Factsheet 4: Determining the primary aggressor and avoiding misidentification

In some domestic and family violence incidents, both parties may use physical force or respond aggressively, but the impact of their actions, and the fear that they cause, are rarely equal. Force used by a person who is afraid, cornered or trying to protect themselves, has a different motivation, impact and pattern than violence used to intimidate, dominate or punish.

When assessments of violence focus on a single incident — without examining pattern, intent and impact over time — the primary victim-survivor can be misidentified as the person using violence. This is a known issue in the DFV system.

Misidentification is not uncommon, and the consequences of it are severe

The Victorian Women's Legal Service estimates that two-thirds of their clients that identify as women have been misidentified as the 'primary aggressor', and NSW research indicates that around one in two women listed as DFV offenders by NSW Police (also referred to as 'persons of interest') were misidentified (Boxall et al., 2020; Jago & Ulbrick, 2018).

This Factsheet will explore the following guidance:

1. What does misidentification look like?
2. When is misidentification most likely to occur?
3. Consequences of misidentification
4. Core principles to determine the primary aggressor
5. Red flags for misidentification
6. Complex presentation
7. What to do when the primary aggressor is unclear

The **primary aggressor** is the person who poses the most serious and ongoing threat to safety and wellbeing. Although the term 'primary' may suggest two people are using violence, in most DFV contexts violence is used mainly by one person.

What does misidentification look like?

Research and evidence about misidentification continues to emerge, meaning that there is no single, consistent, definition of this issue. However, there is general agreement that misidentification occurs when the DFV system mistakenly identifies the primary aggressor of abuse as the victim and the primary victim-survivor as the primary aggressor.

As described in Table 1 below, there are some common scenarios in which misidentification occurs.

Scenario 1: Treating the violence as mutual or equal

In **Scenario 1**, the service may believe that both parties in the relationship are using abusive behaviours which require an equivalent response. These relationships which may be described as "toxic", may lead to both parties being charged with DFV, or the implementation of "cross-applications" where both parties are respondents to a protection order.

However, it is extremely rare for both people in an intimate relationship to use violence of equal severity, or pose the same level of risk to the other person. Primary aggressors may claim the abuse is "mutual", or "she gives as good as she gets" to minimise their behaviour or shift blame. It is more likely that one person is using patterned coercive and controlling behaviours, while the other may be reacting to fear, survival needs, or a single incident.

Scenario 2: The victim-survivor's defensive actions are mistaken for primary aggression

In **Scenario 2**, misidentification can also occur when the service believes that the victim-survivor is the primary aggressor, and that the primary aggressor is the person most in need of protection. This form of misidentification may occur when the victim-survivor acted in self-defence, in protection of someone else, or to prevent abuse. These circumstances may be difficult to prove because of the presence of little or no evidence that they were being attacked or were anticipating one.

Avoiding misidentification in this scenario is made more complicated when the primary victim-survivor presents as unengaged or is even belligerent due to the effects of abuse, fear of the consequences of help-seeking or because of prior negative experiences when seeking support (including prior misidentification).

Scenario 3: The person using violence deliberately presents as the victim to hide their behaviour

In **Scenario 3,** the person using violence deliberately presents themselves as a victim of abuse. This is not simply a by-product of their behaviour — it is a tactic. By manipulating services into misidentifying the primary victim-survivor as the primary aggressor, they extend their coercive control, entrap the victim-survivor in the relationship, and use the service system itself as a mechanism of punishment.

When men are victims of DFV

Men can genuinely be victim-survivors of DFV, particularly from other men, such as family members, or same-sex partners. However, in heterosexual relationships, women's use of force is far more likely to be defensive, reactive or driven by survival. This makes it essential to assess pattern, intent and impact, not just physical actions or demeanour.

Table 1. Common pathways to misidentification (and what to look for)

Scenario	Example
Scenario 1 **Treating the violence as mutual or equal**	Sarah and Mark have had 3 police call-outs in the past year. On each occasion, both have reported being assaulted by the other. Sarah has scratched Mark's arms and on one occasion threw a cup at him. Mark has pushed Sarah down the stairs, restricted her access to money, and told her that if she ever calls the police again, he will take the children. Following each call-out, both parties have been spoken to by police and issued with notices. A support service assessing the situation describes it as a "high conflict" relationship and refers both parties to couples counselling. Mark attends willingly, presenting as cooperative and reasonable, and uses the sessions to gather information about Sarah's concerns and disclosures, which he later uses to refine his tactics and reinforce her silence. Sarah finds the sessions unsafe but feels unable to say so. However, when the pattern of behaviour is examined, a different picture emerges. Sarah's physical actions occur only during incidents initiated by Mark. She lives in ongoing fear of him — monitoring his moods, restricting her own social contact, and managing his behaviour to protect her children. Mark, by contrast, shows no fear of Sarah, continues to monitor and control her, and uses the formal proceedings against her to consolidate his control. The relationship is not "high conflict" — it is one person using violence and another living in fear of it.
Scenario 2 **The victim-survivor's defensive actions are mistaken for primary aggression**	Jane and Adam are in a relationship and live together. During an argument, Adam began throwing objects at Jane and punching the walls of their home. Fearing for her safety, Jane ran to the bathroom and locked the door. Adam broke the door down and advanced towards her. Terrified, Jane struck Adam with a shower rail, leaving a cut on his face. When police arrived, Jane told them what had happened and admitted she had hit Adam, saying she had done so in self-defence. Adam told police he had not physically touched Jane, which was technically accurate but did not reflect the context of his behaviour that evening. With no visible injuries on Jane and Adam presenting as calm and cooperative, police charged Jane with assault. Adam subsequently used the charge to apply for an intervention order against Jane, which was granted. Jane now has a criminal record and is listed as a respondent on a protection order — outcomes that have affected her employment and that Adam has used to undermine her credibility with family and friends.
Scenario 3 **The person using violence deliberately presents as the victim to conceal their behaviour**	Claire and Ryan have separated, and the separation was initiated by Claire. Despite her asking him not to, Ryan has continued to contact her and request reconciliation and has told their 3 children during contact visits that "Mummy has broken up the family". When Claire sought child support, Ryan threatened to seek full custody of the children in retaliation. Claire provided evidence to the Family Law Court that Ryan had been abusive towards her during their relationship. Ryan denied this, and instead accused Claire of abuse, referring to incidents where she had injured him as a result of self-defensive violence. He also arranged for a family member to provide a statement that they had witnessed Claire yell at him during a social gathering. Unable to determine who to believe, the Court ordered a Family Report. Ryan attended his meeting with the Report Writer presenting as calm, reasonable and a concerned father. Claire, by contrast, was characterised by the Report Writer as disorganised, flustered and "emotional" — responses that were consistent with the ongoing threats and harassment she was experiencing from Ryan at the time. The Report Writer concluded that there was no evidence of abuse and that, if abuse had occurred, Ryan posed no ongoing risk. This conclusion did not account for the pattern of post-separation coercive control already evident in Ryan's behaviour. The Report Writer recommended 50/50 shared custody, an outcome that requires Claire to maintain ongoing contact with Ryan and provides him with continued opportunities for surveillance, intimidation and control.

When is misidentification more likely to occur?

Misidentification is more likely when:

- both parties claim to be victims,
- the primary aggressor presents as calm, reasonable and even helpful, and the primary victim-survivor is unwilling to engage, or on the flip side, more truthful about their own use of aggressive behaviours (even in self-defence),
- when there is evidence that both parties have used some form of aggressive behaviour, and
- when one or both parties are reluctant to talk to the police or talk about 'what happened'.

However, misidentification does not affect all groups equally. Women are disproportionately misidentified, as are Aboriginal and Torres Strait Islander people, LGBTIQA+ communities, and people with disability.

Demeanour at the point of contact should not be used to determine who is using abusive behaviours.

People who use DFV may present as calm, polite, rational, charming or helpful. Victim-survivors, by contrast, may appear distressed, angry, confused, intoxicated, dysregulated or "non-compliant". These responses are frequently the effects of trauma, fear, coercive control, or even be because of physical forms of abuse, like recent strangulation, concussion or prolonged stress.

The prior experiences a victim-survivor has had when disclosing experiences of abuse may also influence how they present. If they have had negative experiences, including being misidentified, they may be unlikely to want to engage with services again.

Calmness is not evidence of non-violence, and distress is not evidence of aggression

Consequences of misidentification

Misidentification exposes victim-survivors and children to serious harm. When the person using DFV is treated as the victim, workers may inadvertently collude with them, reinforcing their narrative and increasing the risk of further abuse.

When the primary aggressor is unclear, workers sometimes default to describing the situation as "mutual", "high conflict" or "toxic". These labels minimise the pattern of coercive control and shift responsibility onto victim-survivors.

Misidentification also influences how other systems respond, including Family Law, Child Protection and the criminal legal system. Misidentified victim-survivors may be listed as respondents on protection orders, or both parties may become respondents through cross-applications. Research shows that misidentified women are often encouraged to "just consent" to orders they do not understand, to save time or cost, leaving them with legal consequences they cannot undo. As noted in a recent study (Reeves, 2021, p.3) of misidentification in Victoria '…once listed as a predominant aggressor, various aspects of the system may work against you, and it becomes increasingly difficult to overcome the label of "perpetrator"'.

Misidentification undermines trust in services. When a victim-survivor is punished for seeking help, they are less likely to return, and future risk can become invisible to the service system. This has flow-on effects for children, who may remain exposed to the person using violence without appropriate safeguarding. Protection orders and formal findings of perpetration can also affect employment, access to housing and eligibility for Working with Vulnerable People checks—further entrenching disadvantage and isolation.

Misidentification can also actively make victim-survivors less safe. For example, they may be required to disclose their location to comply with protection order conditions, giving the primary aggressor new opportunities for surveillance, intimidation or harm

Core principles for determining the primary aggressor

When assessing who is the primary aggressor, focus on pattern, intent and impact, not on presentation, injuries, or a single incident. When determining who is the primary aggressor, it is helpful to use the following high-level principles.

- **Pattern:** DFV is rarely isolated. A person using DFV tends to repeat and adapt their tactics. Victim-survivors tend to respond *to* them.
- **Intent:** A victim-survivor's use of force is much more likely to be reactive or self-protective, including retaliatory behaviour after sustained fear, harassment or abuse. This is not the same as violence motivated by entitlement or control.
- **Impact and fear:** Force used defensively may cause injury, but it does not generate ongoing fear in the other party. Coercive and controlling behaviours do.

It is important to acknowledge that the ability of certain services in the ACT DFV service system, particularly ACT Policing and CYF, to consider patterns may be limited by practice guidelines, and legislative requirements. For example, ACT Policing has a pro-arrest and pro-charge policy in regard to DFV, meaning that even when they suspect that the person of interest is not the primary perpetrator of abuse within the relationship, they are expected to make a formal proceeding when there is evidence of an offence occurring. This is also more likely to occur in situations where the primary aggressor is forthcoming with information, and the victim-survivor is not.

Table 2 provides some questions that can guide workers in their determination of who the primary aggressor is.

Table 2. Questions to guide the identification of the primary aggressor

Principle	Guiding questions
Pattern	• Has one person's behaviour been repeated across multiple incidents or relationships? • Who is usually initiating contact, demanding access, or monitoring the other? • Has the violence or control become more frequent or escalated? • Who changes their behaviour more to avoid conflict (e.g., what they say, where they go, who they see)? • Are there impacts on children, pets, or other family members?
Intent	• Was the behaviour used to punish, dominate, intimidate or control? • Was the behaviour used to interrupt harm, get away, protect children, or stop an attack? • Does the person describe "teaching lessons", "keeping them in line" or "making them understand"? • Does the person frame the abuse as justified ("she provoked me", "he needed to learn")?
Impact and fear	• Who is afraid? • Who modifies their daily life to avoid retaliation? • Who has changed their routines, parenting, finances, work or social contact because of fear? • Who feels unsafe to call police, attend appointments, or report what is happening? • Does one person have injuries consistent with self-defence? • Who is careful about what they say or do? • Who is hypervigilant, distressed or panicked about contact? • Who is worried the other person will retaliate if they disclose abuse? • Who is afraid to leave, separate, or seek help?

Red flags for misidentification

Indicators that the person presenting as the victim-survivor may actually be using abusive behaviours are provided below. These red flags should be interpreted as part of a broader pattern, not as standalone indicators.

- Speaks about their partner with contempt, blame or character attacks, rather than describing fear or harm.
- Appears confident, unafraid or dismissive about police, courts or legal consequences.
- Has a history of intervention orders, stalking, or violence-related offences, even if they minimise or are vague about them.
- Provides vague, inconsistent or factually unlikely accounts, or injuries inconsistent with being the victim.
- Displays entitlement or ownership, especially around children, decision-making or sexual jealousy.
- Focuses on their rights or how the system has wronged them, rather than safety or the impact on others.
- Attempts to recruit you as an ally—minimising, denying or shifting blame to confuse the situation.
- Evades questioning or controls the conversation, leaving the practitioner feeling manipulated or unsettled.
- Shows little empathy for their partner's well-being, and asserts control without considering consequences.

When presentation is complex

Misidentification often happens when the victim-survivor appears more distressed, disorganised or aggressive at the point of contact than the person using violence. These presentations are frequently effects of abuse, not indicators of primary aggressor status.

- **Women's reactive or self-defensive violence:** Women may use force to protect themselves, children or others, interrupt or prevent an anticipated attack, or respond to escalating fear. This can look "aggressive" when viewed in isolation, but it is grounded in survival, trauma and repeated exposure to threat (Dasgupta, 2002; Hamberger, 1997).
- **Disclosure patterns:** Women are more likely to admit their use of violence or disclose actions that make them look "at fault". Perpetrators, by contrast, may deny, minimise or flip the narrative, focusing on their "rights", grievances or presenting themselves as the true victim.
- **Alcohol or drug (AOD) use at the incident:** Substance use is common in complex presentations but does not indicate who the aggressor is. Substance use should be contextualised, not treated as a standalone indicator.

What to do in situations where the primary aggressor is unclear

The following guidance is adapted from the MARAM Framework (Victorian Government).

When presentations are complex, and workers are unsure who is using violence, take a cautious and systematic approach. Your goal is not to assign blame quickly, but to seek clarity about **patterns of behaviour**, **coercive control**, and **risk**.

Continue risk monitoring and ensure safety planning is in place for any person at risk. It is especially important for those services that are mandated to make a determination in cases of DFV (e.g., ACT Policing), to document this uncertainty, to provide additional context for decision-making.

In situations where the primary aggressor is unclear, workers should:

- **Watch for invitations to collude.** Be alert to narratives that minimise, justify or deny abusive behaviour, or that position the person using violence as the victim. Accepting these invitations — even through a sympathetic tone, humour or silence — can reinforce their victim stance thinking and further silence the actual victim-survivor (see sections on avoiding collusion in the RAMF).
- **Document what you see and hear.** Record risk factors, patterns, and specific behaviours in case notes (see sections on case noting through an accountability lens in the RAMF) and the PUV Identification Tool (if being completed) — not just incident details or what was said. Include narratives, inconsistencies, body language, and disclosures from each party.
- **Proactively seek more information.** Share relevant risk information with other services to build a more accurate picture of the history, context and pattern of coercive control. This includes evidence of previous reports, police call-outs, AOD involvement, or other service engagement.
- **Use Structured Professional Judgement.** Consider intent, impact and pattern — who is afraid of whom? Identify whether a person is using abusive behaviours to dominate and control, or whether force is being used defensively, to survive, or to protect children or others.
- **Record your rationale.** If you determine the primary aggressor in a situation where misidentification was suspected, clearly document how you reached that conclusion. Correct records if needed, and proactively share updated information with other relevant organisations.
- **If uncertainty remains, do not guess.** Document the uncertainty in case noting, the reason for this uncertainty (e.g., non-engagement of one or both parties), seek secondary consultation, and share information with specialist DFV services.

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