



Engender  
Equality

# **Misidentification of the Predominant Aggressor in Tasmania:**

Practitioner perspectives from  
Engender Equality

Research Discussion Paper: December 2022

This paper was produced on the lands of the muwinina people, who due to the impacts of colonisation, did not survive invasion. Engender Equality pays its respects to the present Tasmanian Aboriginal community and pledges its commitment to fighting for Tasmanian Aboriginal justice and rights. Always was, always will be Tasmanian Aboriginal land.

This paper is dedicated to the brave victim-survivors who shared their stories, whether through case studies or to individual practitioners, and the practitioners who work tirelessly in the family violence space to support healing and recovery as well as advocate for justice for victim-survivors.

This paper was written by Erin Deverell, a social work student and postgraduate researcher at Engender Equality.

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## Summary of recommendations

This research discussion paper provides the following recommendations in the consideration of the emerging concerns associated with the misidentification of the family violence predominant aggressor:

- Consideration of enhancing current responses with approaches to family violence that include collaboration between police officers and family violence specialist services.
- Consideration of funding specialist family violence services to deliver specialist family violence training to police that explores the issue of misidentification.
- Consider conducting a review of the PFVO in its current response to family violence with consideration for ways to revoke the PFVO that are less onerous.
- Consider supporting future research that explores misidentification across the statutory and community-based service systems. This can include women's shelters, counselling services, government, and non-government organisations as well as cultural services, such as the Tasmanian Aboriginal Centre and Migrant Resource Centre. This would provide a more holistic perspective on misidentification and add an important intersectional lens.

The findings in this research discussion paper have important implications for the design and continuous improvement of service and system responses. A criminal response to family violence is a critical part of addressing the issue by demonstrating that "family violence is a crime and should be treated as such" (Tasmanian Government, 2003, p.2). Like all new initiatives, a review of the implementation and associated impacts would assist exploring unintended consequences of the criminal response and provide the opportunity to develop continuous improvement strategies.

## Glossary of terms

<b>Family violence</b>	A pattern of controlling and abusive behaviours that seek to harm and manipulate a victim-survivor. May include physical, emotional, psychological, spiritual, financial, and cultural abuse, and can occur in a range of family and intimate partner settings.
<b>Predominant aggressor</b>	For the purposes of clarity, this paper draws on the Victorian MARAM definition. “The term predominant aggressor seeks to assist in identifying the actual perpetrator in the relationship, by distinguishing their history and pattern of coercion, power and controlling behaviour, from a victim who may have utilised self-defence or violent resistance in an incident or series of incidents. The predominant aggressor is the perpetrator who is using violence and control to exercise general, coercive control over their partner or family member, and for whom, once they have been violent, particularly use of physical or sexual violence, all of their other actions take on the threat of violence”
<b>Victim-survivor</b>	Person or people identified as experiencing family violence.
<b>Coercive control</b>	A pattern of control, intimidation, abuse, and threats that seek to harm and denigrate a victim-survivor. Usually a key component of family violence (see above), and perpetrated by the predominant aggressor against the victim-survivor.
<b>Civil Protection Order (CPO)</b>	A state-sanctioned document that seeks to protect the victim-survivor by restricting the movements of the perpetrator. In Tasmania, CPOs include the Family Violence Order (which is applied for through court) the Police Family Violence Order (see below) and the Restraint Order (which applies to those who experience violence, threats, or intimidation outside a family violence relationship).
<b>Family violence practitioner</b>	A qualified expert who specialises in family violence – may include professionals in counselling, intake, advocacy, education, management, and community development roles.
<b>Protection Order (PO)</b>	A shortened term for 'Civil Protection Order', used widely within family violence research.
<b>Police Family Violence Order (PFVO)</b>	A police-issued document, unique to Tasmania, which provides protection for victim-survivors experiencing family violence. Can be issued “on the spot” and for a period of up to 12 months.
<b>Systems abuse</b>	The manipulation of the legal and other state systems by people who use abusive behavior to exert control, threaten and harass a partner (current or former).

## **Introduction**

Family violence is well known as a gendered phenomenon, with research indicating women present overwhelmingly as the victim-survivors and men as the predominant aggressors (Boxall, Dowling & Morgan, 2020). There is now a growing body of research to suggest that women can be misidentified as predominant aggressors in increasing numbers (Mansour, 2014, Ulbrick & Jago, 2018).

In 2014, a study by Women's Legal Service New South Wales reported that two-thirds of women who had been identified as predominant aggressors were victim-survivors (Mansour, 2014). In 2018, a study by Women's Legal Service Victoria reported that one in ten women who were victim-survivors had been misidentified as predominant aggressors (Ulbrick & Jago, 2018). The implications for women who have been misidentified include facing criminal charges, poverty, risk of removal of children, loss of reputation and employment, experiencing system abuse and re-traumatisation through the family violence response system (Reeves, 2021, Ulbrick & Jago, 2018). Given that criminal justice systems have a legal responsibility to protect victim-survivors, the idea that victim-survivors are being misidentified as predominant aggressors is concerning.

Tasmania has a unique legislative approach to family violence which may inadvertently contribute to misidentification (Reeves, 2022). In addition, some studies have explored misidentification through the perspectives of legal professionals (Nancarrow, Thomas, Ringland, & Modini, 2020, Reeves, 2020), service providers (Nancarrow et al., 2020), police officers (Nancarrow et al., 2020), and victim-survivors (Nancarrow et al., 2020, Reeves, 2021), few have explored the distinctive perspectives of front-line family violence practitioners. This presents a gap in knowledge, as family violence practitioners work at the "coalface" of the family violence sector (Wendt, Natalier, Seymour, King, & Macaitis, 2020, p.237), may be uniquely placed to provide feedback on the experiences of clients who have been misidentified. Thus, this discussion paper will explore the phenomenon of misidentification through the perspectives of family violence practitioners working at Engender Equality.

## **Background summary**

The opportunity for exploratory discussions with practitioners arose when Erin Deverell, a social work master's student was completing a research dissertation on the misidentification of the predominant aggressor while on student placement. This discussion paper was instigated by the organisation's CEO, Alina Thomas as part of supporting the research dissertation and an emerging opportunity for broader discussion in the family violence sector to explore the issue of misidentification in Tasmania. This paper will draw from two data sources – the first is a collection of qualitative unstructured interviews conducted by Erin Deverell. The second is a collection of case studies prepared by practitioners which explored the experiences of four clients who had lived experience of misidentification. This work, whilst a small sample, contributes valuable insight into the issues of misidentification in Tasmania from the unique perspectives of family violence practitioners working directly with victim survivors at Engender Equality.

## Literature review

In recent years, the misidentification of victim-survivors has emerged as a topical issue in family violence practice and research (Reeves, 2021). Despite legislators and advocates being aware of the issue for some time (Nancarrow et al., 2020), misidentification has only recently entered the published literature. Interest in this issue began in the court system, where multiple studies identified family violence perpetrators were manipulating the courts by taking out civil protection orders against their partners (Mansour, 2014, Nancarrow et al., 2020, Reeves, 2020, Wangmann, 2012). Since then, there has been an increased interest in the role of police, who in responding to family violence incidents may risk misidentifying the victim-survivor as the predominant aggressor (inTouch, 2022, Reeves, 2020, Reeves, 2021, Ulbrick & Jago, 2018) in a number of ways. Most research has been undertaken in Australia, with the Australian legal and justice context where the risk of misidentification can occur (Reeves, 2020, Reeves, 2021). As Tasmania is characterised by a criminal justice response that relies on the enhanced role of police in enforcing family violence laws (Grealy, Wilczynski, Smith, & Henning, 2008), this discussion will focus predominantly on the role of the police in exploring the risks associated with misidentification of the predominant aggressor.

### What is misidentification?

Misidentification of the predominant aggressor – also known as ‘misidentification of the primary aggressor’ or simply ‘misidentification’ – occurs when the victim-survivor is inaccurately determined to be the predominant aggressor in the context of an investigation into family violence offending<sup>1</sup>. This can lead to criminal charges placed on the wrong person, leading to misidentification (inTouch, 2022). Research has established that although both predominant aggressors – who are overwhelmingly responsible for the violence and abuse in the relationship – and victim-survivors – who are experiencing the abuse – may use violence, the underpinning motivations are different, with predominant aggressors more likely to use violence to establish and maintain control, and victim-survivors more likely to use violence in retaliation, resistance or self-defense (Boxall, Dowling, & Morgan, 2020, Larance, Goodmark, Miller, & Dasgupta, 2019). However, in responding to family violence, police may misinterpret these nuanced dynamics, leading to a risk of misidentifying the victim-survivor as the predominant aggressor. Misidentification also occurs when a professional may align (or collude) with the perpetrator's narrative and the other party becomes disadvantaged by this alignment and unexamined bias. Misidentification can occur in any service interaction and is known to occur at health services, counselling services and other human service interactions.

### Historical background

To understand misidentification in this context, it is important to look at the role of the law and justice responses to family violence. Prior to the 1970s, family violence was not considered a criminal offence in Australia, and suspected perpetrators were told to “take a walk around the block and cool down” (Goodmark, 2018, p.12). This changed in the 1980s when feminist campaigning and the establishment of women's shelters advocated for Australian governments to take family violence more seriously (Wangmann, 2012). The result was a proliferation of legal and justice responses to family violence across Australia, which included criminal charges, civil protection orders, and the increased role of police in responding to family violence (Douglas & Fitzgerald, 2013).

<sup>1</sup> "Misidentification" also happen in any service interactions including health services, counselling service

In the current Australian legal context, the police play an essential role in responding to family violence. They are first responders and are tasked with the role of identifying the victim-survivor and the predominant aggressor (No to Violence, 2019). These decisions have legal consequences, as since the 1980s, Australian policing has been increasingly characterised by a civil protection order system – which relies on protection orders such as ‘family violence orders’ and ‘restraint orders’ to keep victim-survivors safe (Jefferies, Bond, & Field, 2013, Safe at Home, 2015). Though protection orders were introduced as a means for victim-survivors to apply for protection orders themselves, a study by Reeves (2020) suggests that protection orders are now increasingly initiated by police. This provides police with the ability to respond to family violence (Reeves, 2020) in a more immediate way. Though some have valued these changes for the ability to keep victim-survivors safe where there is a high risk, others have expressed concern, suggesting the changes may also lead to unintended consequences such as misidentification (Nancarrow, 2021, Reeves, 2022).

## **Contributing factors**

Misidentification can be influenced by systems abuse, incident-based approaches, and gendered assumptions of the ‘perfect’ victim within the police force.

Systems abuse occurs when a family violence perpetrator manipulates the legal system into believing the victim-survivor is the predominant aggressor; it is an intentional act of abuse (Reeves, 2022). Research indicates that Aboriginal and Torres Strait Islander (ATSI) women, Culturally and Linguistically Diverse (CALD) women, and women with disabilities are especially vulnerable to systems abuse, and may have their vulnerabilities used against them. For example, ATSI women may be manipulated into believing their children will be removed (Nancarrow et al., 2020), while CALD women may be threatened with deportation (inTouch, 2022). Thus, systems abuse “goes beyond the tactics utilised by a perpetrator, also being enacted by the systems and structures themselves” (Reeves, 2021, p.41).

Misidentification may also be influenced by incident-based approaches, which can occur when the police respond to family violence as an isolated or one-off incident rather than gathering background information about the history of the relationship (Nancarrow, 2021). This is problematic, as it influences the police to take the violence out of context, leading to the possibility of misidentification. (Douglas, 2019). As established, though both predominant aggressors and victim-survivors may use violence in relationships, predominant aggressors are more likely to use violence to establish and maintain control, whereas victim-survivors are more likely to use violence in retaliation or self-defence (Boxall, Dowling, & Morgan, 2020, Larance et al., 2019).

In responding to family violence incidents, there is an increased risk of police not taking account of these nuanced differences in motivation leading to a higher risk of misidentifying the victim-survivor as the predominant aggressor.



Finally, misidentification may be influenced by ideas of the 'perfect' victim – “racialised, classed, and gendered” notions of victimhood which lead some victim-survivors to be misidentified more than others (No to Violence, 2019, p.12). According to Larance et al. (2019), the perfect victim is “weak, passive, powerless, compliant, dependent, and submissive to authority” (p.19), with the paradigmatic image being a “middle-class white woman cowering in a corner as her enraged husband prepares to beat her again” (Goodmark, 2008, p.77). Women who do not fit this image, such as women who fight back, have trauma responses, use substances, or come from ATSI or CALD backgrounds are more likely to be misidentified (inTouch, 2022, Nancarrow et al., 2020, Ulbrick & Jago, 2018).

## **The Tasmanian context**

In 2004, Tasmania introduced legislation that underpinned the Police Family Violence Order (PFVO), which gave police the ability to deliver on-the-spot protection orders of up to twelve months duration when responding to family violence incidents (Wilcox, 2007). Though other Australian jurisdictions have since granted police the ability to deliver on-the-spot protection orders, these are temporary in nature, lasting between 24 hours and 28 days (Reeves, 2022). In contrast, the PFVO in Tasmania lasts for up to 12 months and cannot be revoked unless a direct application is made to the court (Reeves, 2022). Early advocates described the response as “innovative” and “benchmark-setting” (McFerran, 2007, cited in Grealy et al., 2008, p.8), with Wilcox (2007) arguing that the response was “arguably the strongest, and potentially most effective criminal justice response to domestic violence yet seen in Australia” (p.213).

However, in more recent times, advocates have warned that the response may have unintended impacts and that the PFVO may lead to misidentification (Reeves, 2022). Monitoring, evaluation, and research of this legislation in Tasmania is important, as, since its introduction in 2004, the Tasmanian response to family violence has been seen by some as an example for other Australian jurisdictions to follow. Wilcox (2007) advocated that other Australian states should consider adopting the Tasmanian response to family violence, while Barwick, McMahon, and McGorrery (2020) suggested that the Tasmanian model may be an inspiration to international jurisdictions seeking to criminalise coercive control (for context, Tasmania had criminalised economic and emotional abuse in 2004, being the first jurisdiction in the world to do so; Barwick, McMahon, & McGorrery, 2020).

Perhaps most importantly, the Victorian Royal Commission on Family Violence (2016) suggested that Victorian police officers adopt elements of the Tasmanian model, including the 12-month PFVO. These responses have generated concern from front-line family violence practitioners, who express concern about the risks of misidentification.

However, as no evaluation has been conducted in Tasmania, it is difficult to substantiate these concerns. Thus, the purpose of this paper is to explore the phenomenon of misidentification in Tasmania, understand how Tasmania's unique legislative context, including the PFVO, may inadvertently contribute to this issue, and suggest recommendations for consideration. Practitioners at Engender Equality have expertise in their specialist work in family violence and encounter a range of circumstances where clients have been misidentified and are well-placed to provide reflections on the phenomenon of misidentification in Tasmania.

## Data collection

Discussions were undertaken with family violence practitioners at Engender Equality, who for the purposes of this paper are defined as qualified specialists who work directly with victim-survivors in a professional capacity. This may include counselling, advocacy, intake and assessment, education and training, practice management, and community development.

Engender Equality currently employs nine family violence practitioners, eight of whom volunteered to participate in this discussion. Participants are social workers, reflecting the broader demographics of the Australian family violence sector (Cortis et al., 2018). Five were located in Hobart, one in Launceston, and two on the north-west coast, creating a sample that represented Tasmania's regional diversity. Practitioners demonstrated their insights through unstructured interviews with social work student Erin Deverell and provided four case studies in preparation for a misidentification forum co-hosted by The Domestic Violence Coordinating Committee and member organisation Engender Equality (which took place at the Moonah Arts Centre in August 2022). These two important pieces of work provided valuable insight into the issue of misidentification in Tasmania as understood and observed by family violence practitioners at Engender Equality.

## Overarching themes

Early themes across the review of both practitioner perspectives and experiences, and the lived experience case studies include the perpetration of system abuse, incident-focused police responses, the nuanced concern where perpetrators have a police background or current role and the ongoing impacts of being misidentified on victim-survivors.

## Discussions with practitioners

Interviews with practitioners included informal questions about their professional experience of listening to victim-survivors, working with the criminal justice system as advocates, and their own experiences of direct advocacy in the family violence and justice systems. Practitioners spoke about misidentification as being influenced by systems abuse, incident-based policing, and a perceived lack of family violence awareness and training in the police force. Practitioners noted the complex issue of some police officers who had used family violence in their own relationships misusing power in their role to actively have the victim-survivor misidentified as the predominant aggressor in the context of their own family violence offending.

Systems abuse was a common theme across all practitioner discussions, hearing victim survivors disclose the ways perpetrators use a range of tactics within the system to get the victim-survivor mislabeled as the predominant aggressor. This included convincing the police that the victim-survivor was violent, crazy, or not-of-sound mind due to having a mental illness or physical disability. However, practitioners emphasised that these responses were frequently the result of the violence the victim-survivor had endured. Reflecting on the story of a victim-survivor who had been misidentified, Blair stated, "she had mental health struggles from the violence...not from any other thing...so PTSD and substance misuse...and both of those were used to mount a story that she was violent and crazy."

This reflects the current Australian research, which suggests that family violence perpetrators may use victim-survivors' vulnerabilities – such as having a mental illness or physical disability – to get them mislabelled as the predominant aggressor (Nancarrow et al., 2020, Reeves, 2020, Reeves, 2021, Ulbrick & Jago, 2018).

Incident-based responses were another common theme, with practitioners suggesting that police were “responding to what is in front of them” (Nora) rather than considering “the history of the relationship” (Lily) or “what’s been happening...behind the scenes” (Olivia). This meant family violence incidents could be taken out of context, leading misidentification to occur. Blair reflected, “they’re taught at police training and across their careers to go in, investigate...make a decision about whether to charge or not. So, they’ve got this process that doesn’t allow...for any deeper working out...because they’re so incident-based.”

These reflections are consistent with research, suggesting that incident-based policing may lead to misidentification (Douglas, 2019, Nancarrow, 2021, Ulbrick & Jago, 2018).

Practitioners also suggested their perception that misidentification may be influenced by a lack of family violence awareness and training within the police force. Cleo reflected, “one of the biggest passions for me when it comes to the police is that...part of their training needs to be family violence focused. Especially when we’re looking at such a high rate of policing being dedicated to family violence.” Similarly, Lily stated, “police need to be really trained to understand coercive control and to seek out the history of the relationship, because they don’t seem to ask any historical questions to explore or find out what’s really been going on.”

Ella summarised, “police (maybe) don't have the skills or the appropriate training to navigate the complexity of family violence.” These responses are consistent with other jurisdictions, which suggest that police may benefit from specialised training in family violence including the areas of trauma awareness and coercive control (Fitz-Gibbon et al., 2022, inTouch, 2022, Nancarrow et al., 2020).

It is important to note that Tasmania Police, ensure that “all Tasmania Police officers...undergo training...which includes an entire learning module dedicated to the issue of family violence” (Tasmania Police, 2021, p.1). This paper proposes supporting discussions about enhancing training content informed by intersectional responses; and the need to include historical patterns of offending in the complex decision process of serving a PFVO.

Further discussions could open up opportunities to expand police training to include collaboration with practitioners to enable lived experiences of misidentification to be included in police training. For example, enhanced training can include the areas of trauma-informed awareness or exploring the complexity of coercive control presentations.

Several studies reference the challenging issue of perpetrators having a police role and using this role abusively (Anderson & Lo, 2011, Zavala & Melander, 2019) with some police officers may be perpetrators of family violence (Goodmark, 2015, Russell & Pappas, 2018, Williamson, 2021). The risk in this circumstance is that training is not effective in practice due to bias issues, leading to misidentifying the victim-survivor as the predominant aggressor.

Consistent with this observation, some practitioners stated that misidentification is then underpinned by the abuse of power in the role of a police officer. For example, Lily stated that some police officers had responded to family violence by “backing [the victim-survivor] into a corner...and being smug and appearing that they want the order to go against the victim-survivor.”. Of concern was the finding that some police officers who were also family violence perpetrators used their power and credibility as police officers to get their partners mislabelled as predominant aggressors. Jade explained, “one of my first clients...[was] served a PFVO by her ex-partner who is a police officer...so that’s someone who clearly knew how police work, how the law works...and then leveraged that to hurt my client.”

Similarly, Blair described a client's experience of the perpetrator as a member of the police force, experiencing a culture of the “perpetrator’s one of us” where fellow police officers would assist in getting the victim-survivor mislabelled as the predominant aggressor. This suggests that systems abuse may also occur in the police force, an area worthy of continued research focus.

## **Who is being misidentified?**

The impacts of being misidentified were broad and far-reaching and impacted victim-survivors in a number of ways. Some victim-survivors had their children removed, while others faced threats to their professional identities and careers. Some experienced mental health concerns, while others were vulnerable to further abuse from their partners. However, an overwhelming theme was the loss of faith in the system for victim-survivors who had been misidentified. Reflecting on the experience of one client, Ella stated, “[being misidentified] completely destroyed her self-worth...it was just so confusing for her...that she could be so misunderstood by the systems that were designed to protect her.” Speaking about a client who had grown up believing in the justice system, Jade reflected, “[this client] dated a police officer for years, she has an uncle who’s a police officer, she’s grown up believing the police will protect her...and so she’s just had this horrible reality check.”

This led victim-survivors to be fearful or apprehensive about calling the police, making them vulnerable to “further control, humiliation...and violence from their partners” (Jade). Lily reflected, “for those victim-survivors who have been misidentified, they just won’t call the police.” Olivia summarised, “that’s the thing that just so devastating about this whole issue of misidentification, those systems that we turn to to get help, they’re not safe anymore.” This is consistent with research, suggesting that loss of faith and re-traumatisation through the system is a major theme for victim-survivors who have been misidentified (Reeves, 2021, Ulbrick & Jago, 2018).

## **Intersectional factors**

Intersectionality refers to the additional intersectional factors (for example, culture, ethnicity, age, orientation, gender status, etc) that add further complexity to abuse patterns as well as create unique vulnerabilities.

Practitioners discussed concerns for victim-survivors with disabilities given the increased likelihood of misidentification. This included women with physical disabilities, who could be manipulated by “carers that are the perpetrators” (Blair), and women with autism, who may take police questioning literally and inadvertently identify themselves as the predominant aggressor. Reflecting on the experiences of victim-survivors with autism, Blair stated, “someone who’s autistic can take questions and conversations very literally, and quite often police questioning that is the tiniest bit leading will have them identify themselves as the predominant aggressor when they’re not.” This is consistent with previous research, which suggests that victim-survivors with disabilities – including physical, intellectual, and psychosocial disabilities – are more likely to be misidentified (Fitz-Gibbon et al., 2022, Reeves, 2021, Ulbrick & Jago, 2018).

A notable underrepresentation was the experience of those who are of ATSI and CALD background in the dataset. It is important to note that these are representations that feature heavily in misidentification research to date (see Nancarrow et al., 2020, for the experiences of ATSI clients, and inTouch, 2022, for the experiences of CALD clients). This could be explained by an underrepresentation of these client groups at Engender Equality or in Tasmania more broadly.

## **Impacts of misidentification**

The impact of being misidentified were broad and far-reaching and could influence victim-survivors in a number of ways. Some victim-survivors had their children removed, while others faced threats to their professional identities and careers. Some experienced mental health concerns, while others were vulnerable to further abuse from their partners. However, an overwhelming theme was the loss of faith in the system for victim-survivors who had been misidentified. Reflecting on the experience of one client, Ella stated, “[being misidentified] completely destroyed her self-worth...it was just so confusing for her...that she could be so misunderstood by the systems that were designed to protect her.” Speaking about a client who had grown up believing the justice system, Jade reflected, “[this client] dated a police officer for years, she has an uncle who’s a police officer, she’s grown up believing the police will protect her...and so she’s just had this horrible reality check.” This led victim-survivors to be fearful or apprehensive about calling the police, making them vulnerable to “further control, humiliation...and violence from their partners” (Jade). Lily reflected, “for those victim-survivors who have been misidentified, they just won’t call the police.” Olivia summarised, “that’s the thing that’s just so devastating about this whole issue of misidentification...those systems that we turn to to get help...they’re not safe anymore.” This is consistent with research, suggesting that loss of faith and re-traumatisation through the system is a major theme for victim-survivors who have been misidentified (Reeves, 2021, Ulbrick & Jago, 2018). Victim-survivor responses included the negative consequences of resisting or acting in an emotional or distressed manner are more likely to be misidentified, something consistent with previous research (Ulbrick & Jago, 2018).

## Impact on self perception

Being misidentified led some victim-survivors to internalise the label of perpetrator, leading to a genuine belief that they were the “problematic counterpart in the relationship” (Lily). Speaking about an elderly client who had been misidentified, Olivia stated, “I think she believed she was the perpetrator.” This is a devastating consequence of misidentification, as victim-survivors are frequently told that no one will believe them if they speak out. Cleo summarised, “when you’re in a situation of family violence, one of the most universal experiences is being told, ‘no one will believe you.’” Thus, being misidentified was “incredibly damaging” (Cleo) because it meant the perpetrator’s narrative was supported and endorsed by the legal system.

However, this was not the case for all victim-survivors. Some responded by resisting the label of perpetrator, using their skills and resources to get their PFVOs revoked. This process could be highly stressful and challenging, as victim-survivors needed to learn to navigate the legal system – a system “they may really not know anything about” (Olivia). Resisting the label of perpetrator could also lead to negative impacts on mental health, including “ruminating on the problem” and “having to fight the power of having that label put on you” (Jade). Though some victim-survivors got their PFVOs revoked, this was “not a common thing” (Cleo), with Cleo suggesting it was “near impossible” for a PFVO to be revoked. This could lead to damaging consequences for victim-survivors, which could impact their lives for years to come.

**Ella** *What happens is that it's the woman fighting back...in every single case that I can think of...what they describe to me is defence. And it's not about having power over the other person at all, which is what family violence is. It is about defending themselves. Which is a really different use of violence, right?*

Further impacts included the consequences on professional identity and employment. Lily outlined, “a really high percentage of our clients work in the caring industry, and it’s in the caring industry that you have your working with vulnerable people checks.” This meant that working in a government job, having a clean record, was really important.” This meant that clients with PFVOs against their name had to be “completely transparent” (Olivia) with their employers, something that could put their careers in jeopardy. However, these were not the only consequences faced by victim-survivors. Another consequence was child removal and ongoing engagement with the justice system, something that was especially true for clients from low-income backgrounds.

Speaking about a low-income client who had been misidentified, Jade reflected, “her children were removed, and she has then had further police engagement and attack on her surveillance because there’s the thing, when you’re poor, once you’ve entered the justice system, how are you ever going to get out?” This suggests that the impacts of misidentification may vary for clients of different class backgrounds, a finding consistent with previous research. For example, several studies have identified that victim-survivors more likely to experience poverty such as ATSI women, CALD women, and women with disabilities are more likely to be misidentified (inTouch, 2022, Nancarrow et al., 2020, Ulbrick & Jago, 2018).

This discussion paper highlights the importance of considering the long-term personal and professional impacts of being misidentified including the unique intersectional and experiential factors.

## **Case studies**

This section will describe the impacts of misidentification through the stories of four victim-survivors – Ava, Hazel, Rebecca, and Trish. Please note that all case studies have been deidentified for confidentiality purposes.

### **Ava's story**

Ava, a university student who identified as having high-functioning autism, was in a relationship with ex-partner Noah, an alcoholic and millionaire, for four years. During their relationship, Noah abused Ava via arguments, threats, and removing her possessions. At one point, he put her valued possessions on the curb, knowing she would be locked outside the house without transport if she went to collect them. At another, he used the ‘silent treatment’ on her for three days after she said she wanted to continue using contraception. Throughout their relationship, Noah maintained a secret relationship with another woman in Sydney. When Ava confronted him about this, Noah sent her an email saying she should go on antipsychotic medication.

When Ava was misidentified, she and Noah were having an argument about finances. She was standing near the doorway, and Noah told her he was scared. This confused Ava, as she was standing in a non-threatening pose (hands by her side). Before she knew it, Noah was crushing Ava between the door and the door frame. She asked him to stop, saying he was hurting her, but he did not. Ava broke free and ran to the living room, hitting Noah’s clarinet against the wall in frustration. Highly distressed, she called the police, hoping they would help her defuse the situation. When the police arrived, Ava showed them the hole in the wall and told them what had happened. The police asked Noah for a statement. When they finished, Ava asked, “Would you like to hear my side?” A police officer stated, “We’ve already heard you. I’ve determined you are the aggressor.” She was taken to the police station and served a PFVO. The impacts on Ava have been immense. She found herself homeless, needing to access temporary accommodation at the Salvation Army and Colony 47 before finding a share house. As a result of the PFVO, she has a criminal record and is unable to find work in her chosen field. She also has less faith in the police and feels “powerless and isolated” from the system’s response.

Similar to the perspectives shared by practitioners, Ava's story demonstrates the immense impact of being misidentified. As a result, Ava has found herself homeless and unable to work in her chosen field. This reflects the stories of practitioners, who identified impacts on professional identity and employment as a possible consequence of misidentification. In addition, Ava's story demonstrates how incident-based policing may contribute to misidentification – in responding to Ava's case as an isolated incident, the police have missed important nuance about Ava's relationship, including Noah's history of verbal and emotional abuse, gaslighting, and sexual coercion. This meant that Ava's act of resistance – smashing Noah's clarinet against the wall – was taken out of context, leading her to be misidentified as the predominant aggressor. This is consistent with practitioner perspectives, who suggested that the police were “responding to what is in front of them” (Nora) without considering “the history of the relationship” (Lily) or “what's been happening...behind the scenes” (Olivia). Finally, it is possible that Ava's autism may have influenced the misidentification – as stated by Blair, people with autism can “take questions and conversations very literally”, leading them to “identify themselves as the predominant aggressor when they're not.” Nevertheless, Ava's story demonstrates how a small act of resistance may be misread by the police, leading to devastating consequences for the victim-survivor.

## **Hazel's story**

Hazel, a UK citizen, moved to Australia to be with her ex-partner Caleb, a tradesperson. Hazel and Caleb were together for three years and have three children together. Throughout their relationship, Caleb was physically, emotionally, psychologically, and financially abusive towards Hazel, including threats to her life and stand-over violence. Though separated, Caleb continues to monitor Hazel's movements, including her social and professional commitments. He also abuses their childcare commitments, canceling plans at the last minute and verbally abusing Hazel. When Hazel tries to stand up for herself, Caleb accuses her of being a “dictator” and withholding the children from him. Hazel lives in constant fear that Caleb will take the children from her, something he has threatened to do in the past. When Hazel was misidentified, she was unwell with gastro, and having no other support options (the result of Caleb's ongoing control and abuse), asked Caleb to come over and care for the children. Caleb arrived late, intoxicated, and in the following morning, used up the hot water so there was none for Hazel and the children. Hazel expressed her frustration, and Caleb responded by saying she was being ungrateful, as he had brought bacon and eggs to her house. In anger, Caleb turned to leave, and Hazel threw an egg at him. Immediately fearful of the repercussions, she ran inside and locked the door. Caleb filed this incident with the police and Hazel had a PFVO placed on her. She described her interactions with police as intimidating and disrespectful, as they did not consider Caleb's history of abuse or the fact that he had a PFVO against him (something that had previously been ordered for his threats to Hazel's life). The impacts on Hazel have been devastating. Since the misidentification, Caleb has used Hazel's PFVO as an opportunity to label her as the perpetrator, furthering his campaign of abuse. Hazel has lost faith in the justice system, believing they will not be able to protect her or her children, and is unable to apply for Australian citizenship as a result of her PFVO. This has led to increased isolation and struggles with her mental health.



Like Ava, Hazel's story demonstrates the devastating impacts being misidentified can have on victim-survivors. Despite experiencing ongoing physical, emotional, psychological, and financial abuse, Hazel has emerged out of her relationship with a PFVO against her name and an ex-partner that is set on mislabelling her as the predominant aggressor. Despite reaching out to the police for protection, they have failed to protect her, putting her at greater risk of abuse from Caleb. This reflects a sentiment shared by Jade, who suggested that being misidentified could lead to "further control, humiliation...and violence from [the perpetrator]." It also reflects previous research, with a victim-survivor in a study by Ulbrick and Jago (2018) stating, "police scare me now...I needed to be protected but I don't feel like they protected me" (p.1).

In addition, Hazel's case study reflects the broader literature about an incident-based focus in police responses. Despite experiencing physical violence throughout her relationship, Hazel was misidentified for throwing an egg, something that seems insignificant in the context of the physical violence she had endured. Like Ava, she was misidentified for a small act of resistance and has faced life-changing consequences as a result.

## **Rebecca's story**

Rebecca, a health professional, was in a relationship with Michael, a police officer, for three and a half years. During their relationship, Rebecca identified Michael as sexually, financially, psychologically, and emotionally abusing her, using a range of behaviours to assert power and control over her life. Rebecca was sexually objectified and assaulted by Michael in front of his friends on multiple occasions, as well as being filmed by Michael without her consent when they had sex. Michael made regular degrading comments about her appearance and intelligence and used the fact that she had previously struggled with an eating disorder to imply her sanity was affected.

When Rebecca was misidentified, Rebecca and Michael had met at home to discuss their relationship. Michael had returned from a physically arduous day, describing himself as being "in a shit of a mood." When he arrived home, he started to verbally abuse Rebecca, yelling that she was "still fucking here" and "never listened." Rebecca was afraid of his hostility and called the police. Michael then escalated his verbal abuse, and Rebecca tried to cancel the call out. This was unsuccessful. When the police arrived, Rebecca was instructed to leave the property. The following morning, Michael drove to a police station where he knew the officer on duty and filed a PFVO against Rebecca, stating that he "felt emotionally abused" and was "concerned about her threats to fabricate an assault on him." This misidentification has had ongoing impacts for Rebecca. Though she was able to revoke the PFVO, she described the physical mental, and emotional toll of having a PFVO against her name as being one of the hardest things she had ever dealt with. She was also highly concerned that the PFVO would undermine her career, causing a permanent stain on her character.

Similar to practitioner observations that police may be perpetrators of family violence, Rebecca's story demonstrates how having a perpetrator in the police force can add an additional element to the abuse. Though Rebecca tried to call the police to help her, this was unsuccessful, as Michael was able to intercept this communication and label her as the predominant aggressor using his professional role. This is consistent with perspectives from Jade, who outlined the experience of a perpetrator who "[knew] how police work, how the law works...and then leveraged that to hurt [her] client." Like Ava and Hazel, Rebecca has faced a range of negative consequences as a result of getting misidentified, including mental health challenges and impacts on her professional identity and employment. Though Rebecca was able to get her PFVO revoked, she was highly distressed by the experience and has undertaken ongoing psychiatric support to deal with the trauma she has endured.

## **Trish's story**

Trish is a CALD woman who lives in a regional community. At the time of misidentification, she was in an on-and-off relationship with her ex-partner, Troy, who was living in a caravan on her property. Throughout the relationship, Troy was jealous and controlling, threatening to take the children away from Trish. He was also an alcoholic and put Trish in a position where she felt responsible for his needs because of his alcohol issues. Trish called the police on multiple occasions during their relationship, as Troy would get drunk and start threatening her and damaging the property. Trish felt a sense of judgment from local police officers, with one commenting that "you keep going back to him, you can't be that hard up, can you?" When Trish was misidentified, she and Troy had been at a party. Troy turned up at her house after the party, and quite intoxicated, started to charge at her. Trish put up her hand to defend herself and Troy toppled because of his intoxication. The police were called. Trish believed the police were not interested in hearing her version of events. They took her to the local police station and issued her with a Keep the Peace Order. At court, she saw the police officer who had responded to the incident laughing and smirking, which was extremely distressing for her. Since being misidentified, Trish has suffered a range of negative impacts. Due to her ex-partner living on the property, she has had to dedicate substantial time and resources to get away from him. She also worked in a professional job, which required total honesty about any criminal convictions. This meant she needed to disclose being misidentified as the predominant aggressor, something that could have impacted her employment. She has also suffered a multitude of mental health issues, seeking counselling for the ongoing trauma associated with this experience.

Like Ava, Hazel, and Rebecca, Trish has suffered a range of negative consequences as a result of getting misidentified. Like Rebecca, she had to go through the process of getting her order revoked but was unsuccessful. This reflects Cleo's perspective that it was "near impossible" for an order to be revoked. Due to the stress of unsuccessfully attempting to have the order revoked, Trish has experienced impacts on her mental health, seeking counselling for the trauma she has experienced. This is consistent with practitioner professional perspectives that being misidentified can lead to negative impacts on mental health. As Trish identifies as a CALD client, it is also possible that her cultural background may have been a unique intersectional variable. Trish's story demonstrates that the impact of misidentification includes how applying to get an order revoked may not necessarily lead to justice.

## Case study themes

The case studies reflect similar findings to the incidents described by family violence practitioners in the interviews conducted. In Ava and Hazel's stories, both were charged for minimal violence, with Ava throwing a clarinet against the wall and Hazel throwing an egg at her partner.

In both cases, Ava and Hazel had been subjected to significant physical, sexual, and emotional abuse, with Hazel's partner Caleb previously being issued a PFVO. However, in responding to these events, the victim-survivors discussed having a negative police response. Ava was told that the police did not want to hear her side, as they had already determined she was the predominant aggressor. Likewise, Hazel was assumed to be the perpetrator for throwing an egg, even though her partner had a PFVO against his name due to previous threats to her life.

Practitioner perspectives about incident-focused responses where no historical analysis of the offending was consistent with both Ava and Hazel's experiences of being misidentified without the responses considering the broader context of their relationships. This is consistent with the broader literature, which suggests that incident-based responses are a contributing factor to misidentification (Douglas, 2019, Nancarrow, 2021, Ulbrick & Jago, 2018).

In addition, the case studies echo the practitioner's professional perspectives about vulnerable groups of clients who are likely to be misidentified in the context of using retaliatory and defensive violence during recent incidents.

This is consistent with research suggesting that women who fight back or have distressed responses are more likely to be misidentified (Goodmark, 2008, Larance et al., 2019, Ulbrick & Jago, 2018). The story from Ava also reflects the view that women with disabilities – especially women with autism – may also be more likely to be misidentified. This is consistent with a finding by Reeves (2021), who reported that women with autism may experience misidentification at higher rates. Finally, though ATSI and CALD clients did not feature heavily in practitioner narratives, the inclusion of Trish – a CALD client – in the dataset suggests that CALD clients may also experience higher rates of misidentification in Tasmania. To better understand these intersectional variables, more research and discussion is needed in the Tasmanian context.

Importantly, the above case studies reflect practitioner perspectives about the serious impacts of misidentification. Ava, Hazel, Rebecca, and Trish all suffered negative consequences of being misidentified, including threats to their professional reputations and identities (with Ava being unable to work in her chosen field and Rebecca and Trish being worried about losing their jobs). Both Ava and Hazel lost trust in the justice system, believing the police would not be able or willing to protect them. Hazel faced ongoing abuse as a result of being misidentified, with her ex-partner using her PFVO as an opportunity to label her as the predominant aggressor, while Rebecca was negatively affected by her ex-partner's role as a police officer, who misused his role to orchestrate her misidentified as the predominant aggressor. Consistent with other findings, these responses suggest that the impacts of misidentification are diverse and far-reaching and can impact victim-survivors in a range of devastating ways.

## Conclusion

Though early advocates hoped that a criminal justice model would offer increased protections to victim-survivors (Grealy et al., 2008, Wilcox, 2007), the above discussion indicates that for some this may require a more nuanced response. Increased statutory responses can create unintended harms for victim-survivors or can be used to further harm.

The literature review explored researchers such as Wilcox (2007) and Barwick, McMahon, and McGorrery (2020), as well as the Victorian Royal Commission into Family Violence (2016) interest in adopting the Tasmanian model.

This is consistent with conclusions made by Reeves (2022), who provided cautionary insight about possible limitations of the Tasmanian model, and Goodmark (2018) who outlined the problems with a criminal justice response to family violence more generally.

This discussion paper proposes given the evidence from practitioners, paired with case studies from Ava, Hazel, Rebecca, and Trish, that consideration of unintended consequences may prevent harm in these complex cases.

## Recommendations

These findings have important implications for the design and continuous improvement of service and system responses. Adopting a criminal response to family violence is a critical part of addressing the issue by demonstrating that “family violence is a crime and should be treated as such” (Tasmanian Government, 2003, p.2). Like all new initiatives, a review of the implementation and associated impacts would assist to explore unintended consequences and provide the opportunity to develop continuous improvement strategies.

This discussion paper provides the following recommendations in the consideration of the emerging concerns associated with the misidentification of the family violence predominant aggressor:

- Consideration of enhancing current responses with approaches to family violence that include collaboration between police officers and family violence specialist services.
- Consideration of funding specialist family violence services to deliver specialist family violence training to police that explores the issue of misidentification.
- Consider conducting a review of the PFVO in its current response to family violence with consideration for ways to revoke the PFVO that are less onerous.
- Consider supporting future research that explores misidentification across the statutory and community-based service systems. This can include women’s shelters, counselling services, government, and non-government organisations as well as cultural services, such as the Tasmanian Aboriginal Centre and Migrant Resource Centre. This would provide a more holistic perspective on misidentification and add an important intersectional lens.

By exploring the phenomenon of misidentification in Tasmania through the professional knowledge and expertise of family violence practitioners, the dissertation paper has added valuable insights and contributions to the discussion points raised in this discussion paper.

Engender Equality is keen to open up an ongoing conversation about the misidentification of the predominant aggressor. Please contact [admin@engenderequality.org.au](mailto:admin@engenderequality.org.au) for further information on opportunities to discuss and add your contribution to this important issue.

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Engender Equality receives funding from the Crown, through Department of Premier and Cabinet, to provide counselling services to victim-survivors.