



DERRYN HINCH'S  
**JUSTICE  
PARTY**

## **DHJP Pushes for New Offence: 'Family Violence in the Presence of a Child'**

26 October 2021

Derryn Hinch's Justice Party (DHJP) will today ask the Government to commit to a new offence in the Summary Offences Act of 'family violence in the presence of a child'.

It has been developed with support from victim-survivors including Rosie Batty and Simone O'Brien to recognise the impact of family violence on children, which is enormous and linked with children becoming family violence perpetrators themselves in the future.

Earlier this year, Crime Statistics Agency (CSA) data showed that 77.2% of children who witnessed a police reported family violence incident had a future interaction with the justice system *within five years* of witnessing an incident, demonstrating the urgency at which this needs issue to be addressed.

The offence would warrant two-years maximum imprisonment, noting for more serious offending (such as recklessly causing injury) there are already more serious penalties available (but necessity to prove to a higher threshold). The offence would capture 'lower level' offending that is still damaging but may not be physical.

Mr Grimley also hopes that once funded adequately and offered state-wide that Caring Dads will become a mandated outcome as part of the new charge, whether as part of a CCO or following prison, for more serious offending.

You will all be familiar with Rosie Batty's tragic story: her son Luke was violently murdered by his father in 2014 after Rosie and Luke had experienced family violence. She had taken out intervention and custody orders for their protection. Rosie has been a relentless family violence advocate since hours after Luke's death.

Simone O'Brien's story started in 2012 when she broke up with her partner. He didn't take no for an answer and assaulted her with a baseball bat almost 50 times, in the presence of her two scared daughters. Simone has since undergone 52 surgeries to repair her broken skull and eye socket and can no longer see out of one eye.

Despite \$3.6 billion of spending in the family violence sector since the 2016 Royal Commission, family violence is *increasing*. Recent statistics issued by CSA in September showed:

- 174,432 family violence offences were reported in the year to 30 June 2021 - an increase of 18% on the previous year.
- Breaches of family violence order offences have increased by 15.1% to 55,252 offences.
- Incidents of family violence where a child is recorded as present has increased 35% between 2018/19 to 2020/21, with children witnessing family violence incidents on over 34,000 occasions in the latest FY.

As part of this push and recognising that all perpetrators will eventually leave prison, DHJP would also like to see the men's behaviour change and fathering program Caring Dads rolled out state-wide and adequately funded. It is currently only offered in a few parts of the state with major service gaps including Geelong region as well as Melbourne providers turning away clients due to high demand. Caring Dads is an evidence-based 17-week program that originated in Canada.

Some men's behaviour change providers are experiencing 6-9 month waiting lists and so this needs to be addressed urgently.



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Mr Grimley said it was important that as part of this offence, that police training must also keep pace with the recognition of the impact of family violence to ensure the right perpetrator is being held accountable. This is especially important in Indigenous communities.

Both of these incredible family violence prevention advocates are available for any media queries you have. Please first direct these to our office.

### **Quotes Attributable to Stuart Grimley MP:**

“The current sentencing framework for family violence in Victoria clearly isn’t working and certainly does not place enough emphasis on the profound affects it has on children.

The fact that over three-quarters of kids who witness family violence commit a crime within five years tells us this needs to be taken more seriously.

We need to accompany this new offence with adequate family violence training for police, funding for men’s behaviour change programs including Caring Dads and new perpetrator accountability strategies.

This also needs to be complemented with adequate victim support including crisis accommodation.”

### **Quotes Attributable to victim-survivor Rosie Batty:**

“Family violence that occurs in the presence of children is traumatic and has a profound effect on their lives. That is why, men who use violence in the presence of their children should be held accountable.

This law reform will make it possible for the police to have a stronger tool to charge and convict perpetrators of violence and will ultimately better protect children.”

### **Quotes Attributable to victim-survivor Simone O’Brien:**

“We all need to change the bicycle wheel and protect our next generations coming through. It proves - monkey say, monkey do! Let’s not allow this to happen and ensure perpetrators realise they are teaching the young children bad life skills.

Children were bought into this world to have a normal life. They shouldn’t have to have their lives destroyed by the wrongdoing of someone they are meant to look up to.”

### **Background:**

Currently the Summary Act offences of ‘unlawful assault’ and ‘aggravated assault’ are used for most family violence offences and three offences within the Crimes Act for more serious offending as well as the common law offence of ‘common assault’. The Summary Offences Act offences have a 3-month and 6-month incarceration maximum respectively.

The offence of [unlawful assault](#) results in 31.3% dismissals/adjourned undertakings or discharges, 22.2% fines, 22.8% CCOs and just 23.3% imprisonment. The offence of [aggravated assault](#) (where it was in the presence of a female or a male under 14) does not capture offending in front of adolescent males. 22.2% of cases are adjourned/dismissed, 19.6% result in a fine, 24% result in a CCO and 34% result in imprisonment. Of those, 87% going to prison for less than 12 months.

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