



**The views of Australian judicial officers on domestic
and family violence perpetrator interventions:**
Key findings and future directions

ANROWS

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ANROWS Research to policy and practice papers are concise papers that summarise key findings of research on violence against women and their children, including research produced under ANROWS's research program, and provide advice on the implications for policy and practice.

This is an edited summary of key findings from the ANROWS research project "The views of Australian judicial officers on domestic and family violence perpetrator interventions". Please consult the ANROWS website for more information on this project and the full project report: Fitz-Gibbon, K., Maher, J., Thomas, K., McGowan, J., McCulloch, J., Burley, J., & Pfitzner, N. (2020). *The views of Australian judicial officers on domestic and family violence perpetrator interventions* (Research report, 13/2020). Sydney: ANROWS.

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ANROWS research contributes to the six National Outcomes of the *National Plan to Reduce Violence against Women and their Children 2010-2022*. This research addresses National Plan Outcome 6—Perpetrators stop their violence and are held to account.

Acknowledgement of Country

ANROWS acknowledges the Traditional Owners of the land across Australia on which we work and live. We pay our respects to Aboriginal and Torres Strait Islander Elders past, present, and future, and we value Aboriginal and Torres Strait Islander histories, cultures, and knowledge. We are committed to standing and working with Aboriginal and Torres Strait Islander peoples, honouring the truths set out in the [Warawarni-gu Guma Statement](#).

The views of Australian judicial officers on domestic and family violence perpetrator interventions

BACKGROUND

- Perpetrators stopping their violence and being held to account is a key outcome of the *National Plan to Reduce Violence against Women and their Children 2010–2022*. A major pathway to achieving this outcome is the use of interventions with perpetrators of violence against women.
- “Perpetrator interventions” are service and system responses to perpetrators of domestic and family violence (DFV) that aim to change perpetrator attitudes and/or behaviours and prevent recidivism.
- Judicial officers (justices, judges and magistrates) play an important role in perpetrator interventions. They sentence perpetrators, make family violence intervention orders, and refer to behaviour change programs.
- Despite this central role of judicial officers, there is little evidence on the ways judicial officers view or understand perpetrator interventions, and how they use them in practice. This research project aimed to address this gap in evidence.

KEY FINDINGS

- Judicial officers hold mixed views on the effectiveness of perpetrator interventions, in particular men’s behaviour change programs, in DFV matters.
- When a DFV case is before them, judicial officers have limited access to information about which (if any) perpetrator interventions have been previously used with a perpetrator.
- Judicial officers across Australia express a lack of knowledge about perpetrator program referral options, in relation to both the availability and nature of the programs.
- A central register of perpetrator program referral options, where information about referrals (and perpetrators who return to court after completion of a specific program) could be recorded would build evidence on the effectiveness of specific interventions.
- The role of judicial officers in holding perpetrators to account remains unclear, as does the place of judicial officers within the system of perpetrator interventions itself.

KEY RECOMMENDATIONS

- To assist in judicial decision-making, consideration should be given to developing guidance on seeking and making use of a perpetrator’s history of interventions (e.g. FVIOs, prior sentences, and program attendance) in all DFV matters, including in sentencing.
- 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 matters.
- Courts and judicial educational bodies should consider exploring and developing guidance on the role of judicial officers in creating system accountability regarding perpetrators of DFV. Clarity on the parameters of this role will allow for the development of more consistent sentencing and other outcomes for DFV perpetrators across jurisdictions.

Pivoting to the perpetrator: Approaches to stopping domestic and family violence

Preventing domestic and family violence (DFV) and holding perpetrators to account is a key goal of the *National Plan to Reduce Violence against Women and their Children 2010–2022* (Council of Australian Governments [COAG], 2011)—that is, that perpetrators take responsibility for their use of DFV and suitable sanctions are applied. While this outcome stresses consistent sentencing and serious consequences for perpetrators who breach orders, it also recognises that a focus on punishment alone will not change behaviours. This recognition was also reflected in the Victorian Royal Commission into Family Violence, which stated that overly punitive responses to family violence could entrench disadvantage in marginalised communities, and limit the discretion of justices, judges and magistrates to engage perpetrators in potentially more effective responses aimed at attitudinal change rather than punishment (State of Victoria, 2016). As part of its *Final Report and Recommendations*, the Royal Commission recommended an expansion of the range of perpetrator interventions offered across Victoria (State of Victoria, 2016).

Judicial officers' perceptions of and practices concerning perpetrator interventions

In Australia, recent years have seen an increasing use of perpetrator interventions in response to DFV as a way of holding perpetrators to account. “Perpetrator interventions” is a broad term that refers to service and system responses to perpetrators of DFV; interventions span the legal system (including civil, criminal, child protection and family law) as well as the community sector. Perpetrator interventions aim to change perpetrator attitudes and/or behaviours and to prevent recidivism. They encompass interventions such as men’s behaviour change programs (MBCPs), individual counselling, family violence intervention orders (FVIOs) and/or laying of criminal charges by police and sentencing by judicial officers.

In making orders and/or mandating MBCP attendance, the legal system broadly—and judicial officers specifically—play a significant role in achieving perpetrator accountability. Particularly given increasing workloads in courts, 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.

“The views of Australian judicial officers on domestic and family violence perpetrator interventions” by Kate Fitz-Gibbon, JaneMaree Maher, Kate Thomas, Jasmine McGowan, Jude McCulloch, Jessica Burley and Naomi Pfitzner

This project aimed to understand judicial views, understandings and practices in relation to perpetrator interventions and how these views may influence overall perpetrator accountability within the system of perpetrator interventions. It focused on perpetrator interventions that are available to courts to address DFV, namely:

- sentencing for DFV-related offences
- family violence intervention orders (FVIOs)
- perpetrator intervention programs, including voluntary or mandated behaviour change programs and other offender programs, case management and clinical services targeting DFV perpetrators.

Through looking at the role that judicial officers play in administering these three types of perpetrator interventions, the project aimed to support the development of judicial information and guidance to enhance the effective use of perpetrator interventions in Australian state and territory courts.

The project adopted a multi-method, qualitative approach including a documentary and policy analysis and 60 in-depth interviews (involving 36 judicial officers, 16 perpetrator intervention program providers and eight additional service representatives). Interviews were supplemented by a review of sentencing remarks in intimate partner homicide cases to identify and count mentions of perpetrator interventions and to gain further insight into judicial opinion, beliefs, attitudes and processes.

See anrows.org.au for the full report.

Key findings

Judicial officers hold mixed views on the effectiveness of perpetrator interventions

There is little uniformity in the opinions of judicial officers across Australian states and territories on the effectiveness of the different perpetrator interventions that they make use of in their work. 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. Interviewees in similar roles within the same jurisdiction frequently conceptualised success very differently, for example, focusing purely on compliance, or thinking of success in terms of what has changed for the victim/survivor. This suggests that their approaches were highly individualised and were grounded in their personal understandings of dynamics of DFV, beliefs in whether behaviour change was achievable, and even basic definitions of “interventions”.

Judicial officers have limited access to histories of perpetrator interventions in domestic and family violence cases

Having knowledge of prior histories of perpetrator interventions can help judges to accurately assess risk and inform what might work best in a case when it is before the court. However, across Australia, information on these histories is not consistently presented to the court, particularly in the lower courts. While some information (for example, breaches of FVIOs) is more accessible to judicial officers, access to in-depth case history is limited when different officers hear different cases. It is often not possible to have the same magistrate (or one well briefed by a “managing” magistrate) work across cases involving the same perpetrator, which would help ensure that these histories were readily recognised and formed part of the deliberations.

Judicial officers express a lack of knowledge about the availability and nature of perpetrator programs in their jurisdiction

Beyond practical issues such as long waiting lists and a recognised lack of programs—in particular, the lack of culturally specific programs and programs in rural and remote areas—this research revealed that judicial officer knowledge of perpetrator program referral options is not uniform across all Australian jurisdictions or, indeed, within them. Judicial officers interviewed indicated that they struggled to keep up with current knowledge about perpetrator intervention programs and their availability. Where judicial officers did have good working knowledge of perpetrator intervention programs, this knowledge had been actively sought by the individual officer. A lack of time was cited as a key barrier to seeking information of perpetrator intervention options, absorbing information, seeking clarifications, or considering optimal options for each specific case.

A central register of perpetrator programs and outcomes would build evidence on the effectiveness of specific interventions

The research revealed the importance of introducing a central register that, firstly, would offer information to judicial officers about available programs (including eligibility criteria) that would assist their decision-making in individual cases. Secondly, this register could be used on a broader level to gather data on which programs, when attended or completed, resulted in fewer later offences or court appearances. Such an approach would mean that on an individual level, information about prior interventions would become a more routine part of briefs and decision-making; on a broader level, patterns of efficacy would emerge and could be assessed. These patterns would not be tied to individual perpetrators, but over time could contribute to building the evidence base on the efficacy, at least in terms of recidivism, of different perpetrator interventions. While recidivism is not the only measure of effectiveness, such a register would allow judicial officers to see, for example, that perpetrators completing certain programs were less frequently being charged with breaches of orders.

The role of judicial officers in holding perpetrators to account remains unclear

Interviewees varied in their conceptualisations of the role of judicial officers in holding perpetrators to account. The three key characterisations were:

- the judicial role as narrowly defined and not linked to broader policy goals with regard to perpetrator accountability: judicial responsibility is confined to a careful and appropriate application of the law with a focus on procedural fairness
- the judicial officer as active case manager: the judicial role is understood as active, with oversight of orders and interventions forming part of judicial work
- the judicial officer as a powerful voice in a good position to capture the attention of the perpetrator and to denounce violence against women and their children.

These variations are important, firstly, because there is evidence that a more active judicial role regarding perpetrator interventions assists in holding perpetrators to account—indeed, most service providers interviewed pointed to positive outcomes from active judicial oversight. More broadly, these variations can create issues of fairness, given the differences in the amount and forms of oversight undertaken by different judicial officers. It also means that effective judicial practice is ultimately reliant upon individual judicial officers rather than being embedded across the state and territory judicial systems.

Recommendations

- To assist in judicial decision-making, consideration should be given to developing guidance on seeking and making use of a perpetrator's history of interventions (e.g. FVIOs, prior sentences, and program attendance) in all DFV matters, including in sentencing.
- 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 matters.
- Courts and judicial educational bodies should consider exploring and developing guidance on the role of judicial officers in creating system accountability regarding perpetrators of DFV. Clarity on the parameters of this role will allow for the development of more consistent sentencing and other outcomes for DFV perpetrators across jurisdictions.

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Further reading

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