



# Building Integration Across the Family Law System



# Context of our research

- 2003 inquiry & proposed *Family Law Amendment (Shared Parental Responsibility) Act 2006* (Cth) changes
- Previous research showed areas of inter-professional tension and potential conflict
- But also anecdotal evidence of positive collaborative relationships

## **Final Report**

Rhoades, Astor, Sanson, and O'Connor, *Enhancing Inter-Professional Relationships in a Changing Family Law System: Final Report* (2008), <http://www.law.unimelb.edu.au/files/Inter-ProfessionalRelationshipsStudyFinalReport.pdf>

# Research aim

Gain an understanding of how family lawyers and family dispute resolution practitioners manage their inter-professional relationships and how positive collaborative relationships are formed and supported.

**First stage:** Focused on reputedly successful relationships – investigated characteristics and how these were maintained.

**Second stage:** To what extent are such relationships reflected in the family law community more broadly?

# Research design

**Stage 1 (2006):** Interviews with 29 dispute resolution practitioners and 30 solicitors across four 'PDR' programs with established and reputedly good inter-professional relationships

**Stage 2 (2007):** Web based questionnaire surveyed broader range of inter-professional relationships of varying levels of establishment from diverse locations (capital cities, regional and rural areas)

- 134 family dispute resolution practitioners in community based and Legal Aid services and the first wave Family Relationship Centres
- 322 family lawyers - sole practitioners, large and small firms, Legal Aid and community legal services

# Features of good collaborative relationships

1. A complementary services approach: division of expertise and added value for clients & practitioners
2. Mutual understanding of roles, responsibilities and ways of working
3. Trust about the intake, screening and referral practices of the other profession
4. Treating members of the other profession with respect & extending professional courtesies

## Complementary services - division of expertise

So we say look, you know, 'Go to your lawyer and go and get some advice', and we explain to them how legal advice is different from legal action, and how lawyers might assist to give some clarity, some intelligence in terms of the legal side of the case, to throw some light on the case in terms of what their entitlements might be should they go to court. And I often say to them 'Look, you know, ask certain questions and have them ready to ask'.

Family dispute resolution practitioner

## Complementary services - added value

... and that way I am fulfilling my obligation to act on my client's instructions, but I know that I'm just a cog in this greater process that is ensuring that the child's needs are being considered.

Family lawyer

# Understanding roles, responsibilities and ways of working

- a) The family lawyer's client advocacy role
- b) The family dispute resolution practitioner's obligation of impartiality ('independence')
- c) Family lawyers' professional responsibilities towards children
- d) The nature and aims of individual dispute resolution programs

# Intake and referral practices

- Both professions regard trust in appropriate intake and referral as critically important to good collaborative relationships
- Study suggests significant mistrust

I don't think family lawyers have a clear understanding of violence between the couple and what it is and what it means and what the implications are on the children... If they checked for violence as well as we checked out for it, I suspect that their framework of acceptable arrangements would be diminished considerably.

Family dispute resolution practitioner

# Professional conduct

- Communication and feedback about clients
- Respecting role boundaries
- Non-hierarchical attitudes
- Extending professional courtesies

Two forms of contact stood out as influential

1. A teamwork approach (eg., the RDM model)
2. Local cross-professional development & information sharing activities (eg., the RAV model)
  - Information sharing about work practices
  - Honesty and openness about challenges
  - Responded sensitively to the other profession's concerns
  - Meetings run in a positive spirit of inclusiveness
  - A social aspect, which built a sense of camaraderie

# Some suggestions

- Build opportunities for positive personal contact
- Build understanding of roles and responsibilities
- Provide lawyers and judges with information about local FRSA programs and their models
- Consider ways to improve communication & feedback about clients
- Consider enhancing practitioners' familiarity with the other profession's knowledge base
- Family violence training for both professions
- Skilled triage