

4 Family and domestic violence in Western Australia

4.1 Prevalence and incidence of family and domestic violence in Western Australia

4.1.1 Data sources

There are two primary sources of data for the prevalence and incidence¹⁴⁶ of family and domestic violence: population surveys and agency statistics.¹⁴⁷ Both have limitations. Population surveys rely on the disclosure, at the time of the survey, of violence,¹⁴⁸ while agency statistics reflect reporting of violence to the agency. Accordingly, neither source necessarily reflects the actual number of victims experiencing violence.¹⁴⁹

For these reasons, the research literature suggests the true prevalence and incidence of family and domestic violence is likely to be much higher than data sources suggest.¹⁵⁰

4.1.2 Population survey data

In relation to the prevalence of family and domestic violence, the most recent Australian Bureau of Statistics Personal Safety Survey (**Personal Safety Survey**) found that '[w]omen were more likely than men to experience violence by a partner.'¹⁵¹ In 2012, in Western Australia, an estimated 16.6 per cent of all women aged 18 years and over and 6.2 per cent¹⁵² of all men aged 18 years and over had experienced violence by a partner since the age of 15 years.¹⁵³

¹⁴⁶ Prevalence refers to the total number of people in the population who have ever been affected by family and domestic violence. Incidence refers to the number of people in the population who have been affected by family and domestic violence in the past 12 months.

¹⁴⁷ Chung, D, *Understanding the Statistics About Male Violence Against Women*, White Ribbon Australia, North Sydney, New South Wales, May 2013, p. 4.

¹⁴⁸ Chung, D, *Understanding the Statistics About Male Violence Against Women*, White Ribbon Australia, North Sydney, New South Wales, May 2013, p. 5.

¹⁴⁹ Chung, D, *Understanding the Statistics About Male Violence Against Women*, White Ribbon Australia, North Sydney, New South Wales, May 2013, p. 4.

¹⁵⁰ Marcus and Braaf, 2007, as cited in Urbis Pty Ltd for the Select Council on Women's Issues, *Literature Review on Domestic Violence Perpetrators*, Urbis Pty Ltd, NSW, September 2013, p. 4, viewed 22 January 2014, p. 4,

<<http://www.dpvc.gov.au/women/publications-articles/safety-women/literature-review-perpetrators.cfm>>;

Chung, D, *Understanding the Statistics About Male Violence Against Women*, White Ribbon Australia, North Sydney, New South Wales, May 2013, p. 4; Department for Child Protection and Family Support, *Family and Domestic Violence Response Team Evaluation Report: July – December 2013*, Government of Western Australia, Perth, 2014, cover page.

¹⁵¹ Australian Bureau of Statistics, *Personal Safety, Australia, 2012*, cat. no. 4906.0, ABS, Canberra, December 2013.

¹⁵² The Australian Bureau of Statistics notes that this estimate has a relative standard error of between 25 per cent and 50 per cent and should be used with caution.

¹⁵³ Australian Bureau of Statistics, *Personal Safety, Australia, 2012*, cat. no. 4906.0, customised report, ABS, Canberra, December 2013.

The Personal Safety Survey surveyed women separately in each Australian state and territory in relation to the incidence of family and domestic violence.¹⁵⁴ In Western Australia, 1.5 per cent of women aged 18 years and over reported that they had experienced violence by a partner during the 12 months prior to the survey. Of men aged 18 years and over surveyed across Australia, 0.6 per cent reported that they had experienced violence by a partner during the 12 months prior to the survey (equivalent Western Australian figures are not available).¹⁵⁵

4.1.3 Western Australia Police statistics

In the investigation period, WAPOL reported that they responded to 1,055,414 calls for assistance from the Western Australian public, and that 688,998 of these calls required police to attend to provide assistance. Of the 688,998 incidents attended by WAPOL, 75,983 incidents (11 per cent) were recorded by WAPOL as 'domestic violence incidents'.¹⁵⁶

Over time, the number of family and domestic violence incidents reported to WAPOL has steadily increased, as shown in Figure 3 below. For comparative purposes, Western Australia's population grew by an average of 3 per cent per annum over the same period.¹⁵⁷

This does not necessarily mean that family and domestic violence incidents have increased to this extent over this time rather it means that that reporting to, and recording of these incidents by, WAPOL has increased to this extent.

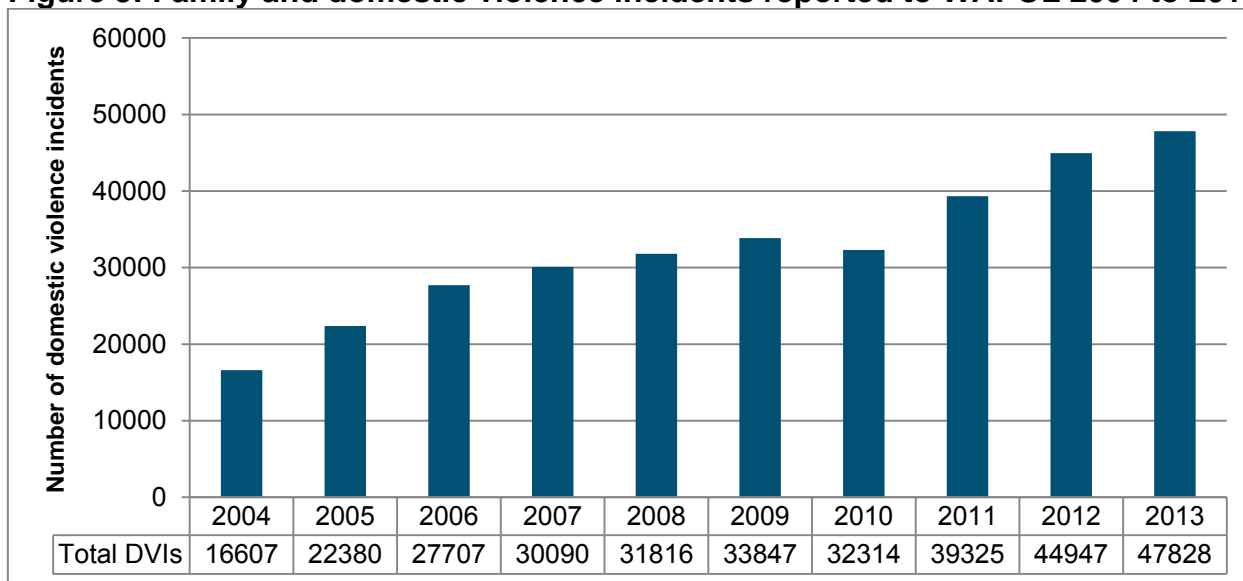
¹⁵⁴The Australian Bureau of Statistics notes that the 2012 Personal Safety Survey 'was designed to provide reliable estimates, for selected key estimates of interest, at the national level for men and women and at the State and Territory level for women.'

¹⁵⁵Australian Bureau of Statistics, *Personal Safety, Australia, 2012*, cat. no. 4906.0, ABS, Canberra, December 2013.

¹⁵⁶The Office has used the term 'incidents' in its examination of data collected from state government departments and authorities as this is the term used by these agencies. The Office recognises that the use of this term may unintentionally appear to reduce the seriousness of, mutualise, and/or imply that the violence is a one-off, rather than ongoing behaviour.

¹⁵⁷Western Australian population data compiled by Ombudsman Western Australia from several published reports from the Australian Bureau of Statistics.

Figure 3: Family and domestic violence incidents reported to WAPOL 2004 to 2013



Source: Ombudsman Western Australia

WAPOL's records in its Incident Management System distinguish between 'domestic violence incidents (general)', where there is an act of family and domestic between the parties involved in the incident, and 'domestic violence incidents (crime)', where there is an act of family and domestic violence and police officers detect an offence has been committed. The process employed by police officers to investigate reports of family and domestic violence and gather evidence in support of charges is discussed in Chapter 13.

Of the 75,983 domestic violence incidents attended by WAPOL in the investigation period, police officers detected an offence in 36,608 incidents (48 per cent). WAPOL further distinguishes between 'offences against the person' and other offences.¹⁵⁸ During the investigation period, an offence against the person was detected at 20,480 domestic violence incidents.

4.2 Location of family and domestic violence incidents

The 20,480 domestic violence incidents in which police officers detected an offence against the person occurred throughout Western Australia. The Office found that:

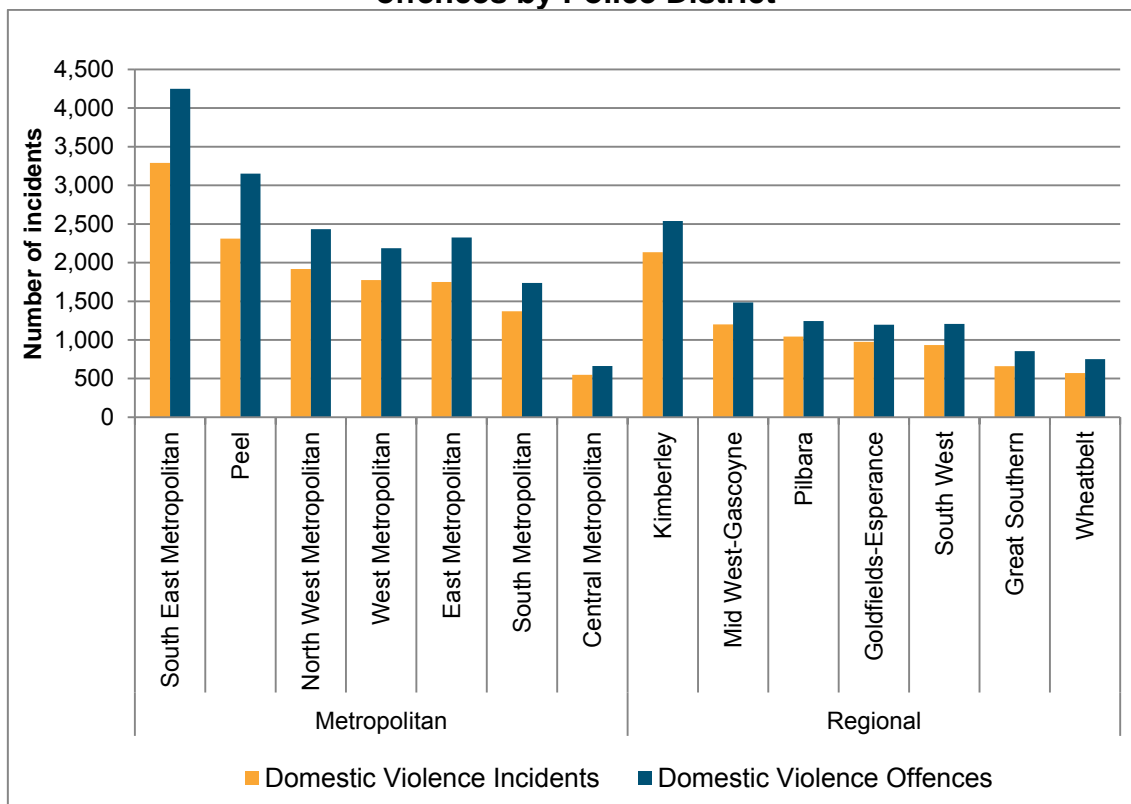
- sixty-three per cent (12,962) of domestic violence incidents occurred in metropolitan Police Districts and 37 per cent (7,518) in regional Police Districts (for comparison, the Australian Bureau of Statistics identifies that 78 per cent of Western Australia's population resides in the metropolitan area);¹⁵⁹ and

¹⁵⁸ Offences against the person in domestic violence incidents may include homicide, sexual assault, assault, deprivation of liberty and threatening behaviour. Other offences may be detected that are not categorised as offences against the person, for example, offences related to property.

¹⁵⁹ The Australian Bureau of Statistics refers to 'Greater Perth', an area the ABS notes contains not only the urban area of the capital city, but also surrounding and non-urban areas where much of the population has strong links to the capital city, through for example, commuting to work. The Office identified the 'Greater Perth' area as the closest equivalent ABS region to the metropolitan Police Districts. Australian Bureau of Statistics, *Population by Age and Sex, Regions of Australia, 2013*, cat. no. 3235.0, ABS, Canberra, August 2014.

- despite having the ‘lowest population of all of the regions in Western Australia’,¹⁶⁰ the Kimberley Police District had the third highest number of both domestic violence incidents and domestic violence offences (Figure 4).

Figure 4: Breakdown of domestic violence incidents and offences by Police District



Source: Western Australia Police and Ombudsman Western Australia

The research literature has found that the prevalence of family and domestic violence in regional and remote areas has ‘been given limited attention in Australia,’¹⁶¹ focusing on barriers that victims of family and domestic violence experience in seeking help and support. These barriers have been found to include ‘financial insecurity, dependency, and stress; a perceived lack of confidentiality and anonymity; and stigma attached to the public disclosure of violence’,¹⁶² ‘lack of transport options coupled with often poor telecommunications services’,¹⁶³ and ‘infrequent court hearings [along with] ... limited or no options regarding legal representation’.¹⁶⁴ In addition, stakeholders suggest that long

¹⁶⁰Department of Health, *Kimberley Health Profile*, Department of Health Western Australia, Perth, April 2012, p. 3.

¹⁶¹Bartels, L, *Emerging issues in domestic/family violence research*, Australian Institute of Criminology, Australian Government, Canberra, April 2010, p. 3.

¹⁶²Bartels, L, *Emerging issues in domestic/family violence research*, Australian Institute of Criminology, Australian Government, Canberra, April 2010, p. 3.

¹⁶³Bartels, L, *Emerging issues in domestic/family violence research*, Australian Institute of Criminology, Australian Government, Canberra, April 2010, p. 3.

¹⁶⁴The Women’s Services Network, *Domestic Violence in Regional Australia, a literature review: A report for the Commonwealth Department of Transport and Regional Services under the Partnerships against Domestic Violence Programme*, Commonwealth of Australia, Canberra, 2000, p. 17.

distances and remote locations present a significant challenge in responding to family and domestic violence incidents and enforcing VROs.¹⁶⁵

4.3 Demographic characteristics of victims and perpetrators of family and domestic violence

4.3.1 Demographic characteristics of victims

The 20,480 domestic violence incidents in which police officers detected an offence against the person involved 26,023 offences. For these 26,023 domestic violence offences against the person, WAPOL provided further data regarding the characteristics of the victims, including their gender and 'ethnic appearance'.¹⁶⁶ WAPOL data relating to 'ethnic appearance' refers to a variable which is determined and recorded by police officers when completing incident reports. Police officers record ethnic appearance as 'Indigenous',¹⁶⁷ 'Non-Indigenous' or 'unknown'.

WAPOL recorded 24,479¹⁶⁸ victims for these 26,023 offences. The Office found that, of the 24,479 victims:

- 17,539 (72 per cent) were recorded as being female;
- 8,150 (33 per cent) were recorded as being Indigenous; including
 - 6,496 females; and
 - 1,625 males (Figure 5).

It is important to note that these figures include various forms of family and domestic violence in different relationship types, and do not represent only family and domestic violence perpetrated in intimate partner relationships.

¹⁶⁵Western Australia Police Service, *Strategic Policy on Police and Aboriginal People*, Western Australia Police, viewed 9 June 2015,

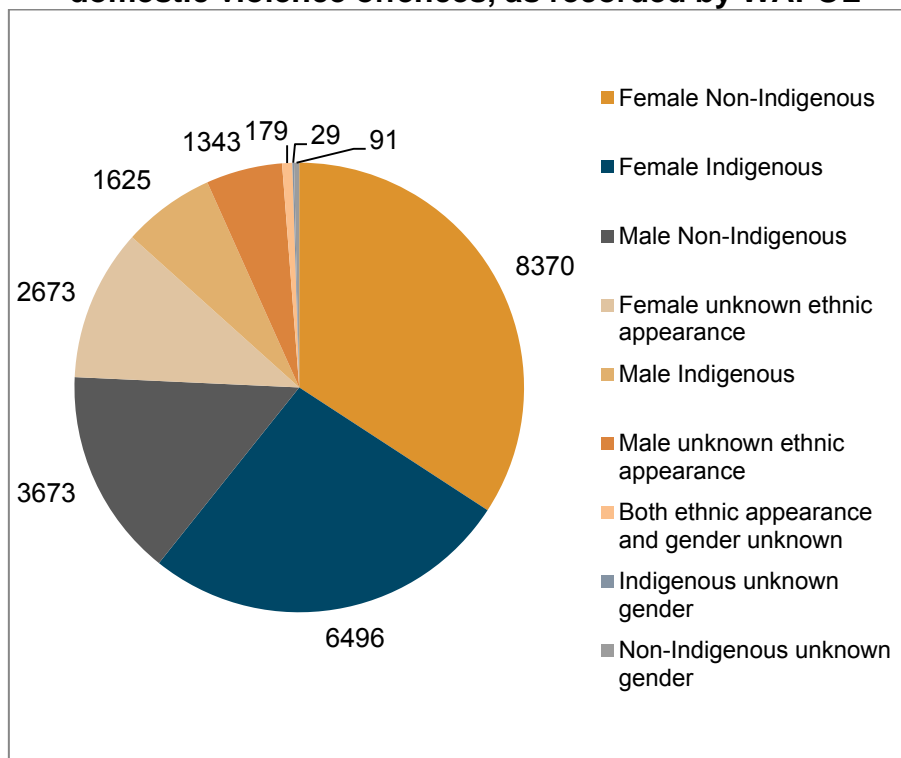
<http://www.police.wa.gov.au/Portals/11/PDFs/ServiceDelivery_Aboriginal_People.pdf>, p. 6.

¹⁶⁶This term refers to the name of the variable, as it is recorded in WAPOL's systems and the data WAPOL provided to the Office.

¹⁶⁷The Office recognises that Aboriginal people prefer to use the word 'Aboriginal' rather than 'Indigenous' and this was raised during the Office's consultation with Aboriginal stakeholders. The Office has therefore used the word 'Aboriginal' unless directly citing agency data or the research literature.

¹⁶⁸It should be noted that a victim can be counted more than once during the reporting period and more than one victim can be linked to an incident involving multiple or single offences.

Figure 5: Gender and ethnic appearance of victims of domestic violence offences, as recorded by WAPOL



Source: Western Australia Police and Ombudsman Western Australia

4.3.2 Demographic characteristics of suspected perpetrators

For the 26,023 domestic violence offences against the person, WAPOL also provided data regarding the characteristics of the suspected perpetrators,¹⁶⁹ including their gender and ethnic appearance.

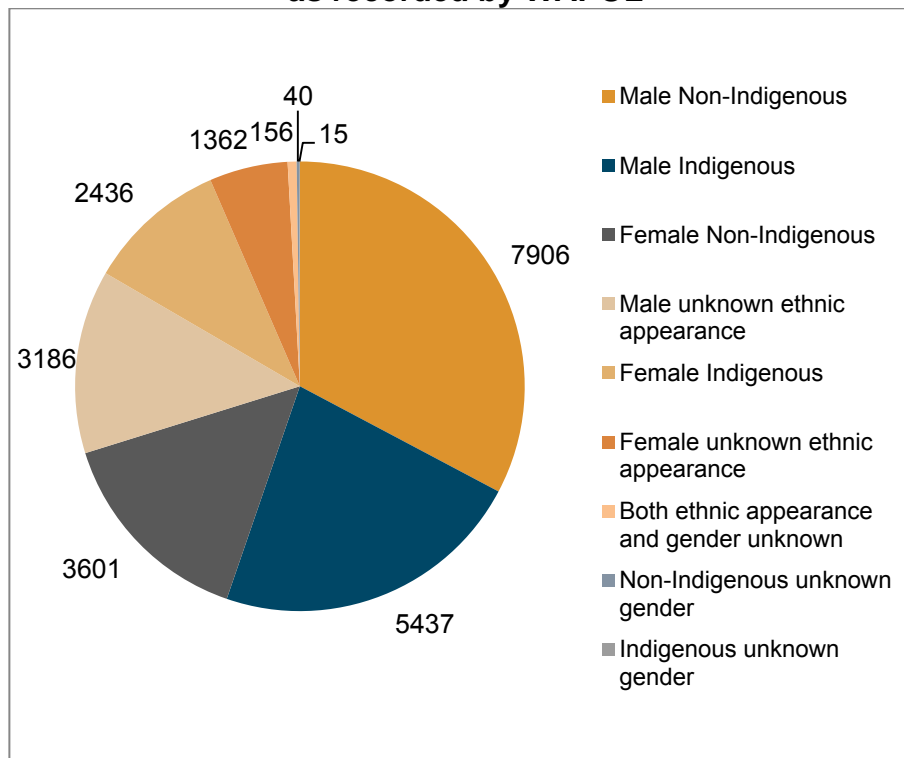
WAPOL recorded 24,139 suspected perpetrators for these 26,023 offences. The Office found that, of the 24,139 suspected perpetrators:

- 16,529 (68 per cent) were recorded as male; and
- 7,888 (33 per cent) were recorded as being Indigenous; including
 - 5,437 males; and
 - 2,436 females¹⁷⁰ (Figure 6).

¹⁶⁹ WAPOL refers to these people as 'Persons of Interest'.

¹⁷⁰ Fifteen suspected perpetrators were recorded as 'Indigenous ethnic appearance' and unknown gender.

Figure 6: Gender and ethnic appearance of suspected perpetrators of domestic violence offences as recorded by WAPOL



Source: Western Australia Police and Ombudsman Western Australia

4.4 Communities experiencing higher rates of family and domestic violence

The research literature has found that some groups of people experience higher rates of family and domestic violence, including:

- Aboriginal people;
- people from culturally and linguistically diverse backgrounds;
- women with disabilities; and
- gay, lesbian, bisexual, transgender and intersex people.¹⁷¹

The experiences of Aboriginal people are discussed in detail in Chapter 6. The experiences of other groups of people are discussed below.

¹⁷¹ For example, Law Reform Commission of Western Australia, *Enhancing Family and Domestic Violence Laws: Final Report*, Law Reform Commission of Western Australia, Perth, 2014, p. 33.

4.4.1 People from culturally and linguistically diverse backgrounds

In Australia, people from culturally and linguistically diverse (**CALD**) backgrounds¹⁷² can include those who are migrants, refugees, international students, unaccompanied minors,¹⁷³ and people on 457 (skilled) or partner visas.

The research literature has identified that people from CALD backgrounds may face higher rates of violence, due to, for example, 'low levels of language proficiency, different understandings of family violence, lack of familial and social support networks, and dependence on an Australian sponsor'.¹⁷⁴

Other factors include a 'lack of family ties in Australia, social isolation, a sense of obligation to stay in an abusive relationship, cultural shame and stigmatisation, and pressure to conform to cultural traditions of male dominance'.¹⁷⁵

The research literature further suggests that victims of family and domestic violence from CALD backgrounds are less likely to report family and domestic violence to police, or to access services, 'because of a perception that these services would not understand their particular situation and respond appropriately'.¹⁷⁶ Other barriers suggested by the research literature include:

- language barriers, including availability of 'culturally sensitive translator and interpreter support services';¹⁷⁷
- a 'lack of permanent residency and the fear of deportation',¹⁷⁸ particularly when a victim's residential or citizenship status is 'dependent upon maintaining their intimate relationship'¹⁷⁹ with the perpetrator;
- racism and social isolation;¹⁸⁰

¹⁷²The Office recognises that all people are culturally and linguistically diverse, including people from English-speaking backgrounds, however in this context the research literature describes the particular challenges faced by people from CALD communities as people from non-English speaking backgrounds.

¹⁷³Australian Centre for the Study of Sexual Assault, 'Supporting women from CALD backgrounds who are victims/survivors of sexual violence', *ACSSA Wrap*, no 9, 2011, p. 3.

¹⁷⁴Australian Law Reform Commission, 'Family Violence and Commonwealth Laws Community Information Sheet Culturally and Linguistically Diverse Communities,' Australian Law Reform Commission, Canberra, 7 February 2012, viewed 30 September 2014 <<http://www.alrc.gov.au/CFV-CALD>>, p. 1.

¹⁷⁵Richards, K and Lyneham, S, 'Help-seeking strategies of victim/survivors of human trafficking involving partner migration', *Australian Institute of Criminology*, Griffith, Trends & issues in crime and criminal justice no. 468, p. 4.

¹⁷⁶Morgan, A and Chadwick, H, 'Key issues in domestic violence,' *Australian Institute of Criminology*, Canberra, 2009, viewed 2 September 2014, <<http://www.aic.gov.au/publications/current%20series/rip/1-10/07.html>>, p. 5.

¹⁷⁷Morgan, A and Chadwick, H, 'Key issues in domestic violence,' *Australian Institute of Criminology*, Canberra, 2009, viewed 2 September 2014, <<http://www.aic.gov.au/publications/current%20series/rip/1-10/07.html>> p. 5.

¹⁷⁸Richards, K and Lyneham, S, "Help-seeking strategies of victim/survivors of human trafficking involving partner migration,' *Australian Institute of Criminology*, Griffith, Trends & issues in crime and criminal justice no. 468, p. 4.

¹⁷⁹Richards, K and Lyneham, S, "Help-seeking strategies of victim/survivors of human trafficking involving partner migration,' *Australian Institute of Criminology*, Griffith, Trends & issues in crime and criminal justice no. 468, p. 5.

- a lack of information about available services;¹⁸¹ and
- the possibility of not being believed, 'especially when the abuse is perpetrated by partners who may be respected members of the community'.¹⁸²

Women on Subclass 457 visas

The research literature recognises that people who are in Australia on temporary visas are particularly vulnerable to family and domestic violence as they may require a continued relationship with the perpetrator in order to stay in Australia.¹⁸³ The Australian Law Reform Commission (**ALRC**) identified that '[w]here charges of assault are brought against her partner and the woman's entry permit has expired, her residency status will be in limbo pending the outcome. Resolution may take considerable time and in the interim she may be without any financial support.'¹⁸⁴

To address this issue, the Australian Government introduced family violence provisions in the *Migration Regulations 1994 (Cth)*. As noted by the ALRC in its *Issues Paper Family Violence and Commonwealth Laws - Immigration Law* 'the family violence exception was introduced to address "community concerns that some migrants might remain in an abusive relationship because they believe they may be forced to leave Australia if they end the relationship"'.¹⁸⁵

The family violence provisions allow an applicant to obtain permanent residency without meeting other visa requirements, if their 'relationship has ended *and* they, or a member of their family unit, has suffered "relevant family violence" committed by the Australian sponsor'.¹⁸⁶ However, secondary holders of Subclass 457 visas (brought into Australia by a primary holder of a 457 visa) who have experienced family and domestic violence are unable to access these provisions.

During the investigation, the emergence of women on Subclass 457 visas as a particular group at high risk of family and domestic violence was raised by several non-government stakeholders. These stakeholders observed that victims of family and domestic violence on Subclass 457 visas would often refuse to engage with state government departments and authorities, including not reporting serious incidents to police, for fear of being

¹⁸⁰ Fisher, C, *Exploration of the Nature and Understanding of Family and Domestic Violence within Sudanese, Somali, Ethiopian, Liberian and Sierra Leonean Communities and its Impact on Individuals, Family Relations, the Community and Settlement*, Association for Services to Torture and Trauma Survivors, Perth, 2009, p. 22.

¹⁸¹ Australian Law Reform Commission, 'Family Violence and Commonwealth Laws Community Information Sheet Culturally and Linguistically Diverse Communities,' Australian Law Reform Commission, Canberra, 7 February 2012, viewed 30 September 2014 <<http://www.alrc.gov.au/CFV-CALD>>, p. 1.

¹⁸² Department of Child Safety, Practice Paper: *Working with people from culturally and linguistically diverse backgrounds*, Queensland Government, Brisbane, June 2010, p. 16.

¹⁸³ Australian Law Reform Commission, *Equality Before the Law: Justice For Women*, Australian Law Reform Commission, Canberra, 1994, p. 131.

¹⁸⁴ Australian Law Reform Commission, *Equality Before the Law: Justice For Women*, Australian Law Reform Commission, Canberra, 1994, p. 131.

¹⁸⁵ Australian Law Reform Commission, *Issues Paper Family Violence and Commonwealth Laws-Immigration Law*, Commonwealth of Australia, Sydney, 2011, p. 5.

¹⁸⁶ Australian Law Reform Commission, *Issues Paper Family Violence and Commonwealth Laws-Immigration Law*, Commonwealth of Australia, Sydney, 2011, p. 5.

deported from Australia. In addition, stakeholders informed the investigation that the perpetrators of the violence exploit the power they hold over these victims.

This issue has been identified as an area of concern by the Federation of Ethnic Communities Australia, in a submission to the Department of Immigration and Border Protection:

Secondary holders of a 457 visa who have experienced family and domestic violence are unable, even after two years of living in Australia, to apply for permanent residency under the family violence provisions. Their status as a secondary visa holder makes them reliant on their spouses or the primary holder of the subclass 457 visa. A secondary subclass 457 visa holder is only able to remain in Australia if their relationship remains intact – irrespective of their work [or] study status or other circumstances. This can be used as a method to control and manipulate dependents of the subclass 457 visa holder, particularly where visa holders threaten to withdraw sponsorship.

Moreover, victims of domestic violence on 457 visas who attempt to escape an abusive relationship find that they are ineligible for assistance, reinforcing the common threat from their spouse that they will be deported if they report instances of violence or go to authorities. In addition to the lack of legal protection, secondary applicants on 457 visas also lack the legal rights to access basic support and crisis services including social security, Medicare, legal assistance and public and community housing or refuge shelters if violence occurs or is reported. In these circumstances, this group of women are reluctant to leave the violent relationship and report the abuse to the police.¹⁸⁷

4.4.2 People with disabilities

The research literature indicates that '[w]omen with physical and/or intellectual disabilities are more likely than those without disabilities to experience [family and domestic violence]', and that 'women with disabilities continue to be at risk of being assaulted, raped and abused at a rate of at least twice that of non-disabled women, regardless of their age, race, ethnicity, sexual orientation or class'.¹⁸⁸

For women with disabilities who experience family and domestic violence, 'such violence is also likely to be more severe and continue for longer'.¹⁸⁹ Family and domestic violence perpetrated against women with disabilities may include:

... taking away a woman's wheelchair, or bathing her in very hot or very cold water, or rearranging the physical environment which increases the risk of injury to the woman with disability ... Other forms of abuse specifically perpetrated against women with disability include physical/chemical restraint;

¹⁸⁷Federation of Ethnic Communities Australia, *Submission to the Independent review of 457 visa programme*, Federation of Ethnic Communities Australia, Australian Capital Territory, May 2014, p. 3.

¹⁸⁸Bartels, L, *Emerging issues in domestic/family violence research*, Australian Institute of Criminology, Australian Government, Canberra, April 2010, p. 5; Dowse, L, Soldatic, K, Didi, A, Frohmader, C and van Toom, G, *Stop the Violence: Addressing Violence Against Women and Girls with Disabilities in Australia: Background Paper*, Women with Disabilities Australia, Hobart, 2013, p. 17.

¹⁸⁹Bartels, L, *Emerging issues in domestic/family violence research*, Australian Institute of Criminology, Australian Government, Canberra, April 2010, p. 5.

over-prescribing of drugs; confinement; denial of services; blocked access to care; the threat of being institutionalised; withholding food, care and medication; denying access to information/education ... control of reproduction and menstruation ...¹⁹⁰

Research has found that there 'are major gaps in knowledge, policy and processes that will require significant resourcing in order to improve services to women with disabilities' when they are seeking help for family and domestic violence.¹⁹¹ However, advocates have suggested that 'if a woman with disability manages to escape, very few women's refuges ... are accessible or willing to accept a woman with disability (and her children).'¹⁹²

4.4.3 Gay, lesbian, bisexual, transgender and intersex people

Family and domestic violence in the gay, lesbian, bisexual, transgender and intersex (GLBTI) community is an area in which criminological and social science research has 'largely been silent',¹⁹³ with a 2006 survey also identifying that many Australians who identify as GLBTI consider family and domestic violence a 'hidden issue in the GLBTI community.'¹⁹⁴ For example, 'many GLBTI people do not identify family violence when they experience it because of a lack of recognition of its existence in same sex relationships.'¹⁹⁵

Notwithstanding this limitation, 'available evidence suggests that family and domestic violence is experienced at higher rates' by people in the GLBTI community.¹⁹⁶

The research literature further indicates that some forms of family and domestic violence are specific to GLBTI relationships, such as 'the abusive partner 'outing' or threatening to 'out' their partner to family, friends, colleagues or the general community.'¹⁹⁷

The research literature also identifies specific factors that GLBTI victims take into account when considering their options for seeking help. These can include:

- 'isolation from their support networks' and an awareness that 'acknowledging the existence of the violence may further feed any homophobia';¹⁹⁸

¹⁹⁰ Multicultural Disability Advocacy Association of NSW, *Violence Through our Eyes: Improving access to services for women from non-English speaking background with disability and carers experiencing violence project report*, Multicultural Disability Advocacy Association of NSW, NSW, February 2010, pp. 11-12.

¹⁹¹ Healey et al, 2010, cited in Bartels, L, *Emerging issues in domestic/family violence research*, Australian Institute of Criminology, Australian Government, Canberra, April 2010, p. 5.

¹⁹² Multicultural Disability Advocacy Association of NSW, *Violence Through our Eyes: Improving access to services for women from non-English speaking background with disability and carers experiencing violence project report*, Multicultural Disability Advocacy Association of NSW, NSW, February 2010, p. 12.

¹⁹³ Bartels, L, *Emerging issues in domestic/family violence research*, Australian Institute of Criminology, Australian Government, Canberra, April 2010, p. 3.

¹⁹⁴ Bartels, L, *Emerging issues in domestic/family violence research*, Australian Institute of Criminology, Australian Government, Canberra, April 2010, pp. 3-4.

¹⁹⁵ Pitt et al, 2006, cited in Bartels, L, *Emerging issues in domestic/family violence research*, Australian Institute of Criminology, Australian Government, Canberra, April 2010, p. 4.

¹⁹⁶ Pitt et al, 2006, cited in Department for Child Protection and Family Support, *Western Australia Family and Domestic Violence Common Risk Assessment and Risk Management Framework*, Department for Child Protection and Family Support, Perth, 2011, p. 31.

¹⁹⁷ Women's Health Victoria, cited in Bartels, L, *Emerging issues in domestic/family violence research*, Australian Institute of Criminology, Australian Government, Canberra, April 2010, p. 4.

- intolerant or prejudiced responses from service providers;¹⁹⁹
- 'limited availability of suitable crisis accommodation options';²⁰⁰ and
- 'perceived prejudice from support services, health services, police and courts.'²⁰¹

4.5 Family and domestic violence legislation in Western Australia

The *Restraining Orders Act* includes provisions:

...specifically targeted at family and domestic violence (eg, a specific definition of family and domestic violence; violence restraining orders to protect children who have been exposed to family and domestic violence; police orders; and police functions in relation to family and domestic violence).²⁰²

The *Restraining Orders Act* also provides for 'restraining orders for other types of violence that occur outside a family and domestic relationship'²⁰³ as well as 'for misconduct restraining orders (generally for less serious forms of unacceptable behaviour) for persons in non-family and domestic relationships.'²⁰⁴ The Law Reform Commission of Western Australia has observed that:

In contrast to the position in Western Australia, there are four Australian jurisdictions with separate legislation for family and domestic violence restraining orders: Queensland, Victoria, Northern Territory and Tasmania. In these jurisdictions, different legislation exists in relation to orders for violent and other behaviour in non-family and domestic relationships.²⁰⁵

¹⁹⁸ Bartels, L, *Emerging issues in domestic/family violence research*, Australian Institute of Criminology, Australian Government, Canberra, April 2010, p. 4.

¹⁹⁹ Liang, B et al, 'A Theoretical Framework for Understanding Help-Seeking Processes Among Survivors of Intimate Partner Violence,' *American Journal of Community Psychology*, Vol. 36, Nos 1/2, September 2005, p. 77; Department for Child Protection and Family Support, *Western Australia Family and Domestic Violence Common Risk Assessment and Risk Management Framework*, Department for Child Protection and Family Support, Perth, 2011, p. 31.

²⁰⁰ Department for Child Protection and Family Support, *Western Australia Family and Domestic Violence Common Risk Assessment and Risk Management Framework*, Department for Child Protection and Family Support, Perth, 2011, p. 31.

²⁰¹ Department for Child Protection and Family Support, *Western Australia Family and Domestic Violence Common Risk Assessment and Risk Management Framework*, Department for Child Protection and Family Support, Perth, 2011, p. 31.

²⁰² Law Reform Commission of Western Australia, *Enhancing Family and Domestic Violence Laws: Final Report* the Law Reform Commission, Perth, 2014, p. 24. Other legislation in Western Australia that explicitly deals with family and domestic violence includes the *Criminal Code*, *Bail Act 1981*, *Criminal Investigation Act 2006* and the *Family Court Act 1997*. Other legislation relevant to family and domestic violence includes the *Sentencing Act 1995*, *Sentencing Administration Act 2003*, *Evidence Act 1906*, *Magistrates Court Act 2004*, *Criminal Procedure Act 2004*, *Criminal Injuries Compensation Act 2003*, *Victims of Crime Act 1994* and *Children and Community Services Act 2004*.

²⁰³ Law Reform Commission of Western Australia, *Enhancing Family and Domestic Violence Laws: Final Report* the Law Reform Commission, Perth, 2014, p. 24.

²⁰⁴ Law Reform Commission of Western Australia, *Enhancing Family and Domestic Violence Laws: Final Report* the Law Reform Commission, Perth, 2014, p. 24.

²⁰⁵ Law Reform Commission of Western Australia, *Enhancing Family and Domestic Violence Laws: Final Report* the Law Reform Commission, Perth, 2014, p. 24.

In July 2013, the Law Reform Commission received terms of reference from the Attorney General to review the laws concerning family and domestic violence, including the *Restraining Orders Act*, with a requirement to consider 'the benefits of separate family and domestic violence legislation'.²⁰⁶

In 2014, the Law Reform Commission released the report of its review entitled *Enhancing Family and Domestic Violence Laws: Final Report (the Law Reform Commission Final Report)*. In this report, the Law Reform Commission 'formed the view that separating legislation concerning family and domestic violence restraining orders from restraining orders in other contexts is, on balance, desirable'.²⁰⁷ The Law Reform Commission also proposed 73 recommendations directed towards six objectives for reform, as follows:

- 'Enhance the safety of victims of family and domestic violence (and their children)';²⁰⁸
- 'Reduce family and domestic violence by increasing perpetrator accountability and improving the management of offenders';²⁰⁹
- 'Provide fair and just legal responses to family and domestic violence';²¹⁰
- 'Improve integration and coordination in relation to family and domestic violence in the legal system';²¹¹
- 'Increase knowledge and understanding of family and domestic violence within the legal system';²¹² and
- 'Maximise timely legal responses'.²¹³

²⁰⁶ Law Reform Commission of Western Australia, *Enhancing Family and Domestic Violence Laws: Final Report* the Law Reform Commission, Perth, 2014, p. v.

²⁰⁷ Law Reform Commission of Western Australia, *Enhancing Family and Domestic Violence Laws: Final Report* the Law Reform Commission, Perth, 2014, p. v.

²⁰⁸ Law Reform Commission of Western Australia, *Enhancing Family and Domestic Violence Laws: Final Report* the Law Reform Commission, Perth, 2014, p. 17.

²⁰⁹ Law Reform Commission of Western Australia, *Enhancing Family and Domestic Violence Laws: Final Report* the Law Reform Commission, Perth, 2014, p. 18.

²¹⁰ Law Reform Commission of Western Australia, *Enhancing Family and Domestic Violence Laws: Final Report* the Law Reform Commission, Perth, 2014, p. 18.

²¹¹ Law Reform Commission of Western Australia, *Enhancing Family and Domestic Violence Laws: Final Report* the Law Reform Commission, Perth, 2014, p. 19.

²¹² Law Reform Commission of Western Australia, *Enhancing Family and Domestic Violence Laws: Final Report* the Law Reform Commission, Perth, 2014, p. 19.

²¹³ Law Reform Commission of Western Australia, *Enhancing Family and Domestic Violence Laws: Final Report* the Law Reform Commission, Perth, 2014, p. 20.

4.6 Strategies for preventing and reducing family and domestic violence in Western Australia

4.6.1 *The National Plan to Reduce Violence against Women and their Children 2010-2022*

The National Plan was endorsed by the Council of Australian Governments (**COAG**) in 2011. The National Plan includes a definition of family and domestic violence²¹⁴ and 'provides the framework for action by the Commonwealth, state and territory governments'.²¹⁵ The 'central goals of the National Plan are to reduce violence against women and their children and to improve how governments work together, increase support for women and their children, and create innovative and targeted ways to bring about change.'²¹⁶

The National Plan sets out 'six national outcomes for all governments to deliver during the next 12 years. The outcomes will be delivered through four three-year action plans'.²¹⁷ Details of the strategies, key actions and responsibilities for achieving each of these six outcomes are set out in the National Plan.²¹⁸

More recently, on 28 January 2015, the Commonwealth Government decided to 'elevate the issue of violence against women and their children to a national level at the COAG'.²¹⁹ On 14 May 2015, the (then) Prime Minister, the Hon Tony Abbott MP, further announced that:

²¹⁴ Council of Australian Governments, *National Plan to Reduce Violence against Women and their Children 2010 – 2022*, Australian Government, Canberra, February 2011, viewed 4 February 2014, <<http://www.dss.gov.au/our-responsibilities/women/programs-services/reducing-violence/the-national-plan-to-reduce-violence-against-women-and-their-children>>, p. 2.

²¹⁵ Council of Australian Governments, *National Plan to Reduce Violence against Women and their Children 2010 – 2022*, Australian Government, Canberra, February 2011, viewed 4 February 2014, <<http://www.dss.gov.au/our-responsibilities/women/programs-services/reducing-violence/the-national-plan-to-reduce-violence-against-women-and-their-children>>, p. 10.

²¹⁶ Council of Australian Governments, *National Plan to Reduce Violence against Women and their Children 2010 – 2022*, Australian Government, Canberra, February 2011, viewed 4 February 2014, <<http://www.dss.gov.au/our-responsibilities/women/programs-services/reducing-violence/the-national-plan-to-reduce-violence-against-women-and-their-children>>, p. 10.

²¹⁷ Council of Australian Governments, *National Plan to Reduce Violence against Women and their Children 2010 – 2022*, Australian Government, Canberra, February 2011, viewed 4 February 2014, <<http://www.dss.gov.au/our-responsibilities/women/programs-services/reducing-violence/the-national-plan-to-reduce-violence-against-women-and-their-children>>, p. 10.

²¹⁸ Council of Australian Governments, *National Plan to Reduce Violence against Women and their Children 2010 – 2022*, Australian Government, Canberra, February 2011, viewed 4 February 2014, <<http://www.dss.gov.au/our-responsibilities/women/programs-services/reducing-violence/the-national-plan-to-reduce-violence-against-women-and-their-children>>, pp. 14-31.

²¹⁹ Prime Minister of Australia, the Hon Tony Abbott MP, *Advisory panel announced to reduce violence against women*, 14 May 2015, viewed 12 June 2015 <<https://www.pm.gov.au/media/2015-05-14/advisory-panel-announced-reduce-violence-against-women>>.

By the end of 2015, COAG will:

- agree on a national domestic violence order (DVO) scheme, where DVOs will be automatically recognised and enforceable in any state or territory of Australia;
- develop national standards for how we intervene against perpetrators and hold them accountable; and
- enact a national approach to dealing with online safety and the misuse of technology, so we can protect women against newer forms of abuse.

4.6.2 Western Australia's Family and Domestic Violence Prevention Strategy to 2022

Western Australia's Family and Domestic Violence Prevention Strategy to 2022: Creating Safer Communities (the State Strategy) was released in 2012. The State Strategy sets out the state government's commitment to reducing family and domestic violence, identifying that it 'builds on reforms already undertaken through the *WA Strategic Plan for Family and Domestic Violence 2009-2013*'.²²⁰

DCPFS is the 'lead agency responsible for family and domestic violence strategic planning in Western Australia. This includes the development, implementation and monitoring of [the State Strategy] and contribution to the ... *National Plan to Reduce Violence against Women and their Children 2010-2022* ... Strategic planning is supported by a Family and Domestic Violence Senior Officers' Group',²²¹ comprising senior representatives from state and Commonwealth government agencies and the Women's Council for Domestic and Family Violence Services (WA). DCPFS's Annual Report 2012-13 confirms that DCPFS 'continues to be the lead agency for the implementation of both the [State] Strategy and the National Plan in the State'.²²²

The State Strategy states that it 'works within the national framework'²²³ and that '[e]ach three year phase of the [State] Strategy is aligned to the three year national Action Plans and will serve as the WA Implementation Plan for the *National Plan*. Annual *Achievement Reports* that outline current and planned initiatives will be developed over the life of the [State] Strategy'.²²⁴

²²⁰ Department for Child Protection and Family Support, *Western Australia's Family and Domestic Violence Prevention Strategy to 2022*, Department for Child Protection and Family Support, Perth, 2012, p. 3.

²²¹ Department for Child Protection and Family Support, *Family and Domestic Violence Strategic Planning*, Government of Western Australia, Perth, 2014, viewed 16 April 2015, <<http://www.dcp.wa.gov.au/CrisisAndEmergency/FDV/Pages/StateStrategicPlanning.aspx>>; Law Reform Commission of Western Australia, *Enhancing Family and Domestic Violence Laws: Discussion Paper*, Law Reform Commission of Western Australia, Perth, 2013, p. 20.

²²² Government of Western Australia Department for Child Protection and Family Support, *Annual Report 2012-13*, Department for Child Protection and Family Support, Perth, 2013, p. 37.

²²³ Department for Child Protection and Family Support, *Western Australia's Family and Domestic Violence Prevention Strategy to 2022*, Department for Child Protection and Family Support, Perth, 2012, p. 7.

²²⁴ Department for Child Protection and Family Support, *Western Australia's Family and Domestic Violence Prevention Strategy to 2022*, Department for Child Protection and Family Support Perth, 2012, p. 7.

The three phases identified in the State Strategy are:

- First Phase: Sustaining Change – strengthening the foundation and supporting further reform (2013-2016) (**the First Phase**);
- Second Phase: Consolidating Change – recognising achievements and assessing results (2016-19); and
- Third Phase: Achieving Change – continuing reform beyond the life of the [State] Strategy (2019-2022).²²⁵

The First Phase aims to identify:

...those actions [arising from the *WA Strategic Plan for Family and Domestic Violence 2009-2013*] that are delivering results, sustaining these changes, and moving into future phases through the identification of new and emerging issues.²²⁶

The State Strategy identifies three broad 'Primary State Outcomes to 2022'²²⁷ (**Primary State Outcomes**). However, unlike the National Plan (and for example, the *Western Australian Suicide Prevention Strategy 2009-13*²²⁸), the State Strategy does not identify how it proposes to achieve these stated outcomes, that is, it does not identify any action to be taken and which state government departments and authorities will be responsible for taking this action. As identified above, in the National Plan, these are set out in four three-year action plans.

The State Strategy states that there is provision for monitoring of outcomes after the conclusion of each three-year stage 'to measure progress toward the achievement of the outcomes of the [State] Strategy'.²²⁹ Reporting to 2013 occurred through the *State Strategy Achievement Report to 2013*²³⁰ which described progress against the now-expired WA Implementation Plan to 2013; a proposed monitoring and evaluation framework; a general approach to moving forward; and established key performance indicators.

DCPFS has identified that there will be further Achievement Reports.²³¹ However, in the absence of identified actions in the State Strategy for the First Phase up to 2016, it will not

²²⁵ Department for Child Protection and Family Support, *Western Australia's Family and Domestic Violence Prevention Strategy to 2022*, Department for Child Protection and Family Support Perth, 2012, p. 6.

²²⁶ Department for Child Protection and Family Support, *Western Australia's Family and Domestic Violence Prevention Strategy to 2022*, Department for Child Protection and Family Support Perth, 2012, p. 6.

²²⁷ Department for Child Protection and Family Support, *Western Australia's Family and Domestic Violence Prevention Strategy to 2022*, Department for Child Protection and Family Support, Perth, 2012, p. 7.

²²⁸ Government of Western Australia Department of Health, *Western Australian Suicide Prevention Strategy 2009-2013 Everybody's business* pp. 31-48.

²²⁹ Department for Child Protection and Family Support, *Western Australia's Family and Domestic Violence Prevention Strategy to 2022*, Department for Child Protection and Family Support Perth, 2012, p. 10.

²³⁰ Department for Child Protection and Family Support, *Western Australia's Family and Domestic Violence Strategy to 2022 Achievement Report to 2013*, Department for Child Protection and Family Support, Perth, 2014.

²³¹ Department for Child Protection and Family Support, *Western Australia's Family and Domestic Violence Strategy to 2022 Achievement Report to 2013*, Department for Child Protection and Family Support, Perth, 2014, p. 2.

be possible to monitor or evaluate whether the First Phase of the State Strategy has been effectively implemented by state government departments and authorities.

The findings of the Office's analysis of the state-wide data and the 30 fatalities, set out in Part 1, and the Office's analysis of the administration of the *Restraining Orders Act*, set out in Part 2, indicate that there is scope for state government departments and authorities to improve the ways in which they respond to family and domestic violence. It is, therefore, proposed that Action Plans under the State Strategy identify in more detail actions for achieving the State Strategy's Primary State Outcomes, priorities among these actions, and allocation of responsibilities for these actions to specific state government departments and authorities, as occurs with the National Plan. The findings and recommendations of the Law Reform Commission Final Report and of the Office's investigation, set out in this report, could inform this work.

During the course of the investigation, DCPFS and DOTAG informed the Office that:

Western Australia's Family and Domestic Violence Prevention Strategy to 2022 (the Prevention Strategy) was released in 2012, following cabinet endorsement. The Prevention Strategy provides for a long term, across government framework for responding to family and domestic violence and is aligned to the *National Plan to Reduce Violence against Women and their Children 2010-22*. Implementation of the Prevention Strategy is guided by action plans that will be developed and implemented up to 2022. The *Freedom from Fear, Working Towards the Elimination of Family and Domestic Violence in Western Australia – Action Plan 2015* (the Action Plan) was released in September 2015 and has a specific focus on perpetrators of violence and abuse by increasing the quality, capacity and consistency of responses.

The Action Plan sets out 20 actions under five priority areas that include primary, secondary and tertiary prevention approaches. A number of initiatives included in the Action Plan focus on increasing the capacity and authority of the service system to hold perpetrators accountable for their violent behaviour. These include the introduction of new restraining orders specifically for family and domestic violence; the introduction of a new Family Violence Support List model in the Magistrate's Court; and exploring the use of GPS tracking for serious family violence offenders.

A number of actions presented in the Action Plan will require a longer term approach and may be continued in future plans, while others may be achieved within a shorter timeline. The Action Plan underpins a focus on family violence within Aboriginal communities and includes the *Safer Families, Safer Communities Kimberley Family Violence Regional Plan* (the Kimberley Plan).²³²

²³² Department for Child Protection and Family Support, personal communication, 19 October 2015; and Department of the Attorney General, personal communication, 20 October 2015.

Recommendation 1

DCPFS, as the lead agency responsible for family and domestic violence strategic 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.

Communities experiencing higher rates of family and domestic violence

The research literature set out in section 4.4 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.

To address this issue, the State Strategy identifies that the First Phase will include 'work to establish the data collection framework ... [t]he collection of data will provide an evidence base and will assist in setting future directions over the life of the ... Strategy'.²³³ In reporting on this work, the State Strategy *Achievement Report to 2013* notes that:

A data working group was established in 2009 to work toward collecting data against key performance indicators of the *WA Strategic Plan for Family and Domestic Violence 2009–2013*. The working group is also identifying ways to improve the collection of data across the state. This work includes identifying areas of high priority which need to be further developed in order to improve our understanding of family and domestic violence in WA. Going forward, the data working group has nominated **sexual assault, child protection, drug and alcohol and mental health** as high priority areas for future development.²³⁴ [Emphasis added]

However, neither the State Strategy nor the *Achievement Report to 2013* identify 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.

At a national level, the collection of such data has been identified as an important priority. In May 2014 a *National Research Agenda to Reduce Violence against Women and their Children* was released by Australia's National Research Organisation for Women's Safety [ANROWS] in support of the National Plan.²³⁵ The *Achievements Report to 2013* observes

²³³ Department for Child Protection and Family Support, *Western Australia's Family and Domestic Violence Prevention Strategy to 2022*, Department for Child Protection and Family Support Perth, 2012, p. 5.

²³⁴ Department for Child Protection and Family Support, *Western Australia's Family and Domestic Violence Strategy to 2022 Achievement Report to 2013*, Department for Child Protection and Family Support, Perth, 2014, p. 18.

²³⁵ Australia's National Research Organisation for Women's Safety, *National Research Agenda to Reduce Violence against Women and their Children*, Australia's National Research Organisation for Women's Safety, New South Wales, May 2014.

that 'Western Australia contributes funding to [ANROWS] as a state partner'²³⁶ and the National Research Agenda was developed 'in consultation with stakeholders across Australia'.²³⁷

The National Research Agenda identifies several 'Strategic Research Themes' (SRTs) and notes:

Another common feature across all SRTs is the need for the research effort to focus on marginalised groups and under-researched populations. This is especially important for women and their children with particular vulnerabilities to violence and/or particular cultural or other requirements ... where appropriate, the research effort should target the following sub-populations across all four SRTs:

- Aboriginal and Torres Strait Islander women;
- rural and remote women;
- women with disability;
- younger women (18-24 year age group especially);
- older women;
- CALD women;
- GLBTIQ women;
- immigrant women (especially refugees);
- women without children; and
- children in the context of both domestic and family violence and adult sexual assault.²³⁸

Bearing in mind the focus of the National Research Agenda, the findings of the research literature and of the Office's analysis, set out in section 4.4, it is proposed that DCPFS, in collaboration with WAPOL, DOTAG and other relevant agencies, ensure that future versions of the State Strategy incorporate actions 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.

The Office further notes that, in November 2014, the Western Australian Department of Local Government and Communities (through the Office of Multicultural Interests) released a *Guide to cultural and linguistic data collection for the public sector (the Guide)* to 'assist State Government agencies to collect data relating to the cultural, linguistic and religious diversity of their clients'.²³⁹ The Guide observes that:

To facilitate effective planning and delivery of culturally appropriate services to Western Australia's culturally and linguistically diverse (CaLD) population, it is

²³⁶ Department for Child Protection and Family Support, *Western Australia's Family and Domestic Violence Strategy to 2022 Achievement Report to 2013*, Department for Child Protection and Family Support, Perth, 2014, p. 16.

²³⁷ Department for Child Protection and Family Support, *Western Australia's Family and Domestic Violence Strategy to 2022 Achievement Report to 2013*, Department for Child Protection and Family Support, Perth, 2014, p. 16.

²³⁸ Australia's National Research Organisation for Women's Safety, *National Research Agenda to Reduce Violence against Women and their Children*, Australia's National Research Organisation for Women's Safety, New South Wales, May 2014, p. 19.

²³⁹ Department of Local Government and Communities, *Guide to cultural and linguistic data collection for the public sector*, Department of Local Government and Communities, Perth, November 2014, p. 1.

important that government agencies and other service providers have a clear understanding of, and relevant data on, the demographic, socioeconomic and cultural characteristics of their client base.²⁴⁰

The Guide 'provides suggestions and strategies for the collection of this data, including the use of standard variables ... to improve the quality and quantity of information collected, achieve consistency in data collection and enable meaningful comparisons to be made.'²⁴¹ The Guide could inform and assist the implementation of Recommendation 2 below.

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.

²⁴⁰ Department of Local Government and Communities, *Guide to cultural and linguistic data collection for the public sector*, Department of Local Government and Communities, Perth, November 2014, p. 2.

²⁴¹ Department of Local Government and Communities, *Guide to cultural and linguistic data collection for the public sector*, Department of Local Government and Communities, Perth, November 2014, p. 2.