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Dear Sir/Madame,

It has come to our attention that mothers and children are still unsafe in the family court from batterers and pedophiles that use the litigation process to continue to torture and repress outcries of child abuse and violence.

Many well-known researchers have continued to point out the dangers of judicial abuse against mothers and children. Parental Alienation Syndrome, a concept developed by Dr Richard Gardner, a psychologist who promoted pedophilic philosophies, has resulted in the worst of abuses. In a claim to protect men "falsely accused" of sexual abuse, his concept was used and applauded by fathers rights groups in America. Some of his quotes are:

The vast majority ("probably over 95%") of all sex abuse allegations are valid.

Gardner, R.A. (1991). *Sex Abuse Hysteria: Salem Witch Trials Revisited*. Cresskill, NJ: Creative Therapeutics (pp. 7, 140).

Some children experience " **high sexual urges in early infancy**." "There is good reason to believe that most, if not all, children have the capacity to reach orgasm at the time they are born."

Gardner, R.A. (1992). *True and False Accusations of Child Sex Abuse*. Cresskill, NJ: Creative Therapeutics. (p. 15)

Note: This theory is also of Kinsey's work that interpreted violent screams from babies were "orgasms"

Children are naturally sexual and **may initiate sexual encounters by "seducing" the adult** .

Gardner, R.A. (1986). *Child Custody Litigation: A Guide for Parents and Mental Health Professionals*. Cresskill, NJ: Creative Therapeutics (p. 93).

Sex abuse is not necessarily traumatic; the determinant as to whether sexual molestation will be traumatic to the child, is the social attitude toward these encounters.

Gardner, R.A. (1992). *True and False Accusations of Child Sex Abuse*. Cresskill, NJ: Creative Therapeutics. (pp. 670-71)

"If the mother has reacted to the abuse in a hysterical fashion, or used it as an excuse for a campaign of denigration of the father, then the therapist does well to try and "sober her up"... Her hysterics ... will contribute to the child's feeling that a heinous crime has been committed and will thereby lessen the likelihood of any kind of rapprochement with the father. **One has to do everything possible to help her put the "crime" in proper perspective. She has to be helped to appreciate that in most societies in the history of the world, such behavior was ubiquitous [i.e., everywhere], and this is still the case.**"

Gardner, R.A. (1992). *True and False Accusations of Child Sex Abuse*. Cresskill, NJ: Creative Therapeutics. (pp. 576-7)

"Perhaps she can be helped to appreciate that in the history of the world his behavior has probably been more common than the restrained behavior of those who do not sexually abuse their children."

Gardner, R.A. (1992). *True and False Accusations of Child Sex Abuse*. Cresskill, NJ: Creative Therapeutics. (pp. 585)

His work was promoted to judges at conferences organized in the 1980s by the Association of Family Conciliation Courts. In 1989, Dr Kenneth Byrnes brought PAS in Australia and promoted it through the courts. Mothers and children have sometimes run for their lives and at other times for their dignity. In Australian Law, the following allows such abuse to continue:

69ZK Child welfare laws not affected

- (1) A court having jurisdiction under this Act must not make an order under this Act (other than an order under Division 7) in relation to a child who is under the care (however described) of a person under a child welfare law unless:
 - (a) the order is expressed to come into effect when the child ceases to be under that care; or
 - (b) the order is made in proceedings relating to the child in respect of the institution or continuation of which the written consent of a child welfare officer of the relevant State or Territory has been obtained.
- 2) Nothing in this Act, and no decree under this Act, affects:
 - (a) the jurisdiction of a court, or the power of an authority, under a child welfare law to make an order, or to take any other action, by which a child is placed under the care (however described) of a person under a child welfare law; or
 - (b) any such order made or action taken; or
 - (c) the operation of a child welfare law in relation to a child.
- (3) If it appears to a court having jurisdiction under this Act that another court or an authority proposes to make an order, or to take any other action, of the kind referred to in paragraph (2)(a) in relation to a child, the first-mentioned court may adjourn any proceedings before it that relate to the child.

102A Restrictions on examination of children

- (1) Subject to this section, where a child is examined without the leave of the court, the evidence resulting from the examination which relates to the abuse of, or the risk of abuse of, the child is not admissible in proceedings under this Act.
- (2) Where a person causes a child to be examined for the purpose of deciding:
 - (a) to bring proceedings under this Act involving an allegation that the child has been abused or is at risk of being abused; or
 - (b) to make an allegation in proceedings under this Act that the child has been abused or is at risk of being abused;subsection (1) does not apply in relation to evidence resulting from the first examination which the person caused the child to undergo.
- (3) In considering whether to give leave for a child to be examined, the court must have regard to the following matters:
 - (a) whether the proposed examination is likely to provide relevant information that is unlikely to be obtained otherwise;
 - (b) the qualifications of the person who proposes to conduct the examination to conduct that examination;
 - (c) whether any distress likely to be caused to the child by the examination will be outweighed by the value of the information that might be obtained from the examination;

The "distress" of seeing a doctor seems to prioritize above the trauma and damage of child abuse.

- (d) any distress already caused to the child by any previous examination associated with the proceedings or with related proceedings;
 - (e) any other matter that the court thinks is relevant.
- (4) In proceedings under this Act, a court may admit evidence which is otherwise inadmissible under this section where it is satisfied that:
 - (a) the evidence relates to relevant matters on which the evidence already before the court is inadequate; and
 - (b) the court will not be able to determine the proceedings properly unless the evidence is admitted; and
 - (c) the welfare of the child concerned is likely to be served by the admission of the evidence.
- (5) In this section:

examined, in relation to a child, means:

 - (a) subjected to a medical procedure; or
 - (b) examined or assessed by a psychiatrist or psychologist (other than by a family counsellor or family consultant).

Note: Section 69ZV is relevant to evidence of a representation by a child, if the admissibility of the evidence would otherwise be affected by the law against hearsay.

70NEB Powers of court

- (1) If this Subdivision applies, the court may do any or all of the following:
- (a) make an order directing:
 - (i) the person who committed the current contravention; or
 - (ii) that person and another specified person;to attend a post-separation parenting program;
 - (b) if the current contravention is a contravention of a parenting order in relation to a child—make a further parenting order that compensates a person for time the person did not spend with the child (or time the child did not live with the person) as a result of the current contravention;
 - (c) adjourn the proceedings to allow either or both of the parties to the primary order to apply for a further parenting order under Division 6 of Part VII that discharges, varies or suspends the primary order or revives some or all of an earlier parenting order;
 - (d) make an order requiring the person who committed the current contravention to enter into a bond in accordance with section 70NEC;
 - (e) if:
 - (i) the current contravention is a contravention of a parenting order in relation to a child; and
 - (ii) the current contravention resulted in a person not spending time with the child (or the child not living with a person for a particular period); and
 - (iii) the person referred to in subparagraph (ii) reasonably incurs expenses as a result of the contravention;make an order requiring the person who committed the current contravention to compensate the person referred to in subparagraph (ii) for some or all of the expenses referred to in subparagraph (iii);
 - (f) make an order that the person who committed the current contravention pay some or all of the costs of another party, or other parties, to the proceedings under this Division; and
 - (g) if the court makes no other orders in relation to the current contravention—order that the person who brought the proceedings in relation to the current contravention pay some or all of the costs of the person who committed the current contravention.

Note 1: The court may also vary the primary order under Subdivision B.

Note 2: Paragraph (1)(a)—before making an order under this paragraph, the court must consider seeking the advice of a family consultant about the services appropriate to the person's needs (see section 11E).

112AB Meaning of *contravene an order*

- (1) A person shall be taken for the purposes of this Part to have contravened an order under this Act if, and only if:
- (a) where the person is bound by the order—he or she has:
 - (i) intentionally failed to comply with the order; or
 - (ii) made no reasonable attempt to comply with the order; or
 - (b) in any other case—he or she has:
 - (i) intentionally prevented compliance with the order by a person who is bound by it; or

- (ii) aided or abetted a contravention of the order by a person who is bound by it.

112AC Meaning of *reasonable excuse for contravening an order*

- (1) The circumstances in which a person may be taken to have had, for the purposes of this Part, a reasonable excuse for contravening an order under this Act include, but are not limited to, the circumstances set out in subsection (2).
- (2) A person (in this subsection called the *respondent*) shall be taken to have had a reasonable excuse for contravening an order under this Act if:
 - (a) the respondent contravened the order because, or substantially because, he or she did not, at the time of the contravention, understand the obligations imposed by the order on the person who was bound by it; and
 - (b) the court is satisfied that the respondent ought to be excused in respect of the contravention.

70NFG Sentences of imprisonment

- (1) A sentence of imprisonment imposed on a person under paragraph 70NFB(2)(e) is to be expressed to be:
 - (a) for a specified period of 12 months or less; or
 - (b) for a period ending when the person:
 - (i) complies with the order concerned; or
 - (ii) has been imprisoned under the sentence for 12 months or such lesser period as is specified by the court;whichever happens first.
- (2) A court must not sentence a person to imprisonment under paragraph 70NFB(2)(e) unless the court is satisfied that, in all the circumstances of the case, it would not be appropriate for the court to deal with the contravention under any of the other paragraphs of subsection 70NFB(2).
- (3) If a court sentences a person to imprisonment under paragraph 70NFB(2)(e), the court must:
 - (a) state the reasons why it is satisfied as mentioned in subsection (2); and
 - (b) cause those reasons to be entered in the records of the court.
- (4) The failure of a court to comply with subsection (3) does not invalidate a sentence.
- (5) A court that sentences a person to imprisonment under paragraph 70NFB(2)(e) may:
 - (a) suspend the sentence upon the terms and conditions determined by the court; and
 - (b) terminate a suspension made under paragraph (a).
- (6) A court, when sentencing a person to imprisonment under paragraph 70NFB(2)(e), may, if it considers it appropriate to do so, direct that the person be released upon the person entering into a bond described in subsection (7) after he or she has served a specified part of the term of imprisonment.
- (7) A bond for the purposes of subsection (6) is a bond (with or without surety or security) that the person will be of good behavior for a specified period of up to 2 years.

- (8) A court that has sentenced a person to imprisonment for a period expressed as provided by paragraph (1)(b) may order the release of the person if it is satisfied that the person will, if he or she is released, comply with the order concerned.
- (9) To avoid doubt, the serving by a person of a period of imprisonment under a sentence imposed on the person under paragraph 70NFB(2)(e) for failure to make a payment under a child maintenance order does not affect the person's liability to make the payment

69ZW Evidence relating to child abuse or family violence

- (1) The court may make an order in child-related proceedings requiring a prescribed State or Territory agency to provide the court with the documents or information specified in the order.
- (2) The documents or information specified in the order must be documents recording, or information about, one or more of these:
 - (a) any notifications to the agency of suspected abuse of a child to whom the proceedings relate or of suspected family violence affecting the child;
 - (b) any assessments by the agency of investigations into a notification of that kind or the findings or outcomes of those investigations;
 - (c) any reports commissioned by the agency in the course of investigating a notification.
- (3) Nothing in the order is to be taken to require the agency to provide the court with:
 - (a) documents or information not in the possession or control of the agency; or
 - (b) documents or information that include the identity of the person who made a notification.
- (4) A law of a State or Territory has no effect to the extent that it would, apart from this subsection, hinder or prevent an agency complying with the order.
- (5) The court must admit into evidence any documents or information, provided in response to the order, on which the court intends to rely.
- (6) Despite subsection (5), the court must not disclose the identity of the person who made a notification, or information that could identify that person, unless:
 - (a) the person consents to the disclosure; or
 - (b) the court is satisfied that the identity or information is critically important to the proceedings and that failure to make the disclosure would prejudice the proper administration of justice.

An opportunity for coercion and reprisals against any agency that assists a victim.

- (7) Before making a disclosure for the reasons in paragraph (6)(b), the court must ensure that the agency that provided the identity or information:
 - (a) is notified about the intended disclosure; and
 - (b) is given an opportunity to respond.

69ZT Rules of evidence not to apply unless court decides

- (1) These provisions of the *Evidence Act 1995* do not apply to child-related proceedings:

- (a) Divisions 3, 4 and 5 of Part 2.1 (which deal with general rules about giving evidence, examination in chief, re-examination and cross-examination), other than sections 26, 30, 36 and 41;

Note: Section 26 is about the court's control over questioning of witnesses.
Section 30 is about interpreters. Section 36 relates to examination of a person without subpoena or other process. Section 41 is about improper questions.

- (b) Parts 2.2 and 2.3 (which deal with documents and other evidence including demonstrations, experiments and inspections);
- (c) Parts 3.2 to 3.8 (which deal with hearsay, opinion, admissions, evidence of judgments and convictions, tendency and coincidence, credibility and character).

(2) The court may give such weight (if any) as it thinks fit to evidence admitted as a consequence of a provision of the *Evidence Act 1995* not applying because of subsection (1).

(3) Despite subsection (1), the court may decide to apply one or more of the provisions of a Division or Part mentioned in that subsection to an issue in the proceedings, if:

- (a) the court is satisfied that the circumstances are exceptional; and
- (b) the court has taken into account (in addition to any other matters **the court thinks relevant**):
 - (i) the importance of the evidence in the proceedings; and
 - (ii) the nature of the subject matter of the proceedings; and
 - (iii) the probative value of the evidence; and
 - (iv) the powers of the court (if any) to adjourn the hearing, to make another order or to give a direction in relation to the evidence.

(4) If the court decides to apply a provision of a Division or Part mentioned in subsection (1) to an issue in the proceedings **the court may give such weight (if any) as it thinks fit to evidence** admitted as a consequence of the provision applying.

(5) Subsection (1) does not revive the operation of:

- (a) a rule of common law; or
- (b) a law of a State or a Territory;

that, but for subsection (1), would have been prevented from operating because of a provision of a Division or Part mentioned in that subsection.

In March 2007, a pregnant mother was jailed for not agreeing to unsupervised access. She was concerned that the children were in danger as he had a number of criminal convictions.

<http://www.news.com.au/dailytelegraph/story/0,22049,21463034-5001021,00.html>

It has been noted that 70% of mothers were abducting their children to leave abusive relationships. <http://iss.org.au/documents/ISS-Learning-Links.pdf>

“Where anti-feminist men’s and fathers’ groups in Australia have had most policy success is in the area of family law....

Since the 1995 changes in Australia, there has been no increase in shared parenting among separated partners. On the other hand, the ‘reforms’ have created greater scope for abusive non-resident parents to harass the child’s primary caregiver and generated increased disputes. An uncritical ‘pro-contact’ discourse pervades THE BATTLE AND BACKLASH RAGE ON 267

the courts (and the media). It has meant in practice those children's interests and welfare are being compromised, through heightened exposure to domestic violence by fathers and more awards of joint custody orders in the context of distrust and hostility between ex-partners. The legal changes also have intensified the pressure for shared residence arrangements, motivated by non-custodial parents' desire to reduce child support liabilities.²⁴

Fathers' rights groups also have been relatively successful in attracting informal government support and direct funding. In 1999 the federal government granted ongoing operational funding to the Lone Fathers Association, while defunding the National Council for Single Mothers and their Children."

Dr Michael Flood <http://www.xyonline.net/downloads/backlash.pdf>

"In Australia, mothers who defy court orders to expose their children to further abuse by their father face escalating consequences of education courses, fines, imprisonment and reversal of custody, with restricted and supervised contact. The regime which has been operating in Australian courts mirrors Gardner's recommendations" (Family Law Council 1998).

Paradoxically, the system failure to properly protect children from parental violence creates the circumstances where mothers have increasingly fled in preference to handing their children over for abuse during contact. This in turn is used to justify a reversal of custody. In one case a three year old child was taken from her mother – the only parent she had ever lived with, and who had successfully raised two other children from a previous relationship – and ordered by the court to live with her father who suffers from AIDS and has a long criminal record including sex offences. The mother was placed on supervised restricted contact for three days a month. This regime has remained unchanged for four years, despite the mother's attempts to increase time spent with her daughter and many reports by teachers and others to state child protection services based on the child's disclosures of abuse. At Easter this child, now aged 7, held her mother and the supervisor of contact at bay with a knife and begged her mother to kill her rather than take her back to her father. This father has accused the mother of Parental Alienation Syndrome. This outcome is a consequence of the mother running away with the child in preference to presenting her for contact with a person who the mother saw as dangerous to the child. Such outcomes reinforce the court's power to impose its decisions, and to punish those who disobey."

Elspeth McInnes

<http://www.aic.gov.au/conferences/2003-abuse/mcinnnes.pdf>

"Australian crime statistics suggest men's lives are not placed at the same level of risk as women and children post separation (Taft, Hegarty & Flood, 2001).

Crime statistics demonstrate that women are more likely to die post separation from acts perpetrated by former partners (Mouzos, 1999). Australian studies have identified the handover times for children's contact with their father as a situation in which abused women may be exposed to greater risk. Because of this, children and young people can continue to be exposed to the abuse of their mother and in some cases themselves (Humphries, 1999; Radford Hester, Humphreys & Woodfield, 1997, p.477).

Men using tactics of violence and control can use issues of contact & residency to exercise coercion and control over former partners (Rendell, Rathus & Lynch, 2000). Family Court mediation and Court hearings occur at a point where violence may be at its most dangerous. The identification of frequency, severity and potential lethality of violence mounts a persuasive argument for a support service that addresses the safety of women accessing the Family Law processes"

Seeking Safety, needing Support

It is therefore without doubt that children and women are neglected in family law proceedings in regard to their safety and continually punished and humiliated for seeking such.

Clearly, the Australian Government has a responsibility to do far more in the realm of protecting children and mothers from domestic violence and child abuse. We have had reforms and with each reform, the outcomes have seemed to weigh more severely towards the rights of the fathers than of the children and their mothers. Whilst the general public views equality in the measures of whom the child lives, there is little emphasis on whom has more rights and choices in the process of the family court. When these are properly viewed for what are, it is often the father whom has the control over the women and children.

Fathers can choose whether they can come and go, whether they want to relocate, where the child attends school and in severe cases – Whether they live or die. Filicide is another aspect in these cases that the family court has not learned from and the Australian media has made a complete circus of. The media continued to sympathies and minimize the fathers cold blooded actions of drowning his three children and cultivated blame against Karen Bells experiences. Richard Gardner himself had appeared in court to testify against a mother who was shot in the chest thirteen times as an alienator. Researchers have cashed in on his values and the ethics behind protecting those whom clearly do need protection have all been lost. We need to uphold human rights and protect the children and care for victims of domestic violence in family courts. The flood of funding in supporting perpetrator programs which are not regularly held accountable when they have overextended their support to assist perpetrators more than domestic violence shows a clear disregard of basic human rights and lack of ethical insight.

Anonymums Recommends the Following:

1. Australia holds an inquiry into domestic violence and child abuse victims of the family court and rectifies all positive findings.
2. That all perpetrators of violence and sexual abuse be banned from applying for contact and that they serve time in jail if they have not already.
- 3> That the history of women's suffrage is taught in state education, so that future generations are fully aware of violence against women and where it stems from.
- 4> That the Victorian "*working with children card*" becomes an Australian wide requirement.

5. That the Australian public is made fully aware of the past wrongs against children and mothers in family courts through government awareness campaigns.
6. That Parent Alienation Syndrome or even the reference of "Parent Alienation" (which refers to PAS anyway) be banned from Australian Family Courts.
7. Those psychologists promoting such ideas be investigated for any links to child pedophilia rings.
8. That all cases of child abuse are treated seriously and without prejudice to the parent's socioeconomic backgrounds, relationship status, family history and gender.
9. That the freedom of movement be supported and encouraged to all mothers whom want to accompany their children.
10. That the Institute of Family studies become more inclusive of gender based violence.
11. That shared care is an option not a starting point.
12. That the safety and well being of the child becomes the priority in determining custody.
13. That breastfeeding is not interrupted in contact and that the fathers make arrangements around the babies needs, not the other way around.
- 14▷ That the mother is able to have a domestic violence advocate accompany her in any litigation involving the perpetrator.
15. That the child has the support of sexual abuse counselors to accompany them in any such litigation.
- 16▷ That a national apology be made to the suffering of mothers and children.
17. That law is made against discriminating against mothers in the media including the amount of relationships they have with men.

Sincerely,

Anonymous