

Prevalence of domestic and family violence in the family law system

Parents engaged in the family law system may be affected by a complex range of interrelated issues including domestic and family violence, mental ill-health and substance misuse. For some of those parents, domestic and family violence may adversely affect their capacity to make decisions about parenting arrangements [Bagshaw et al 2011] and about the safety of themselves and their children [De Maio et al 2013].

Confirming earlier comparative findings, the Australian Institute of Family Studies reported in 2015 [Kaspiew et al Evaluation 2015] that family violence is a common experience among separated parents, with a majority of parents reporting either emotional or, to a lesser extent, physical abuse. Mothers reported experiencing either form of abuse before, during and since separation in greater proportions than fathers. In the post-separation period mothers were also more likely to report that they felt fearful, while fathers reported in greater proportions than mothers that they often felt coerced or controlled; reports in this context by mothers were substantially higher than those made by fathers. Feelings of fear, coercion and control were more commonly reported by parents who had experienced physical hurt and or/attempted unwanted sexual activity rather than emotional abuse. Research [Qu et al 2014] shows that by five years post separation, a minority of parents continue to face significant problems, including ongoing domestic and family violence, safety concerns, and highly conflictual or fearful inter-parental relationships.

The most commonly reported effects on day-to-day activities of experiencing domestic and family violence related to mental health, with mothers reporting a higher incidence. Significantly, for children of parents with domestic and family violence and safety concerns, a 2015 survey conducted by the Australian Institute of Family Studies showed an overall shift to spending 100% of nights with their mother, and daytime only contact with their father [Kaspiew et al Synthesis 2015].