Risk Assessment - Imminent Risk

Francis and Mark were together for 23 years. Francis has been significantly hearing impaired since birth and wears hearing aids. She grew up in a loving but strict family environment, and met Mark when she was still a teenager, having had little experience with intimate relationships or independent living. They both completed year 10. Francis has limited TAFE qualifications and has worked periodically throughout the relationship when her child rearing responsibilities permitted; Mark ran his own one-man business for a time. For a number of years their income was derived predominantly from social security benefits. Mark has a history of misuse of alcohol and drugs, however Francis observed that he had developed ways of minimising its influence. The couple has three children at separation.

Mark began controlling and demeaning Francis early in the relationship. He became verbally abusive and aggressive when she was planning to go out with friends, he called her a “slut”, and would punch the walls or doors or damage household goods. Francis says she “would pay for [her outings] for a long, long time after”. While Francis had few friends and had moved away from her home city and family to be with Mark, over time she decided a night out wasn’t worth the humiliation and fear. And yet these things came to characterise her experience of the relationship over many years and were made worse by a pervading feeling of insecurity due to her poor hearing. She describes crying every day, despairing at her situation.

Francis had thought often about leaving the relationship, and would at times tell Mark that she wanted it to end, however Mark would express remorse for his behaviour and plead with her to stay. Francis says her main reason for continuing in the relationship was a growing fear of what Mark may do if she were to take steps to get away. It was also the reason Francis denied the occurrence of domestic and family violence to family, friends and police for so long. Mark became more violent towards Francis once they began having children. His abuse would always build from a verbal rage to wanton household property damage that would sometimes result in physical injury to Francis. This was the repeating pattern, and for Francis the occasions were too numerous to fully recount. There were however some incidents that were so concerning to neighbours that they called the police, but Francis felt too frightened to disclose the details of the violence knowing that Mark was nearby and likely to retaliate. Instead, she made up an account to shield the reality of the violence. Francis recalls that one night she locked herself and the children in the bathroom, and Mark punched the door in and smeared blood across the wall, in a rage about having to cook dinner.

Francis told police Mark had thrown a saucepan and didn’t show them the blood or damage to the bathroom; she had tried to ring Mark’s parents but couldn’t go ahead with the call because she was worried her voice may be too loud and Mark would hear her. Police offered Francis little or no opportunity to make a proper statement and blamed her for fighting with Mark in front of the children.

On another occasion, when the couple was out with the children, Mark and his friends tried to pressure Francis into taking drugs, which she had never done or been prone to. Mark began calling her names, and on the way home he smashed the car interior while Francis drove. Once home, Mark damaged the guard at the front of the car and punched the laundry wall so violently he broke his hand. The following day Francis told him she would leave, but he pleaded with her not to and promised a special holiday, which never happened.

Not long after, Mark was arrested on charges unrelated to violence at home, of which he was later convicted. Although he avoided imprisonment, Francis believes, to some extent this was due to a favourable reference she felt she was pressured by Mark and his lawyer to provide to the court. Due to the nature of the charges Francis changed to part-time work so she could be with the children outside school and daycare hours, and continued to put up with Mark’s violence and abuse. Later, Mark was charged with another serious offence. Pending his trial, a child protection order issued requiring that Mark move out of the family home and that he have no contact with the children for several months. Mark reacted angrily to these conditions, repeatedly demanding to see the children and continuing the violence.

Following another violent incident that involved Mark hitting one of the children, Francis told Mark to leave the holiday house the family were renting and get counselling. Initially, Mark complied. Four months later, after he was acquitted, he returned to the family home at midnight without Francis’s consent, attacked Francis, and tried to throw her off the upper storey of the house when their young son physically intervened. Francis threatened to call the police but Mark pursued her around the house while the youngest child became more and more distressed. By this stage, Francis could see that the two older children were profoundly affected by their long exposure to the violence. Francis also discovered that Mark had access to a gun, and he began making threats to shoot her and a police officer.

After confiding in a friend and her local doctor, Francis decided to apply for a protection order, and for Legal Aid to assist with the application. Appearing to give little weight to the long history of violence and abuse, the magistrate declined to include an exclusion order. However, after further submissions by her solicitor, Francis did manage to secure a temporary order with the minimum condition that Mark be of good behavior and not commit domestic and family violence. Francis believed this was of little or no protection to her and the children, and was terrified that service of the order would precipitate further violence by Mark.

Following advice from police, and with the assistance of a local service, Francis and the children were immediately resettled at a shelter. Multiple adjournments (at Mark’s request) occurred before Francis obtained a two-year final protection order. Mark’s ongoing harassment of her parents about access to the children and car resulted in Francis having to reapply for Legal Aid to seek a variation of the order to include her parents as protected parties. This process took months longer because Mark evaded service.

The current protection order prohibits Mark from having contact with the children until a Family Court order is in place stipulating the terms of any contact. At this stage, the children have told Francis they don’t want to see their father. Francis has begun talking with her Legal Aid solicitor about a Family Court application. Francis acknowledges that she did not disclose the domestic and family violence to police on a number of occasions, but feels her fears and perceptions of future risk of harm were justified. She believes police did not provide her with a safe and receptive opportunity to give her account of the violence. Francis also observed the difference in attitude of the magistrate who failed to recognise the nature of Mark’s violence, and the magistrate who demonstrated an understanding of her circumstances and its impacts.