



Understanding the problem of misidentification in family violence cases

Being misidentified as a perpetrator of family violence can have devastating effects on a woman – losing access to her children, her cultural role, her housing, her employment, given a criminal record and engaging in years of legal battles. Between 70 to 90 per cent of women in prison have been victims of violence and abuse. In Victoria, up to 58% of women on Community Protection Orders have been misidentified as perpetrators.

(SJFW Policy Platform, 2023 and Women's Legal Services Victoria, 2018).

It also lets the actual perpetrator continue their abuse.

So why is this happening? It's complex, but basically comes down to:

Police respond to single incidents

Family violence is about power and control. So, when the police respond to one incident, they only have the scene in front of them to assess. Victims might be fighting back, might be afraid to make things worse, might mistrust the police and not want to talk to them. Or they just can't talk to them. This can all lead to misidentification:

'I was flogged to a point where I couldn't even brush my own hair. Couldn't ... lift my arm up. The female officer ... tried to talk to me but because I wouldn't talk to her ... she went and spoke to him. I was sent to the hospital too because of my injuries ... But because I didn't talk, that order went out against me.'

(Nancarrow et al, 2020)

Power and control is misunderstood

A perpetrator employs a range of coercive controlling tactics that can be physical or non-physical, are tailored to a specific victim and are responsive to the victim's behaviour.

(Reeves, 2021)

We don't understand this as a community. A recent 'attitudes towards violence against women' study showed only 66% of respondents believed that it is always abuse to control your partner by belittling or making them feel useless. 35% agreed that women exaggerate how unequally they are treated.

(NCAS, 2023)



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Understanding the problem of misidentification in family violence cases continued

It's important to understand that there are three types of violence in a relationship:

1. coercive-controlling violence and abuse
2. resistive violence (fighting back against your abuser)
3. violence unrelated to coercive control

Bogus ideas about 'ideal' victims

A victim of abuse should be timid and afraid right? Not necessarily. Women are brave, strong and courageous and don't always take abuse passively. They can yell back, fight back, use weapons and become 'emotional'. This type of resistive violence in a relationship is common.

A recent analysis of police narratives of domestic violence incidents involving a female person of interest in NSW found that 48% of the 153 incidents they reviewed involved violent resistance. It also found that Aboriginal women were more likely than non-Indigenous women to use violent resistance (57% vs 40%).

(Boxall et al., 2020)

If police attend a scene expecting a cowering victim and that's not what they find, it can be confusing, and led to misidentification.

Perpetrators use the system to claim they are victims

Many perpetrators are skilled manipulators and spent years studying how to control their victim. They know the impact of claiming they are the victim, using up court time and threatening to call the police on a victim. It's a way to continue their coercive control:

'See, I've got a current order out now where I'm the perpetrator. And that's fearful for me because— it's his house. All he's got to do is ring the police and he threatens me all the time with it.'

(Nancarrow et al 2020)

Misidentification is a growing problem for the women we work with, contributing significantly to the abuse and trauma they experience. Everyone has the right to live free from violence and discrimination. Understand power in relationships, acknowledge that around half of the cases you see will have the victim fighting back against their perpetrator, and together we can work towards reducing the harm caused by violence and discrimination.

How can you prevent misidentification

- Ensure that Police facilitate appropriate referrals to support services
 - Learn about and understand power dynamics in relationships that lead to abuse
 - Increase transparency and accountability around charging practices
 - Learn about trauma and implement a trauma-informed approach across your organisation
- Work with women's services, especially Aboriginal Community Controlled Organisations such as Elizabeth Morgan House to understand the issue and how you can implement policy and practice changes to effect change.