

Court assault leaves a lasting legacy on victims

Journalist **SHERELE MOODY** looks at the little known side of the domestic violence epidemic where perpetrators destroy victims using the law.



WHEN Karen* left her abusive husband, she thought her life would take a turn for the better.

He could no longer "rape, bash or choke" her and the demeaning emotional abuse, often done in front of their child, would finally be over.

After police organised for a domestic violence order, the mother packed their bags and moved to another community to live a life free of terror.

Like most Aussies, Karen loves using social media and, hoping to inspire other women to leave their abusers, she posted a comment about domestic violence.

Not long after the post appeared, the police called to tell Karen her abuser had asked the court to issue a temporary domestic violence order against her.

The man claimed Karen's comment was "emotional abuse" aimed at destroying his career.

"It was horrifying and I felt violated all over again that this had happened to me," she said.

The legal bill for defending against a DVO application will cost \$3000 to \$20,000 and that will climb higher if the matter goes to trial and if the outcome is appealed.

With no money for a lawyer, Karen was forced to defend herself in court against her abuser's claims.

"I had to go through multiple court appearances with him there and each time I took my own personal security, a different car, we went back roads, it was extremely full on," she recalled.

The court eventually tossed the DVO application out, with the judge noting

Karen's abuser went to extreme lengths to access the offending post.

Don't get too social
CRIMINOLOGIST and domestic violence researcher Dr Silke Meyer said it was rare for survivors to be put on domestic violence orders over social media posts but they were often used as 'evidence' of victim's abusing

perpetrators in family law cases.

Dr Meyer considered Karen's experience a sign of things to come as perpetrators become more "switched on" about how social media posts can give them ammunition against the other party.

"Don't post things in response that can be taken out of context and used against you and - maybe even more important - make sure your account is absolutely secure, check your privacy settings, make sure the abusive partner or ex-partner doesn't have access via a known password, friends of friends and so forth," the University of Queensland academic said.

Using DVOs to destroy

KAREN is among thousands of Australians who have been subjected to "institutional abuse" - that is, acts of control perpetrators use to continue harming their victim long

after the relationship is over.

Along with DV cross-orders, abusers may also cause emotional and financial trauma by refusing to pay child support or instigating multiple court actions to reduce the other person's finances.

Some will file affidavits containing demeaning language and false allegations while many will do their best to "conflict" their victims out of legal support.

"It happens all the time," Women's Legal Service Queensland principal solicitor Rachel Neil said.

"We are seeing a rise in cross-applications and some of those applications are in

retaliation to the other person having a DVO on the abuser."

In some cases, police will organise for couples to both have DVOs.

QUT domestic violence and justice expert Molly Dragiewicz said this could even happen when officers find victims defending themselves against perpetrator attacks.

"The police say 'Oh, let's arrest them both and the judge can sort it out'," Associate Professor Dragiewicz said.

"But if the judge isn't sorting it out, it can embolden the abuser to continue that sort of harassment."

How courts respond

WHEN considering domestic violence cross-orders, Queensland and NSW domestic violence legislation says courts need to determine – and protect –

the person who is at most risk.

They do this by taking into account how the relationship played out, who was the controlling person and who repeated the patterns of abusive behaviour.

Courts issue domestic violence orders with one main goal in mind – keeping the victim safe by limiting the perpetrator's contact with them.

In Queensland they are called domestic violence orders and in NSW they are apprehended domestic violence orders.

Queensland has one domestic violence court and others will be rolled out in the near future.

Prof Dragiewicz said these courts could be the key to ending scurrilous domestic violence cross-orders.

"If you have one magistrate following the case, that magistrate would be in a better position to discern the merits of the request for the orders," she said.

A 2014 Women's Legal Service NSW study found more than two thirds of its women clients defending ADVOs reported that they were the victims of violence

in their relationships.

Many of the women defending ADVOs reported police did not see their version of events "as credible compared with the other party, due to the circumstances of their heightened stress and anxiety".

"Others said they believed the other party had deliberately initiated AVO proceedings as a further mechanism of controlling their behaviour, by giving them the ability to threaten them with reports to police in the future," the report's author Julia Mansour said.

Anyone making a



Dr Silke Meyer says social media users need to be careful about what they post online. PHOTO: CONTRIBUTED

WHAT IS INSTITUTIONAL ABUSE

It is controlling and power-type behaviour designed to cause emotional and financial trauma.

- When abusers take out cross domestic violence orders as retaliation for themselves being on DVOs.
- When abusers seek support from multiple legal firms to limit their victim's lawyer options.
- When abusers use court affidavits to demean victims.
- When abusers refuse to pay child support to cause financial hardship.
- When abusers take out multiple court actions to deplete the other person's finances.



cross-application for an ADVO in NSW must satisfy the court they fear the other party will commit a violent offence against them or stalk or intimidate them.

Domestic Violence NSW CEO Moo Baulch said her organisation had seen a rise in the number of women who were the subject of cross-order applications.

"This has been increasing for a while now," Ms Baulch said.

"We think that this is related to perpetrators of violence knowing they can use this as a tactic to continue to control their partner."

Facing up to conflict

Domestic violence experts are increasingly worried about perpetrators "conflicting" their victims out of legal support.

This involves the abuser seeking advice from multiple legal services. As they have sought advice they are considered a client of the service and that means their former partner cannot access the same firms because it would be deemed a conflict of interest.

Barbara* is one of many domestic violence survivors who knows how hard it is to get support while living in a regional town.

The NSW resident said she endured years of physical, emotional and sexual violence at the hands of her children's father.

When Barbara was able to leave her abuser, the first thing she tried to sort out was court orders that would define how she and her former partner would care for their kids.

But she found herself hitting a massive legal roadblock as lawyer after lawyer in her hometown told her they could not represent her because her ex had already contacted them for support.

"It was very frustrating that I could not get legal

help," the mother of two said.

Ms Neil said conflicting the other party out of legal support was particularly concerning in regional, rural or remote areas because it was used to "isolate" victims.

"It's about hurting them and limiting their options.

"It's about winning, but primarily it is about control.

"They are aiming for their victim not to be able to access any sort of help."

Ms Baulch said perpetrators could be "quite clever" with their attempts to deny their victims legal support but professionals in the industry were becoming

more attuned to the situation.

"It's a tactic that is used reasonably regularly – it's certainly not uncommon," she said.

Financial pain adds up

RMIT University research shows 16% of Australian women and 7% of men have suffered financial abuse at the hands of their current or former partners.

Experts say cashed-up perpetrators have two ways of keeping the financial pressure on their victim post-separation – refusing to pay child support and using the court system to deplete the other person's cash reserves or take on massive debts to cover legal costs.

In Australia, about 95% of separated parents come to agreements about their children without being involved in the Family Court of Australia.

About 4% of families will face some form of court action before their parenting arrangements are finalised and 1% will go to trial over their children's futures.

WLSQ said getting to the front door of a courthouse could cost each party up to \$15,000 and if the parties go to trial they could expect to spend \$70,000 plus.

Ms Neil said abusers used the courts to inflict emotional and financial pain by having matters adjourned over and over again and making "constant" applications (for example, to suspend parenting orders).

Every time this happens, the other party needs to pay a lawyer to prepare their case and to attend on the day.

"It's a tactic that's definitely used by abusers," Ms Neil said.

Why abusers act this way

DAVID Nugent has been working with domestic violence perpetrators, their partners and children for more than 15 years.

Mr Nugent said institutional abuse, including "playing the court system", was about revenge.

"When a partner walks away from the relationship she is stepping away from his power and control," the Heavy M.E.T.A.L group founder said.

"The men are in a position where they are financially better off, they can access the services of lawyers and play the court system to their advantage."

Mr Nugent said it often became too much for survivors and they would go back to the abuser.

"The problem with this abuse, emotional abuse, is that it's in stealth mode. It's hard to prove and the courts do not have a measuring stick for it," he said.

Institutional abuse is 'separation assault' designed to bankrupt the victim emotionally and financially, Prof Dragiewicz said.

"Once separated, the abusers can't use the tactics that used to work to control their partners any more.

"They can do further emotional abuse, they can even make veiled threats while on the stand and the magistrate won't even recognise that abuse."

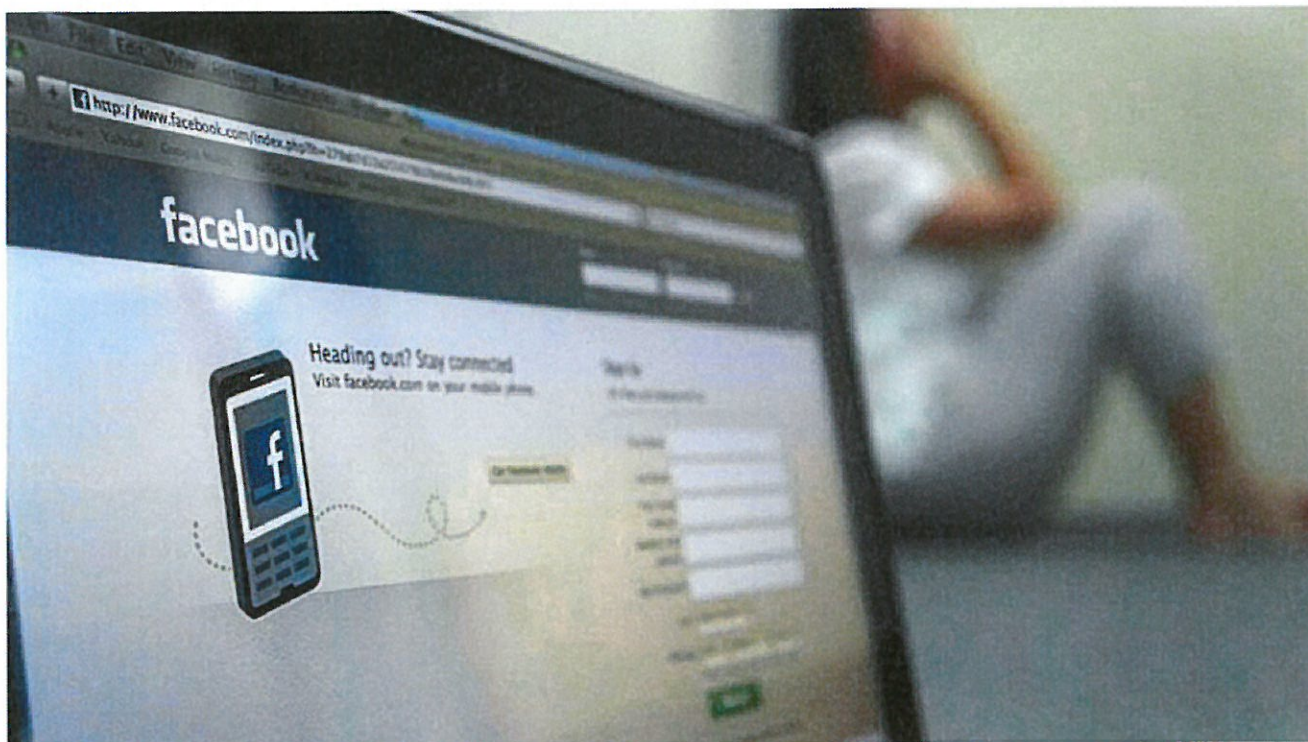
– NewsRegional

** Karen's and Barbara's names have been changed for their own protection.*

For 24-hour support, call 1800RESPECT on 1800 737 732.

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— David Nugent



A domestic violence perpetrator recently used a social media post to justify asking for a domestic violence order to be put on his victim. PHOTO: GEORJA RYAN

