

*Address
by*

*Robin Sullivan
Commissioner for Children and Young People*

At the

*Domestic Violence Court Assistance Network
Conference*

*at
Parliamentary Annexe*

on

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Thank you for inviting me to be here today at the Queensland Domestic Violence Court Assistance Network conference and I would like to acknowledge the traditional owners of this land.

As Commissioner for Children and Young People, I appreciate the opportunity to attend these kinds of events as it gives me the chance to speak to people from different backgrounds about the issues you face in your day-to-day work.

It also gives me the chance to talk to you about matters that impact on children and young people.

Today, I'll be talking to you about the impact of family and domestic violence on children and young people – a matter about which I have a particular concern.

Before I go any further, let me briefly tell you a bit about the Commission for those who may not be familiar with us.

Our goal is to promote and protect the rights, interests and wellbeing of Queensland's children and young people.

We are committed to promoting a child friendly community that values and respects children and acknowledges their rights, needs and interests.

The original Children's Commission was established in 1996. Queensland was the first state in Australia to establish such a Commission. Since then, NSW and Tasmania have followed suit.

In February 2001, the *Commission for Children and Young People Act 2000* was established.

This legislation re-established the Commission as the Commission for Children and Young People, making it an independent statutory authority with broadened scope, functions and powers.

The new Act effectively established one of the most empowered Children's Commissions in the world.

Our Act embodies the principles of the United Nations Convention on the Rights of the Child, and empowers the Commission to make a real difference in the lives of Queensland children and young people, particularly those most disadvantaged.

Our functions include:

- advocacy
- receiving and investigating complaints about government and non-government services to children
- a state-wide Community Visitors service to support children living in out-of-home care
- a monitoring and reviewing function
- a research function
- employment screening and the Working with Children Check

Today I would like to concentrate on the effects of domestic and family violence on children and young people.

It concerns greatly that some people try to make a distinction between children who are abused and those who witness domestic violence.

This distinction implies that children who witness domestic violence are not also being harmed, and suggests that 'witnessing' something is not experiencing it.

Jude Irwin reflected these concerns in her presentation last Friday at the Queensland Centre for Domestic and Family Violence at Central Queensland University.

She commented that labelling children as 'witnesses' to domestic violence puts them outside the situation, when in fact they are very much a part of it, often in a variety of ways.

They could include:

- being denied a safe and supportive environment in which to grow and develop
- becoming socially isolated
- being forced to phone the police or others for assistance or to take responsibility for younger children
- witnessing their mother being abused
- intervening to protect the mother, and / or
- being physically, verbally or emotionally abused themselvesⁱ.

Further, Irwin asked whether, if children and young people are considered to be outside the situation, how does this impact on the services provided to them?

How do they access support or accommodation if the situation is not theirs?

I consider the growing recognition that children living with family violence are experiencing indirect abuse a positive stepⁱⁱ.

A study by Wolak and Finkelhorⁱⁱⁱ identified the following protective factors that can enhance children's resilience:

- child factors such as adaptability and temperament
- family factors, including sound relationships with other family members, and
- extra familial factors such as support from teachers and peers.

I am conscious that this list and others I am about to show you are broad generalisations and do not take into account specific resilience factors that may mitigate against these effects in the case of individual children and young people^{iv}.

But failure to recognise the effects of violence and abuse on children can mean that issues and symptoms go unnoticed or are attributed to other factors.

For infants exposed to family violence, some of the effects include:

- poorer health
- poorer sleeping habits
- excessive crying^v

- significant risk for disturbed attachment with their mother^{vi}.

[For toddlers:

- increased frequency of illness
- extreme shyness
- low self-esteem
- social problems such as hitting and biting.
- boys demonstrate greater rates of aggressive behaviour, and
- girls tend to demonstrate more withdrawn, passive, clinging and anxious behaviour^{vii}.

Pre-schoolers exhibit similar effects as toddlers, but also experience:

- increased psychosomatic symptoms
- tendency to assume personal blame for the violence, and
- increased levels of anxiety and social isolation^{viii}.

In addition, primary school aged children experience:

- greater difficulty with school work and concentration
- poor school attendance
- more rebellious against authority
- more aggressive
- greater difficulty with peer relationships
- more depression, and
- girls are more anxious and withdrawn than boys^{ix}.

For adolescents:

- living with family violence is a strong predictor of severe problems including depression, aggression and violent delinquency^x
- some children have learned to use violence as an acceptable way of solving problems, forming the next link in the chain of intergenerational violence
- observing parental aggression and violence is more strongly related to future involvement in severe marital violence than is being the victim of abuse^{xi}, and
- some boys begin modelling the perpetrator's behaviour and begin assaulting their mother or siblings^{xii}.

In addition, exposure to parental violence influences young people's attitudes - either making them more accepting, or highly intolerant of violence^{xiii}.

The extent of the impact of domestic and family violence on Queensland children can be better understood by knowing the incidence and children's exposure to it.

Many of you probably already know that for the month of May this year, there were 1545 Domestic Violence Orders issued in Queensland^{xiv}.

This is 46 per cent higher than the same month last year^{xv}, and is an average of nearly 360 cases per week. And of course, this does not include those matters that don't come before the authorities.

It's estimated that children are present in 88% of violent homes and that 90% of these have witnessed violence^{xvi}.

Research conducted in the UK by Malos and colleagues found that a significant problem in addressing issues of domestic and family violence for children and young people is that they are not being listened to and their understanding of what is happening is frequently overlooked^{xvii}.

To go back to Jude Irwin's presentation, she reported on a study she and her colleagues conducted on domestic violence and child protection over four years in New South Wales.

I would like to take the opportunity to commend them for including in the study interviews with young people asking them about their needs in relation to domestic violence^{xviii}.

One of the strong messages was that young people want better access to services for themselves and their mothers.

Irwin et al^{xix} found that children did much better if they had someone such as a teacher, police officer, relative or friend who listened to them and supported them.

Young people who have external support are more likely to make a change and not accept domestic violence as a normal part of a relationship.

This is a point I really need to emphasise to you as service providers.

I ask that those providing court or other assistance in domestic and family violence matters consider children and young people in your supporting role and listen to them wherever possible.

The notion of children and young people being 'witnesses to' domestic and family violence rather than 'victims of' it has probably shaped the way they are viewed by the criminal justice system.

The system tends to view witnesses as a pair of eyes or ears at a place when an event occurred. A witness is seen as distinct from the victim or complainant, the person who suffered the event.

It is my view, that the criminal justice system is primed by the court interpretation of the term 'witness' to view those described as witnesses separately from the victim in an incident.

To reverse this generalisation requires a conscious effort on the part of these systems, which some are only just beginning to address.

So what is the role of the police and courts in this?

First, I want to acknowledge that domestic violence matters constitute a large proportion of the police service's work.

This is predicted to increase markedly when the additional categories of domestic and family violence included under the amended legislation in Queensland take effect - particularly as these changes are currently not accompanied by additional resourcing.

At present in Queensland, when police are called to a domestic violence situation they are not required to report that a child has witnessed the domestic violence.

This contrasts with the situation in New South Wales, where protocols have recently been established that require police to notify the Department of Community Services when a child has been present at a domestic violence incident^{xx}.

This system is only in its early stages, and is having a significant impact on their Department of Community Services (DoCS), which is still being assessed.

However, Queensland needs to monitor this new protocol closely with a view to implementing something similar, so children in domestic and family violence situations can be appropriately assessed and supported.

The other major area of concern is the risk of children falling between the gaps when they come before the Family Court.

These children, who under any other circumstance would be of interest to the relevant state department of families, end up with neither agency effectively protecting them. We frequently talk about the “silo” effect that occurs where agencies can’t cross-reference their information.

But this is one area in which we must work as quickly as possible for change, particularly as a recent Family Law Council Report shows that the Family Court is increasingly becoming a forum for resolving family violence^{xxi}.

An analysis of Family Court cases in Melbourne and Canberra between January 1994 and June 1995 found that 50% of pre-hearing conference cases involved allegations of child abuse.

Of those that went to court, 25% involved allegations of abuse^{xxii}.

This compares with a review of 700 Melbourne Family Court cases in 1977, where over 40% of those waiting for pre-hearing conferences involved allegations of some form of abuse^{xxiii} - 10% less than in 1995

It has been acknowledged at the highest levels of Family Law reform that the Family Court fails to protect children from serious abuse^{xxiv}. The Court’s focus is on the parental contest. The onus is not on the Family Court to investigate allegations of violence or abuse, but rather on the parents to either prove or disprove the allegations^{xxv}.

Unfortunately, in this environment, allegations of child abuse tend to become trivialised, disbelieved and dismissed or seen to be contrived by vindictive mothers^{xxvi}.

Last year, the Family Law Council released its report *Family Law and Child Protection*^{xxvii}.

I’m pleased to say that the Commission has been involved in consultations during the process.

The reports' underlying argument is that where child protection issues exist in proceedings under the Family Law Act, the protection of the child is of major concern^{xxviii}.

The report considers how the state and federal systems interact to best protect the basic rights of the child where there are child protection issues.

We need to ensure that the different systems involved in cases of violence and abuse talk to each other and work together.

We need to ensure that the rights of the child are listened to in these cases and that their protection is paramount. This must occur as early as possible.

I am sure you are all aware of the Family Law Magellan pilot project.

This project recognised the importance of a total service framework when dealing with allegations of child abuse in family court situations.

It involved developing formal agreements between the key agencies involved at both state and federal level. The aim was to improve the effectiveness of services to families where abuse was experienced^{xxix}.

Listening to the children and young people who experience violence and asking them questions is fundamental to dealing with the current problems.

What do children and young people who have lived with domestic and family violence tell us about their experiences with the Family Court and legal profession?^{xxx}

They talk of feelings of the terror of ever seeing their fathers again. It's only when they know this will not happen that they feel safe.

They express feelings of ambivalence and reluctance, and of needing adults to listen to their fears.

Some continue to have feelings for their fathers but want to know they will be safe if they see them. They resent the pressure put on them by courts, laws, and adults to have contact when this is not what they want.

This is especially the case when their reasons are not believed.

When a child has spent years living with family violence, imagine how frustrating and disempowering it is not to be believed?

Or when a child has agonised over their decision of not wanting contact with an abusive parent, how it must feel to have their decision brushed aside?

To address these issues for children and young people, legislative reform is clearly necessary.

We need to ensure that the legal system recognises the vulnerability and needs of any child who has lived through violence or abuse.

Reform is also necessary in the way in which children give evidence in the Family Court. Recent research from the U K, which applies equally in Australia, recommends that any history of domestic and family violence must be considered when decisions about residence and contact are made, assessing the risks to both the children and mother.

It also identifies the need for a quick reaction if danger becomes evident at any stage^{xxxii}.

This involves a re-think about violence as a broad, complex problem that transgresses organisational boundaries.

It impacts on the welfare system; health; education; civil and criminal justice domains^{xxxiii}.

We need to consider these matters fully on a case by case basis; ensure that information and support in relation to violence, abuse, or risk of harm does not stop and start at jurisdictional boundaries, and seriously consider children and young people's comments and wishes.

Only when these matters are addressed in law will we be able to avoid situations which I am sure that many of you have been exposed to in your work.

As Commissioner for Children and Young People, I would like to conclude with words of a song from a young person. This song is number 14 from a CD called "*Don't Ignore This*" which was launched last month by the Northern Alliance Against Domestic Violence Network, established on Brisbane's north side (Phone 3260 6820).

The CD is a compilation of songs that record the thoughts and feelings of young people who have experienced domestic violence.

This song is called *Love But Hate* and is composed and sung by a young person who has asked to go under the name of Lau. It very poignantly expresses the feelings of a young person whose life has been torn apart by domestic violence.

As you heard this young person suffers the sadness, hurt and confusion, and the love-hate conflict associated with violence and abuse. I'm sure they are feelings experienced by most victims of domestic and family violence.

Once again, thank you for inviting me to speak here today. I hope I have given you some ideas to take away with you and that you may be able to address some of these concerns in your day-to-day work with victims of domestic violence, particularly children and young people.

In turn, I look forward to hearing your opinions and experiences, and hope we can work together to protect and support all children and young people affected by domestic and family violence.

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