

## Tasmania's police family violence orders are supposed to keep victims safe. But experts say they're backfiring on women

By [Hayley Gleeson](#)

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When Anna called Tasmania Police to report an assault, she thought they'd protect her. Instead, they took out a family violence order against her. (ABC News: Luke Bowden)

When Anna\* called police to report that she'd been assaulted by her partner one afternoon in late 2021, all she wanted was for them to pull him into line — to "tell him off".

He'd grabbed her and crushed her into a door frame at his home in southern Tasmania during an argument about money, she said, apparently having misinterpreted her "freeze" response as defiance, aggression.

When she eventually broke free, she was so upset about what he'd done that she smashed a hole in the wall with his musical instrument.

"It was really frightening, I'd been asking him to stop and he wasn't saying anything, he wasn't stopping," said Anna, who has autism. "I was telling him that he was hurting me and I screamed. I was horrified, he'd never done anything like that before."

But the officers who turned up didn't allow Anna to make a statement about what happened, she said — or at least not add to her admission she'd put a hole in the wall. Instead, she said, after speaking with her partner, they told her they'd determined that she was "the aggressor" and would be listed as the respondent on a police family violence order (PFVO).

"I'd never heard of a police family violence order before, and no one really explained it to me," said Anna, who now knows exactly how serious they are, having lost her relationship, her home, her sense of safety and her trust in police. "It's this weird feeling, almost like someone's taken all your clothes off — of exposure, vulnerability, powerlessness and shame."

For years domestic violence workers around Australia have been [warning of a growing misidentification crisis](#): of mounting cases where police have mistaken the victim for the perpetrator and taken out an intervention order against them or charged them with criminal offences. Often it's because female victims have presented as "hostile" or "hysterical" — or because they've fought back or defended themselves — and police haven't gathered all the facts, or dug into the couple's history of coercive control, or realised an abuser is trying to manipulate the system.

In Tasmania, though, experts say the police's power to issue final family violence orders is exacerbating the problem, making it difficult to correct cases where officers have made the wrong call and upending the lives of potentially hundreds of women every year.

Police in other jurisdictions can make applications for family violence orders — usually temporary safety notices — which ostensibly protect victims until a court can decide whether to make final orders.

But Tasmania Police have unique [authority to issue final 12-month orders](#) which can only be revoked by the Magistrates Court — a feature of sweeping family violence reforms introduced in 2004, following a [spate of shocking domestic homicides](#). Yet in too many cases, advocates say, those laws are backfiring on the people they were designed to keep safe, and failing to hold abusers to account.

## Police naming female respondents at triple the rate of courts

[A report published this week](#) by Tasmanian family violence service Engender Equality notes victims who have been inappropriately named as respondents on PFVOs have found it "near impossible" to have orders revoked. As a result, it says, they've lost access to their homes and children, been exposed to potential criminal charges, experienced ongoing violence, and ultimately lost faith in systems they trusted to protect them.

"I have seen many women's lives changed forever after being misidentified by police as the perpetrator — it is such an enormous experience of injustice," said Engender Equality chief executive Alina Thomas. "I have seen women who have been issued with family violence orders who have been manipulated into breaching them and incarcerated ... you don't just bounce back after that and keep living the life you wanted — your life is irreversibly changed."



Being misidentified as a perpetrator of family violence is an "enormous experience of injustice" for victims, says Alina Thomas. (Supplied: Engender Equality)

New data obtained by ABC News shows police make the majority of protection orders in Tasmania, with officers issuing 13,294 PFVOs in the six years to 2022 compared with 8,480 final and interim family violence orders (FVOs) by the Magistrates Court.

Perhaps more strikingly, however, police issued PFVOs against female respondents at more than triple the rate of courts — almost 30 per cent of PFVOs last year listed a female aggressor compared with 9 per cent of court orders — raising questions about whether police are always picking the right perpetrator.

### Proportion of female respondents on PFVOs and FVOs

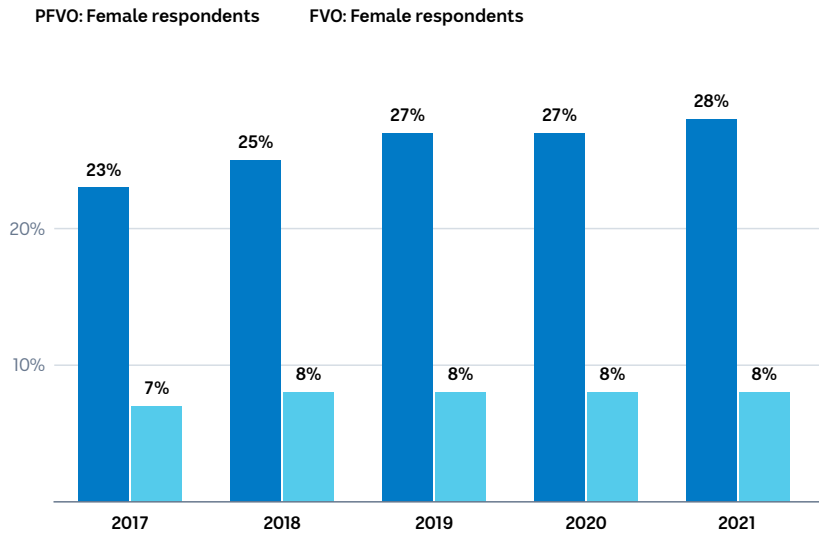


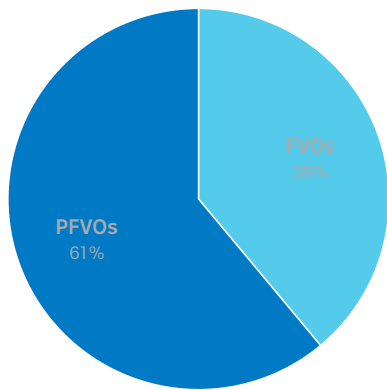
Chart: ABC News / Source: Tasmania Police, Department of Justice Tasmania

Ellen Reeves, a postdoctoral research fellow at the Monash Gender and Family Violence Prevention Centre, said it's concerning that police are issuing the bulk of protection orders because they're doing so without judicial oversight — a "critical part" of the legal process.

"The Tasmanian system takes the safety net of the court away and the decision" about who's the victim and who's the perpetrator "is made purely by police officers" often in the heat of the moment at the scene, Dr Reeves said. "I would question any system that is putting this sort of power into the hands of police ... who have historically responded quite poorly to family violence."

### Tasmania PFVOs Vs final and interim FVOs

Police, not courts, issue the majority of family violence orders in Tasmania



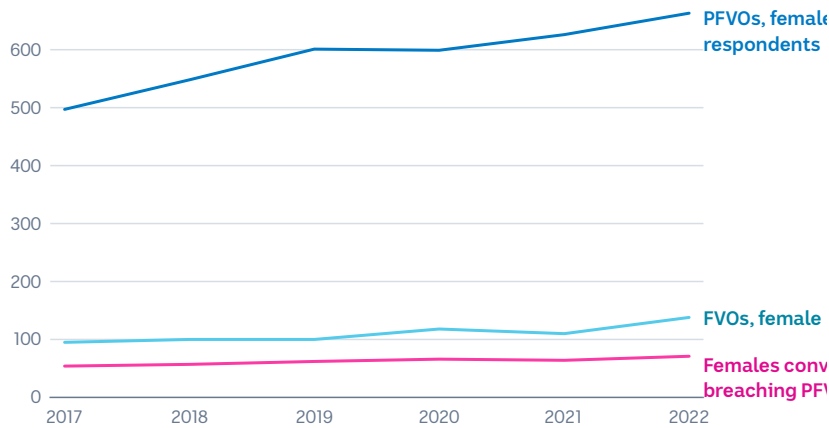
As for the higher — and increasing — proportion of female respondents on PFVOs, Rob Blackwood, Assistant Commissioner Specialist Support at Tasmania Police, said it could be due to a range of reasons — perhaps there's less stigma for male victims reporting abuse, or more women are perpetrating family violence.

But according to Dr Reeves, "based on what we know from other jurisdictions, I'd be inclined to speculate that we are seeing a trend of misidentification here. And it's evidently exacerbated when police are issuing orders".

There's been hardly any research on misidentification in Tasmania, though evidence in other states suggests family violence victims are [being misidentified at staggering rates](#) — particularly those from culturally diverse communities. For example, inTouch, a family violence service for migrant and refugee women in Victoria, recently reported [about a third of clients had been misidentified](#) at some stage, while Djirra, which supports Aboriginal women experiencing abuse, [estimates up to 90 per cent](#) of intervention orders against their clients involve misidentification or "some degree of unfairness".

Elise Whitmore, principal solicitor at Women's Legal Service Tasmania, said her team sees cases of misidentification several times a week. "It's been going on for so long unnoticed that I don't think we even know how big an issue it is and the implications it has for women," she said. When police get family violence right, Ms Whitmore said, "PFVOs can be incredibly effective — they are a great way of quickly protecting a victim when she needs it most". But when they get it wrong, it can be catastrophic. "So it's very urgent — past urgent."

### PFVOs and FVOs in Tasmania: female respondents



FVOs includes interim and final family violence orders issued by courts. Breach figures exclude female defendants finalised for breaching orders without conviction recorded.

Chart: ABC News / Source: Tasmania Police, Department of Justice Tasmania

### Why are police getting it wrong?

There are several major reasons victims are misjudged as aggressors, experts say. The first is that some perpetrators manipulate police to essentially "frame" victims by self-inflicting injuries or calling police first. Dr Reeves said this "systems abuse" might be more easily achieved if "the victim survivor doesn't ... speak English well, and the police don't get an interpreter so they're only hearing one side of the story".

Another reason is that police assume female victims who are angry or inconsolable, or who retaliate or defend themselves, must be the aggressor because they're not presenting as "perfect victims". Discriminatory attitudes among police officers and, crucially, systemic racism mean First Nations or migrant women are at [particular risk, experts say](#) — as are women with autism, [who may take police questioning literally](#).



Tasmania's PFVO system takes the 'safety net' of the court away, says Dr Ellen Reeves.

(Supplied: Monash University)

But one of the most pressing reasons is that police too often take an "incident-based" approach at family violence callouts. That is, they'll look for evidence of criminal offending and seize on discrete incidents rather than stepping back to analyse [complex patterns of](#)

[coercive control](#), trying to understand dynamics like power and fear and who's actually most in need of protection. This can mean officers see a female victim's acts of self-defence as assault, especially if they believe her calm perpetrator.

Compounding the problem in Tasmania, lawyers say, is that women who have been misidentified as the respondent on a PFVO rarely apply to the Magistrates Court to have it revoked because it's often a time consuming, expensive and re-traumatising process — especially if their partner or police oppose the change.

"I haven't seen many women make the application," Ms Whitmore said. "So when they're weighing up how difficult that's going to be legally and personally, often they will decide to let the order stand and wait out the 12 months for it to expire."

Of course, these are not just trivial legal matters. Some women who have been misidentified have become fearful of calling police and, in extreme cases, suffered devastating consequences.

A coronial inquest in December heard a Victorian [woman killed by her partner in 2017 had "lost faith in the system"](#) and stopped reporting his abuse to police after she was charged with family violence and listed as the respondent on a protection order. "She was called the perpetrator, but he was the one that was bashing her," the woman's mother told reporters. "He kept on saying, 'You go to the police and I'll have you charged with assault!'"

Ms Whitmore said she reluctantly warns clients that if they call police for help with family violence, they're not always going to get an officer who understands coercive control or systems abuse — or that victims might seem mentally unwell because they've endured years of violence. She tells them to be as calm and unemotional as possible so officers don't misjudge them as the aggressor.

But ideally, she said, all police should be properly trained and have enough time to investigate incidents fully before making consequential decisions. "I need to be able to tell a client to call the police if she's scared or threatened. If she's in her home and she's "hysterical" and upset, I need to be able to say with confidence, 'Pick up the phone and dial triple zero and ask for police'. And at the moment, I can't give that advice without half a dozen caveats."

## Lives changed, trust shattered

Anna is still shocked by how quickly her life changed the day she called police for help. Her partner threatened to have her charged for breaching the PFVO that evening by "harassing him" — because she was gathering her belongings to leave — and she was homeless for a while after moving out. "It's affected my trust in police and my trust in the system," she said. "I believe it's also affected my future job prospects ... and I have to be careful not to mention it to any future landlords, because it could easily be used against me."

For months she "ran around in circles" between police, courts and legal services trying to work out how she could have the order quashed. (Her ex, who later decided Anna was not a threat to his safety, applied for a revocation at the Magistrates Court but it was dismissed when he didn't attend the hearing.) "Eventually a lawyer told me PFVOs are designed not to be revoked, and a social worker told me they'd only heard of one revocation, ever. I thought, right, this is rigged."



When trained police respond to family violence well, PFVOs can be 'incredibly effective', says Women's Legal Service Tasmania's Elise Whitmore. (ABC News: Luke Bowden)

Now, she's determined to fight for change, so other women don't have to go through what she has, or worse. "Currently PFVOs mean that a wrong decision is basically set in stone, and that needs to change," Anna said. "I think number one is that police family violence orders must be replaced by something similar to the family violence safety notices used in Victoria. Police should no longer have the power to issue final orders — there needs to be judicial review."

At least that's one of the recommendations of Engender Equality's new report — that the Tasmanian Government consider reviewing PFVOs and exploring "less onerous" ways of having them revoked. Dr Reeves agrees the government should reform the PFVO process to ensure police decisions can be reviewed and, if need be, overturned. "The court system isn't perfect but ... studies suggest that magistrates are becoming more adept at recognising legal systems abuse and challenging police applications where they think misidentification has occurred," she said.

## Calls for review and reform

[The Sentencing Advisory Council issued similar advice in 2015](#) after finding the increased use of PFVOs and associated breaches in Tasmania "may be problematic" — especially given the lack of court supervision. It suggested Tasmania could consider adopting a family violence safety notice system similar to Victoria's — "where a PFVO is considered an application for an FVO", which is then decided by the court.

The government never responded to the report but a spokesperson told ABC News it considers police's authority to issue PFVOs a "strength" of Tasmania's integrated family violence response: "However, we are always open to feedback on our laws and changes will be considered by the government if a need is identified."



Assistant Commissioner Rob Blackwood says all Tasmania Police officers will complete 'refresher' family violence training in 2023. (ABC News: Selina Ross)

Alina Thomas said Tasmania must also explore other ways of improving its response to family violence — for instance, by trialling so-called "[co-location](#)" programs where domestic violence specialists attend police callouts, and investing in prevention initiatives that tackle "problematic attitudes" about violence against women. "This isn't an issue that is going to be fixed by focusing only on the criminal justice system or the police," she said.

As for Tasmania Police, Rob Blackwood said new recruits are provided "extensive family violence training" at the Police Academy and that all officers will complete mandatory "refresher" training this year. The third phase of the training is expected to commence in the second half of 2023, he said, and includes emotional and financial abuse, coercive control, trauma informed responses and misidentification of the predominant aggressor.

To address the issue of victim misidentification more broadly, Mr Blackwood said, Tasmania Police is currently reviewing recruit training and considering several "emerging areas" including coercive control, power dynamics and "uncooperative" victims, and perpetrator tactics such as systems abuse. "To prevent misidentification, family violence reports must be validated by a supervisor — usually a sergeant of

### Family and domestic violence support services:

- [1800 Respect National Helpline](#): 1800 737 732
- [Safe Steps Crisis Line \(Vic\)](#): 1800 015 188

police — and a PFVO can only be issued by a sergeant, or a police officer authorised by the Commissioner."

Still, for women like Anna who feel they've been failed by the system as it stands, reform can't come soon enough. "I'm very concerned that, right now, there are adult and children victims of family violence in Tasmania who are experiencing coercive control ... and PFVOs are exacerbating those power imbalances, worsening the danger, and making it harder for many victims to leave," she said.

"Police should not be controlling the whole process with family violence — they simply do not have the expertise needed to assess complex situations. We need the courts and we need family violence specialist services to all be working together and ... I think if that is done properly, it could help restore victims' faith in the system."

*\*Names have been changed for legal and safety reasons.*

- [Men's Referral Service](#): 1300 766 491
- [Mensline](#): 1300 789 978
- [Lifeline](#) (24-hour Crisis Line): 131 114
- [Women's Crisis Line \(NSW\)](#): 1800 656 463