

## Examples of technology-facilitated stalking and how to get legal help

The examples used in this guide are drawn from the DVRCV SmartSafe research and are based on experiences of women in Victoria.



#1

Dora has an intervention 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.

<i>Risk factors</i>	<i>How can the law protect her?</i>	<i>What evidence can be used to help her?</i>
<p>Abusive text messages, calls and unwanted Facebook contact form a pattern of stalking behaviour.</p> <p>Stalking is recognised as a risk factor for serious violence, including homicide.</p> <p>Dora's ex-partner is also breaching the intervention order. Repeated breaches are a predictor of future serious violence.</p>	<p>The intervention order Dora has probably includes a condition that her ex-partner cannot contact her by any means or commit family violence against her.</p> <p>Dora's ex is likely to be breaching the Intervention Order by sending her abusive text messages and/or contacting her on Facebook, depending on what the conditions in her order say.</p> <p>It is a criminal offence to breach a condition of an intervention order and if Dora reports this to police, police should investigate.</p> <p>If Dora no longer has a copy of the intervention order to check the conditions, she can contact her local Magistrates Court to get another copy or ask police for help.</p>	<p>Dora should print out any screen-grabs from Facebook as soon as she can, in case her ex deletes any relevant posts or Facebook takes the content down.</p> <p>She should keep any text messages from him that may breach the intervention 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.</p>

#2

Edith is distressed after her ex-partners family and friends have contacted her on Facebook with messages from her ex-partner. Edith has an intervention 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 and has been advised to just close her Facebook account

<i>Risk factors</i>	<i>How can the law protect her?</i>	<i>What evidence can be used to help her?</i>
<p>When a perpetrator uses family and friends to contact a victim/survivor he is exhibiting stalking behaviour. This is known as proxy stalking.</p> <p>Stalking is associated with significant risk of additional violence and also homicide.</p>	<p>The intervention 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, such as contact her or harass her.</p> <p>If Edith no longer has a copy of the intervention order, she can contact her local Magistrates Court for another copy or ask police for help.</p> <p>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 for clarification. If she still feels police are not taking her concerns seriously enough, she should seek advice from her local community legal centre.</p> <p>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 IO to prevent this happening; or seek advice on whether she can apply for an intervention order against his friends and family separately.</p>	<p>Edith should print out any screen-grabs from Facebook that show evidence of her ex's friends and family contacting her via message or posts.</p> <p>Even if she is not sure whether their messages are a breach of the intervention order, she should 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.</p>

#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 an intervention order and feels embarrassed to tell anyone about what has happened.

<i>Risk factors</i>	<i>How can the law protect her?</i>	<i>What evidence can be used to help her?</i>
<p>Intimate partner sexual violence is a risk factor for further violence.</p> <p>Men who sexually abuse their partners are also more likely to use controlling behaviour such as stalking.</p> <p>The use of threats and intimidation also put Tara at risk for additional violence.</p>	<p>Tara can go to her local Magistrates Court and apply for a Family Violence Intervention 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.</p> <p>Given the history of domestic violence and the nature of his threats, the court is likely to find she is at risk of family violence and make an order to protect her. The court can make it a condition of an Intervention Order that her ex cannot continue to distribute or publish the videos or any other images of her online.</p> <p>Tara can also report her ex-partner to police because he has committed a number of crimes including stalking and using a carriage service to menace, harass or offend. Depending on the circumstances (eg how the videos were taken and how old Tara is) he may also have committed child pornography-related offences and/or upskirting offences.</p>	<p>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).</p> <p>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.</p> <p>Tara needs to keeps 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.</p> <p>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.</p> <p>It is important Tara and the police can show a 'course of conduct' to be successful in proving any criminal charge of stalking against Tara's ex in court so she should keep as much evidence of his abusive, harassing and violent behavior as possible.</p>

#4

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.

<i>Risk factors</i>	<i>How can the law protect her?</i>	<i>What evidence can be used to help her?</i>
<p>Threats of violence, emotional and psychological abuse are all indicators for the continuation of abuse, including physical violence.</p>	<p>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.</p> <p>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.</p> <p>The threats are a form of a family violence and Emily can apply for a Family Violence Intervention Order if she feels she is at risk of further family violence from her ex. Police may also apply for an IO on her behalf.</p> <p>In the course of applying for an IO in court, 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.</p>	<p>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.</p>

#5

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 an intervention 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.

<i>Risk factors</i>	<i>How can the law protect her?</i>	<i>What evidence can be used to help her?</i>
<p>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.</p> <p>Following and tracking are stalking behaviours that increase the risk of future violence and homicide.</p> <p>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.</p>	<p>If Eva has an intervention order against her husband, the order is likely to include conditions preventing him contacting her, following her, putting her under surveillance or committing family violence against her in any other way.</p> <p>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.</p> <p>Eva's husband could also be charged with criminal offences such as stalking under the Crimes Act or using a carriage service to make threats, harass, menace or offend.</p> <p>Eva can also report any incidents of physical abuse to police and police may have enough evidence to charge him with assault or recklessly or intentionally causing injury.</p>	<p>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.</p> <p>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).</p> <p>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.</p> <p>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.</p>