



Family and Domestic Violence Fatality Review

Overview

This section sets out the work of the Office in relation to this function. Information on this work has been set out as follows:

- Background;
- The role of the Ombudsman in relation to family and domestic violence fatality reviews;
- The family and domestic violence fatality review process;
- Analysis of family and domestic violence fatality reviews;
- Patterns, trends and case studies relating to family and domestic violence fatality reviews;
- Issues identified in family and domestic violence fatality reviews;
- Recommendations;
- Major own motion investigations arising from family and domestic violence fatality reviews;
- Other mechanisms to prevent or reduce family and domestic violence fatalities; and
- Stakeholder liaison.

Background

The [National Plan to Reduce Violence against Women and their Children 2010-2022](#) (the **National Plan**) identifies six key national outcomes:

- Communities are safe and free from violence;
- Relationships are respectful;
- Indigenous communities are strengthened;
- Services meet the needs of women and their children experiencing violence;
- Justice responses are effective; and
- Perpetrators stop their violence and are held to account.

The National Plan is endorsed by the Council of Australian Governments and supported by the *First Action Plan 2010-2013: Building a Strong Foundation*, which established the 'groundwork for the National Plan', and the *Second Action Plan 2013-2016: Moving Ahead* and the *Third Action Plan 2016-2019*, which build upon this work. The *Fourth Action Plan 2019-2022: Turning the Corner* (available at www.dss.gov.au), as the final action plan of the National Plan, sets out an 'agenda to achieve change by: improving existing initiatives, addressing gaps in previous action plans, providing a platform for future policy to reduce domestic, family and sexual violence'.

The *WA Strategic Plan for Family and Domestic Violence 2009-13*, included the following principles:

1. Family and domestic violence and abuse is a fundamental violation of human rights and will not be tolerated in any community or culture.
2. Preventing family and domestic violence and abuse is the responsibility of the whole community and requires a shared understanding that it must not be tolerated under any circumstance.
3. The safety and wellbeing of those affected by family and domestic violence and abuse will be the first priority of any response.
4. Perpetrators of family and domestic violence and abuse will be held accountable for their behaviour and acts that constitute a criminal offence will be dealt with accordingly.
5. Responses to family and domestic violence and abuse can be improved through the development of an all-inclusive approach in which responses are integrated and specifically designed to address safety and accountability.
6. An effective system will acknowledge that to achieve substantive equality, partnerships must be developed in consultation with specific communities of interest including people with a disability, people from diverse sexualities and/or gender, people from Aboriginal and Torres Strait Islander communities and people from culturally and linguistically diverse backgrounds.
7. Victims of family and domestic violence and abuse will not be held responsible for the perpetrator's behaviour.
8. Children have unique vulnerabilities in family and domestic violence situations, and all efforts must be made to protect them from short and long term harm.

The associated *Annual Action Plan 2009-10* identified a range of strategies including a 'capacity to systematically review family and domestic violence deaths and improve the response system as a result' (page 2). The *Annual Action Plan 2009-10* set out 10 key actions to progress the development and implementation of the integrated response in 2009-10, including the need to '[r]esearch models of operation for family and domestic violence fatality review committees to determine an appropriate model for Western Australia' (page 2).

Following a Government working group process examining models for a family and domestic violence fatality review process, the Government requested that the Ombudsman undertake responsibility for the establishment of a family and domestic violence fatality review function.

On 1 July 2012, the Office commenced its family and domestic violence fatality review function.

In 2017, the State Government released the *Stopping Family and Domestic Violence Policy*, which set out 21 new initiatives for responding to family and domestic violence.

This document superseded *Western Australia's Family and Domestic Violence Prevention Strategy to 2022: Creating Safer Communities* (**former State Strategy**) and the *Freedom from Fear Action Plan 2015*. Also in 2017, the first Minister for the Prevention of Family and Domestic Violence was appointed. In July 2020, the Department of Communities (**Communities**) released *Path to Safety: Western Australia's strategy to reduce family and domestic violence 2020-2030* (**State Strategy**) and the associated *First Action Plan 2020-2022* (**First Action Plan**).

It is essential to the success of the family and domestic violence fatality review role that the Office identified and engaged with a range of key stakeholders in the implementation and ongoing operation of the role. It is important that stakeholders understand the role of the Ombudsman, and the Office understands the critical work of all key stakeholders.

Working arrangements have been established to support implementation of the role with Western Australia Police Force (**WA Police Force**) and Communities and with other agencies, such as the Department of Justice (**DOJ**) and relevant courts.

The Ombudsman's Child Death Review Advisory Panel was expanded to include the new family and domestic violence fatality review role. Through the Ombudsman's Advisory Panel (**the Panel**), and regular liaison with key stakeholders, the Office gains valuable information to ensure its review processes are timely, effective and efficient.

The Office has also accepted invitations to speak at relevant seminars and events to explain its role in regard to family and domestic violence fatality reviews, engaged with other family and domestic violence fatality review bodies in Australia and New Zealand and, since 1 July 2012, has met regularly via teleconference with the Australian Domestic and Family Violence Death Review Network.

The Role of the Ombudsman in Relation to Family and Domestic Violence Fatality Reviews

Information regarding the use of terms

Information in relation to those fatalities that are suspected by WA Police Force to have occurred in circumstances of family and domestic violence are described in this report as family and domestic violence fatalities. For the purposes of this report the person who has died due to suspected family and domestic violence will be referred to as 'the person who died' and the person whose actions are suspected of causing the death will be referred to as the 'suspected perpetrator' or, if the person has been convicted of causing the death, 'the perpetrator'.

Additionally, following Coronial and criminal proceedings, it may be necessary to adjust relevant previously reported information if the outcome of such proceedings is that the death did not occur in the context of a family and domestic relationship.

WA Police Force informs the Office of all family and domestic violence fatalities and provides information about the circumstances of the death together with any relevant information of prior WA Police Force contact with the person who died and the suspected perpetrator. A family and domestic violence fatality involves persons apparently in a 'family relationship' as defined by section 4 of the *Restraining Orders Act 1997*.

More specifically, the relationship between the person who died and the suspected perpetrator is a relationship between two people:

- (a) Who are, or were, married to each other; or
- (b) Who are, or were, in a de facto relationship with each other; or
- (c) Who are, or were, related to each other; or
- (d) One of whom is a child who —
 - (i) Ordinarily resides, or resided, with the other person; or
 - (ii) Regularly resides or stays, or resided or stayed, with the other person;
 or
- (e) One of whom is, or was, a child of whom the other person is a guardian; or
- (f) Who have, or had, an intimate personal relationship, or other personal relationship, with each other.

‘Other personal relationship’ means a personal relationship of a domestic nature in which the lives of the persons are, or were, interrelated and the actions of one person affects, or affected the other person.

‘Related’, in relation to a person, means a person who —

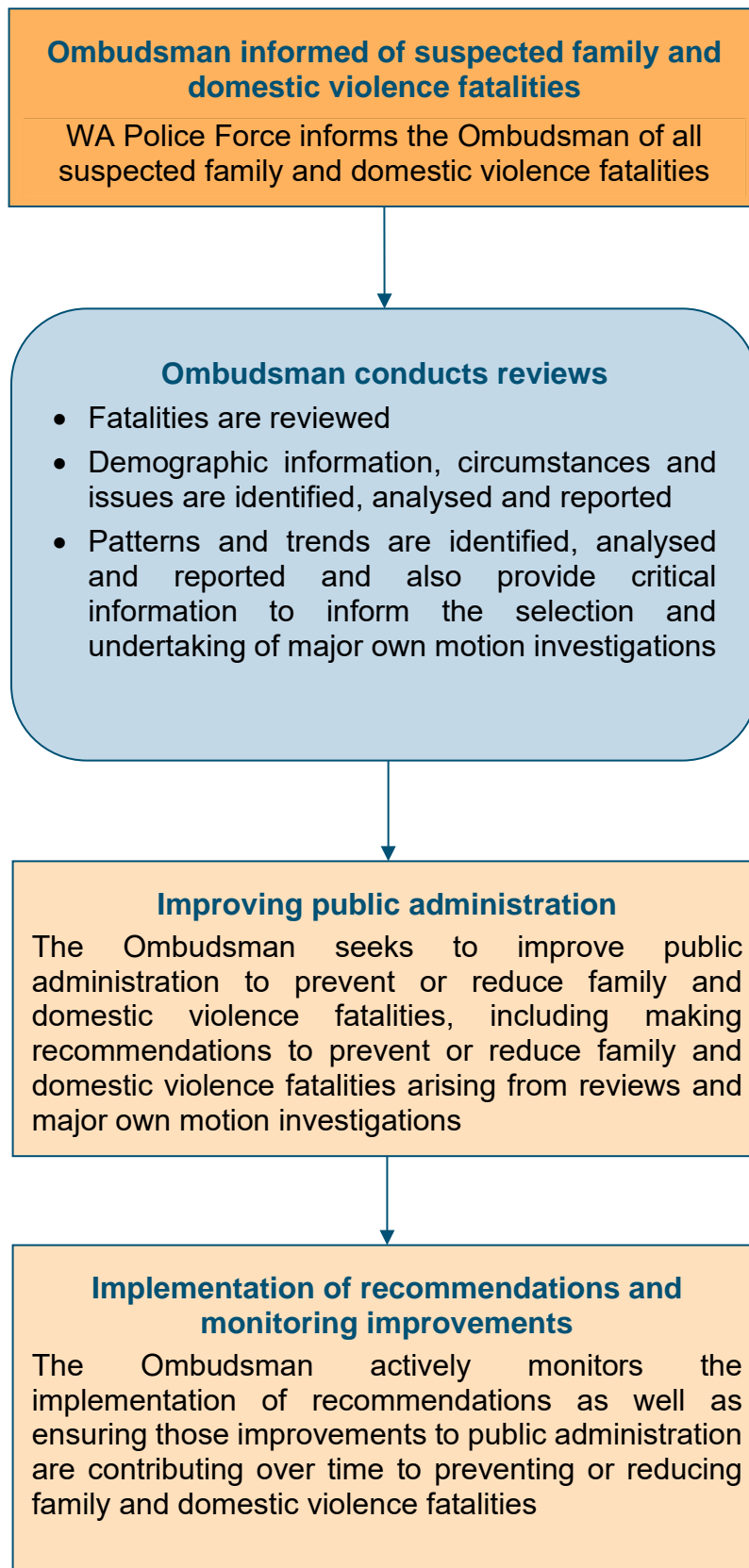
- (a) Is related to that person taking into consideration the cultural, social or religious backgrounds of the two people; or
- (b) Is related to the person’s —
 - (i) Spouse or former spouse; or
 - (ii) De facto partner or former de facto partner.

If the relationship meets these criteria, a review is undertaken.

The extent of a review depends on a number of factors, including the circumstances surrounding the death and the level of involvement of relevant public authorities in the life of the person who died or other relevant people in a family and domestic relationship with the person who died, including the suspected perpetrator. Confidentiality of all parties involved with the case is strictly observed.

The family and domestic violence fatality review process is intended to identify key learnings that will positively contribute to ways to prevent or reduce family and domestic violence fatalities. The review does not set out to establish the cause of death of the person who died; this is properly the role of the Coroner. Nor does the review seek to determine whether a suspected perpetrator has committed a criminal offence; this is only a role for a relevant court.

The Family and Domestic Violence Fatality Review Process



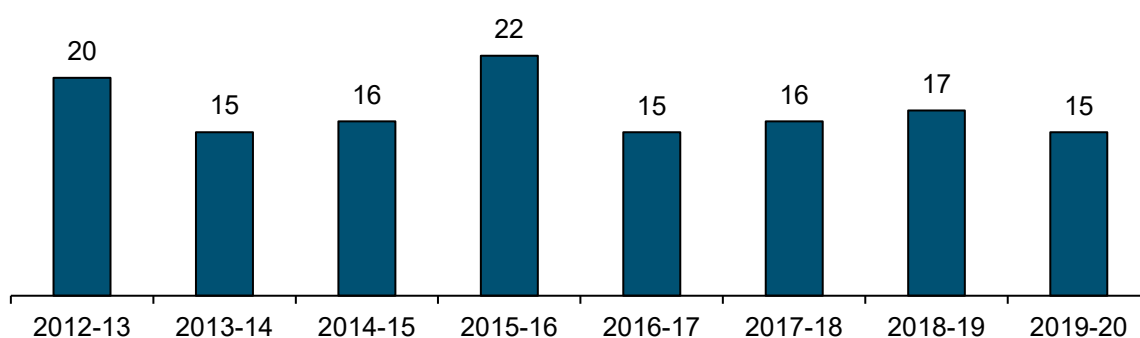
Analysis of Family and Domestic Violence Fatality Reviews

By reviewing family and domestic violence fatalities, the Ombudsman is able to identify, record and report on a range of information and analysis, including:

- The number of family and domestic violence fatality reviews;
- Demographic information identified from family and domestic violence fatality reviews;
- Circumstances in which family and domestic violence fatalities have occurred; and
- Patterns, trends and case studies relating to family and domestic violence fatality reviews.

Number of family and domestic violence fatality reviews

In 2019-20, the number of reviewable family and domestic violence fatalities received was 15, compared to 17 in 2018-19, 16 in 2017-18, 15 in 2016-17, 22 in 2015-16, 16 in 2014-15, 15 in 2013-14 and 20 in 2012-13.

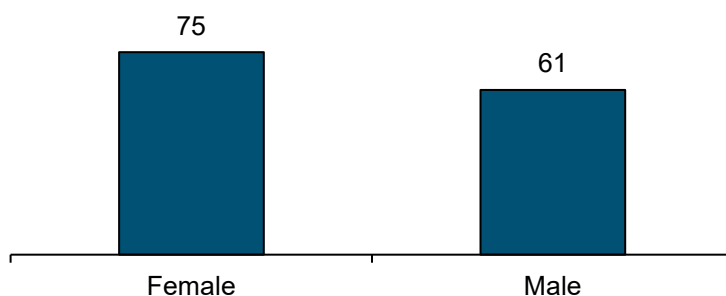


Demographic information identified from family and domestic violence fatality reviews

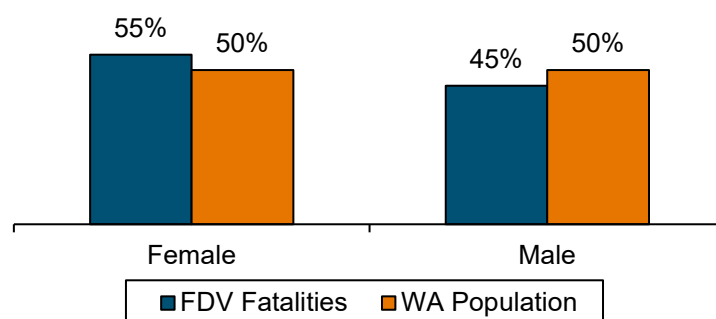
Information is obtained on a range of characteristics of the person who died, including gender, age group, Aboriginal status, and location of the incident in the metropolitan or regional areas.

The following charts show characteristics of the persons who died for the 136 family and domestic violence fatalities received by the Office from 1 July 2012 to 30 June 2020. The numbers may vary from numbers previously reported as, during the course of the period, further information may become available.

Number of Persons who Died by Gender



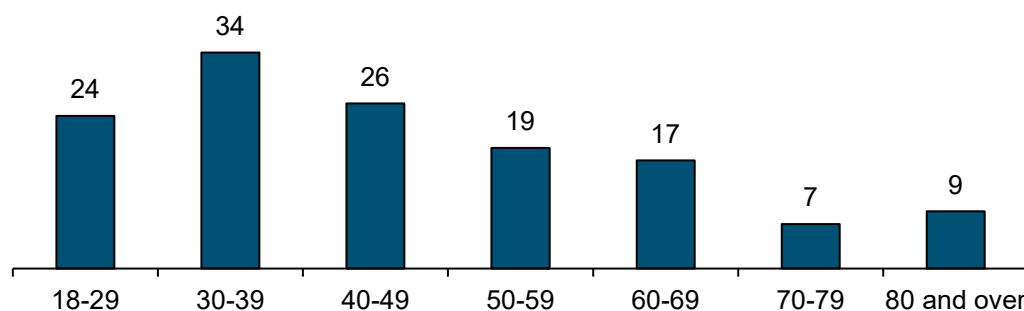
Gender of Persons who Died Compared to WA Population



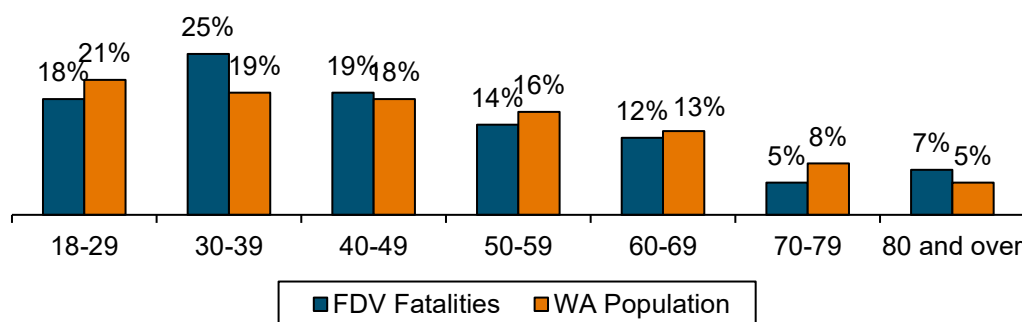
Compared to the Western Australian population, females who died in the eight years from 1 July 2012 to 30 June 2020, were over-represented, with 55% of persons who died being female compared to 50% in the population.

In relation to the 75 females who died, 70 involved a male suspected perpetrator, four involved a female suspected perpetrator, and one involved multiple suspected perpetrators of both genders. Of the 61 men who died, 10 were apparent suicides, 24 involved a female suspected perpetrator, 24 involved a male suspected perpetrator and three involved multiple suspected perpetrators of both genders.

Number of Persons who Died by Age

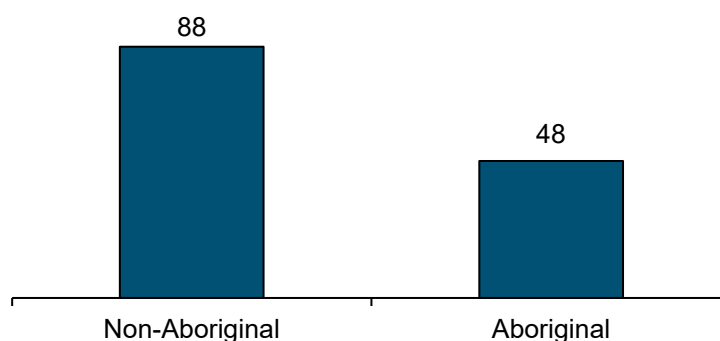


Age of Persons who Died Compared to WA Adult Population

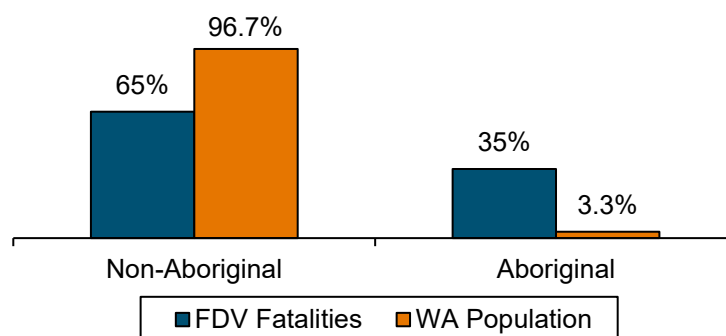


Compared to the Western Australian adult population, the age groups 30-39, 40-49 and 80 and over are over-represented, with 25% of persons who died being in the 30-39 age group compared to 19% of the adult population, 19% of persons who died being in the 40-49 age group compared to 18% of the adult population and seven per cent of persons who died being in the 80 and over age group compared to five per cent of the adult population.

Number of Persons who Died by Aboriginal Status

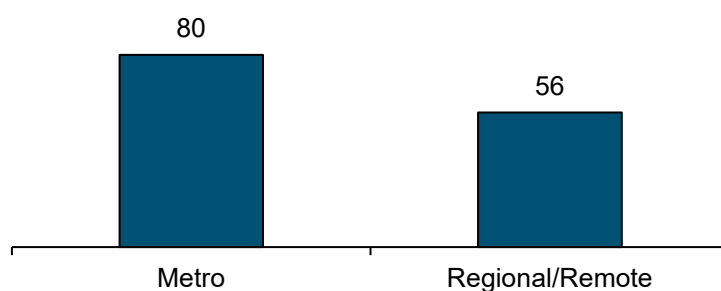


Aboriginal Status of Persons who Died Compared to WA Population

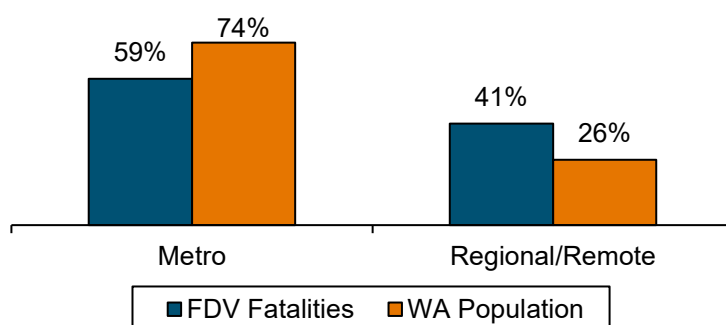


Compared to the Western Australian population, Aboriginal people who died were over-represented, with 35% of people who died in the eight years from 1 July 2012 to 30 June 2020 being Aboriginal compared to 3.3% in the population. Of the 48 Aboriginal people who died, 28 were female and 20 were male.

Number of Persons who Died by Location



Location Compared to WA Population



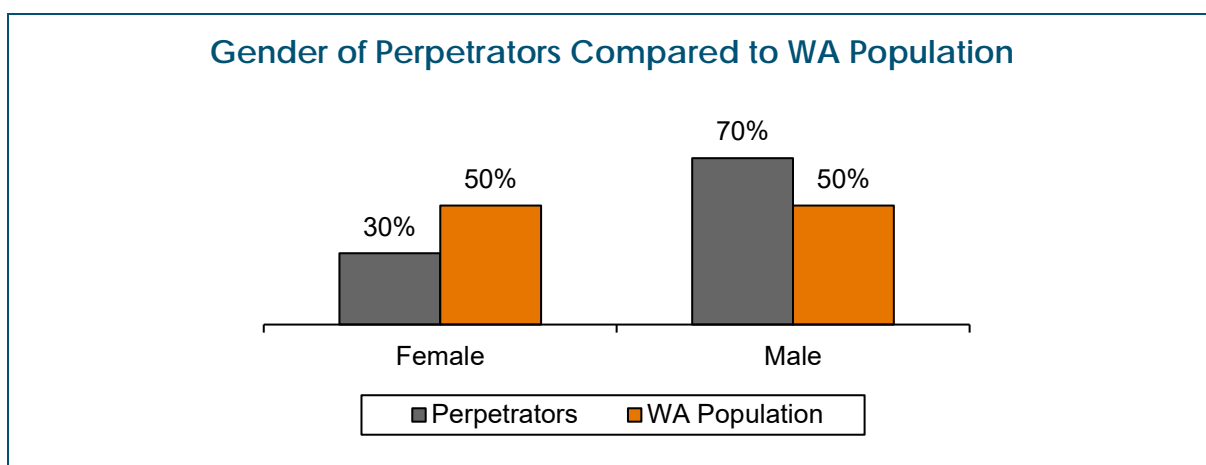
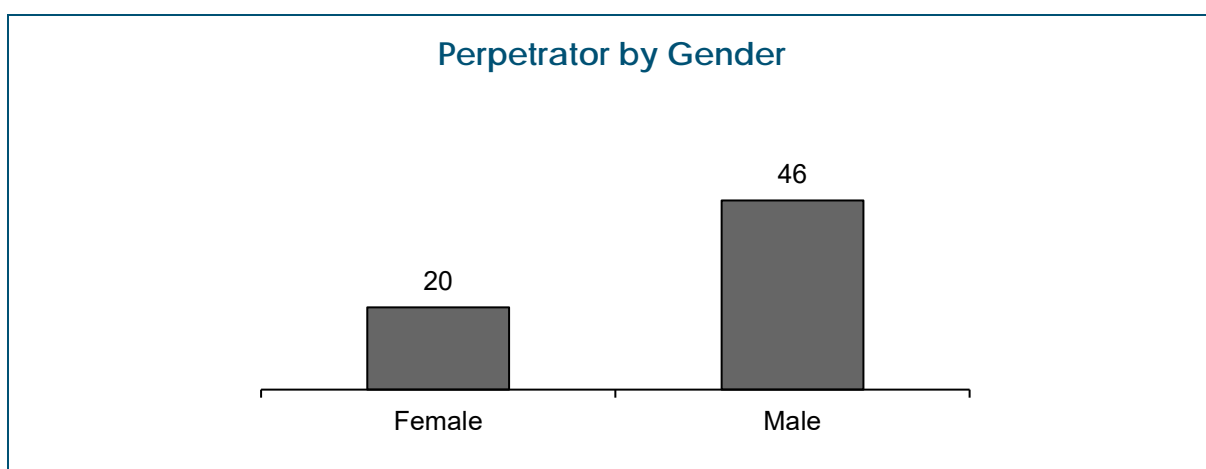
Compared to the Western Australian population, fatalities of people living in regional or remote locations were over-represented, with 41% of the people who died in the eight years from 1 July 2012 to 30 June 2020 living in regional or remote locations, compared to 26% of the population living in those locations.

In its work, the Office is placing a focus on ways that public authorities can prevent or reduce family and domestic violence fatalities for women, including Aboriginal women. In undertaking this work, specific consideration is being given to issues relevant to regional and remote Western Australia.

Information in the following section relates only to family and domestic violence fatalities reviewed from 1 July 2012 to 30 June 2020 where coronial and criminal proceedings (including the appellate process, if any) were finalised by 30 June 2020.

Of the 136 family and domestic violence fatalities received by the Ombudsman from 1 July 2012 to 30 June 2020, coronial and criminal proceedings were finalised in relation to 66 perpetrators.

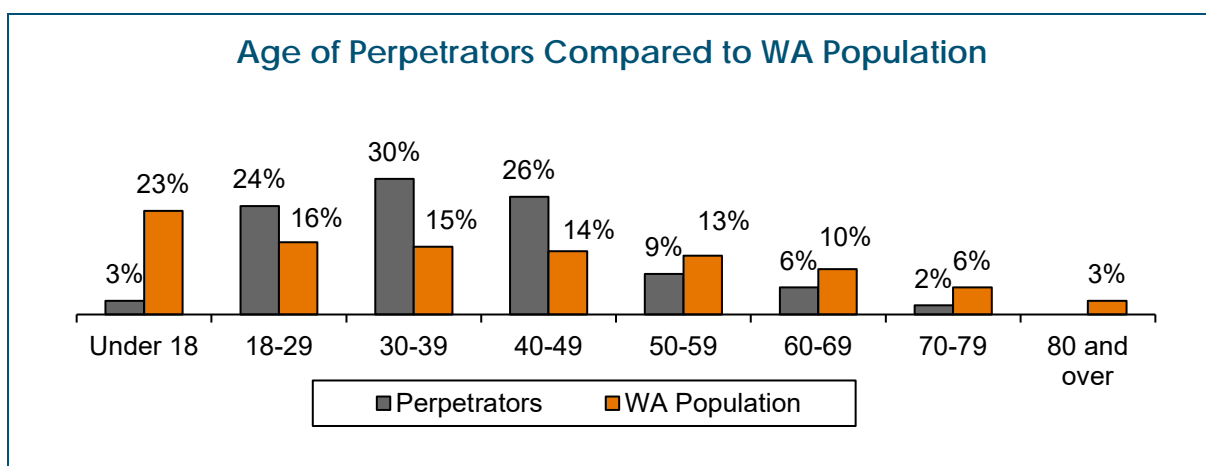
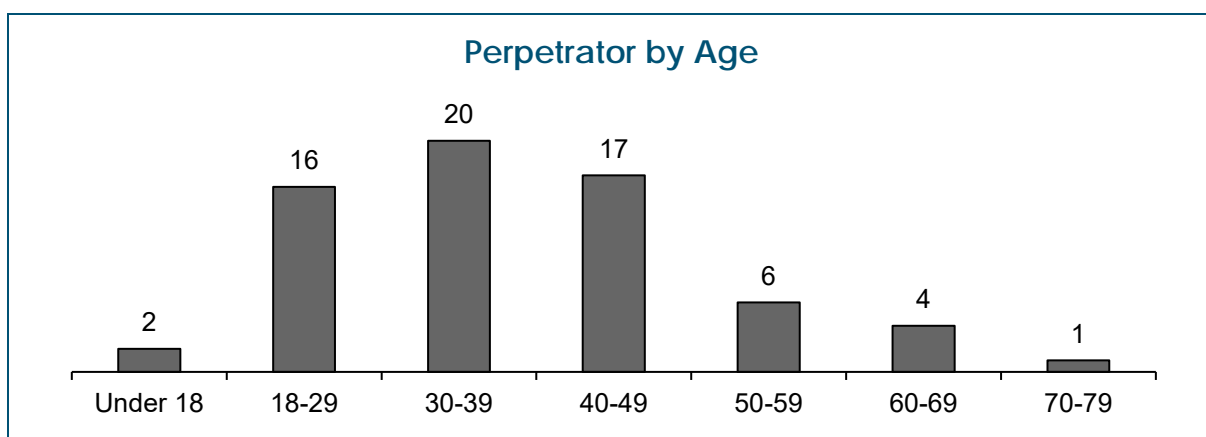
Information is obtained on a range of characteristics of the perpetrator including gender, age group and Aboriginal status. The following charts show characteristics for the 66 perpetrators where both the coronial process and the criminal proceedings have been finalised.



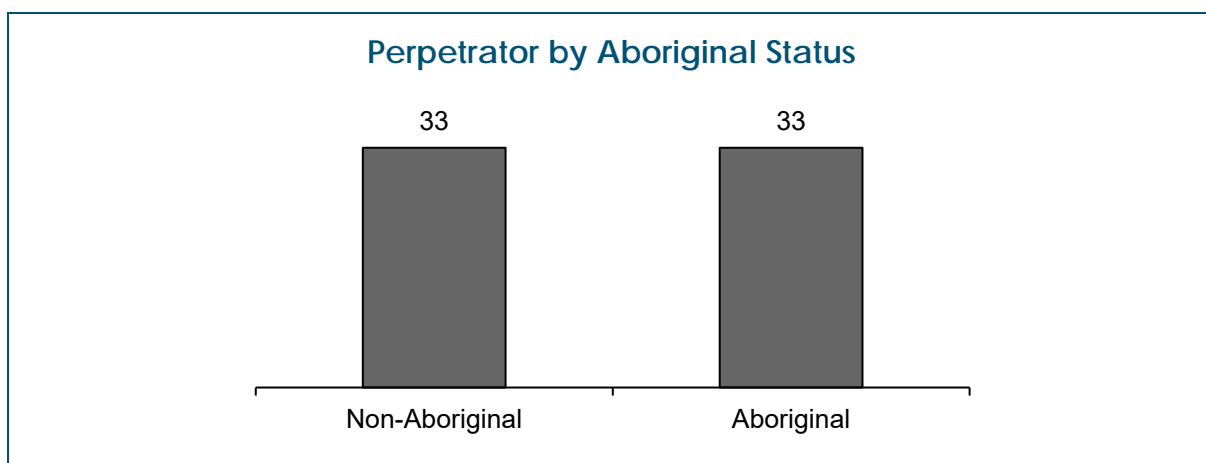
Compared to the Western Australian population, male perpetrators of fatalities in the eight years from 1 July 2012 to 30 June 2020 were over-represented, with 70% of perpetrators being male compared to 50% in the population.

Fourteen males were convicted of manslaughter and 32 males were convicted of murder. Ten females were convicted of manslaughter, one female was convicted of unlawful assault occasioning death and nine females were convicted of murder.

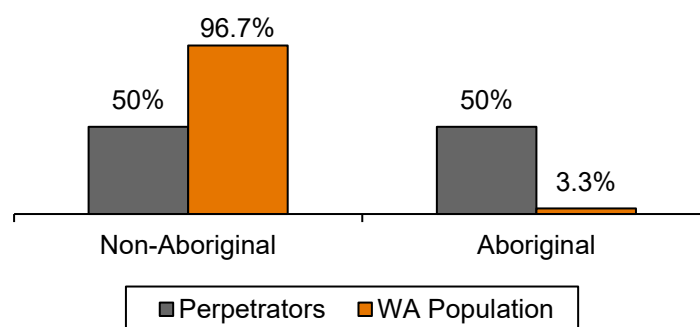
Of the 19 fatalities by the 20 female perpetrators, in 17 fatalities the person who died was male, and in two fatalities the person who died was female. Of the fatalities by the 46 male perpetrators, in 37 fatalities the person who died was female, and in nine fatalities the person who died was male.



Compared to the Western Australian population, perpetrators of fatalities in the eight years from 1 July 2012 to 30 June 2020 in the 18-29, 30-39 and 40-49 age groups were over-represented, with 24% of perpetrators being in the 18-29 age group compared to 16% in the population, 30% of perpetrators being in the 30-39 age group compared to 15% in the population, and 26% of perpetrators being in the 40-49 age group compared to 14% in the population.



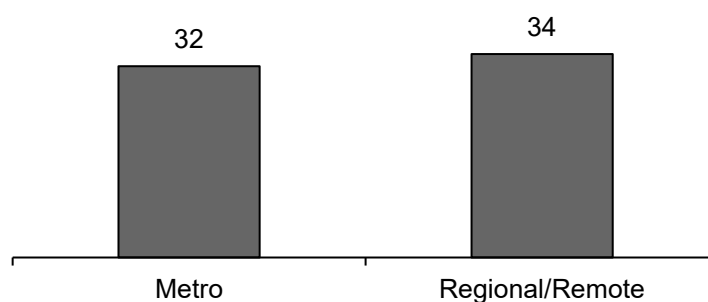
Aboriginal Status of Perpetrators Compared to WA Population



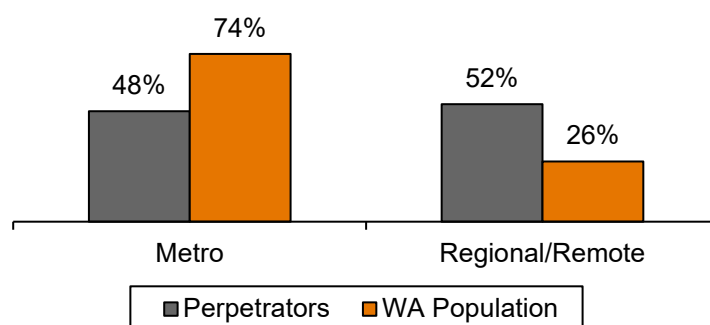
Compared to the Western Australian population, Aboriginal perpetrators of fatalities in the eight years from 1 July 2012 to 30 June 2020 were over-represented with 50% of perpetrators being Aboriginal compared to 3.3% in the population.

In 31 of the 33 cases where the perpetrator was Aboriginal, the person who died was also Aboriginal.

Perpetrator by Location



Perpetrators by Location Compared to WA Population



The majority of people who died lived in regional or remote areas.

Compared to the Western Australian population, the people who died in the eight years from 1 July 2012 to 30 June 2020, who were living in regional or remote locations, were over-represented, with 52% of the people who died living in regional or remote locations compared to 26% of the population living in those locations.

Circumstances in which family and domestic violence fatalities have occurred

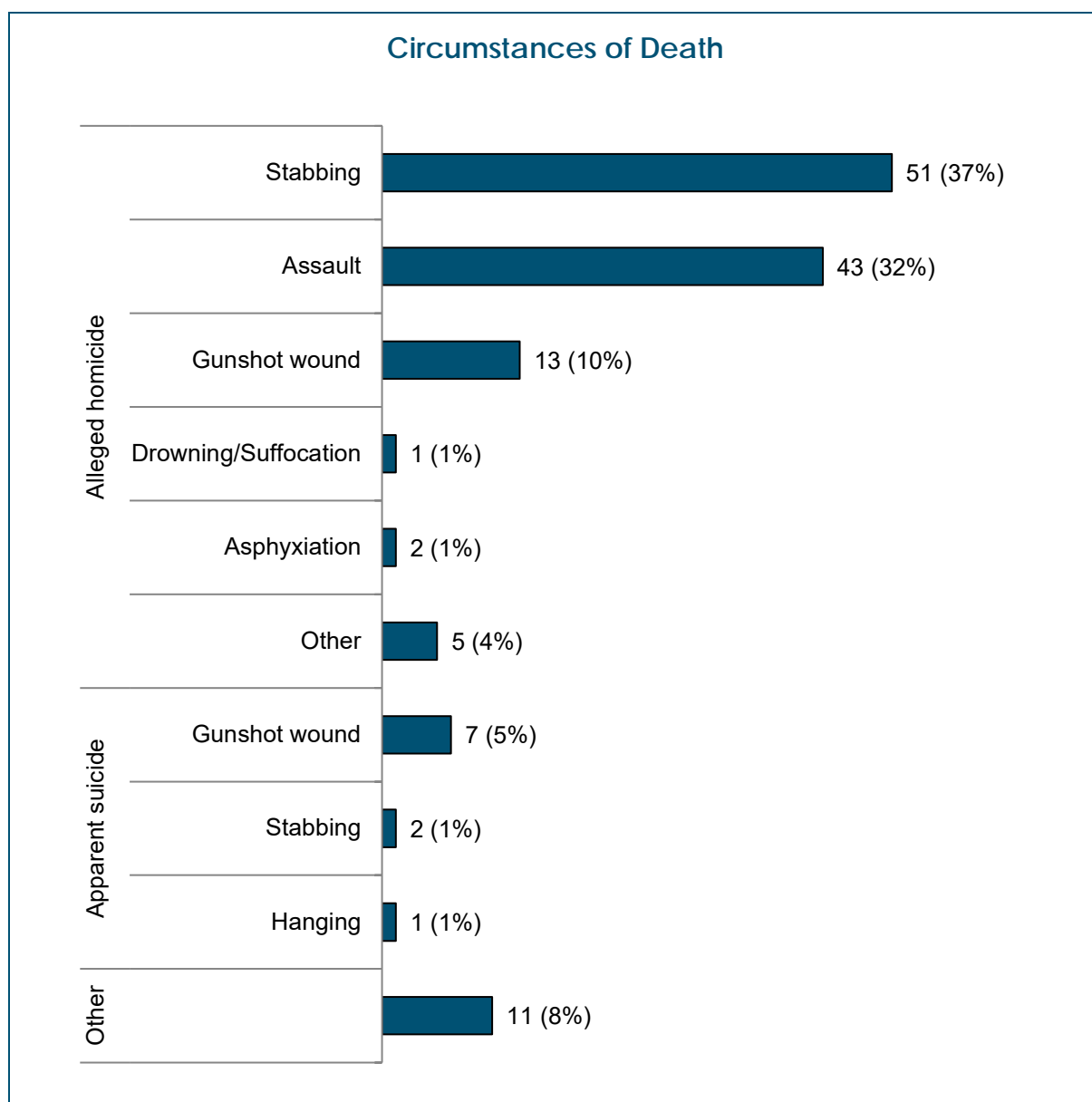
Information provided to the Office by WA Police Force about family and domestic violence fatalities includes general information on the circumstances of death. This is an initial indication of how the death may have occurred but is not the cause of death, which can only be determined by the Coroner.

Family and domestic violence fatalities may occur through alleged homicide, apparent suicide or other circumstances:

- Alleged homicide includes:
 - Stabbing;
 - Physical assault;
 - Gunshot wound;
 - Asphyxiation/suffocation;
 - Drowning; and
 - Other.
- Apparent suicide includes:
 - Gunshot wound;
 - Overdose of prescription or other drugs;
 - Stabbing;
 - Motor vehicle accident;
 - Hanging;
 - Drowning; and
 - Other.
- Other circumstances includes fatalities not in the circumstances of death of either alleged homicide or apparent suicide.

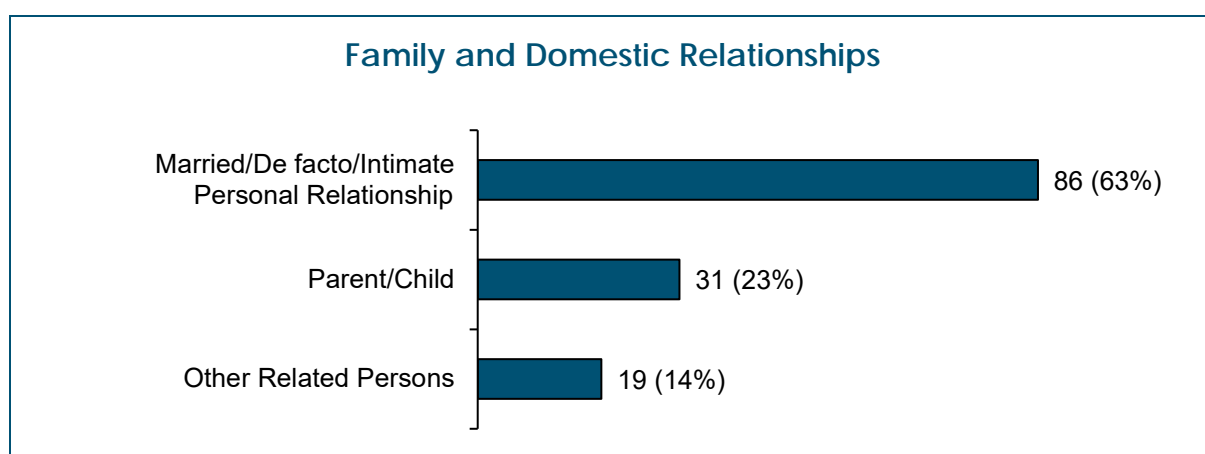
The principal circumstances of death in 2019-20 were alleged homicide by physical assault and stabbing.

The following chart shows the circumstance of death as categorised by the Ombudsman for the 136 family and domestic violence fatalities received by the Office between 1 July 2012 and 30 June 2020.



Family and domestic relationships

As shown in the following chart, married, de facto, or intimate personal relationship are the most common relationships involved in family and domestic violence fatalities.



Of the 136 family and domestic violence fatalities received by the Office from 1 July 2012 to 30 June 2020:

- 86 fatalities (63%) involved a married, de facto or intimate personal relationship, of which there were 74 alleged homicides, eight apparent suicides and four in other circumstances. The 86 fatalities included 14 deaths that occurred in seven cases of alleged homicide/suicide and, in all seven cases, a female was allegedly killed by a male, who subsequently died in circumstances of apparent suicide. The eighth apparent suicide involved a male. Of the remaining 67 alleged homicides, 47 (70%) of the people who died were female and 20 (30%) were male;
- 31 fatalities (23%) involved a relationship between a parent and adult child, of which there were 23 alleged homicides, two apparent suicides and six in other circumstances. Of the 23 alleged homicides, eight (35%) of the people who died were female and 15 (65%) were male. Of these 23 fatalities, in 16 cases (70%) the person who died was the parent or step-parent and in seven cases (30%) the person who died was the adult child or step-child; and
- There were 19 people who died (14%) who were otherwise related to the suspected perpetrator (including siblings and extended family relationships). Of these, seven (37%) were female and 12 (63%) were male.

Patterns, Trends and Case Studies Relating to Family and Domestic Violence Fatality Reviews¹

State policy and planning to reduce family and domestic violence fatalities

The State Strategy states 'Communities is the lead agency coordinating strategy and policy direction in prevention of family and domestic violence in Western Australia'.

The Ombudsman's family and domestic violence fatality reviews and the Ombudsman's major own motion investigation, [*Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities*](#), November 2015, have identified that there is scope for State Government departments and authorities to improve the ways in which they respond to family and domestic violence. In the report, the Ombudsman recommended that, consistent with the National Plan:

Recommendation 1: DCPFS, as the lead agency responsible for family and domestic violence strategy planning in Western Australia, in the development of Action Plans under *Western Australia's Family and Domestic Violence Prevention Strategy to 2022: Creating Safer Communities*, identifies actions for achieving its agreed Primary State Outcomes, priorities among these actions, and allocation of responsibilities for these actions to specific state government departments and authorities.

[*A report on giving effect to the recommendations arising from the Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities*](#), November 2016, identified that steps have been taken to give effect to the Ombudsman's recommendation. Subsequent to this recommendation, the First Action Plan was released with the State Strategy.

¹ In this section, DCPFS refers to the (then) Department of Child Protection and Family Support (now Communities), DOTAG refers to the (then) Department of the Attorney General (now DOJ) and WAPOL refers to (then) Western Australia Police (now the WA Police Force).

Type of relationships

The Ombudsman finalised 118 family and domestic violence fatality reviews from 1 July 2012 to 30 June 2020.

For 75 (64%) of the finalised reviews of family and domestic violence fatalities, the fatality occurred between persons who, either at the time of death or at some earlier time, had been involved in a married, de facto or other intimate personal relationship. For the remaining 43 (36%) of the finalised family and domestic violence fatality reviews, the fatality occurred between persons where the relationship was between a parent and their adult child or persons otherwise related (such as siblings and extended family relationships).

These two groups will be referred to as 'intimate partner fatalities' and 'non-intimate partner fatalities'.

For the 118 finalised reviews, the circumstances of the fatality were as follows:

- For the 75 intimate partner fatalities, 63 were alleged homicides, eight were apparent suicides, and four were other circumstances; and
- For the 43 non-intimate partner fatalities, 34 were alleged homicides, two were apparent suicides, and seven were other circumstances.

Intimate partner relationships

Of the 63 intimate partner relationship fatalities involving alleged homicide:

- There were 47 fatalities where the person who died was female and the suspected perpetrator was male, one where the person who died was female and there were multiple suspected perpetrators of both genders, 12 where the person who died was male and the suspected perpetrator was female, one where the person who died was male and the suspected perpetrator was male, and two where the person who died was male and there were multiple suspected perpetrators of both genders;
- There were 24 fatalities that involved Aboriginal people as both the person who died and the suspected perpetrator. In 16 of these fatalities the person who died was female and in eight the person who died was male;
- There were 31 fatalities that occurred at the joint residence of the person who died and the suspected perpetrator, 11 at the residence of the person who died or the residence of the suspected perpetrator, seven at the residence of family or friends, and 14 at the workplace of the person who died or the suspected perpetrator or in a public place; and
- There were 30 fatalities where the person who died lived in regional and remote areas, and in 21 of these the person who died was Aboriginal.

Non-intimate partner relationships

Of the 43 non-intimate partner fatalities, there were 28 fatalities involving a parent and adult child and 15 fatalities where the parties were otherwise related.

Of the 34 non-intimate partner fatalities involving alleged homicide:

- There were seven fatalities where the person who died was female and the suspected perpetrator was male, four where the person who died was female and the suspected perpetrator was female, 17 where the person who died was male

and the suspected perpetrator was male, and six where the person who died was male and the suspected perpetrator was female;

- There were nine non-intimate partner fatalities that involved Aboriginal people as both the person who died and the suspected perpetrator;
- There were 13 fatalities that occurred at the joint residence of the person who died and the suspected perpetrator, 14 at the residence of the person who died or the residence of the suspected perpetrator, and seven at the residence of family or friends or in a public place; and
- There were 11 fatalities where the person who died lived in regional and remote areas.

Prior reports of family and domestic violence

Intimate partner fatalities were more likely than non-intimate partner fatalities to have involved previous reports of alleged family and domestic violence between the parties. In 37 (59%) of the 63 intimate partner fatalities involving alleged homicide finalised between 1 July 2012 and 30 June 2020, alleged family and domestic violence between the parties had been reported to WA Police Force and/or to other public authorities. In 10 (29%) of the 34 non-intimate partner fatalities involving alleged homicide finalised between 1 July 2012 and 30 June 2020, alleged family and domestic violence between the parties had been reported to WA Police Force and/or other public authorities.

Collation of data to build our understanding about communities who are over-represented in family and domestic violence

The [*Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities*](#), November 2015, found that the research literature identifies that there are higher rates of family and domestic violence among certain communities in Western Australia. However, there are limitations to the supporting data, resulting in varying estimates of the numbers of people in these communities who experience family and domestic violence and a limited understanding of their experiences.

Of the 47 family and domestic violence fatalities involving alleged homicide where there had been prior reports of alleged family and domestic violence between the parties, from the records available:

- Three fatalities involved a deceased person with disability;
- None of the fatalities involved a deceased person in a same-sex relationship with the suspected perpetrator;
- 28 fatalities involved a deceased Aboriginal person; and
- 25 of the people who died lived in regional/remote Western Australia.

Examination of the family and domestic violence fatality review data provides some insight into the issues relevant to these communities. However, these numbers are limited and greater insight is only possible through consideration of all reported family and domestic violence, not just where this results in a fatality. The report found that neither the former State Strategy nor the *Achievement Report to 2013* identified any actions to improve the collection of data relating to different communities experiencing higher rates of family and domestic violence, for example through the collection of cultural, demographic and socioeconomic data. In the report, the Ombudsman recommended that:

Recommendation 2: In developing and implementing future phases of *Western Australia's Family and Domestic Violence Prevention Strategy to 2022: Creating Safer Communities*, DCPFS collaborates with WAPOL, DOTAG and other relevant agencies to identify and incorporate actions to be taken by state government departments and authorities to collect data about communities who are overrepresented in family and domestic violence, to inform evidence-based strategies tailored to addressing family and domestic violence in these communities.

A report on giving effect to the recommendations arising from the Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities, November 2016, identified that steps have been taken, and are proposed to be taken, to give effect to this recommendation.

Subsequent to this recommendation, Action Item 4 of the First Action Plan intends to '[d]evelop a family and domestic violence dashboard that tracks and reports demand data, to support monitoring and analysis of current and emerging data trends and inform planning'. In relation to data collation about communities over-represented in family and domestic violence, and how this is used to inform evidence-based strategies tailored to addressing family and domestic violence in these communities, the Ombudsman will continue to monitor the implementation and effectiveness of the State Strategy, and First Action Plan for responding to Aboriginal family violence.

Identification of family and domestic violence incidents

Of the 47 family and domestic violence fatalities involving alleged homicide where there had been prior reports of alleged family and domestic violence between the parties, WA Police Force was the agency to receive the majority of these reports. The *Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities*, November 2015, noted that DCPFS may become aware of family and domestic violence through a referral to DCPFS and subsequent assessment through the duty interaction process. Identification of family and domestic violence is integral to the agency being in a position to implement its family and domestic violence policy and processes to address perpetrator accountability and promote victim safety and support. However, the Ombudsman's reviews and own motion investigations continue to identify missed opportunities to identify family and domestic violence in interactions.

In the report, the Ombudsman made two recommendations (Recommendations 7 and 39) that WA Police Force and DCPFS ensure all reported family and domestic violence is correctly identified and recorded. *A report on giving effect to the recommendations arising from the Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities*, November 2016, identified that WA Police Force and DCPFS had proposed steps to be taken to give effect to these recommendations. The Office will continue to monitor, and report on, the steps being taken to implement these recommendations.

Provision of agency support to obtain a violence restraining order

Prior to 1 July 2017 in Western Australia, a person who experienced domestic violence by another person, whether or not they were related, could apply to the Magistrates Court for a protection order being a violence restraining order. In July 2017, family violence restraining orders were introduced in Western Australia. A family violence restraining order is governed under the *Restraining Orders Act 1997* and can be used to 'restrain' a 'family member' as defined by the *Restraining Orders Act 1997*.

As identified above, WA Police Force is likely to receive the majority of reports of family and domestic violence. WA Police Force attendance at the scene affords WA Police Force with the opportunity to provide victims with information and advice about:

- What a family violence restraining order is and how it can enhance their safety;
- How to apply for a family violence restraining order; and
- What support services are available to provide further advice and assistance with obtaining a family violence restraining order, and how to access these support services.

Support to victims in reported incidences of family and domestic violence

The [*Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities*](#), November 2015, examined WA Police Force's response to family and domestic violence incidents through the review of 75 Domestic Violence Incident Reports (associated with 30 fatalities). The report found that WA Police Force recorded the provision of information and advice about violence restraining orders in 19 of the 75 (25%) instances. In the report, the Ombudsman recommended that:

Recommendation 9: WAPOL amends the *Commissioner's Operations and Procedures Manual* to require that victims of family and domestic violence are provided with verbal information and advice about violence restraining orders in all reported instances of family and domestic violence.

Recommendation 10: WAPOL collaborates with DCPFS and DOTAG to develop an 'aide memoire' that sets out the key information and advice about violence restraining orders that WAPOL should provide to victims of all reported instances of family and domestic violence.

Recommendation 11: WAPOL collaborates with DCPFS and DOTAG to ensure that the 'aide memoire', discussed at Recommendation 10, is developed in consultation with Aboriginal people to ensure its appropriateness for family violence incidents involving Aboriginal people.

[*A report on giving effect to the recommendations arising from the Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities*](#), November 2016, identified that WA Police Force had taken steps and/or proposed steps to be taken to give effect to these recommendations. Subsequent to these recommendations, Action Item 13(d) of the First Action Plan indicates the WA Police Force intends to undertake 'comprehensive family violence training that is reported in the WA Police Force Annual Report'. The Office will continue to monitor, and report on, the provision, by WA Police Force, of information and advice regarding family violence restraining orders.

Support to obtain a violence restraining order on behalf of children

The [Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities](#), November 2015, also examined the response by DCPFS to prior reports of family and domestic violence involving 30 children who experienced family and domestic violence associated with the 30 fatalities. The report found that DCPFS did not provide any active referrals for legal advice or help from an appropriate service to obtain a violence restraining order for any of the children involved in the 30 fatalities. In the report, the Ombudsman recommended that:

Recommendation 44: DCPFS complies with the requirements of the *Family and Domestic Violence Practice Guidance*, in particular, that '[w]here a VRO is considered desirable or necessary but a decision is made for the Department not to apply for the order, the non-abusive adult victim should be given an active referral for legal advice and help from an appropriate service'.

Further, the report noted DCPFS's *Family and Domestic Violence Practice Guidance* also identifies that taking out a violence restraining order on behalf of a child 'can assist in the protection of that child without the need for removal (intervention action) from his or her family home', and can serve to assist adult victims of violence when it would decrease risk to the adult victim if the Department was the applicant. In the report, the Ombudsman made three recommendations relating to DCPFS's improved compliance with the provisions of its *Family and Domestic Violence Practice Guidance* in seeking violence restraining orders on behalf of children (Recommendations 45, 46 and 47), including:

Recommendation 45: In its implementation of section 18(2) of the *Restraining Orders Act 1997*, DCPFS complies with its *Family and Domestic Violence Practice Guidance* which identifies that DCPFS officers should consider seeking a violence restraining order on behalf of a child if the violence is likely to escalate and the children are at risk of further abuse, and/or it would decrease risk to the adult victim if the Department was the applicant for the violence restraining order.

[A report on giving effect to the recommendations arising from the Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities](#), November 2016, identified that in relation to Recommendations 44, 45, 46 and 47 DCPFS had taken steps and proposed steps to be taken to give effect to all these recommendations. The State Strategy identifies the need to '[s]upport the long-term recovery and wellbeing of children who have experienced family and domestic violence' as a Priority Action. The Office will continue to monitor, and report on, the steps being taken to implement these recommendations.

Support during the process of obtaining a family violence restraining order

The [Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities](#), November 2015, identified the importance of opportunities for victims to seek help and for perpetrators to be held to account throughout the process for obtaining a, then, violence restraining order, and that these opportunities are acted upon, not just by WA Police Force but by all State Government departments and authorities. In the report the Ombudsman recommended that:

Recommendation 14: In developing and implementing future phases of *Western Australia's Family and Domestic Violence Prevention Strategy to 2022: Creating Safer Communities*, DCPFS specifically identifies and incorporates opportunities for state

government departments and authorities to deliver information and advice about violence restraining orders, beyond the initial response by WAPOL.

A report on giving effect to the recommendations arising from the Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities, November 2016, identified that DCPFS had taken steps to give effect to this recommendation.

Subsequent to this recommendation, in May 2020, in the context of concerns for increased family and domestic violence during COVID-19 restrictions, new laws were introduced to enable victims of family and domestic violence to apply for family violence restraining orders online through registered legal services which provide family violence assistance. This action is intended to make it more convenient and less stressful for victims to obtain family violence restraining orders.

The State Strategy identifies that victims of family and domestic violence ‘often need information, social support and legal advice on a range of issues such as...restraining orders. Actions under the Strategy will focus on making this available at an early stage to support people’s safety and wellbeing and help them make informed choices’. Action Item 17 of the First Action Plan intends to ‘[e]xplore options to improve early access to legal advice for victims and perpetrators of family and domestic violence’.

Support when a family violence restraining order has not been granted

The *Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities*, November 2015, examined a sample of 41,229 hearings regarding violence restraining orders and identified that an application for a, then, violence restraining order was dismissed or not granted as an outcome of 6,988 hearings (17%) in the investigation period. In cases where an application for a violence restraining order has been dismissed it may still be appropriate to provide safety planning assistance. In the report, the Ombudsman recommended that:

Recommendation 25: DOTAG, in collaboration with DCPFS, identifies and incorporates into *Western Australia’s Family and Domestic Violence Prevention Strategy to 2022: Creating Safer Communities*, ways of ensuring that, in cases where an application for a violence restraining order has been dismissed, if appropriate, victims are provided with referrals to appropriate safety planning assistance.

A report on giving effect to the recommendations arising from the Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities, November 2016, identified that DOTAG and DCPFS had proposed steps to be taken to give effect to this recommendation.

Provision of support to victims experiencing family and domestic violence

In November 2015, DCPFS launched the *Western Australia Family and Domestic Violence Common Risk Assessment and Risk Management Framework (Second edition)* (available at www.dcp.wa.gov.au). This across-government framework states that:

The purpose of risk assessment is to determine the risk and safety for the adult victim and children, taking into consideration the range of victim and perpetrator risk factors that affect the likelihood and severity of future violence.

Risk assessment must be undertaken when family and domestic violence has been identified...

Risk assessment is conducted for a number of reasons including:

- evaluating the risk of re-assault for a victim;
- evaluating the risk of homicide;
- informing service system and justice responses;
- supporting women to understand their own level of risk and the risk to children and/or to validate a woman's own assessment of her level of safety; and
- establishing a basis from which a case can be monitored.

(pages 36-37)

The Ombudsman's family and domestic violence fatality reviews and the [*Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities*](#), November 2015, have noted that, where agencies become aware of family and domestic violence, they do not always undertake a comprehensive assessment of the associated risk of harm and provide support and safety planning.

In the report, the Ombudsman made eight recommendations (Recommendations 40 – 44 and 48 – 50) to public authorities that they ensure compliance with their family and domestic violence policy requirements, including assessing risk of future harm and providing support to address the impact of experiencing family and domestic violence.

[*A report on giving effect to the recommendations arising from the Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities*](#), November 2016, identified that DCPFS had taken steps and proposed steps to be taken to give effect to all these recommendations. Subsequent to these recommendations, Action Item 12 of the First Action Plan intends to update the *Common Risk Assessment and Risk Management Framework* to '[s]trengthen approaches to risk management and information sharing'. The Office will continue to monitor, and report on, the steps being taken to implement these recommendations.

Agency interventions to address perpetrator behaviours

Based on the information available to the Office, in 37 (59%) of the 63 intimate partner fatalities involving alleged homicide finalised between 1 July 2012 and 30 June 2020, prior family and domestic violence between the parties had been reported to WA Police Force and/or other public authorities. The Ombudsman's reviews identify where perpetrators have a history of reported violence, with one or more partners, and examines steps taken to hold perpetrators to account for their actions and support them to cease their violent behaviours, in accordance with the intent of the former State Strategy.

The Ombudsman's reviews have examined processes for the rehabilitation of perpetrator behaviours, where perpetrators of family and domestic violence are imprisoned.

Fatalities with no prior reported family and domestic violence

Based on the information available to the Office, in 26 (41%) of the 63 intimate partner fatalities involving alleged homicide finalised between 1 July 2012 and 30 June 2020, the fatal incident was the only family and domestic violence between the parties that had been reported to WA Police Force and/or other public authorities. It is important to note, however, research indicating under-reporting of family and domestic violence. The Australian Bureau of Statistics' *Personal Safety Survey 2016* (www.abs.gov.au) collected information about help seeking behaviours, noting that:

- In the most recent incident of physical assault by a male, women were most likely to be physically assaulted by a male that they knew (92% or 977,600).
- and
- Two-thirds of men and women who experienced physical assault by a male did not report the most recent incident to police (69% or 908,100 for men and 69% or 734,500 for women).

The Ombudsman's reviews provide information on family and domestic violence fatalities where there is no previous reported history of family and domestic violence, including cases where information becomes available after the death to confirm a history of unreported family and domestic violence, drug or alcohol use, or mental health issues that may be relevant to the circumstances of the fatality.

The Ombudsman will continue to collate information on family and domestic violence fatalities where there is no reported history of family and domestic violence, to identify patterns and trends and consider improvements that may increase reporting of family and domestic violence and access to supports.

Family violence involving Aboriginal people

Of the 118 family and domestic violence fatality reviews finalised from 1 July 2012 to 30 June 2020, Aboriginal Western Australians were over-represented, with 37 (31%) persons who died being Aboriginal. In all but two cases, the suspected perpetrator was also Aboriginal. There were 27 of these 37 fatalities where the person who died lived in a regional or remote area of Western Australia, of which 21 were intimate partner fatalities.

The Ombudsman's family and domestic violence fatality reviews and the [*Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities*](#), November 2015, identify the over-representation of Aboriginal people in family and domestic violence fatalities. This is consistent with the research literature that Aboriginal people are 'more likely to be victims of violence than any other section of Australian society' (Cripps, K and Davis, M, *Communities working to reduce Indigenous family violence*, Brief 12, Indigenous Justice Clearinghouse, New South Wales, June 2012, p. 1) and that Aboriginal people experience family and domestic violence at 'significantly higher rates than other Australians' (Aboriginal and Torres Strait Islander Social Justice Commissioner, *Ending family violence and abuse in Aboriginal and Torres Strait Islander communities – Key Issues, An overview paper of research and findings by the Human Rights and Equal Opportunity Commission, 2001 - 2006*, Human Rights and Equal Opportunity Commission, June 2006, p. 6).

Contextual factors for family violence involving Aboriginal people

As discussed in the [*Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities*](#), November 2015, the research literature suggests that there are a number of contextual factors contributing to the prevalence and seriousness of family violence in Aboriginal communities and that:

...violence against women within the Indigenous Australian communities need[s] to be understood within the specific historical and cultural context of colonisation and systemic disadvantage. Any discussion of violence in contemporary Indigenous communities must be located within this historical context. Similarly, any discussion of "causes" of violence within the community must recognise and reflect the impact of

colonialism and the indelible impact of violence perpetrated by white colonialists against Indigenous peoples

... A meta-evaluation of literature...identified many “causes” of family violence in Indigenous Australian communities, including historical factors such as: collective dispossession; the loss of land and traditional culture; the fragmentation of kinship systems and Aboriginal law; poverty and unemployment; structural racism; drug and alcohol misuse; institutionalisation; and the decline of traditional Aboriginal men’s role and status - while “powerless” in relation to mainstream society, Indigenous men may seek compensation by exerting power over women and children...

(Blagg, H, Bluett-Boyd, N, and Williams, E, *Innovative models in addressing violence against Indigenous women: State of knowledge paper*, Australia’s National Research Organisation for Women’s Safety Limited, Sydney, New South Wales, August 2015, p. 3).

The report notes that, in addition to the challenges faced by all victims in reporting family and domestic violence, the research literature identifies additional disincentives to reporting family and domestic violence faced by Aboriginal people:

Indigenous women continuously balance off the desire to stop the violence by reporting to the police with the potential consequences for themselves and other family members that may result from approaching the police; often concluding that the negatives outweigh the positives. Synthesizing the literature on the topic reveals a number of consistent themes, including: a reluctance to report because of fear of the police, the perpetrator and perpetrator’s kin; fear of “payback” by the offender’s family if he is jailed; concerns the offender might become “a death in custody”; a cultural reluctance to become involved with non-Indigenous justice systems, particularly a system viewed as an instrument of dispossession by many people in the Indigenous community; a degree of normalisation of violence in some families and a degree of fatalism about change; the impact of “lateral violence” ... which makes victims subject to intimidation and community denunciation for reporting offenders, in Indigenous communities; negative experiences of contact with the police when previously attempting to report violence (such as being arrested on outstanding warrants); fears that their children will be removed if they are seen as being part of an abusive house-hold; lack of transport on rural and remote communities; and a general lack of culturally secure services.

(Blagg, H, Bluett-Boyd, N and Williams, E, *Innovative models in addressing violence against Indigenous women: State of knowledge paper*, Australia’s National Research Organisation for Women’s Safety Limited, Sydney, New South Wales, August 2015, p. 13).

More recently, the ANROWS (Australian National Research Organisation for Women’s Safety) Horizons Research Report entitled *Innovative Models in addressing violence against Indigenous women: Final report* (January 2018, available at www.anrows.org.au):

This research report undertakes a critical inquiry into responses to family violence in a number of remote communities from the perspective of Aboriginal people who either work within the family violence space or have had experience of family violence. It explicitly foregrounds Indigenous knowledge of family violence, arguing that Indigenous knowledge departs from what we call in this report “mainstream knowledge” in a number of critical respects. The report is based on qualitative research in three sites in Australia: Fitzroy Crossing (Western Australia), Darwin (Northern Territory), and Cherbourg (Queensland). It supports the creation of a network of regionally based Indigenous family violence strategies owned and managed by Indigenous people and linked to initiatives around alcohol reduction, intergenerational trauma, social and emotional wellbeing, and alternatives to custody. The key theme running through our consultations was that innovative practice must be embedded in Aboriginal law and

culture. This recommendation runs counter to accepted wisdom regarding intervention in family and domestic violence, which tends to assume that gender trumps other differences, and that violence against women results from similar forms of oppression, linked to gender inequalities and patriarchal forms of power. While not disputing the role of gender and coercion in underpinning much violence against Indigenous women, we, nonetheless, claim that a distinctively Indigenous approach to family violence necessitates exploring causal factors that reflect specifically Indigenous experiences of colonisation and its aftermath. (page 9)

The Ombudsman's reviews and report have identified that Aboriginal victims want the violence to end, but not necessarily always through the use of family violence restraining orders.

A separate strategy to prevent and reduce Aboriginal family violence

In examining the family and domestic violence fatalities involving Aboriginal people, the research literature and stakeholder perspectives, the [*Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities*](#), November 2015, identified a gap in that there is no strategy solely aimed at addressing family violence experienced by Aboriginal people and in Aboriginal communities.

The findings of the report strongly support the development of a separate strategy that is specifically tailored to preventing and reducing Aboriginal family violence. This can be summarised as three key points.

Firstly, the findings set out in Chapters 4 and 5 of the report identify that Aboriginal people are over-represented, both as victims of family and domestic violence and victims of fatalities arising from this violence.

Secondly, the research literature, discussed in Chapter 6 of the report suggests a distinctive '...nature, history and context of family violence in Aboriginal and Torres Strait Islander communities' (National Aboriginal and Torres Strait Islander Women's Alliance, *Submission to the Finance and Public Administration Committee Inquiry into Domestic Violence in Australia*, National Aboriginal and Torres Strait Islander Women's Alliance, New South Wales, 31 July 2014, p. 5). The research literature further suggests that combating violence is likely to require approaches that are informed by and respond to this experience of family violence.

Thirdly, the findings set out in the report demonstrate how the unique factors associated with Aboriginal family violence have resulted in important aspects of the use of violence restraining orders by Aboriginal people which are different from those of non-Aboriginal people.

The report also identified that development of the strategy must include and encourage the involvement of Aboriginal people in a full and active way, at each stage and level of the development of the strategy, and be comprehensively informed by Aboriginal culture. Doing so would mean that an Aboriginal family violence strategy would be developed with, and by, Aboriginal people. In the report, the Ombudsman recommended that:

Recommendation 4: DCPFS, as the lead agency responsible for family and domestic violence strategic planning in Western Australia, develops a strategy that is specifically tailored to preventing and reducing Aboriginal family violence, and is linked to, consistent with, and supported by *Western Australia's Family and Domestic Violence Prevention Strategy to 2022: Creating Safer Communities*.

Recommendation 6: In developing a strategy tailored to preventing and reducing Aboriginal family violence, referred to at Recommendation 4, DCPFS actively invites and encourages the involvement of Aboriginal people in a full and active way at each stage and level of the process, and be comprehensively informed by Aboriginal culture.

A report on giving effect to the recommendations arising from the Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities, November 2016, identified that DCPFS had taken steps and proposed steps to be taken to give effect to these recommendations. Subsequent to these recommendations, Action Item 5 of the First Action Plan intends to '[c]o-design the Aboriginal Family Safety Strategy with Aboriginal people and communities'. This Office will continue to monitor the implementation of this action item.

Limited use of violence restraining orders

The *Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities*, November 2015, identified that while Aboriginal people are significantly over-represented as victims of family and domestic violence, they are less likely than non-Aboriginal people to seek a violence restraining order. The report examined the research literature and views of stakeholders on the possible reasons for this lower use of violence restraining orders by Aboriginal people, identifying that the process for obtaining a violence restraining order is not necessarily always culturally appropriate for Aboriginal victims and that Aboriginal people in regional and remote locations face additional logistical and structural barriers in the process of obtaining a violence restraining order.

In the report, the Ombudsman recommended that:

Recommendation 23: DOTAG, in collaboration with key stakeholders, considers opportunities to address the cultural, logistical and structural barriers to Aboriginal victims seeking a violence restraining order, and ensures that Aboriginal people are involved in a full and active way at each stage and level of this process, and that this process is comprehensively informed by Aboriginal culture.

A report on giving effect to the recommendations arising from the Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities, November 2016, identified that DOTAG had taken steps and proposed steps to be taken to give effect to this recommendation. Subsequent to this recommendation, Action Item 25 of the First Action Plan intends to '[d]evelop a Department of Justice Aboriginal Family Safety Strategy'. The Office will continue to monitor, and report on, the steps being taken to implement this action item.

The November 2015 report noted that data examined by the Office concerning the use of police orders and violence restraining orders by Aboriginal people in Western Australia indicates that Aboriginal victims are more likely to be protected by a police order than a violence restraining order. This data is consistent with information examined in the Ombudsman's reviews of family and domestic violence fatalities involving Aboriginal people. In the report, the Ombudsman recommended that:

Recommendation 16: DCPFS considers the findings of the Ombudsman's investigation regarding the link between the use of police orders and violence restraining orders by Aboriginal people in developing and implementing the Aboriginal family violence strategy referred to in Recommendation 4.

[A report on giving effect to the recommendations arising from the Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities](#), November 2016, identified that DCPFS had taken steps and proposed steps to be taken to give effect to this recommendation.

The findings from the Ombudsman's family and domestic violence fatality reviews and the own motion investigations will contribute to the development of the State Strategy, and the Office will continue to monitor, and report on, the steps being taken to implement Recommendation 16 from the [Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities](#), November 2015.

Strategies to recognise and address the co-occurrence of alcohol consumption and Aboriginal family violence

The Ombudsman's reviews of the family and domestic violence fatalities of Aboriginal people and prior reported family violence between the parties, identify a high co-occurrence of alcohol consumption and family violence. The [Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities](#), November 2015, examined the research literature on the relationship between alcohol use and family and domestic violence and found that the research literature regularly identifies alcohol as 'a significant risk factor' associated with intimate partner and family violence in Aboriginal communities (Mitchell, L, *Domestic violence in Australia – an overview of the issues*, Parliament of Australia, 2011, Canberra, accessed 16 October 2014, pp. 6-7). As with family and domestic violence in non-Aboriginal communities, the research literature suggests that 'while alcohol consumption [is] a common contributing factor ... it should be viewed as an important situational factor that exacerbates the seriousness of conflict, rather than a cause of violence' (Buzawa, E, Buzawa, C and Stark, E, *Responding to Domestic Violence*, Sage Publications, 4th Edition, 2012, Los Angeles, p. 99; Morgan, A. and McAtamney, A. 'Key issues in alcohol-related violence,' *Australian Institute of Criminology*, Canberra, 2009, viewed 27 March 2015, p. 3).

In the report, the Ombudsman recommended that:

Recommendation 5: DCPFS, in developing the Aboriginal family violence strategy referred to at Recommendation 4, incorporates strategies that recognise and address the co-occurrence of alcohol use and Aboriginal family violence.

[A report on giving effect to the recommendations arising from the Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities](#), November 2016, identified that DCPFS had taken steps and proposed steps to be taken to give effect to this recommendation.

Strategies to address the over-representation of family violence involving Aboriginal people in regional WA

Of the 37 family and domestic violence fatality reviews finalised from 1 July 2012 to 30 June 2020 involving Aboriginal people, 27 (73%) of the Aboriginal people who died lived in a regional or remote area of Western Australia. Sixteen (43%) of the Aboriginal people who died lived in the Kimberley region, which is home to 1.4% of all people and 19% of Aboriginal people in the Western Australian population.

As outlined above, [A report on giving effect to the recommendations arising from the Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities](#), November 2016, identified that DCPFS had taken steps and proposed steps to be taken to give effect to Recommendations 4 and 6 of the [Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities](#), November 2015. These recommendations related to DCPFS developing ‘a strategy that is specifically tailored to preventing and reducing Aboriginal family violence’ that would encompass all regions of Western Australia and would ensure actively inviting and encouraging ‘the involvement of Aboriginal people in a full and active way at each stage and level of the process’ and being ‘comprehensively informed by Aboriginal culture’. Subsequent to these recommendations, Item 5 of the First Action Plan intends to ‘[c]o-design the Aboriginal Family Safety Strategy with Aboriginal people and communities’.

Factors co-occurring with family and domestic violence

Where family and domestic violence co-occurs with alcohol use, drug use and/or mental health issues, a collaborative, across service approach is needed. Treatment services may not always identify the risk of family and domestic violence and provide an appropriate response.

Co-occurrence with alcohol and other drug use

Consistent with the research literature discussed relating to the co-occurrence between alcohol consumption and/or drug use and incidents of family and domestic violence (as outlined in the [Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities](#), November 2015), the National Plan (available at www.dss.gov.au) observes that:

Alcohol is usually seen as a trigger, or a feature, of violence against women and their children rather than a cause. Research shows that addressing alcohol in isolation will not automatically reduce violence against women and their children. This is because alcohol does not, of itself, create the underlying attitudes that lead to controlling or violent behaviour.

(National Council to Reduce Violence against Women and their Children, *Background Paper to Time for Action, The National Council’s Plan for Australia to Reduce Violence against Women and their Children, 2009-2021*, Australian Government, 2009, p. 29).

The National Plan and the *National Drug Strategy 2017-2026* identify initiatives to address alcohol and drug use, and the co-occurrence with family and domestic violence. The Foundation for Alcohol Research and Education’s *National framework for action to prevent alcohol-related family violence* (available at www.fare.org.au/national-framework-for-action-to-prevent-alcohol-related-family-violence/) states:

Integrated and coordinated service models within the AOD [alcohol and other drug] and family violence sectors in Australia are rare. Historically, the sectors have worked independently of each other despite the long-recognised association between alcohol and family violence. Part of the reason is that models of treatment for alcohol use disorders have traditionally been focused towards the needs of individuals and in particular, men.

(page 36)

On the information available, relating to the 97 family and domestic violence fatalities involving alleged homicide that were finalised from 1 July 2012 to 30 June 2020, the Office's reviews identify where alcohol use and/or drug use are factors associated with the fatality, and where there may be a history of alcohol use and/or drug use.

	ALCOHOL USE		DRUG USE	
	Associated with fatal event	Prior history	Associated with fatal event	Prior history
Person who died only	4	5	3	8
Suspected perpetrator only	6	14	13	16
Both person who died and suspected perpetrator	31	33	10	16
Total	41	52	26	40

The Ombudsman's reviews and [*Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities*](#), November 2015, have identified that in Western Australia, the former State Strategy did not mention or address alcohol use co-occurring with family and domestic violence. The Mental Health Commission's *Western Australian Alcohol and Drug Interagency Strategy 2018-2022* acknowledges that 'alcohol and other drug use problems can be linked to a range of negative effects on children and families including...family arguments, injury, neglect, abuse, and violence' (page 29, www.mhc.wa.gov.au). Stakeholders have suggested to the Ombudsman that programs and services for victims and perpetrators of violence in Western Australia, including family and domestic violence, do not address its co-occurrence with alcohol and other drug abuse. Specifically, this means that programs and services addressing family and domestic violence:

- May deny victims or perpetrators access to their services, particularly if they are under the influence of alcohol and other drugs; and
- Frequently do not address victims' or perpetrators' alcohol and other drug abuse issues.

Conversely, stakeholders have suggested programs and services which focus on alcohol and other drug use generally do not necessarily:

- Address perpetrators' violent behaviour; or
- Respond to the needs of victims resulting from their experience of family and domestic violence.

The concerns of stakeholders are consistent with the research literature as outlined in the report. Given the level of recorded alcohol use associated with family and domestic violence fatalities as identified in the Ombudsman's reviews, in the report the Ombudsman recommended that:

Recommendation 3: DCPFS, in collaboration with the Mental Health Commission and other key stakeholders, includes initiatives in Action Plans developed under the *Western Australia's Family and Domestic Violence Prevention Strategy to 2022: Creating Safer Communities*, which recognise and address the co-occurrence of alcohol use and family and domestic violence.

A report on giving effect to the recommendations arising from the Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities, November 2016, identified that in relation to Recommendation 3, the Mental Health Commission and DCPFS had taken steps and proposed steps to be taken to give effect to this recommendation. The Office will continue to monitor, and report on, the steps being taken to implement this recommendation. The Office will monitor the implementation and effectiveness of the *Western Australian Alcohol and Drug Interagency Strategy 2018-2022*, and the State Strategy to reduce family and domestic violence, in responding to family and domestic violence and co-occurrence with alcohol and drugs.

Co-occurrence of mental health issues

As with alcohol and drug use, it is noted that the former State Strategy did not mention mental health issues and the relationship with family and domestic violence. Though it is noted that in screening for family and domestic violence, the *Western Australia Family and Domestic Violence Common Risk Assessment and Risk Management Framework (Second edition)* (available at www.dcp.wa.gov.au) states that:

Perpetrators often present with issues that coexist with their use of violence, for example, alcohol and drug misuse or **mental health concerns**. These coexisting issues are not to be blamed for the violence, but they may exacerbate the violence or act as a barrier to accessing the service system or making behavioural change.

The primary focus of referral for perpetrators of family and domestic violence should be the violence itself. Coexisting issues may be addressed simultaneously, where appropriate.

(page 53, our emphasis)

and

Family and domestic violence may be present, but undisclosed when a woman presents at a service for assistance with other issues such as health concerns, financial crisis, legal difficulties, parenting problems, **mental health concerns**, drug and/or alcohol misuse or homelessness.

(page 29, our emphasis)

The Communities' *Western Australia Family and Domestic Violence Common Risk Assessment and Risk Management Framework* identifies mental health as a potential risk factor for family and domestic violence, and indicates that screening should be undertaken by mental health services (page 29).

The Ombudsman's reviews have examined steps taken by mental health service providers to assess patient risk of violence and to develop relevant safety planning where appropriate. The Office will continue to monitor action taken by mental health service providers to reduce the risk of family and domestic violence fatalities.

Case Study

Case Study

Mr B fatally assaulted his intimate partner, Ms Y. Mr B has been convicted of murder. The WA Police Force and Communities had received multiple reports of family and domestic violence involving Mr B and Ms Y, and there had been associated intervention by the Family and Domestic Violence Response Team. The Ombudsman's review examined actions taken by the Family and Domestic Violence Response Team to assess Mr B's risk of violence and the development of an associated safety plan, and made the following recommendation:

Within three months of the finalisation of this review, Communities provides a report to the Ombudsman outlining Communities' plan for monitoring and evaluation the Family and Domestic Violence Response Team function and operation to ensure this service is providing an efficient, effective and collaborative response to families impacted by family and domestic violence, is improving victim safety, and is addressing perpetrator accountability.

Issues Identified in Family and Domestic Violence Fatality Reviews

The following are the types of issues identified when undertaking family and domestic violence fatality reviews.

It is important to note that:

- Issues are not identified in every family and domestic violence fatality review; and
- When an issue has been identified, it does not necessarily mean that the issue is related to the death.

- Missed opportunities to address family and domestic violence perpetrator accountability.
- Missed opportunities to provide perpetrator rehabilitation support.
- Missed opportunities to address family and domestic violence victim safety.
- Missed opportunity to assess risk of harm and develop strategies to reduce or prevent family and domestic violence in the context of mental health issues and/or drug and alcohol use.
- Not undertaking sufficient family and inter-agency communication to enable effective case management and collaborative responses.
- Inaccurate recordkeeping.

Recommendations

In response to the issues identified, the Ombudsman makes recommendations to prevent or reduce family and domestic violence fatalities. The following two recommendations were made by the Ombudsman in 2019-20 arising from family and domestic violence fatality reviews (certain recommendations may be de-identified to ensure confidentiality).

1. Within three months of the finalisation of this review, Communities provides a report to the Ombudsman outlining Communities' plan for monitoring and evaluation the Family and Domestic Violence Response Team function and operation to ensure this service is providing an efficient, effective and collaborative response to families impacted by family and domestic violence, is improving victim safety, and is addressing perpetrator accountability.
2. DOJ provides the Ombudsman with a report by 31 July 2020, that outlines, for the period 1 July 2019 to 30 June 2020:
 - The number of offenders who were sentenced for offences that occurred in the context of family and domestic violence;
 - How many of these offenders were assessed as eligible and recommended for family and domestic violence rehabilitation intervention (individual or group); and
 - How many of these offenders who were recommended for family and domestic violence rehabilitation intervention have since completed the intervention (individual or group).

The Ombudsman's *Annual Report 2020-21* will report on the steps taken to give effect to the two recommendations made about ways to prevent or reduce family and domestic violence fatalities in 2018-19. The Ombudsman's *Annual Report 2021-22* will report on the steps taken to give effect to the two recommendations made about ways to prevent or reduce family and domestic violence fatalities in 2019-20.

Steps taken to give effect to the recommendations arising from family and domestic violence fatality reviews in 2017-18

The Ombudsman made nine recommendations about ways to prevent or reduce family and domestic violence fatalities in 2017-18. The Office has requested that the relevant public authorities notify the Ombudsman regarding:

- The steps that have been taken to give effect to the recommendations;
- The steps that are proposed to be taken to give effect to the recommendations; or
- If no such steps have been, or are proposed to be taken, the reasons therefor.

Recommendation 1: DOJ develops a family and domestic violence policy to direct and co-ordinate its commitment to achieving the Primary State Outcomes of *Western Australia's Family and Domestic Violence Prevention Strategy to 2022*. Further, the family and domestic violence policy identifies the needs of Aboriginal people and includes specifically tailored strategies for preventing and reducing Aboriginal family violence which are linked to, and consistent with, *Western Australia's Family and Domestic Violence Prevention Strategy to 2022*.

Steps taken to give effect to the recommendation

This Office requested that DOJ inform the Office of the steps taken to give effect to the recommendation (It is noted that the *Western Australia's Family and Domestic Violence Prevention Strategy to 2022* that was in place at the time this recommendation was made, has since been rescinded. A new State Strategy: *10 Year Strategy for Reducing Family and Domestic Violence* is being developed). In response, DOJ provided a range of information in a letter to this Office dated 29 April 2020, containing a report prepared by DOJ.

In DOJ's report, DOJ relevantly informed this Office that:

The Department has taken steps to give effect to the recommendation.

The Department is in the process of developing an over-arching Family and Domestic Violence (FDV) Strategy (the Strategy) to achieve a more coordinated, integrated and evidence-based approach to FDV within the Department and the justice system.

The aim of the Strategy is to:

- create space to reflect on what we do, why we do it and whether it works;
- identify the Department's priorities in the face of numerous competing external demands;
- instill an evidence-based approach to FDV within the justice system;
- become a key reference point for the Department when deciding how to allocate resources, how to respond to external stakeholder requests and how to navigate changes in Government policy at the State and Federal level;
- constitute a public statement of values that neatly captures the Department's approach to FDV;
- provide a mechanism for monitoring achievements and measuring success; and
- contribute to a reduction in FDV offending and improved community safety outcomes.

As part of the Department's commitment to Aboriginal self-determination and reconciliation, the Department will also develop a separate Aboriginal Family Safety Strategy. This work is being led by the Aboriginal Services Directorate within Strategic Reform and will dovetail with the overarching Strategy. The timeframe is yet to be determined, however, an Assistant Director Aboriginal Inclusion has been appointed to lead this work and has recently commenced.

Subject to the COVID-19 situation, the Department intends that the overarching Strategy will be finalised by the end of 2020, taking into account:

- the forthcoming State 10 Year FDV Strategy;
- the Commonwealth's Fourth Action Plan under the National Plan to Reduce Violence Against Women (August 2019);

- the Commonwealth Government's response to the Australian Law Reform Commission's Family Law System Inquiry (March 2019); and
- the Legislative Assembly's Community Development and Justice Standing Committee's: *Inquiry into the Magistrates Court of Western Australia's Management of Matters involving Family and Domestic Violence* (due to report on 13 August 2020).

Further, in DOJ's report, DOJ relevantly informed this Office of the actions that had been taken to date, and are proposed, to implement this recommendation including that:

In 2018, the Department established an internal working group to oversee the Strategy. The working group was refreshed in early 2020 and replaced by an FDV Steering Committee. According to the new Terms of Reference, the FDV Steering Committee will:

- 1) oversee the development and implementation the Strategy;
- 2) support the development of the Aboriginal Family Safety Strategy; and
- 3) serve as a forum for other FDV-related matters.

From 2019 until present, the Department has undertaken the following steps towards delivery of the Strategy:

- Completed a detailed mapping of all existing FDV-related projects, initiatives and services across the Department, including election commitments, legislative and non-legislative policy initiatives;
- Conducted joint consultation with women prisoners in May 2019 (in the metropolitan area) with the Department of Communities, including Aboriginal and non-Aboriginal focus groups, to inform both the Strategy and the State 10 Year FDV Strategy;
- Actively participated in the Reference Group for the development of the State 10 Year FDV Strategy (a key input for the Strategy);
- Coordinated WA's participation in the Council of Attorneys-General Family Violence Working Group (another input for the Strategy) including four projects aimed at increasing integration between the child protection, family law and state courts involved in FDV matters;
- Progressed a number of Government election commitments relating to FDV, all of which are key inputs for the Strategies referred to above; and
- Recruited (and is in the process of recruiting) additional resources to deliver both Strategies referred to above.

Following careful consideration of the information provided, steps have been taken to give effect to this recommendation.

Recommendation 2: DOJ develops a process to identify all offenders convicted of offences that occurred in the context of family and domestic violence entering the prison system and reports on this group in offender statistics and other relevant reports.

Steps taken to give effect to the recommendation

This Office requested that DOJ inform the Office of the steps taken to give effect to the recommendation. In response, DOJ provided a range of information in a letter to this Office dated 29 April 2020, containing a report prepared by DOJ.

In DOJ's report, DOJ relevantly informed this Office that:

The Department has fully implemented the recommendation.

In early 2019, the Department successfully completed an IT project to transfer the police-initiated 'FDV flag' from the Integrated Courts Management System (ICMS) into the two main Corrective Services databases: the Total Offender Management System (TOMS) and the Community Business Information System (CBIS).

As of April 2020, the FDV flag will have been in place in both databases for a period of 12 months. The Department is now in the process of producing reports based on 12 months' worth of data to inform both FDV Departmental strategies (referred to in the above recommendation) and to assist with future management and rehabilitation of FDV offenders.

The FDV flag has also been added to the Department's *Corrective Services Reporting Portal* - a data dashboard launched in late 2019 that provides all staff with access to up to date statistical reports on offenders in custody and community corrections.

Following careful consideration of the information provided, steps have been taken to give effect to this recommendation.

Recommendation 3: DOJ considers, as part of its current review into prisoner management, the management of prisoners serving an effective sentence of six months or less for an offence that occurred in the context of family and domestic violence who have been identified as a high risk of re-offending and develops strategies to promote perpetrator accountability and support these prisoners to cease their violent behaviour.

Steps taken to give effect to the recommendation

This Office requested that DOJ inform the Office of the steps taken to give effect to the recommendation. In response, DOJ provided a range of information in a letter to this Office dated 29 April 2020, containing a report prepared by DOJ.

In DOJ's report, DOJ relevantly informed this Office that:

The Department has taken steps to give effect to the recommendation.

As stated in the response to the [name deleted] fatality review, the Department is committed to identifying the most appropriate strategies for this cohort of prisoners which would promote accountability and support them to cease their violent behaviour.

Consideration has been given to this recommendation, however, the Department's immediate priority remains addressing the backlog of assessments for prisoners with a sentence longer than six months. As such, it is not viable at this time to increase the scope of assessments to include sentences of less than six months.

However, the Department is driving a number of longer-term justice reform initiatives that will assist in the management of this cohort [those prisoners serving an effective sentence of less than six months] and address some of the underlying drivers for short-term custody, such as the Parole In-reach Program, which will assist prisoners on short-term sentences (including FDV offenders) in accessing programs and securing parole, where it is safe to do so.

There also continue to be a number of voluntary services that are available to people on short-term sentences and remand across the State, facilitated by the Transitional

Managers at each site. This includes post-release referrals to residential facilities addressing FDV perpetration.

At the strategic level, the Department continues to explore options for the management of FDV offenders on short sentences and will incorporate this issue into the Strategies referred to above.

Further, in DOJ's report, DOJ relevantly informed this Office of the actions that had been taken to date to implement this recommendation including that:

The Department has taken the following steps to identify appropriate strategies for prisoners serving a sentence of six months or less for an offence that has occurred in the context of FDV:

- In August 2019, the Department completed an environmental scan of the effectiveness of correctional and throughcare programs offered to FDV offenders in custody for six months or less (finding that there is very limited evidence on effective interventions);
- In 2019, the Department commenced implementation of the Justice Reform Projects which aim to address and interrupt some of the underlying drivers of short-term custodial sentences, and increase access to rehabilitative programs, including for FDV offenders (funded in the 2019/2020 State Budget);
- In early 2020, the Department completed a review of the criminogenic program suite, which included consideration of interventions for short-term prisoners.

Following careful consideration of the information provided, steps have been taken to give effect to this recommendation.

Recommendation 4: DOJ is to provide a report to the Ombudsman within six months of the finalisation of this family and domestic violence fatality review outlining actions taken by DOJ to review its information release and sharing policies to support greater collaboration processes to promote the safety of victims of offences that occurred in the context of family and domestic violence.

Steps taken to give effect to the recommendation

This Office requested that DOJ inform the Office of the steps taken to give effect to the recommendation. In response, DOJ provided a range of information in a letter to this Office dated 29 April 2020, containing a report prepared by DOJ.

In DOJ's report, DOJ relevantly informed this Office that:

The Department has taken steps to give effect to the recommendation.

The Department has provided previous quarterly updates to the Ombudsman on: 28 March 2017; 2 August 2018; and 11 January 2019.

The Department has been working to improve its FDV information release and sharing policies through the following projects:

- Collaboration with the Department of Communities and WA Police Force on the creation of a central secure database to share risk-relevant information about FDV perpetrators between Government agencies, including Corrective Services, and the Courts;

- Coordination of WA's participation in the development of the Commonwealth's 'National Family Violence Information Sharing Framework' (via the Council of Attorneys-General (CAG) Family Violence Working Group) to be operationalised by the end of 2020. The Framework - which includes corrections and youth justice information - is being developed in response to the Australian Law Reform Commission's Family Law System Inquiry (March 2019), and will improve information sharing between the Family Court of Western Australia, the child protection system, and other State Courts hearing family violence matters - to promote the safety of women and children; and
- The Electronic Monitoring trial for high risk FDV offenders currently being rolled out will also support enhanced information sharing between the Department, particularly Corrective Services, and Western Australia Police Force. The trial will increase victim safety by facilitating GPS tracking of high-risk FDV offenders who breach a Family Violence Restraining Order (FVRO) with a further act of family violence.

The role of the *Tripartite Schedule between the Department of Child Protection and Family Support, the Department of Corrective Services and Western Australia Police (August 2013)* is being reconsidered in the context of the above projects and the review will be progressed as part of the FDV Strategy. Legislative amendments to the *Children and Community Services Act 2004* (WA) in January 2016 have superseded some aspects of the Tripartite Schedule.

Further, in DOJ's report, DOJ relevantly informed this Office of the actions that had been taken to date to implement this recommendation including that:

The Department has taken the following steps to improve its information release and sharing policies to promote the safety of FDV victims:

- Attended executive meetings with the Department of Communities and WA Police Force in early 2020 regarding the creation of a risk-management information sharing framework for perpetrators and provided input to a forthcoming inter-agency workshop;
- Coordinated WA's participation in the development of the Commonwealth's 'National Information Sharing Framework' (see Council of Attorneys General decisions and communiques - June 2019 and November 2019);
- Commenced preparations for the Electronic Monitoring trial for high risk FDV offenders (see 2019/2020 State Budget allocation; recruitment of Project Manager and other resources in 2019; and recent passage of the *Family Violence Legislation Reform (COVID-19 Response) Act 2020* (WA) containing amendments to the Sentencing Act 1995 (WA) to support the trial, enacted on 7 April 2020).

Following careful consideration of the information provided, steps have been taken to give effect to this recommendation.

Recommendation 5: That DOJ considers, in the context of current agency program review and resourcing provisions, what steps will be taken to improve the rate of prisoners assessed as requiring family and domestic violence treatment programs accessing these programs during their imprisonment to promote perpetrator accountability and support these prisoners to cease their violent behaviour, in accordance with DOJ's responsibilities for offender management and rehabilitation and commitment to promoting perpetrator accountability and victim safety as outlined in the *Western Australia's Family and Domestic Violence Prevention Strategy to 2022*, and provides a report to the Ombudsman by [nominated date] outlining the steps taken to address this issue.

Steps taken to give effect to the recommendation

This Office requested that DOJ inform the Office of the steps taken to give effect to the recommendation. In response, DOJ provided a range of information in a letter to this Office dated 29 April 2020, containing a report prepared by DOJ.

In DOJ's report, DOJ relevantly informed this Office that:

The Department has taken steps to give effect to the recommendation.

The Department has provided previous quarterly updates to the Ombudsman on: 28 March 2017; 2 August 2018; and 11 January 2019.

The Department has established a project to improve timeframes for completion of Individual Management Plans (IMPs) and Treatment Assessments, led by the IMP Project Steering Committee. Subject to the COVID-19 crisis, the IMP Project is intended to reduce the backlog of IMPs and ensure that prisoners (including FDV perpetrators) are referred to appropriate treatment programs. This is being supported by increased clinical oversight of the assessment process.

The Department is also currently implementing a dedicated FDV screening tool to assist with determining treatment needs for offenders in the community and custodial settings (the Domestic Violence Screening Instrument - Revised (DVSI-R)). Further details are provided below under Recommendation 6. Use of a dedicated FDV tool has the potential to further enhance data collection. Subject to the COVID-19 crisis, the Department proposes to commence the roll-out of the DVSI-R in adult custodial settings by mid-2020.

The Department has also developed a specific criminogenic program for young FDV offenders at Banskia Hill Detention Centre. The comprehensive 'Disrupting Family Violence (Youth)' program and evaluation package was developed in 2019 in collaboration with international expert, Mr Ken McMaster, and is currently awaiting sufficient suitable candidates.

At the strategic level, the Department is also focusing on improving the overall quality and effectiveness of its FDV programs in community and custodial settings. For example:

- An 'FDV Program Evaluation Framework' has been developed (updated in 2019) in consultation with Stopping Family Violence Inc - the peak body in WA for Men's behaviour change programs - to optimise all FDV programs being facilitated by the Department and contracted NGO services, and ensure that the Department is delivering a product that is addressing offending behaviour and reducing recidivism.
- As a result of the 2019 Criminogenic Program Review referred to above, the Department will undertake a more comprehensive and specific review of its suite of FDV programs; and
- Investment in the interim will be focused on the Not Our Way (NOW) program for Aboriginal adult male FDV offenders, including completion of a process evaluation that commenced in November 2019 (working with Aboriginal men in regional areas to evaluate the program content and ensure it is culturally sound).

Further, in DOJ's report, DOJ relevantly informed this Office of the actions that had been taken to date to implement this recommendation including that:

The Department has taken the following steps towards improving the rates of prisoners assessed for and accessing FDV programs:

- Implementation of the FDV Flag within Corrections databases in 2019 to assist with data collection;
- IMP Project Steering Committee established in 2019; temporary additional staff (eight treatment assessors, one education assessor and one assessment writer) have been engaged and extended to mid-2020; 10 public service staff commenced in November 2019 to provide additional support;
- Development and implementation of the 'DVSI-R' screening tool - pilot conducted in 2019 in East Perth and Peel Community Corrections branches; and
- Development of the FDV criminogenic 'Disrupting Family Violence' program and evaluation package for young FDV offenders at Banksia Hill Detention Centre in 2019.

Following careful consideration of the information provided, steps have been taken to give effect to this recommendation.

Recommendation 6: DOJ provides a report to the Ombudsman, within three months of the finalisation of this review, outlining work undertaken by the Adult Justice Services Division to address 'the gap' identified by DOJ, in its letter [relevant to this family and domestic violence fatality review], regarding the assessment of 'domestic violence offenders ... in the custodial environment'.

Steps taken to give effect to the recommendation

This Office requested that DOJ inform the Office of the steps taken to give effect to the recommendation. In response, DOJ provided a range of information in a letter to this Office dated 29 April 2020, containing a report prepared by DOJ.

In DOJ's report, DOJ relevantly informed this Office that:

The Department has taken steps to give effect to the recommendation.

The Department has provided previous quarterly updates to the Ombudsman on: 28 March 2017; 2 August 2018; and 11 January 2019.

The Department undertook a detailed review of FDV risk screening tools in 2018/19 and recommended use of the DVSI-R for the purpose of FDV screening and assessment in custody and community.

A decision was made to undertake a staged implementation of the DVSI-R.

The new DVSI-R tool is being implemented with the aim of better identifying risk of future harm and better tailoring FDV treatment needs to offenders. In particular the DVSI-R tool aims to identify:

- the likelihood of reoffending (both 'general' and FDV-related);
- the likelihood of further FDV behaviour (not just recidivism);
- potential for harm to a known victim or other victims;
- targets for treatment; and
- actions required to manage risk.

A pilot commenced in early 2019 with participants from the Family Violence List and then expanded to include Adult Community Corrections branches in East Perth and Peel. Subject to the unfolding COVID-19 situation, the Department plans to commence roll-out of the DVSI-R into all adult custodial facilities by mid-2020.

Further, the Department has increased clinical supervision and training for those conducting treatment assessments, to ensure accurate identification of FDV treatment needs at the point of assessment that are endorsed and monitored under a stronger clinical framework.

Following careful consideration of the information provided, steps have been taken to give effect to this recommendation.

Recommendation 7: DOJ considers what additional action can be taken to promote the safety of family and domestic violence victims and the community, prior to the release of all prisoners convicted of offences committed in the context of family and domestic violence and assessed as a high risk of committing further offences, irrespective of whether they are released on parole or to freedom, and provides a report to the Ombudsman by [nominated date] outlining actions to address this issue.

Steps taken to give effect to the recommendation

This Office requested that DOJ inform the Office of the steps taken to give effect to the recommendation. In response, DOJ provided a range of information in a letter to this Office dated 29 April 2020, containing a report prepared by DOJ.

In DOJ's report, DOJ relevantly informed this Office that:

The Department has taken steps to give effect to the recommendation.

The Department has provided previous quarterly updates to the Ombudsman on: 28 March 2017; 2 August 2018; and 11 January 2019.

The Department developed the Family Violence Legislation Reform Bill 2019 (WA), which was introduced to Parliament on 27 November 2019 and subsequently passed by Parliament on 25 June 2020. The *Family Violence Legislation Reform Act 2020*

WA) amends nine pieces of legislation across six Ministerial portfolios to improve safety outcomes for FDV victims. The Act includes amendments to the:

- *Restraining Orders Act 1997* (WA) to enhance victim safety and make it easier for victims to obtain protection from violence, through online FVRO applications and SMS notification to victims once an FVRO has been served;
- *Sentence Administration Act 2003* (WA) to require the Prisoners Review Board (the Board) to consider imposing an electronic monitoring requirement as part of a parole order or a re-entry release order (RRO) if a prisoner has been serving imprisonment for a family violence offence and the prisoner is a declared serial family violence offender; and
- *Sentencing Act 1995* (WA) to allow for improved locational tracking and electronic monitoring of high-risk offenders (supporting the Electronic Monitoring trial referred to above under Recommendation 4).

These amendments will assist in promoting the safety of FDV victims and the community.

In addition to the proposed amendments contained in the Act, the Department's Victim Notification Register (VNR) provides information about the management of an offender to FDV victims once the offender is under the supervision of the Corrective Services. (The eligibility criteria for joining the VNR were significantly expanded for FDV victims in June 2017 via the *Restraining Orders and Related Legislation Amendment (Family Violence) Act 2016* (WA)).

The Department will also give further consideration to this recommendation as part of the development and implementation of the Departmental Strategies

Following careful consideration of the information provided, steps have been taken to give effect to this recommendation.

Recommendation 8: Communities takes steps to ensure data being captured by the Family and Domestic Violence Response Team process includes Aboriginal status of the victim and perpetrator, to inform Family and Domestic Violence Response Team and family violence service development and evaluation.

Steps taken to give effect to the recommendation

This Office requested that Communities inform the Office of the steps taken to give effect to the recommendation. In response, Communities provided a range of information in a letter to this Office dated 12 May 2020, containing a report prepared by Communities.

In Communities' report, Communities relevantly informed this Office that:

This recommendation has been actioned

Family and Domestic Violence Response Teams Review and Redesign Project
Communities is reviewing and redesigning the Family and Domestic Violence Response Teams (FDVRT).

The FDVRT review will focus on eight areas which have been devised by the Planning Group and are based on known issues and feedback from stakeholders, including the Ombudsman's Office. Area 6 comprises 'Connections to Aboriginal communities', including:

- a) To what extent are Aboriginal Community Controlled Organisations involved with FDVRTs?
- b) Is the FDVRT model meeting the needs of Aboriginal people?
- c) How effective is the FDVRT model in meeting the needs of remote Aboriginal communities?

Department of Communities Voluntary Action

Communities will consider the below voluntary actions to inform the FDVRT Review and Redesign Project:

- Recording: provision to record 'outcomes' in the FVIR from partner agencies, following responses to victims and perpetrators of family and domestic violence;
- Assessment: targeted training for FDVRT partner agencies to improve compliance with the assessment processes within the Common Risk Assessment Risk Management Framework;
- Staffing: a fulltime position across the state for all Community Response Services;
- Multi Agency Case Management: all FVIR assessed as Category 1 will be considered for a MACM to manage levels of risk to the adult and child victim; and
- *FDVRT Operating procedures*: clearer direction in relation to the roles and responsibilities, particularly the role of the SCPW-FDV as representing Communities in the FDVRT.

It is noted that in the context of another Ombudsman family and domestic violence fatality review, Communities informed this Office, in a letter dated 9 October 2019, that '[t]he adequacy and functionality of the FVIR Triage Application overall, including its capability to capture and report on critical information including cultural background, will be considered as part of the review of the FDVRTs'.

Following careful consideration of the information provided, steps have been proposed to give effect to this recommendation.

Recommendation 9: Communities provides the Ombudsman with a report on the steps taken to give effect to Recommendations 4, 5 and 6 [made in November 2015, as set out below] of the Ombudsman's major own motion investigation report *Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities* by [nominated date].

Recommendation 4

The Department, as the lead agency responsible for family and domestic violence strategic planning in Western Australia, develops a strategy that is specifically tailored to preventing and reducing Aboriginal family violence, and is linked to, consistent with, and supported by *Western Australia's Family and Domestic Violence Prevention strategy to 2022: Creating Safer Communities*.

Recommendation 5

The Department, in developing the Aboriginal family violence strategy referred to at recommendation 4, incorporates strategies that recognise and address the co-occurrence of alcohol use and Aboriginal family violence.

Recommendation 6

In developing a strategy tailored to preventing and reducing Aboriginal family violence, referred to at Recommendation 4, the Department actively invites and encourages the involvement of Aboriginal people in a full and active way at each stage and level of the process, and be comprehensively informed by Aboriginal culture.

Steps taken to give effect to the recommendation

This Office requested that Communities inform the Office of the steps taken to give effect to the recommendation. In response, Communities provided a range of information in a letter to this Office dated 12 May 2020, containing a report prepared by Communities.

In Communities' report, Communities relevantly informed this Office that:

This recommendation has been actioned

10 Year Strategy for Reducing Family and Domestic Violence

Communities drafted Western Australia's 10 Year Strategy for Reducing Family and Domestic Violence (the Strategy). The strategy sets out a whole of government and community plan for preventing and responding to family and domestic violence. The final draft Strategy was endorsed by Cabinet in December 2019 via the Community Safety and Family Support Cabinet Sub Committee. Timing for release of the Strategy is yet to be confirmed. Communities has commenced planning for the first Action Plan of the Strategy.

Communities has informed this Office that it is developing an Aboriginal Family Safety Strategy in partnership with Aboriginal people and communities. The dedicated Aboriginal family safety strategy will sit alongside the State Strategy, creating a more equitable and culturally appropriate roadmap for reducing family and domestic violence in WA. Action Item 5 of the First Action Plan intends to '[c]o-design the Aboriginal Family Safety Strategy with Aboriginal people and communities'.

Following careful consideration of the information provided, steps have been proposed to give effect to this recommendation.

The Office will continue to monitor, and report on, the steps being taken to give effect to the recommendations including through the undertaking of reviews of family and domestic violence fatalities and in the undertaking of major own motion investigations.

Timely Handling of Notifications and Reviews

The Office places a strong emphasis on the timely review of family and domestic violence fatalities. This ensures reviews contribute, in the most timely way possible, to the prevention or reduction of future deaths. In 2019-20, timely review processes have resulted in 38% of reviews being completed within three months and 62% of reviews completed within 12 months.

Major Own Motion Investigations Arising from Family and Domestic Violence Fatality Reviews

In addition to investigations of individual family and domestic violence fatalities, the Office identifies patterns and trends arising out of reviews to inform major own motion investigations that examine the practice of public authorities that provide services to children, their families and their communities.

On 19 November 2015, the Ombudsman tabled in Parliament a report entitled [Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities](#). Recommendation 54 of the report is as follows:

Taking into account the findings of this investigation, DCPFS:

- conducts a review to identify barriers to the effective implementation of relevant family and domestic violence policies and practice guidance;
- develops an associated action plan to overcome identified barriers; and
- provides the resulting review report and action plan to this Office within 12 months of the tabling in the Western Australian Parliament of the report of this investigation.

Section 25(4) of the *Parliamentary Commissioner Act 1971* relevantly provides as follows:

- (4) If under subsection (2) the Commissioner makes recommendations to the principal officer of an authority he may request that officer to notify him, within a specified time, of the steps that have been or are proposed to be taken to give effect to the recommendations, or, if no such steps have been, or are proposed to be taken, the reasons therefor.

On 13 October 2016, the Director General of the (then) Department for Child Protection and Family Support (**DCPFS**) provided the Ombudsman with two documents constituting DCPFS's response to Recommendation 54. These were the *Family and Domestic Violence Practice Guidance Review Report* and the *Family and Domestic Violence – Practice Guidance Implementation*.

On 10 November 2016, the Ombudsman tabled in Parliament [A report on giving effect to the recommendations arising from the Investigation into issues associated with violence restraining orders and their relationship with family and domestic violence fatalities](#), which, among other things, identified that:

The review report and action plan have been provided to the Office within 12 months of the tabling of the FDV Investigation Report, and will be reviewed by the Office and the results of this review reported on in the Office's 2016-17 Annual Report.

In the Office's *Annual Report 2016-17*, the Office identified that (the then) DCPFS's response to Recommendation 54 had been reviewed and that the Office's analysis would be tabled separately.

The Office has now concluded its review of the (now) Department of Communities' (**Communities**) review report. The Office has considered the *Family and Domestic Violence Practice Guidance Review Report* and that Communities has conducted a project to review its family and domestic violence practice guidance. The focus of the review conducted by Communities was to identify and recommend amendments to Communities' family and domestic violence practice guidance. The review did not include any actions 'to identify barriers to the effective implementation of relevant

family and domestic violence policies and practice guidance'. Further, while Communities identified several issues which potentially relate to barriers to effective implementation, a range of Communities' 'proposed actions' to overcome these potential barriers were not considered to be appropriate.

Following consideration of all of the above matters, the review conducted by Communities did not constitute a review to identify barriers to the effective implementation of relevant family and domestic violence policies and practice guidance. As developing an associated action plan to overcome identified barriers was contingent on conducting a review to identify those barriers, the *Family and Domestic Violence – Practice Guidance Implementation* document did not constitute an associated action plan to overcome identified barriers.

In a pleasing response to this finding, Communities indicated the following:

Communities acknowledges this finding and confirms it is a priority for Communities to address and implement the intent of the recommendation. It was the intent of the *Family and Domestic Violence Practice Guidance Review Report* (the report) and the *Family and Domestic Violence Practice Guidance Implementation* to do so. The report did help to identify a range of issues that limit the implementation of policy and practice guidance, and Communities has undertaken numerous activities and processes to address these. These include:

- new toolkits for assessment and safety planning in cases of emotional abuse - family and domestic violence, which aim to support child protection workers to form an evidence-based professional judgement, and include practice examples of how to gather information to inform assessments, analyse the information, and practice examples of safety planning;
- mandatory training concerning family and domestic violence for new and current employees to have a focus on effectively engaging perpetrators, including assessments within the training and in the field;
- workshops and presentations with Team Leader and Senior Practice Development Officer groups to encourage strong leadership within districts of the policy and practice guidance;
- case consultation with child protection workers to provide opportunities for staff to reflect on and plan their practice;
- a centralised intake model in July 2017, including a 'threshold tool' to provide a consistent response to child protection referrals;
- a partnership with Curtin University, the University of Melbourne and the Safe and Together Institute in order to integrate techniques in working with perpetrators into practice; and
- a practice audit is currently being undertaken to assess the implementation to date of the family and domestic violence practice guidance, and to establish a baseline from which further audits or reviews of practice can be measured. The audit examines 50 cases (three from each district) at various stages of Communities' Child Protection and Family Support division involvement, identifies areas for practice improvement and provides opportunities to work with districts to improve understanding of key issues in the intersection between child protection and family and domestic violence.

Other Mechanisms to Prevent or Reduce Family and Domestic Violence Fatalities

In addition to reviews of individual family and domestic violence fatalities and major own motion investigations, the Office uses a range of other mechanisms to improve public administration with a view to preventing or reducing family and domestic violence fatalities. These include:

- Assisting public authorities by providing information about issues that have arisen from family and domestic violence fatality reviews, and enquiries and complaints received, that may need their immediate attention, including issues relating to the safety of other parties;
- Through the Ombudsman's Advisory Panel (**the Panel**), and other mechanisms, working with public authorities and communities where individuals may be at risk of family and domestic violence to consider safety issues and potential areas for improvement, and to highlight the critical importance of effective liaison and communication between and within public authorities and communities;
- Exchanging information, where appropriate, with other accountability and oversight agencies including Ombudsmen and family and domestic violence fatality review bodies in other States to facilitate consistent approaches and shared learning;
- Engaging with other family and domestic violence fatality review bodies in Australia and New Zealand through meetings with the Australian Domestic and Family Violence Death Review Network;
- Undertaking or supporting research that may provide an opportunity to identify good practices that may assist in the prevention or reduction of family and domestic violence fatalities; and
- Taking up opportunities to inform service providers, other professionals and the community through presentations.

Stakeholder Liaison

Efficient and effective liaison has been established with WA Police Force to develop and support the implementation of the process to inform the Office of family and domestic violence fatalities. Regular liaison occurs at senior officer level between the Office and WA Police Force.

The Ombudsman's Advisory Panel

The Panel is an advisory body established to provide independent advice to the Ombudsman on:

- Issues and trends that fall within the scope of the family and domestic violence fatality review function;
- Contemporary professional practice relating to the safety and wellbeing of people impacted by family and domestic violence; and
- Issues that impact on the capacity of public authorities to ensure the safety and wellbeing of individuals and families.

The Panel met two times in 2019-20 and during the year the following members provided a range of expertise:

- Professor Steve Allsop (National Drug Research Institute of Curtin University);
- Ms Dorinda Cox (Consultant);
- Professor Donna Chung (Health Science, Curtin University);
- Ms Angela Hartwig (Women's Council for Domestic and Family Violence Services WA);
- Associate Professor Michael Wright (Health Sciences, Curtin University); and
- Associate Professor Carolyn Johnson (Consultant).

Observers from WA Police Force, the Department of Communities, the Department of Health, the Department of Education, and the Department of Justice also attended the meetings in 2019-20.

Key stakeholder relationships

There are a number of public authorities and other bodies that interact with or deliver services to those who are at risk of family and domestic violence or who have experienced family and domestic violence. Important stakeholders, with which the Office liaised as part of the family and domestic violence fatality review function in 2019-20, included:

- The Coroner;
- Relevant public authorities including:
 - WA Police Force;
 - The Department of Health and Health Service Providers;
 - The Department of Education;
 - The Department of Justice;
 - The Department of Communities;
 - The Mental Health Commission; and
 - Other accountability and similar agencies including the Commissioner for Children and Young People;
- The Women's Council for Domestic and Family Violence Services WA and relevant non-government organisations; and
- Research institutions including universities.

Aboriginal and regional communities

In 2016, the Ombudsman established a Principal Aboriginal Liaison Officer position to:

- Provide high level advice, assistance and support to the Corporate Executive and to staff conducting reviews and investigations of the deaths of certain Aboriginal children and family and domestic violence fatalities in Western Australia, complaint resolution involving Aboriginal people and own motion investigations.
- Raise awareness of, and accessibility to, the Ombudsman's roles and services to Aboriginal communities and support cross cultural communication between Ombudsman staff and Aboriginal people.

A Senior Aboriginal Advisor position was established in January 2018 to assist the Principal Aboriginal Liaison Officer in this important work. Through the leadership of the Principal Aboriginal Liaison Officer, and Senior Aboriginal Advisor, significant work was undertaken throughout 2019-20 to continue to build relationships relating to the family and domestic violence fatality review function with Aboriginal and regional communities, including by communicating with:

- Key public authorities that work in metropolitan and regional areas;
- Non-government organisations that provide key services such as health services to Aboriginal people; and
- Aboriginal community members and leaders to increase the awareness of the family and domestic violence fatality review function and its purpose.

Building on the work already undertaken by the Office, as part of its other functions, including its child death review function, networks and contacts have been established to support effective and efficient family and domestic violence fatality reviews.