Supplementary Statement for Justice Committee

David French
July 7th, 2025

To the Joint Committee on Justice, Home Affairs and Migration,

Thank you for your time on July 1st, 2025.

After reviewing the meeting video the following occurred to me and I would appreciate it if the following supplemental submission could be included in your deliberations.

Since the meeting on July 1st I have also received a response from the office of the EU Commissioner for Justice which I am including for your information on the EU perspective.

Thank you again for your time in considering this.

David French

Following Deputy Gary Gannon's question to the Dept. regarding the role of Tusla (at timestamp 32:27) of the video. Mr. Chris Quattrociocchi said that CFA is considered the best placed agency [to make an application] from a neutral perspective.

My comment is that CFA/Tusla by definition of their statutory function is absolutely not neutral when it comes to removing guardianship from a parent convicted of killing the other parent. From the CFA perspective the remaining parent and the children are the remains of the family and their role is to reunify the family.

This is very clearly demonstrated in the following extracts from a "Signs of Safety Danger Statement and Safety Goal" assessment document sent by CFA/Tusla to our family directly following taking the children into care in June 2019, the charge pf murder and when the final placement was being decided:

"Tusla is worried because some of the potential placements are out of the country and the boys' father, extended family and entire network is in Ireland."

"Tusla is worried that their potential carers may not want to talk about the boys' father with them or want the boys to visit him or have contact with him in the future. Tusla is worried that the foster carers personal views may even indirectly be projected onto the children. Tusla is worried that if this should happen, it would impact greatly upon the boys and their relationship with their father and effect their sense of identity into the future.

Tusla is also worried that the boys may not receive sufficient or appropriate support if/when their father comes to trial and/or that their carers may not be emotionally available to support them, as the potential carers will likely have to manage their own emotions during this potentially stressful and upsetting time."

"It is very important that the boys' carers are open and able to talk about both the boys' mother and father in a supportive balanced way, as this will be important for the boys to develop a sense of identity as well as understanding and coping with what has happened in their lives.

It is important the carers are willing to maintain contact between the boys and their father as appropriate, e.g to bring the boys to see their father. It is possible that the boys' father will be facing a criminal trial in relation to the death of their mother and the boys will need to be supported and protected during this time. Their carers also need to be aware of the emotional impact on them of a possible trial and not let the trial influence their caring for the boys or their attitude towards the boys' father.

They also need to be able to identify and understand what the children need now and in the future and show Tusla how they will give the boys what they need.

The boys may need professional support on an on-going basis into the future to help them deal with the trauma of their parents suddenly exiting their young lives. Their carers will need to be committed to working with professionals to ensure that the boys have every opportunity to talk about and understand what has happened. Their carers need to be open to the boys asking questions about their mother and father and provide developmentally appropriate answers for them without being negative towards the boys' parents."

From an outside perspective it is very clear that this absolutely prioritises the role of the father and does not fully understand or acknowledge the immense damage caused to the children by his killing of their mother. There is also a lack of understanding of the perspective of the victim's family towards the father.

The full CFA/Tusla document titled "Signs of Safety Danger Statement and Safety Goal" can be made available to the Committee if required but it contains some private information about the children in care which would need to be redacted.

I would suggest that the Ombudsman for Children's Office may be considered as a more neutral child-centric statutory body which could fulfill the function of making the application in the Family Law Courts following a conviction for murder or manslaughter.

Senator Garrett Kelleher: Regarding the abundance of research that I mentioned:

The key part is the research summarised in this book:
When Father Kills Mother: Guiding Children Through Trauma and Grief Paperback
by Dora Black, Tony Kaplan, Jean Harris-Hendriks
ISBN 978-0415196284
And the other parts are in my Submission document.

I would also like to point out that a review of the literature on the impacts to and placement of children after the father has killed the mother, carried out by Lennings (2009) concluded that the best outcomes appear to occur when placement is associated with the maternal kinship group. The review found it probable that placement with the perpetrator family group impacts on the child's development through:

- **Requiring the child to distort reality to accommodate ongoing relationships with the perpetrator**
- Reductions in bonding and attachment to care-givers due to the care-givers 'reserving' a primary role for the abusive parent.

Lennings C.J. (2009) Uxoricide: When dad kills mum, what to do with the child? The Children's Court of New South Wales. Children's Law News April 2009. Available at: https://childrenscourt.nsw.gov.au/content/dam/dcj/ctsd/childrenscourt/documents/news/2009%20clnv%20uxoricide.doc

---

Senator Anne Rabbitte:
Regarding Barnahus. I have looked into this service and it appear to be totally focussed on "Child Sexual Abuse". My observation is that this is quite different to the post-homicide situation.

THE CHILDREN'S COURT OF NEW SOUTH WALES
Children's Law News

Uxoricide: When dad kills mum, what to do with the child?

Dr. C. J. Lennings
University of Sydney
lennmac@bigpond,com

Uxoricide means the murder of a wife by a husband, but is used in contemporary research to refer to cases where either spouse murders the other. The incidence of Uxoricide is difficult to assess. In a 2002 Australian study of domestic violence, Bradfield[1] identified 76 men who were killed by their partners in the preceding 8 year period in Australia whilst during the same period 147 women were killed by their partners. This averages out at a rate of about 28 families a year across all Australian states. In a study of adult survivors of Uxoricide, Parker et al[2], indicate that of all spouse killings in the United States, 75% of the killings occurred in the conventional child bearing ages (ages 15 to 44). Hence the likelihood is that, whilst relatively rare, a substantial number of children in Australia will be survivors of Uxoricide.

This review is concerned with two practical issues. The first is attempting to assess the likely impact on a child of being exposed to the murder of a parent by the alternate parent. The second issue is that of placement. What to do with the child following the murder? (Murder is a legal term. Of the 223 deaths outlined above, not all offenders would be convicted of "murder". More than likely many would have been convicted of manslaughter). The options facing courts are to have the child in the care of the deceased parent's family, in the care of the perpetrator's family (on the assumption the perpetrator is incarcerated) or in care.

Methodology for the review

In undertaking the initial review in 2006 I made use of several research terms. I was previously supplied with the reference of Dora Black[3] and I undertook a search on that name. I undertook a search on Uxoricide (the phrase used by Dora Black to describe the murder of a mother by a father). I then entered the following search terms as a compound search "PTSD, Death and Dying, Homicide and Mothers" and set the search time frame to all references published from 1990 to 2006. After

[1] Bradfield, R. (2002) The treatment of women who kill their violent male partners within the Australian Criminal Justice system. Ph D. thesis, university of Tasmania. www.eprints.utas.edu.au/1045/
[2] Parker, B., Steeves, R., Anderson, S., & Moran, M. (2004) Uxoricide: A phenomenological study of adult survivors. Issues in Mental Health Nursing, 25, 133-145.
[3] Dr Dora Black is a Consultant Child and Adolescent Psychiatrist in the UK

winnowing through 26096 citations, a total of 254 publications investigating the terms murder, death, mother, and child were found.

I reviewed the abstracts of all 254 publications. Only about 10% of these were relevant to the current issue, and of those most were single case or few-cases studies. Following this, I undertook a title search through Child Abuse and Neglect, the lead journal in child protection issues. Additionally, I used as code words grandparents caring for children, kin-care, death of a mother, and effects on a child. No additional references not already identified were found[i]. The review was updated in 2007 with additional material sourced from an ongoing literature review on attachment and child protection issues in general.

The effect on a child of the mother being killed by the father

The largest single study in this area is that of Dora Black. Her work is reported in a number of articles, book chapters and one book. In considering the impact of domestic violence and spouse murder on victims, Dr Black identified the following findings:

1. A tendency for the child to self derogate (to internalise blame for the assault) (this is especially true for children under the age of 8 years and applies equally to children whose mother was killed by a father or whose father was killed by a mother – see Parker[4].)
2. A tendency for the child to experience symptoms of shame and humiliation
3. Impoverished attachment
4. A tendency for the child to develop a sense of secrecy leading to low self-esteem and feelings of entrapment
5. Post traumatic stress disorder (especially in cases of Uxoricide)
6. The outcome of these emotions is to increase behavioural disturbance, learning problems, and psychosomatic disorders
7. Ongoing exposure can lead to mimicry and modelling where aggression becomes accepted as an acceptable conflict resolution strategy and there is some research to indicate that boys are more likely to respond aggressively when exposed to high levels of paternal conflict whilst girls develop internalizing disorders (Bosco, Renk, Dinger, Epstein & Phares[5], Markus[6] et al).

[4] Ibid 2
[5] Bosco, G. L., Renk, K., Dinger, T. M., Epstein, M. K., & Phares, V. (2003) The connections between adolescent's perceptions of parents, parental psychological symptoms and adolescent functioning. *Applied Developmental Psychopathology, 24,* 179 – 200.
[6] Markus, M. T., Lindhour, I. E., Boer, F., Hoogendijk, T. H., Arrindell, W. A. (2003) Factors of perceived parenting rearing styles: the EMBU-C examined in a sample of Dutch primary school children. *Personality and Individual Differences, 34,* 503-519.

Black claims that infants can be aware of the impacts of domestic violence and are attuned to the emotional context of the home. (See also Perry[7] for similar information and research on the development of stress responses in infancy by Fonaghy[8]).

Black reports some findings suggestive that as a child ages the sympathy the child feels for the battered mother can translate into anger towards the dead mother, in a sense externalising the blame for the abusive situation onto the victim as a symbol of the helplessness they feel about not being able to "fix it". Such attributions are more likely where secrecy is a requirement. The attribution of anger towards the dead parent appears in contrast to a surprising lack of anger, identified in adult survivors in other research. Parker et al[9], note low levels of anger towards the father, in a small sample of adult survivors of having witnessed their mother killed by the father. It is probable that the child goes through a process of transferring responsibility for the mother's death on to the victim as a means of being able to tolerate the presence of the perpetrator in the child's life. Black (and others) express concern regarding the cementing of pathological reactions where denial of reality becomes a necessary psychological defence mechanism.

Black[10] also provides some advice about not placing the child with the perpetrator's parents. In her experience these parents have difficulty in completing bonding to the child, "reserving" themselves so as to prepare the child to re-attach to the (perpetrator) father at some point in the future.

As part of a long term follow up of a portion of her sample Black[11] reports on the findings of careful evaluation (and treatment) of a heterogeneous group of children, all of whom had one parent killed by the other. Of the total of 370 children (of which 1/3rd had been present at the time of the parent's murder) 95 children were followed up by questionnaire with a median follow-up time of 3.5 years.

In most cases children had been placed with the mother's parents (in most cases the murdered parent was the mother – in only three cases was the mother the perpetrator) but 58% of children were in non-kin care of one form or another. Important findings were:

- Placement stability was greatest where children have been placed with the mother's kin.

[7] B. Perry, D. Runyan, D & Sturges, C. (1998) Bonding and attachment in maltreated children. *Civitas Academy Caregiver Education Series 1, (5~~)~~.).*
[8] Fonaghy, P. (2004) Early-life trauma and the psychogenesis and prevention of violence. *Annals of the New York Academy of Science, 1036*. (pp. 181-200). New York: N.Y. Academy of Science.
[9] Ibid 2
[10] Black, D. (1998) Working with the effects of traumatic bereavement by ~~u~~Uxoricide (spouse ~~m~~killing) on young children's attachment behaviour. *International Journal of Psychiatry in Clinical Practice, 2*, 245-249
[11] Kaplan, T., Black, D., Hyman, P., & Knox, J. (2001) Outcome of children seen after one parent killed the other. *Clinical Child Psychology and Psychiatry, 6*, 9-22.

- Children in contact with the perpetrator were in non-kin care. In other words, for whatever reason placement with the mother's kin resulted in no contact with the father. Although in the intensive follow-up the children placed in paternal kin care had also minimal or no contact with the perpetrating father, this was an aberrant result compared to the larger cohort from which this sample was drawn. From the larger sample it seems there was a trend for children placed in paternal kin care to eventually return to the father's care once he was released from gaol.
- Approximately one third of children were rated as having ongoing emotional problems and one-third ongoing behavioural problems. (From the study it is not clear if this is a separate group or whether the two groups overlap).
- Witnessing the killing had a strong link with PTSD-type reactions
- Assessment of outcome of placement revealed that the children with the best outcome were living with the mother's kin, followed by living in care, followed by living with the father's kin. However, given that only four children were living with paternal kin it is probably not wise to do more than assume that maternal kin care seems to provide better outcomes than other kind of care.
- From the full sample, children once returned to the father "disappeared" from further analysis as in all cases, return meant that the father stopped access of various authorities to the children.
- Brief crisis intervention was insufficient in settling the symptomatology of the children and long-term interventions are necessary. (But see the work of Kilpatrick[12] etc that suggests that damage done in these cases is probably very hard to moderate).

Outside of the work of Dora Black, the most comprehensive review of harm associated with a child witnessing the serious assault or murder of a parent (usually the mother) is the review of Lehman[13] . Lehman reviewed 34 empirical articles on the effects of children witnessing severe violence towards a parent, of which about half dealt with the murder of the mother by the father. Lehman's review identified that, in about 85% of studies (with the samples reporting average pre-traumatization exposures between 60% to 80% of each sample), a child having been exposed to a father's violence towards the mother will have had previous exposures to paternal domestic violence.

A related area of research to Uxoricide is that of the effect of domestic violence on children. (Given the above findings that children who are survivors of Uxoricide have a very high chance of prior exposure to domestic violence, the analysis of the effects on the child of the mother's death is cumulative to the effects of domestic violence). Such research is included in the reviews by both Lehman and Black. However, what is not clear from the above reviews is the extent to which intra-

[12] Kilpatrick, K., Williams, L. (1998) Potential mediators of post-traumatic stress disorder in child witnesses to domestic violence, *Child Abuse and Neglect, 22*, 319-330.
[13] Lehman, P. (2000) Posttraumatic stress disorder (PTSD) and child witnesses to mother-assault *Children and Youth Service Review, 22*, 275-306.

psychic or intra-family variables may moderate the impact of violence on the child witnessing it? Clearly not all children who witness even extreme violence develop symptoms and it stands to reason that some factors might reduce the likelihood of traumatisation. Kilpatrick and Williams[14] found that in a small group of children (n=20, matched to a similar group of children without domestic violence backgrounds), despite extensive psychometric evaluation mediators, the effect of domestic violence could not be established. That is whilst various factors that might moderate a child's exposure to DV were assessed (such as parenting style, resiliency, age and gender) no variables were significant. This finding suggests that the effects of witnessing DV are hard to compensate for, and if a child becomes symptomatic, the effects are more likely to be severe and long term. It seems that the engine by which domestic violence creates problems in children are through impacts such as:

1. Abusive (and depressed) parents are more likely to be self-critical and also be child-critical
2. Abusive parenting models ineffective emotional regulation and
3. Increased Conflict
4. Abusive parenting reduced self-esteem in their children, and
5. leads to restricted or volatile emotional responses (for further discussion see Lennings)[15].

The reviews of Lehman and Black and the empirical work of Black and Kilpatrick documents the wide raft of symptoms and cognitive/behavioural disturbance identified in children in such situations, leaving the conclusion a very clear one. There is a high probability of a child exposed to such conditions being traumatised, that the trauma tends to be long term, and that considerations of placement of the child have to take into account the interaction between the likely course of trauma (re-experiencing, regression, dissociation and detachment, and superficial attachment). Furthermore Lehman's review found that, on the whole, the younger the child at the point of traumatisation, the more severe would be the traumatisation experience. Although approximately 50% of the 34 studies reported in Lehman refer to Uxoricide, no overall data is presented in relation to the post-mother's murder placement, other than to note that continuing placement instability and slow-to-resolve legal issues further the stressful environment.

Studies of adults who, as children, were exposed to Uxoricide

A number of studies have been found that have used surveys of adults (usually university students) to investigate the long term effects of exposure to witnessing or having a parent (usually mother) violently abused or killed by another parent. Typically, such studies reveal long- term effects of PTSD

[14] Kilpatrick, K., Williams, L. (1998) Potential mediators of post-traumatic stress disorder in child witnesses to domestic violence, *Child Abuse and Neglect, 22*, 319-330.
[15] Lennings, C. (2007) Mental Illness, Depression and Parenting Assessments. *[2007] Children's Law News* 2 16-33. http://www.lawlink.nsw.gov.au/lawlink/childrens_court/ll_cc.nsf/vwFiles/2007childrenslawnews2.doc/$file/2007childrenslawnews2.doc

and other symptoms in the adult survivors. Larger sample studies focus on the effects of domestic violence, but studies investigating adult survivors of witnessing Uxoricide tend to be based on very small samples. Henning[16] et al., report a follow up study of a little fewer than 1500 adults in a university campus. It is retrospective study of their family life, and found that 14% of the sample reported witnessing domestic violence many years earlier. Such reports were associated with higher degree of maladjustment and psychosocial distress, with the authors concluding witnessing domestic violence was a risk factor for later adult adjustment.

Similar research (utilising retrospective analysis of university student samples) by Styron and Janoff-Bulman[17] reported that the attachment styles of adult survivors of child abuse are far more insecure, and research by Lev Wiesel and Samonson[18] with 8 adult survivors of Uxoricide utilising artwork identifies "oddness" and themes of distance, isolation and aggression compared to other adults.

Parker at al., identified 7 adult survivors of Uxoricide. They found, like Black, a surprising lack of anger towards the perpetrator and an unusual degree of anger towards the dead parent (in their research a product of the emphasis on "family" the survivors as children were seemingly subjected to). They also found that such survivors tended to utilise coercive and aggressive strategies as adults in their own adult relationships, suggesting a generational contamination effect.

Overall, the research on both children and adult survivors of severe forms of domestic violence and Uxoricide points out the significant costs to the child of such behaviour.

The effect on the young child's attachment by early abuse and exposure to domestic violence

Attachment

Attachment is thought of as a primary regulator of emotion through being incorporated into the "model of self" (McNally[19], Palfai, Levine & Moore). The theory driving contemporary understandings of attachment is based on "theory of mind." Essentially a child develops a working model of relationships. These working models are derived from their attachment experiences. The working models then influence the encoding of emotional stimuli, particularly as it pertains to interpersonal, and especially, close interpersonal relationships. Working theories are built up as a product of the

[16] Henning, K., Leitenberg, H., Coffey, P., Bennett, T., & Jankowski, M. K. (1997) Long term psychological adjustment to witnessing inter-parental physical conflict during childhood. *Child Abuse and Neglect, 21*, 501-515.
[17] Styron, T., & Janoff-Bulman, R. (1997) Childhood attachment and abuse: Long term effects on adult attachment, depression and conflict resolution. *Child abuse and Neglect, 21*, 1015-1023.
[18] Lev-Wiesel, R., & Samson, T. (12001) Long-term effects of maternal death through paternal homicide evidenced from family of origin drawings. *Arts in Psychotherapy, 28*, 239-244.
[19] McNally, A. M., Palfai, T. P., Levine, R. V., & Moore, B. M. (2003) Attachment dimensions and drinking-related problems among young adults. The mediational role of coping motives. *Addictive Behaviours, 28*, 1115-1127.

experience a child has with primary care-givers (Bradshaw & Garbarino[20],). At its most basic a child gets to ask, and answer the question - are people dependable, and will they respond to my needs?

Perry goes on to suggest that the effect of abuse and neglect on children is threefold.

The most common effect is that children feel rejected. A primary problem for such children is the failure to develop appropriate emotional intimacy as they develop. As these children become parents they maintain inappropriate roles and experiences for the children, often relating to their children as if the children posses adult responsibilities ("my little man"). The children can become isolated from same-age peers and lose out on socialisation experiences as a result.

Other research has identified the role very early childhood experience may play in sensitising the child to the development of mood disorders and undermining neuronal and hormonal mechanisms that might be involved in attachment. The proposal is that the early experience of abuse or neglect results in changes to neurotransmitter sensitivity or even hard-wiring changes in the infant brain that impact on emotional regulation and attachment (see both Bradshaw and Garbarino; Gunnarfor reviews). There is some suggestion that early abused children show reduced left-hemisphere functioning, impacting on their ability to utilise internal speech as an affect regulation strategy. Changes in the HPA axis (Hypothalamus, Pituitary, Adrenal Cortex: the hormonal system that regulates fight and flight, and stress hormones) can occur as a result of prolonged stress at early ages, and can leave life-long patterns of maladaptive responses to stress as a result. In general, the child's nervous system grows most, and is most sensitive to environmental influence, in the first three years of life. Hence changes in both hormonal and nerve pathway activity can be most significant if it occurs in this critical developmental phase. It is thought that abuse, especially associated with attachment disorder in this early period, can permanently impact on the child through "internalising" the approach-avoidance elements of abusive care-givers. Thus abuse can lead to problems in affect regulation, how one represents the self and others internally (script knowledge), attachment style (anxious, ambivalent or disorganised), adaptation to stress and capacity for intimacy and empathy.

These factors have been clearly identified by Bradshaw and Garbarino as:

1. Maltreated children develop a kind of PTSD syndrome characterised by increased hyper-vigilance, exaggerated startle response, anxiety, and emotional detachment from others. As they age they develop a negative affective and cognitive set, seeking cues in the environment to confirm the belief that the world and others are harmful. As a response they act defensively to ward off (anticipated) harms.

[20] Bradshaw, C. P., & Garbarino, J. (2004) *Social cognition as a mediator of the influence of family and community violence on adolescent development.* Annals of the New York Academy of Science, 1036. (pp 85-105). New York: New York Academy of Science.

2. At a neurological level specific pathways form as a consequence of abuse. Easy activation of these pathways can occur ("canalization"), such that there is preferential activation of pathways confirming abuse like states and linking cognitive and affective states. (See Fonaghy[21], as well).
3. Early childhood is a period of rapid brain growth (mylination and dendrite expansion). Hence abusive influences on brain development in childhood are far more likely to produce serious and relatively permanent changes in function than in adolescence. Both functional change and brain damage (as a result of physical abuse) can seriously effect the development of structures and connections underlying brain and cognitive development.
4. Stress of maltreatment may alter the HPA axis (Hypothalamus-pituitary-adrenal). Thus responsivity to emotional regulation under stress is affected. Chronic activation of the HPA axis may contribute both to physical change in the brain (sensitising) and impairments in emotional and cognitive functioning.
5. Maltreated children are sensitised to certain emotional cues as a function of learning. For example, anger recognition becomes strongly developed in physically abused children, whereas neglected children appear to become insensitive to facial communication of emotion across the board. Both can lead to deficits of perspective taking, an important precursor to the experience of empathy.
6. Exposure to violence in and of itself desensitises children to it. In a corollary children may be sensitised by the indirect experience of violence (hearing about violence, violence within the media, news, family reports) and seek to form alliances with violent others in order to gain protection after having established a belief system "the world is dangerous" - what they call a "negative perceptual bias". Such behaviour may be more likely to be seen in children with multiple risk factors.

One implication for abused children is the persistence of a "low level fear state". That is, the child remains hyper-vigilant, behaviourally impulsive, motorically hyperactive, and maybe withdrawn and depressed. This looks like Attention Deficit (& Hyperactivity) Disorder (ADHD/ADD) but is a chronic behavioural and emotional reaction to a persistent history of abuse and is linked more to a manifestation of post traumatic stress disorder in children than to Attention Deficit Disorder per se.

Attachment and Contact Visits

One of the important outcomes of child protection intervention is the possibility that a child will have increased or decreased contact with a parent. The functions of contact are not always clearly spelt out; however, in short, contact can be seen to (Sturge & Glaser[22],):

[21] Fonaghy, P. (2004) Early-life trauma and the psychogenesis and prevention of violence. *Annals of the New York Academy of Science, 1036.* (pp. 181-200). New York: N.Y. Academy of Science.
[22] Sturge, C and Glaser D. (2000) Contact and domestic violence – the expert's court report. Family Law, September, 615-628

- Increase sharing of information about the family and about the self, thus leading to a sense of having a history, having "roots" and forming identity.
- Maintaining meaningful and beneficial relationships or building these if they have been absent (providing the assessment identifies that contact would not, in fact, be injurious to promoting this)
- Provide experiences that are foundation experiences for emotional growth and development (i.e. children benefit from feeling special, of having attention lavished on them, and of feeling cared about). In adolescence, the requirements of establishing identity may mean curiosity and a desire to spend time with the biological parent to test out schemata and constructions of the self.
- Reparation of broken or problematic relationships
- Opportunities for reality testing for the child (testing out the fantasy the child may have had about a family member against the reality)
- Facilitating the assessment of the quality of the relationship (e.g. if a restoration plan is being considered)
- Severing relationships, e.g. goodbye meetings.

In what is regarded as one of the most comprehensive reviews of contact, Quintonet al[23]., consider the issue of contact with birth parents and extended family from two perspectives. One is through the **rights** that a parent, family member of child may have, and the second is the **effects** of contact, or no contact, on that child. For instance rights may be abrogated where there is concern that significant harm may occur as a result of the effects or consequences of contact. Such harm may be undermining the current placement of the child, denigrating the child, exposing the child to threat or abuse, or neglecting the child during contact.

Definitions of contact are somewhat variable, but can refer to non-personal contact (such as phone calls, letters, emails, text messages and the like) as well as face-to-face contact. Quinton et al review research that indicates the speed of placement back with a parent is in part a function of the degree of contact between the child and parent. The higher the contact the more likely a speedier return to the parent takes place. Whether such a speedy return is a proxy variable for more important issues such as parenting ability, psychosocial stability of the child and the like is hard to tease out of the findings. What does seem unambiguous is the longer a child remains away from a parental figure the more likely a decline in level and frequency of contact will occur, leading to disengagement from that person(s). Conflict can be enjoined by the other non-custodial parental figures perceiving this disengagement as deliberate "alienation". As in much other research, the length of contact post 6

[23] [23] Quinton, D., Ruston, A., Dance, C., & Mayes, D. (1997) Contact between children placed away from home and their birth parents: Research issues and evidence. *Clinical Child Psychology and Psychiatry, 2*, 393-413

months appears critical. Whilst Quinton et al. refer to such reduction in contact as "atrophy", it is possible a more active disengagement process is occurring in which the opportunity to create hypotheses about why a person is not contacting the child can become mixed with vilification of that person (by family members from the other parent), leading to an active disengagement from, or, in some cases, deliberate alienation, of the family member. Some support for the dynamic nature of why contact diminishes is garnered from the research they quote when it is revealed the single strongest determinate of "atrophy" of contact is in fact the number of visits made by the case worker (as a proxy for supervision of the child's contact).

The fact is that contact must balance the disadvantages that might accrue from the advantages that might accrue. To arrive at an end result, the purposes of contact need to be articulated, the risks and benefits weighed, and the process, as well as the decision, effectively communicated. The benefits can be identified in terms of the degree to which the child experiences a warm, approving and special relationship with a parent or family member (hence promoting self-esteem); has their experience of their parent extended and helps to develop a meaningful relationship; develops knowledge about the parent and family; and repairs broken relationships and reduces distortion in the perception of the relationship. The costs of contact can be found in the potential for the escalation of conflict that will destabilise identity and reduce emotional wellbeing; create "loyalty tugs" and impair the relationship between both the resident and non-resident parent/care-giver. Other costs include experiencing abuse in all its forms; allowing "unhealthy" relationships to continue; creating instability in the child through exposing the child to different and inconsistent rules, creating clashes of moral judgments; and exposing the child to boring and under-stimulating environments.

With specific reference to Uxoricide, loyalty tugs confer a special significance. The clinical reality is that conflict led to the death of the parent. When extended family members continue the conflict through the child (as in arguments about contact/access and custody/residence) it is not hard to see how the child can re-experience this conflict in terms of the initial trauma. The kin-groups become proxies for the same kind of tension that the child has experienced, and act as a signal or cue to illicit the primary traumatic experience. Uncontrolled re-experiencing of the primary terror is a critical and negative factor in prolonging PTSD[24]. Such conflict is likely to hasten the distortion of reality reported in research such as Black and Parker[25] (reviewed earlier) noting the pattern of anger minimisation for the abusing parent and vilifying or blaming the dead parent – strategies that prolong rather than heal personality dysfunction.

Kin-care

[24] Cohen, J .A. (1998) Summary of the practice parameters for the assessment and treatment of children and adolescents with Posttraumatic Stress Disorder. *Journal of the American Academy of Child and Adolescent Psychiatry, 37*, 997-1001.
[25]

Quinton's research highlights that the most important predictor of placement quality in long-term placement cases, is placement stability. Generally, research over the last 10 years reveals more stable placements are achieved with kin than with other forms of out-of-home care (see Lennings[26], for a review). When considering placements with grandmothers, despite it being an increasing phenomenon, surprisingly little research has been undertaken. However, grandparents (or kin placements) usually result in fewer disruptions of placement for children and overall appear to be regarded as less likely to lead to re-abuse or instability (see for a review Berrick[27],). However, it is also noted that such placements appear to be sensitive to ongoing support and physical health status of the grandparent (Kelley et al[28],) and usually work better the less psychologically challenging the child is (Berrick[29],). Thus an important decision in considering the placement of a child with kin is the extent to which a child is revealing current maladaptive behaviours. The less challenging the child the better the kin-placement outcome may be expected.

At the heart of Quinton et al.'s[30] review is the careful examination of what is regarded as very patchy and generally poor quality evidence of the pros and cons of contact with a biological parent following separation for child protection reasons. Whilst the "right" is considered, the evidence of consequences is hard to interpret with the report identifying that, on the whole, there is not compelling evidence either way for the consequences. Ultimately, decisions about custody and access have to relate to individualised assessments of the likely harms and benefits of any such arrangements.

Conclusion

The above literature review was undertaken to help provide some data to answer the following three questions. The answers are provisional in as much as the data supporting them is often weak, tied to only a few studies or to studies that have only few subjects, or draws from the domestic violence literature rather than from specific studies on Uxoricide.

1. What are the likely effects of the murder of a child's mother by her father?
2. What are the best placement options for a child in the situation where there is probably conflict between the grandparents/kin family?
3. If a kin placement is considered what are the relative merits of paternal v maternal placement, all other things being equal?

[26] Lennings C. J., (2002) Decision making in care and protection. The expert assessment. *Australian e-Journal of Adolescent Mental Health. 1* (2) www.auseinet.com/journal
[27] Berrick, J. D. (1998) When children cannot remain home: Foster family care and Kinship care. *The Future of Children, 8*, 72-86.
[28] Kelley, S. J., Whitely, D., Sipe, T. A., & Yorker, B. C. (2000) Psychological distress in grandmother kinship care providers: the role of resources, social support, and physical health. *Child Abuse and Neglect, 24*, 311-321.

[29] Ibid 27
[30] Ibid 23

In brief, the anticipated effects on a child can be expected to be dire with the younger the child the more awful the impact. Whilst there is no obvious clues from the research as to what can mitigate these effects, it is essential that treatment be long term (with appropriate commitment to funding), not be side tracked by apparent plateaus in behaviour, and that placement stability is to be a priority. The best outcomes appear to occur when placement is associated with the maternal kinship group. It is probable that placement with the perpetrator family group impacts on the child's development through

a. Requiring the child to distort reality to accommodate ongoing relationships with the perpetrator
b. Reductions in bonding and attachment to care givers due to the care-givers "reserving" a primary role for the abusive parent, and
c. Reduction in access to welfare and treatment services appears, for an unknown reason, to accompany return to paternal care.

In the only one of my four cases where placement was effected with the paternal kin, the outcome was the effective removal of all maternal kin contact despite there having been a previous record of good levels of maternal kin contact. Of note, in this case there were several children, all in their adolescent years, whilst the other three cases involved a single toddler or infant. Of the remaining cases, one child was placed in care and the other two children were placed with maternal kin. The child placed in care continued to have regular, but supervised, contact with the father but not with mother kin for the first few years after the initial homicide– the father avoided a lengthy custodial sentence. Of the two children placed in maternal kin care, I only have knowledge of one outcome – maternal kin care was associated with supervised contact with both the father and members of the extended paternal family.

Placement stability is best considered within a kin as opposed to an out-of-home placement. Out-of-home placements seem indicated only when the child's pathology and resulting behavioural disturbance is of a high level and likely to damage the kin-placement. Additionally it seems reasonable to assume that out of home placements should apply where assessments indicate psychopathology in the extended kin families. Although the research is extremely limited, it seems that placement with the maternal kin group results in better long-term outcomes than the paternal kin group. Placement with paternal kin does appear associated with less effective attachment and eventual return to the abusive father. If conflict between the kinship groups is unavoidable, then the decision about placement should remain the long-term interests of the child (reduction in pathology and stability of placement) rather than strategies for allowing both groups "rights" of contact. In such situations the best advice seems to be to maintain placement with the mother's kin and taper off contact with the paternal kinship group.

Where there is no clear understanding of how contact with non-custodial family members might promote or harm the child, unless there is an expectation of unavoidable conflict, it seems appropriate to consider both sides of the kin-group having contact with the child. However, ongoing monitoring of that process should occur.

[i] No case study is included in this review, the first case I was involved in of this nature occurred in the early 1980's and the appeals and actions in relation to that matter to my knowledge went on into the late 1990's. It seems any reference to the cases that I have been involved in since 2000 (three cases to date) are more than likely not to be finalised for some time, and hence, given the rarity of the crime, confidentiality of the matter could not be guaranteed, even by attempting to de-identify the material.

Copyright 2009 Crown Copyright
All material is reproduced by permission of the Crown but does not purport to be the official or authorised version. Downloading, copying or printing of materials in this database for personal use, or on behalf of another person, is permitted. Downloading, copying or printing of material from this database for the purpose of reproduction or publication (in whole or in part) for a fee is not permitted without express authorisation.

Follow-up to the meeting with Commission Michael McGrath on 15 April 2025

This document aims to provide complementary information to questions raised during the meeting on 15 April 2025 between Commissioner for Democracy, Justice, the Rule of Law and Consumer Protection, Michael McGrath, and MEP Kathleen FUNCHION and Mr. David FRENCH, on the issue of Valerie's Law, a proposed legislative reform in Ireland aimed at revoking the guardianship rights of parents convicted of murdering their partners.

1. How many children in the EU have one parent convicted of killing the other?

There is currently **no comprehensive or publicly available EU-wide statistics** on this topic.

However, according to **Children of Prisoners Europe (COPE)**, approximately **800,000 children** in the EU (2022) have a parent in prison on any given day. While this gives a sense of the broader population of children affected by parental imprisonment, it does **not specify the nature of the crime**, such as **domestic homicide**.

This kind of data - children affected by **intimate partner homicide** - is often fragmented and handled at the **national level**, sometimes within child protection or criminal justice systems, but rarely aggregated across the EU.

Regarding Ireland, based on **COPE** estimates and extrapolations:

- **Total prison population**: 3,724
- **Estimated number of children separated from an imprisoned father**: **~4,649**

For more information: Statistics Ireland - Children of prisoners

2. Information on Member States' legislation and/or practices as regards the removal of guardianship from the remaining parent who killed the other parent. E.g. (outside the EU) of Jade's Law in England and Wales which suspends guardianship of killer parents.

Substantive family law issues, including the possible limitation of parental rights, do not fall under Union competence.

National courts have the authority to **revoke, suspend, or limit parental rights or guardianship** if it is deemed to be in the **best interests of the child**.

In EU Member States, revocation of parental rights is not automatic. **Guardianship can generally be revoked or restricted through family court proceedings**, although the **procedures and legal thresholds vary** by country.

The **best interests of the child** is a guiding principle in all family law decisions, as enshrined in both **EU law** (Article 24 (2) Charter of Fundamental Rights of the EU and **national legal systems** (as emanating from obligations bound by the United Nations Convention on the Rights of the Child (CRC), Article 3(1)) **which states that 'in all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration'**.

There is **no single landmark case** (in the European Court for Human Rights - ECtHR) that universally governs revocation after spousal homicide. However, the Court has consistently upheld that:

- **Parental rights are not absolute**.
- They can be **restricted or removed** if necessary to protect the **child's best interests** and **psychological well-being**.

In **Kutzner v. Germany (2002)**, the Court emphasised that any interference with parental rights must be **proportionate** and **justified by compelling reasons**, especially when permanent.

The **European Commission** has acknowledged the need for better protection of children in domestic violence, but **specific guardianship reforms** remain largely at national level.

3. In the context of cross-border cases, does the EU has additional competence on the issue of responsibility of parents or guardianship? The Brussels IIb Regulation was mentioned during the meeting.

The Brussels IIb Regulation (EU) 2019/1111 governs jurisdiction, recognition, and enforcement of decisions in matrimonial matters and parental responsibility within the EU.

It obliges Member States to recognise decisions on parental responsibility from other Member States. That would also include decisions depriving persons convicted of crimes of their parental responsibility. But the substantive issues (i.e. the question whether and under which circumstances parents are stripped of guardianship for their children) are exclusively for national law. We also have no statistics in that respect.

4. Could you further elaborate on the EU protection order, in cases of domestic violences, that was mentioned in the meeting?

The EU rules on mutual recognition of protection measures (Directive 2011/99/EU on the European protection order in criminal matters and Regulation (EU) No. 606/2013 on protection measures in civil matters) allow for a prolongation of national protection measures for persons in danger when they travel or move to another EU Member State.

Both instruments apply to all victims of crime. In practice, however, protection measures are mostly applied to protect women in cases of intimate partner or domestic violence, harassment, stalking or sexual assault due to their particular vulnerability to secondary and repeated victimisation, intimidation and retaliation.

The Commission has adopted reports on the implementation of the Directive on the European protection order and on the application of the Regulation on mutual recognition of protection measures in civil matters. Both reports show that there is scope to improve awareness of the European protection orders in Member States.

The proposed revision of the Victims' Rights Directive contributes to raising awareness about national protection measures available, including protection orders. Notably, the revision will **strengthen the use of protection measures for victims' physical protection,** such as protection orders, by adding physical protection measures to the list of specialised protection measures currently laid down in Article 23 of the Victims' Rights Directive.

5. **Regarding the implementation of the directive on combating violence against women and domestic violence (VAW directive), (how) will the new obligation for Member States to ensure that competent authorities, including judges, have access to information regarding cases of violence against women/domestic violence involving children, will impact the assessment of the best interests of the child, in the Member State, including in Ireland? Does it create additional requirements for Member States and judges at national level as regards the guardianship?**

The assessment of the best interests of the child in the context of guardianship proceedings is a question of substantive guardianship law, which falls outside EU competence.

The VAW Directive requires Member States to ensure that competent authorities, including judges, have access to information regarding cases of violence against women/domestic violence involving children. The stated purpose of this obligation (see Article 32(1)) is to allow such authorities to take into account that information in the framework of civil proceedings concerning such children (e.g. when decisions on custody and on visitation rights are taken).

The requirement in the VAW Directive, however, does not prescribe a specific impact on guardianship decisions. Judges will have access to relevant information before deciding on guardianship, but the final decision is left to their independent decision-making.

This said, **the Commission will insist on the importance of a correct and effective implementation of Article 32(1), in the context of the implementation workshops** that the Commission is going to hold with Member States to guide their timely and compliant transposition of the VAW Directive (the first took place on 22 May 2025).

Relevant in this regard will be highlighting that the UN Convention on the Rights of the Child (ratified by all Member States) underscores that the right of the child to maintain his/her ties with both parents (as enshrined in Article 9(3) of the convention) requires exceptions to be made in the best interests of the child, where the child is exposed to domestic violence – as a victim or witness.

**

Additional information

The requirement in Article 32(1) of the VAW Directive mirrors a corresponding requirement in the Council of Europe convention on preventing and combating violence against women and domestic violence ratified by Ireland and by the EU (the 'Istanbul Convention' – see Article 31(1)).

The Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) noted in their the **(Baseline) Evaluation Report on Ireland**'s implementation of the Istanbul Convention, that "reports indicate that **family law courts often fail to take into account instances of domestic violence in decisions regarding custody and visitation**, including in cases in which the perpetrator has been convicted for acts of violence against the victim and/or her children. Linked to the foregoing is the problematic lack of consultation of family courts with criminal courts when taking decisions on custody and visitation, including on whether criminal proceedings are pending against the perpetrator or have been brought in the past. Indeed, it has been brought to GREVIO's attention by civil society that the granting of shared custody and of visitation rights to the non-resident parent appears to be the norm, as it is presumed to be in the best interests of the child to maintain contact with both parents, including in cases where the child has witnessed violence against women. (…) **Lack of training of experts**

used in courts to determine questions affecting the welfare of the child, as well as **insufficient training of judges on domestic violence**, has also been pinpointed as one of the causes leading to the granting of shared custody and of visitation rights to the non-resident parent systematically." (see point 188).

6. Regarding the Victims' Rights Directive (VRD), (how) does the legislation (and potentially the upcoming revised version) protect the privacy of victims? Does any provision could be used to invoke the protection of victims' privacy from a killer parent?

Under the Victims' Rights Directive, Member States are obliged to ensure that competent authorities may take during the criminal proceedings appropriate measures to protect the privacy, including personal characteristics of the victim taken into account in victims' individual assessment, and images of victims and of their family members (Article 21).

With the revision of the Victims' Rights Directive, the Commission aims to strengthen victims' rights to protection. The amendments oblige Member States to ensure that personal data concerning a victim allowing the offender to identify the victim's place of residence or to otherwise contact the victim in any way is not provided to the offender either directly or indirectly (Article 21(3)).

When it comes to **child victims of crime**, the Victims' Rights Directive recognises their special needs for support and protection. The Directive obliges Member States to ensure that competent authorities take all lawful measures to prevent public dissemination or any sharing of any personal data that could lead to the identification of a child victim, in line with the data protection legislation (Article 21).

With the revision of the Victims' Rights Directive, the Commission aims to ensure that child victims are better supported and protected. The amendments proposed by the Commission require that Member States provide for targeted and integrated support services for child victims at the same premises. To effectively protect child victims in cases where a crime involves the holder of parental responsibility, or there is a conflict of interest between the child and the holder of parental responsibility, the Commission also proposed to add that if the crime involves the holder of parental responsibility, any act requiring consent is not conditional upon the consent of the holder of parental responsibility, and the child best interests should be always taken into account.

The co-legislators are currently negotiating the proposal for the revision of the Victims' Rights Directive. The Commission is assisting the co-legislators in this process and aims for the adoption of an ambitious revised text.