

# Mothering – a mode of protecting rather than parenting in the aftermath of post separation family violence in Australia

## Article

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## Abstract

The focus of this qualitative study was on separated mother's ( $N=36$ ) lived experiences of mothering in the context of post separation family violence and the Australian family law system. Thematic analysis of interviews was guided by a theoretical framework, this being the Three Planets Model. Analysis of the data resulted in two themes relating to mothering being identified. Firstly, that women demonstrated a mode of protecting rather than parenting indicating that mothering was often undertaken in isolation and fear, within an adversarial family law system, and in the presence of a perpetrator of family violence. The second theme related to the aftermath of separation and the long dark shadow cast by family violence. After having left a controlling and violent relationship, separated mothers reported that there was no opportunity to recover, nor to healthily extricate themselves from family violence, which resulted in cumulative harm not only for their wellbeing but also for their children.

## Introduction

'It is just soul rape. It is not a normal breakup and if someone tells you to just get over it, it is like you are being abused all over again' (Mother, 51)

After leaving a violent, abusive or controlling relationship mothers and children often need long-term support (Holland et al., 2018). Anderson and Saunders (2007) longitudinal study on the psychological recovery of women who leave abusive relationships reported that a woman's need for intervention and protection does not usually end, but in fact increased, after separation. As Jaffe et al. (2003) poignantly state '... separation is not a vaccination against domestic violence ...' (p. 29). With family violence services generally focused on the intervention, assessment and crisis stages, a gap exists in support for mothers and their children in the years following separation, when court ordered contact arguably provides protracted opportunities for perpetrators of family violence to harass, abuse and control their ex-partner or children (Humphreys et al., 2011; Tiovonen & Backhouse, 2018).

In Australia, the prevalence of family violence claims in post separation parenting matters have led to family violence being described as the core business of the family court (Easteal et al., 2018). Within the literature, there is limited research on the experiences of separated mothers in the context of post separation family violence and protracted involvement in the Australian family law system (Ragavan et al., 2017). This article will explore this topic: firstly, through a review of post separation literature as it relates to mothers, children and the family law system; secondly, through a discussion on the policy and legislative tensions that have existed within Australian family law since the major legislative changes in 2006 and, thirdly, through the findings of the current study of separated mothers from Australia, and their post separation experiences of family violence and the Australian family law system.

## Literature review

### *Post separation family violence and mothers*

As highlighted in the introduction, family violence may continue following separation from an abusive relationship, leaving mothers and their children at risk (Hester, 2011; Humphreys & Absler, 2011). Early reviews in the literature stated that, with little or no opportunity for recovery, one- to two-thirds of women leaving violent and controlling partners experience post-traumatic stress disorder, anxiety or depression (Holtzworth-Munroe et al., 1997). Anderson et al. (2003) in their 2-year study of 94 separated women reported that mothers' levels of depression either did not improve, or significantly increased over time. The quality of attachment and mother-child relationships may also be affected, with the literature suggesting that family

violence negatively impacts on children's behaviours in their interactions with their mothers (Holden, 2003; Levondonsky et al., 2002, 2003; McIntosh, 2003).

### **Post separation family violence and children**

Buchanan et al. (2001) described children who experience high levels of post separation family violence as being one of the most distressed populations. Results from an Australian longitudinal study of children identified a range of negative consequences resulting from post separation family violence. Negative consequences included poorer functioning, higher parenting stress, poorer relationships with their child and poorer child well-being (Westrupp et al., 2015). Within the family violence literature, children have been described as invisible victims, who may experience losses in their social adjustment, cognitive development, behaviour, emotions and physical functioning (Adams, 2006; Australian Institute of Family Studies [AIFS], 2015). Manetta and Pendergast's (2003) study of 125 mothers reported that children who had witnessed violence against their mother often made suicidal statements. Lundy and Grossman's (2005) study of 4,636 children exposed to family violence reported one-fifth as experiencing peer difficulties, acting out, sadness, depression and difficulties adhering to school rules. Concerningly, a child's neurodevelopment may also be changed by family violence. Perry (2001) suggests that, during childhood, the developing brain organises itself in relation to the nature of affective experiences of events and in response to sensory patterns and intensity, with threat activating the brain's stress-response neurobiology. Exposure to violence can alter the developing brain and cause functional changes in cognitive, behaviour and emotional functioning.

### **Post separation family violence and the family law system**

Having left a violent or controlling relationship, some mothers may find that they are not able to healthily extricate themselves from an abusive relationship due to the legislative requirements related to divorce and parental separation. This places already isolated mothers and their children at further risk (Hester, 2011; Humphreys & Absler, 2011). Johnston and Ver Steegh (2013), in their review of family law and family violence, argued that family violence cannot be dealt with appropriately in current family law contexts. Within Australia, other research also suggests that mothers experiencing post separation family violence remain out of sync with the philosophical underpinnings of family law, specifically in the context of the support of a child's meaningful and continuing relationship with both parents following separation (Fehlberg et al., 2015). Furthermore, Khaw et al. (2018) found that custody determination processes are complex and stressful and ones that potentially leave separated mothers with a legacy of ongoing mothering and mother-child issues.

### **Tensions within Australian family law**

In July 2006, *The Family Law Amendment (Shared Parental Responsibility) Act 2006* (Cth) (Austl.) came into operation in Australia. The policy objectives of these legislative changes were to build strong healthy relationships following separation, encourage greater involvement of both parents in children's lives, protect children from abuse, help parents decide what is best for their children and establish a highly visible point of entry as a doorway

to other family services. Within this Act the court, when deciding on the best interests of a child, primarily considered:

the benefit to the child of having a meaningful relationship with both of the child's parents; and the need to protect the child from physical or psychological harm from being subjected to, or exposed to, abuse, neglect, or family violence (s. 60CC).

Under the *Family Law Act 1975* (Cth) s.65DAC (Austl.), equal shared parental responsibility placed upon separating parents a duty to consult with each other on major decisions involving the health, religion, changes in living arrangements and education of children. This legislation further required that, where there is a presumption of equal shared parental responsibility, that the option of equal shared time be considered positively. Within *Family Law Act 1975* (Cth) s. 63DA(2) (Austl.), an obligation to consider equal shared time is placed not only on the courts but also on family counsellors, mediators, family consultants and legal practitioners. However, there is no specific requirement for these advisors to consider issues such as family violence, neglect, abuse or psychological harm.

Since 2006, legislative reform relating to family violence has continued, including the introduction of the *Family Law Amendment (Family Violence and Cross Examination of Parties) Act 2018* (Cth) and the *Family Law Legislation Amendment (Family Violence and Other Measures) Act 2011*. However, there remain concerns. Kaspiew et al. (2015), in their evaluation of family violence amendments, reported that although there had been an increased emphasis on identifying families with concerns about family violence, 29% of parents using family law services reported never being asked about family violence or safety concerns.

Broadly, since 2006, a protracted state of tension has existed in the Australian family law system due to a misconception that following separation equal parental responsibility assumes equal shared care and that the prioritisation of a child's meaningful relationship with both parents remains at odds with family violence (Barker, 2013; Keogh, Smyth et al., 2018). This tension is broadly characterised within the notion of the indissolubility of parenthood taking priority over concerns that a child might be exposed to further abuse or violence and a presumption that having a relationship with a parent, even an abusive one, is in a child's best interests (Barker, 2013; Parkinson, 2013). Such presumptions do not acknowledge the risks involved for women and children (Hardesty & Chung, 2006).

In Australia, family violence and the family court's ability to adequately address these issues have been a matter of ongoing public debate and government inquiry for many years. Over a decade later, the tension and debate between the protection of the child and a child maintaining a meaningful relationship with both parents continues. There have been numerous inquiries into the efficiency and financial viability of the courts, some of which propose amalgamation of the Federal Circuit Court of Australia and Family Court of Australia. Examples include the Future Governance Options for Federal Family Law Courts in Australia – Striking the Right Balance (Semple, 2008), Review of the Performance of the Federal Court of Australia, the Family Court of Australia, and the Federal Circuit Court of Australia (KPMG, 2014) and Review of Efficiency of Operations of Family Court (Price Waterhouse Cooper, 2018). More focused on family violence were inquiries such as Every Picture Tells a Story: Inquiry into Child Custody Arrangements in the Event of

Family Separation (House of Representatives Standing Committee on Family and Community Affairs, 2003), A Better Family Law System to Support and Protect Those Affected by Family Violence (House of Representatives Standing Committee on Social Policy and Legal Affairs, 2017) and Family Law for the Future – An Inquiry into the Family Law System (Australian Law Reform Commission, 2019).

One recent focus in family law reform has been recommendations that the *Family Law Act 1975* (Cth) s. 60CC (Austl.) be amended. It has been suggested that the factors considered when determining parenting arrangements include arrangements that best promote the safety of the child and the child's carers, safety from family violence, abuse or other harm. This recommendation extends to any relevant views expressed by the child, the developmental, psychological, and emotional needs of the child, the benefit to the child of being able to maintain relationships with each parent and other people who are significant to the child where and when it is safe to do so and having regard to the carer's ability and willingness to seek support to assist with caring (Recommendation 5) (Australian Law Reform Commission, 2019).

### The current study

Using a qualitative research design, the current study sought to give voice to separated mothers' lived experiences of post separation family violence and the Australian family law system. With a focus on the experiences of the separated mother, 'mothering' refers to the separated mother's capacity or ability to nurture and care for a child following separation. Data from the Australian Bureau of Statistics indicate that family violence is gendered, being predominantly perpetrated by males against females (Australian Bureau of Statistics, 2006, 2012). 'Family violence' is broadly defined within the current study as acts of violence or coercion that occur between people who have or have had an intimate relationship that evidence an ongoing pattern of behaviour aimed at controlling a partner through fear, and is part of a range of tactics to exercise power and control over women and children (Council of Australian Governments, 2011). The use of the term family violence is suitable within the current study as it acknowledges that there are multiple victims in the family, thus remaining inclusive of children's exposure (Powell & Morrison, 2017). The 'Australian family law system' includes Australian statutory and other related organisations. Broadly, these are the Family Court of Australia, the Family Court of Western Australia and Federal Circuit Court of Australia, together with government and non-government mediation and family relationship services, state child protection services, non-government community organisations, state police services, child support agency and government and non-government child contact centres.

### Method

#### Theoretical framework

Previous research indicates that a qualitative exploration contributes to better policy framing and administrative systems, in that it touches on the emotional aspects embedded within parents' experiences of separation (Brady, 2015). Brady (2015) argues for the importance of considering connections between social policy, care, emotions and states. Similarly, other literature speaks to the potential contribution of a qualitative approach in four contexts, these being acquiring insider views of relational processes,

examining families within contexts, giving voice to marginalised family members and obtaining family members' meanings about interactions and relationships (Ganong & Coleman, 2014).

It is acknowledged that within qualitative research, there is no single reality, with reality based on perceptions which might change over time and that are different for each individual. Hence, it is important that qualitative research be guided by theory. Accordingly, the current study was situated within the theoretical framework of the Three Planet Model (TPM) (Hester, 2011). The TPM refers to three, separate, post separation 'planets': firstly, the domestic violence planet (DVP), secondly, the child protection planet (CPP) and, thirdly, the child contact planet (CCP). On DVP, the focus is on the adult, in particular, on the perpetrator and the impact of violence on survivors. On CPP, the focus is on the child, and what is in the child's best interest. On CCP, the legislative ethos is focused on the risk of violence following separation in an approach that is 'future-focused' (Hester, 2011, p. 846). The current study was based on constructionist epistemology that sought themes across the entire data set that aimed to both reflect the experiential reality of separated mother's experiences of family violence and the Australian family law system, and to drill down below the surface into identified experiences.

#### Recruitment

Given that the topic of consideration was of a deeply personal and sensitive nature, careful consideration was given to research ethics. Prior to the collection of any data, full ethics approval was obtained from the University of the Sunshine Coast Human Ethics Committee (S17/1124). Recruitment of participants took place at a local, state and national level within Australia. On a local level, 10 law firms that specialised in family law were approached in writing. Three radio interviews were conducted at two community stations and one city station. An editorial article was published in a local newspaper. On a state and national level, 15 government and non-government organisations that supported separated families were approached in writing. No incentives to participate were offered to participants. The researchers made no specific enquiry as to the source of referral for participants. As the net was cast wide, it is not known from which specific organisation(s) or media outlet each participant was recruited, and all potential participants contacted the researchers directly.

#### Participants

Participants had experienced co-parenting conflict and family violence that had continued past 2 years post separation. Participants represented a range of socioeconomic demographics including employed professionals in government and non-government organisations, small business owners, university students, stay at home mothers and retirees. Participants ( $N = 36$ ) comprised English speaking, female, separated mothers, aged 34 to 71 years ( $M = 46.22$ ,  $SD = 8.25$ ). Participants had a total of 77 children between them, of whom 56 were aged 0–5 years at the time of separation, and 21 were aged 6+ years at the time of separation. The sample included one same-sex and 35 other-sex relationships. Within the sample, the length of relationship prior to separation varied from brief to long-standing, ranging from less than 1 year ( $n = 2$ ), 1 to 3 years ( $n = 1$ ), 3 to 5 years ( $n = 6$ ), 5 to 10 years ( $n = 13$ ), 10 to 15 years ( $n = 6$ ), 15 to 25 years ( $n = 5$ ), to over 25 years ( $n = 3$ ). Of the participants, 5 had spent one or more occasions in a women's refuge; 33 had interim, consent, or final Family Court orders in place that related to children's care

and contact; 3 had a parenting agreement or verbal agreement in place and; 19 had protection orders in place on one or more occasions since separation. At the time of the interviews, 33 of the women had spent between 1 and 14 years in the Australian family court system.

### ***Family violence experiences of participants***

Participants were only interviewed in the context of their post separation experiences. Post separation experiences primarily consisted of family violence in the form of coercive and threatening behaviours and included psychological abuse, verbal abuse, emotional abuse or social abuse. Participants' experiences included financial abuse which was often intertwined with what has been termed 'paper abuse'. Miller and Smolter (2011) describe paper abuse as legal actions initiated by perpetrators who continue to attack their former partners through '... exerting power over them, forcing them to have contact, and financially burdening them with the costs associated with litigation' (p. 638). Family violence included participants' secondary reporting of sexual abuse, physical abuse, emotional abuse or psychological abuse against a child.

### ***Participant post separation arrangements***

Post separation care arrangements were heterogenous, complex and subject to a number of variations over time, whether through court orders or other arrangements between co-parents. At the time of interview, 28 of the women had some form of shared care; 4 had sole custody; 3 of the participants' children were adults and 1 had supervised time with children. Three women reported periods over the years during which their children were removed from their care by court order and there was no contact with their children and 2 reported a period during which their children were removed from their care by court order and only supervised contact was in place. With the exception of women whose children were adults at the time of interview, or had sole custody and sole parental responsibility, all participants reported ongoing family violence with 10 reporting they still had matters which were currently before the Family Court.

### ***Post separation services accessed by participants***

The primary family law services approached or used by participants were the family court and child protection services. Thirty-three of the women had approached child protection. Of the remaining three participants, two did not access child protection due to their ex-partner being employed in the police service and one did not access child protection as she was an employee in a related service. While 33 women used the Family Court, the other 3 had accessed family law practitioners and mediation services, either privately or through Family Relationships Australia.

### ***Interviews***

As required under ethics approval, and prior to any appointment being made for an interview, potential participants were provided with a copy of the full list of questions that would be asked in the interview to ensure they were fully aware of the full nature of the research project, the limits of confidentiality and matters relating to consent. The choice of semi-structured interviewing had advantages and disadvantages. Advantages included being able to explore experiences for relevance and understanding. Disadvantages included the potential restriction of new insights

or issues. The theoretical framework influenced the expected parameters of interview questions which explored the nature of the co-parenting relationship and experiences within the family law system. Interviews generally lasted between 1 and 2 hours. Twenty-nine of the interviews were conducted face to face at various locations around Australia in the states of Queensland, New South Wales and Victoria. A smaller number of interviews ( $n = 7$ ) were conducted using voice over internet programmes in the states of Western Australia, Queensland, New South Wales and the Northern Territory.

### ***Analysis***

To identify themes and patterns, the interview transcripts were examined following Braun and Clarke's (2006) method of thematic analysis. Thematic analysis was chosen as it enabled distillation of the data in a manner which identified seemingly unrelated material through systematic analysis to capture the richness of themes. Braun and Clarke (2006) described a six-phase procedure for conducting thematic analysis, which was undertaken by the researchers. Firstly, familiarisation with the data; secondly, generation of initial codes; thirdly, searching for themes; fourthly, review of themes; fifthly, the defining and naming of themes and lastly, the production of findings. NVivo software was used in thematic analysis. Trustworthiness of the study was enhanced through coder triangulation, wherein each of the interviews was analysed separately and findings were compared, and also by describing the sample, method, results using participant quotes, maintaining detailed transcripts and recordings. Participants were de-identified and assigned random numbers to ensure anonymity and confidentiality.

### ***Results***

Two themes were identified from the interviews. The first concerned the development of a mode of protecting rather than parenting, and the second theme related to the long, dark, shadow cast by the context of family violence. The mother's mothering was reportedly affected when their concerns about safety were not believed, investigated or addressed and then due to the protracted involvement with a perpetrator of family violence and the Australian family law system.

#### ***Mother's mothering – 'a mode of protecting rather than parenting children'***

##### ***Concerns around safety***

The participating mothers described being isolated and living in fear. They provided many examples and gave clear descriptions that included their experiences of cars being keyed and tampered with, having their houses broken into, tracking devices placed in their children's items or being portrayed within school and sporting communities as mentally ill. One mother reportedly received up to 48 text messages a day and ended up receiving over 4,000 abusive text messages before the court ordered that the perpetrator of family violence be restricted to sending two emails within a set period of time. Another mother reported that the perpetrator of family violence had set up a number of fake online profiles after having stolen her identity. Such was the intensity and longevity of their experiences that one mother described the nature of her experiences as a lifestyle that she believed would continue, not only for the rest of her life but also for that of her children and grandchildren's lives. As a result of these experiences, the mothers



described living in a mode of protecting their children, rather than a mode of parenting their children.

When safety concerns were not believed, investigated or addressed by the courts, or by state and territory protection services, the mothers reported losses in the mother–child relationship due to ongoing fear, isolation and the sense of being overwhelmed experienced when sharing care of a child with their ex-partner. ‘So instead of being able to truly bond and build that maternal relationship with my girl, I constantly felt fearful’ (Mother 21). Unable to protect her three children after separation another mother said ‘... if I could take it all back, I would’ve stayed, and I would have let him kill me rather than go through this. At least I wouldn’t have had to watch my children get tortured’ (Mother 54). With safety concerns unaddressed, one mother felt ‘... really disempowered. I had no one to turn to. I still have no one to turn to ... no one cared ... they just don’t understand that you just don’t get over these things and it hasn’t even ended’ (Mother 44). One of the mothers who did reach out for support commented ‘... at the same time when you reach out there is no support and there is nowhere to turn to, or to fumble your way through the court system, there is no real support with that’ (Mother 46). This was the experience of others too.

#### *Perpetrators and the family law system*

Protracted involvement in the family law system found mothers reportedly withdrawing from, or struggling to be emotionally present for, their children. Some of the mothers were quite explicit:

It means I am not able to be present ... so it is very hard to compartmentalise the emotions and get on with your parenting (Mother 23).

Oh, I am not half the parent to my kids that I should be. My time is monopolised by him and his ongoing abuse (Mother 42).

I notice I do it when there is a lot of stress for court, or I am being hammered for documents, I notice that I simply don’t have the time as a mum to invest in him (Mother 25).

Two mothers reported being enjoined by court orders from talking to their child, or from allowing their child to talk to them, about their child’s experiences of alleged sexual abuse:

And now this injunction is in place saying I can’t start or continue discussions with my son about the allegations ... like I can’t help him anymore ... so I am at a loss ... because you have enjoined me from finding out and actually helping my child (Mother 26).

In addition to the impact on mothers’ emotional availability, it was reported that within the family law system, their ‘... parenting got pulled to pieces’ (Mother 39). Court orders were often used by perpetrators to undermine mothers. ‘He is constantly telling the kids that he has the papers that prove he is the best parent’ (Mother 37). One mother felt shamed for her parenting choices, in this case home schooling, and was eventually ordered by the family court to place her four children into the state schooling system. ‘It was just very painful and very shaming. And I felt like I was just being shamed for the type of woman that I am, and the type of mother that I am.’ (Mother 38).

Conflictual and acute feelings of dissonance were reported. ‘So, as a mother your natural instinct is to care and protect through this situation of separating. I have really had to work at not caring about my kids sometimes, and that just goes against every grain of my maternal instinct’ (Mother 29). Within post separation family violence, mothers experienced cognitive dissonance and struggled

to let go of or adjust their deeply held values and beliefs about their identity as a mother.

One mother stated that what was needed to fix the situation was a ‘... fucking unicorn ...’ (Mother 51). This mother believed, from her experiences, that family violence and the Australian family law system were so mismatched that what was needed to fix it did not actually exist. Another mother commented ‘... effectively, you need a system that understands family violence, takes it seriously, actively identifies the perpetrator, and deals with the perpetrator’ (Mother 42). This mother’s suggestion points to a need, within the context of the TPM, not so much for an integration of each planet’s culture and focus, but of the necessity for co-operation, in that each planet might look to the other, in order to draw on each one’s expertise, knowledge and practices to ensure the safety of mothers and children in the years following separation.

#### *Mother’s mothering – ‘a long, dark, shadow cast’*

Within the current study, mothers described outcomes for their children in the aftermath of family violence and protracted involvement in the Australian family law system as a long, dark, shadow cast. Mothers’ secondhand reporting included losses and trauma that had long-term consequences on the mother–child relationship and their children’s development and well-being.

The mothers gave examples of their children’s post separation exposure to, or experiences of, family violence. One child had a knife held to her throat by the other parent while he threatened that he had the means to kill her mother; three children had been barricaded in a house by the other parent who threatened to burn it down with them in it; one child had attempted suicide and others experienced suicidal ideation; two children from different families, one aged 13 years at the time, and one aged 14 years at the time, after fleeing abuse from the other parent, ended up living in adult refuges because court orders prevented them from living with their mothers; eight children were reported by their mothers as being sexually abused by the other parent following separation; two children were no longer able to attend mainstream schooling because of trauma and others reportedly struggled in their schooling and peer relationships. Three, who were now young adults, were alcohol dependent.

With the pattern of mother responsiveness and attunement continually disrupted, all mothers described children who were struggling. A mother of four children reported ‘... the damage is done, and all of the children have severe depression, anxiety, PTSD. I have got a 12-year-old on Prozac who is suicidal.’ (Mother 33). Developmental challenges were reported. ‘As a mum that was very difficult because not only was I losing out on her new milestones, I also had to deal with rebuilding her from her regression’ (Mother 20). And, another mother described how damaging the experiences of her child had been:

And on top of that I think [child’s name] is going to need help and support because she is just so damaged, she is a damaged, damaged child, and in my way of thinking they have done this to her. Not just her original trauma with him [father]. The family court’s traumatised her, and re-traumatised her, and re-traumatised her, to the point where she can’t function in the world properly (Mother 36).

In the aftermath a long, dark, shadow had been cast over the mother-child relationship, children’s wellbeing and development, and both mother and children’s lives.

## Discussion

Two themes were identified, being firstly, a mode of protecting rather than parenting, and secondly, the long, dark, shadow cast. Mothers may be encouraged to leave violent and controlling partners. However, once mothers leave, they may then be required to relinquish children into the perpetrator's care. As reflected in the framework of Hester's (2011) TPM and from the remarks of those in this study's sample, the primary concern within the family law system was experienced as getting women to overcome their fears of ongoing family violence, due to the perpetrator being a 'good enough father' (p. 849). This approach left the participating mothers to cope alone with contact and managing family violence. The mothers commented that family violence remained largely irrelevant in their family court experiences, reflecting the findings of Laing (2017) and Trinder *et al.* (2010) who reported that when mothers reported family violence, the issue would 'disappear' in that it would be either be rejected, reframed or ignored by family court professionals.

Some commentators suggest that, in the Australian family law system, mothers who allege abuse are often labelled as mentally ill, suffering from parental alienation syndrome, being vengeful, vexatious or emotionally abusive (McInnes, 2014). It has also been suggested that the raising of safety concerns and family violence is a strategy to gain care of children in custody disputes. In this context, findings from the AIFS (2019) provide some perspective. The AIFS identified two significant ways in which court orders and arrangements differed between those families affected by family violence, safety concerns and other complex issues who used courts as their main pathway, and the general population of separated people who did not go to court to decide their parenting arrangements. Firstly, court ordered arrangements are less likely to involve no contact between children and their father, these cases being 3% of court orders, compared to 9% of the general separated population. Secondly, arrangements in which children spend most of their time with their father are more common in orders made where litigation occurs (10%–19%), than in the separated population generally (2%). Despite the high occurrence of family violence issues in the family court, the family law system was not designed to be a child protection service. As such, court professionals, although making decisions regularly in this area, remain inadequately trained in the complexity of family violence (Briggs & McInnes, 2012; Francia *et al.*, 2019).

A protective factor identified in the literature is a child's experience of secure attachment with a primary care giver. However, a secure attachment experience is less likely when there is family violence (van der Kolk, 2014). Similarly, other literature reports that a protective factor comprises parenting that is structured, warm and emotionally supportive (AIFS, 2015). As evident in the literature, and reflected in the current study, there is a risk of harm when a mother's ability to, not only physically, but emotionally, shield a child from cumulative harm is compromised (Lannert, *et al.*, 2014).

Research on the impact of exposure to family violence on children continues to expand, but indicates that the long- and short-term problems that develop may be similar to effects on children who have been directly abused (Hart, 2013; Wolfe *et al.*, 2003). Cumulative exposure to family violence may result in complex developmental delays and disturbances for children, with research pointing to other outcomes such as aggression, lack of awareness of danger and disturbed attachment behaviours (De Maio *et al.*, 2013; Price-Robertson *et al.*, 2013). The current

sample's reporting was reflective of Holt's (2003) suggestion that the continued presence of family violence post separation can compromise a child's recovery from family violence, with ongoing undermining of the mother–child relationship and the maternal role impacting a child's experiences. These experiences then influence how the child matures and functions as an adult.

There is also research indicating that a parent living in constant fear denies a child the sense of basic trust and security that is foundational to emotional development (Levondonsky & Graham-Bermann 2001). A child who experiences high levels of fear often cannot experience relational repair, nor make meaning of distressing experiences. This potentially impacts on their worldview and capacity to form healthy relationships in the future (Powell & Morrison, 2017). The AIFS (2015) elaborated on a finding that family violence can impact on a victim parent in that they are less able to meet their child's needs due to the stress of the abuse, particularly when experiencing mental health problems that affect their parenting, or when they change the way they parent in order to avoid more anger or abuse.

Mothers in this study reported that the family law system did not act in ways that they believed protected them or their children. Under-reporting and inconsistent recording of data about children's exposure to, or experiences of, family violence post separation reinforces their experience as silent victims (Mitchell, 2015). Mothers' attempts to recover or forge new lives were impeded as they remained tethered to court and parenting orders, or threats of litigation or ongoing litigation, that enabled family violence to continue (Holt, 2003; McGee, 2000; Rhoades, 2002). It is suggested that these findings broadly point to a failure to articulate the social problem of family violence as one of power and not simply physical violence (Powell & Morrison, 2017). The initial and ongoing responses within the family law system need to be protective, rather than a barrier (Hart, 2013).

## Limitations

Along with the strengths referred to earlier, it is acknowledged that the qualitative nature of the current study does not allow for inferences and generalisation beyond the current sample. Another limitation is the nature of second-hand reporting by separated mothers of the impact on their children. Second-hand reporting does not afford an accurate association or attribution of children's traumatic responses to exposure to family violence or the family law system. Lastly, retrospective self-reporting, of what may have been highly emotional experiences, or reports that solely reflected mothers' reporting of both their, and their children's responses, is by its very nature limited by the potential for both over and underreporting.

## Policy implications

These separated mothers remained embedded in a social context that encouraged both parents to be involved with their children post separation. That same social context also requires that parents protect their children from family violence and neglect. This social context is further complicated in Australia, where multiple state, Federal and territory systems are in place, and in which there is a risk of one level assuming that the other is addressing concerns about family violence and separation, when in fact they may not. Such jurisdictional gaps leave already vulnerable mothers and children at heightened risk. These reasons, together with the

tentative issues identified in the current study, highlight the importance of Australian family law continuing to recognise and incorporate social science and other evidence-based research into its legislative and judicial reasoning and decision-making.

## Conclusion

In the current study, post separation family violence continued for many years without any monitoring of mother or child safety. This small-scale study reflected a need to, firstly, move toward a better understanding of risk factors that undermine mother–child relationships and, secondly, for the ongoing gathering of evidence in post separation family violence. In the current study, the myth that separation ends family violence remained just that, a myth. Practical implications, given the high reliance and long-term involvement of family law services, involve mothers being able to access services that comprise skilled professionals and systems that adequately address trauma recovery from family violence. Attention needs to be focused not only on strengthening and supporting mothers and mother–child relationships but also on the perpetrator and addressing their use of family violence. If it was thought that the story of family violence in Australia is overtold, this current study, it is suggested, demonstrates that for these mothers, the story is yet to be told.

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