

**SUBMISSION TO THE VICTORIAN
ROYAL COMMISSION
ON FAMILY VIOLENCE**

By: [REDACTED]

Status: Individual affected by family violence

Address: [REDACTED]

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Date: 29 May 2015

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INTRODUCTION

In the course of making two applications for an intervention order in [REDACTED] 2014 and [REDACTED] 2015, I struck a number of issues, which frustrated and exhausted me and delayed effective protection for me and my children.

I have addressed these issues, which prevented me from being able to effectively receive the protection of the Court in a timely fashion, in a table below. To understand the context in which I encountered these issues, I have provided a summary of my contact with VictoriaPolice and the [REDACTED] Magistrates' Court.

BACKGROUND

I made an application to the [REDACTED] Magistrates' Court in [REDACTED] 2014 for an intervention order against my husband, from whom I have been separated since [REDACTED] 2013.

I separated from my husband due to family violence.

My husband's harassment and threatening behaviour continued after the children and I moved out. Events, which occurred on [REDACTED] 2015, led me to have concerns for my safety and that of our children.

I attended a VictoriaPolice station on [REDACTED] 2015 to make a complaint about my husband's behaviour. The police officer who spoke with me clearly had no understanding of the width of the definition of "family violence" in the *Family Violence Protection Act 2008*. She was of the view that my husband's conduct did not constitute "economic abuse" within the definition of "family violence" and was a civil matter. She refused to take a report or to help me apply for an intervention order.

As a result, I contacted the [REDACTED] Magistrates' Court (Court) on [REDACTED] to enquire about making an application. The first available date to appear before the Registrar to lodge an application was [REDACTED] 2015. The intervening [REDACTED] days was a very anxious time for me and my children due to our assessment of the safety risk that my husband posed to us.

I made an application to the Court for an intervention order on [REDACTED] 2015 and appeared before a Magistrate to give evidence. This was an ex parte application. An interim order was made on that date.

The matter was listed for a mention on [REDACTED] after my husband was served. We both attended Court on that day. The interim intervention order was continued and the matter was adjourned to a further mention on [REDACTED] 2015, prior to a hearing listing for [REDACTED] 2015.

On Friday [REDACTED] 2015 our youngest son, who has [REDACTED], had a [REDACTED] episode at home at about 7am. Police and ambulance attended at my home. Our son required hospital treatment and was put into an ambulance at 9am to be transported to the [REDACTED] Hospital. I went with our son in the ambulance. I told the attending police officers that the intervention order was listed for a mention at 9.30am that day and I was unsure what to do to inform the Court of my circumstances and my inability to attend at Court.

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One of the officers offered to telephone the Court on my behalf and advise that I would not be able to attend. He said that he would ask for the matter to be adjourned.

The police officer rang me at 9.15am to report on his conversation with the Family Violence Registry staff member at the Melbourne Magistrates' Court. The officer had been told that *only I could notify the Court of my circumstances and that the notification had to be in writing*. The Court's view that the advice of a sworn police officer with no connection with the application was insufficient to support an adjournment of a mention date astounded me. At the time I took this call, the ambulance was stuck in traffic in [REDACTED].

The ambulance arrived at [REDACTED] about 10am and our son was triaged and moved to the [REDACTED] in the Emergency Department. He was sedated and then reviewed by an Emergency Consultant. This took some time.

About 11am, when our son was settled and I was no longer needed by the medical team, I asked a nurse at [REDACTED] to log me to [REDACTED]'s internet to send an email to the Court. I emailed the Court about our son's hospital admission and asked that the mention be adjourned to another date.

My email was sent at about 11.10am. A short time afterwards, my intervention order matter was called. I was not present at Court. The Magistrate before whom the matter was listed had not been provided with my email. My husband requested that the matter be struck out and the Magistrate made that order.

The Court did not notify me that the application had been struck out or that my children and I had lost the protection of the Court's interim order.

I finally brought our son home from [REDACTED] about 10pm that evening. My [REDACTED]-year-old daughter was very distressed when she saw me. She said that my husband had contacted her that afternoon to say that the intervention order had been struck out because "Mum told the Court a pack of lies". My daughter was very upset about his call because she knew I had been at [REDACTED] all day and thought that her father was prevented from calling her because of a court order.

I made contact with Victoria Police at about midnight on [REDACTED] 2015. The officer who assisted me confirmed that the application had been struck out and the interim order had ceased.

The children and I were extremely anxious all weekend having lost the protection of the Court that we had sought in [REDACTED].

On [REDACTED] 2015 I spoke with a Registrar in the Family Violence Registry at the Court. I was in [REDACTED] with our youngest son who was attending a [REDACTED] program when I made the call. She advised me that:

- The application had been dismissed, the intervention order was no longer in force and hearing date had been vacated;
- She was not able to see why the application had been dismissed;
- The Court only serves notices on Respondents, which is why I didn't know that the intervention order was no longer in place;
- The only way I could find out why my application had been dismissed was to order a transcript;

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- I would have to make a fresh application to the Court as the dismissed application could not be revived;
- The first appointment that she could provide is [REDACTED] (14 days away). On that date I was required to transport our youngest son from [REDACTED] for a home weekend in his [REDACTED] residential program in [REDACTED] (approximately 200km from Melbourne). The next available date after that was [REDACTED], [REDACTED] days after I lost the Court's protection on [REDACTED].
- There was no mechanism to expedite a Registrar's appointment, even in circumstances such as mine where I had been absent from Court due to a family emergency and an order had previously been in place.
- All I could do was hope that there wasn't another issue while we did not have the protection of an order and to dial 000 for police assistance if necessary.

I was unhappy with the Court's response so I went into the Family Violence Registry at the Court on [REDACTED] 2015. After about two hours of waiting and several meetings with the Registrar, I was offered an application appointment on [REDACTED].

I made a fresh application on [REDACTED], appeared before a Magistrate and gave evidence again. The Magistrate made another interim order on the same terms as the order in place under the first application. VictoriaPolice were provided with the application for service.

My husband was not co-operative in relation to service on the second occasion. VictoriaPolice advised me that they made 9 attempts to serve the order on him in the week following [REDACTED]. VictoriaPolice officers left my husband cards requesting contact when they attended his home address. I texted my husband advising him that an order had been granted on [REDACTED]. I also asked him to go to a nominated Police Station to be served. I was in daily contact with VictoriaPolice about service. One senior police officer was my contact due to the service difficulties. As this officer moved from day to night shift I was required to make some calls late in the evening around 11pm or early in the morning around 6am.

When service was not effected by [REDACTED] I rang the Court to relist my application (it was never a VictoriaPolice application) before a Magistrate so I could obtain an order for substituted service. A Family Violence Registry staff member advised me that I was unable to do this due to the terms of s.206 of the *Family Violence Protection Act 2008*, despite the application having been commenced by me and not VictoriaPolice.

I then contacted VictoriaPolice. It took several calls to VictoriaPolice to arrange for the application to be relisted for an order for substituted service. I waited on hold for significant periods.

Eventually the matter was relisted on [REDACTED] and an order for substituted service was made. A Registrar served the second application by pre-paid post on [REDACTED] 2015.

My husband continued to contact me and the children after [REDACTED] and didn't seem to comprehend that he had been validly served. I am unaware of what documentation he received from the Court.

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Once the application was served it progressed through one mention date to the contested hearing date on [REDACTED].

I gave my evidence for about 2.5 hours. At the conclusion of my evidence-in-chief, my husband agreed to the interim order being made final. By consent, and without admission of liability, the Court made an order effective for a period of two years (until [REDACTED] 2017).

On [REDACTED] 2015 (the next day) my husband breached the order made the previous day by conduct that I believe constitutes economic abuse. The breach was reported immediately to VictoriaPolice. I gave a statement to VictoriaPolice on [REDACTED]. I am advised that an investigation will now be undertaken. VictoriaPolice officers have indicated that there is not likely to be an outcome in the near future and that there may be insufficient evidence to prosecute my husband for a breach.

It took considerable effort to obtain a final order. This order was breached in less than 24 hours. The likelihood of there being consequences for my husband in the short to medium term is low. The *Family Violence Protection Act 2008* does not seem to be effective in deterring my husband from undertaking family violence.

ISSUES AND SUGGESTED SOLUTIONS

| Issue | Solution |
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| Not all VictoriaPolice officers understand the width of the definition of “family violence” in the Family Violence Protection Act. In particular, it seems that the concept of “economic abuse” is not well understood by some | Provide more training to VictoriaPolice officers about the definition of “family violence” |
| Applicants have to wait too long to get an interim order due to the delay in getting an appointment with a Registrar to prepare and lodge the application | Provide more Registrar appointments through increased Registrar staffing. OR Have another method for making an application without the necessity to attend before a Registrar |
| The current application form has a character limit and Applicants are required to abbreviate their application to fit the box, rather than providing the information that is relevant | Change the form |
| It is difficult to get information from the Court and VictoriaPolice about orders made in relation to applications and issues relating to service of applications. Calls to both organisations can result in significant time on hold. | Applicants should be offered an online password-protected account option (similar to the federal myGov site which individuals can use to communicate with Centrelink, ATO, CSA etc) to track the progress of the application, its service and the current status of orders. The account should contain all the important information such as: <ul style="list-style-type: none"> • A copy of the application • Service details (eg pending with 3 personal service attempts/served |

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| | <p>on date personally/served on date by mail etc)</p> <ul style="list-style-type: none"> • A copy of the orders made • Information about how to contact the Court/VictoriaPolice in case of important information or an emergency preventing attendance at Court. |
| <p>The physical layout of the [REDACTED] Magistrates' Court makes it difficult for applicants to be physically separated from respondents, causing anxiety for applicants</p> | <p>Courthouses need to be planned with the safety of family violence applicants addressed through waiting areas and more interview rooms.</p> <p>It is highly undesirable that applicants are required to wait for extended periods in view of respondents.</p> |
| <p>Applications and related orders should not be struck out on the first non-attendance date</p> | <p>All matters where the Applicant does not attend should be adjourned for a further mention date to allow applicants a chance to appear.</p> <p>Most applicants for intervention orders are women in extreme distress suffering financial, housing and similar crises and who bear the burden of being primary carers. They are at high risk of having personal circumstances which prevent them attending Court on mention or hearing dates</p> |
| <p>The person commencing an application cannot resolve service issues on applications. An applicant must then engage with VictoriaPolice to have an application relisted for an order for substituted service</p> | <p>The <i>Domestic Violence Protection Act 2008</i> should be amended so that applications which have not been served within one week of the date of the order are automatically relisted for an application for substituted service without the necessity for VictoriaPolice to relist applications.</p> |
| <p>Applicants experiencing emergency circumstances preventing them from attending Court as required are not provided with any assistance, despite their circumstances</p> | <p>The Court should change its policy concerning notification of circumstances supporting an adjournment.</p> <p>Police officers should be able to provide advice of exceptional circumstances, which is accepted by the Court.</p> <p>An applicant should be able to advise the Court by telephone of circumstances preventing non-attendance in emergency situations as it will not always be possible to provide written notification to the Court. Verification by a third party may be required by the Court eg a telephone</p> |

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| | conversation with an emergency services worker or a nurse or doctor |
| Respondents served by substituted service do not seem to be aware that they have been validly served as there is a incorrect understanding that only personal service is permitted | Provide information sheets to Respondents served by way of substituted service, which clearly state that they are bound by an order despite not having been personally served. |
| Provide contemporaneous notification to Respondents that a breach allegation has been lodged. | <p>Because VictoriaPolice investigate intervention order breaches in the same way as they investigate all criminal matters, progress takes time.</p> <p>VictoriaPolice should make contact with all Respondents against whom breaches are alleged as soon as the report is received to advise the respondent that they are under investigation and to reiterate the seriousness of a breach if proven.</p> <p>The lack of contact from VictoriaPolice close to the time of the breach leads some respondents to think that there are no consequences for their actions/that the order is unenforceable, encouraging escalated behaviours in some circumstances.</p> |

I trust the above is of assistance in framing the Royal Commission's recommendations as required in paragraphs 5 - 10 of the Terms of Reference.

Should you require any further information, please do not hesitate to contact me.

