

My name is [REDACTED]. I have [REDACTED] who at the time of writing this are aged [REDACTED] and [REDACTED]. My children and I were subjected to abuse by my former husband/ their father for the entire duration of our relationship, and continuing on even after our separation/ his removal by police and subsequent divorce. I would later be diagnosed with [REDACTED]. At the time of our separation, my eldest [REDACTED] old, I was [REDACTED] pregnant with our second.

## VICTORIA POLICE

In my interactions with police and emergency services, I encountered various problems. In some of my phone calls to 000 I was connected successfully and was able to request the Police but was unable to remain on the line because my husband took the phone from me. On more than one of these occasions he smashed the phone. There was no call returned and no Police ever came to my address to check whether everything was ok.

Records were not always filed correctly when there should have been a family violence report made. One incident occurred at the address of my former husband after our separation in which I was restrained from leaving with my children. I kicked and bit him to break free. I was forced from the house and locked out without my keys, phone, or children. My former husband eventually opened the door with my children in his arms and told me he would not be giving them back and then threw my mobile at me. It turned out that both of us had called the police. Later when searches were made on the system, there was no Family Violence Incident recorded on file.

I was advised by the Magistrate to report all breaches immediately, no matter how small, in order to avoid escalation of conflict. Yet my attempts to report breaches of an intervention order to the Police are not always taken seriously. For example, I have received approximately [REDACTED] harassing phone calls, although my intervention order prohibits him calling me *at all*. I have had police refuse to take reports of these breaches claiming that I couldn't prove that he was calling me. When I then showed the member in question the call log on my mobile as proof, this evidence was dismissed and I was told of the calls from his mobile he could have "pocket called" me and "that could have been anyone from his work calling you". My insistence that these calls were *not* accidental was met with the advice that I would need a witness to verify that they had heard the call, but it had to be someone I didn't know so that there was no bias. This amounted to the bizarre requirement for a stranger who was willing to tell the police that they had heard a phone call between two people, neither of whom they had ever met. The member then - rather than taking my report and holding him accountable for the breaches - told me if that I don't like him calling me that I should change my mobile number.

Although my former husband did not own any firearms at the time the IVO was served, he did, and to the best of my knowledge still does, own prohibited weapons (namely a [REDACTED]), which he had on various occasions boasted of and shown off. In response to my reports that my former husband had prohibited weapons on his property, I was told that these reports were not likely to have been acted on as I was told they had no grounds to search the property. This despite the IVO and my children spending time with him unsupervised. I was later advised that my request for information on outcomes of reports was refused on the grounds that all reports of illegal weapons were “treated as anonymous”, therefore I would not be informed of any action or outcome, regardless of the existing intervention order and despite my children spending time at his property unsupervised.

Because I have [REDACTED] needless repetitions of traumatic stories are not only frustrating, they are also traumatic in themselves. The two incidents I have narrated above in which I was dismissed and humiliated by the police were traumatic, and have made me fearful of repeating that trauma by reporting my former husband's breaches.

## THE LEGAL AID SYSTEM

When it comes to interactions with legal system, I have encountered yet another set of barriers. Changes to conditions on provision of grants for legal aid funding have created a barrier to being able to access and secure court orders concerning the protection of children. Whilst an IVO is obtainable, it does not determine what is in the best interest of the children in relation to contact and time spent with the person named on the IVO. As the parent with whom the children lived, I was unable to commence court proceedings to obtain parenting orders unless the non custodial parent initiated the proceedings and I was responding.

This left me for [REDACTED] years having to negotiate this directly with my former husband in a scenario which had a disproportionate power balance and with scope for the abuse to continue when I was still traumatised, confused and vulnerable. I was left insecure and uncertain about what was in the best interests of my children when it came to spending time with their father and keeping them safe. In the course of some of our meetings he would harass, manipulate or threaten me. Sometimes he attempted to prevent us from leaving by promising he would not return the children to me, [REDACTED] and other tactics. I would become hysterical in these situations [REDACTED] As I have said above, I have since been diagnosed with [REDACTED] The certificates obtained from mediation centres deeming mediation between us to be inappropriate did nothing more than force us to communicate directly on the matter until my former husband decided to take me to court and legal aid funding was finally granted to allow me to respond.

Leading up to this point, I had desperately needed the courts to assess the situation and make a ruling on what was in the best interest of the children, but was unable to take the

matter to court for the reason explained. In the absence of a court ruling, the decisions about my children's safety were left up to me, but I was too damaged and insecure to make these decisions. During this period of [REDACTED] years in which I was unable to bring the matter to court, my former husband continued to subject myself and my children to frightening and abusive behaviours which were not always reported to the police due to the fear I had formed of making those reports, as I have described above.

Upon finally receiving Legal Aid funding, I found that the common attitude towards Legal Aid cases is that they should *not* be granted the equivalent time and expertise as paying clients. We are handed to less experienced lawyers and the objective is often to end the matter swiftly at a minimal expense. My lawyer was such a person. She was newly qualified and I was obviously her first domestic violence case, if not her first client. My lawyer refused to request an Independent Children's Lawyer, which she considered unnecessary. Likewise she refused to subpoena records from Police, Child Protection, Hospitals, Medical Centres, counsellors etc. When responding to the affidavit from my ex, I responded to all points raised showing the extensive history and ongoing concerns. My lawyer reduced this to a brief two pages which significantly understated the seriousness of the situation. In addition to this, there were falsehoods in the affidavit which my lawyer refused to adjust, leaving me open to accusations of perjury on certain details. These falsehoods in my statement could be used to cast doubt in other details at a later date. To take one example, I separated from my husband on the [REDACTED] [REDACTED] when he was arrested and removed by police but my lawyer wrote that this was the initial separation and that "final separation" occurred [REDACTED] years later. My objections to this were met with the argument that we had been in counselling together I insisted that we were *not* back together during that time, at which she became exasperated and said accusingly [REDACTED] She either could not grasp that I had been [REDACTED] pregnant at the time of my Husband's arrest, or could not fathom why I still had the baby even though we were no longer together. Regardless, she refused to correct the statement leaving me open to being accused of perjury on my Divorce papers or future documents.

In addition to this I was then presented with "my" proposal for parenting orders. When I read them I panicked and burst into tears. The proposal for time spent with the children and the details of the arrangement was not only in direct opposition to what I had stated I felt comfortable with, but granted their father *more* time than he had even asked for in his proposal. It also explicitly stated that I would personally meet with him to hand over the children, the one thing I had always stated I would not do.

Crying, I attempted to articulate my distress and explain my objection to this and the lack of consideration for the safety of either myself or my children. My Lawyer responded by excusing herself and leaving the room, only to return with an older woman who introduced herself as the Senior Lawyer of the firm and that she wished to advise me that it was a condition of my legal aid grant that I follow legal counsel. I was distraught: the history of violence, the parameters of the intervention order and my [REDACTED] were all dismissed. My lawyer told me

██████████ that's all in the past" and in fact the Senior Lawyer told me "Yes but that's not about the children getting to see their father, that's just about your own anxieties"

They eventually agreed to include in the proposal a staggered and gradual reintroduction of time spent with the children and my request to have the children handed over by another party. However, they would not make the adjustments that would have the orders follow the parameters of the IVO.

I repeatedly asked my lawyer about the Form 4- Notice of Risk which would have alerted the Magistrate to potential harm to the children. I was worried that, given the attitude my lawyer had displayed thus far, she would not wish to submit it. I was told that she was the one who would do that not me. Upon arriving in Federal Magistrates Court I found the form had not yet been submitted and she intended to do so before the Magistrate. I was told she had spoken to my ex husbands lawyer over matters on the phone. I continued to express my concern that an Independent Children's Lawyer had not been requested and pleaded for her to do so, but to no avail. I was told this was something we could do later "if necessary" and that the children needed to spend time with their father in order for there to be any report as to the appropriateness of time with their father was.



Upon entering the courtroom I was horrified to discover that the scenario which had been described to me outside was not what played out in front of me. Both lawyers stood before the Magistrate and I was alarmed to hear the other party state that he and my lawyer had discussed the matter and were confident the matter will be resolved quickly and easily. The magistrate disagreed with what my lawyer requested and a to and fro ensued which, being full of legal terminology, I was unable to follow. When during this discussion, the Magistrate periodically offered alternatives, my lawyer would turn and look at me for a cue to which I would reply "I don't understand what's going on". But despite my clearly telling her that I didn't understand, at no point did she request a moment to confer with her client, instead continuing to negotiate without me. A ruling was made without my understanding of the proposals or the discussion, then and only then did my lawyer attempt to submit the Notice of Risk form without ever mentioning the nature of the additional form she needed to file. This was submitted downstairs and was never sighted or actioned by the Magistrate who was unaware of its existence.

Upon exiting the courtroom, my lawyer explained what was happening which now involved the children spending unsupervised time with their father every second weekend for the next five months. Again I pleaded with her to subpoena records in the meantime. She became frustrated and told me I needed to understand the limitations of my Legal Aid funding, then went on to say that she understood I wanted someone to see the bigger picture, but that that was "all in the past and you need to focus on what you want things to look like moving on from here". I was then told if things didn't "go well" over the next five months, then we would look at getting all those documents, but that we should see how the next five months go first and holding both thumbs up and grinning said "it might all be good".

I have since reported the actions and inactions of this lawyer to VLA. There is currently an investigation in place.

The provision of professional standards of legal representation is still inadequate when, representation needed to protect children, is given a lower priority because it's funded by Legal Aid. We who are victims of domestic violence, especially the child victims, deserve to be given the time and expertise that our cases demand, not the least experienced member of the firm who has instructions to resolve the case with minimal time and effort. I would like to point out at this time, although it should not matter, I am *not* receiving free legal assistance. Victoria Legal Aid have taken a caveat out on my house, which will result in the amount spent on my case being deducted from the sale price of my home should I sell. I am therefore a paying client, (albeit one with a loan). Do I not deserve the same standard of service? More to the point, the most vulnerable parties in this case and the parties who have the least say are the very children I am attempting to protect. They are effectively put at risk based on the system which funds the service.

#### ARTWORK

To illustrate the human reality of what's at stake, I have included two samples of my eldest  art work. Since my lawyers actions resulted in an increase of unsupervised time with their father, some of the impact on my children can be seen in my eldests artwork within 24 hours of returning home in  artistic depictions of the family.

