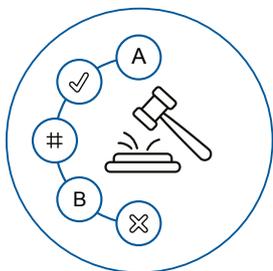


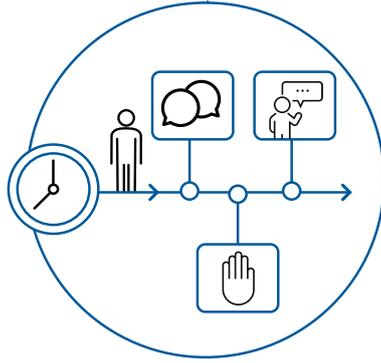
The use of domestic and family violence perpetrator interventions in sentencing: A national statement



A key outcome of the [National Plan to Reduce Violence against Women and their Children](#) is that perpetrators stop their violence and are held to account. A major pathway to achieving this outcome is the effective use of interventions with perpetrators of violence against women. In recent years, Australian States and Territories have moved towards increased use of perpetrator interventions in response to domestic and family violence as a way of holding perpetrators to account with the aim of stopping violence.

ANROWS

Recommended citation:



Perpetrator interventions is a broad term that refers to service and system responses to perpetrators of domestic and family violence (DFV). Interventions span the legal system (including civil, criminal, child protection and family law) and the community sector. Perpetrator interventions aim to change perpetrator attitudes and/or behaviours and prevent recidivism. The programs such as Men’s Behaviour Change Programs (MBCP), individual counselling, Family Violence Intervention Orders (FVIOs) and/or laying of criminal charges by police and sentencing by judicial officers.

Judicial officers play an important role in perpetrator interventions. The legal system broadly, and judicial officers specifically, play a significant role in achieving perpetrator accountability. As officers of the Court, they play a central role in ‘keeping perpetrators in view’, in making orders and/or mandating MBCP attendance. Despite this, there is little evidence of how judicial officers view or understand perpetrator interventions, and how they use them in their practice. Judicial officers hold mixed views on the effectiveness of perpetrator interventions, in particular MBCPs in family violence matters. Building evidence on the ways that judicial officers understand and make use of perpetrator interventions is central to ensuring that the legal system responds effectively and appropriately to men who use all forms of DFV.

This statement aims to support this critical work and encourage further discussion of the need to build more opportunities for judicial peer discussion and education in this space.

This statement draws from the findings of the ANROWS Project - Perpetrator Interventions in Australia: A national study of judicial views and sentencing practice for domestic violence offenders (Fitz-Gibbon et al, 2020).

The project aimed to understand judicial views, understandings and practices in relation to perpetrator interventions and how these views may influence overall systemic perpetrator accountability.

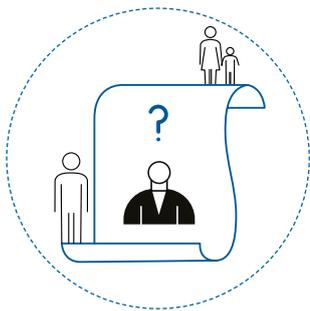
The project focused on three types of perpetrator interventions that are available to courts to address DFV, namely:

- **Sentencing for DFV related offences;**
- **Family Violence Intervention Orders (FVIOs); and**
- **Perpetrator intervention programs, including voluntary or mandated behaviour change programs and other offender programs, case management and clinical services targeting DFV perpetrators.**

You can view further information about the ANROWS Project at the [project website](#).

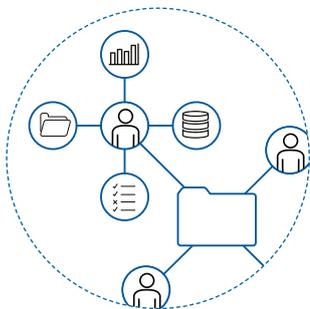
Key project findings

There is little uniformity in how judicial officers across Australian states and territories think about perpetrator interventions beyond the broad agreement that victims'/survivors' safety is a priority and a key objective. Overall, judicial views ranged from cynicism about the effectiveness of different types of perpetrator interventions and pessimism about the ability to change behaviour, to confidence that interventions to change the behaviour of DFV perpetrators can be successful. (Fitz-Gibbon et al 2020)



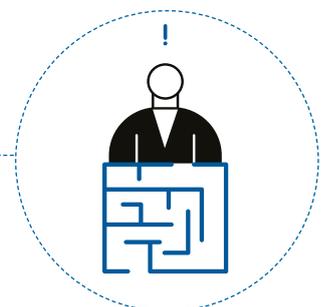
Judicial officers have limited access to histories of perpetrator interventions in specific DFV cases

Judicial officers feel they lack knowledge about the availability and nature of perpetrator interventions in their jurisdiction

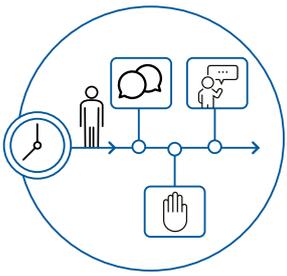


A central register of perpetrator interventions and outcomes would address this lack of knowledge and build evidence on the effectiveness of specific interventions

The role of judicial officers in holding perpetrators to account is both critical and complex

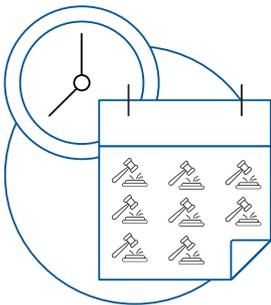


Elements of a best practice approach to the sentencing of DFV perpetrators:



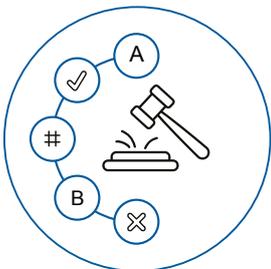
1 / Early referral

Where suitable perpetrators should be referred at the earliest opportunity into treatment and men's behavioural change programs with judicial monitoring of engagement and ongoing behaviour.



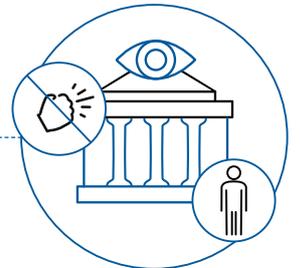
3 / Timely and consistent consequences

Risky and/or abusive behaviour needs immediate, consistent and firm responses and consequences, including swift and certain prosecution of contraventions to orders (see also Kenny et al. 2017)



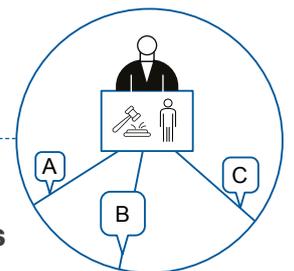
5 / A suite of sentencing options

A suite of sentencing options is required for effective sentencing of DFV perpetrators. The imposition of program completion as a condition to an order would serve as an incentive to program participation.



2 / Judicial oversight

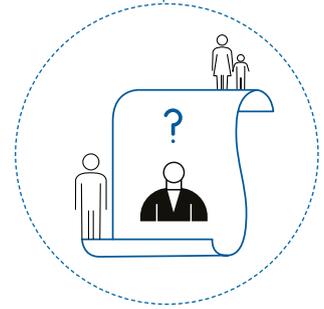
Specific deterrence of perpetrator behaviour is more likely to be achieved by direct oversight through ongoing judicial monitoring of behaviour as is the practice in drug courts.



4 / Availability of perpetrator interventions

Perpetrator intervention options need to be available at the earliest point possible. This is particularly important for DFV cases involving young and/or first-time perpetrators.

Challenges to achieving best practice



One judicial officer interviewed described the current range of available interventions as “barely scratch[ing] the surface” (NT Magistrate A). Other judicial officers commented ‘as far as programs for perpetrators; I think that we do not necessarily know what’s available’ (ACT Magistrate C) and that ‘We don’t have sufficient funding to provide that service to all of the respondents who come before all of the courts, whether they be remote, rural, or in regional centres’ (Qld Magistrate B).

Currency of knowledge

Difficult to keep up to date with current information on perpetrator intervention programs and their availability.

Resources and accessibility

Availability impacts consistent and timely access to program. Delays at any stage of the referral process means that “the loop” of accountability is not closed. The court hearing is often a lost opportunity to hold perpetrators to account if there is no timely follow up for perpetrator interventions. The lack of accessibility in rural areas is a key area of concern.

History of perpetration

Perpetrator intervention histories were not consistently presented to the court. In lower courts the speed of proceedings meant there was often inadequate information about, and inadequate time to consider, histories of perpetrator interventions.

No framework for judicial monitoring

There is presently no specific or consistent framework for the approach taken by judicial officers to monitoring or supervising family and domestic violence perpetrators post sentence.

The Family Court jurisdiction

There is often conflict between the imposition of new civil or criminal court orders and existing Family Court orders. This was particularly the case for Family Violence Intervention Orders (FVIOs).

Lack of sentencing options

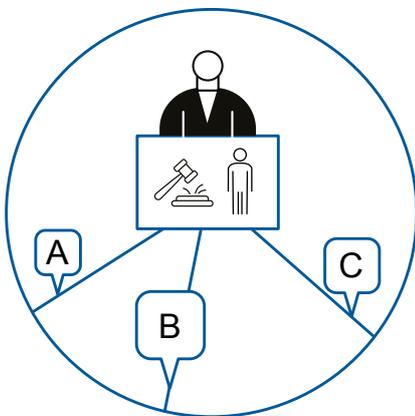
There is a need for a greater range of sentencing options.

Diverse Communities

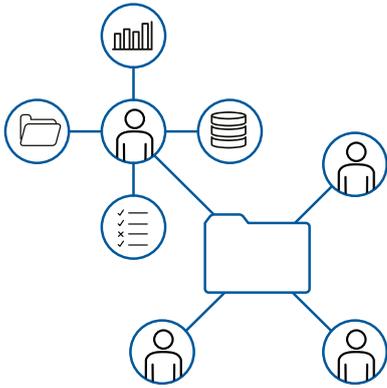
There is considerable support among Australian judicial officers for the development of perpetrator intervention programs that recognise and embed cultural difference. This need sat alongside a consistent call for perpetrator interventions that were both relatable and directed at achieving measurable and context-specific change. There is an identified need to develop specific programs for different community groups. Judicial officers and MBCP providers identified the need for tailored programs to specifically address the needs of:

- **Aboriginal and Torres Strait Islander communities**
- **Rural and regional communities**
- **Culturally & linguistically diverse communities**
- **Women who may use violence**

Aboriginal and Torres Strait Islander communities were identified as a key community group requiring the development of community led interventions. For Aboriginal communities, judicial officers and MBCP providers recognised the intergenerational trauma needs that were impacting familial structures in these communities. As one judicial officer commented ‘I think the judiciary is aware or alive to the fact that you need specialised programs. I think most judges would think for instance with Indigenous offenders that you need programs that are culturally appropriate and service providers that have some sort of cultural competency. I don’t know that that exists as widely as it should’. (NSW Judge B) Many interviewees saw the lack of culturally appropriate programs as a critical gap. Although the numbers of women who use DFV is proportionally low, there was recognition that specific interventions for this cohort were both needed and not yet available.



Recommendations



The ANROWS project - Perpetrator Interventions in Australia: A national study of judicial views and sentencing practice for domestic violence offenders - made three recommendations to enhance judicial practice in the sentencing of DFV perpetrators:

1

Consideration should be given to developing judicial guidance on seeking and making use of perpetrator intervention histories in all DFV matters, including in sentencing, to assist in judicial decision making.

2

All states and territories should consider contributing to the development and maintenance of a centralised online register of perpetrator intervention programs, to be coordinated through the relevant government departments, to ensure that information is readily available to support judicial decision-making and referral in DFV matter.

3

Consideration should be given by courts and judicial educational bodies to a broader discussion about the role of judicial officers in creating system accountability, to develop consistent outcomes across jurisdictions and national knowledge and practice about perpetrator intervention programs and outcomes.

National Resources for judicial officers

- [Solution-Focused Judging Bench Book](#) (King, 2009)
- National Domestic and Family Violence Bench Book: [Perpetrator Interventions](#) (AIJA and UQ)
- [No to Violence website](#)
- [Family Violence Best Practice Principles](#) (2016)
- [Expert Advisory Committee on Perpetrator Interventions: final report](#) (2019)
- [National Outcome Standards for Perpetrator Interventions](#) (NOSPI) (Commonwealth of Australia (Department of Social Services), 2015)

National Domestic and Family Violence Bench Book: Perpetrator Interventions

The research chosen and cited by the National Bench Book is representative of current thought in the field of perpetrator interventions reflects the view of MBCPs as forming one part of a whole-of-system response, and the recent configuration of “success” as inclusive of factors beyond the cessation

National Outcome Standard for Perpetrator Interventions

The NOSPI were designed to provide a national perpetrator accountability system incorporating police, courts, corrections, perpetrator and offender programs and services, child protection agencies and a range of community services.

Other relevant resources

- Council of Australian Governments. (2011). [The national plan to reduce violence against women and their children 2010–2022](#). Canberra: FAHCSIA.
- Fitz-Gibbon, K., Maher, J., Thomas, K., McGowan, J., McCulloch, J., Burley, J. & Pfitzner, J. (2020) [The views of Australian judicial officers on domestic and family violence perpetrator interventions](#). (Research report, 13/2020). Sydney: ANROWS.
- Kenny, A., McGorrery, P., & Ritchie, D. (2017). [Swift, certain and fair approaches to sentencing family violence offenders: Discussion paper](#). Melbourne: Victoria Sentencing Advisory Council.
- Victorian Sentencing Advisory Council. (2015). [Sentencing for contravention of family violence intervention orders and safety notices: Second monitoring report](#). Melbourne: VSAC (Copy about a point size smaller)

