



Witness statement of Rebecca Smith

I, Rebecca Smith,¹ say as follows:

1. I make this statement on the basis of my own knowledge, save where otherwise stated. Where I make statements based on information provided by others, I believe such information to be true.

The relationship

2. In 2001, when I turned 22, I entered a relationship which became abusive; physically, emotionally and financially. I was in that relationship for three and a half years.
3. The violence escalated over the three and a half years and I tried to leave several times. Incidents included having my finger broken, being choked and, on a number of occasions, having a knife held up to my throat whilst being told that if I left, not only would I be killed and buried in the backyard, but that he would go after my family and friends.
4. The first time I involved the police was when my ex-partner held me hostage at gunpoint on my birthday one year. However, the response I got from the police was very much a boys' club response which deterred me from calling again. My ex-partner then used that lack of response from the police against me, and it became part of his controlling and abusive behaviour. He would do something, and then taunt me with the fact that there was no point calling the police because they wouldn't do anything anyway.
5. At the same time, he became involved in criminal behaviour. He was dealing drugs from our home. His brothers had also moved in and were involved. I was scared that if the police got involved, they wouldn't believe that I had nothing to do with the drug dealing. There were all these different levels of fear that stopped me from calling the police again.
6. It took three and a half years, and several attempts, before I left for the final time. The tipping point for leaving was not what an outsider might have expected. It came when my ex-partner refused to visit my brother, when my brother had to go into hospital. For me, that was the lightbulb moment. I realised that I did not want to spend another moment with someone who was not only so disrespectful to me, but also treated my family so badly. Had the situation been reversed, and one of his siblings been in hospital, I would have been there in a second.
7. We had stopped living together a little while earlier. I asked him to come and pick up his things that were at my house, and said we should end things. A week later, he started stalking me. This was in 2005. The stalking continued up until last year.

¹ The name and other details of the witness referred to in this statement have been changed to protect her identity and to comply with the Royal Commission into Family Violence Restricted Publication Order dated 4 August 2015.

Events after the relationship

8. We were both living in the same suburb, at the time I ended the relationship. As a result, I continued to see him around that suburb when I was out on weekends or after work. Late in 2005, an incident occurred when I was out one night. My ex-partner was very threatening towards me and I became too scared to go home, I thought he would be there waiting for me. I stayed out because I didn't want to go home. That night, I was raped by a stranger. It was a traumatising experience, but I am also really angry about it. I feel like it would never had happened had I felt safe to go home.
9. In around 2006, I saw my ex-partner at our local pub one evening. He was being horrible towards me. The barman happened to be a friend of his, and witnessed what happened. This friend said to me, 'You need to take out an intervention order against him'. That gave me a lot of courage.
10. Later that night, my ex-partner sent me a text message with a threat to kill me. This, combined with the comment from his friend, gave me the courage to go to the local police station to find out how I could go about getting an intervention order.

The first attempt to seek an intervention order

Police response

11. I went to the local police station and told the police officer in charge about the violence I had experienced from my ex-partner, about the current events, and that I had received a threat to kill. I showed him the text message that contained the threat. I told the police officer that I wanted to apply for an intervention order, and asked him what the process was. I had no idea how to go about it. I had never had an experience of family violence in my upbringing and very little exposure to the justice system at all.
12. The response from the police officer was, 'Go to the Magistrates' Court and speak to the Registrar.' That was it. He didn't give me any referrals or ask any further questions. He also did not take a statement from me about the threat to kill or the other conduct I had disclosed to him.

Magistrates' Court

13. Shortly after that, I went to the Magistrates' Court and applied for an interim intervention order. I didn't know where my ex-partner lived at that time. I got two extensions to the interim order because on the first two times I attended court the police had not been able to find my ex-partner to serve him and so the matter could not proceed. Having the interim order extended while the police kept trying to find him was a relatively straightforward process and on each occasion I had my older brother and my best friend there as my support people and as witnesses if necessary. The Magistrates I had appeared before were all reasonably sympathetic.
14. In January 2007, I received another Notice of Hearing and assumed that this too would not go ahead because I had never been told that he had been served with my application. I thought that, as on the two previous occasions, it would just be a case of me applying to extend the interim intervention order until he could be served. Given my previous experiences, I decided I didn't need my older brother or best friend with me. They had previously taken time off work so they could come with me and I didn't want to inconvenience them anymore. I said to my

family and friends, 'Don't worry about coming, I am just doing the same thing again and I will be fine.'

15. However, as it turned out, my ex-partner had been served with my application and so this hearing was for the final order. I didn't realise this was the case, and there was no assistance provided to explain what it meant. I had no legal advice.
16. On the day of the hearing I was driving to the court and I saw my ex-partner standing out the front having a cigarette with an ex-housemate of mine. This ex-housemate was a friend of my ex-partner's, who had witnessed the violence. He had seen my ex-partner bang my head repeatedly on the kitchen table and had done nothing. I went into shock at seeing them.
17. When I got inside the court I went to the Registrar and asked what I should do. I told the Registrar I didn't realise my ex-partner was coming to the hearing, I didn't have any support people and I didn't know what to do. I was crying and shaking. He asked me if I wanted to see the applicant support worker, and shortly afterwards pointed towards someone who I assumed to be that person. I went over to her and said, 'Are you the applicant support worker?' and she said, 'Yes, I am'. I had a conversation with her where I told her the events that had occurred since the interim order had been in place. She tried to get me to agree to an undertaking. She seemed very cold and I started becoming concerned. In fact, as I found out when we were in court, she was not the applicant support worker at all, but my ex-partner's lawyer.
18. After having spoken with this person who I thought was the applicant support worker, I called my Dad who, on hearing how upset I was, told me to try to get the hearing adjourned to the afternoon and that he would drive down to attend with me. He lives quite far away and I knew it would be at least two hours before he arrived. When we got into the hearing I explained to the Magistrate what had happened. The Magistrate eventually agreed to adjourn the hearing until the afternoon but he was not pleased about it.
19. In the break I called everyone I knew, but no one could get out of work to come down to help me. After lunch, the hearing was called back on and Dad still wasn't there. I had to stand up and represent myself. I didn't have any support people present. I wasn't prepared at all. Stupidly, I had deleted the text message which contained the threat to kill, just three days earlier. I didn't have any witnesses present. I then had to cross-examine my ex-partner. I don't even know what came out of my mouth. I was like jelly the whole time. It was horrible. At the end, the Magistrate was not convinced I had enough proof and said it was a case of 'He said, she said.' The final intervention order was not granted.
20. I walked out. I was in a flood of tears at that point, I felt so numb. The applicant support worker then finally located me. As she was taking me into her office I saw my ex-partner, his lawyer and the ex-housemate coming out of the court high-fiving and laughing, and I could hear my ex-partner making comments about me. My Dad then arrived.
21. It was a totally disempowering, traumatising experience.

Events after my experience at the Magistrates' Court

22. The harassing and threatening behaviour from my ex-partner continued at a relatively low level from then on, including hang up phone calls, clothes that had been hanging on the clothes line being cut up and being menacing towards me

whenever we were out at the same place together.

23. After the rape, I had made an application to the Victims of Crime Assistance Tribunal (VOCAT). Through VOCAT, I had been able to access counselling services. Through these counselling sessions, I had been made more aware of other services that were available to me to support me with the family violence I had experienced and was continuing to experience. For the first time, I started to become aware that there were people who could help me. Previously, I had disclosed the family violence to GPs who would minimise the violence or didn't respond.
24. In mid-2007, I saw an ad for the safe steps Volunteer Survivor Advocate Program. This program empowers women who have experienced family violence to break their silence and have a voice in the prevention of violence against women and children. Women who have survived family violence are trained and supported on how to use their personal story to change society's attitudes and beliefs that fuel and enable violence against women.
25. This was an amazing program to be involved in, and really had a significant impact on me. The program has given me the ability to do something with those negative experiences—to help me channel change processes to ensure people experiencing those things now don't have to go through what I have gone through.

The second attempt to seek an intervention order

26. In the period following the rape, I had gone through the VOCAT processes and received an outcome. As part of this process I had participated in a closed VOCAT hearing. I had the experience of speaking to a Magistrate, who believed what I had to say, and I felt validated. Even though the person who raped me had left the country and was not prosecuted, I felt satisfied with having spoken about my experience and having been believed.
27. As a result, when the harassment by my ex-partner escalated again in 2010, I had the confidence to decide to try again to seek an intervention order. I felt empowered enough and removed from the relationship enough to proceed. The escalation of the harassment in 2010 involved harassing phone calls and threats when we were out and about.
28. I reported this behaviour to the police and on this occasion the police took a statement from me and heard the whole history of the relationship. The police then made the application for the intervention order on my behalf. The hearing was also held at the Family Violence Division of the Heidelberg Magistrates' Court. I felt a huge difference walking into the court knowing that the police were on my side. I also felt comfortable with the court itself, because the VOCAT proceeding had been held at Heidelberg Magistrates' Court too.
29. I located the applicant support worker and asked to see identification. In the hearing itself, I had the police, the applicant support worker and a support person present to assist me. I didn't have to stand up to represent myself. I didn't even have to give evidence because he didn't oppose the order. I was conscious of the fact that it was a specialist family violence division. I walked in knowing the Magistrate had a higher level of understanding of family violence. It was also a closed court which made me feel a lot better.
30. The intervention order was put into place for a 12 month period. The entire process was the complete opposite of the first experience I had at the first Magistrates'

Court. I felt like I had been listened to, believed and supported. I felt so much more confident and empowered. I couldn't believe the difference.

31. After having reported the family violence to the police, I also received a call from Berry Street offering me counselling and support. I was adequately supported at that stage, as a result of my experience through VOCAT, and didn't need to take up their offer, but I was so grateful that it had occurred. It would have made a huge difference had this referral been made the first time.

Current circumstances

32. I haven't felt the need to extend the intervention order since it lapsed in 2011. Over the last four years there has been the odd attempt to contact me but I have now blocked his number and I am using the tactic of ignoring him completely. I am treating him as completely insignificant. I am very secure and happy with my current partner and feel I am getting on with my life.

Reflections on my experiences

33. One of the most distressing aspects of the violence I experienced was the way, after the relationship ended, my ex-partner was able to use the system against me. My first experience at the Magistrates' Court was very disempowering and re-traumatised me to an even greater extent than before. It made things so much worse.
34. As I stated above, I submitted a claim through VOCAT for the rape I experienced in 2005. I received \$10,000 compensation. I later also submitted a claim for the family violence and received \$1000 compensation. I found that interesting. The rape was horrible, it had really affected my life—but it was one night of my life. The family violence affected my life for years and was damaging on so many levels. I couldn't work out how they came to those figures. Given the extent to which you are emotionally and psychologically damaged by the family violence conduct, it is odd that it weighed less on the scale.
35. The police and the Centre Against Sexual Assault were very proactive in providing me with information and referrals to services in relation to the rape, but there was far less information provided to me in relation to the family violence.
36. The key differences between my experience in 2007 at the Magistrates' Court and the experience at Heidelberg in 2010, included the following.
 - 36.1 The initial police response: when I walked into the police station and explained my story, I was taken seriously by police as someone who was reporting criminal conduct. They believed what I had to say.
 - 36.2 Police taking up the application for the intervention order on my behalf: having the police in court, on my side, made me feel so much more confident. I didn't feel like I was by myself and having to be my own advocate.
 - 36.3 Clearly identified applicant support workers: not being able to locate the applicant support worker, and having my ex-partner's lawyer wrongly identify herself as the applicant support worker, made the first experience at the Magistrates' Court even worse. It is important that the applicant support worker is clearly and easily identified.

- 36.4 Better understanding of the process: I had a support person and was not caught unprepared. I knew what the hearing would involve.
- 36.5 Having the hearing in the specialist family violence division of the Heidelberg Magistrates' Court: the way the Magistrate behaved was respectful and compassionate and he clearly had a much greater understanding of family violence than the Magistrate in the first Magistrates' Court. This made a huge difference.
- 36.6 Having a closed court: the first hearing was humiliating in that members of the public were able to witness the entire thing. It made representing myself so much harder as I was conscious of all the people watching. I felt much more comfortable in the second hearing when the court was closed to the public.
37. I realised, after having gone through the process of seeking an intervention order on these two separate occasions, it is possible to have very different experiences of the same process. I hope that women in my situation in the future don't have to experience what I went through at the first Magistrates' Court.

Accepted into evidence at the Royal Commission into Family Violence public hearing on
Tuesday, 4 August 2015.