

**FAMILY VIOLENCE AND FAMILY LAW IN  
AUSTRALIA:  
THE VIEWS AND EXPERIENCES OF  
CHILDREN & ADULTS FROM FAMILIES  
WHO SEPARATED POST-1995 & POST- 2006**

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Dale Bagshaw and Thea Brown

AND

University of South Australia: Sarah Wendt, Alan Campbell,  
Elspeth McInnes, Joanne Baker

James Cook University: Beth Tinning

Monash University: Becky Batagol, Adiva Sifris, Danielle  
Tyson, Paula Fernando Arias

# BACKGROUND

- Major Changes to Australia's family law legislation in 2006
- Aim of the Changes was:
  - (1) To achieve a profound shift in community and parental thinking and actions in parenting post separation and divorce
  - (2) To support this with a re-structured and expanded services system
- The themes expressed in the changes were: focus on the children, collaborative parenting, greater involvement of both parents, protection of children from violence and abuse.

# RESEARCH TO UNDERPIN REFORMS

- AIFS commissioned to evaluate the reforms comprehensively BUT without a special focus on family violence (AIFS, 2009)
- Subsequent to the change of govt, Attorney-General's Dept commissioned further research mostly focusing on family violence (four studies)
- They were: Family Law Council Review, Richard Chisholm's study, ALRC's Consultation and this study
- [http://www.ag.gov.au/www/agd/agd.nsf/Page/Families\\_FamilyRelationshipServicesOverviewofPrograms\\_ResearchProjectsonSharedCareParentingandFamilyViolence](http://www.ag.gov.au/www/agd/agd.nsf/Page/Families_FamilyRelationshipServicesOverviewofPrograms_ResearchProjectsonSharedCareParentingandFamilyViolence)

# RESEARCH OBJECTIVES

- AG set the objectives of the study as
- Impact of Presence or History of Violence on Decisions Separating People make :
  - (1) About Accessing Dispute Resolution Services and Courts
  - (2) While they are using Dispute Resolutions Services or Courts  
AND
  - (3) The Impact of a Presence or History of Violence on Post Separation Parenting  
From both an adult and a child's perspective

# RESEARCH FRAMEWORK

- Objectives implied a framework of:
- Rational Decision- Making before and after separation
- Movement to and through services
- In summary, a **Pathways Framework** (FLPAG, 2001)
- However, some **Incongruence of Framework with Current Understanding of Family Violence**
- But **Congruence with criticisms of legislation and services system ability** to address family violence made both before and after 2006 legislative changes

# RESEARCH DESIGN

- Design was an **explanatory one** seeking the views and experiences of adults & children from separated families as from 1995 to the present time (**pre and post 2006**) with, and without, a history or presence of family violence
- Data collected from an **on line survey of adults , of children, a telephone call back to a small sample of those adults, a phone in for adults and children based in SA and another based in QLD**
- Respondents totalled **1236**, 913 adults and 105 children on line, 106 adults and 12 children from phone ins

# RESPONDENTS

- Respondents from all states, ethnic and racial backgrounds and OZ and OS places of birth
- Adult respondents were 3 Women to 1 Male
- 85% of women reported family violence cf 56% of men
- Respondents fell into 5 groups:
  - (1) 7.4% made no arrangements
  - (2) 10.1% made their own arrangements
  - (3) 23.5% used services after 1995 but not after 2006
  - (4) 29.4% used services after 2006
  - (5) 29.6% used services after 1995 and after 2006

# IMPACT OF THE VIOLENCE ON DECISION MAKING

- 65% of women reported violence caused separation
- 17.5% of above women used **no services**; 20% of these women avoided services due to fears of partners' violence
- **Common pattern of service usage reflected the Pathways Framework**
- 78% went to friends and family first; constant support\*
- 74% went to private legal practitioners ; 81% after 2006
- 42% used Family Relationship Centres ;57% after 2006 ... respondent confusion)
- 67% went to Court before 2006; 50% afterwards)



# SATISFACTION WITH SERVICES

- Disbelief: 34% of women and 19% of men felt believed
- Services outside family law showed most belief (DV services, GPs & Centrelink ) and satisfaction
- Problems with Solicitors: **warnings** to avoid court, unfriendly parent, unproven allegations , cost penalties, equal time -> **pressure to keep silent**
- Problems with FRCs: **ignorance re DV** -> not addressed in pre-mediation education or mediation
- Problems with Courts: **ignorance re DV** -> ignored in assessments, decisions re contact , acceptance of reports from other authorities -> **children unsafe**
- **Service Satisfaction low before 2006 and afterwards**

# IMPACT ON RESPONDENTS

- Most respondents did not plan for, or expect the difficulties they encountered , especially the disbelief and disregard ....only 60% disclosed FV to FRCs
- They became confused, distressed, angry, anxious, felt coerced, especially about their children, and they and children developed mental health problems, especially when the problems with disbelief and disregard of the FV occurred repetitively
- Worst impact was for those respondents where **violence, mental illness and substance abuse co-existed** as they felt forced into long term unresolved repetitive disputes to guard their children's safety

# CHILDREN'S VIEWS

- Some 39% of children felt unsafe with Father
- Some 10% of children felt unsafe with Mother
- Did not want contact with perpetrating parent
- Children felt **hopeless and powerless**
- Thus, Parents and Children's views were in accord re dangers to CHILDREN'S SAFETY
- Some 43% of these children were subject to court orders
- **Resented lack of opportunity to express views** (note child inclusiveness is subject to parental agreement)
- And they **wished to participate in the decision making process** regarding their care

# CONCLUSIONS

- In summary, yes, a presence or a history of family violence did affect mothers, fathers and children in terms of their decisions to separate, to access services, how they used them and how they parented post separation as well as the constraints of the legislation and the services established thereby
- Respondents were dissatisfied with their experiences of using the service system both before and after the 2006 legislation because they did not think the services understood family violence, its impact on them or on their children regarding their care