

## EXAMPLES OF TECHNOLOGY-FACILITATED STALKING AND HOW TO GET LEGAL HELP

Content provided by Youthlaw, adapted with permission by Women's Legal Services NSW

The examples used in this guide are drawn from DVRCV's SmartSafe research (2013) and are based on experiences of women in Victoria

### Example 1

Dora has a domestic violence protection order (also known as an intervention order or apprehended violence order) against her ex-partner but he has been sending her abusive text messages and contacting her via Facebook. She is confused as to whether her ex-partner's actions constitute a breach of the intervention order, and if it is a breach, how she provides evidence

#### Risk factors

- Abusive text messages, calls and unwanted Facebook contact form a pattern of stalking behaviour
- Stalking is recognised as a risk factor for serious violence, including homicide
- Dora's ex-partner is also breaching the intervention order. Repeated breaches are a predictor of future serious violence

#### How can the law protect her?

- Dora's ex is likely to be breaching the Order by sending her abusive text messages
- Dora's ex may also be breaching the Order by contacting her on Facebook, depending on what the conditions in her Order say. For example, if it includes a condition that prevents her ex-partner from contacting her
  - To find out whether an Order protects you against this sort of behaviour, please see the relevant guide for your State/Territory at [www.smartsafe.org.au](http://www.smartsafe.org.au)
- It is a criminal offence to breach a condition of an intervention order and if Dora reports this to police, police should investigate. If the police do not investigate, she should consider making a police complaint or getting legal assistance from a Community Legal Centre
- If Dora no longer has a copy of the intervention order to check the conditions, she can contact the Local Court or local Magistrates Court to get another copy or ask police for help

#### What evidence can be used to help her?

- Dora should print out any screen-shots from Facebook as soon as she can, in case her ex deletes any relevant posts or Facebook takes the content down
- She should keep any text messages from him that may breach the Order in her phone and take screen shots and email them to herself or a person she trusts for safe keeping, in case her phone breaks down
- For more assistance with evidence gathering, email [smartsafeplus.org.au](mailto:smartsafeplus.org.au) for information on the *SmartSafe+* App

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## Example 2

Edith is distressed after her ex-partners family and friends have contacted her on Facebook with messages from her ex-partner. Edith has a domestic violence protection order (also known as an intervention order or apprehended violence order) but is unsure if this covers his family and friends contacting her. She has had trouble getting these forms of contact being taken seriously by police and has been advised to just close her Facebook account

### Risk factors

- When a perpetrator uses family and friends to contact a victim/survivor he is exhibiting stalking behaviour. This is known as proxy stalking
- Stalking is associated with significant risk of additional violence and also homicide

### How can the law protect her?

- The Order Edith has against her ex-partner may include a condition that states her ex cannot direct anybody else to engage in conduct that is prohibited by the order, or 'contact her by any means' which may extend to getting others to contact her or harass her
- If Edith tells police about her concerns that her ex is breaching the order but police do not act, she should ask to speak to the sergeant-on-duty or Domestic Violence Liaison Officer for clarification. If she still feels police are not taking her concerns seriously enough, she should seek advice from her local Community Legal Centre
- If she is advised the order does not prevent her ex's friends or family from contacting her, she should consider making an application to vary the Order to prevent this happening; or seek advice on whether she can apply for an intervention order against his friends and family separately
- If Edith no longer has a copy of Order, she can contact the Local Court or local Magistrates Court to get another copy or ask police for help

### What evidence can be used to help her?

- Edith should print out any screen-shots from Facebook that show evidence of her ex's friends and family contacting her via message or posts
- Even if she is not sure whether their messages are a breach of the Order, she should save screen-shots of them and print them out just in case the messages or posts are deleted before she can get police to take action or get the legal advice she needs
- For more assistance with evidence gathering, email [smartsafeplus.org.au](mailto:smartsafeplus.org.au) for information on the *SmartSafe* + App

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## Example 3

Tara experienced many forms of domestic violence, including sexual violence, from her ex-partner. He has uploaded intimate videos online of her that were taken during their relationship. He is using these videos to threaten her. She does not have a domestic violence protection order (also known as an intervention order or apprehended violence order) and feels embarrassed to tell anyone about what has happened

### Risk factors

- Intimate partner sexual violence is a risk factor for further violence
- Men who sexually abuse their partners are also more likely to use controlling behaviour such as stalking
- The use of threats and intimidation also put Tara at risk for additional violence

### How can the law protect her?

- Tara can report her ex-partner to police because he has committed a number of crimes including, for example, using a carriage service to menace, harass or offend
- The police may apply for a domestic violence protection order on Tara's behalf
- Tara can also go to her Local Court or local Magistrates Court and apply for a domestic violence protection order (also known as an intervention order or apprehended violence order). She can tell the court clerk that she is embarrassed about talking about or showing the content in public and the court should try to respect her privacy and dignity as much as possible
- Given the history of domestic violence and the nature of his threats, the court is likely to find make an Order to protect her. The court can make it a condition of an Order that her ex cannot continue to distribute or publish the videos or any other images of her online

### What evidence can be used to help her?

- Tara should keep any evidence of her ex making threats to upload the content or any other exchanges between them that show he is behaving in a menacing, harassing or offensive way and/or in a way intended to cause her physical or mental harm (including self harm)
- This could include text messages, voicemail messages, emails or messages and posts on social media. It could also include any witnesses who might have seen or heard him making threats to her, including Tara herself
- Tara needs to keep track of how to contact any witnesses if she needs them to give evidence in court for an intervention order application or to police if they investigate
- It is important that any witnesses, including Tara, remember as much detail about what they saw or heard as possible so they should write down a chronology (including times and dates) to help them remember and keep a diary to keep track of any further incidents that might be relevant
- Tara may consider recording a conversation without her ex's knowledge as evidence of his threats. She should seek legal advice about doing this. For more information of whether covert recordings are lawful, see your relevant State/Territory Surveillance Devices Guide below
- To be successful in proving any criminal charges against Tara's ex in court so she should keep as much evidence of his abusive, harassing and violent behaviour as possible
- For more assistance with evidence gathering, email [smartsafeplus.org.au](mailto:smartsafeplus.org.au) for information on the *SmartSafe+* App

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## Example 4

Eva's husband controlled her use of her iPhone and installed an app on the phone so that he could track her using GPS. He was also physically abusive. When she left him the domestic violence crisis worker advised her to turn off the location services on her phone. She has a domestic violence protection order (also known as an intervention order or apprehended violence order). Her husband is still harassing her with text messages and phone calls and he is following her but by the time she calls the police her husband has gone

### Risk factors

- Perpetrators who exhibit controlling behaviour such as monitoring the use of a phone and tracking victim/survivors via GPS, are more likely to be violent to their partner
- Following and tracking are stalking behaviours that increase the risk of future violence and homicide
- Eva is also at a high risk as she has recently separated from her husband. There is a high risk for lethal violence within the first two months of women leaving the perpetrator

### How can the law protect her?

- If Eva has a domestic violence protection order against her husband, it may contain specific conditions that prevent him from stalking, harassing her or, putting her under surveillance
- If Eva's husband is breaching the order, he is committing a criminal offence and Eva can report this to police who should then investigate
- Eva's husband could also be charged with one or more criminal offences for surveillance or physical abuse, for a list of the possible crimes involved, see the legal guide for your State/Territory below

### What evidence can be used to help her?

- Eva should keep all the abusive text messages he sent her on her phone and her phone service provider should be able to provide her with records of her call history if she asks for them. In case text messages are automatically deleted off a phone over a period of time, Eva should consider screen-shotting the text messages or using an App to download them off her phone
- Depending on the capabilities of her phone and the records her phone service provider keep, she may be able to retrieve evidence of downloading the app and how her husband used it to keep her under surveillance (eg login details and frequency)
- If Eva took any photographs of her injuries from when her husband physically assaulted her or if she went to a doctor, she should provide this information to police
- Even if Eva cannot get some of this evidence, she may be able to prove he committed a criminal offence through her own testimony as a witness or anyone else who saw or heard something that would support her claims
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## Example 5

Emily is confused and upset because her ex-partner is court-ordered to contact her via her mobile phone in order to organise visits with their child, yet he uses these times to abuse and threaten her with violence

### Risk factors

- Threats of violence, emotional and psychological abuse are all indicators for the continuation of abuse, including physical violence

### How can the law protect her?

- Making a threat to kill or seriously harm a person is a criminal offence in any situation and no court order gives a person the power to make such threats
- Emily can report the threats to police and police may charge Emily's ex-partner with an offence such as making a threat to kill or cause serious harm or using a carriage service to harass, menace or offend, depending on the circumstances
- Emily can apply for a domestic violence protection order (also known as an intervention order or apprehended violence order) if she feels she is at risk of further family violence from her ex. Police may also apply for this Order on her behalf
- In the course of applying for an protection order, the court should make new orders that override existing Family Court orders for contact with the children if necessary to protect Emily and/or the children

### What evidence can be used to help her?

- Emily should keep the messages on her phone and she should take a screen shot of the messages from her phone, if possible, and send it to her email or another person she trusts for safekeeping
- Tara may consider using an App to record telephone conversations with her ex's without his knowledge as evidence of his abuse. She should seek legal advice about doing this. For more information of whether covert recordings are lawful, see your relevant State/Territory Surveillance Devices Guide below
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