

Open justice under pressure: Queensland suppression order highlights evolving tensions

The principle of open justice is one of the fundamental features of the Australian legal system. It reflects the proposition that courts exercise public power and that the community should be able to observe and scrutinise the administration of justice. As a general rule, proceedings are conducted in open court, judgments are publicly available and the media plays an important role in reporting of the work of the courts. However, open justice is not absolute. Courts have long recognised that there are circumstances in which publication restrictions are necessary to protect competing public interests, including the safety and privacy of vulnerable individuals, the integrity of proceedings and the proper administration of justice.

A recent Queensland suppression order dispute has brought renewed attention to the limits of those exceptions, raising questions about the circumstances in which courts may prevent the publication of the identity of a person who is not an accused person, complainant or witness. The case is significant because it tests the boundaries of a familiar principle in an unusual factual context: whether a suppression order can properly extend to protecting a prominent third party whose identity is connected to the allegations, but who is not a party to the proceedings.

The Queensland proceedings

The proceedings concern allegations that a man attempted to extort his former partner by threatening to disclose information about her alleged relationship with a high-profile Queensland man. The identity of that individual, otherwise referred to in court as MM, was suppressed by a court order made by acting Magistrate Gelma Meoli of the Cairns Magistrates Court on 29 May 2026. The dispute required her Honour to confront a difficult question: whether restricting the ordinary operation of open justice, in circumstances where the person benefiting from anonymity was a third party, was appropriate. Her Honour had also taken the unusual step of restricting media access to the suppression order itself.

Despite the unprecedented measures taken to protect the identity of MM, a 35 year-old Cairns man was charged with contravening the suppression order. On 15 June 2025, Queensland Police charged the man after he identified MM on social media. It is alleged that the man published 50 posts to his

social media account, with some commentators predicting his posts were viewed by thousands of people before they were ultimately taken down. The man became privy to MM's name by chance, having been present in court the day Magistrate Meoli presided over the matter. This highlights one of the broader challenges facing the courts. That is, the enforceability of suppression orders in the age of social media, where publication can occur instantaneously and spread beyond traditional media.

Suppression orders are generally understood as exceptional measures. They are commonly made where publication would create a real risk of harm that cannot otherwise be addressed, such as identifying victims of sexual offences, children involved in proceedings, confidential informants or witnesses whose safety may be compromised. By contrast, reputational harm, embarrassment or adverse publicity to third parties have traditionally been insufficient grounds for restricting publication. The fact the information may be personally damaging does not ordinarily justify removing matters from public scrutiny where those matters arise in open court.

The Queensland case is therefore notable because it does not fit neatly within the conventional categories. The alleged extortion falls under a domestic violence charge. As such, there are already statutory protections that apply to the claimant and defendant. Through that lens, it can be said that the non-publication order suppressing the identity of MM acts to protect the woman involved in this extortion case, and is ancillary to that aim. The court must also tread carefully to not carry out the extortion itself by revealing the name of MM. Nonetheless, the court has to strike the right balance between protecting complainants and allowing matters to proceed in open court.

Judicial review

On 10 June 2026, media organisations, including the ABC, challenged the validity of the suppression order made by Magistrate Meoli through a judicial review in the Supreme Court on the grounds of a "judicial error", arguing that it represents an inappropriate expansion of suppression principles. Their concern was that the identity of an individual who was neither charged with an offence or otherwise directly involved in the proceedings was

being protected from publication. Barrister Andrew O'Brien KC, representing media organisations, told the court that "The law doesn't provide, as a matter of principle, for protection of MM in this case... unless MM has that status as a witness or victim". Mr O'Brien told the court that "Consistently, cases have been limited to suppressing the identity of the complainant and that's where the balance has been struck." He argued that the suppression order in this case went "beyond the limits of what was necessary". Jonathan Horton KC, appearing for the Queensland Police Force, said there was evidence before Magistrate Meoli that the complainant would be "distressed" if the high profile's name was published.

Last Friday, 28 August 2026, the interim suppression order made by Magistrate Meoli was upheld by Justice James Henry of the Supreme Court. His Honour's decision provides important clarity on several key issues regarding suppression orders and provides a roadmap for commentators and lawyers alike.

His Honour stated that:

[10] The applicants' central complaint is against the inclusion of reference to MM in the Magistrate's order. They acknowledge the law in extortion cases permits non-publication orders to prevent publication of information identifying the person complaining of the extortionate threat, i.e. the complainant. However, they contend the law does not allow non-publication orders to extend to other persons to whom the threat relates.

[11] In my conclusion the law is not so confined, and it was open to the presiding Magistrate to conclude her orders should extend to MM.

According to his Honour at [12], the judicial review turned upon the following issues:

- (a) Can non-publication orders in extortion cases extend to not identifying persons to whom the threat relates other than the complainant?*
- (b) Was it open to the Magistrate here to make a non-publication order extending beyond not identifying the complainant to also not identifying MM?*
- (c) Did the Magistrate engage in jurisdictional error by taking an irrelevant consideration into account?*
- (d) Did the Magistrate engage in jurisdictional error because she could not have been rationally satisfied the order was necessary?*
- (e) Did the Magistrate pre-judge the case?*
- (f) Do the orders bind all jurisdictions for all time?*
- (g) What orders should be made by this Court?*

Can non-publication orders in extortion cases extend to not identifying persons to whom the threat relates other than the complainant?

In answer to this question, his Honour outlined that under the open justice principle, court proceedings are usually open to the public and members of the public are usually at liberty to publish the information emerging in those proceedings. Orders closing courts to the public or preventing publication of information that emerges in court proceedings are confined to that exceptional category of case in which such orders are 'necessary to secure the proper administration of justice'. At [16] his Honour held that extortion cases fall into that category. Furthermore, at [17] his Honour outlined "The well-established rationale supporting the need for non-publicity orders in such cases" is:

- if the threatened exposure feared by a complainant were to occur because of publication of information emerging in the open court prosecution of the complaint;*
- future potential complainants would be deterred from making complaints; and*
- such a deterring effect would contradict the courts' mission of securing the proper administration of justice.*

The applicants in this matter argued that the above rationale only justifies orders protecting the identity of the complainant, and not that of others who would be identified if the criminal threat were carried out. In response to this argument, his Honour stated "The flaw in that argument is the assumption that a complainant's fear of the publicity on which the success of the crime turns would solely be fear of publicity identifying the complainant. In some cases, and this is obviously one of them, the complainant's fear may also be of publicity identifying other persons".

Was it open to the Magistrate here to make a non-publication order extending beyond not identifying the complainant to also not identifying MM?

His Honour posed an interesting question at [25], "what would future prospective complainants perceive of the nature of the exposure likely feared by the complainant here?". This shifts the focus away from MM to the claimant's experience. In answer to his own question, his Honour found at [26] that "The embarrassment and emotional pain to the complainant would not only derive directly from the exposure of her as a person who had been in a relationship with MM, a married man. The complainant's embarrassment and emotional pain would also derive indirectly from the emotional

pain and embarrassment caused to MM and the other persons named". Turning his mind to future claimants, his Honour concluded that that it followed that a failure to prohibit publication of MM's identity, thus allowing a feared part of the exposure to occur, would deter future complainants from coming forward about similar crimes. Interestingly, his Honour noted that this conclusion is especially compelling in a case like the present.

Did the Magistrate engage in jurisdictional error by taking an irrelevant consideration into account?

The applicants allege, in ground 2 of their application that a jurisdictional error arose because Magistrate Meoli took into account an irrelevant criterion (further or alternatively, misapprehended the power being exercised) by considering that an order which only suppressed the identity of the complainant and the accused was not within the scope of the power. To understand Justice Henry's argument, it is first necessary to understand Magistrate Meoli's reasoning. To begin, her Honour observed that the court could, at common law, restrict public access and order suppression orders where the open court principle actively threatens to destroy the justice the court is trying to serve. Her Honour identified blackmail and extortion cases as such cases, and stressed the need to protect victims from the alleged offending. Significantly, her Honour emphasised that the application of the law applied to any persons, whether high profile or not. In essence, her Honour found that the exception to the media's freedom to report what transpires in court proceedings clearly applied to the application before her. Justice Henry at [41] considered Magistrate Meoli's reasoning and found that "Viewing the oral reasons as a whole, her Honour's reasoning correctly followed the orthodox common law rationale for why a non-publication order is needed in some blackmail and extortion cases. That reasoning was that if the non-publication order did not extend to MM, then prospective future complainants would be deterred from making complaints of like criminal conduct because they would perceive that the court failed to protect the complainant from a component, likely feared by her, of the criminally threatened exposure".

Did the Magistrate engage in jurisdictional error because she could not have been rationally satisfied the order was necessary?

The applicants' submissions were that deterrence of future like complaints could be avoided by merely prohibiting the identification of the complainant. According to his Honour at [44], "That narrow construct ignores that a substantial component of the threatened exposure, inevitably feared by an ordinary person in the position of the complainant, included identification of others additional to the complainant".

Did the Magistrate pre-judge the case?

Ground 4 of the application alleged that a jurisdictional error arose in that Magistrate Meoli's decision was a breach of the rules of natural justice ('the procedural unfairness ground'). However, his Honour rejected this submission, instead finding at [56] that Magistrate Meoli's consideration regarding the seeking of the suppression order was "unremarkable". His Honour noted that from the moment ABC's lawyers highlighted the need for a suppression order in respect of the claimant, "it was inevitable that the court would comprehend a need to consider whether the breadth of that order needed to extend to others referred to in the alleged threat. That her Honour identified, and in open court communicated, the obvious need for consideration of that issue does not mean her Honour had formed any view as to how the issue should eventually be ruled on by the Court".

Do the orders bind all jurisdictions for all time?

Ground 3 of the application alleged that Magistrate Meoli's decision to grant a suppression order lacked the certainty of time, such that it purported to bind all jurisdictions for all time and that Magistrate Meoli did not have the power to make such an order. His Honour addressed ground 3 of the application in simple terms, "It is true that courts sometimes qualify their orders with preliminary words like, 'subject to further order'. However, the mere absence of such a qualification will not preclude the making of a varying, vacating or further order where, as here, the jurisdiction founding the order derives from the Court's implied power to secure the proper administration of justice in the conduct of the proceeding before it".

What orders should be made by this Court?

His Honour conceded that although all grounds of the application failed, there are four potential uncertainties about the reach of Magistrate Meoli's order. The orders of her Honour were:

1. The name of the married man identified in the threat to cause detriment be identified as a pseudonym "MM";
2. The complainant's name and details of the threat to cause detriment including the name of a married man (MM) identified in the material be suppressed; and
3. The defendant's name be suppressed;
4. A non-publication order prohibiting the publication of information which could tend to identify the identity of the complainant and the details of the threat to cause detriment including the name of a married man (MM) identified in the material.

First, there is uncertainty about the use of the phrase "be suppressed" in respect of the names of ABC, the complainant and MM. His Honour raises a series of questions: Suppressed how? By whom? In what context? His Honour found at [71] that "because such orders represent an exceptional departure from the usual openness of court proceedings, and a breach of them can have such serious consequences, the parties and the public should not be left to infer what is prohibited. Such orders should clearly articulate what conduct they are prohibiting".

Second, whilst order 4 appears to articulate what is being prohibited, the sentence is incomplete. His Honour found at [72] that "Her Honour doubtless intended it to prohibit the publication of the information it describes, but in the absence of a predicate it appears to be uncertain whether it does so".

Third, the meaning of the phrase "details of the threat to cause detriment" appears to be uncertain. His Honour concluded that Magistrate Meoli likely intended it to mean that there can be no publication of information from the proceeding likely to lead to the identification of the complainant or MM. He added that if it was intended to prohibit the publication of all details about the threat, it would likely have the "unintended consequence of prohibiting publication of anything about the facts of the alleged offence, which appears to exceed the criterion of necessity". This is an important finding.

Fourth, there is uncertainty as to how the suppression order is intended to apply between the parties and the Court. However, his Honour noted that it is difficult to see how the case could proceed if the parties were not able to publish information to each other.

Interestingly, none of the uncertainties identified by Justice Henry were the subject of the grounds as argued by the applicants. Hesitant to bring the parties back before him, his Honour included a declaration that order 4 has the effect of prohibiting publication of the information to which it refers (other than as between parties and the court). The application was otherwise dismissed.

Open justice and public interest journalism

The Queensland proceedings arise against a broader backdrop of increasing concern about the practical limitations faced by journalists seeking to report on matters before the courts. Commentators have identified suppression orders and restrictions on access to court information as significant challenges for media organisations, some going as far to describe the situation, particularly in Victoria, as having reached a crisis point. This sentiment has been reinforced by two recent high profile Victoria cases involving Tom Silvagni and Ralph Carr. Although both men were ultimately convicted of rape, each successfully obtained a suppression order founded on concerns relating to their mental health and psychological safety.

Several leading psychiatrists have also questioned the increasing reliance on psychiatric evidence to justify suppression orders. Melbourne University Professor Steve Ellen says it is virtually impossible to discern between the impact of the general stress of appearing in court as an accused and the stress of the publication. Ellen, the former head of general hospital and emergency psychiatry at The Alfred hospital, said "We are relying on a very uncertain art to inform the courts, and this uncertain art is being used to undermine one of the key principles of justice." The problem is further reinforced by the way psychological opinions are treated in court. According to Melbourne University Law School Associate Professor Jason Bosland, "It is very difficult for anyone to challenge the evidence of a psychologist or a psychiatrist." Professor Bosland went as far to say that such experts were effectively providing evidence "beyond the scope of the discipline".

Associate Professor Johan Lidberg and Alicia McMillan of Monash University recently undertook a study, *'The State of Play – Limitations to Public Interest Journalism in Victoria in 2025'* at the request of the Melbourne Press Club. The study found that:

- Victorian courts issued 521 suppression orders in 2023, accounting for 47 percent of all suppression orders in Australia; and
- by comparison, NSW courts issued 133 suppression orders in the same period.

In response to the study, Chief Justice of the Supreme Court of Victoria, the Honourable Justice Richard Niall, said the study did not reflect the scale and scope of assistance lent to the media by court officers. Additionally, "A tiny fraction of the more than 350,000 cases before the courts and VCAT each year have an order which restricts the publication of some information" and that "The orders are often of limited duration and restrict specific details. Reasons for making the orders include that they are necessary to protect the safety of individuals, including vulnerable witnesses and undercover police and national security information. Orders are also made for limited periods to ensure fair trials".

Following the release of the report, a group of media organisations wrote to the Victoria Attorney General, Sonya Kilkemnnny, urging the government to make it harder for parties to obtain suppression orders based on mental health grounds. The group told the Attorney General, "it is entirely inappropriate that such a complex issue as mental health is being dealt with in a piecemeal approach using the *Open Courts Act* which was not designed for and is not appropriate to deal with mental health issues." This paints a picture of tension and frustration as the operation and interpretation of the *Open Courts Act* continues to generate considerable debate.

The challenge for courts is ensuring that orders remain directed towards those legitimate purposes and do not inadvertently become a mechanism for protecting an individual's reputation. For journalists, court reporting is one of the primary mechanisms by which legal institutions are held accountable. Restrictions on publication can affect not only reporting of individual cases but also broader public understanding of systemic issues involving governments agencies, professional bodies, corporations and individuals exercising influence in the community. The issue is particularly sensitive where proceedings involve people who hold public positions or have significant public profiles, like MM. Public prominence does not by nature remove an individual's right to privacy. Equally, the existence of public interest in a matter cannot be determined solely by whether publication may be uncomfortable or reputationally damaging. The legal question is whether the public interest in transparency is outweighed by a sufficiently compelling countervailing interest.

The Queensland suppression order dispute involving MM illustrates the continuing tension between open justice and competing claims for privacy and protection. Its significance lies not simply in the identity of the individual involved, but in the broader legal question it raises: how far should suppression order principles extend when the person seeking anonymity is not an accused person, complainant or witness? Answers to this question may differ, depending on who you ask. However, there is one thing courts, legislators and

the media can agree on. That is, open justice is not merely a principle of court administration; it is a critical component of public confidence in the legal system itself.