stop a situation escalating, it is invariably the man (even if the primary carer) that is removed from the family. Such police practices reinforce the perception of bias and this may be the first “touch point” in the long process that confronts them. We have only heard of a handful of cases where the female has been removed, and generally this was due to the woman attacking the police.

Many of the parents we meet have never dealt with police (apart from a traffic infringement) and this encounter can have a dramatic impact. The removal of a parent from the family home can be traumatic and this needs to be dealt with both immediately and professionally.

At this initial encounter any preconceptions of bias may be quickly reinforced as to how the eventual resultant outcome is perceived. Generally they leave the court room having only had a few minutes before a judge to be issued with an interim order and to return in several months. They may or may not understand what a mention is but realise they may not see their children for many months. Several months later they may then have submitted an affidavit and the judge may decide they wish to see certain evidence such as a family report or police statements which can represent more delays.

Further allegations may be made to the Department of Human Services and child welfare staff become involved. These accusations may need to be heard via an expensive court process. In the interim the displaced parent may be in shock and not functioning well, and often becomes incapable of requesting justice and becomes financially incapacitated.

3. Background to Key recommendation: Longer term privacy and structural amendments

The various courts and organisations do not share information which would allow an overview of the behaviour across the court systems. As an indication the current information sharing between organisations is believed to be:

Current Information Sharing	Family Court (Federal)	Magistrates Court (Federal)	Childrens Court (State)	Magistrates Court (State)	Family Relationship Services	Child Support Agency	Centrelink
Family Court (Federal)		✓	✗	✗	✗	✗	✗
Magistrates Court (Federal)	✓		✗	✗	✗	✗	✗
Childrens Court (State)	✗	✗		✓	✗	✗	✗
Magistrates Court (State)	✗	✗	✓		✗	✗	✗
Family Relationship Services	✗	✗	✗	✗		✗	✗
Child Support Agency	✗	✗	✗	✗	✗		✓
Centrelink	✗	✗	✗	✗	✗	✓	

To allow a better information sharing process the table should look like this:

Proposed Information Sharing	Family Court (Federal)	Magistrates Court (Federal)	Childrens Court (State)	Magistrates Court (State)	Family Relationship Services	Child Support Agency	Centrelink
Family Court (Federal)		✓	✓	✓	✓	✓	✓
Magistrates Court (Federal)	✓		✓	✓	✓	✓	✓
Childrens Court (State)	✓	✓		✓	✓	✓	✓
Magistrates Court (State)	✓	✓	✓		✓	✓	✓
Family Relationship Services	✓	✓	✓	✓		✓	✓
Child Support Agency	✓	✓	✓	✓	✓		✓
Centrelink	✓	✓	✓	✓	✓	✓	

A Risk Assessment should be carried out at the onset of identified or possible family violence when police attendance is requested or any other such report (e.g. Child abuse investigation requested by a school principal to a State Based Child protection agency).

The simple solution is to take out of the equation the proliferation of possible pathways and provide the parties with an easier solution. Under the auspices of the Federal Family Court a case worker should be appointed when there is a matter that represents high risks. A risk management tool should be developed that will assess the parameters and make the required orders immediately, and initiate relevant processes.

Notice could be sent to the various courts and organisations to intercept any cases, and to provide notification that the parties are being case managed, with all courts and stakeholders kept up to date. Family report, drug screening or psychological evaluation can be ordered immediately, and parties warned about the consequences of knowingly making false allegations and the penalties that could apply. Parties are ordered to assemble their affidavits, and legal aid appointed if appropriate, along with provision of information on services available.

Currently we constantly see disputes where custody is fraudulently lodged to Child Support as a means of securing greater income (in some cases to support drug or alcohol dependency), and the time taken to resolve it is to the detriment of the children.

Various checks and balances need to be established as family report writers can display bias within the recommendations. Assessment will be needed on how often the reports are found to be incorrect. If the result from a practitioner is 100% favouring one gender then consideration should be given to reviewing the cases and reviewing that practitioners ability to perform such work (as a normal outcome of professional standards monitoring).

Those parties to the dispute (the parents) found delaying cases through failure to attend court or to provide what has been requested (drug screens, attendance at mediation) should be scrutinised and a report provided to the court by the Registrar. We find the same pattern of behaviours though the various systems and the respective history needs to be shared across the systems.

Additional input into the Royal Commission:

This submission only contains some Key Recommendations - DIDSS would be available to consult to the Royal Commission if required. Dealing with over 5,000 cases ranging from low to high end trauma a year, provides DIDSS with experience that is likely to be of benefit to the commission.

Note: DIDSS has drafts of the key process (mentioned in section 3 above) along with case experiences as the basis for other sections along with suggestions for improvements to the various practices (at a more micro level) should the Royal Commission wish to benefit from this experience.

Attachment A

False abuse claims are the new court weapon, retiring judge says

Harriet Alexander

Published: July 6, 2013 - 3:00AM

Allegations of child sexual abuse are being increasingly invented by mothers to stop fathers from seeing their children, says a retiring Family Court judge.

Justice David Collier, retiring from Parramatta Family Court at the end of the month after 14 years on the bench, sees unprecedented hostility infiltrating the Family Court, and a willingness by parents to use their children to damage one another.

"If a husband and wife really get down to it in this day and age, dirt flies," Justice Collier said.

The worst are those mothers who direct false allegations of abuse against former partners.

"When you have heard the evidence, you realise that this is a person who's so determined to win that he or she will say anything. I'm satisfied that a number of people who have appeared before me have known that it is one of the ways of completely shutting husbands out of the child's life.

"It's a horrible weapon."

Such cases are fraught for Family Court judges. Once an allegation has been made it is impossible to ignore. The court must deem whether there is an "unacceptable risk" of abuse occurring in the father's care.

Sometimes the allegations are obviously fabricated, other times they are probably true.

"It's that grey area in the middle that you lose sleep over at night, and you do lose sleep," Justice Collier said.

"They're difficult to disprove. The allegation lingers there."

Barrister Esther Lawson, who sits on the family law committee at the NSW Bar Association, said anecdotally there appeared to be an increase in allegations of sexual abuse coming before the court, but the reasons were unclear.

She also warned that the consequence of false allegations could return to haunt the accuser, including the loss of time with their children.

"Clearly there are cases where there is reliable evidence that sexual abuse has taken place and these matters need to be properly ventilated," Ms Lawson said.

"But if the court finds that allegations have been maliciously motivated then there may be potential consequences, including a change in the child's primary residence."

It is rare for Family Court judges to speak publicly about their views. Many are still haunted by the 1980 murder of Justice David Opas and 1984 bombings of the Parramatta Family Court building and homes of two judges.

Judgments are now more involved, partly so the losing party can understand the reasoning behind decisions. Justice Collier said the cases were also more complicated, as litigants raise more matters and run each of them to earth. Facebook pages are frequently called into evidence.

"A mother declares she lives a chaste and modest life and then on Facebook says, 'Guess what I did last night', and Dad's only too happy to put it before you."

He puts much of the venom down to a generation of people more assertive of their rights, and now entering relationships.

But it disheartens him to leave the court so, after a satisfying career. He used to keep a magic wand, which he has now passed on to his colleague Justice Bill Johnson.

"I wished I could wave that magic wand and say, 'Be nice to each other'," Justice Collier said. "That's the only order I would have to make."

This story was found at: <http://www.smh.com.au/national/false-abuse-claims-are-the-new-court-weapon-retiring-judge-says-20130705-2phao.html>