



Government of **Western Australia**  
Department of **Justice**  
**Corrective Services**

# **Response to Review:**

**Supports Available to Perpetrators and  
Survivors of Family and Domestic  
Violence**

**March 2022**

Version 1.0

## Response Overview

### Introduction

The review into *Supports Available to Perpetrators and Survivors of Family and Domestic Violence* was announced by the Office of the Inspector of Custodial Services (OICS) on 12 August 2021. A wide range of documentation and access to systems, policies, processes, custodial facilities including staff, prisoners and contractors were made available to OICS upon request for the purpose of the review.

On 25 January 2022, the Department of Justice (the Department) received the draft report from OICS for review and comment. The draft report has highlighted key findings and made seven recommendations. The Department has reviewed the draft report and has provided comments and responses to the recommendations as below.

Appendix A contains further comments linked to sections in the report for the Inspector's attention and consideration.

### Review Comments

Family and domestic violence (FDV) is a key priority for the Department. The Department plays a pivotal role in developing and implementing strategies across government and continues to be responsive to evolving research and contemporary best practice in working with survivors and perpetrators of FDV. This includes:

- Contributing to the development of Australia's *National Plan to End Violence Against Women and their Children* and *Path to Safety: Western Australia's Strategy to Reduce Family and Domestic Violence 2020 – 2030*.
- Ongoing engagement with the Ombudsman Western Australia's FDV fatality reviews and own motion investigations.
- Development of the Department's forthcoming FDV Strategic Framework, a copy of which has been provided to OICS for consideration.

Noting that people in prison are disproportionately overrepresented as perpetrators and survivors of FDV, the Department is in a unique position to work closely with those impacted by FDV.

Having considered the draft report, the Department has a number of overarching concerns. Fundamentally, these relate to the extent to which the report demonstrates a rigorous understanding of FDV that reflects contemporary, best practice concepts and principles. This includes women's resistance to violence, collusive practice by perpetrators of FDV, the impact of FDV on young people, including those who go on to be engaged in the criminal justice system, and its generational impacts.

The use of inconsistent and inaccurate definitions of FDV also do not reflect an appropriate level of understanding of FDV. FDV includes behaviours experienced in a range of family relationships and is not limited to intimate partners.

The *Restraining Orders Act 1997* defines family violence as follows:

- a) violence, or a threat of violence, by a person towards a family member of the person; or
- b) any other behaviour by the person that coerces or controls the family member or causes the member to be fearful.

For Aboriginal and Torres Strait Islander peoples, 'family violence' also encompasses other behaviours and relationships.

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Some women serve a custodial sentence as a result of offences committed while perpetrating acts of FDV. The research literature also identifies that victims/survivors of FDV will resist violence and try to protect themselves; this includes overt strategies, which can involve fighting back against the perpetrator. In identifying women as perpetrators in the context of 'bi-directional' violence, it may therefore be helpful to explore how individuals resist violence (e.g., Ombudsman WA, Investigation into issues associated with Violence Restraining Orders and their relationship with family and domestic violence fatalities, 2015, pp. 56-59).

It will also be beneficial to examine a number of recent ANROWS publications<sup>1</sup> as well as Stella Tarrents (UWA Law School) work<sup>2</sup> and other research commenced in 2021 on the relationship between FDV and Young People<sup>3</sup> by Associate Professor Kate Fitz-Gibbon and partners.

Whilst undertaking a broad, social examination of FDV, the report does not examine the intersect between FDV and pathways to the criminal justice system. It also does not communicate a concise understanding of the role of the prison system in identifying and responding to FDV.

FDV can include a range of behaviours and tactics, which can be both criminal and non-criminal. While some acts of FDV are not considered a criminal offence, civil restraining orders can criminalise otherwise lawful behaviour.

The Department provides that:

- The **criminal justice system** responds to criminal offences committed by FDV perpetrators. It can assist in:
  - the prevention of FDV through incarceration of perpetrators via a custodial sentence;
  - rehabilitation of perpetrators through mandatory participation in criminogenic behaviour change programs; and/or
  - judicial monitoring through a specialist court model.

Corrective Services administers the sentences imposed by the courts and provides rehabilitation opportunities in prisons. This is reflected in Corrective Services' overarching mission, '*A safe, secure and decent Corrective Services which contributes to community safety and reduces offenders' involvement in the justice system*'.

- The **civil law system** holds FDV perpetrators to account through restraining orders that aim to prevent future FDV from being committed, a breach of which constitutes a criminal offence. The family law and child protection systems also

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<sup>1</sup> Day, A., Casey, S., Gerace, A., Oster, C., & O' Kane, D. (2018). *The forgotten victims: Prisoner experience of victimisation and engagement with the criminal justice system* (Research report, 01/2018). Sydney, NSW: ANROWS.

ANROWS (Ed.). (2019). *Women who kill abusive partners: Understandings of intimate partner violence in the context of self-defence. Key findings and future directions* (Research to policy and practice, 03/2019). Sydney, NSW: ANROWS.

<sup>2</sup> Douglas, H., Tarrant, S. & Tolmie, J., 2021. (2021). *Social Entrapment Evidence: Understanding its role in self defence cases involving intimate partner violence*. University of New South Wales Law Journal, 44 (1), 324-331

<sup>3</sup> Adolescent family violence in Australia: A national study of prevalence, use of and exposure to violence, and support needs for young people

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play a critical role through the imposition of orders limiting access to children as a result of concerns over FDV.

Noting that Aboriginal people experience FDV differently to non-Aboriginal people, and that Aboriginal men, women and young people make up a significant portion of Western Australia's prisoner and detainee populations, it was disappointing there were no distinct voices and perspectives of Aboriginal people clearly articulated and thoroughly considered throughout the report, reflecting that Aboriginal people are a priority, not a minority group.

In this context, it is important to note that the Department is developing an Aboriginal Family Safety Strategy (AFSS). The AFSS commits to reflecting the Government's recognition of the unique drivers of violence in Aboriginal relationships and communities, including colonisation, inter-generational trauma, and social and economic disadvantage. The AFSS will be Aboriginal-led, and culturally responsive. It will also be scoped to reflect issues specific to the Department and will align more broadly with the WA Aboriginal Family Safety Strategy.

A statement clarifying the use of language in referring to Aboriginal and Torres Strait Islander people and recognising the unique contribution of Aboriginal and Torres Strait Islander people to Western Australia should have been incorporated in the report.

In considering the findings, the Department would have preferred the use of more contemporary research by OICS for the purposes of this review.

The report also does not firmly identify the strong overlap between the victim and offender within the prison system. Focusing primarily on perpetration, rather than victimisation, is limiting as it does not capture the complexities of FDV and overlooks the status of victims from a trauma informed perspective.

The unique needs of FDV victims and perpetrators from culturally and linguistically diverse (CALD) backgrounds should also be noted. How people from CALD backgrounds culturally define violence underpins how they respond to the legal definitions of FDV. There is an ongoing need to identify the unique circumstances of these groups

The Department supports the seven recommendations made in the report as they all align to issues the Department has previously identified and work to address the issues has commenced and/or is near completion.

The Department also acknowledges that in considering the draft report, it became evident that the full extent of the Department's strategic priorities relating to FDV at the time of the review was not provided to OICS. The Department has since amended its internal processes to ensure announced reviews and other investigative matters undertaken by OICS are shared across the Department, providing business areas and subject matter experts the opportunity to provide input as required.

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## Response to Recommendations

### 1 Maintain readily extractable data on FDV perpetration.

<b>Level of Acceptance:</b>	Supported – Current Practice / Project
<b>Responsible Division:</b>	Corrective Services
<b>Responsible Directorate:</b>	Offender Services
<b>Proposed Completion Date:</b>	Completed

#### Response:

Since 1 February 2019, the Department has been able to extract FDV data from the Total Offender Management System (TOMS) utilising a FDV flag made available in TOMS. This was part of the implementation of a module that sourced accurate and up to date data on FDV orders directly from the Department's Integrated Court Management System (ICMS).

The FDV data is automatically shared between TOMS and ICMS, which makes the data easily extractable as required.

### 2 Ensure the timely completion of treatment assessments and Individual Management Plans.

<b>Level of Acceptance:</b>	Supported – Current Practice / Project
<b>Responsible Division:</b>	Corrective Services
<b>Responsible Directorate:</b>	Offender Services
<b>Proposed Completion Date:</b>	Completed

#### Response:

The Department continues to invest considerable resources to address the issues associated with delays in the completion of treatment assessments of prisoners and the allocation of effective criminogenic treatment intervention programs.

Two additional Treatment Assessment Supervisor positions have been created to support the existing treatment assessment staff.

In addition, a budget submission has been made to Treasury in the current financial year for a further permanent 5.9 treatment assessment FTE. This will increase the Department's capacity to complete treatment assessments and Individual Management Plans in a timely manner.

### 3 Investigate the possibility of modulising FDV programs, and criminogenic programs more broadly, for adults and young people in custody.

<b>Level of Acceptance:</b>	Supported – Current Practice / Project
<b>Responsible Division:</b>	Corrective Services
<b>Responsible Directorate:</b>	Offender Services
<b>Proposed Completion Date:</b>	Completed

#### Response:

In 2019, Corrective Services initiated an independent review of its criminogenic treatment programs across the adult prison and community corrections environments to ensure programs are innovative, contemporary, evidenced based, and meets the needs of the offender population.

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The Review made 20 recommendations across a range of areas including data, evaluation, governance, staffing, mode of program delivery (modulised/rolling) and identification of programs to address current gaps in service delivery. The Department is in the process of developing a program of works to prioritise and update the suite of programs as per the review outcomes.

The Department is also exploring the introduction of modulised programs for young people at Banksia Hill and has engaged Edith Cowan University to undertake this development further.

The Department is also actively exploring options to collaborate with the academic sector, and contracted service providers, in the piloting of rolling, modulised, rehabilitation programs that can be delivered in multiple settings, e.g., metropolitan, regional, custody or community, or throughcare. This work is being led by the Western Australian Office of Crime Statistics and Research (WACSAR) as part of the two-year recommissioning process for contracted reintegration and rehabilitation programs and services.

The Department is already piloting the use of more flexible program delivery models with an AOD focus through the Mallee and Wandoo rehabilitation facilities and also through the Parole In-reach Program (PiP) which has been implemented as part of the Justice Reform Project.

All of these initiatives are subject to process, clinical, and long-term outcomes (including reoffending) evaluations.

#### **4 Ensure criminogenic programs that are delivered demonstrate efficacy.**

<b>Level of Acceptance:</b>	Supported – Current Practice / Project
<b>Responsible Division:</b>	Corrective Services
<b>Responsible Directorate:</b>	Strategic Reform
<b>Proposed Completion Date:</b>	Completed

#### **Response:**

The Department's forthcoming FDV Strategic Framework identifies that increasing the effectiveness of programs and interventions is a key priority, with priority 4 being '*FDV perpetrators are provided with programs to reduce their FDV offending*'.

Initiative 4.1 of the FDV Strategic Framework highlights the Department's commitment to review the suite of FDV criminogenic programs to ensure they are evidence based, culturally responsive and effective. The review will consider issues specific to FDV which will be considered during any new program initiatives, including as part of the Shuttle Conferencing scheme, FDV GPS Tracking trial and PiP FDV stream.

With the establishment of WACSAR, work is underway to routinely measure and monitor the long-term impacts of a range of departmental programs, services, and strategic initiatives. This includes the tracking of long-term impacts of selected rehabilitation programs, including those implemented as part of the Justice Reform Project, the two AOD rehabilitation prisons, and specialist courts. Further programs and services will be monitored over time.

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## **5 Track reason for parole denial.**

<b>Level of Acceptance:</b>	Supported – Current Practice / Project
<b>Responsible Division:</b>	Corrective Services
<b>Responsible Directorate:</b>	Offender Services
<b>Proposed Completion Date:</b>	Completed

### **Response:**

This statement is incorrect as the Department does track reason for parole denial.

Decisions made by the Parole Board are tracked in the Board Assessment Review System (BARS) and in TOMS. This includes prisoners' parole denial reasons. The decisions are recorded in free text fields and therefore the data format when extracted lacks structure.

As acknowledged by OICS, parole decisions are complex and take into consideration a myriad of factors and can incorporate multiple reasons, rather than a single determination.

Each reason is often unique to a prisoners' offences and circumstances, which makes it impossible to categorise and record in a consistent manner that allows for structured data extraction.

## **6 Invest in PHS counsellors to adequately meet the needs of the prison population.**

<b>Level of Acceptance:</b>	Supported in Principle
<b>Responsible Division:</b>	Corrective Services
<b>Responsible Directorate:</b>	Offender Services
<b>Proposed Completion Date:</b>	Completed

### **Response:**

The specialist nature of the role makes the recruitment of PHS counsellors difficult, particularly in regional areas. Recruitment processes are undertaken annually to fill these vacancies and will continue throughout 2022.

## **7 Ensure the AVS is funded adequately across the prison estate.**

<b>Level of Acceptance:</b>	Supported – Current Practice / Project
<b>Responsible Division:</b>	Corrective Services
<b>Responsible Directorate:</b>	Advisory Services
<b>Proposed Completion Date:</b>	Completed

### **Response:**

AVS currently has 22 permanent FTE and 7 contract positions across the custodial estate. Attracting suitable staff to these positions has been challenging.

The AVS service model is being reviewed as part of the Department's Innovate Reconciliation Action Plan (RAP) 2022-2024, with a view to improving service delivery. This work will be monitored and reported on as part of the RAP.

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