



## False Allegations of Child Sexual Abuse - What Can Go Wrong in Child Custody

**Date :** February 17, 2020

In the matter of Massey & Wilenski [2019] FamCA 657 the parents had one child to the relationship whereby the mother was the primary caregiver. After separation, the child made disclosures to the mother's then partner Mr C of inappropriate touching perpetrated by the father. Mr C recorded three disclosures of the child all within an hour and a half. The mother reported the disclosures to the police the next day. As a result of these disclosures, the mother made the decision to stop all time between the father and child and made an application in the Family Court for child custody that the father should spend no time with the child. The mother ceased child custody with the father for a period of about 11 months.

In considering the matter of child custody, the Court then needed to consider:

- Whether the child had been sexually abused by the father
- Whether the father poses an unacceptable risk of harm to the child
- Whether the mother has influenced the child's attitudes and views towards the father, and
- Whether the mother has the capacity to support the child having a meaningful relationship with the child.

The Independent Children's Lawyer submitted that there were significant issues in respect to the leading and suggestive manner in which Mr C questioned the child during the audio recordings. Accordingly, the Court did not find that the child has been sexually abused by the father, and found that the father did not pose an unacceptable risk of harm to the child. The Court stated that the only way the child could have a meaningful relationship with both parents was if the father had child custody. Further, to assist with the transition, the mother was to spend no time with the child for a short period. Following the period of no time, the mother was to have supervised time with the child.

For more information, visit our page on [Parenting and Custody Disputes](#).

For advice about Child Custody laws contact us on **1800 300 170** or email us at [famlaw@matthewsfolbigg.com.au](mailto:famlaw@matthewsfolbigg.com.au)

### **Disclaimer**

***Family law situations can be complex and sometimes they can involve serious issues. Information outlined is proposed to provide general guidance only. Due to the seriousness of legal matters as well as the uniqueness of your individual situation, professional advice should be sought. For advice, please contact one of our Family Lawyers.***