

September 1, 2024

[REDACTED]

[REDACTED]

## **Inquiry into family violence orders**

As a desperate plea for reform, I share my story, and ask that my experience be considered for the Parliamentary Review on Domestic and Family Violence and the Family Court.

I share my story to urge the Honourable Members of Parliament to action the reform of a family law system that is outdated and damaging. Despite the system being established to mitigate risk and prevent harm, it perpetuates injury and suffering, with most harm being preventable. No one leaves the system unchanged; most emerging from it damaged, traumatised or worse.

As my written account is only a glimpse into my experience, I formally request that I appear before Parliament. I seek the opportunity to present the relevant and direct details of my case to the Honourable Members, to urge their action for reform. My story is one of thousands, but it embodies every issue that demands parliamentary scrutiny. I request this opportunity so that no other parent or child must endure the injustice and failures I have faced.

I am a mother of a daughter, who is now [REDACTED] years old, and we are victims of family violence. I can't say we are survivors yet, as we are still surviving a situation that should have been prevented from continuing.

I once believed that the Magistrate and Family Court 's were the guardian angels for children, an institution dedicated to fairness, justice, and truth. I thought it would protect children from being forced to live under the shadow of relentless family violence and power imbalances, and the agendas of abusers and their enablers. I was wrong.

My experience in Family Court has been harrowing and distressing. I appeared as a self-represented litigant - not by choice, but circumstances. I was assured the Court would take into consideration that I was a layperson, to maintain an equal 'playing field'. This did not happen.

I appeared as a self-represented layperson, with a disability disclosed to the Court; my disability is [REDACTED], the injury from the family violence I attempted to escape yet continue to experience.

Throughout court proceedings, I was expected to perform at the standard of Senior Counsel, although I had no legal training. I was expected to wear proverbial hats: of a mother, an ex-wife, a co-parent, a solicitor, a barrister, a victim, a survivor, a survivor with no battle scars, a psychologist... all while remaining stoic. On the occasion one of those hats slipped, I was persecuted.

I initially trusted in the family law system, only to have my faith shattered by the persistent failures of inadequately trained judicial officers and the legislation that defers to their discretionary power; the privatised nature of the system; and the failure of supposed safeguards that the public believes are foolproof.

What occurred in my matter was as simple as this: the financial imbalance of power and the shortfalls of the Court allowed the perpetrator to gain the upper hand. By the time he abducted my daughter, he had established such a strong foothold that my credibility was diminished; the Court supported the abduction and my voice, like my daughter's, was silenced.

The lack of effective and critical interaction and information sharing between the Family Court, state and territory child protection systems, and domestic violence jurisdictions needs immediate overhaul. Over the past [REDACTED] years, my interactions with both the Magistrates Court of Victoria and the Federal Court, alongside communications with Victoria Police and DFFH Child Protection, revealed a disturbing pattern: statutory departments repeatedly deferred their protective and legislative responsibilities to the Family Court. Despite CPS identifying severe and immediate risks and recommending protective measures, they omitted crucial information from court proceedings to avoid involvement.

Similarly, Victoria Police failed to uphold their investigative duties, citing the Family Court's jurisdiction as the reason for their inaction. When I reported abuse involving my daughter, all contravening current IVO's, I was dismissed by authorities who insisted that the Family Court should handle it. In turn, the Family Court regarded the police's inaction as a basis to dismiss my evidence of family violence.

My experience has shown me that the Family Court fails to recognise and prioritise family and domestic violence, even if the allegations reported to the Family Court have been substantiated in Magistrates Court. The Family Court is responsible for the welfare of its litigants and their children; however, it is impossible to make orders for welfare without considering factors pertaining to protection.

MARAM reports and mandatory reporting continued to assess my daughter and I as "Serious Risk", information the Family Court didn't consider relevant. The Court's disregard of this information allowed and enabled the perpetrators to continue their MO. It allowed the perpetrators to weaponise the injuries I sustained from their abuse through court proceedings, painting me as a liar and dangerous parent so the spotlight shifted from them. It allowed the perpetrators' agenda to maintain control at all and any cost, to thrive. It left victims invisible and without a voice.

I did not have an opponent; opponents use pathways of consent and dispute resolution to find a harmonious pathway forward. I had an enemy. An enemy whose agenda, to harm and maintain control over both me and my daughter, was and remains their only focus. An enemy who exploited the power imbalance in the courtroom, both financially and psychologically, knowing that the Court's power to enforce contraventions is inadequate, and that consequences for his behaviour were highly unlikely. An enemy who acted with the belief that we would never reach the final hearing that could and would test all evidence for its truth and merit.

Through my experience, the inadequacy of judicial officers was exposed, revealing their lack of training and negligence in handling family violence cases. It is legislated at Section 11 of the *Federal Circuit and Family Court of Australia Act 2021* (Cth) that judges appointed to Division 1 of the Court must be experienced or qualified to oversee family violence matters. However, I experienced judicial officers unfamiliar with the term 'coercive control', and expressing archaic

views of family violence only existing where there is physical assault. Their lack of understanding of the impact of family violence on the health and well-being of victims and children has been glaringly evident; this is an issue that has already caused significant harm to my daughter and I, and I can only imagine, thousands of others.

The Court's failure to discharge its authority, to enforce truthful and complete evidence, is a critical flaw. This shortcoming is especially harmful when it is incomplete evidence that is relied upon in interim stages and impacts the well-being and stability of children. Children like my daughter, who was too young to be given a voice in proceedings, but who every day was suffering the adverse and lifelong effects of the failures of the Family Court.

The financial imbalance of power in family law proceedings is glaringly evident when an abuser exploits the system to their advantage, which is what occurred in my matter. An abuser may withhold financial disclosure, prolonging proceedings and inflating legal costs for their victim as well as their means to maintain basic cost of living. If the victim is fortunate enough to have the financial capacity to retain a solicitor, this manipulation not only burdens the victim with disproportionate legal fees, but also uses the court as a tool for further abuse, a tactic known as systems abuse.

When a system like the Family Court of Australia is deeply flawed and outdated in addressing domestic violence, it becomes complicit in the abuse. This ongoing inadequacy leads to both financial and emotional harm for the victims, ultimately causing significant and lasting injury for decades to come. Victims, like me, are forced to make significant sacrifices in their own lives to continue advocating for safety and peace—a basic human right that their abusers relentlessly target. This struggle leads to further injury and harm, compounding the effects of the abuse. The Family Court needs reform to not only minimise but to bring reform to its established failures.

Dispute Resolution, especially with the merged Family Court, is presented as an effective pathway to help parties reach agreements without proceeding to a final hearing. I agree that there is merit for the use of dispute resolution, for matters which do not involve domestic violence. I will emphasise again, that an opponent is someone who will work within the boundaries of a

system to achieve a goal for themselves, an enemy will not. When domestic violence is present you only have an enemy.

In my matter, the criteria for dispute resolution were simply attending. My ex-husband attended with Senior Counsel and chose not to participate. Ultimately his refusal to participate meant that any future pathways for dispute resolution were rendered inaccessible – this meant that even though I was homeless (due to the family violence) and unable to work due to caring for a child [REDACTED] I had to surrender to proceeding to trial, which is an excessive cost both financially and psychologically.

It is shocking that the perpetrators' refusal to participate held more weight than the severe financial strain and psychological harm further proceedings were bound to inflict on my daughter and me. This glaring injustice highlights the inadequate training of Family Court judges and exposes the draconian nature of the current system and legislation.

A further critical flaw in the Family Court system; Judicial Officers are not required to undergo formal or annual training on family and domestic violence or mental health. Furthermore, recommendations made by the Chief Justice are optional. This lack of mandated professional development is unparalleled in any profession that holds significant authority on public welfare. The Family Court of Australia wields immense responsibility for the safety and future of litigants and their children, as well as the profound impact of attachment on a child's lifelong development. We must reform the system to ensure that those tasked with such vital decisions are adequately trained and equipped to protect vulnerable families.

The impact the Family Court's decisions have had on both my life and that of my daughter are profound and deeply unsettling. I vividly recall a moment when, after yet another hearing that disregarded my concerns, I tried to explain to my daughter why I couldn't be with her as much as we both wanted. The confusion and sadness in her eyes cut deep—it was as if the court's rulings had stolen a piece of her childhood, a time that should be filled with love, security, and stability. Instead, we've been left navigating a system that seems to prioritize process over people, stripping us of our rightful connection.

The decisions made by the court have placed us in furthered (and preventable) vulnerable and harmful situations. The ongoing coercion and control exerted over our lives by the perpetrators, which the court has failed to properly address, has left us trapped and powerless. These are not just legal oversights; they are personal injuries that have left lasting scars on both of us.

I urge Parliament to truly listen and consider the real-life consequences of the courts and its failures have on families like mine. The well-being of children must be the primary priority

### **AFTERWORD**

My name is [REDACTED]. I am not a current victim of domestic and family violence, nor a party in Family Court proceedings. I therefore have no avenue to address the Honourable Members based on my own personal struggle with these issues. However, having had insight into every part of [REDACTED] court matter, and having witnessed the impact the Court's failures have had on her life and that of her daughter, I was compelled to add my name to the list of what must be many others crying out for reform of the family law system.

What I have witnessed [REDACTED] endure, through the failures of the Court, is something I expected to see in developing countries - **never** in Australia. Violations of her human rights, blatant discrimination, and persecution... all while her little girl remains experiencing family violence. I always had faith in the legal system, that even if mistakes were made that safeguards were in place to ensure justice. I have watched every single safeguard fail [REDACTED] and her daughter - never from anything she has done, but simply because the system just doesn't work. It must change - it is ruining the lives of our children.

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