

Royal Commission into Domestic, Family and Sexual Violence

I am providing my submission into the royal commission into domestic, family and sexual violence on behalf of myself and children referencing our experiences with police, magistrates, federal circuit court and the department of child protection and lawyers. This submission will also provide failures and system gaps that require legislation and procedural changes.

Domestic violence

I was young when I met my husband and I can see now that there was an abundance of red flags that at the time I had no idea where indicators of a future of being physically, emotionally, verbally, financially and systematically abused by him. It started off with yelling, breaking items and slamming doors. I was berated daily, gaslit and had every joyful occasion such as birthdays, graduations our children's birthdays destroyed by him and blamed for any of his inconveniences.

Physical, verbal and emotional

He hated my friends and any time I would have plans to meet with them there would always be some reason that I could not attend from starting a fight, destroying the house, needing me to come to his work for an "emergency" and soon I found that the distance between my friends and myself grew that social invite diminished. He would rip televisions off of walls, punch holes in walls and break furniture. I would come home to glass tables smashed, children's toys and belongings destroyed, and my personal items ripped up or missing. He started off throwing items near me, then to me and eventually throwing items at me directly hitting me. Whilst pregnant he would shove me into walls, push me and back me into corners yelling in my face while I cowered. I was 6 months pregnant and shoved me into what laundry where I fell over and he stood there screaming at me throwing things at me, I am attending pregnancy appointments where he would abuse me and leave the appointments causing nurses to check in on me and ones the baby was born, he would constantly accuse me of cheating. This continued after my children were born where he would pull babies from my arms, throw things at me while I was holding them and even pushing while cradling them. I have been punched, hit and held so tight that my arms felt like breaking and then every time made to feel that it was my fault, I was told that my children and I were a burden, that he was angry because we set him off and would even have his mother tell me "don't set him off, you know he is like this". I could not leave the children with him as when I went back to work 3 months later, I would get 10-20 calls to come home and threats that he would kill them, after a month I had to leave work due to this which resulted in further abuse from him. He would demand me to apologise scream at me that I cause his stressed

and that the children and I are the problem. He would tell me to commit suicide that I was a terrible mother and he hated me, and my children hate me. He would threaten to kill himself when I would try to leave and recruited his mother into the harassment, he tried to harm himself when I attempted to leave, and his mother screamed at me blaming me and my children. Post divorce when I would see him at visitations, I would be subjected to the same gaslighting and blame at each visit. He would tell my children that I was a terrible mother, tell them I stole his money and that he hated me. He would call me yelling at me during the visits telling me that the children are awful, and it is my fault, he would tell horrible things about my children and family and threaten to take me back to court anytime I did not comply with his request. The children disclosed that at each visit he was abusing them hitting them, calling them names, throwing things at them and swearing at them. He would target my oldest hitting them in the head and telling them it was my fault. They were distressed as they had kept silent for years as he had told them he was going to kill me which left them fearful. My exhibits had a history of abuse towards other victims with 2 convictions prior to the conviction for assault against me. I have had him use social media where he has posted about me and my full name aggressively lying, contacting my family and friends and even posting about me on my work social media. He would use the children's education difficulties to continue to abuse them knowing that this would hurt them and myself, calling them dumb knowing they were struggling with reading telling them he hated them and they were worthless knowing they had diagnosed anxiety and he would tell them that they are making excuses for being "shit kids"

Financial abuse

He told me that we required a joint account and would tell me daily how he was paying for all of our expense when in fact he was not, if he was short on money I was yelled out, sworn at and had my belongings destroyed by him and he would also take away my jewellery telling me I was a "gold-digger". I was expected to have my family give us money every time he mismanaged his money and owed wages or tax to the ATO, the house deposit I was gifted was used against me and throughout our marriage he would tell people I didn't work, it was his money, his house when I worked full time and the savings we had were mine from prior to marriage this continued throughout the divorce even the day after separation where he emptied out my account knowing I had a toddler who had just been discharged from hospital and a newborn baby to take care of. Throughout the divorce I found that he was using my wage to pay off his ATO debt and there were multiple applications for credit cards under my name. Since we separated 8 years ago I have never received child support despite being the custodian parent and he has refused to contribute to any of the children's needs from school, clothes, medical everything. I was told by him he would take me back to court at any time and he knows I cannot afford to I should behave, or he will destroy me.

Police

Through my marriage and post-divorce, I struggled to make police reports, I had police tell me that “people fight”, told to come back to make my report later. In my experience the frontline police are not equipped to communicate with victims of domestic violence, 80% of the front-line police I have spoken to were accusatory, dismissive and would tell me that nothing would really happen if I make this report. I had police say to me once when I said my husband’s name “oh this guy he is difficult” and then spend the entire time writing the report not once asking if I was okay, if I was safe or reassure me that reporting is the right thing to do. My interaction made me feel that I was burdening the police and that they did not care or feel that the abuse that me and my children were being subjected to was worthy of their time. The time frame from doing a report and for domestic violence police to make contact was over a month, and the process is slow where you are left there in fear pending the police review that can take months. Even reporting multiple breaches of intervention orders, I was told “it’s minor the prosecutor wouldn’t bother” it takes weeks for police to contact you after making a report and over a month for them to make contact to interview children for abuse and during this time we were told to maybe not stay at home (a home he has never lived at) for our safety. I was told by police that exposing my children to him when he has an instigation for child abuse would make me neglectful and would have repercussions and to withhold.

Magistrates/court system

Criminal - pre divorce

After being charged with aggravated assault against me the magistrate only sentenced him to [REDACTED] in jail despite him having two prior suspended sentences for aggravated assault which he breached within the sentencing time frame in addition to breached good behaviour bonds, breaching of intervention orders. Yet the magistrate did not adhere to the breach in suspended sentence and felt that only 24 hours was suitable even though he had significant history of abuse across multiple victims. The magistrates also removed my children from the intervention order even though he had continually abused me in front of the children, assaulted the eldest child and the children being present when he last assaulted me and advised it to be referred to the family court. Although lodging a victim of crime application and he was convicted I was also not granted anything from this.

Federal circuit court 4 years and a trial

Once my ex-husband was charged for aggravated assault against me, he filed for family matters in the federal circuit court where he began his systematic abuse of myself. As he

was no longer able to contact me due to the intervention order he resorted to having his lawyer email my lawyer consistently with accusations throughout our proceedings he filed up to [REDACTED] affidavits and had over a hundred emails which came at a cost to me to have my lawyer receive and send onto me. The majority of his affidavits had no bearing on the proceedings and had accusations towards me of behaviour and actions that he had perpetrated against me and my children although what he wrote was proven to be false there was no repercussions to him or his lawyer for perjury (Section 242 of the Criminal Law Consolidation Act 1935 (SA), makes it an indictable crime for a person to make a false statement under oath- which extends to affidavits). The court did not stop him from filing new affidavits or using the court system and his lawyer to continue to harass me which caused me emotional distress and financial distress as I was not entitled to legal aid at that time meaning I had to pay for a lawyer privately all while fully financially supporting my two children without any child support, I have worked full time since before our separation to finance this. At that same time, he stopped working and resided with his family who provided him with funds to pay his lawyers. Despite my ex-husband being convicted of family violence the court allowed him to take the case to trial for child responsibility even though there is legislation stating that no joint responsibility when there is family violence and the child advocate lawyer advising that he should not have any responsibility, yet the court allowed him to take the case to a 3 day trial where I was granted full parental responsibility. I was also not allowed to claim for cost even though the entire proceedings cost me over \$100,000k and I went into annual leave deficit with all the court appearance, adjournments, mediation, lawyer/barrister fees, family assessment appointments, lawyer appointments and appointments for the children to meet the child advocate lawyer and family assessment psychologist. It has taken me 7 years to pay off all my lawyer fees and have accrued annual leave after that experience. Post this my ex-husband has been allowed to file an urgent family court hearing regarding the children even though there is an open investigator against him for child abuse with the police, a child protection investigation where the children told them of all the abuse and that they were fearful of him (reports and letters were provided to confirm this).

Department of child protection

The department of child protection uses a metric when considering cases and this metric does not substantiate emotional abuse to the same degree as physical abuse despite there being relevant legislation that emotional, psychological abuse is damaging for children. If you do not have a long history of evidence (photos, medical) of physical abuse the metric cannot take into account all the abuse without photos however if you know your child has been abused and send them back you can be investigated for neglect. When parents find out about the abuse they withhold as they are told to do by

police and DCP however that individual circumstance is not enough for DCP to charge so they refer the matter to police and back to family court. The emotional and verbal abuse is not noted as significant which shows a gap in their system, legislation as well as medical journals that note the psychological damage that this abuse has on children especially ongoing. The department of child protection would apologise frequently that their metric is outdated and asked if I would withhold to which I said yes, my children refuse to see him and are scared and I am also scared of him and knowing what he has done to them it is not safe for them to be there. The department of child protection told me it was good for me to withhold as they would be concerned if I didn't.

Lawyers

Throughout my experience in the family court, it exposed the lucrative nature of the family law field. Legal aid is difficult to be approved so your other option is to pay for a private lawyer on payment plan or go in unrepresented. Through my experience I was not entitled to legal aid; I had my ex-husband's lawyer knowing I was a victim of domestic violence send accusatory and aggressive emails to myself and lawyer and throughout the trial I was victim blamed by them where the magistrate had to tell them off. The back and forth between lawyers when there is legislation seemed to be for the purpose of increasing billable hours and increasing profit by inciting clients to attack through the court. The aggressive nature of lawyers in the court room is unnecessary especially towards victims who have used all their courage to leave an abusive home. I do not believe that family court trials should be allowed when there is family violence as the cross examination is horrific for victims and is unnecessary when there are convictions of family violence, family assessment and independent child lawyers advising their position. Lawyers are officers of the court, they represent the court by assisting clients with their cases and interpreting the law however in family court this is not the case, they are profiting substantially from clients and victims and actively assisting clients to use the court system to abuse. I think lawyers should be held accountable for the advice they provide; I also believe they should be clear with clients of the legislation and any behaviour to pressure settlement from the other party through systematic abuse or financial pressure should be addressed and discipline should be done. I was fortunate that my lawyer told me clearly what was required, what was the law and if I filed as many affidavits and emails as my ex-husband had I would become bankrupt and it would not assist in the matter where not all lawyers would do this as they know it's \$3k to draft an affidavit.

Observations and changes

There are law firms in South Australia that are notorious for being known to use the system to haemorrhage the other party's money to obtain the desirable outcome for

their client as the other party runs out of money to continue proceeding or is emotionally destroyed by the continued harassment that it gets too much. The allowing of multiple filing of affidavits that hold no bearing on the case. Then to have your ex-husband's family fund his legal fees when you have to pay your own put you in a difficult position which the lawyer knows. The fact that family law is so lucrative is being enough that the court system is not resolving family matters appropriately and that lawyers are acting ethically when it benefits them more to extend proceedings to increase profit even though the outcome would remain the same at trial given the legislation. I believe when filing you should only file the required document notice of risk, financial (if required), ordered sought, affidavit. Then no other affidavits are to be submitted unless the court advises you to. I also believe there should be a limit of correspondence between lawyers as emails cannot be used for court so the back-and-forth cost clients' money and cannot assist in resolving.

Prevention of filing child matters

The court should have rules in place that prevents a party from filing if there are ongoing investigation, charges for family violence, child abuse (police and DCP). The reason is that during family proceedings if there are ongoing causes for this the magistrate will continue to adjourn until those matters are settled, this comes at a cost for lawyers, attendance ect in addition the psychological harm this causes to the victims. Victims are scared to leave their abusers due to what will happen once they leave; it is common for abusers to abuse their children to "get back" at their ex-partner. Us victims are constantly treated to have our children taken away by these offenders and they know we do not have the finances to fight or the emotional strength to continue. You convince yourself to leave, you are scared, and it takes all the courage you have to leave so then once you do they file family matters. The damage that does to you is overwhelming, as you have escaped them physically so they are abusing you the one way they know will hurt you the most which is through your children. The court allowing family matters to be filed when there is investigations for family violence, charges, ongoing court is a disservice to the victims as the victims should be given time to recover from the abuse.

The court also needs to stop the continual proceedings when there is legislation in place that supports an outcome. Although there is a new harmful act that prevents cases being refiled there is no legislation or to prevent orders being sought by the perpetrators that goes against the family law act. The family law act states there is no presumption of shared responsibility due to family violence therefore if they are convicted for family violence the option to seek shared parental responsibility should be removed that they cannot seek it. The court does not protect the victims as the perpetrators of family violence often have significant financial means that allow them seek

orders and the chances of the victims agreeing to this is based on the emotional and financial impact with the ongoing legal proceedings that the victims cannot endure or afford. That the cost for family assessments should be at the expense of the person who committed the family violence.

Police do not charge for all intervention order breaches; they will not charge if they feel the breach is minor (none physical) of the intervention order states

- [REDACTED]

Then any time the offender does one they should be charged as there is evidence of escalation from intervention order breaches and not charging the offender is telling the offenders they are untouchable and they can do what they want without repression, it tells victims that there is no point in reporting as nothing will be done. So if you are not allowed to call the victim and you do then charge them, you are not allowed to be within 100m of their work and they are charge them, offenders use every excuse not to take accountability and it is the victims who are prisoners in a society that encourages chances for offenders at the expense of the safety and lives of women and children.

Legislation

South Australia needs to implement additional legislation to protect victims and to hold offenders accountable for their actions to protect the community. Laws to

coercive control

Coercive control to a minor - this needs to be separate as to use coercive control on a child when you are an adult is to use a power that a child cannot defend. Offenders that threaten children or use threats against mothers to the children should be charged and this should also be grounds for zero contact with the children as it is psychologically damaging and risks the children safety.

72hour detain

If you are charged with family violence (including child abuse) you should be detained by police for 72hours, the danger for victims after leaving and having their abusers' charged results in women fleeing their homes or being further assaulted/murdered in that time frame. Police will escort victims to their homes to collect belongings as they feel it is not safe for them, by logic if it is not safe for them to be there alone due to the offender then why is it safe for the offender to be out of jail and on the streets. 72 hours

will allow the victims time to make arrangements such as domestic violence payments, leave from work, counselling, seeking medical.

Department of child protection

I believe the department of child protection should have more power regarding child safety on the grounds of emotional and coercive abuse. I believe legislation needs to be included in their metric of reviewing abuse where a psychologist report is done by them that determine the children's emotional wellbeing and the psychological impacts that the situation has had on them and will continue to have on them. To break the cycle and they should be able to put intervention orders and remove contact by court order or relinquish rights. The proceedings should be between the department of child protection/police and the perpetrator not through the family court with the victims.

Incarceration not good behaviour bonds or suspended sentences

The federal government will invest \$925 million over five years to permanently establish the Leaving Violence Program.

The cost of keeping someone in prison each year is approximately \$147,890. There needs to be prison sentencing mandatory for convictions of family violence towards partners and children. The government establishing almost a billion dollars into a leaving violence program is not solving the issue but funding the outcomes from a broken system, the laws should be protecting victims and there needs to be stronger penalties for offenders convicted of family violence. Legislation needs to change regarding emotional, financial and systematic abuse where it is deemed just as significant as physical abuse, and the sentencing should be Incarceration. There should be no good behaviour bonds or suspended sentences when convicted of family violence as to perpetrate this is intimate and as it stands there are harsher sentencing for assaulting someone you don't know compared to assaulting your partner and children.

It is proven by psychologist, criminologist that the children who are exposed to family violence even by proxy (witnessing a parent being emotionally and physically abused) results in childhood trauma that goes into adulthood. Offenders are given multiple chances and continue the abuse where the courts deem that offender are allowed to chance where children only have one chance of a childhood. The interpretation is that the offenders have more rights than their victims and studies prove that there is a correlation of childhood trauma of family violence resulting in children developing antisocial and abusive behaviour into adulthood relating the cycle of abuse. The courts have the power to stop this cycle and to stop the exposure of family violence in children however they do not. Even with the current legislation noting the psychological impacts of physical and emotional abuse being defined as family violence magistrates do not use

this legislation and will still force visitations even if the children do not want contact and have instructed an independent family lawyer of this.

Harassment by proxy

There needs to be legislation implemented that prevents the family of the offender from harassing the victims. The continual harassment from their family regarding police and children matters needs to be addressed by the criminal and family court. There also needs to be legislation that holds these individuals accountable for not intervening when they witness abuse. I would receive multiple messages telling me how I have wrecked his life for him being charged for assault, for having an intervention order in place. Being told that the abuse me and my children suffer is not as bad as the abuse she had suffered by his father and him.

Child support

The child support agency seems that domestic violence is a risk for applications. In addition, when you have been financially abused and harassed your finances being proved to your perpetrator gives them another area of control. It is common for them to either stop working to lower their income or if they own a business/ sole trader pay themselves the minimal wage to reduce or prevent child support. Even though the system allows child support agency to collect child support from their employer it is common for employer to rearrange their pays to minimise the child support payment. This is done with salary sacrificing. I believe child support should be done with the ATO and no disclosure of finances should be provided to either party. That child support is paid directly to the custodian parent and if the other parent has not paid it is accrued like an ato debt as the funds are for the children and when the other parent does not pay the children suffer. This way the ato can in force tax returns being lodged and review the taxation information to confirm all parties are being financially honest.