



## Witness statement of Anna Jones

I, Anna Jones,<sup>1</sup> 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.
2. Based on my experience, I aim to highlight what I see to be some of the greatest challenges affecting victims of family violence who are seeking protection via the legal system. As a private person, sharing my story and matters of my private life in a court room has proved to be incredibly difficult for me and, like many women, was almost reason enough to not take legal action against my ex-husband in the first place.

### My experience of family violence

3. After a time living together interstate my ex-husband and I sold our family home in 2013 and commenced a road trip around Australia with our son, then aged five. We made this decision after an escalation in his violent outbursts and a string of marital difficulties. Most alarmingly for me at this time was that my ex-husband had begun to direct violence at my son. I was becoming aware of significant changes in my son's behaviour, most notably anxiety around his father and nightmares about his father.
4. Our trip was intended to be the last attempt at salvaging the marriage, particularly as my ex-husband blamed a lot of his behaviour on the stress of running a small business. He also blamed a lot of his behaviour on me and this 'red-flag' was never far from my mind. In 2013, my ex-husband drove the vehicle we were travelling in toward my son and I on a crossing. This was the moment that I knew I had to get out of the relationship for the safety of my son and myself. Later when drafting an affidavit for the family court I realised that this incident of violence had occurred after a pattern of monthly, and at times more frequent, acts of family violence.
5. Although I knew the Police were in walking distance, I did not go. I felt certain that if I did go to the Police, I would give a statement but then would be in the predicament of returning to the same vehicle with my ex-husband. I knew him to be a man who could be beyond irate yet had the capacity to present as perfectly calm and reasonable in an instant if it was in his interest. I had no faith that I could gain protection at that time, so I instead chose to return to the vehicle with my son and attempt to calm his father down.
6. I then made up my mind to leave him two weeks later when we were scheduled to be with my entire extended family at my parent's house marking the end of our trip. As we no longer shared a family home and the proceeds of our house sale were in the bank, I felt we were in a situation that would make the separation reasonably easy. I was wrong.
7. My ex-husband left in the van we had been travelling in and headed north with no regard for our welfare, evading contact from me for several days so I was unsure of

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<sup>1</sup> The name and other details of the witness (and others) 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 7 August 2015.

his whereabouts. This was distressing because I knew he had access to an unregistered firearm and had previously threatened to kill me and my son if I ever left him.

8. My son and I were left standing with only the basic possessions we were travelling with. With my family rallying around me, I drove from interstate to my sister's house in Victoria. We decided this to be the safest alternative, as my ex-husband had not previously attempted to use threatening behaviour with my brother-in-law, though he had done with my mother and sister.

#### **Initial attempts to obtain advice and assistance**

9. From the point my ex-husband drove away in the van I was effectively homeless. As a result, I moved, with my son, to Victoria to be with my family. I was fortunate to have family support during this transition. Many mothers and children without such a family would be placed in an even more vulnerable predicament.
10. I contacted a solicitor to obtain legal advice regarding property separation and custody arrangements. I asked her advice on what I should do if the violence escalated. She instructed me to obtain a family violence intervention order (Intervention Order). At the time, I had no idea what an Intervention Order was and contacted the Magistrates' Court for advice. The first woman I spoke to asked: 'Did your lawyer put you up to this?' This was the first, but not the last, time that the notion that I was a 'scorned wife' who was being deliberately vengeful toward her ex-husband was implied. Considering the woman had just spent less than 30 seconds on the phone to me, the lump in my throat obvious through my speech, her behaviour was out of line.
11. Based on this experience, I suggest that the Royal Commission should consider implementing standardised first response communication for peripheral support people.
12. Obviously in emergency situations our emergency personnel are well trained in the manner in which to handle victims and attend to domestic violence situations appropriately. I am referring here to the many other roles in our community where staff may inadvertently find themselves handling a very early enquiry for a victim of domestic violence, such as the courts, General Practitioners, teachers, etc. A standardised script could be formulated and implemented with suggestions as to how to recognise indicators that a person may be a victim of family violence, how to delicately handle this situation and know what services and support could be recommended. I think that such training could be implemented without great expense. It could be a self-perpetuating campaign with tools available online and implemented in workplaces, similar to how workplaces implement Occupational Health and Safety training. I have concerns that the manner in which many women are treated presently in early requests for help leads them to give up and not pursue the matter further. I refer to the statistic that 64 per cent of women who experienced physical assault and 81.1 per cent of women who experienced sexual assault still did not report it to police.

#### **Recovery order proceedings**

13. Knowing that his son was now to reside with me in Victoria, my ex-husband commenced legal proceedings interstate for a recovery order with the assistance of a lawyer in his family. He did this despite my offer to attend to legalities rationally and amicably in Victoria.
14. The recovery order application was heard in the Federal Circuit Court interstate. The judge dismissed the recovery order on the basis of evidence of our joint decision to

sell our house and leave that state almost one year earlier. However, despite this outcome, my experience of the court system has been wholly unsatisfactory in many respects. This day in court was my first introduction to what would become a 'He-said, She-said' case in the eyes of the legal system.

15. In my experience, the first problem with the recovery order proceeding was that there was insufficient time to establish a clear background of family violence. In what is effectively a 'mentions' hearing, I found it virtually impossible to tell my story. Having heard a handful of details in the limited time available, the judge quickly set her attention to the question of 'access', a word that is thrown around frequently in custodial and family violence matters. Rather than considering the best outcome for my son, I found that the judge's focus centred on the father's rights. She expressed concern that he had not had contact with his son for approximately two months. This fact was given precedence over my son's safety. The father of my child had previously threatened to kill him, had made a potential attempt to kill the day he drove towards us both and had the means to kill with his firearm. Yet here I was being forced to accept his 'right' to see his son, denying my son the right to safety.
16. My fear is that after generations of inequitable custodial settlements disadvantaging positive paternal relationships, the pendulum has now swung too far the other way. The short term risk here was blatant. My 'story', my 'case' had the hallmarks of becoming a family violence statistic in the future. Under current legislation, the courts are impeded in their ability to respond preventatively and are forced to function reactively. Given the appalling statistics of women and children who are killed each year by a parent or intimate partner, this must change. It must change effectively and intelligently and not at the glacial pace we have come to expect and accept of our judicial system.
17. The Magistrate stood the matter down so that my barrister and my ex-husband's lawyer could confer and reach a custody arrangement. The starting point of that conferral between the lawyers was 50/50 custody. I considered this completely unacceptable. I wanted a no contact arrangement, but my barrister advised me not to ask the judge for no contact, implying that I would never be successful because my case was not 'bad' enough. I was advised that the consequences could be severe if I asked for no contact, including a result that my ex-husband would be awarded majority custody. I felt that not only was I battling the court system, but I was battling my own barrister. I refused to agree to 50/50 custody but constantly felt that I was pushing my barrister to follow my instructions.
18. We were unable to agree to a position outside of Court so we went back before the judge. The judge ordered supervised access, but only for a limited time. Therefore, I still felt that her focus was very much about ensuring that my ex-husband had access to his child.
19. After this hearing, my ex-husband continued to pursue 50/50 custody. The proceeding was resolved by mediation in 2014. This was only because I had run out of money by this stage, and could not fund a full contested trial. I thought the mediator was appalling. I found him to be very arrogant and he lacked sensitivity with regard to the family violence issues I tried to explain to him. The mediator treated my case as if it was just another custody hearing, without regard to the safety risks to my son. He seemed to just assume we would meet in the middle of our respective positions as if it was a commercial dispute. At the mediation, I was very firm that I would not agree to 50/50 custody. I would not budge from this position and the mediator became very frustrated with me. At one point, he said 'This is moving at a glacial pace, I am

not happy with this.' The efficiency of the mediation was more important to the mediator than coming to an agreement that would protect my son.

20. As a result of the mediation, my ex-husband has two-thirds of holidays and two weekends every school term. He also has scheduled half hour Skype phone calls with my son once a week. My ex-husband is required to pay for half of the cost of the flights interstate for my son.
21. I have felt that, through my dealings with the courts, my son was rarely mentioned. His experience and his wellbeing was not at the centre of the custody proceedings, nor was he given proper consideration at the Intervention Order proceedings. The court's primary focus was ensuring that his father's right to see him was protected. We should be focusing on what is best for the child.

### **Family Court Report process**

22. In the recovery order proceedings, the Court ordered that a Family Report be prepared. My experience of the Family Report process, and in particular the reporter himself, was appalling.
23. The reporter was around the same age as me, and he had spoken to my ex-husband first. I felt that they had struck up a rapport, because they were both young men and seemed to get along well. Already, I felt at a disadvantage. The reporter was a counsellor with limited professional experience, and not a trained psychologist. Throughout the day, based on how the reporter conducted the interviews, I felt that he was extremely underqualified and inexperienced. He was also consistently dismissive of my recount of the violence I had experienced, instead proposing that it was a matter of my own 'perception'.
24. For example, during my interview with the reporter, I raised concerns to him about my ex-husband's prior drug use. I have genuine concerns that my ex-husband shows signs of a medical condition and felt it important to raise this with the reporter. I did not do so maliciously or as a tactic to badmouth my ex-husband to the reporter. I told the reporter that I lacked knowledge about drugs. The reporter said to me, 'If this was a different environment, I could really educate you with a few stories about drugs'. I was speechless and completely shocked by this comment. It is indicative of how completely unprofessional the reporter was.
25. Another example from this day was that my ex-husband showed up with two presents for my son, for Christmas and his birthday, which had been four months earlier and which had both passed without acknowledgement from him. The reporter asked me if I was happy for my ex-husband to give the presents to my son. I said yes, of course he can have the presents, but said too that I thought it was very contrived that my ex-husband had brought these presents today, four months after Christmas and my son's birthday and on the day his relationship with his son was being assessed. When I read the Family Report, the reporter stated in the report that I had 'wondered if there was a sinister reason for doing this'. This comment was a blatant misquote and left out all of the context. It painted me in a bad light, which continued on a theme already introduced by my ex-husband that questioned my mental stability. I suggest that it should be standard practice that gifts are not allowed to be exchanged during a family court assessment.
26. The court reporter also stated in his report that 'Whether or not there was family violence rests on disputed facts, but if there is a court determination that it occurred, it was likely situational violence'. I felt that the court reporter's use of the phrase 'situational violence' excused and trivialised the family violence that my son and I had

experienced. In my opinion, it is not the court reporter's role to provide an expert opinion (especially when the reporter is underqualified and inexperienced) about the court's likely determination regarding the violence I had experienced. I think that this is an abuse of his role and is morally and professionally reprehensible.

27. I am very concerned about how much weight the Family Report carries in custody proceedings. The examples I have included of what happened on the day show that there are too many variables, such as, who the reporter is and what the reporter chooses to include in the report. The Family Report is too subjective and does not take into account all of the circumstances. I am concerned that Family Report interviews are not recorded, and are only written based on the reporter's notes. I was misquoted a number of times in the Family Report. I think there should be some form of check on what is written in the report, to ensure that what is said in the interview is not taken out of context.
28. Most significantly, the Family Report did not adequately address the safety of my son. There was little discussion in the report about the violence that my son had been exposed to and experienced. I thought that the report completely missed the point in terms of determining what would be safe circumstances for my son.
29. I found the Family Report process very confronting and very draining. My barrister had told me that it was a very important day and that the Court would put a lot of weight on the Family Report. Naturally, I was anxious and I worried that this would affect how I was perceived in the report. This was already a very stressful situation for me, having to see my ex-husband and recount to the report writer my experience of family violence, but I felt that the way the Family Report process was managed only made my stress worse. It was so confronting to even just describe to the reporter the violence, but especially so to a person who I felt was inexperienced and not considerate of my experiences.
30. I was also very concerned about what the process expected of my son. I had to send him into a room to talk to a stranger and I was not allowed to take him into the room and settle him as I would do—as any parent would do—in any other circumstance where a child of his age was going somewhere for the first time. I had to hand him over at the door and was not allowed to tell him about what was about to happen as it would be seen as influencing him. It is obvious from the report that once inside my son was very anxious and took some time to settle.

### **Supervised contact centres**

31. I made a request that at least initially, my child spend time with his father in supervised contact centres only. I was told by my legal team that this 'could not be a long term solution', which the Magistrate reiterated. I was very frustrated that my ex-husband was not considered a long term risk. At what point is a person who has threatened to kill their own child no longer a risk? I know that my ex-husband has access to an unregistered firearm, about which I have tried to alert authorities. After contacting Crime Stoppers numerous times regarding his weapon, I received no response. My local police informed me that they could only act if he 'arrived at my house with weapon in hand'. If my son's father wanted to carry out his threat to kill, I felt that he was being spoon fed the opportunities by the same people I was appealing to for help. In these circumstances, please consider whether the risk to my son is any less and if our courts truly have any power to function preventatively.
32. Following the supervised access order, I signed up immediately to both interstate and Victorian government placements. My ex-husband signed up after four months, which I consider is indicative of his desire, or lack thereof, to see his son.

33. During this period, I was continually harassed by his legal team offering ludicrous alternative suggestions, including offering for a senior member of his legal team to supervise the contact between my ex-husband and my son. This harassment was bullying, and at times demeaning, expensive to respond to and undermining of what had been approved by the judge. I think my ex-husband's actions were tactics for when we re-appeared for a further mentions hearing, at which my ex-husband attempted to use the lack of time spent with his son as leverage to override the allegations of violence. Although my lawyer told the Court he had refused to sign up to the contact centres, my ex-husband still managed to gain some sympathy for his lack of contact. We left that hearing with new interim orders which again approved my request for supervised contact. However, the supervised contact was only for a limited time, after which my ex-husband was allowed overnight visits from my son.
34. At this time a placement became available in the interstate supervised contact centre. However, I was shortly advised that the centre was ceasing operations due to funding.
35. Sufficient funding is critical so that these centres can remain open as a viable option for children who have experienced family violence. These centres are particularly important in the early stages of separation from a violent partner, when that partner's behaviour is likely to be very unpredictable and irrational. Contact centres provide an environment that protects the child's safety. It seems obvious to keep these centres open to protect the child's welfare, but sadly this is not the case, with several government supervised contact centres being closed. Access to this vital service is now unreliable and, for most people, completely inaccessible. In the end, I paid for the contact centre visits with my ex-husband and son. It was very expensive and cost even more to receive a report of the visit.
36. There also needs to be a consistent standard applied across government contact centres. I made numerous enquiries to various centres and found that the safety standards for each centre was very different. As my ex-husband had access to firearms, I asked each of them if they had metal detectors or a pat-down security procedure. None of them did. This may seem overly cautious, but I consider it necessary. Allocating funding to the security of these centres to ensure a safe and well-managed system for contact to occur, with as little risk to children's safety as possible, is crucial.
37. Although I was informed that the supervision would be careful and that there would be no chance of any problems, the visit between my ex-husband and son was supervised by a very petite woman, who would not have been able to physically stop my husband from walking out with my son.
38. Keeping in mind that I had initially sought no contact, and felt that I had been bullied into contact arrangements that I was not happy about, it was not acceptable that the supervised contact centres could not even provide a safe environment for my child. If supervised contact centres were properly funded and operated with adequate safety measures, I think they would be a good way to provide access to the other party, without labelling a parent who feels they are acting protectively as a 'no-contact parent', inferring that they are acting maliciously. Supervised contact should not just be limited to a short term solution.
39. Following the occasions that my son visited his father interstate, I have noticed significant behavioural changes. I find that it takes weeks for him to re-stabilise after the visits with his father. My son's school has also reported that they have noticed changes in his behaviour when he returns from visits with his father. I am very

concerned about sending my son into this environment, where it is mentally distressing for him and affecting his life both in the short and long term. At the present time for a variety of reasons my son is not having any contact with his father.

### **Jurisdictional barriers**

40. There have been jurisdictional difficulties because of the fact that I live in Victoria and my ex-husband lives interstate. I have discovered the lack of communication between State government departments to be particularly difficult. For instance, I only came to learn recently that the Department of Human Services is state operated and as such, does not produce reports or implement safety plans to effectively deal with children of interstate parents, where family violence is an issue.
41. I think that jurisdictional difficulties will have affected many separated families and it is a prime example of how children can 'fall through the cracks' of the system and be overlooked. One way to address this problem could be standardised reporting. I also think that an inquiry into what constitutes a 'thorough' report from the Department of Human Services would likely prove very revealing. There needs to be an effective way for State government departments to communicate, or better yet, consider the implementation of policies and procedures that would be applied nationally in circumstances of family violence.
42. Related to this need for better communication, I think there could be better communication from schools where children have experienced family violence. I think that schools could play an important role in monitoring children's behaviour, particularly of changes that may be indicative of exposure to family violence. I wanted my son's school to monitor his behaviour and take notes about changes after he returned from visits with his father, so that I could use this as evidence in Court. The school said that they could not do this, as they did not want the information being used as evidence, exposing them to cross-examination. I think there is a clear gap here, where the school has a lot of contact with my son, and other children in similar situations, during the week, but don't feel they have an effective means of providing this information to the courts.

### **Legal funding**

43. At the start of my legal proceedings, I was ineligible for legal aid because I had some savings in the bank. Legal Aid interstate would not represent me in the recovery order proceedings because I am now a Victorian resident. When my funds were exhausted and the recovery order proceedings were approaching a final, contested hearing, I was informed that Victoria Legal Aid does not fund any final trials. I find it a sad irony that after stepping forward and negotiating through over 12 months of legal proceedings, the opportunity to have my case heard and finally determined by a Magistrate was out of reach. Up to this point, I had spent over \$50,000 of my own money and was then told it would cost a further \$50,000 to have the matter 'heard'. As noted above, we reached final orders through the Court ordered mediation process. However, I felt let down by the legal system, in that a judge would not hear the full details of my case to make an informed judgement on my son's behalf. Perhaps, with all of the facts at hand, the judge would not consider my instinctive desire for 'no-contact' excessive. Perhaps the judge would consider it to be the safest and fairest outcome for my son, in which case, I would be in a very different position today.
44. I have been very frustrated by the legal representation I have had, especially considering how expensive it is. I have found that I am constantly battling my legal representatives because they do not agree with the outcome that I want or think that I am being unreasonable by insisting that the custody terms take into account the

family violence issues. It has seemed to me that even my own legal team would prefer to ignore the issue of family violence to negotiate on simpler terms for the custody arrangements. Now that I am more experienced with the process of the legal system, I would like to represent myself because I know my story better and I can no longer afford private legal representation. I find it very frustrating that I have to pay someone to talk about my personal life. However, I continue to experience that courts have a negative attitude towards self-represented parties. In an earlier mentions hearing, a Magistrate at the Magistrates' Court commented to me that 'everyone wants their 15 minutes'. I found this comment so demeaning. Speaking about my experience of family violence in court is not about getting my '15 minutes', but about making sure the details and history of my case are properly and accurately told.

### **Current Intervention Order proceedings**

45. I wrote my submission to the Royal Commission into Family Violence while I was at court, waiting for an Intervention Order hearing at the Magistrates' Court. That day, despite all parties being summonsed for appearance at 9.30 am, I spent most of the day waiting for the hearing which ended up being adjourned. At that hearing, I sought an extension of the Intervention Order made against my ex-husband last year, which had expired. In the initial Intervention Order proceedings, I privately briefed a barrister for the hearing, which cost more than \$5000.
46. The contested Intervention Order proceeding was finally heard in 2015. For this hearing, I engaged Legal Aid for the purpose of cross-examination, but I represented myself in all other matters that came to hand in that trial as I could not afford further legal representation.
47. Although I had previously been advised that contested Intervention Order hearings are very rare, I pursued the contested Intervention Order hearing, which was heard at the Magistrates' Court. In previous hearings, I have been pressured by my own lawyers and also by the duty lawyer at the Magistrates' Court to come to a negotiated outcome on the day, instead of seeking an Intervention Order that applies to both me and my son. The current Intervention Order applies only to me, but the conditions are such that it also covers my son.
48. The result of the contested hearing in 2015 was that the Magistrate granted a 12 month extension of the existing Intervention Order. The Magistrate declared a number of times throughout the hearing that he was 'not really prepared to adjudicate' the matter and that he would leave it to my Legal Aid representative to direct the process. Although I was technically 'successful', I am very disappointed by the Magistrate's conduct of the proceeding.
49. As noted above, I know that my ex-husband has access to an unregistered firearm, which is very concerning to me as he has previously made threats to kill me and my son. The original Intervention Order (the subject of the contested hearing) included a weapons restriction, however there was some debate about the restriction on the Intervention Order, given that the interim Intervention Order included a firearms restriction. I have consistently requested that the Intervention Order include a restriction on the ownership of firearms, and specifically, that my ex-husband be required to hand in his gun. In court, I attempted to establish that his refusal to do this was a breach of the Intervention Order. The Magistrate did not agree and ruled that the weapons restriction (as included in the original Intervention Order) did not cover ownership of an unregistered firearm. The Magistrate said that there was a difference between a weapon and a firearm 'in the Act'. He also said 'so it never covered a gun, oh well', and then literally put up his hands, indicating a complete lack of concern. I felt as though he spoke to me as if I was a child. At this hearing, like the previous



hearings I have attended, my son's safety was not taken into consideration. The Magistrate did not acknowledge my son's position at all.

50. I reiterated to the Magistrate that I had consistently sought that the Intervention Order include a restriction on firearms. I stated that the Court should not regard the seriousness of the risk any less, simply because there had been some kind of administrative error in processing the restrictions on the interim Intervention Order compared to the original Intervention Order. While I was speaking to the Magistrate about this point, the Magistrate made a derogatory comment to me to the effect that I was pretending to be a lawyer, and remarked that 'everyone wants their day in court'. This Magistrate has made comments to me of this nature several times, such as saying to me that 'everyone wants their 15 minutes', as noted above at paragraph 44. Throughout the hearing, the Magistrate and my ex-husband's barrister spoke to me in a belittling way. They were unnecessarily rude and insensitive. I felt that I was penalised for being confident and articulate, and the fact that I did not fit the Magistrate's preconceived idea of a victim of family violence.
51. I felt as though the Magistrate was sympathetic to my ex-husband. When granting the extension to the Intervention Order, the Magistrate acknowledged that it was 'tough' for my ex-husband because the Intervention Order 'enforces pleasant behaviour' and that the 'repercussions are quite serious if you don't'. At no point did the Magistrate acknowledge the seriousness of the violence that led to the Intervention Order in the first place. Even though I was 'successful' in the eyes of the law, I felt cheated in that I had listened to the Magistrate's ruling on the matter, which was so sympathetic to my ex-husband that I felt he almost apologised to my ex-husband for granting the extension. Of all the court appearances and hearings I have now attended, the Magistrate that heard this contested Intervention Order was the worst I have encountered.
52. Experiencing family violence altered my course in life and career path significantly. Last year I commenced studies at university to undertake a double major, Journalism being one of them. Throughout 2014, despite having around a dozen court appearances and all of the upheaval that comes with separating from a violent partner with a child, I maintained a high distinction average. I have intentions to put my skills to good use in the area of justice, women's rights and areas of community significance.

Accepted into evidence at the Royal Commission into Family Violence public hearing on  
Friday, 7 August 2015.