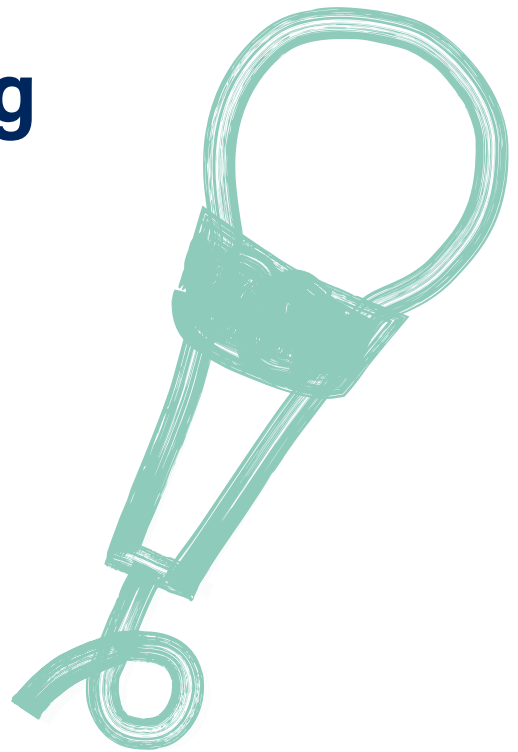


# Tips for media reporting on violence against women when there are legal restrictions



Evidence-based media reporting can demonstrate the nature and extent of violence against women and sexual harassment, and its links to gender inequality. In turn, it can help change the community's attitudes and behaviours that drive violence. This is why it is worth taking the time and consideration to report ethically, legally and effectively on this issue.

Legal rules, processes and publication restrictions may impact the extent to which journalists can report on incidents of sexual harassment and violence against women, and the context surrounding a case. Once a case is before the courts, journalists are limited in what and how they can report.

Beyond legal restrictions, the reality of everyday court reporting and current journalistic practices also influence which stories journalists can cover, as well as the time and resources they can dedicate to the story.

Understanding the law relating to reporting on violence against women empowers journalists to make, pursue and produce stories that go beyond the individual incident, and highlight the prevalence, drivers and impacts of violence.

The following tips were drawn from a report on the impact of legal restrictions on the reporting of intimate partner homicides written by Annie Blatchford PhD for Our Watch.

*This is general information only, and readers should undertake their own independent review on the topics discussed. The information does not constitute legal advice and readers should seek their own legal advice.*

**"There is a pressing need to ensure the role of court reporters continues to be prioritised and sustained in today's media climate. The way journalists report on court cases matters."**

**"They provide the public with a view of the criminal justice system and the social problems that fall before it. Court reporters, who also have a strong understanding of primary prevention, help to ensure an appropriate balance is struck between a fair trial, open justice, the safety and privacy of victims and raising awareness about violence against women."**

**- Annie Blatchford**

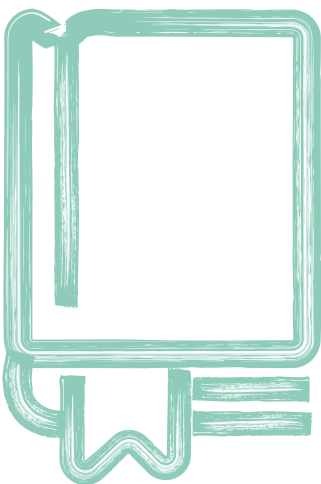
Media and violence against women researcher

# 9 tips for managing legal restrictions in reporting on violence against women

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## 1. Understand the legal restrictions

- Be aware that legal restrictions can vary across states and jurisdictions.
- Get legal advice as early as possible if you are uncertain about any legal aspects of your reporting.
- **Sub judice contempt** aims to protect an accused person's right to a fair trial by ensuring the jury is only exposed to the evidence allowed in court and not external, potentially prejudicial information. The law is frequently criticised for being vague and difficult to adhere to in today's digital media environment, as well as inconsistently enforced and applied. The uncertainty of the law creates challenges for journalists attempting to report on violence against women in a way that offers more context.
- **Intervention order publication restrictions** vary across different jurisdictions, but generally prevent the publication of information that may lead to the identification of people involved in an intervention order proceeding. Given many intimate partner homicides and other violence against women crimes are preceded by a history of violence and intervention orders, these legal restrictions may prevent journalists from reporting information that shows when a case is not a random, isolated event, but a systemic failure to protect the victim. Similarly to sub judice contempt, the application and enforcement of the legislative restriction is not clear and there are different understandings amongst media outlets and journalists.
- Working in tandem with legal restrictions are many **legal rules and processes** that predetermine and frame the court narrative, such as the presentation of evidence, counter-arguments, framing, and what witnesses are able to say. This is then echoed by the media. For example, in intimate partner homicide trials, evidence of violence that occurs before a fatal incident is often excluded as irrelevant to proving the accused's guilt because the incidents are seen to be too remote from the murder.
- **The hearsay rule** plays a significant role in the exclusion of evidence in criminal trials. In the context of an intimate partner homicide trial, the rule impacts whether the deceased victim's comments to friends or family or written words can be included in the trial, and therefore reported by the media. This is why the victim's voice is often absent in media reports.
- Depending on the story you are covering there are several other legal restrictions that could impact how and what you report. For example, there are publication restrictions that prevent you from identifying victims of sexual assault or defamation and suppression orders may need to be considered.



**"A fair and accurate report of open court proceedings provides a defence against a contempt prosecution or defamation allegation. Check any information you receive about a case when you are not present against court transcripts or documents or seek to verify it through the court. Put yourself in the witness box. Would you be comfortable saying that you had published without checking something that another reporter had told you?"**

**- Peter Gregory**

Journalism academic and former Age court reporter

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## 2. Check that your report is a fair and accurate report of the proceedings

- Make sure all information is a direct report of what occurred in the courtroom before the jury.
- Be as specific as possible, so the reader can best understand the court case and proceedings.
- Name the court, and state roles and full names of the judge or magistrate. Identify the accused person, including name, age, and address where possible. Identify the lawyers representing the prosecution or defence, and any witnesses being quoted, unless orders are made otherwise.
- Note the charge and the plea, if relevant, and include a sentence or two about the case.
- Verify everything you hear about a case outside of court – even from the relevant law firms. If there is any doubt, state where the information is from.
- Revise any descriptions or observations that could be considered prejudicial or sensational.

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## 3. Closely consider the narrative and framing of quotes



See example one on p.6

- When quoting lawyers, witnesses and judges, be aware of the type of language they are using.
- Stating 'the court said' without context of who is speaking can give false or misleading legitimacy.
- If possible, avoid including phrases or language that blames the victim or excuses the perpetrator for their choice to use violence.
- If these quotes are integral to your article, consider balancing with another quote from that day of the trial or a previous day where the counter argument has been raised.

**"It's important to appreciate in court rooms across Australia, Indigenous women and girls' experiences of violence are reproduced to fit a legal story telling. This retelling is divorced from the lived experience of pain, trauma, relationally to others, time, and how this intersects to the various other parts of our lives and living. The legal storying misses the depth of feeling and impact of violence, easily reproducing stereotypes, the narrative shifting to a victim blaming deficit discourse. Given the way institutions construct victim stories and meaning, it is imperative we critically evaluate the authenticity of the story we are developing for a public readership."**

**- Professor Kyllie Cripps**

Director of Indigenous Studies Centre, Monash University; Chief Investigator, Centre of Excellence for the Elimination of Violence Against Women

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#### 4. Be cautious of reporting contextual information before and during a trial

- **Sub judice contempt** limits journalists from reporting anything that has not been stated in court. This may include information such as incidents of prior violence, intervention orders or even evidence that may have been raised in pre-trial proceedings.
- Sub judice contempt also limits the inclusion of broader contextual information about violence against women, including statistics about prevalence or quotes from experts. This material might prejudice the trial by implying the accused person is guilty.
- Often evidence will come forward in a trial that relates to systemic failures or explains patterns of behaviour such as prior violence, the exercise of power and control in intimate relationships, or different types of violence such as stalking and harassment. Reporting on this evidence and prioritising it in your story is a way you can legally demonstrate the patterns, nature and extent of violence against women.
- In some instances, you may be able to legally include broader contextual information such as statistics, support line information, and so on. Depending on the case and other potential legal restrictions, the conclusion of a trial is often the first opportunity to do this as the risk of prejudicing the trial is no longer an issue. For example, journalists may be able to report on the perspectives of the victim's friends and family, include quotes from family violence service experts and importantly, relate the incident to the broader context and prevalence of violence against women. Consult with editors and legal departments about what to include on a case-by-case basis, and advocate for including contextual details where appropriate.

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#### 5. Review your publication/media outlet's history on reporting on violence against women

- News outlets take different approaches to various legal restrictions. Ask about your organisation's approach to reporting violence against women and find examples of how different cases have been covered in the past. For example, if they publish helplines at the end of family violence related content, if they avoid publishing anything about intervention orders, and so on.

**"As journalists it's our job to find the narrative in whatever we come across. It's what we're trained to do. But narrative is also a tool used by perpetrators in and out of court proceedings to bolster their credibility, elicit sympathy, and diminish the credibility of complainants.**

**"Journalists are not stenographers. We get to control the narrative in our stories. There's no reason we can't do that responsibly while also maintaining the obligation to be fair, accurate and ethical in reporting what happens in court."**

**- Ben Smee**

Queensland State Correspondent, Guardian Australia

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## 6. Consider the inclusion of graphic details or depictions of violence

- Question the importance of the inclusion of graphic or gratuitous details and imagery.
- If details about a violent incident are essential to your story, aim to report in a neutral and accurate manner without sensationalising the event.
- Sensationalist reporting is not only potentially prejudicial to the trial but also acts to distance the reader. Respect the impact of the violence on the victim and their family, friends, and community.

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## 7. Build relationships



See example  
two on p.7

- Get to know court reporters both at your organisation and within the courtroom. Fellow court reporters can liaise, share knowledge, collaborate on stories, and bolster confidence as to whether certain stories or parts of a proceeding can legally be reported.

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## 8. Follow and report a trial in its entirety, where possible

- If you have the opportunity and resources, attending a whole trial enables journalists to present the full complexity of a case.
- The reality of current media practices means this is rarely possible. Check with the court and lawyers involved or seek documents like court decisions or transcripts. You may be able to consult with other court reporters and compare notes.
- Advocate for more time to follow cases you believe deserve extensive and nuanced coverage.

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## 9. List support services at the end of the story, if you are legally able to do so

For example:

- If you or someone you know is affected by sexual assault or harassment, family or domestic violence, call **1800RESPECT** on 1800 737 732. In an emergency, call 000.
- Men who are concerned about their own attitudes and behaviours can contact the **Men's Referral Service** on 1300 766 491.
- For Aboriginal & Torres Strait Islander people in crisis, **13YARN** offers confidential one-on-one yarning. Call 13 92 76 24/7.

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Example one:

## Small but significant framing decisions

Despite what is said in court and the various legal restrictions, journalists still maintain the agency to determine how their stories are framed. Consider the opening paragraphs from two news articles covering the same day of an intimate partner homicide trial:

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### Article 1.

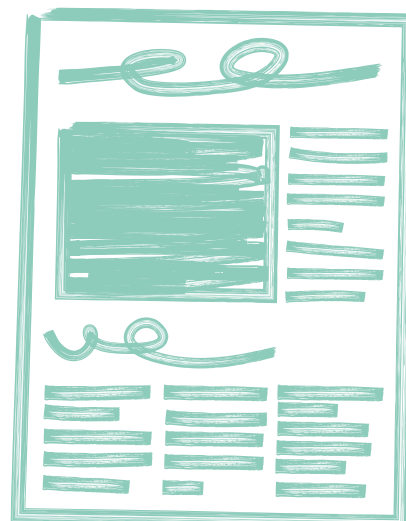
A jealous husband who hated his estranged partner with a 'white hot passion' stabbed her to death after she dared to make a legal bid for her share of the family assets, a court has heard.

### Article 2.

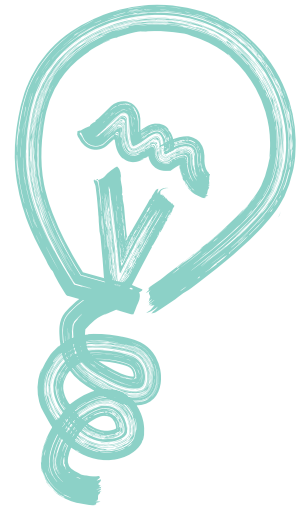
A Melbourne man who hated his ex-wife with 'white hot passion' stabbed her to death as she tried to secure her share of their assets, despite an intervention order meant to protect her, a court has been told.

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- While both paragraphs prioritise the prosecution lawyer's sensationalist language ('white hot passion'), the author of paragraph 1 created an incident focused story with dramatic language such as 'jealous husband', 'estranged partner' and 'dared to make'. These framing decisions contribute to the stereotype that perpetrators of violence against women are monsters and gives the reader an opportunity to distance themselves from the seemingly extreme, rare and dramatic incident of violence.
- In the second paragraph, the journalist used neutral language to highlight the common patterns of violence against women as well as the systemic failure of intervention orders. The paragraph is fair and accurate and does not sensationalise the facts. These framing decisions have the opposite effect of making it clear that this incident is not an isolated, random and extreme case of violence but rather a crime committed by an ordinary person post the separation from his wife within a broader context of power, control and systemic failures.







Example two:

## A joint effort to tell a powerful story

With support from editors and legal teams, journalists can powerfully tell the story of violence against women beyond the isolated facts or detailed descriptions of an individual incident, or any one case.

- In August 2018, The Age ran a 'This Must Stop' campaign, dedicating the front page and the first five pages of its print newspaper to four high-profile femicide cases, with reports written by different court reporters who were following those proceedings.
- The campaign included the online and print article [\*We are right to be horrified by Victoria's toll of dead women\*](#) which discussed the four cases in the broader context of prevention and gender inequality, addressing the gendered nature of homicides and the vulnerability of certain groups, such as women with disabilities.
- The coordination between the different journalists in this example showed the importance of working together with other court reporters, journalists and editors to tell a bigger story.

**"Though approaches from the media can be extremely traumatising for victim-survivors and families, I believe that if done in the right way, we should ask them if they want to be involved – it is about them, after all."**

**"During a court case, tensions are already heightened, so I would approach through a third party, such as their lawyer, a relative, the police officer handling the case, or their witness support. Trust your instincts as to the right time, but sometimes I reach out at the beginning of the case to introduce myself and say hey, if you wish to say anything at some point, I'm here."**

**-Tammy Mills**

Journalist and producer, The Age and Sydney Morning Herald

## Further reading

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- Hermant, Norman: '*Domestic violence reporting in Australia and the focus on the 'good guy': How you, the audience, can change it*', ABC (online, 27 November 2020)
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- Pearson, Mark, *The Journalist's Guide to Media Law*, 2019, Routledge.
- Law Reform Victoria: *Sub judice contempt*.



**Preventing violence  
against women**

For more information on reporting on violence against women and to access the complete reporting guidelines go to:  
**[media.ourwatch.org.au](https://media.ourwatch.org.au)**

Funded by the Australian Government Department of Social Services.  
Visit [www.dss.gov.au](https://www.dss.gov.au) for more information.

Our Watch acknowledges the traditional owners of the land across Australia on which we work and live. We pay our respects to Aboriginal and Torres Strait Islander peoples past and present.