

Submission for SA Royal Commission into Domestic, Family and Sexual Violence

[REDACTED]

To the South Australian Government,

Firstly, I would like to thank you for establishing this royal commission and asking the opinions of the people affected the most by this issue. I will start by sharing my story as an example to highlight the pitfalls in the current legislation.

I met my ex-partner in [REDACTED] and we were together for [REDACTED] years. As many or most of the victim-survivor stories began, my ex-partner was somewhat the reliable and dependable 'prince-charming' who gave me all that I was lacking in life. I was 31 years old, recently divorced, independent, successful in my career and owned my home. But I was vulnerable from the divorce and I had a troubled childhood and relationship with my family. In hindsight, my ex-partner studied every aspect of myself and found all of my vulnerable points that he could later use to control and inflict doubt on myself and my judgement. The abuse started very slowly and systematically after he laid out many things that he could use to counteract my suspicions. He also befriended everyone around me, so that if/when I complained about him, then they would all protect him and cast doubt onto myself, that maybe the problem was me.

Since I owned my home and he didn't, he ended up living with me and the abuse really started to peak after 2 years of living together, because he knew that due to the de facto law, my home was his home and the police can't help me kick him out. The only way to kick him out is through lengthy court processes. In the meantime, I had to continue to live with his abuse, which was mostly anything but physical, so it was really difficult to prove. He chipped away my sense of self and inflicted chaos in my everyday life little by little and I ended up doing whatever he wanted to keep the peace. When that didn't work anymore and I was adamant that our relationship was over regardless of whether I could get him out of my house or not, and I learned to block out his verbal abuse and take back control over myself, he changed his behavior into the man that I fell in love with. This went on for months until he managed to convince me that he had changed and convinced me to have a child with him. As soon as I got pregnant, his demeanor changed again, but to the outside world, he was portraying himself as the best and most supportive partner and that he would be the best father. After my son was born, the abuse started to get really bad again and this time he would use our son to control me. I finally managed to get him to agree to separate under one roof and sign the relevant Centrelink form, after I found out that he lied about his mother ([REDACTED]) dying of cancer and died in order to get money from me to help his family with the medical bills and funeral (His mother was a live and well).

In January [REDACTED], he physically assaulted me and I managed to get him out of my house because the police granted me with an interim restraining order naming myself and our son as the protected persons. However, the court removed my son as the protected person because there was no concrete evidence that he had physically harmed our son. From this incident, I ended up with bruises all over my arms and legs and a cut on my upper lip, which my neighbor and the police

saw, but did not take a photo. When I called the family investigation unit, they told me that the police should have taken photos of my injuries, so he will organize someone to come and take photos as soon as possible. However, after 2 days, no one came or contacted me. So I took some photos myself and sent it to the family investigation unit. Following this incident, he was charged with assault, but this charge was later dropped because the judge accepted his story that I was going crazy for no good reason and he only put his hands on my mouth to keep me quiet because I was distressing our son (who witnessed everything). When I questioned the prosecutor about my injuries, she told me that the judge will only look at those evidence if the case was in trial, but in this case it was already dropped before it went to trial. So, the judge determined that the case is not worth pursuing, purely based on the perpetrators story, without looking at the evidence, ignoring police accounts and without looking at the perpetrators history. During this time, which was towards the end of [REDACTED] (months after the incident), there were multiple charges against him for stalking me while the restraining order was still in place. I had evidence and witnesses and I reported every single one of them to the police. For most occasions, the police deemed them as circumstantial, but for some of them, the police confirmed that it was a breach of the restraining order. However, the police prosecutor deemed that only 1 account was worth pursuing, which is when he showed up at my house and my friend saw him by the front door. Months after this incident, during the pre-trial, he suddenly came up with an alibi, who told the police that he was with her within the half hour period that he was actually at my house. There were many suspicious facts about this alibi, but since now there was a witness and an alibi, the police prosecutor deemed this case not strong enough to proceed to trial. Since all charges were now going to be dropped, then the court deemed that there was no standing for the restraining order to be kept in place. But the prosecutor did not have the decency to at least inform me that this was happening. A police officer who was handling my case informed me. The police officer warned the prosecutor to not drop the restraining order because my ex-partner actually had a history of domestic violence with multiple women and currently had another outstanding restraining order (this was written in the police report). However, it did not make any difference and all charges and the restraining order were dropped.

In parallel to these events, soon after my ex-partner left my house, I started investigating his history. I contacted his family and friends and started asking questions. That's when I found out that he actually has [REDACTED] from two other women [REDACTED] and both women experienced much worse domestic violence circumstances than me. The first ex-wife has a current restraining order against him, with herself and their [REDACTED] named as the protected persons. The second ex-wife ran and hid interstate when their [REDACTED] was only [REDACTED] months old. In both cases, my ex-partner never bothered to even locate his other two [REDACTED] and has had no contact with any of them since the separation. I also learned that his motive for our relationship was simply to use me for money. Soon after I learned these facts, he filed a family court proceeding and claimed that I am violent even towards our [REDACTED], mentally unstable and alcoholic. He asked the court to grant him a recovery order and put our [REDACTED] under his care full-time because he was not safe under my care. I seek help from the legal services, women's legal services and the southern legal service. The women's legal services appointed me with a lawyer who appeared in the preliminary hearing but then disappeared. So I ended up representing myself. This proceeding went on for almost 2 years and the judge decided to give me full parental responsibility but gave him overnight time from 1x 24 hours a week to [REDACTED] hours once a fortnight. This decision was largely based on the fact that he claimed to the court that he had a stable life and home i.e. lived by himself in a three-bedroom home where

he had a bedroom ready for our son, but he did not want to disclose his address because he still claimed that I'm dangerous and that he didn't feel safe for me to know where he lives. For the trial, the legal commission appointed me with a lawyer because I could not cross-examine him myself, because there were domestic violence allegations (Section 102(NA)). Just after the trial (while waiting for the final judgement), I found out that he was still living in a share house and one with a bad reputation. I told my lawyer at the time this fact with evidence, amongst other facts that suggest that the father was not looking after our son properly (bruises and rashes) etc. Instead of reporting this to the court, the lawyer accused me of setting the father up for failure, inappropriate behavior and stalking the father to get this evidence. Hence the final order was made under false assumptions. So, I had to make the hard decision, of whether to let my son stay overnight with the father in an unsafe environment or withhold and break the court order. I decided to withhold my son, and now the father filed for a contravention order and I am facing a criminal charge for breaking the court order. In the preliminary hearing, the senior judicial registrar said that there didn't seem to be enough evidence to justify withholding the child. So, never mind that I provided evidence and witness statements that the father committed perjury (which is a criminal offense) and never mind that the father cannot provide a safe living environment for the child, I am the one in trouble for protecting my son, because the court and the lawyer failed to do their due diligence.

In terms of what can be done to improve the system, the only thing that would be beneficial to add is that, whether a restraining order becomes permanent or not, should not be decided by a second judge while the police and the judge on duty at the time of the application already deemed that there was enough evidence to grant the restraining order in the first place. Most importantly, a restraining order must not be dependent on a conviction of the criminal charge. Every person should have the right to decide who they want and not want in their lives.

In terms of the other legislations, it seemed like they are appropriate, but there seemed to be many loopholes or not executed as intended. For example, in domestic violence cases, concrete evidence are almost impossible to obtain. In most cases, it took a lot for the victim to seek help in the first place and victims are often powerless, with no resources and have been cut out of their family and friends. So, for the prosecutor to decide that the case is not worth pursuing while there were evidence, witnesses and when the police have deemed them to be legitimate cases, is simply appalling and putting lives in danger. Similarly, for the court to not ask for concrete evidence for where the child will be residing was a grave oversight that potentially put the child in danger or put me as the victim-survivor through another trauma, this time by the justice system, while still having to process the initial trauma from the domestic violence. Hence in my opinion, an audit system is required to go through these cases and close the loopholes and potential oversight. Additionally a penalty must be put in place for justice officials who does not follow protocol or uphold their duty of care (in my case, the lawyer).

Furthermore, the family law was recently amended to put the best interest of the child on the center stage. However, the consideration for the child's best interest only covers physical, emotional and mental safety and well-being in the traditional and linear way, which in itself is very difficult to patrol. The intergenerational cycle of abuse is now well researched, documented and accepted, yet the family law does not make any consideration towards the capacity of the parent to be a good role model. So, in my son's case, what kind of teaching and influence will his father have on him

- on how he treats women, his moral compass on lying and manipulation etc? Does someone like an ex-partner who is a serial domestic violence perpetrator, who abandoned his other two children, who still does not have a stable life and is still lying and manipulating his way through life, have the right to spend a significant amount of time with the child? Would that be in the child's best interest? I think not. I think that would continue fueling the intergenerational cycle of abuse.

In terms of early intervention, further measures in the family law as mentioned above will be effective towards breaking the cycle. Early intervention and education in schools as the Government already implemented is also an effective measure. However, there are many abuses of Government funding in the public education system. I am currently studying to become a teacher. I recently did my placement in a category 2 secondary school. Most of these kids have troubled family lives where violence, substance abuse and neglect have become their everyday reality. This school has additional funding for being classified as low SES and high ATSI students. However, the school decided to use that funding to make the infrastructure look really nice and modern, but not on SSOs which the students and the teachers desperately need. Although most teachers seemed to really care about the students and their learning, my mentor seemed to care more about the students obeying his rules and being their friend at the same time, rather than their learning. While I was there (■ weeks), the police were called twice for students' violent behavior which had been percolating over some time, but the upper management seemed to not care much and left it to the teachers to deal with behaviors. At the same time, five students got five days suspension for peeling off stickers from the classroom window. The principal came to the classroom and was very harsh with the students over this incident and threatened them with expulsion if any students got caught for vandalism again. So, it seemed like the principal cared so much more about maintaining the infrastructure than the students' learning and well-being. I'm not sure how public schools work, but there needs to be a system where each school must provide evidence and justify its spending on the budget. There also seemed to be the need to audit and police school policy's implementation. Furthermore, in a school like this where domestic violence is part of most students' everyday lives, each of these students should be paired off with a youth worker or counselor on an ongoing basis, where the rehabilitation can take place. In this school, I believe there were only two youth workers, a counselor and one staff whom teachers could call if we needed to remove a student from the classroom, and there is no designated space to put these students when they were removed from the classroom and teachers have to get the upper management approval for a take home. So, we ended up with students roaming around the school grounds.

In conclusion, as a victim-survivor I am very grateful that the Government is taking this issue seriously. I acknowledge that this is a very complicated issue with no simple fix. As I mentioned, the current legislation seemed to be appropriate, and although further improvements will be helpful, I think the first and most important thing to do is to audit how exactly these legislations are implemented on the ground.