Women’s advocates, specialist domestic violence services, researchers and academics have identified critical issues affecting women and children who have experienced domestic violence and abuse in their journey through the Australian Family Law system. A growing body of knowledge persistently demonstrates that domestic violence is poorly responded to with outcomes that frequently leave women and children exposed and vulnerable to further abuse and psychological and emotional long term damage.

1. **Domestic Violence/Child Abuse in Family Law Matters**
   1. The research into allegations of violence in the family court by Moloney et al (2007) identified that in most cases involving allegations of violence or abuse there was no difference from the orders typical of cases where there was no abuse. That is, allegations of violence made NO DIFFERENCE to the outcome of the court hearing or the frequency of children’s contact with the violent parent. This not only empirically explodes the false argument that ‘women make false allegations for advantage in the family law system’, but it also illustrates the manifest failure of the family law system to fulfill its obligations to protect children and adults from abuse (See McInnes 2008, 2007a, 2004).
   2. It is now well-documented that family violence and safety concerns, mental health problems, and issues related to drug, alcohol, and other addictions feature frequently in families using Australia’s family law system (Kaspiew et al, 2009). Allegations of family violence and/or child abuse are raised in a majority of judicially determined cases (Kaspiew, 2005; Kaspiew et al, 2009; Moloney et al, 2007).
2. **Disclosure of violence and abuse.**

Research has consistently indicated that mothers have felt discouraged from disclosing family violence and child abuse concerns partly because of their belief that there is a legal starting point of shared time, so there is no point disclosing violence—particularly given problems of proof and the risk of being viewed as an ‘unfriendly parent’ (Bagshaw et al, 2010; Chisholm, 2009; Fehlberg et al, 2009; Kaspiew et al, 2009).

1. Evidence of a narrow (and suspicious) approach to stories of violence within the family law system, which has hampered women’s ability to raise their safety concerns.3131 R. Chisholm, *Family Courts Violence Review* (27 November 2009), at 103.
2. Research of judicial decision-making - evidence of violent behaviour needs to meet a “stringent standard” of severity and corroboration before outcomes begin to look any different to cases in which there are no allegations of risk to the child, and it seems that family lawyers are well aware of these requirements.
3. **Common beliefs that shaped responses to mothers’ efforts to achieve safety (Laing 2010)**

Layered over this systemic complexity was a range of beliefs about women, allegations of abuse and family law and about the appropriate form of post separating parenting that appeared to shape a lens through which women’s concerns about safety were viewed. This lens was applied, not solely in the family law arena but also in the wider domestic violence and child protection service networks once the context of separation and family law was identified.

The common beliefs that shaped this lens were: that children need a relationship with their fathers (even in a context of abuse and violence), women fabricate allegations of child abuse and domestic violence; mothers attempt to stop contact, including by alienating children from fathers, women should not raise allegations of violence and abuse in the family law system and that shared care or at least some contact is inevitable, no matter what violence or abuse has occurred prior to separation and this can be negotiated.

The current family law system contributes to homelessness outcomes amongst separating parents – particularly mothers with violent and abusive ex-partners. The push for increased shared parenting arrangements has the following impacts:

* Restricts mothers’ capacity to move away from stalking and harassment;
* Prevents mothers from moving to better living locations and housing;
* Forces mothers who move to be near supports to go back to live in close proximity to the abuser- often with little or no support networks;
* Forces mothers into emergency accommodation for safety;
* Induces mothers to escape into hiding and constant moves;
* Exposes mothers to property theft and damage;
* Allows abusive partners to control mortgage and property and spend partnership funds and use financial control as leverage against mothers

1. **Shared Care** 
   * Research indicates shared care is more risky for children than other arrangements where there are safety concerns, high ongoing parental conflict, and for children younger than 4 years.
   * Widespread misunderstanding of the law, leading many fathers to believe that they have a right to shared time and many mothers to believe that they cannot raise issues relevant to children’s best interests, especially family violence.
   * Shared time arrangements present particular risks for children when mothers express ongoing ‘safety concerns’, where there is high ongoing parental conflict and when children are very young—or some combination of these.
   * Where mothers report safety concerns, child well-being is lower regardless of the care arrangement, but that the position is worse for children in shared time arrangements than in more traditional contact arrangements (Kaspiew et al, 2009).

**A SERIOUS EMERGING ISSUE**

Women affected by domestic violence increasingly report fear and anxiety in the course of negotiating the Australian Family Law system in its present form which frequently leaves them unsafe and exposed to ongoing and often escalating violence and their children vulnerable to further physical and/or sexual abuse.