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Practice Bite

Articles

This pilot study extended Australian survey research by examining the quality of family reports prepared by psychologists appointed as the single expert witness. A quality measure ('QM') was developed based on survey findings and its psychometric properties assessed. Twenty-one (N=21) reports were reviewed by independent Expert Psychologists (EPs) using the QM. These preliminary results suggest that the Overall Quality of reports may be positive but problematic components were identified. Comparisons with previous survey data raised concern about the possibility of psychologists' inflating self-reported ratings of quality. This pilot study highlights the difficulties accessing reports in family law proceedings, the utility of a standardised QM, and the need for a large-scale archival study. Such research is imperative and timely in Australia, to inform research, policy and improve the practice of report writers.

Open justice is a fundamental tenet of the Australian judicial system. However, there is a long-standing view that in the family law context open justice should yield more readily to other competing policy considerations, in particular, the privacy of the participants in the proceedings and their children. To some extent, this view is reflected in the current provisions of the *Family Law Act 1975* (Cth) relating to attending courts and reporting proceedings. This article revisits those legislative provisions in the contemporary context, which includes the ubiquitous internet and the challenges which COVID-19 poses to the way in which family law proceedings are conducted. This article approaches the question from the perspective of 'on what basis should the common law position not apply to proceedings heard in the family courts'?

In respect of attending court, we affirm the default position of open family law courts and warn against a liberal use of the powers conferred on these courts to either close, sit in chambers or dispense with

oral hearings altogether. We are wary of the consequences to open justice of the migration to online hearings. Regarding the reporting of cases, we cautiously maintain that in cases involving children, the need to protect privacy is compelling enough to be regarded as a necessity. By contrast, in matters not involving children, we suggest that consideration be given to recalibrating the tension between open justice and privacy in the family law context in favour of the former.

Law Reform

Domestic and family violence, and in particular, gender-based abuse against women perpetrated by intimate partners continues to have significant, complex and long-lasting impacts on the South Australian community. The rate and complexity of domestic and family violence related offending has increased during the COVID-19 pandemic due to the consequences of restrictions and emerging patterns of perpetrator behaviours that have been exacerbated during the pandemic. This makes examining the effectiveness of the legal tools designed to protect against and prevent domestic and family and family violence in South Australia a critical and urgent task.

This article evaluates the effectiveness of the legal framework governing access to, use and enforcement of Intervention Orders in South Australia, the *Intervention Orders (Prevention of Abuse) Act 2009* (SA), and the way this framework intersects with protective orders issued under other legal regimes, including the *Family Law Act 1975* (Cth).

This article draws from a qualitative research project undertaken in collaboration between Uniting Communities and UniSA, funded by the Law Foundation of Australia, entitled Powerful Interventions: Improving the Use and Enforcement of Intervention Orders as a Tool to Address Domestic and Family Violence in South Australia report. By engaging with and learning from those with lived experience with the Intervention Orders system, this article offers insights for other Australian jurisdictions also grappling with the challenge of designing and implementing effective legal responses to domestic and family violence.

Case Note