

# Abuse on Contact (AOC): Keeping Children Safe on Contact

Presenter:

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# What was the AOC project?

Collaboration between 3 agencies:

1. Women's Legal Service QLD
2. Ipswich Women's Centre Against DV and
3. Carinity-Talera - children's DV program.

Development of the training package was funded by the Ian Potter Foundation.



contact





## What is Abuse on Contact (AOC)?

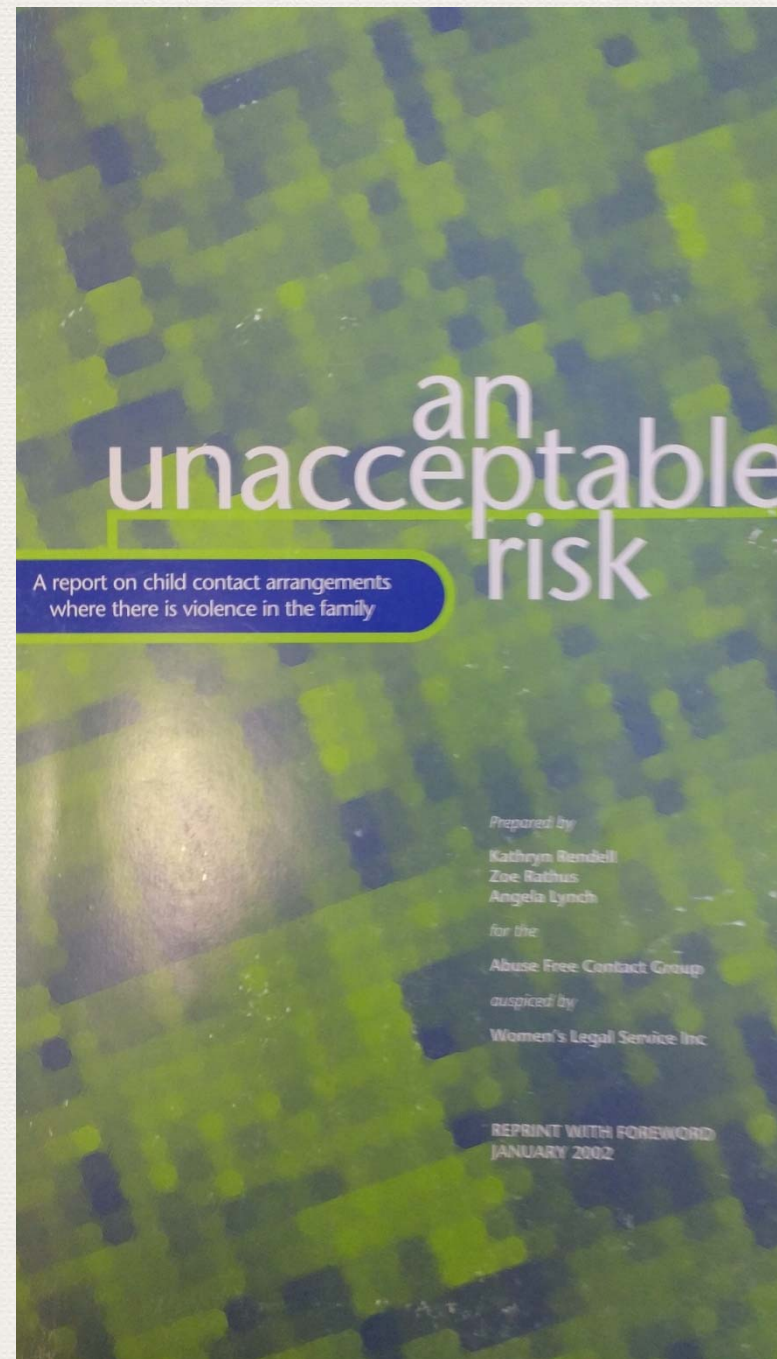
*AOC is harm that occurs when victims (both victims and adults) of family and domestic violence (FDV) are **exposed to ongoing violence post-separation** as a result of the **legal requirement** to comply with family law orders, parenting plans or other agreements that **allow or promote time** between children and the perpetrator of violence.*





## A Long History

AOC has not gone away  
but has it got worse?





**We are doing this because  
women and children are still  
dying!!!**





## Listen and act on concerns of FDV

COURIERMAIL.COM.AU

JUNE 2-3 2012

33

### Family violence laws changed to protect kids like Darcey



Darcey Freeman was on her way to school when her father threw her off a bridge.

AUNSLY PATEY  
FAMILY LAW REPORTER

#### REFORMS TO SAFEGUARD CHILDREN CAUGHT IN THE MIDDLE

PARENTS arguing in front of children and withholding financial support will now qualify as violence under landmark reforms set to be rolled out by the Family Court.

That means any behaviour which causes a child to be

Under the reforms, family violence is now anything that causes a "child serious psychological harm" including:

- Assault, sexual assault or other sexually abusive behaviour, stalking, repeated derogatory taunts, intentionally damaging or destroying property, intentionally causing death or injury to an animal, unreasonably denying the

family member the financial autonomy that he or she would otherwise have, unreasonable withholding of financial support needed to meet the reasonable living expenses of the family member, or his or her child, at a time when the family member is entirely or predominantly dependent on the person for financial support, preventing the family member from making or keeping connections with his or her family, friends or culture

and deprivation of liberty. The changes now define exposure to violence as:

- A child seeing or hearing family violence or experiencing the effects of family violence.

- "Overhearing" death threats, seeing or hearing an assault, comforting or providing assistance to a family member who has been assaulted, cleaning up a site after a family

member has intentionally damaged property, being present when police or paramedics attend an assault involving a family member.

- The laws have removed the so-called "friendly parent provision" which requires courts to look at the willingness of each parent to encourage a close and continuing relationship between the child and other parent.

An overhaul of the Domestic Violence Protection Act in Queensland is to follow in October after it was the last act passed by Labor last year, with LNP backing.

Clinical child psychologist Dr Jennifer McIntosh is among several experts highly critical of the 2006 Family Law Act changes which introduced the shared parenting rules.

"The revisions are heartening for those children whose parents remain in damaging levels of conflict or who live with violence," Dr McIntosh said of the changes.

"It is very unfortunate the shared parenting laws were not amended too at this time."

The Family Violence Act is not a roll-back of the Howard government's 2006 shared parenting reforms.

Only cases involving family violence will be affected by the reforms, which will only apply to cases filed after Thursday.

A child's right to have a "meaningful relationship" with both parents will remain the main consideration in a custody battle, except where violence is involved.

Parents who "knowingly make false statements" to the court will still face costs ordered against them and the prospect of a perjury charge.

Several men's groups have opposed the laws, with Men's Health Australia arguing they give parents - mostly mothers - an open licence to fabricate allegations of violence and abuse against them.

In its submission to a Senate Inquiry on family violence in 2011, the Joint Parenting Association claimed the laws failed to distinguish between menacing verbal behaviour and verbal "put downs".

Relationships Australia successfully argued for threats of "self harm" as a controlling behaviour to be added to the legislation.

But Family Law Prac-

*"For the past two years various authorities have been made aware of our fears for the safety of the children and unfortunately no one would listen. We feel the judicial system has failed our family and will continue to fail other families until someone in authority starts to take action."*

*Darcey Freeman's Uncle, media statement, 2009.*



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## The role of lawyers a key consideration



## Darcy Freeman Coronial Inquiry

<http://www.theage.com.au/victoria/darcey-freemans-death-leads-to-inquiry-on-whether-lawyers-should-report-family-violence-20150205-1374nb.html>

Not Now: Not Ever

Rec107/108 – the QLS develops best practice standards for lawyers working with people who have experienced FDV in accordance with LAQ model guidelines and in consultation with etc.....



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What was its aim?

- If FDV is *truly* everyone's responsibility then workers need support to recognise and respond appropriately.
- Everyone can make a difference!
- A well timed and informed intervention can make a critical difference – no matter how small.





**We need to get very good at the very start;  
the primary prevention end. Once we get to  
the court end, once we get the bail  
breaches, once we get intervention order  
breaches, it's gone too far, we've lost.**

**Chief Commissioner of Victoria Police,  
White Ribbon Ambassador, Ken Lay.**



**White Ribbon** @WhiteRibbonAust · Aug 27

Ken Lay on stopping men's violence against women:

[buzz.mw/bcu6n\\_I](https://buzz.mw/bcu6n_I) [pic.twitter.com/U5UQUGWaqE](https://pic.twitter.com/U5UQUGWaqE)

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## 10 Takeaway points



1. FDV is a **risk marker** for children.
2. Perpetrating FDV **is child abuse and** can **co-occur** with other forms of child abuse.
3. Separation is a **dangerous** time.
4. Risk **fluctuates** and is not fixed.
5. FDV **continues after separation** and can manifest into AOC.
6. AOC is serious and can include outcomes up to and **including lethality**.
7. **Screen** for and identify FDV (AOC).
8. Know your limits and refer to **specialist agencies**.
9. Early legal advice is **crucial**.
10. **No legal presumption** of 50:50 time.





**The more 'formal' the parenting arrangement the more difficult it is to change and potential consequences for breaking the arrangement:**



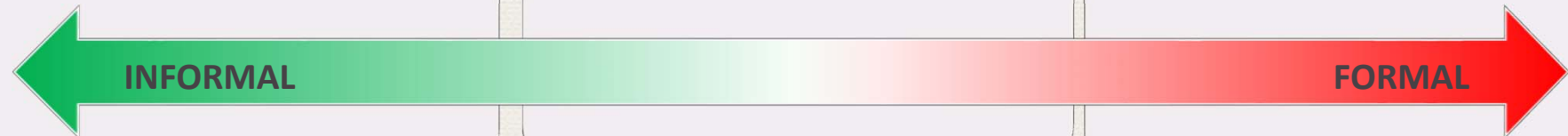
**VERBAL  
AGREEMENT**



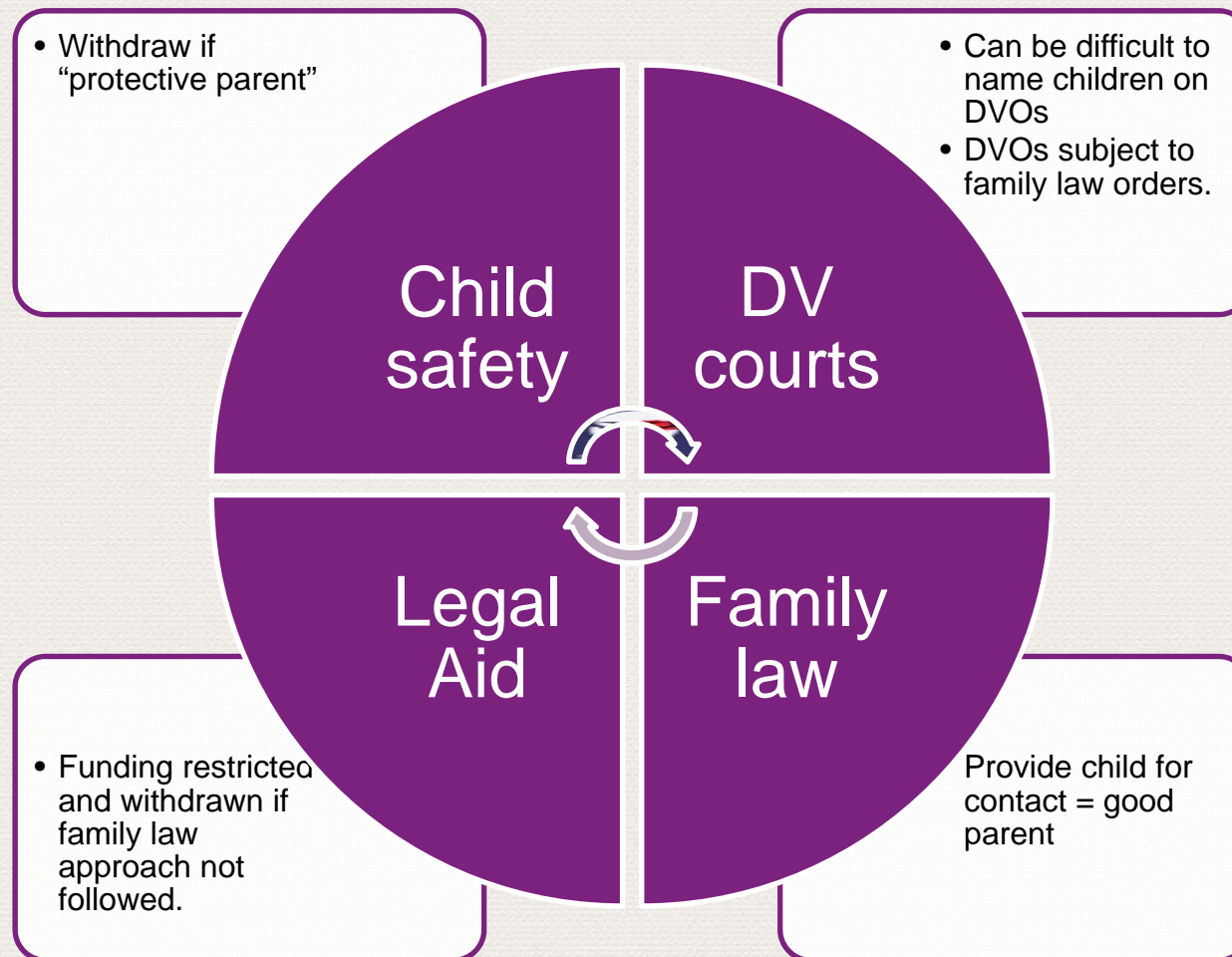
**PARENTING  
PLAN**



**COURT  
ORDER**







## The protection of children:

Becomes the individual responsibility of vulnerable women





# What's the evidence



- AIFS research of post 2006 reforms - unless there was strong corroborative evidence – **overnight contact was commonly ordered when there was FDV irrespective of the allegation and the weight of evidence.**
- Numerous research papers and evaluations identified a serious issue with FDV post 2006 reforms to Family Law Act including reports by AIFS, Family Law Council, Professor Richard Chisholm and others.
- The Darcy Freeman case – internal AGD review.





# And there's more.....

- The conclusions of the research formed the evidence base for the reforms in 2012 (*Family Law Legislation Amendment (Family Violence and Other Measures Act 2011)*) that prioritised the safety of children.





Nearly there.....



- 2013 research by AIFS into Independent Children's Lawyers – questioned the quality and efficacy of some ICLs. Highlighted issues of training, monitoring and evaluation.
- Telling research of recent reported family law judgements by Easteal and Grey – *orders of no time or even supervised time are **not the norm** in cases involving allegations of either child abuse or exposure to FDV.*



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## Law Council of Australia submission

Senate Inquiry into DV in Australia



*“It is nevertheless the case that the 2006 reforms have contributed to a great focus both on shared parenting in families where violence is not an issue and on ongoing involvement in children's lives by perpetrators of DV.....*

*.....the 2012 reforms provided legislative confirmation that the safety of children was to be prioritised but the difficulties associated with the 2006 reforms largely remain.” p.3*





# Legal Information Resources:

<https://www.wlsq.org.au/resources/legal-toolkit/>

1800 Respect - online resources for workers and professionals

<https://www.1800respect.org.au/workers/>



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## What next??



- **As a matter of urgency the development of FDV risk factors specific to children building on existing knowledge of FDV risk for adults.**

- **A national approach to FDV deaths (both adults and children), collating data, investigating system's failure at both a state and federal level, public accountability, timely recommendations and acting on the learnings in a *timely* manner. Building on existing FDV death reviews where they exist. They need to be properly funded and multi-disciplinary teams with FDV expertise.**

- **Urgent recognition in child protection and family law processes when there is violence towards women, children are at significant risk.**

- **Urgent need for FDV risk screening and FDV risk assessment in family law processes (and child protection).**

- **Urgent need for specialised FDV reports by FDV experts in family law and child protection processes.**

- **We owe it to all the women and children who have died and are at risk to learn from system's failure and make changes.**





## Sources

- Johnson, C.H. (2005) *Come with Daddy: Child Murder-Suicide After Family Breakdown*: Western Australian Press.
- New South Wales Domestic Violence Death Review Team (2015) *Domestic Violence Death Review Team Annual Report*. Sydney: New South Wales Government.
- Kirkwood D Dr and McKenzie M (2013) *Filicide in the Context of Parental Separation* 27 AJFL.
- Maloney, Smyth, Weston, Richardson, Qu and Gray (2012) : *Allegations of Family Violence and Child abuse in Family Law Children's Proceedings: A Pre-reform explanatory Study AIFS*.
- Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011 Replacement Explanatory Amendment at [http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r4562\\_ems\\_46a0dae0-4515-44dd-a09b-](http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r4562_ems_46a0dae0-4515-44dd-a09b-) for a full list of all the research reports relied upon to support the amendments.
- Independent Children's Lawyer Study (2013) AIFS Final Report at <http://www.ag.gov.au/Publications/Pages/IndependentChildrensLawyersStudy.aspx>
- P Eastaer and D Grey "Risk of harm to children from exposure to family violence: Looking at how it is understood and considered by the judiciary" AJFL(2013) at 59
- Law Council of Australia submission No. 130 to the Senate Inquiry into Domestic Violence in Australia at [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Finance\\_and\\_Public\\_Administration/Domestic\\_Violence/Submissions](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Finance_and_Public_Administration/Domestic_Violence/Submissions)





