



29/05/2015

RE Submission to The Royal Commission into Family Violence.

As an adult male and the partner of a female that is experiencing family violence from her ex-husband, I feel the need to make a submission to the royal commission outlining the issues that my partner has had with family violence connected to a her divorce. The separation and divorce proceedings have been going on for over 2 years and my partner is presently busy preparing for a family court hearing, working 2 days per week, studying and caring for [REDACTED] wonderful children, she does not have the time to make a submission. We live in rural Victoria and this seems to add another lay of complexities to the issues.

My main concern is that the present court systems (magistrate and federal) and child support arrangements facilitate ongoing family violence to be perpetrated.

The back ground is that [REDACTED] and [REDACTED] were married and had [REDACTED] children when they separated over [REDACTED] years ago, [REDACTED]. [REDACTED] and [REDACTED] are both professionals with a share in a profitable business with [REDACTED] working in the business. [REDACTED] had left the work force to care for the children and worked part time before separation. [REDACTED] was earning over \$[REDACTED]k per year. [REDACTED] was diagnosed with a mental illness – [REDACTED] years ago. [REDACTED] supported [REDACTED] for a number of years through this illness but when [REDACTED] was forced to leave the relationship due to his unsafe behaviour in relation to the children.

[REDACTED] asked [REDACTED] to leave the family home because she feared for the children's safety. [REDACTED] is not able to identify basic child safety risks and went confronted does understand the issue.

My partner summarised some of the history (as below) for the court in application for an AVO.

History

"[REDACTED] has medical history of severe depression and was diagnosed as [REDACTED] in [REDACTED].

His medication compliance has been poor to my knowledge – sometimes by oversight and also deliberately for longer periods.

His solicitor recently provided a report from his psychiatrist, [REDACTED], which states '[REDACTED] was found to be at times not regular with his medication and follow-ups, but would eventually turn up

after some gaps'. The report goes on to say 'In case [REDACTED] is overly Depressed or overly Hypomaniac /Manic and or not on any medication, his quality of care of his children will be compromised'.

He has been physically and emotionally abusive during the latter years of the relationship. He physically assaulted me when I was heavily pregnant [REDACTED] and again just prior to the relationship breaking down. I spoke to police during this last incident but they did not attend.

I have a photograph of my arm after the [REDACTED] assault.

The main factor contributing to the marriage breakdown is his negligent and dangerous care of our children. He has had very limited care (since becoming a parent) of either child but has done significantly dangerous/ negligent actions on most occasions he has cared for them.

I oppose him having unsupervised care of the children as I believe the likelihood of them coming to harm is significant.

Children's matters and financial matters are listed for the [REDACTED] circuit on the [REDACTED].

I can provide many detailed account relating to his actions around the children including:

- leaving firearms (rifle) and ammunition in public accessibly area [REDACTED]
- Possession and failure to safely secure unregistered firearms.
- leaving [REDACTED] in easy reach of child
- Leaving sharp knives on ground (in reach of child) with great frequency.
- leaving [REDACTED] pharmaceuticals in carport / house / reach of children
- going to sleep while children in his care – repeatedly.
- leaving children asleep in the car (turned off)
- placing a toddler in front seat with child seat secured improperly (wrapped anchor straps around head rest and did not disable airbag). We attended the police station as he would not believe the seat posed any issue and a female officer advised it was not appropriate
- sending children to play unsupervised at the park, involving crossing a busy road without assistance.
- refusing to appropriately supervise young children in bath
- refusing to appropriately supervise young children on roadways/ carparks
- not directly supervising children while swimming
- left [REDACTED] as a crawling toddler in the driveway, with another vehicle parked there when expecting me to return home.

Since separation

Stalking

[REDACTED] will often walk past my house repeatedly – at least three residents of my street have commented at how often they have seen him. He has also turned up many times without prior arrangement at locations he knows we will be ([REDACTED]). He has also attended my home late at night. He has desisted somewhat from this action since correspondence from my solicitor ([REDACTED]) relating to this.

[REDACTED] – [REDACTED] telephoned my home while I was at work and spoke to my mother and asked that I return his call. I worked late and had arranged to meet some other families for dinner and so

texted [REDACTED] to say was busy and would call later. We arrived home at approx. 7.40pm and he turned up at my residence because I had not returned his call!

I asked him to leave and said I would speak to him later. When I spoke to him after putting kids to bed he wanted to know if he could catch up with boys on the weekend.

I believe this last weekend he turned up at the [REDACTED] and told mutual friends he intended to see the boys there and at [REDACTED], despite making no such arrangement with me. (We were out of town [REDACTED]).

Mail

He redirected mail in my maiden name ([REDACTED]) (which has never been used by him), which as we have the same first initial meant much of my mail was directed to him, as was some with [REDACTED] on it. Some of this was returned in an untimely manner (overdue notices on bills – which I hadn't received the original of) and some mail never reached me.

Financially

Financially he has made things very difficult – taking vast amounts from the joint accounts and at times overdrawing them. As at [REDACTED] he had removed in the order of \$100K from accounts. He has failed to sign a binding child support agreement and does not pay child maintenance.

He also stole a chequebook belong solely to me and wrote a number of cheques (which the bank honoured but later forced him to repay).

He previously earned in excess of \$[REDACTED]K but has elected to become unemployed/ work minimally to reduce his child support obligations

Update: On [REDACTED] (the day before appearing in Magistrates court last time) [REDACTED] registered himself with child support agency (18 months after separation). I believe CSA will commence collection from the [REDACTED].

On the [REDACTED] he transferred money from a joint account which he is attempting to claim as child support. He has also transferred a small amounts subsequently from his own account which he has advised CSA he considers child support.

Update [REDACTED] Ceased work. Child support reduced to minimum (\$7.65 per week)

He has attempted to dispose unilaterally of our share of a profitable business, citing avoiding child support as his reasons to the ongoing partners.

He has subsequently disputed valuations of this business to delay settlement and attempt to financially disadvantage me further.

Telephoning

Since court proceedings have been initiated he has taken to telephoning the children multiple nights of the week – sometimes every night (prior to this he rarely telephoned them).

If I do not answer his call he becomes very impatient and will sometimes ring one phone immediately after another in succession (I have a landline, a personal mobile and a work mobile). He will even ring when he just seen the boys earlier that day.

If we are even slightly late he will ring and demand to know where we are (see [REDACTED])

My mother who visits twice weekly to care for my children while I am at work has been receiving a large number of ring up – hang up calls on her days at my house.

██████ denies that he has made these calls but they have ceased since I advised him I was considering getting the calls traced.

██████ – two texts and voice messages within the time taken to drive ██████ – ██████ (pulled over to check phone). Returned call when arrived at ██████ and kids talked to him. He then rang back and asked if kids could have tea with him. I said yes and he hung up immediately. Spoke again to clarify that I would be present. He would not agree to this so I ended call to have dinner. He telephoned my mobile and left a further 4 messages as well as multiple messages on home phone.

██████ – rang all my phones – some multiple times over short period of time asking to return call. He then rang reception at my work (not my usual work day) and asked they pass a message for me to call him “urgently”. I returned his call and he was still wanting to argue about me having to sit elsewhere. I said again happy to have dinner all together. After multiple further phone calls he agreed to eat together at ██████

I also received 5 text messages from him.

Evening of ██████ – multiple phone calls to mobile and landline (and voice messages). Spoke to kids – asked ██████ why calls not returned to him immediately. ██████ explained that sometimes I didn't have my hands free, like carrying ██████ and sometimes were in the middle of something. ██████ then passed the phone to me and ██████ asked me why I didn't return his calls. He stated that he was not “harassing me”.

We met for dinner the next night. He was more than 20 min late.

██████ – rang to “speak to children” three times. Kids spoke to him each time.

Exclusion

In the past 4- 6 weeks (██████) ██████ has been increasing trying to isolate the children from me when we catch up with him. He will sometimes try to leave the area with one or both children. If we meet at an eatery he has been trying to insist that I must sit elsewhere and not at the same table. If we have eaten together he will pay for himself and the children, but not me.

He will sometimes refuse to speak to me also.

Verbal abuse

Examples:

██████ – ██████ Centre – yelled at me re his ‘custody rights’ (other people moved away from us).

He had a swim with both boys then went to ██████ for Lunch. We left after ██████ again shouting at me. (had spent ██████ hrs with him) Hassling texts afterwards.

██████ – ██████ visit. Fished, dinner at pub. He asked to see kids tomorrow (Mon) – I said no. He asked to see them Tues/Wed. I said I was busy (work). He became extremely angry and shouted

again. He left in a rage - backed into oncoming traffic at speed (near miss). Rang that evening "to speak to children". Follow up texts re declined visits (again).

██████████ – texted request could he see kids on Wed. I agreed to meet after 5pm.

██████████ – text at 4.48pm cancelling arranged visit.

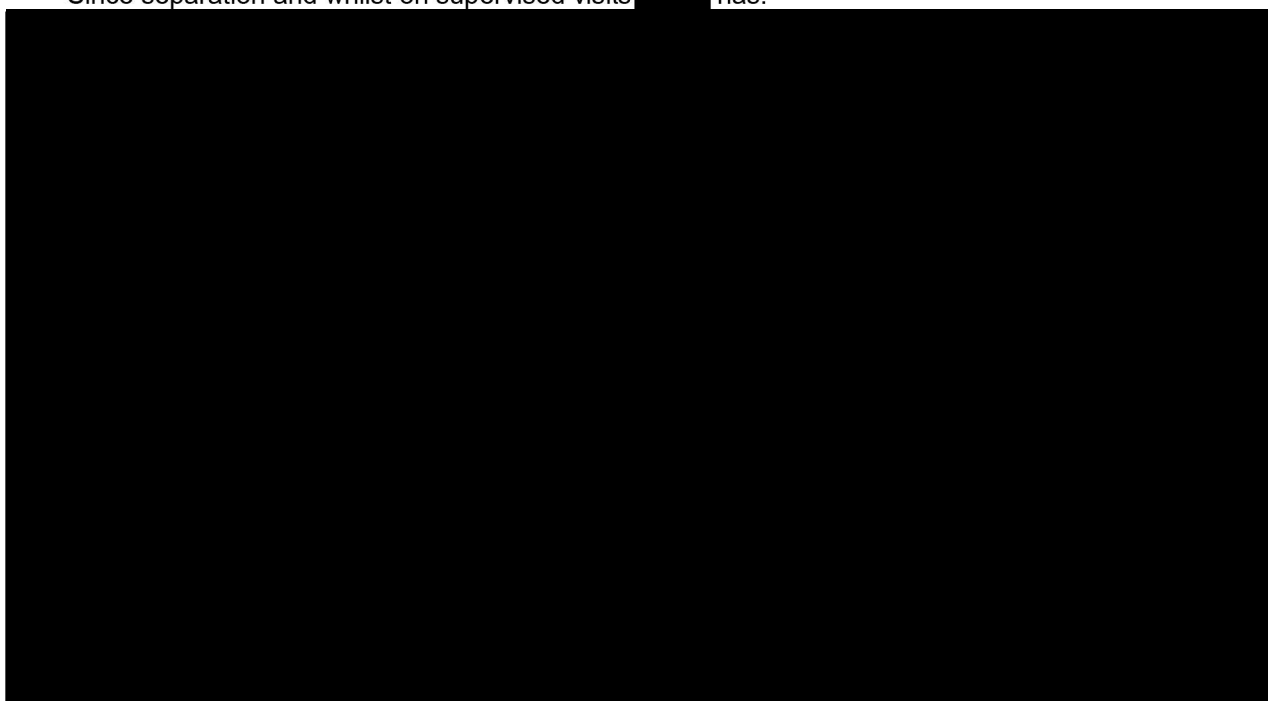
Threatening / Criticising / Undermining Language

Ongoing

He also regularly tells the children "when you live me ..." etc.

Inappropriate Actions relating to children

Since separation and whilst on supervised visits ██████████ has:



Child access

I hold serious concerns for the safety of my sons whilst under ██████████'s care. ██████████ has been able to contact the children whenever he wishes and visit them, provided I am present, whenever he wishes, provided I do not already have another commitment (work, appointments etc).

He arranges visits at short notice – often the day he wishes to see them or the evening before and is often very angry if I do not agree to his proposal.

Initially ██████████ would come to the ██████████ house (former matrimonial home where I still reside) to visit the boys. There were two episodes of what I consider family violence which I noted in my diary at the time (below). Since these episodes I have requested he not attend my residence and we generally meet at a public place, or rarely his unit in ██████████

██████████

██████████ arranged to visit at 6pm. No message but arrived at approx. 6.40pm. Stayed a short time. Being very provocative and trying to initiate political arguments (when discussing school). I declined. Asked ██████████ about school choice to which he replied "whatever mum thinks is best", which angered ██████████. ██████████ accused me of having influenced him. He became verbally aggressive towards me and ██████████ and I asked him to leave. (He needed to attend an after-hours call anyway). He left.

██████████ returned (without letting me know he intended and without invitation) just prior to 8pm while I was getting kids into bed. He commenced knocking on doors, both front and back, then banging on windows and shouting out to ██████████. He then climbed under bushes to the dining room window, which was unlocked (had timber board with hole as cat door propped at base) and was trying to get in window and still yelling out. I telephoned neighbours and told ██████████ the police were on the way (I was bluffing). The neighbour – ██████████ – turned on his lights and spoke with ██████████ who left.

I subsequently rang the police station to advise them of the incident. He has already attended the station and spoken to an officer. I was advised that as he jointly owns the home (tenants in common in equal shares) he was entitled to attend the property whenever he wished.

██████████ 8.30am – text asking to see kids today – I advised not suitable.

██████████ 8.30 am – text asking to see kids today - I said could do so after work (6pm-7.30pm) but he declined as he 'needed to go to Melbourne'.

██████████ 8.30 am – text asking to see kids today – I replied I thought he was in Melbourne? He replied he wasn't. Offered to meet between 3pm-4pm but he declined as 'had something on'.

██████████ – text wanting to see kids. I replied I was busy from 11am to mid-arvo but otherwise fine. No response and no visit.

██████████

██████████ came to my house to visit from about 4.30pm. Verbally abusive towards me (in front of children): "not welcome at my house", "princess", "your stupid eyes on me". Gave me the 'up yours' gesture.

After separation ██████████ felt threatened by ██████████'s behaviours which included:

██████████ became unemployed so he reduced his income so as to reduce not having to pay child support. He told his work that was why he was leaving work.

Trying to sell their share of the family business without consulting ██████████

██████████ not submitting a tax return for █ years and effecting █'s ability to submit a tax return.

Removing large sums of money from joint accounts.

Forging cheques in ■■■'s name.

Trying to redraw on the home loan without ■■■'s consent.

Falsifying ■'s signature in an attempt to re-draw the business loan

Redirecting ██████'s mail to his postal address and opening it.

Not paying child maintenance regularly and not working full time.

Walking past her house many times each day.

Calling and texting multiple times a day.

Breaking in to ■'s house.

Walking around in the garden of a night time when ■ and the children were at home alone.

Contacting members of [REDACTED]'s family to try and get information to discredit [REDACTED]

Finally [REDACTED] assaulted [REDACTED] and an AVO was issued.

The issues are

There seems to be a perception that family violence is only physical abuse. Because [REDACTED] is a professional, well spoken, well presented and likable person people don't believe that he is capable of family violence. Professionals such as social works, counsellors, case workers at the Department of Human Services, have all given him the benefit of the doubt and not required him to prove his claims about his financial situation, employment status and mental status.

He has also been allowed to “use” the court systems to his advantage and further inflict damage on his ex-wife and children

- It took ■ months and ■ days of court to achieve an ongoing AVO. During this time ■ represented himself but would then ask for adjournment once the matter was before the magistrate on the basis he did not have legal representation.
- He contested the matter until final hearing and then accepted a “without admissions” AVO, after being granted a diversion for the assault
- During his representations he further bullied his ex-wife by making what he intended as derogatory statements such as “I was the owner of the multimillion dollar business and she....she made up all of this... on the advice of her mother... her single mother..” (when in actual fact the marital status of her mother is not relevant. For the record her mother is divorced and has remarried. ■ has the same tertiary qualifications as ■). The magistrate did ask ■ to stop, but he was allowed to continue the behaviour at subsequent hearings.

Comments from professionals have include:

- A social worker saying that without evidence such as medical reports or police reports she didn't consider there was any evidence of family violence

- A human services case working not requiring [REDACTED] to provide evidence of why he had become unemployed even though the legislation and department guidelines stated that officers would do so. The legislation is framed that it is a 'rebuttable presumption' that a parent has made changes to their circumstance to effect child support. Despite his failure to respond at all (in the second instance) the officers response was that she is not obliged to investigate the matter.
- Human services saying that if the children had not been physically harmed and that [REDACTED] was a "protectant parent" and they would not do anything.
- She was also told that the risk to her children did not reach their "threshold" as they saw some things 'you couldn't imagine'.

Even though [REDACTED] had limited interest in parenting the children when he was married to [REDACTED] he is now fighting for access every second weekend and during school holidays. His request for access is exactly the same as what is required to minimise his child maintenance responsibilities. Before the AVO [REDACTED] accommodated almost all of [REDACTED]'s requests to see the children. [REDACTED] would allow [REDACTED] to have supervised access whenever he wanted he chose not to see the children regularly. Since the AVO he has been granted occasional weekend visits and sometimes does not show up. He is allowed to telephone twice a week but typically only phones once a month. He has chosen to leave the country town where [REDACTED] lives and now lives [REDACTED] hrs traveling time from [REDACTED].

His custody request would mean the children would have to travel over 10 hours every second weekend this does not seem to be in the best interest of the children as their friends, sporting activities etc. are all around where they live. Because google maps lists the driving time from [REDACTED]'s house to [REDACTED]'s residence as 3 hours a social work professional has stated that this is acceptable for the children to have to travel this distance. It may be possible to drive non-stop in 3 hours but this does not take into account traffic conditions, toilet stops, breaks to stretch their legs. Once again the actions of professionals are supporting [REDACTED]'s family violence.

[REDACTED] assaulted [REDACTED] in a public place and an interim AVO was granted. [REDACTED] adjourned the next three hearings, dragging the process out by 6 months, slandered [REDACTED]'s good name when addressing the magistrate at one of the court hearings. Then at the last opportunity he pleaded guilty without admissions and a 12 month AVO was granted. This was a very time consuming and stress full process for [REDACTED], she had to organise child care, take time of work and sit for days in court. [REDACTED] is claiming that he is still innocent and only pleaded guilty because he couldn't afford to fight the case anymore. The AVO was granted because of physical violence and as he pleaded guilty. It did not consider the economic, emotional, and psychological violence [REDACTED] had been perpetrating. The AVO process allowed [REDACTED] to continue emotionally abusing [REDACTED] during the hearings. The system did not seem to recognise this or compensate [REDACTED] for the pain and suffering she endured.

Comments from professionals have include

- A social worker commented that she believed that [REDACTED] wasn't guilty of family violence as she had spoken with [REDACTED] and believed his explanation of events. The same social worker commented that without any independent evidence of [REDACTED]

causing family violence then she didn't believe there was any (despite the existence of the AVO)

- As the children hadn't been injured by [REDACTED] Human Services would become involved in the case. If Human Services had investigated then they could have been an independent witness.

[REDACTED] contacted different family members and friends of [REDACTED]'s, often under the pretence of other reasons and has threatened to use their statements in court against [REDACTED]. This has strained some relationship with members of [REDACTED]'s extended family and caused the breakdown of a number of friendships.

The family court does not seem to take much attention of the AVO that is granted. Even with an AVO in place the family court granted [REDACTED]'s request for unsupervised access to the children. It should be noted that he has had firearms charges and the case was resolved with a diversion, this was not considered as part of the AVO or by the family court either.

It took [REDACTED] 18 months before he applied to pay child maintenance. During this time [REDACTED] spent a lot of money, left his job and became unemployed then got part time and cash in hand work, he tried to sell his share of the family business and deposit the proceeds in an unknown place. When [REDACTED] has estimated his income for child maintenance purposes it is always incorrect and the caseworker kept saying that it will sort itself out when he submits his tax return. This may be so but as he hasn't submitted a tax return in 3 years and [REDACTED] it could be a few years before this is done. Hence some weeks [REDACTED] pays \$7.65 child support. [REDACTED] has had to submit 3 objections to his child maintenance applications, each time the case workers have found in [REDACTED]'s favour, seemingly without following their own published worknotes. They seem to continually except his verbal explanations without needing him to provide proof of his claims. The child maintenance payments issue has now escalated to an Social Securities Assessment Tribunal Review and [REDACTED] has to pay for legal representation as she believes that this is her last chance to get the correct child maintenance from [REDACTED].

The AVO system does not make it easy to get an AVO when economic, emotional, and psychological violence is involved. Magistrates don't seem to understand and it is hard for police to gather evidence on these matters. It seems to me that [REDACTED] has been able to successfully use the family court, magistrate court and child maintenance system to continue with economic, emotional, and psychological violence against [REDACTED]. It is very subtle and not as visible as a black eye or broken arm but it is still just as devastating to [REDACTED] and her children.

I believe that [REDACTED] is dangerous and that [REDACTED]'s children are at the risk of harm but the system does not seem to look at the whole picture of [REDACTED]'s history /offences. Instead each authority looks at the issues in isolation, each behaviour or offence doesn't seem that bad and some would consider quite trivial but when they are looked at as a whole I believe it paints a picture of a person using the system. I don't believe [REDACTED] is truly interested in his children and is

using child access as another way of perpetrating family violence. I believe that [REDACTED] is a danger to the children. [REDACTED] is not refusing [REDACTED] access to the children; she is only interested in their safety and at present wants supervised access. If there is a time when [REDACTED] can demonstrate he is no longer a danger to the children then unsupervised access could be considered.

- A social work stated that it was [REDACTED] right to have access to the children and that he should have shared access; this was before she was provided with all of the background material. After reviewing the information she didn't change her opinion regardless of the facts.
- I am very concerned by the power wielded by family consultants. As you would be aware, as they work in family law they are not governed by their own professional body. There is no complaints process and cross-examination is the only method of disputing a recommendation put by a consultant.
- If the consultant fails to act impartially or unprofessionally this is extremely difficult as the family involved have almost no avenues if the matter does not proceed to final hearing.
- Due to matters still before the court I cannot comment on the specifics, but I am quite frankly horrified that there are so few checks and balances in this system and it would appear deeply flawed in its design. I urge this issue to be looked at more significantly.

It seems like the system is weighted towards [REDACTED]'s rights as a father and he is using this to his advantage. With rights comes responsibilities and [REDACTED] is asking for all of his rights but not being held responsible for his actions. He continues to commit family violence by his actions regarding child maintenance, the division of assets and child custody even though there is an AVO in place.

Possible solutions to our family violence issues

Increased education of professionals working in the family court system, the system should err in favour of females when economic, emotional and psychological violence is happening. The male needs to prove it isn't.

Community education on all aspects of what family violence is.

Better communication between courts and a process to prevent the use of the family court system to be used to perpetrate family violence.

There needs to be consequences if an offender is found to have dragged out family court, custody issues so as to continue emotional and psychological violence. Money is very important to [REDACTED], if he knew he was going to be financially disadvantaged by perpetrating family violence then he would be less likely to offend.

When in doubt err on the side of female and child safety.

There needs to be some police that are trained in gathering evidence in family violence case involving economic, emotional and psychological violence and they need to be accessible in rural areas.

Perpetrators of family violence should have to compensate victims financially for the pain and suffering they have caused.

I apologise for the rambling nature of the submission as this is my first attempt at writing a submission for a royal commission. [REDACTED] has aside with information outlined in this submission. [REDACTED] is happy to clarify any issues if required.

Yours sincerely

[REDACTED]