



OFFICE OF THE INSPECTOR  
OF CUSTODIAL SERVICES

# Supports available to perpetrators and survivors of family and domestic violence

May 2022

*The Office of the Inspector of Custodial Services acknowledges Aboriginal and Torres Strait Islander people as the traditional custodians of this country, and their continuing connection to land, waters, and community throughout Australia. We pay our respects to them and their cultures, and to Elders, be they past, present, or emerging.*

Reader advice: The following review contains discussions of family and domestic violence and some people may find the content of this report distressing. If this report raises any issues, please contact 1800 RESPECT.

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## Inspector's Overview

### The Department's understanding of the problems arising from FDV must be translated into effective actions for the rehabilitation of people in custody

Family and domestic violence (FDV) is an extraordinarily complex subject involving many concepts and principles and a myriad of intersecting causes and consequences. The Department of Justice's (the Department) response to our draft report highlighted the difficulties in trying to summarise such a complex issue in a few introductory pages. The response also identified that FDV is a key priority area, with the Department having a broad system-wide leadership focus beyond just prisons and the youth detention centre. So, the Department is well placed to address the issues in an informed and meaningful way.

We acknowledge the complexity of the issue and the broad challenges and role that the Department has in this area, but this was not the focus of our review. The review was bound by the scope and published terms of reference and, ultimately, by the limits of our legislative remit which, relevantly, allows for a review of a "custodial service" in relation to a prison or a detention centre. A custodial service in relation to a prison or detention centre includes: the management, control or security of the facility; or the security, control, safety, care or welfare of a prisoner or detainee.

The scope for our review noted the intention to examine the supports, including programs, psychological services and transitional care available to adult FDV offenders and survivors. We also intended to examine the supports available to young people in detention, as FDV offenders, survivors and witnesses.

The terms of reference posed three questions, namely:

1. Does the Department provide adult perpetrators of FDV adequate support to help address their offending, including programs, psychological support, and transitional through care?
2. Does the Department appropriately identify adult survivors of FDV in order to be supported while they are in custody?
3. Do young people in custody, who are witnesses, survivors, or perpetrators of FDV get appropriate access to FDV supports?

In undertaking this review, we had to first consider how well the Department identified perpetrators, survivors and witnesses of FDV when they enter prison or detention.

Our review found that the processes in place for the identification of perpetrators were generally sound. They consisted of a range of security measures and proactive security practices, such as information sharing. This was evidence of good practice. However, advice received from the Department during the review was that they had not been able to undertake reliable long-term trend analysis because they only started accurately collecting data in 2019. Prior to that it appears that the data had been manually recorded but it was unreliable and not tracked.

The identification of survivors and witnesses was more problematic and largely reliant on self-disclosure. This may occur, for example, during individual assessments, while partaking in treatment programs or during other welfare supports. We found that while this may be understandable, better

disclosure would require a safe environment for a disclosure to take place in a trauma informed model that offered people in custody support, respect, and dignity.

Once identified, the next challenge for the Department is providing access to suitable criminogenic treatment programs for perpetrators, victims and witnesses of FDV. Difficulties experienced by prisoners accessing programs, including FDV programs, has been an issue we have identified in many previous reports. Problems accessing programs have been compounded by a long-standing backlog in treatment assessments. Over the past few years the Department has put significant resources into addressing this problem and it has improved substantially since 2019. In its response to the draft of this report, the Department advised that, as at December 2021, only 13 per cent of eligible sentenced prisoners requiring an Individual Management Plan were outstanding. This equated to 554 prisoners who had, at that time, not yet been assessed for their program needs. But this is only one component of the problem as it does not include the number of prisoners who have been assessed but have still not accessed their required program.

Other barriers acknowledged by the Department included how programs were structured and delivered. Issues that commonly arose included: insufficient numbers of suitably assessed prisoners in the one facility to effectively deliver a program; short sentences not allowing enough time to complete the program; prisoners' being unwilling to transfer to other facilities to undertake programs; or prisoners' refusal to undertake the program. The first two reasons are particularly significant barriers in youth detention.

The Department has a good understanding of the problem of FDV, and the disproportionate overrepresentation of certain categories of people in prison as perpetrators and survivors of FDV. The Department's response to the draft of this report also noted its unique position to work closely with those impacted by FDV. We agree wholeheartedly with them on this point.

However, the Department's response also acknowledged that during the review it had not provided us with the full extent of their current strategic priorities relating to FDV. The response highlighted several system-wide leadership initiatives that are being developed or planned. Several of these initiatives, once finalised and implemented, have the potential to improve the supports provided in prisons to perpetrators and/or survivors of FDV. Most notably, the development of an FDV Strategic Framework and the development of an Aboriginal Family Safety Strategy were identified as being particularly relevant.

### **All our recommendations have been “completed”**

We made seven recommendations arising from this review which the Department either supported as a current practice/project or supported in-principle with each recommendation closed as “completed”.

The first five of these recommendations were closely aligned with recommendations contained in the independent review of criminogenic treatment programs commissioned by the Department in 2019 (Tyler, 2019). As noted in our report, there did not appear to have been much progress towards implementing the 20 recommendations made in the Tyler Report. However, in response to our draft report and recommendations, the Department provided more detail about this and noted that it was “in the process of developing a program of works to prioritise and update the suite of

programs as per the review outcomes.” The response also advised, among other things, that initiative 4.1 of the draft FDV Strategic Framework highlighted “the Department’s commitment to review the suite of FDV criminogenic programs to ensure they are evidence based, culturally responsive and effective”.

The Department’s understanding of the challenges it faces delivering criminogenic programs is evident from the 2019 Tyler report which was a comprehensive body of work with 20 recommendations. Most, if not all, of the initiatives that were identified in the Department’s response to our review were either under development or planned and we are yet to see those initiatives come to fruition across the system. Although these five recommendations were listed in the Department’s response as “Completed”, there is obviously a considerable amount of work yet to be done before we can expect to see impacts on the ground for people in custody.

The aim of criminogenic program delivery must be to provide individuals with rehabilitative opportunities, and ultimately, reduce their rate of reoffending and involvement in the criminal justice system. It must follow then, that it is only when those programs are effective and actually being delivered to offenders and, in the context of this review, victims and witnesses, that the work will truly be completed. This an area we will continue to monitor during our inspection work and routine follow-up of recommendations.

The final two recommendations from our review related to adequately resourcing counsellors from the Psychological Health Service (PHS) and staff from the Aboriginal Visitors Scheme (AVS). The Department’s response noted that the AVS service model was being reviewed as part of the Department’s 2022-2024 Reconciliation Action Plan (RAP), but on examination no specific reference to this could be found in the RAP and we have sort clarification on this point. The Department’s response also acknowledged difficulties in the attraction and recruitment of suitable staff to these two vital support areas, but it did not identify any new initiatives to address the concerns we raised. Both recommendations were also listed as “Completed”. This suggests to us that nothing more would be done. Yet, we understand that there are a significant number of vacancies in both the AVS and PHS. Given their importance as broad support mechanisms, we expected to see further efforts to address the acknowledged difficulties.

## CONCLUSION

People in custody are more likely to have histories of exposure to FDV, either as perpetrators, survivors or witnesses, or a combination of the three. Some populations that have an increased risk of exposure to FDV, also have higher rates of incarceration. This includes Aboriginal Australians, especially Aboriginal women, people who come from socially or culturally disadvantaged backgrounds, and people with disability.

It is incumbent on the Department to provide effective treatment programs to perpetrators of FDV offences, to reduce both recidivism and future harm to the community. It is also crucial that the Department provides other supports, including psychological and welfare services, to perpetrators, survivors and witnesses.

## ACKNOWLEDGEMENTS

It is important to acknowledge the contribution and assistance we received in undertaking this review from key personnel in the Department.

Finally, I want to recognise and acknowledge the hard work and significant contribution of the team within our office in planning and undertaking this review. I would particularly acknowledge the work of Cherie O'Connor in leading this review and as principal drafter of this report.

Eamon Ryan  
Inspector

11 May 2022

## Executive Summary

### Background

Family violence refers to violence or the threat of violence between family members, including any behaviour that coerces or controls a family member or causes them to be fearful. Family members can be current or former intimate partners, children, and other relatives which can include extended family members and kinship relationships. Family violence is typically the preferred term for Aboriginal people, as it encompasses a broader definition of family, including kinship relations.

Domestic violence is a sub-set of family violence and typically refers to abusive behaviour between current and former partners. This behaviour generally includes a range of conduct to exercise power and control over their partner (Ombudsman WA, 2015). Family and domestic violence (FDV) can include multiple types of abuse including (AIHW, 2018):

- threats of and actual physical violence
- threats of and actual sexual violence
- psychological and emotional abuse
- financial abuse
- coercive control.

In Western Australia, the *Restraining Order Act 1997* lists examples of FDV behaviours. They include the following (but are not limited to):

- (a) an assault against the family member
- (b) a sexual assault or other sexually abusive behaviour against the family member
- (c) stalking or cyber-stalking the family member
- (d) repeated derogatory remarks against the family member
- (e) damaging or destroying property of the family member
- (f) causing death or injury to an animal that is the property of the family member
- (g) unreasonably denying the family member the financial autonomy that the member would otherwise have had
- (h) unreasonably withholding financial support needed to meet the reasonable living expenses of the family member, or a child of the member, at a time when the member is entirely or predominantly dependent on the person for financial support
- (ha) coercing, threatening, or causing physical abuse, emotional or psychological abuse or financial abuse, in connection with demanding or receiving dowry, whether before or after any marriage
- (i) preventing the family member from making or keeping connections with the member's family, friends or culture;
- (j) kidnapping, or depriving the liberty of, the family member, or any other person with whom the member has a family relationship;
- (k) distributing an intimate image of the family member without the family member's consent, or threatening to distribute the image;
- (l) causing any family member who is a child to be exposed to behaviour referred to in this section.



## FDV is common across Australian society

According to the Australian Bureau of Statistics (ABS), approximately one in six Australian women (17% or 2.6 million) have experienced violence by an intimate partner, compared to one in 16 men (6.1% or 0.5 million) (ABS, 2016). About 75 per cent of survivors report the perpetrator as male, compared to 25 per cent of male victim survivors who report the perpetrator as female (AIHW, 2018). More recent ABS data indicates that between 2014 and 2019, 34 per cent of sexual assault victims recorded by police were family and/or domestically related (ABS, 2021).

However, the real rates of FDV are estimated to be much higher as some people do not report victimisation. Research shows that certain types of FDV, such as abuse resulting in visible physical harm, is more likely to be reported (Birdsey & Snowball, 2013). This is likely to be a combination of the survivor's understanding that the incident constituted FDV and their perception that they are more likely to be believed. Other types of FDV, like sexual assault, are less frequently reported (AIHW, 2019A).

## FDV is a gendered issue

While both women and men can be survivors of FDV, women are considerably more likely to be victimised, while men are more likely to be the perpetrator. Between 2019 and September 2021, of all the adult custodial receptions into Western Australia for an FDV offence, 94 per cent were male. For young people, 100 per cent were male. Evidence has also shown that when women commit acts of FDV, it was often in the context of bi-directional violence, where they were both a victim and perpetrator (AIHW, 2019B). This can mean that some women can end up in prison for offences committed while perpetrating acts of FDV. Research also indicates that some survivors of FDV will 'resist violence perpetrated against them and try to protect themselves and their children, and/or seek help... utilising both covert and overt strategies' (Ombudsman WA, 2015).

This does not negate the fact that men and people in same sex relationships can be, and are, survivors of FDV, and that women can be perpetrators (AIHW, 2018). Furthermore, there are several factors that discourage men from reporting FDV, including a fear of not being believed, and a fear that they will appear less masculine (Huntly, et al., 2019).

The gender imbalance in FDV perpetration is reflected in government policy which acknowledges that gender inequality consistently predicts higher rates of violence against women (COAG, 2019). The Commonwealth Government recently released its Fourth Action Plan to Reduce Violence against Women and their Children (COAG, 2019). This policy stresses that FDV has an unequal impact on women and that both structural reform and individual measures are necessary to combat it.

Men who hold traditional, patriarchal views including highly rigid gender roles and 'hyper-masculinity', are more likely to commit acts of FDV (Campo & Tayton, 2015B). Studies have shown that a large proportion of FDV perpetrators are between 30 and 45 years old (AIHW, 2019B). This correlates to data from Western Australian prisons, which show that 86 per cent of people who were received into custody for FDV offences were under 45.

## FDV causes significant harm

FDV can cause physical, psychological, and financial harm to both survivors and witnesses. People exposed to FDV can experience depression, anxiety, and Post Traumatic Stress Disorder (PTSD) (Trevillion, Oram, Feder, & Howard, 2012). There is also a link between FDV and substance abuse, however the directionality of this relationship is still being understood (Rivera, et al., 2015). It is likely that the relationship is bi-directional in that substance abuse may precede FDV and that FDV victimisation can lead to abusing substances as a form of escapism (Rivera, et al., 2015).

FDV also contributes to a significant burden of disease, especially for women. The Australian Institute of Health and Welfare (AIHW) estimates the disability-adjusted life years (DALY's) for a range of factors. The AIHW defines DALY's as 'a measure of healthy life lost, either through premature death or living with disability due to illness or injury'. FDV collectively contributes to large number of DALY's. Nationally, in one year, 14,916 days were lost due to death or disability due to depressive disorders as a result from FDV (AIHW, 2015). Other examples include (AIHW, 2015):

- anxiety disorders (10,438 DALY)
- suicide and self-inflicted injuries (6,614 DALY)
- homicide and violence (2,416 DALY)
- alcohol use disorders (637 DALY)
- early pregnancy loss (57 DALY).

Nationally, 12 women and two men are hospitalised every day to FDV (COAG, 2019; AIHW, 2018). Women are also more likely (71%) to be victims of intimate partner homicide (AIC, 2021). When all types of FDV homicides are considered, women constitute 62 per cent of victims, but only make up 30 per cent of perpetrators. According to the ABS, almost half (48%) of all homicides and homicide related offences were FDV related (ABS, 2020).

This supports earlier research by the New South Wales Coroner's Court which examined 112 intimate partner domestic homicides between 2008 and 2016 (NSW Coroner's Court, 2020). The court found that:

- 85 per cent (95) involved homicides where male and female primary domestic violence victims were killed by their male intimate partner, the primary domestic violence abuser
- 14 per cent (16) involved homicides where a male primary domestic violence abuser was killed by a female primary domestic violence victim
- one homicide was perpetrated by a female who was both a domestic violence victim and abuser, against her male intimate partner, who was also a domestic violence victim and abuser (i.e. the violence went both ways).

## FDV against women and children is costly to both the individual and the economy

Violence against women and children cost the Australian economy an estimated \$22 billion in the 2015–2016 financial year (KMPG, 2016). Of this, victims and survivors bear over half of the total costs (\$11.3 billion) (KMPG, 2016). The estimated cost to Western Australia was \$2.82 billion. Women who experience violence can face several costs, including having to take time off work after a domestic violence incident to seek medical attention or having to replace damaged property.

However, certain groups, such as those experiencing homelessness, Aboriginal and Torres Strait Islander women, pregnant women and, women with disability are likely to be underrepresented in the financial figures. When these cohorts are included, a more accurate estimate of the financial impact is \$26 billion annually (KMPG, 2016). Of the more conservative \$22 billion, a large majority (47%) of the costs are associated with pain, suffering, and premature death.

**The COVID-19 pandemic has coincided with the onset of FDV and fuelled its prevalence**

Western Australia has been comparatively fortunate to avoid long term lockdowns like those experienced overseas, and in the Eastern states of Australia. However, the COVID-19 pandemic has had a considerable effect on daily life, including on FDV. Research has shown that COVID-19 has coincided with the onset of domestic violence for many women and fuelled the prevalence of FDV for others (AIC, 2020; Bright, Burton, & Kosky, 2020). This is likely due to a range of factors, including (Usher, Bhullar, Gyamfi, & Jackson, 2020):

- economic stress
- disaster-related instability
- reduced options for support.

A national study by the Australian Institute of Criminology found that of the women who had experienced previous domestic violence from their cohabiting partner, half said that the severity or frequency has increased since the pandemic began (AIC, 2020).

People who are trapped in their home, with the perpetrator of FDV, may be unable to contact friends, family, and other services. Isolation also allows physical signs of FDV, such as bruises, to go unnoticed. This further reduces opportunities for interventions in the form of social support. Similarly, children who experience violence may be unable to attend school during lockdowns. This reduces the likelihood of teachers picking up and reporting the abuse.

Further to this, alcohol sales increased 36 per cent when social distancing measures first came into effect (CBA, 2020). Locations where people typically drink, such as bars and pubs were closed. This meant that more people were drinking at home. The consumption of alcohol, and other substances, is a risk factor for FDV perpetration (AIC, 2020).

## IMPACT OF COVID-19 ON FDV

### SOCIAL ISOLATION

Survivors are unable to access support including from family, friends and service providers. They may be unable to call support lines if the perpetrator is at home with them.



### INCREASED ALCOHOL CONSUMPTION

Alcohol is often used as a coping mechanism in stressful situations. This is combined with the fact that bars and pubs were closed, resulting in people drinking at home.

### JOB LOSSES

Job loss is a risk factor for perpetration of FDV. This is due to a combination of economic insecurity and an increased amount of time spent together.



### INABILITY TO ESCAPE

During lockdowns people are unable to leave their homes. This puts them at greater risk of violence.

### FINANCIAL STRESS

With an increase in job losses, more people were under financial stress.



## Key findings

### Perpetrators of FDV are primarily identified by security measures, whereas survivors and witnesses are primarily identified through self-disclosure

Largely, perpetrators of FDV are identified by the Department of Justice (the Department) through a range of security measures, most of which hinge on proactive security practices. We found this to be good practice. However, the Department cannot identify long term trends of FDV perpetrators, as it has only been accurately collecting this information since 2019.

Reasonably, survivors and witnesses are identified if and, when they self-disclose. This highlights the importance of a trauma informed model of care and treating prisoners with respect and dignity.

### Prisoners face multiple barriers accessing FDV programs

People in custody are confronted by many challenges when accessing criminogenic treatment programs, including FDV programs. Barriers for adults include: delays in being assessed for those programs; not having sufficient program participants with the same need, at the same facility; and short sentences after spending a long time on remand (a period when they are ineligible for participation). These latter two issues are demonstrably worse in youth custody where the average daily population is low, and stays are short.

We also found that prisoners may be required to move to another facility to complete a treatment program, and that a Department-commissioned review of programs found few reached the threshold of meeting criminogenic needs. Furthermore, while the Department is aware that prisoners cannot access FDV programs, it does not routinely track the impact of not accessing programs on parole decisions.

### Other supports for perpetrators, survivors and witnesses of FDV are ad hoc

We found that the Department's Psychological Health Services were over stretched with over a third of prisoners across the state receiving support at high risk with long wait times and too few staff. Furthermore, we found that voluntary programs have a limited focus on FDV and that prisoners feel they cannot access the Aboriginal Visitor Scheme for support. Most prisoners said that chaplains and peer support officers would help them.

## Conclusion

People in custody are more likely to have histories of exposure to FDV, either as perpetrators, survivors or witnesses, or a combination of the three. Some populations that have an increased risk of exposure to FDV, also have higher rates of incarceration. This includes Aboriginal Australians, especially Aboriginal women, people who come from socially disadvantaged backgrounds, and people with disability.

It is incumbent on the Department to provide treatment programs to perpetrators of FDV offences, to reduce both recidivism and future harm to the community. It is also crucial that the Department provides other supports, including psychological services, to perpetrators, survivors and witnesses.

## Recommendations

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## Introduction - Some groups are at greater risk of experiencing FDV

Some groups of people are more likely to experience FDV and many of these groups have an increased risk of imprisonment or detention. Aboriginal Australians, especially Aboriginal women are at greater risk. Children are particularly vulnerable to FDV and exposure may lead to lifelong social, psychological, and physical issues. Younger women, people with disability, CALD groups, and members of the LGBTIQ+ community are also all at a greater risk of FDV. Furthermore, those living in rural and remote communities and women who are in the process of separating or are pregnant have a higher risk of FDV victimisation.

The brief overview presented in this introduction is not an exhaustive examination of the FDV literature and serves only to provide a broad summary to the reader.

### Aboriginal Australians are at greater risk of FDV victimisation

Aboriginal women are considerably more likely to experience FDV than non-Aboriginal women (Cheers, et al., 2016). Research indicates Aboriginal women are 32 times more likely to be hospitalised as a result of an FDV assault, and they are twice as likely to be victims of partner homicides compared to non-Aboriginal women while hospitalisation rates increase with remoteness (AIHW, 2018). Aboriginal women who are survivors of FDV may lose self-esteem, and inner strength. Furthermore, they may feel 'shame' by the violence which can further weaken their spirit (Cheers, et al., 2016).



There has been a strong push to focus on this disproportionality and call it to account. On November 25, 2021 Federal Parliament announced a senate Inquiry into deaths and disappearances of First Nation women and children (Parliament of Australia, 2021). The Terms of Reference for the Inquiry include:

... (d) the systemic causes of all forms of violence - including sexual violence - against First Nations women and children, including underlying social, economic, cultural, institutional and historical causes contributing to the ongoing violence and particular vulnerabilities of First Nations women and children (Parliament of Australia, 2021).

### Children are at an increased risk of developing issues after experiencing or witnessing FDV

FDV can become a cycle. Children who witness or are direct survivors of FDV are at a greater risk of developing a range of social, physical, and psychological issues (Ruddle, Afroditi, & Vasquez, 2017; Mueller & Tronick, 2019). These include difficulty regulating emotions (Ruddle, Afroditi, & Vasquez, 2017), a greater likelihood of hospitalisation (Orr, Fisher, Preen, Glauert, & O'Donnell, 2020) and an increased rate of mental health issues in adulthood (Campo, 2015). Exposure to FDV in childhood is one of the most prevalent predictors for FDV perpetration and further victimisation in later life

(Ruddle, Afroditi, & Vasquez, 2017). However, it is important to note that many people who come from homes marred by FDV go on to live lives that are violence free and 'break the cycle' of FDV.



It is estimated that almost half (49%) of female survivors of FDV had children in their care at the time of their assault (ABS, 2016). Pre-school children are the most vulnerable age group, due to the amount of time they spend in the home (Orr, Fisher, Preen, Glauert, & O'Donnell, 2020). Younger women are more likely to experience FDV compared to older women (AIHW, 2018).

### Socio-economically disadvantaged groups face additional barriers leaving violent relationships

While FDV can affect people from all backgrounds, people who come from low socio-economic backgrounds are at an increased risk of FDV (AIHW, 2018). An Australian longitudinal study of Aboriginal and Torres Strait Islander families found that 20 per cent of mothers who experienced hardship reported violence, compared with just over 11 per cent of mothers who experienced little or no hardship (Bennetts Kneebone, 2015).



Economic insecurity and low levels of educational attainment may also be a barrier for survivors leaving violent relationships. These people may have more difficulty attaining employment and economic security. Nationally, more than half of adult prisoner entrants researched by the AIHW reported that they were unemployed in the 30 days prior to being imprisoned (AIHW, 2019C).

Men were more likely than women to be in paid employment before entering custody (AIHW, 2019C).

### People with disability face difficulties in reporting FDV

People with disability are at a greater risk of domestic violence. Evidence suggests that people with disability, or long-term health conditions, are twice as likely to have experienced violence from a current or former partner (AIHW, 2018). People with disability may be financially and physically dependent on their partner, and as such may fear greater repercussions if they were to report FDV. Furthermore, it may be more difficult for people with disability to report incidences of FDV, especially if the person has difficulty communicating or has an intellectual disability (Khalifeh, Howard, Osborn, Moran, & Johnson, 2013). Victimization rates among people with severe mental illnesses are substantially higher than the general population (Khalifeh, et al., 2015).



## Culturally and linguistically diverse people face unique barriers

People who come from culturally and linguistically diverse (CALD) backgrounds are at a greater risk of FDV (Ghafournia & Easteal, 2018). Furthermore, the types of abuse CALD people experience may differ to other members of the community, including abuse related to the immigration and settlement process (Ghafournia & Easteal, 2018). Survivors may fear seeking external support, if their abusive partner or family member threatens their immigration status in Australia. Adding to this, members of the CALD community who do not have the linguistic or occupational skills to gain employment may be economically dependent on the perpetrator of the abuse (Ghafournia & Easteal, 2018). This is made worse as people waiting for permanent residency are ineligible for government payments and public housing, and in some circumstances, their employment options may be limited.



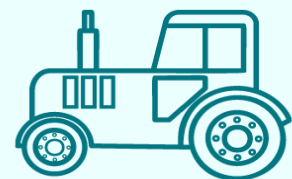
### **CALD groups may fear speaking to police**

People who are new to Australia may not have strong social networks, including friends and family, which is another risk factor for FDV victimisation (Ghafournia & Easteal, 2018). While a lack of knowledge on the laws around FDV and a person's rights may also increase their vulnerability (Ghafournia & Easteal, 2018). People from CALD backgrounds may also have a fear of authorities. This can be compounded by experiences of discrimination and racism which can deter people from accessing services, including police (Ghafournia & Easteal, 2018).

## People who live in rural and remote locations can struggle to access FDV support services

People, especially women, who live in regional and remote areas are at an increased risk of domestic violence (Campo & Tayton, 2015B). According to the Australian Bureau of Statistics, 21 per cent of women living outside of capital cities have experienced intimate partner violence, compared to 15 per cent of women who live in a capital city (ABS, 2013). A number of reasons have been identified as contributing to an increased risk of FDV, as well as factors that prevent FDV survivors reporting abuse (Campo & Tayton, 2015B):

- Traditional patriarchal family structures and rigid gender norms, including 'hyper-masculinity'.
- Belief that people should be stoic and self-reliant, and that 'family matters' should be private.
- 'Small town gossip' where neighbours know one another intimately and may discuss others' personal lives. This is compounded by the likelihood that professionals, such as police and social workers, know both the survivor and the perpetrator.
- Community members may stand by perpetrators of FDV, especially if they are of 'high standing' in the community.
- Limited employment opportunities for survivors of FDV, increasing economic reliance on the perpetrator.
- Social and geographical isolation from services, which can also be used as a form of control by the perpetrator.
- High rates of gun ownership.



### **People living in rural areas may have limited access to services**



## Women who are separating from their partner or are pregnant are at an increased risk of FDV

The Australian National Research Organisation for Women's Safety note that 'violence often begins when women are pregnant, and when previously occurring, it often escalates in frequency and severity' (ANROWS, 2018) indicating that pregnant women are at an increased risk of FDV (Finnbogadóttir, Dykes, & Wann-Hasson, 2016). Evidence shows that men who commit violence against pregnant women are more likely to hold rigid beliefs about gender roles, which promote the idea that a man should have control over the woman. These include common beliefs such as:

- 'men should control and dominate the relationship'
- 'women should perform domestic duties'
- women 'should always be emotionally and physically available to men' (Campo, 2015A, p. 2).

Men who commit acts of FDV while their current or former partner is pregnant, may dislike that the woman may be less physically and emotionally available and may be focused on their unborn child (Campo, 2015A).

Pregnancy, and the time after delivery, may 'limit a perpetrator's assumed entitlement and free access to his partner's body' (Campo, 2015A, p. 3). This perceived lack of control may lead to an escalation of violence.



The strongest predictor of FDV during pregnancy is a previous history of FDV victimisation (Finnbogadóttir, Dykes, & Wann-Hasson, 2016). Other risk factors include low educational status (3.1 times more likely), women in financial distress (3.7 times more likely), and unintended pregnancy (2.8 times). For the unborn child, FDV during pregnancy can have dire consequences, including higher rates of morbidity and mortality, low birth weight, and premature birth (Finnbogadóttir, Dykes, & Wann-Hasson, 2016).

Women who are in the process of separating from their partners are also at an increased risk of FDV. Again, this is likely to stem from a perceived lack of control by the perpetrator (Campo, 2015A). Leaving a violent relationship does not always stop the violence and may increase the risk to the woman and any children (Logan & Walker, 2004).

## LGBTIQ+ people's fear of discrimination from police and services may deter reporting of FDV

Evidence suggests that people in LGBTIQ+ relationships experience domestic violence rates similar to people in heterosexual relationships. However, they can face significant challenges in reporting and accessing services (Campo & Tayton, 2015C). Homophobic and transphobic beliefs, as well as a lack of knowledge by service providers, including medical professionals, can compound this issue (Campo & Tayton, 2015C). Furthermore, some members of LGBTIQ+ community may also fear potential responses by police, especially if they have had negative experiences in the past.



**Homophobic and transphobic beliefs may deter people reporting FDV**

Members of the LGBTIQ+ community may also experience FDV in different ways to cisgender and heterosexual people. For example, some individuals may fear their abuser disclosing information such as their sexuality or trans status to others, especially if they are not 'out' about this information (Taylor, Fraser, & Riggs, 2019). This may prevent them from seeking help or leaving the relationship.

# 1 Departmental identification of FDV perpetrators and survivors is primarily through security measures

In custody, perpetrators of FDV are identified primarily through security measures. However, neither our office or the Department of Justice (the Department) can identify long term trends in the prison population data, as the Department has only been accurately collecting this information since 2019. Survivors and witnesses may self-disclose their exposure to FDV. However, it is imperative that prisoners feel supported in this process, otherwise the Department may miss crucial opportunities to identify and provide services to these prisoners.

## 1.1 A history of FDV is common in prison populations, but the Department does not have long-term data

People in custody are more likely to have histories marred by FDV, either as perpetrators, survivors or witnesses, or a combination of the three. Consistent with the literature, data provided by the Department, between 2019 to September 2021 demonstrates that men are vastly overrepresented as perpetrators of FDV, making up 94 per cent of all adult FDV perpetrators. Aboriginal men had a higher rate of FDV offences compared to non-Aboriginal men, 0.40 and 0.18 respectively. Similarly, Aboriginal women were more likely to be received into custody for FDV offences compared to non-Aboriginal women, 0.23 and 0.07 respectively.

Table 1 Number of receptions into custody for an FDV offence, 2019–2021 (Oct 1)

	2019	2020	2021 (Oct 1)	Total	DAP	Rate (compared to DAP)
Female	40	41	19	100	702	0.14
Aboriginal	30	31	13	74	325	0.23
Non-Aboriginal	10	10	6	26	377	0.07
Male	663	682	353	1,698	6,110	0.28
Aboriginal	351	399	198	948	2,366	0.40
Non-Aboriginal	312	283	155	750	3,745	0.18

Data provided by the Department showed that since 2019 the most common FDV offences for prisoners were assaults, unlawful wounding, and breaches of Family Violence Restraining Orders (FVRO's). The top three male offences constituted 45 per cent of all male FDV offences, whereas the top three female offences constituted 39 per cent of all female FDV offences. A breakdown is provided below.

Table 2 Top three FDV offences for men, 2019–2021 (Oct 1)

Offence type	Aboriginal	Non-Aboriginal	Total
Unlawfully assault and thereby did bodily harm with circumstances of aggravation	278	127	405
Common assault in circumstances of aggravation or racial aggravation	139	86	225
Breach FVRO or Violence Restraining Order (VRO)	47	86	133

Table 3 Top three FDV offences at reception for women, 2019–2021 (Oct 1)

Offence type	Aboriginal	Non-Aboriginal	Total
Breach of FVRO or VRO	13	2	15
Unlawful wounding in circumstances of aggravation	9	1	10
Unlawfully assault and thereby did bodily harm with circumstances of aggravation	5	4	9

In the youth custodial estate, all perpetrators since 2019 were male. The most common FDV offences for young people were:

- common assault in circumstances of aggravation or racial aggravation (8 instances)
- unlawfully assault and thereby did bodily harm with circumstances of aggravation (7 instances)
- carried (possessed) an article with intent to cause fear that someone will be injured or disabled (3 instances).

Four of these young people had a FVRO.

However, these statistics do not represent the true extent of FDV as it is considerably underreported (Gracia, 2004) and these numbers only represent people received into custody. The accurate recording of FDV is dependent on a number of factors, including:

- the survivor's perception of what constitutes FDV
- the survivor's willingness to report the FDV
- how and to whom survivors report their experience of FDV to.

This should not be taken to suggest that there is a passive acceptance of underreporting.

### Departmental data now accurately recorded

We asked the Department to provide us with the details of the people who have been received into both adult and youth custody for any FDV offence for the past ten years. The Department informed us that it could only provide this information from 2019 onwards because data before this time was unreliable. The Department explained that prior to February 2019 data entry on FDV perpetration was manual and relied on being 'obtained inconsistently from various sources... [including]

- prisoners being willing to self-disclose they were victims or perpetrators of FDV
- information sharing between agencies, including WA Police and the Department of Communities
- the Department's own support services (e.g. Victim Mediation Unit) which are voluntary.'

In its response to the draft version of this report, the Department claimed that despite these barriers, the data on FDV perpetration has always been extractable, but it was not accurate. Without accurate long-term data it is difficult for us to identify long term or shifting trends, and to conduct any further analysis to determine any key findings unique to Western Australia. While this may be frustrating for us, of greater concern is that without this information, the Department cannot conduct its own trend analysis nor forward plan in a systemic manner for these offenders' needs. Since 1 February 2019, FDV data has been automated between the Department's offender database and Integrated Court Management System. Maintaining this data sharing functionality is imperative for future planning.

### Recommendation 1 – Maintain readily extractable data on FDV perpetration

#### 1.2 Perpetrators of FDV are well identified through security measures

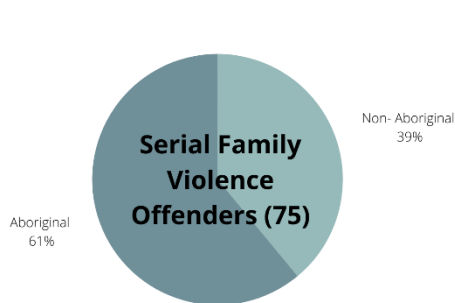
We asked the Department how they identify prisoners who have a history of FDV, when it is not the reason they are currently in custody. The Department identified the most common methods as via:

- alerts for court ordered instructions (i.e. FVRO/VRO, Declared Serial Family Violence Offender), which are auto-generated in the offender database for the duration the orders are active
- treatment assessment reports which identify program needs for addressing family violence
- review of court warrants and protective bail conditions during a person’s reception into custody
- review of prior custodial history information held within the offender database (i.e. offender notes, case management minutes, assessment checklists etc.).

Most of these mechanisms hinge on proactive security practices. And while the Department stated that it does not flag offenders who are in custody for non-FDV offences, a prisoner’s offending history will always be considered when determining their placement, clinical intervention, and educational need. This is good practice. Overall, these methods for identifying perpetrators of FDV, and for ensuring that the cohort is eligible for the correct interventions, like programs, appear thorough.

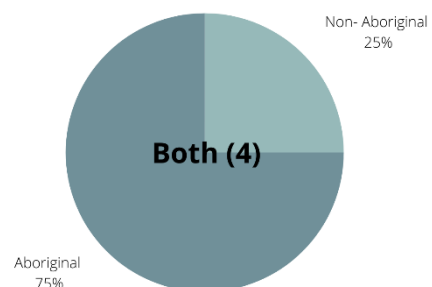
### Recent changes to legislation have strengthened FDV laws

In June 2020, the Western Australian Parliament passed the *Family Violence Legislation Reform Bill 2019*. This legislation introduced two new criminal offences; a specific offence for suffocation and strangulation, and an offence of persistent family violence. A person who commits an act of suffocation and strangulation can face up to seven years of imprisonment and a financial penalty up to \$36,000. Persistent family violence occurs when a person commits family violence against the same person, on at least three occasions, on different days, within a 10-year period. The penalties for this offence include up to 14 years imprisonment and a financial penalty up to \$36,000.



Furthermore, changes to the *Sentencing Act 1995*, in 2020, introduced the Serial Family Violence Offender (SFVO) declaration. The Court can declare a person a SFVO if they meet the criteria set out in the legislation. This is not a criminal charge but can impact their bail and post-release options.

As of 25 October 2021, 28 prisoners had been charged with Persistent Family Violence, 75 prisoners had an alert for an SFVO declaration, and four prisoners had both. All people who were convicted of persistent family violence or were a declared SFVO were male and a large proportion were Aboriginal.



### 1.3 Survivors and witnesses of FDV are primarily identified through self-disclosure

Survivors and witnesses of FDV are primarily identified through self-disclosure. This can occur at several different times, including during the reception intake process, in the treatment assessment

process, or during appointments with external service providers. Self-disclosure of FDV victimisation can also assist support services in safety planning with the prisoner, prior to release. This may include considerations around accommodation options.

It is crucial that all people in custody are treated with respect and dignity. This is even more so for people who have experienced FDV. Survivors and witnesses are more likely to self-disclose if they feel supported and feel that their disclosure will lead to the provision of services. A trauma informed model of care, especially in the female estate, where exposure to FDV is disproportionately high is essential in making prisoners feel safe and supported enough to disclose. If prisoners do not feel supported enough to make these disclosures, the Department may miss opportunities to provide services to a 'captured audience'. These services may reduce risks of self-harm and suicide, may reduce re-offending, and psycho-education may assist prisoners in choosing healthy relationships once they leave custody.

The Department introduced a Women's Standard in 2016, which acknowledges that women prisoners are distinct from male offenders and have distinct needs. The Women's Standard recognises that many women entering custody come from backgrounds of victimisation. It states that women should be treated in a 'trauma informed manner' and limits the use of strip searching to situations where the risk cannot be adequately managed by any other means. Furthermore, the standard ensures that 'prisoners have access to counselling, particularly those women who have suffered abuse, domestic violence or bereavement' (DCS, 2016). These principles are echoed in our own revised standards for adult custodial services (OICS, 2020A).

## 2 Prisoners face multiple barriers accessing FDV programs

Prisoners face a range of issues accessing criminogenic programs, including FDV programs. These include being assessed for programs in a timely manner, prisoners spending long periods on remand and hence being ineligible for programs, and prisoners refusing to participate or refusing to transfer to another facility to participate in programs. While the Department is aware of these barriers, there has been little done to resolve these issues and increase the uptake among FDV offenders.

### 2.1 Prisoners are still not being assessed in a timely manner

Prisoners can only participate in a criminogenic treatment programs if they have been assessed with an identified need and have had an Individual Management Plan (IMP) developed for their time in custody. Only prisoners who are sentenced to a backdated sentence of six months or more are eligible to complete criminogenic programs. Once sentenced, departmental policy requires a prisoner's IMP to be completed within six weeks.

However, in the last several years there has been a large backlog of treatment assessments and IMP's. Since 2019, the Department has invested considerable resources in reducing that backlog. Initially this resulted in a reduction, however there was no improvement in the last financial year in part due to significant staff absences and vacancies, due to leave, training, and redeployments. For example, in June 2021 there were 1,003.45 hours of lost production for assessments and IMP's which meant the number of outstanding IMPs was 459 (DoJ, 2021A).

Table 4 Number of outstanding Treatment Assessments and IMP's (2019–2021)

	July 2019	July 2020	July 2021*	Overall % difference (July 2019 – July 2021)	Annual % difference (July 2020 – July 2021)
Outstanding/overdue treatment assessments	710	368	387	-54.5%	5.2%
Overdue IMPs	1,079	485	459	-42.5	-5.4

\* An additional 193 prisoners still require an initial IMP within the six weeks.

By December 2021 this number of outstanding IMPs had increased by almost 100 to 554. In its response to the draft version of this report, the Department argued that this equated to approximately 13 per cent of eligible sentenced prisoners who have not had their programmatic needs identified. We argue that the Department ought not to lose sight of these numbers as just data. This is 554 men and women in custody unable to get the rehabilitative programs they need to successfully re-join society. Furthermore, this is a sizeable proportion of the prison population despite the years of additional departmental investment.

In its response the Department also highlighted the impact COVID-19 has had on the IMP process. While we acknowledge this may be the case, we also know that the backlog well preceded the pandemic.

The delays in assessments and IMPs clearly disadvantage prisoners who receive short sentences. In particular, Aboriginal prisoners are at considerable disadvantage as, on average, they tend to serve shorter sentences compared to their non-Aboriginal counterparts (Tyler, 2019).

Almost one in three prisoners (35%) return to custody (DOJ, 2021B). If the Department is serious about reducing this recidivism rate, prisoners need to be assessed in a timely manner to ensure as many prisoners as possible can access criminogenic programs. The Department acknowledges this, stating:

‘When a prisoner is released with outstanding treatment needs due to lack of assessment and subsequent treatment they are at a further risk of reoffending and thereby impacting on community safety (DoJ, 2021C).

**Recommendation 2 – Ensure the timely completion of treatment assessments and Individual Management Plans**

**2.2 Longer remand periods and short sentences make program delivery difficult**

Prisoners on remand cannot access criminogenic programs. This is because they have not yet been convicted of a crime and are presumed innocent. Since 2016, the average number of days prisoners spend on remand has increased by 25 days in the male estate, and by 26 days in the female estate. Additionally, when a prisoner is sentenced, courts may consider time already served as contributing to the overall sentence value. This means that prisoners may not serve any time or only a short time after they are sentenced, if they have had a lengthy remand period. This limits the opportunity for them to be assessed and complete the criminogenic programs they have a demonstrated need for.

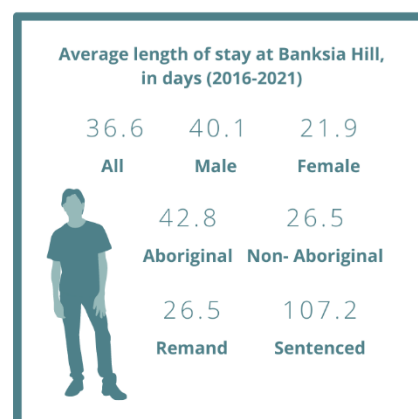
Table 5 Average length of stay male and female adult estate (2016-2021)

Financial year	Male estate		Female estate	
	Average remand days	Max remand days	Average remand days	Max remand days
2016–2017	74	1,998	52	888
2017–2018	88	1,129	57	784
2018–2019	94	902	64	717
2019–2020	93	1,308	64	790
2020–2021	99	1,358	78	1,327

A representative from the Department stated that short sentences were the main barrier prisoners face accessing criminogenic programs. We were advised that sentences need to be long enough to allow for the assessment period and to complete the program before their earliest release date, and this was often not the case.

**Challenges associated with short sentences are exacerbated in the youth custodial estate**

Banksia Hill Detention Centre has a relatively low average daily population. Between January 1, 2020 and September 30, 2021, the average daily population at Banksia Hill was 105 detainees, considerably less than previous years. Between 2017 and 2019, the facility had a daily average population of 136 detainees. This low population makes it difficult for the centre to deliver group format programs, as there may not be enough young people needing a particular program in custody at the same time. This is compounded by the fact that young people spend considerably less time in custody than those in adult prisons. The average length of stay for a young person at Banksia Hill is only 37 days.





This makes it difficult to deliver group format programs in such a short time frame. This is even more difficult for female detainees whose average length of stay is only 22 days.

A representative from Banksia Hill informed us that due to the cohort, and particularly the low numbers, they cannot schedule programs in advance. Instead, they look at the waitlist for the program and when there are enough young people waitlisted, the program commences. While this may be a practical option, it may result in some young people missing out.

We acknowledge these challenges but taken together they beg the question – why has the Department locked itself into delivering group format programs to young people when there are not enough young people to participate? Banksia Hill has a responsibility to ensure youth detainees get adequate access to rehabilitative supports, including programs, in order to ensure young people, have every chance at successful reintegration. The barriers presented by group format programs cannot restrict this responsibility from becoming an actuality.

Like adults, only young people who have been sentenced can access criminogenic programs. Detainees who have a history of FDV perpetration can access an FDV program even when this is not the reason for their detention. However, since 2017, on average only 11 male detainees per year have completed one of the two FDV programs offered at Banksia Hill (Healthy Relationships). There are no programs available for female perpetrators of FDV.

Table 6 Summary of perpetrator FDV programs at Banksia Hill (since 2017)

	Healthy relationships	Disrupting Family Violence
Who runs the program	Department of Justice	Never run
Who is the program designed for	Adolescent males who engage in FDV against intimate partners	Adolescent males who engage in FDV against family members and intimate partners
Program length	10 sessions (2 x 1.5-hour sessions per week)	42 sessions (3 sessions over 14 weeks)
Times program has run	10	-
Started the program	61	-
Completed the program	54	-
Completion rate	89%	-

A representative from Banksia Hill, told us of their long-term goal to make programs modular. This would allow a detainee who is in custody on a short sentence, to complete one or more modules of the program in custody, and then finish the program either in the community or resume the program if they were to return to custody again. This approach would allow the program to fit the needs of the detainee, rather than making the detainee fit the program.

This model has been successfully adopted by New South Wales adult custodial facilities (Corrective Services NSW, 2020). And the Department’s own review into criminogenic programs recommended that the Department consider ‘shifting to modularised and rolling programs’ (Tyler, 2019).

**Recommendation 3** – Investigate the possibility of modularising FDV programs, and criminogenic programs more broadly, for adults and young people in custody

## The Department's purchase of a non-viable program demonstrates a limited understanding of their cohort and poor fiscal responsibility

The Department currently has two approved FDV perpetrator programs at Banksia Hill; Healthy Relationships and Disrupting Family Violence. While the Disrupting Family Violence program was purchased over two years ago, it has never run at the centre due to insufficient numbers and the length of the program. The Department advised us it spent \$10,000 on the Disrupting Family Violence program. But from the outset, it had very little viability of running in the youth custodial estate given the average stay for male detainees is 40 days and the minimum time to complete the program is 98 days. These factors ought to have been known prior to purchasing the program.

Despite requests from our office, the Department has been unable to provide any evidence of research, viability reports, or business cases to support the program's purchase. Given it has now been over two years without a single young person benefitting from the program, it can only be considered a waste of public funds.

### 2.3 Some prisoners refuse to participate in programs, in part because they are required to move facilities

For a program to be viable, there usually needs to be between seven and 12 prisoners voluntarily enrolled, depending on the program. The voluntary nature of participation, in part, goes towards establishing a prisoner's motivation for change. The alternative is that some prisoners refuse to participate in criminogenic programs, which is within their rights.

Further to this, different prisons run different programs, depending on the average needs of the cohort. This means some prisoners are required to transfer to another facility in order to access their programmatic needs. Data from 2020 showed that 66 per cent of all program bookings required the prisoner to transfer. When examining only family violence programs, this equated to 63 per cent of programs. This is a considerable proportion of prisoners.

As acknowledged by a departmental representative, moving to another prison can pose a significant barrier to many prisoners, and for that reason, some chose not to complete their programs, potentially forgoing any opportunities for parole. Engaging in a program can be challenging as prisoners are required to be vulnerable and explore the factors that lead to their offending and imprisonment. This is likely to be difficult and is only made more so when people are moved away from their support systems. For some this may be as simple as being in an unfamiliar environment. For others like Aboriginal prisoners, they may be moved off country and feel culturally unsafe.

This issue is not new, and for too long the Department has failed to deliver programs that accommodate their populations, both geographically and culturally. This has been highlighted in several inspection reports, including at West Kimberley Regional Prison and Eastern Goldfields Regional Prison, where female prisoners (predominantly Aboriginal women), have no option but to move off country to access criminogenic programs (OICS, 2020B; OICS, 2021B).

## 2.4 Few programs address criminogenic needs

The aim of our review is not to examine program efficacy, but rather prisoners' access to programs. However, it is imperative that once prisoners access a program, that the program meets their criminogenic needs. This is crucial in reducing the return to custody rate. Running programs that do not demonstrate efficacy is not only costly to the state but may reduce community safety.

In April 2018, the Department initiated a review into the current suite of programs. The evaluation aimed to ensure the suite of criminogenic programs available are contemporary and meet the needs of the prisoner cohort (Tyler, 2019). This review found that only four of the 18 criminogenic programs run by the Department reached the threshold of meeting criminogenic needs. These four programs were the:

- Medium Intensity Program for General Offending
- Not Our Way Aboriginal Family Violence Program (NOW)
- Stopping Family Violence Program (SFV)
- Choice, Change, and Consequences Program (CCC).

However, data showed that the SFV program did not meet the threshold necessary for program fidelity or integrity. Program fidelity refers to the extent a program adheres to the original model, whereas program integrity refers to the extent a program has been delivered. These elements are crucial in delivering programs that produce positive results. The author of the Department-initiated review also noted that there was not enough data to determine if another program (Connect and Respect) met the criminogenic needs of the cohort.

Although this review was conducted in 2019, as of November 2021, the report was still in draft awaiting endorsement by the Department's senior executive. This means there has not yet been a commitment made to implementing any of the 20 recommendations. One of the review's recommendations was to 'keep on delivering programs that have integrity and are demonstrating results, while looking to new options for others' (Tyler, 2019). We endorse this unequivocally.

### **Recommendation 4 – Ensure criminogenic programs that are delivered demonstrate efficacy**

Acacia Prison provided our Office with one review into programs; the Dawson Ruhl Review (Stopping Family Violence Inc., 2018). The aim of this review was to evaluate the FDV program provided by OutCare. The review found that when assessed against the current Western Australian practice standards for Perpetrator Intervention, of the 29 standards; 12 were met, 5 were partially met and 12 were not met. While it is promising that over half of the standards were either met or partially met, there is still room for improvement.

## 2.5 The Department is aware that prisoners cannot access FDV programs

Prisoners report issues around accessing criminogenic programs, including those who had identified needs around perpetration of FDV. In speaking with prisoners, many were anxious that not completing criminogenic programs could affect their likelihood of being granted parole. This is despite the fact, that for some prisoners, this is out of their control. Prisoners report these complaints and concerns to the Department's ACCESS system as well as to Independent Visitors.

## Several recommendations about the unavailability of programs and need for adequate throughcare

Our Office has previously made comment on the limited availability of programs (OICS, 2021C; OICS, 2021D; OICS, 2021B; OICS, 2020B; OICS, 2019). A breakdown of our recommendations from the previous four years are outlined in the table below. Four of these recommendations were supported (one of which the Department claimed was an existing initiative) while the remaining two were not supported.

Table 7 OICS recommendations relating to programs and throughcare (2018– Sept 2021)

Year	Facility	Recommendation	Department response
2021	Banksia Hill Detention Centre	Develop and implement a strategic management plan to guide the delivery of appropriate services for girls at Banksia Hill.	Supported
2021	Bunbury Regional Prison	Provide adequate training and support for all programs staff to ensure confidence in, and the integrity of, the programs being delivered	Supported
2021	West Kimberley Regional Prison	Develop and deliver culturally appropriate offender treatment programs for men and women at WKRP	Supported
2021	Eastern Goldfields Regional Prison	Ensure that treatment assessments are undertaken in person rather than over the phone.	Not supported
2020	Bandyup Women's Prison	Revise program delivery methods and extend program delivery for women in custody.	Not supported
2018	Acacia Prison	The Department must ensure that all through-care services are provided to prisoners released from Acacia.	Supported - existing Department initiative

## Internal complaints highlight prisoners limited access to programs

The Department received 104 complaints relating to programs through its internal complaints' mechanism, ACCESS, between 2019 to 2021. Almost three out of every five complaints related to the lack of availability of programs (61). This primarily related to programs being cancelled, rescheduled or withdrawn. This category also relates to prisoners having unmet treatment needs. An overview of the complaints received is outlined in the table below.

Table 8 ACCESS complaints for programs (2019–Sept 2021)

Category	No. of complaints	Reasons for complaints
Lack of availability	61	<ul style="list-style-type: none"> <li>• Programs cancelled</li> <li>• Programs taking longer than originally scheduled</li> <li>• Programs re-scheduled</li> <li>• Programs withdrawn</li> <li>• Delays with treatment assessments</li> <li>• Unmet treatment needs</li> </ul>
Removal of courses	16	<ul style="list-style-type: none"> <li>• Removed from course due to:</li> <li>• No engagement / unpreparedness</li> <li>• Immigration status</li> <li>• Release date prior to end of course</li> <li>• Transfers</li> <li>• Poor attendance</li> <li>• Medical issues</li> </ul>
Timeliness of course commencement	15	<ul style="list-style-type: none"> <li>• Delays with treatment assessments</li> <li>• No psychological assessment</li> <li>• Delays with enrolment (11 of 15)</li> </ul>
Course structure	12	<ul style="list-style-type: none"> <li>• Conflict with facilitators</li> <li>• Lack of culturally appropriate content</li> <li>• Disagreement with recommended courses</li> <li>• Disagreement with program completion reports/evaluations</li> <li>• General queries regarding treatment courses.</li> </ul>
Total	104	

## Prisoners report an inability to access programs to Independent Visitors

Through our administration of the Independent Visitor (IV) Service, our Office has also recorded 116 complaints related to prisoners' inability to access treatment programs (between 2019 and July 30, 2021). A number of these relate to concerns about their unmet treatment needs affecting their ability to be paroled. For example, in April of 2019, two prisoners at Broome Regional Prison told the IV that they were unable to access programs for FDV and substance abuse. These prisoners stated that this resulted in their parole being denied.

Other prisoners have reported that they are unable to be assessed for treatment programs before their parole hearing, let alone complete the required program. For example, in 2020, a prisoner at Bunbury Regional Prison told the IV that his parole hearing was in two months. However, he had not been assessed and therefore had not commenced nor completed any programs. Women at Bandyup Women's Prison also reported delays in getting onto a program, with some prisoners reportedly waiting 12 months to get onto a course. Overwhelmingly, the prisons' responses to these complaints was there was nothing they could do as programs were managed by the Department's head office.

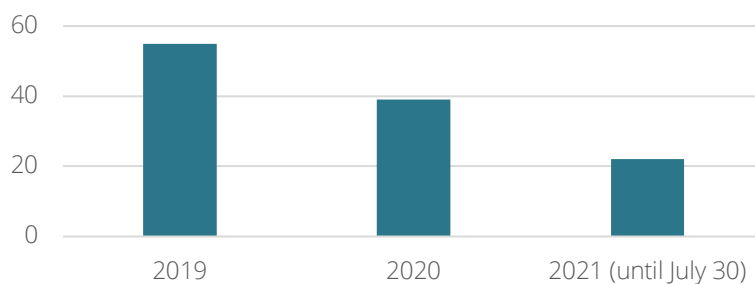


Figure 1 Number of IV complaints for programs (2019–Sept 2021)

It is important to note that due to the COVID-19 pandemic, IV's chose not to visit prison facilities between April and June 2020, and during lockdowns in February 2021, April 2021, and June 2021. This is likely the reason for the reduction in complaints, especially in 2020.

## The Department is unaware of the extent of the impacts of not accessing FDV treatment programs on parole decisions

Prisoners who do not complete their recommended criminogenic programs may be disadvantaged when they are assessed for parole. This is because their criminogenic behaviours have not been addressed. Prisoners across the estate have expressed this sentiment to our office.

At a recent inspection of Acacia Prison, a prisoner told us that they were denied parole for unmet treatment needs. They had been sentenced in February 2021, but only received their IMP the day after their parole hearing, in mid-October 2021. The prisoner informed us that he had done multiple voluntary programs to address his offending behaviour, however; this was not enough.

ReSet is a contracted service provider for the Department. It is a consortium of four agencies; Centrecare, Wirrpanda Foundation, St Bartholomew's House and Wungening Aboriginal Corporation. The consortium provides a wide range of programs and services to metropolitan prisons.

Representatives from ReSet stated prisoners often expressed their concerns, that they will be denied parole because they are unable to address their criminogenic needs through programs. This contradicts the Department's own mandate to rehabilitate prisoners.

In its response to the draft version of this report, the Department advised us that it was aware and accepts there are gaps in the service delivery of programs. However, it highlighted that there are difficulties and challenges in providing adequate access to effective programs which are viable and culturally appropriate across the state, not just in the metropolitan area serviced by ReSet. This includes attempting to overcome a lack of facilitators, particularly in regional areas where recruitment and retention issues are prevalent.

We accept these challenges and that parole decisions are complex, case based, and consider a myriad of factors, one of which will no doubt be unmet treatment needs. However, the Department is unaware as to how often this is occurring as they do not track the reasons for people's parole denial. When we queried this further with the Department, we were told that this information does not improve the outcome for the individual whose parole was denied.

This individualistic perspective fails to consider the benefits in identifying trends across the custodial estate, such as highlighting areas for targeted resourcing or adaptive methodologies. Additionally, the average annual expense of keeping a person in custody is \$128,115 (DoJ, 2021D). Given this, it would be in the Department's best interests to maximise the opportunity for prisoners to access parole at the earliest possible time. For these reasons, this is a blind spot for the Department that needs immediate attention.

#### **Recommendation 5 – Track reason for parole denial**

In responding to the draft version of this report, the Department advised that in 2018 it identified low rates of parole as a missed opportunity to assist offenders to safely reintegrate back into the community. The Department examined a range of options aimed at increasing appropriate prisoners' access to supervised early release, including parole and re-entry release orders:

As part of this work, the Department undertook an analysis of reasons for prisoners' parole denial between 2010 and 2018, and an examination of factors that may increase prisoners' suitability for parole. As a result of this work, the Department proposed that the PiP Program [Parole In-reach Program] be implemented to increase the number of prisoners who are considered suitable for release on parole and at the same time reduce their likelihood of reoffending.

PiP has been established to increase the number of Alcohol and Other Drugs (AOD) and FDV offenders who are considered suitable for release on parole by the Prisoners Review Board and at the same time reduce their likelihood of reoffending in the community. PiP is being piloted over a two-year period at Acacia Prison and Wooroloo Prison Farm, focussing on all parole-eligible offenders who would be:

- less likely to re-offend if successfully engaged with a program or service
- not otherwise referred to, or able to access rehabilitation programs and services.

Services for AOD offenders commenced in November 2020 and screening has commenced for potential FDV offenders to access recently established services.

While this information was not provided to us for further analysis during our review, we welcome the pilot program and hope it yields benefit. We will also monitor any interim results through our process of ongoing inspection at Acacia and Wooroloo.

### 3 Other FDV supports are ad hoc

Prisoners can access support through Psychological Health Services (PHS), chaplains, peer support prisoners and the Aboriginal Visitors Scheme (AVS). Furthermore, prisoners can access some voluntary programs. However, PHS is overstretched and access to voluntary programs is largely dependent on which facility a prisoner is held. Relationships between service providers and facilities, especially transitional managers, is integral to prisoner reintegration. Positively, many prisoners report that the AVS, peer support, and the chaplaincy service provide valuable support, including for FDV related issues.

#### 3.1 Over a third of prisoners receiving PHS support are at risk

On October 25, 2021, 1,000 prisoners had active referrals to PHS. This represents just under one in every six prisoners across Western Australia. Of all prisoners receiving support from PHS, 94 were managed on the At-Risk Management system (ARMS) and 263 were managed on the Support and Monitoring System (SAMS). This represents a third (36%) of all prisoners receiving support from PHS. While Roebourne and West Kimberley regional prisons have small numbers of prisoners being supported by PHS, all were considered at risk. Furthermore, a high proportion of PHS referrals at Acacia Prison (63%) and Eastern Goldfields Regional Prison (50%), were prisoners identified as being at risk.

Table 9 Number of prisoners supported by PHS, by facility (as at 25 October 2021)

Prison	Prisoners receiving support by PHS	Managed on ARMS	Managed on SAMS	At risk (%)
Acacia Prison	126	11	70	63
Albany Regional Prison	26	1	6	27
Bandyup Women's Prison	66	5	10	23
Boronia Pre-Release Centre	35	0	0	0
Broome Regional Prison	4	0	0	0
Bunbury Regional Prison	46	1	10	24
Casuarina Prison	225	11	86	43
Eastern Goldfields Regional Prison	30	5	10	50
Greenough Regional Prison	33	3	6	27
Hakea Prison	234	47	41	38
Karnet Prison Farm	51	0	4	9
Melaleuca Women's Prison	39	8	7	38
Pardelup Prison Farm	3	0	1	33
Roebourne Regional Prison	8	0	8	100
Wandoo Rehabilitation Prison	16	1	0	6
West Kimberley Regional Prison	5	1	4	100
Wooroloo Prison Farm	53	0	0	0
Total	1,000	94	263	36%

The Department's ARMS and SAMS mechanisms identify and manage prisoners at risk of self-harm, with those on ARMS considered at acute risk, while SAMS is seen as a 'step- down' from ARMS. Prisoners who fall into these categories understandably take up a considerable amount of time for PHS, given their high level of need. Not only is PHS responsible for providing individual support to this cohort, they also attend the Prisoner Risk Assessment Group (PRAG) meetings and assist in the decision making around placements and risk level of each prisoner. Depending on the facility, these meetings can occur daily, weekly, or at facilities with few prisoners at risk, on an ad hoc basis. Before each meeting, PHS staff meet with the relevant prisoners to discuss their mental health state. We



have heard from PHS staff that the process of speaking to the relevant prisoners and attending PRAG meetings is very time consuming, leaving limited time to complete their other duties.

Many prisoners perceive and have told our Office, that unless a prisoner is self-harming or threatening self-harm, they are unable to access PHS in a timely manner. A departmental representative told us that the level of service available to prisoners not at acute risk, is site specific. We heard that there is a triaging process, which ensures that prisoners most at risk receive support first. While it is understandable that those at most risk are given priority, this means that sites with high level of acute needs, may be unable to provide support for prisoners with less acute concerns. This would extend to prisoners who are survivors of FDV. PHS should not operate as only a reactionary service but should provide preventative mental health services as well.

A departmental representative explained there is greater demand for PHS at the two major remand centres, Hakea Prison and Melaleuca's Women's Prison. Prisoners may be feeling stressed and uncertain when they first come into custody, they may worry about dependent children, and may be experiencing withdrawal symptoms from substances. Almost 40 per cent of prisoners at both Hakea and Melaleuca prisons, who receive support from PHS, are managed on either ARMS or SAMS.

### 3.2 Demanding PHS workloads are compounded by a large waitlist

An additional 484 prisoners are on the waitlist to receive support from PHS. This indicates that demand for PHS is almost 50 per cent greater than its current capacity. In comparison to each prison's daily average population (DAP), waitlists are longest Boronia (34), Bandyup (65) and Hakea (143). There is currently no waitlist at Wandoo Rehabilitation Prison and West Kimberley Regional Prison. A breakdown of the number of prisoners receiving support from PHS and the number of prisoners on the waitlist is provided in the table below.

Table 10 Number of prisoners waitlisted for PHS, by facility (as at 25 October 2021)

Prisons	Prisoners on waitlist	DAP	Waitlist compared to DAP (%)
Acacia Prison	38	1,421	2.7
Albany Regional Prison	26	321	8.1
Bandyup Women's Prison	65	205	31.7
Boronia Pre-Release Centre	34	87	39.1
Broome Regional Prison	1	42	2.4
Bunbury Regional Prison	45	478	9.4
Casuarina Prison	83	1,149	7.2
Eastern Goldfields Regional Prison	6	216	2.8
Greenough Regional Prison	3	183	1.6
Hakea Prison	143	867	16.5
Karnet Prison Farm	23	350	6.6
Melaleuca Women's Prison	9	180	5.0
Pardelup Prison Farm	2	82	2.4
Roebourne Regional Prison	1	201	0.5
Wandoo Rehabilitation Prison	0	48	0
West Kimberly Regional Prison	0	189	0
Woorloo Prison Farm	5	387	1.3
<b>Total</b>	<b>484</b>	<b>6,406</b>	<b>7.6</b>

#### There are too few PHS staff to meet demand

Across the adult custodial estate there are only 45 PHS counsellors (psychologists and social workers) employed to provide support an average of 6,406 prisoners. While we recognise that not all

prisoners will seek the support of PHS, the current staffing levels equates to approximately one PHS counsellor per every 142 prisoners. The ratios are the greatest at Wooroloo and Karnet prison farms which is unsurprising given the prisoners accommodated in these facilities are rated minimum security and require the least intensive supervision. The ratio is also high at Albany Regional Prison. As the only maximum-security facility in regional Western Australia this could be challenging. However, given the length of the waitlist at that prison is relatively small, this could be considered reasonable. It would not be so if the single PHS social worker at Albany was to take leave without being replaced.

Table 11 PHS staffing ratios to the daily average population, by facility (as at 25 October 2021)

Prison	No. of Psychologists	No. of Social Workers	DAP	Ratio of staff to DAP
Acacia Prison	3	5	1,421	1: 178
Albany Regional Prison	0	1	321	1: 321
Bandyup Women's Prison	2	2	205	1: 51
Boronia Pre-Release Centre	1	0	87	1: 87
Broome Regional Prison	0	1	42	1: 42
Bunbury Regional Prison	1	2	478	1:159
Casuarina Prison	2	4	1,149	1: 192
Eastern Goldfields Regional Prison	0	1	216	1:216
Greenough Regional Prison	0	1	183	1:183
Hakea Prison	5	7	867	1:72
Karnet Prison Farm	0	1	350	1: 350
Melaleuca Women's Prison	1	1	180	1:90
Pardelup Prison Farm	0	0	82	-
Roebourne Regional Prison	0	1	201	1:201
Wandoo Rehabilitation Prison	0	1	48	1:48
West Kimberly Regional Prison	1	0	189	1:189
Wooroloo Prison Farm	0	1	387	1:387
Total	16	29	6,406	1:142

Additionally, Bandyup Women's Prison and Casuarina Prison each employ an occupational therapist.

**Recommendation 6 – Invest in PHS counsellors to adequately meet the needs of the prison population**

### 3.3 Voluntary programs have a limited FDV focus

Prisoners across the custodial estate can access a range of voluntary programs. However, few of these programs have specific focus for either perpetrators or survivors of FDV.

ReSet is contracted to provide support, including parenting programs, one-on-one counselling, case management, and throughcare to prisoners in the Perth metropolitan region. Services include, but are not limited to:

- parenting programs run by Centrecare, excludes Acacia Prison and Wandoo Rehabilitation Prison
- Hakea ReSet Family Support Centre
- one-on-one support case management support.

Representatives from the ReSet parenting team firmly asserted to us that there was not enough focus on FDV and the effects that exposure to FDV can have on children. They gave the example of the 'InsideOut Dad' program which is run at Karnet and Wooroloo prison farms, and Casuarina

Prison. This is an American program, which they felt had little relevance to the prisoners in Western Australia, especially Aboriginal prisoners. There are no specific parenting programs for Aboriginal prisoners, and there are currently no Aboriginal facilitators within the parenting team.

ReSet staff stated that lockdowns and other appointments being prioritised over voluntary programs could sometimes affect prisoner participation in the programs. At some facilities, ReSet found communication from the prison poor. For example, they cited an occasion where the prison was locked down due to staff shortages, however they were not informed, and made their way to the prison, only to be advised they would not be able to run the program that day.

While ReSet spoke highly of their relationship with prison staff, at some sites there are issues with prison officers bringing the prisoners to programs in a timely fashion. ReSet said this issue was typically due to individual officers.

### Support available to women is largely dependent on the facility they are held

Representatives from ReSet spoke highly of the supports offered to women at Boronia Pre-Release Centre and Wandoo Rehabilitation Prison. However, women held in other facilities were missing out on case management support, including support for FDV matters. We were told that women who are survivors of FDV often have complex needs, including the need for psychological, legal, and accommodation support. This level of support is often time intensive and involves multiple agencies. Despite this, there are only three ReSet case workers contracted to provide case management services to the metropolitan women's estate (with a daily average of 580 women). These three case workers each have a caseload of 26 prisoners each. As of November 3, 2021, the waitlist for the women's estate was almost double the service's current capacity at 133 women.

Boronia Pre-Release Centre has partnered with the Family Violence Team at a local police station, to deliver the Police in Prison initiative. This pilot involves police visiting the facility to provide information sessions and meet with women who may be vulnerable to further domestic violence upon release. The aim of this pilot project is to develop and increase safety planning for women and their families. Our Office was informed that women who had engaged with this project had proactively contacted police upon their release which is encouraging.

### New initiatives in the women's estate are welcome

The Department informed us that they are planning on introducing an FDV Prison Exit Program at Bandyup Women's Prison and Melaleuca Women's Prison in 2022. This project will provide legal and support services to women prior to their release. These legal services will include assistance in obtaining family violence restraining orders. Women would be allocated a case worker, who will undertake a risk assessment and assist them in identifying safety needs. With this information, the transitional manager can then focus on providing links to re-entry providers, supported accommodation services, and transportation support. Additionally, the FDV case worker can link the women to other appropriate services. This project intends to follow a similar model as the Police in Prison initiative by partnering with local police stations.

This project also intends to use their relationship with the volunteer-run organisation 'Hello Initiative' which provides recycled smartphones. The Department stated:

These phones could be pre-loaded with information on community support networks, including specialist apps (counselling, emergency supports, transitional supports, other agencies, employment networks etc), credit to support emergency phone calls and Google maps. This would also support women not using their existing mobile phones which may have tracking and other software loaded by abusive partners.

These are exciting initiatives. We will monitor the implementation and progress of the FDV Prison Exit Program as it is rolled out in the future.

### 3.4 Relationships between transitional managers and service providers are integral to prisoner reintegration

Transitional managers play an integral role in engaging with reintegration services providers on behalf of prisoners. This is crucial for both perpetrators and survivors of FDV as there may be specific accommodation and treatment needs post release. Transitional managers send a referral to service providers about their offending history, re-entry needs, and prison conduct. This can include any history of FDV. Transitional managers can also refer prisoners directly to external FDV providers and provide prisoners with a list of FDV counselling services they can access upon release. The transitional manager can either encourage the prisoner to contact these services while they are in custody or can do this on their behalf. For this reason, the relationships between service providers and transitional managers are essential in ensuring that prisoners have the best opportunity to avoid returning to custody. The quality of services prisoners receive, is often dependent on the quality of the relationship between the transitional manager and service provider representatives.

We were advised that at one regional prison the relationship between the transitional manager and the local reintegration service provider was strong. Both parties spoke highly of each other which was aiding in the effective delivery of service. Furthermore, the transitional manager coordinated a monthly stakeholder meeting which included the service provider and prison management. At another metropolitan prison, the service provider reported that the transitional manager made an additional effort to ensure they had a room to run their program each time. The service provider was very appreciative of these efforts, as it ensured prisoners could access their programs without issue.

In contrast, at another regional prison, relationships were more fraught. The transitional manager reported that the service provider would refuse referrals, often for 'trivial' matters, including errors and omissions on the paperwork. Furthermore, we were informed that communication between the two parties was difficult. These types of difficulties in relationships need to be well managed, in order to reduce any negative impacts on prisoners' reintegration.

### 3.5 Prisoners feel they can access support through chaplaincy and peer support, but not the AVS

Prisoners can access support from the chaplaincy service, peer support, and the AVS. These supports can include FDV matters, for both perpetrators and survivors.

Before each inspection, our Office invites prisoners to complete a pre-inspection survey covering a range of the prisoners' experiences. One of the questions asks, *'if you had an issue you were*

concerned about, do you think these people would help you?' An analysis of the results for each prison, in relation to AVS, chaplains, and peer support workers is provided in the table below. The results show that while most prisoners said that chaplains and peer support officers would help them, a different trend was observed for AVS. At every facility, except for Wandoo Rehabilitation Prison, prisoners thought AVS staff were less likely to help them compared to the chaplain or peer support. This was particularly true at Bunbury Regional Prison, Casuarina Prison, Greenough Regional Prison, Hakea Prison, Pardelup Prison Farm, and Wooroloo Prison Farm where half or less than half of the respondents thought AVS would help them.

Table 12 Prisoners who think services would help them if asked (OICS survey results 2018–2021)

Prison	AVS (%)	Chaplaincy (%)	Peer support (%)
Acacia Prison	130 (59)	210 (74)	221 (73)
Albany Regional Prison	33 (63)	49 (79)	47 (64)
Boronia Pre-Release Centre	15 (79)	48 (98)	52 (91)
Broome Regional Prison	12 (75)	12 (80)	18 (82)
Bunbury Regional Prison	27 (44)	88 (80)	100 (74)
Casuarina Prison	64 (46)	124 (67)	136 (63)
Eastern Goldfields Regional Prison	43 (73)	57 (86)	66 (79)
Greenough Regional Prison	20 (49)	39 (72)	35 (61)
Hakea Prison	101 (50)	116 (53)	211 (70)
Karnet Prison Farm	30 (71)	94 (87)	101 (77)
Melaleuca Women's Prison	37 (53)	73 (84)	60 (66)
Pardelup Prison Farm	2 (29)	27 (93)	20 (67)
Roebourne Regional Prison	48 (69)	56 (74)	76 (84)
Wandoo Rehabilitation Prison	31 (100)	47 (98)	54 (100)
West Kimberly Regional Prison	23 (58)	41 (71)	41 (59)
Wooroloo Prison Farm	16 (46)	55 (79)	59 (71)

\*\* Results are not available for Bandyup Women's Prison as they were not collected prior to the 2020 Bandyup inspection.

In breaking these results down, we have heard from prisoners that the issue lies in accessing AVS and not the support they receive when they speak to someone from the service. Prisoners have told us that in the past, the AVS has operated in ways that are not culturally appropriate. For example, in 2018 the AVS physical presence at Wooroloo Prison Farm was replaced by a telephone hotline and there was no onsite service provided. While this was reinstated in 2021, the visitor was only on contract one day a week (OICS, 2022). Similarly, in our 2021 inspection of Hakea Prison, we found that AVS was understaffed, likely contributing to why half of prisoners would not ask them for help.

The AVS came about in 1996 as a result of the recommendations from the Royal Commission into Aboriginal Deaths in Custody. It is an essential function that provides support and counselling for Aboriginal people in custody, especially those at risk of self-harm. It must be adequately resourced if it is to meet the spirit and intent of the original recommendation.

**Recommendation 7** –Ensure the AVS is funded adequately across the prison estate

## Appendix A The Department's response to recommendations

### 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.

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

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.



## Response to Recommendations

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

Level of Acceptance:	Supported – Current Practice / Project
Responsible Division:	Corrective Services
Responsible Directorate:	Offender Services
Proposed Completion Date:	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.

Level of Acceptance:	Supported – Current Practice / Project
Responsible Division:	Corrective Services
Responsible Directorate:	Offender Services
Proposed Completion Date:	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.

Level of Acceptance:	Supported – Current Practice / Project
Responsible Division:	Corrective Services
Responsible Directorate:	Offender Services
Proposed Completion Date:	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.

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.

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

**Level of Acceptance:** Supported – Current Practice / Project  
**Responsible Division:** Corrective Services  
**Responsible Directorate:** Offender Services  
**Proposed Completion Date:** 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.**

**Level of Acceptance:** Supported in Principle  
**Responsible Division:** Corrective Services  
**Responsible Directorate:** Offender Services  
**Proposed Completion Date:** 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.**

**Level of Acceptance:** Supported – Current Practice / Project  
**Responsible Division:** Corrective Services  
**Responsible Directorate:** Advisory Services  
**Proposed Completion Date:** 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.

## Appendix B Methodology

Data sets for this review were obtained via the Department. We used a series of pre-constructed reports from the Department's reporting Framework and from the offender database. We examined data for the period between 2016 and 2021.

We also examined Western Australian legislation and departmental documentation including policy, strategy documents and evaluations. As part of the review we conducted site visits to Acacia Prison, Banksia Hill Detention Centre, Greenough Regional Prison, and Roebourne Regional Prison.

We also meet with representatives from Reset Service, a consortium of Wungening Aboriginal Corporation, Centrecare, Wirrpanda Foundation and St. Bartholomew's House.

Where available, through open source information, we reviewed contemporary literature on prevalence rates of FDV and risk factors associated with both perpetrators and survivors of FDV.

A preliminary findings briefing was presented to the Department in December 2021.

The draft report was sent to the Department on 25 January 2022 and a response was received on 7 April 2022.

## Appendix C Bibliography

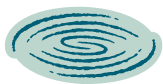
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