

## SUBMISSION TO THE ROYAL COMMISSION INTO FAMILY VIOLENCE

I recently had the opportunity of meeting the Honourable Marcia Ann Neave the Commissioner of the Royal Commission and Patricia Mary Faulkner Deputy Commissioner of the Royal Commission at the Royal Commission community consultation at the [REDACTED] Region.

I make this submission to assist the Royal Commission into Family Violence so that what has happened to myself can never happen to anyone again.

As my particular case concluded in [REDACTED] of this year I feel that my case is very relevant and is a true account of the Family Violence that has been ignored by the Federal Magistrates Court and all the people involved in my case.

I stated to both Honourable Marcia Ann Neave and Patricia Mary Faulkner that I would be more than happy to speak at the Royal Commission as I believe that my story showcases the lack of insight into Family Violence that currently exists in the Federal Magistrates Court.

On the [REDACTED] my children were removed from my care as an expert witness being a psychiatrist appointed by the Federal Magistrates Court stated that I had fixed view in regards to the violence that the Father has perpetrated against myself and my children which are not amenable to change and therefore I will be a risk to my children later in life. The psychiatrist did not provide any fact of evidence to back up his opinion as the only evidence before the court is I am a loving mother to the children.

My two children now [REDACTED] and [REDACTED] both have been diagnosed by a Paediatrician with leaning difficulties, [REDACTED] and suffer from [REDACTED]. [REDACTED] ([REDACTED]) also has a [REDACTED]. Both children are managing their schoolwork and both have been successful at sports, the oldest child being the [REDACTED] in the state.

The children since birth have been in my care until [REDACTED] of this year. Prior to that the children spent time with the Father every second weekend and one week of the school holidays and two weeks at Christmas. I now only see my children every second weekend, half the holidays and [REDACTED] night. The children have been removed from their school, they have no contact with the friends they grew up with, they have no school support, as the Father believes there is nothing wrong with them. I have been social outcast, as everyone believes that I am a bad mother, again I state there is nothing before the Court to prove that.

In my case I have been further victimised by the Federal Magistrates Court as the [REDACTED] years of family violence I have suffered has been totally discounted as if it never happened.

I followed all the recommendations of the [REDACTED] Family Violence Counsellor and removed myself from any potential violent situations.

I attend all changeovers with my partner, the Father does not have my mobile number or email address so I have limited the contact with the father. Since the abuse has been limited, the courts view is that the father has improved and is no longer abusive. In my case it would have been better to continue to put myself in harms way so the father could continue to abuse me and my children therefore I would be more believable to the Federal Magistrates Court. As the abuse would have continued and I would not have lost my children. Is this really the precedent we want to set?

Or is that we don't discuss family violence at all in the Federal Magistrates Court as what has happened to myself can clearly happen to anyone that has been a victim of family violence. As I would believe most victims would have similar fixed views about the violence they have suffered.

I have provided some further background to my case for your information.

### **Background**

I meet Mr [REDACTED] in [REDACTED] and married in [REDACTED] during those years he was an abusive person who regularly abused me both physically and verbally. Mr [REDACTED] suffered from depression and abused alcohol and drugs. I used to say to my friends that when he was great, he was really great, but when he was down, you don't want to be around him. In [REDACTED] our first child [REDACTED] was born and that's when the domestic abuse escalated. Mr [REDACTED]'s family was very wealthy and I would leave with nothing, if I left. I believed I would lose my child and be penniless. In [REDACTED] our second child [REDACTED] was born, again there were moments during that time that he was the nicest person you could ever know but overall I really don't know why I stayed with him as he was more abusive than not. We separated in [REDACTED] as he had an affair.

Over the next year there were many, many incidents of abuse, I have listed some below.

Mr [REDACTED] took the children when he showed up without warning to my home. I contacted the local police who called Mr [REDACTED] and he returned the children.

Mr [REDACTED] pushed me as he forcefully removed items from our home.

Mr [REDACTED] abused myself at changeover, pushed me against the car and was verbally abusive and swearing saying "I wish you would die, I wish I could kill you". I went straight to the police station they recommended I take out an Intervention order.

Intervention Order against Mr [REDACTED] for [REDACTED] months was issued.

The abuse via emails and text messages and phone calls continued, he made verbal threats, like "I know where you live, I will make you pay". The Intervention Order was still in affect. I reported this to the police but they said it wasn't enough to follow up.

Mr [REDACTED] abused me and then tried to run me over with his car door while the children were in the car at a changeover. I reported this to the police but they said since he lived so far away and he's left, it's ok now. The Intervention Order was still in affect.

Mr [REDACTED] came to my home and abused me while the children were inside, he then tried to force his way inside. I threatened to call the police he then left. I reported this to the police. Again since he left they did not pursue this. The Intervention Order was still in affect.

Mr [REDACTED] was late on Christmas day to collect the children, I had to organise another time and location when Mr [REDACTED] arrived, he was very angry and abusive, several strangers asked if I was ok. After he left as it was in a public car park, I went to the police the next day they again said there was nothing they could do. The Intervention Order was still in affect.

Mr [REDACTED] without any warning emailed me to advise he would not be returning the children to me at the end of his time spent period as he didn't want to do the driving any longer. I collected the children and upon arrival Mr [REDACTED] accused me of sexually assaulting [REDACTED] and yelled at me that I would be charged as Mr [REDACTED] had laid charges with the Police as [REDACTED] had a sore tummy and had been taken to a local Doctor by Mr [REDACTED] where he was advised that he should be taken to Hospital as he may have been sexually assaulted. Upon returning home I went to the local Police station and asked if there were any charges laid against me. No charges had been laid and I then contacted the Hospital who advised that [REDACTED] was suffering a bacterial infection and should take a course of antibiotics. I then advised the police about the abuse and threats that I received from Mr [REDACTED], they again said there was nothing they could do. The Intervention Order was still in affect.

Intervention order extended.

Court Orders made for changeover to be undertaken at Police Stations.

Due to Court Orders, I withdrew Intervention order and Mr [REDACTED] agreed to an Undertaking not to be abusive.

Mr [REDACTED] outside the [REDACTED] Police Station, became aggressive and whilst holding [REDACTED] who was [REDACTED] years old started swearing saying "I was a fucking whore" and a "bogan" and you belong in [REDACTED] and I'm going to get you, fuck you over". Ever since this incident I feared for my safety and my partner attends all changeovers for protection.

The above incidents were all perpetrated against myself in one year of abuse, there are [REDACTED] years of this and it is still ongoing. In my case the Police have never intervened even when Mr [REDACTED] was yelling abuse at myself inside the police station. The Police keep stating it's a Family Court matter and I have found that the Family Court says it's a Police matter, and unless the Police have intervened the Court gives the abuse little or no weighting, resulting in my case - no one helped, not the Police nor the Courts.

I have also made several complaints to the Department of Human Services as the children lived predominantly with myself their advice was to withhold the

children which would only mean further Court Action. I have been in and out of the Federal Magistrates Court many times due to Mr [REDACTED] repeated filling of Court Applications.

In [REDACTED], I filed an application to the Federal Magistrates Court as Mr [REDACTED] was not following any Court Order. I have outlined the following time line to explain what occurred.

I filled Contravention/s with the Federal Magistrates Court against Mr [REDACTED] including many for derogatory threatening behaviour to myself and my children.

Mr [REDACTED] asked for a Family Report to be undertaken and an Independent Children's Lawyer be appointed. This was granted by the Court, the Contravention/s were not even heard and no orders that I requested to provide safety for myself or the children were even heard.

The Family Report took place and Mr [REDACTED] claimed that I had psychological problems, Mr [REDACTED] provided no evidence to the Family Reporter in regards to this but the Family Reporter gave his verbal statement weighting. My oldest son said to the Family Reporter that he wanted to live with his father. I stated to the Family Reporter that my son had been threatened, coerced and the Father had control of my son who said what his Father wanted him to say for fear of retribution by the father. I provided evidence to the Family Reporter that there was Family Abuse perpetrated by Mr [REDACTED] upon myself and my children the Family Reporter gave this no weighting whatsoever.

The Family Consultant recommended that I see a Psychiatrist to be evaluated to see if I have psychological problems. The Independent Children's Lawyer also agreed with this request and I went to see a Court Appointed Psychiatrist.

The Psychiatrist made several mistakes throughout his report and I have made a complaint against him sighting breaches of the Psychiatrist Code of Conduct, the Medical Code of Conduct and the Expert Witness laws under the Family Law Act. The main complaint I have against the Psychiatrist is that he didn't apply the Family Violence Protection Act 2008 to this case.

In the Psychiatrist opinion it states:

*My assessments of Ms [REDACTED] indicate that she has a fixed view of the Husband which is not amenable to reason or change. That view is now indelibly etched within her and she will not countenance any other possibility as to the children's welfare other than living with her because she is their mother.*

*As such, Ms [REDACTED] poses a threat to the boys' development, particularly during the adolescent years in regard to their wish to express their own views about where they want to live and how they want to live. This will become an increasing issue as time goes by and as they mature in my opinion.*

*The origins of Ms [REDACTED]'s various concerns relate to her perception that the Husband was violent and threatening to her and therefore poses a similar risk to the children.*

*Throughout the three assessments I conducted, Ms [REDACTED] showed little ability to change from this stated position. Essentially she is their mother and knows what is best for them. She fixes things for them and protects them.*

*As such, she does pose a risk to the boys insofar as her needs for them outweigh at times their wish to express their own views and make their own choices. Whilst she considers the boys are abused by their father, this is a matter which I understand is not proven at this point and will be closely examined by the Court.*

In the Psychiatrist report, I provided evidence and details of the years of Family Violence which the Psychiatrist chose to then use against me, stating that I had fixed views and I posed a threat to the children because of those views. I only have those view as I was abused by Mr [REDACTED] for over [REDACTED] years and I have every right to think the way I do. I am Frightened of Mr [REDACTED] both for myself but more so for my children.

The Psychiatrist made these opinions with no basis of fact and no reason behind the opinions, the Psychiatrist had all of the Affidavit material as well as the Family Report. The Psychiatrist believed that I didn't support a relationship with the children, but again no evidence to prove that.

The Father freely admits in his affidavit dated [REDACTED]:

*I have had a very meaningful and close relationship with the children for all their lives.*

The Family Report [REDACTED] states:

*As highlighted in the [REDACTED] Family Report and confirmed during the current assessment, both [REDACTED] and [REDACTED] appear to share fundamentally sound and positive relationship with both their mother and father.*

The Federal Magistrates Court on [REDACTED] removed the children from my care and placed the children in the care of the abusive Father, based on the Psychiatrist report and a further report from the Family Reporter who also did not apply the Family Violence Protect Act of 2008 to my case. It is important to note that the Family Reporter has received only limited Family Violence training, being a two day workshop in 2012.

The Federal Magistrates Court has through the Family Report, a full history of Mr [REDACTED]'s abuse, it states:

*Mr [REDACTED] frustration with and distrust of Ms [REDACTED] is also particularly significant, and clearly has the potential to undermine any attempts these parents might make in improving their parental relationship. He will there fore need to ensure that he maintains some*

*personal control over his frustrations and ensures he refrains from making unwarranted criticisms of Ms [REDACTED]*

*In relation to Mr [REDACTED], it would appear that the children are aware of his negative views about their mother, which have the potential to undermine their relationship with her if he continues to express them.*

The Federal Magistrates Court, the Family Report Writer, the Psychiatrist and the Independent Children's Lawyer, all didn't follow the Family Violence Protection Act 2008 and my children now live with the Family Violence Abuser. I have since been for a full psychological assessment which includes extensive testing and I am 100% normal with no mental illness, no psychopathological symptoms or personality disorders.

Since my children have lived with Mr [REDACTED] they have been abused emotionally and psychologically. Mr [REDACTED] is threatening, coercive and dominates the children.

My children are both frightened of Mr [REDACTED] and the Federal Magistrates Court has done nothing to protect them.

During the case I approached several Domestic Violence centres to ask if anyone could assist me by supplying information to the Federal Magistrates Court on my behalf so that the Court could better understand what Family Violence is. Of all the Domestic Violence Centre's I called, not one would assist me, saying they did want to be involved.

I also contacted Victorian legal aid who said they could not help me unless I sold my home and Women's Legal Service who said they were too busy.

I am now mounting a case in the Federal Magistrates Court to have my children returned, I cannot afford a lawyer as I spent all my money on the previous case. I am also studying a Diploma of Counselling and have completed several Certificates in regards to Family and Domestic Violence.

### **What needs to change**

1. The Federal Magistrates Court must apply the Family Violence Protection Act of 2008 to every single case that comes before the Court.
2. The Family Report writers have extensive and continual Family Violence training and apply the Family Violence Protection Act of 2008 to every single case that comes before them.
3. The Family Report writers are trained to detect when a child is under threat by a controlling or dominating family member.
4. That Family Report writers are trained to understand the law and evidence provided to them and apply that evidence to the Family Violence Protection Act 2008.
5. Where there is an allegation or a belief of Family Violence in the Federal Magistrates Court, that the children see a specialist trained Psychologist in

Family Violence over several sessions in confidence so that the Court can fully understand the extent of the Family Violence.

6. The Federal Magistrates Court must ensure that all Expert Witnesses that are appointed by the Federal Magistrates Court have extensive Family Violence training and have fully read and understand the Family Violence Protection Act of 2008 and apply that Act to every case.

7. Ensure that Independent Children's Lawyer understand and apply the Family Violence Protection Act of 2008 to every case and ensure that the children's safety is paramount.

8. That the Federal Magistrates Court understands that children's safety is more important than the need for children to spend time with a parent.

9. That the Federal Magistrates Court ensures that women who have been the victims of Family Violence never feel that they are persecuted by the court because they have suffered such violence.

10. That the Federal Magistrates Court encourages women to talk about their Family Violence without judgement or persecution, and to ensure there is Court Orders in place to protect the victims, which can be clearly understood by both Police and Child Protection Workers.

11. That Police where there is an intervention order in place always take action.

12. That Police protect victims of Family Violence regardless of Court Orders.

13. That the Department of Human Services are provided more funding to assist with Family Violence cases so they can fully investigate every case.

14. A service that assists victims of Family Violence who are currently or about to proceed with their case in the Federal Magistrates Court, who can assist victims to understand the laws that surround Family Violence, which can include Orders for protection.

I have changed the names in the submission. I am happy to provide further details if required, I have nothing to hide.

The Federal Magistrates Court must have a better understanding in regards to Family Violence, again I stress what happened to me cannot ever happen to anyone else. I am a great mum, the one other mum's looked up to. I lost my children simply because I didn't forgive the person who has committed Family violence against my children and myself. The violence is still occurring, it has not stopped. I don't want my children to be the next headline in tomorrow's newspaper, another statistic of Family Violence, placed in his care by the hands of the court.

Thank you for reading my submission, [REDACTED]

I am strong. I am resilient. I try my best. I value my life.

I am not perfect. I Am the perfect me. I never give up.

I am empathetic. I am a warrior. Ready to conquer.

I am not broken. I am loving.

I take things one day at a time.

I'm independent. I'm human.

I am a Survivor.