



The Auckland Coalition for the  
Safety of Women and Children  
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Chief Justice Winkelmann  
c/- [officeofthechiefjustice@courts.govt.nz](mailto:officeofthechiefjustice@courts.govt.nz)

29 September 2025

Dear Chief Justice Winkelmann,

### **Request for Inquiry – Tom Phillips Case and Family Court Response**

The Coalition for Action on the Safety of Women and Children is deeply concerned about the actions of Tom Phillips in abducting his three young children and subjecting them to four years of isolation and hardship in the forests and rural land around Marokopa. We do not believe that enough was done to keep these young children safe, nor do we believe that actions were taken in the best interests of the children. We believe his actions stem from the inadequacies of a system that was supposed to support the safety of women and children, and we are aware that the Family Court was part of that process.

#### **Gender bias within the family court**

For many years women have been telling us that when they have raised concerns about the safety of their children with the father from whom they have separated or from whom they are separating, Counsel for the child(ren) and the Family Court have minimised and trivialised their concerns<sup>1</sup>. Women who have been seeking the safety of their children have been constructed in court proceedings and/or judicial decisions as alienating the children from their father, over-anxious, obstructive, negative, vengeful, vindictive and mentally disturbed. These constructions are in support of fathers who have usually taken little interest in the care of the children until the Family Court has become involved. It is rare for fathers in this context to be constructed as vengeful or vindictive. These constructions draw on highly sexist beliefs about women and gender bias within Family Courts has been verified by national and international research<sup>2</sup>.

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<sup>1</sup> See Backbone Collective reports. <https://www.backbone.org.nz/reports>

<sup>2</sup> Elizabeth, V. (2019). 'It's an invisible wound': the disenfranchised grief of post-separation mothers who lose care time. *Journal of Social Welfare and Family Law*, 41(1), 34-52.  
doi:10.1080/09649069.2019.1554788

Meier, J. S. (2020). U.S. child custody outcomes in cases involving parental alienation allegations: what do the data show? *Journal of Social Welfare and Family Law*, Online first.  
doi:10.1080/09649069.2020.1701941

We believe these constructions are designed to deflect from legitimate concerns about the safety of the man and are complicit with family violence towards women and children. Having constructed the mothers in these prejudiced ways, children are then put in the unsupervised care of fathers who subject them to harm, even when some of these men have been proven to have used family violence against the mother and/or the children. There is a lack of recognition by decision makers of the overlap between the man's violence towards the mother and violence towards children despite international and New Zealand research on this topic<sup>3</sup>. There is also a lack of knowledge of the research on the impact of subjecting these children to further abuse or trauma has on their physical and mental health in the future. The ACE studies – well established research on adverse childhood experiences - has demonstrated time and time again that subjecting a child to abuse or harmful events in childhood results in considerable repercussions to that child's physical and mental health later in life<sup>4</sup>. However, these studies are barely mentioned as instrumental in any decision-making relating to child safety.

### **Failures with the Family Court implementation of the law**

Some of these failures can be attributed to flaws in legislation, which successive governments are slowly fixing, but others result from failures in the implementation of laws that were intended to keep children safe and the failure to listen to children. That failure can only be attributed to the culture of the family court, family court systems and processes and those who work within its confines. We believe that there are legislative failures, such as the removal of the Sec 61 risk assessments from the Care of the Children Act 2004 (COCA) and the flawed prioritising of parenting orders over protection orders for children instigated during the 2014 Family Court reforms. The presumption of supervised access only of children having contact with abusers was removed following these reforms. However, given that COCA states that children are paramount in any decision, these failures do not address the decisions made within the Family Court to prioritise the father's unsupervised contact with the children over safety concerns

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Morgan, M., & Coombes, L. (2016). Protective mothers: Women's understandings of protecting children in the context of legal interventions into intimate partner violence. *The Australian Community Psychologist*, 28(1), 55-74.

Saunders, D. G., & Oglesby, K. H. (2016). No way to turn: Traps encountered by many battered women with negative child custody experiences. *Journal of Child Custody*, 13(2-3), 154-177.  
doi:10.1080/15379418.2016.1213114

<sup>3</sup> Edleson, J. L. (1999). The overlap between child maltreatment and woman battering. *Violence Against Women*, 5(2), 134-154.

Edleson, J. L. (2001). Studying the co-occurrence of child maltreatment and domestic violence in families. In S. A. Graham-Bermann & J. L. Edleson (Eds.), *Domestic Violence in the Lives of Children* (pp. 91-110). Washington D.C.: American Psychological Society.

Murphy, C., Paton, N., Gulliver, P., & Fanslow, J. (2013). *Understanding connections and relationships: Child maltreatment, intimate partner violence and parenting*. NZFVC Issues Paper 3, April. Retrieved from Auckland: NZ Family Violence Clearinghouse.

<sup>4</sup> Hashemi, L., Fanslow, J., Gulliver, P., & McIntosh, T. (2021). Exploring the health burden of cumulative and specific adverse childhood experiences in New Zealand: Results from a population based study. *Child Abuse & Neglect*, October (Online first). doi:10.1016/j.chiabu.2021.105372

about his contact with the children. These are failures in the implementation of the law and occur because of failures within the Family Court to address the inadequacies of its processes.

When supervised contact is considered important, decisions relating to the nature of that supervised contact do not recognise the potential of the abuser to exercise power and control to manipulate the supervision and control the supervision process. For example, placing the supervision in the hands of a family member, friend, workmate, or someone not familiar (or all too familiar) with the potential for manipulation by the abuser places those children at further risk. These people are not able to challenge a violent man. We have also had reports of agencies that purport to be experts on providing supervised contact but do not adhere to the contract that limits the actions of the abuser. This is a failure of the Family Court processes to ensure that agencies that purport to provide supervised contact will safely report on actions the abuser takes that contravene the contracted expectations. Attending and appearing to provide good parenting during supervised contact does not mean that abusers will provide safe contact when unsupervised, yet the Courts move irrevocably towards unsupervised contact between these fathers and their children over time.

#### **Poor advice from those purporting to be experts**

We are concerned that many of those who are used to write reports for the Family Court as experts on family violence do not have the requisite requirements of those expected to practice in this area according to new Ministry of Justice requirements. Many are psychologists trained in family or couple therapy who believe that those going into the family court contribute equally to the harm done to children. However, when family violence is a concern, the usual principles of neutrality applied in these therapy models do not apply. Experts understand that in such cases there is a victim and there is a perpetrator, that one is employing psychological abuse involving coercive control, financial violence, physical violence and/or sexual violence and the other is subjected to that violence. That is a very different dynamic from that commonly articulated in family therapy models and requires different understandings of what is in the best interests of the child. The Criminal Court seems to understand that difference, but the Family Court does not.

#### **Paying to keep children safe**

Most mothers simply do not have the financial resources to appeal such decisions and to go back time and time again to the Family Court to seek safe arrangements for their children because they must pay lawyers to keep them safe. Many are discouraged to return to the Court by the Court punishing them for reporting further abuse by constructing them as negative and obstructive and providing added time with the abuser. As a result of these known decisions, lawyers commonly advise women to avoid the Court altogether - meaning that they must accept the abuse their children receive - or be punished for further involvement with the Court by the abuser getting more time to harm the children. That is a completely untenable position for mothers to be expected to hold.

### **Mothers who are victims and who use of alcohol and/or drugs**

We recognise that some mothers who have experienced family violence from a man might have alcohol or drug problems and might have been prescribed anti-depressants or other psychotropic medications to cope. Women in this context sometimes use alcohol or drugs to cope with the pain of the abuse. Others are forced to take substances by their abusive partners. In our experiences, once the mother is safe from the abuser and has support to care for her children, these alcohol and drug problems quickly resolve, and her mental health improves markedly. Mothers who have been victims of abuse can be supported to safely look after their children through this recovery period.

### **The need for an inquiry into the Tom Phillips case**

We believe we need an independent inquiry into the Phillips case where the Family Court is included *and* a wider public inquiry, preferably a Royal Commission of Inquiry into the Family Court. An independent inquiry into the Phillips case should investigate the Family Court response, including all applications, affidavits, reports, evidence, hearings, proceedings, decisions and orders. The Family Court response will be central to understanding how other government agencies like Police and Oranga Tamariki responded.

The critical questions to investigate in an inquiry into the Phillips case will be how the Family Court assessed and determined the children's safety, particularly before and after they were abducted the first time. What evidence informed decision making? What criteria was used to make decisions? Was there any evidence that was ignored or minimised or unable to be submitted to the court? Is the decision making process problematic with only the particular Family Court that was involved or are other Courts making equally flawed decisions? Is there a need to restructure the Family Courts with better regulations and rules across all Family Courts? Was gender or racial prejudice involved? How resourced were each of the parties and did those resources impact on the ability to advocate for the children's safety? Were the children able to express their wishes without undue influence and were they heard? Did the Counsel for Child operate in the best interests of the children? Were there conflicts of interest present in the funding of Court personnel (Counsel for Child, Family Court report writers) and the payment of these people by the Family Court? That is, were these people able to act independently of the Courts wishes while maintaining their future employment? Were the mother's concerns trivialised?

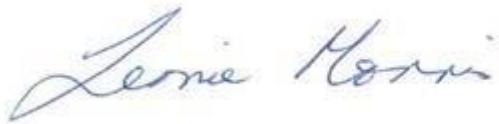
Not including the Family Court in an inquiry would be like trying to determine why a plane crashed without having the black box. Including the Family Court in an inquiry is critical because the decisions the court makes impact on how other state organisations, such as the Police and Oranga Tamariki respond. For example, there is a Catch-22 in the interaction between the Family Court and the Police regarding concerns about everyday care due to violence. Victim-survivors continually tell us that the police often say something like "if your case is before the Family Court then we don't like to intervene." But when police don't intervene the Family Court says something like "We can't see any police action here, so everything must be ok". This is a dangerous self-perpetuating cycle.

### **The Public's Right to Know**

We believe the public interest in this case is such that the Family Court cannot hide behind privacy concerns regarding the children. This inquiry does not necessarily need the children's involvement but requires a full systems examination. We believe the children have a right to know about the decision making process and why they were left with their father after he had previously staged their disappearance. The process that led to their perpetual tramping from one camp site or back to another over the course of four years must be unravelled for them as much as for the public's concern about the safe practices of the Family Court.

Thank you for your attention to these matters. We look forward to your response.

Yours sincerely,

A handwritten signature in blue ink that reads "Leonie Morris". The signature is fluid and cursive, with the first name "Leonie" being more prominent than the last name "Morris".

Leonie Morris

Chair.

Coalition for the Safety of Women and Children

**Members:** Aotearoa Women's Watch, Auckland Women's Centre – Te Wāhi Wāhine o Tāmaki Makaurau, Eastern Women's Refuge, the NZ Human Rights Centre, HELP Support for Sexual Abuse Survivors, Hestia Women's Refuge, Inner City Women's Group, Kia Haumaru - Personal Safety Education, National Council of Women, Auckland, North Shore Family Violence Prevention Coordinator, North Shore Women's Centre, New Zealand, Rape Prevention Education – Whakatu Mauri, Respect, Rodney Women's Centre, Shakti Community Council NZ, SHINE Safer Homes in NZ Everyday, Tautoko Mai Sexual Harm Support, The Backbone Collective, Women's Health Action Trust, Women's Refuge - Tāmaki Makaurau, YWCA, Auckland.