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ORGANISATION FOR WOMEN'S SAFETY

*to Reduce Violence against Women & their Children*

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### **Acknowledgement of Country**

ANROWS acknowledges the traditional owners of the land across Australia on which we work and live. We pay our respects to Aboriginal and Torres Strait Islander elders past, present and future; and we value Aboriginal and Torres Strait Islander history, culture and knowledge.

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## **Perpetrator interventions in Australia: Part two - Perpetrator pathways and mapping. State of knowledge paper**

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Version Control Table

Version	Date	Details
V1	November 2015	
V1.01	October 2016	Page 1 has been amended to further clarify that this paper was based on the best available information at the time of original publication.
		Page 21 of the first version of the paper reported that there “are currently no programs for sentenced perpetrators, either within a community or custodial setting delivered in SA”. Amendments to page 21 and 22 acknowledge the Department for Correctional Services South Australia (DCS SA) pilot of the NSW Corrective Services Domestic Abuse Program (DAP) and the new Domestic and Family Violence Intervention Program. In October 2015, following an evaluation of the DAP and immediately prior to this paper’s initial publication, the new Domestic and Family Violence Intervention Program (DFVIP) commenced. Both the pilot of the DAP and the DFPVIP have been added to the program list on page 22.
		DFV pathways diagrams 2-4 and 6-9 have been changed to ensure clarity and a consistent alignment with explanatory text setting out both criminal and civil pathways domestic/ family violence perpetrators.
		The program list on page 22, version 1, noted that Relationships Australia’s Specialised Family Violence Services were due to end on 30 June 2015. The revised version has been amended as the program did not end.
		Additional minor amendments were also made to the program list on pages 16 and 17. Specifically, Gateway Community Health has been amended to Gateway Health and Ovens and King Health Service has been removed. Mitchell Community Health Service has been amended to Nexus Primary Health.
		A number of very minor amendments have been made to the paper to address typographical errors.

# Contents

<b>Introduction</b> .....	<b>1</b>
<b>Family/domestic violence interventions</b> .....	<b>2</b>
Overview of the legal landscape.....	3
Diagram 1: An overview of the family/domestic violence civil and criminal perpetrator pathways in Australia .....	3
Civil protection orders.....	4
Perpetrator intervention programs.....	5
New South Wales.....	6
Perpetrator pathway.....	6
Diagram 2: New South Wales: Family/domestic violence perpetrator pathway .....	7
Programs.....	9
Victoria.....	11
Perpetrator pathway.....	11
Diagram 3: Victoria: Family/domestic violence perpetrator pathway .....	12
Programs.....	15
South Australia.....	18
Perpetrator pathway.....	18
Diagram 4: South Australia: Family/domestic violence perpetrator pathway .....	19
Programs .....	20
Queensland.....	23
Perpetrator pathway.....	23
Diagram 5: Queensland: Family/domestic violence perpetrator pathway .....	24
Programs.....	26
Western Australia.....	28
Perpetrator pathway.....	28
Diagram 6: Western Australia: Family/domestic violence perpetrator pathway .....	29
Programs.....	30
Tasmania.....	32
Perpetrator pathway.....	32
Diagram 7: Tasmania: Family/domestic violence perpetrator pathway .....	33
Programs.....	34
Australian Capital Territory .....	35
Perpetrator pathway.....	35
Diagram 8: Australian Capital Territory: Family/domestic violence perpetrator pathway .....	36
Programs.....	37
Northern Territory.....	39
Perpetrator pathway.....	39
Diagram 9: Northern Territory: Family/domestic violence perpetrator pathway .....	40
Programs .....	41
<b>Summary</b> .....	<b>43</b>

<b>Sex offender perpetrator interventions</b>	<b>44</b>
Overview of the legal landscape	45
Diagram 10: An overview of sexual assault perpetrator pathways through the criminal legal system	45
Criminal legal system interventions	46
New South Wales	48
Perpetrator pathway	48
Diagram 11: New South Wales: Sex offender perpetrator pathway	49
Programs	50
Victoria	52
Perpetrator pathway	52
Diagram 12: Victoria: Sex offender perpetrator pathway	53
Programs	54
South Australia	55
Perpetrator pathway	55
Diagram 13: South Australia: Sex offender perpetrator pathway	56
Programs	57
Queensland	58
Perpetrator pathway	58
Diagram 14: Queensland: Sex offender perpetrator pathway	59
Programs	60
Western Australia	61
Perpetrator pathway	61
Diagram 15: Western Australia: Sex offender perpetrator pathway	62
Programs	63
Tasmania	64
Perpetrator pathway	64
Diagram 16: Tasmania: Sex offender perpetrator pathway	65
Programs	66
Australian Capital Territory	67
Perpetrator pathway	67
Diagram 17: Australian Capital Territory: Sex offender perpetrator pathway	68
Programs	69
Northern Territory	70
Perpetrator pathway	70
Diagram 18: Northern Territory: Sex offender perpetrator pathway	71
Programs	72
<b>Summary</b>	<b>73</b>
<b>References</b>	<b>74</b>

# Introduction

Part two of ANROWS's state of knowledge paper on perpetrator interventions provides detailed information on perpetrator pathways and programs in each state and territory in Australia. The purpose of part two is to illustrate the multiplicity of perpetrator interventions beyond men's behaviour change programs, and specifically, legal interventions by agencies such as police, justice and corrections. Points of referrals to other systems, services and programs such as mental health, drug and alcohol, housing and employment services are also noted, in recognition that these services can play a role in assisting men to stop perpetrating violence.

Part two also identifies points of contact between a perpetrator and the system as he moves through various interventions—including, importantly, where the system may lose sight of the perpetrator—and provides a basis for further analysis of differences and commonalities across the various jurisdictions in Australia. It also serves to identify vulnerabilities in the various systems and services, and identifies ideal points for further consideration of intervention. Finally, noting that women's safety is key to any perpetrator intervention, the work in part two of this paper illustrates a number of "touch points", or opportunities for referral or contact with women subjected to violence in each Australian state and territory.

Part two of this paper is intended to be read alongside part one, which provides an in-depth examination of the literature on perpetrator interventions, including key issues, debates and future areas for research. Part two of this paper follows the same structure as part one in that it first outlines interventions for perpetrators of family/domestic violence, and then considers interventions for perpetrators of sexual assault. Furthermore, while no Australian jurisdiction has gender specific laws, throughout the paper we illustrate the various laws with reference to male perpetrators and female victims/survivors.

Part two was prepared with the generous assistance of multiple stakeholders in all state and territory jurisdictions, many of whom provided meticulous and detailed feedback as well as previously unpublished information. While every attempt has been made to capture the most accurate and up-to-date knowledge regarding perpetrator intervention strategies in the various jurisdictions across Australia, it is a fast-moving policy and practice environment. The information in this paper reflects the best available information at the time of original publication. Part one provides acknowledgement of stakeholders who assisted ANROWS with this paper. This paper represents the first attempt in Australia to comprehensively map perpetrator pathways through the range of responses and service systems and approaches specific to perpetrators of violence against women.

# Family/domestic violence interventions

The first section of this paper provides a brief overview of family/domestic violence perpetrator interventions, including a general overview diagram of the legal and program pathways for perpetrators of family/domestic violence. The section then turns to an examination of each Australian state and territory jurisdiction, containing a specific diagram of the perpetrator pathway for each jurisdiction, and noting points at which perpetrators may access perpetrator programs in that jurisdiction. As noted above, referral points, and key points of system vulnerability, are also indicated in each diagram.

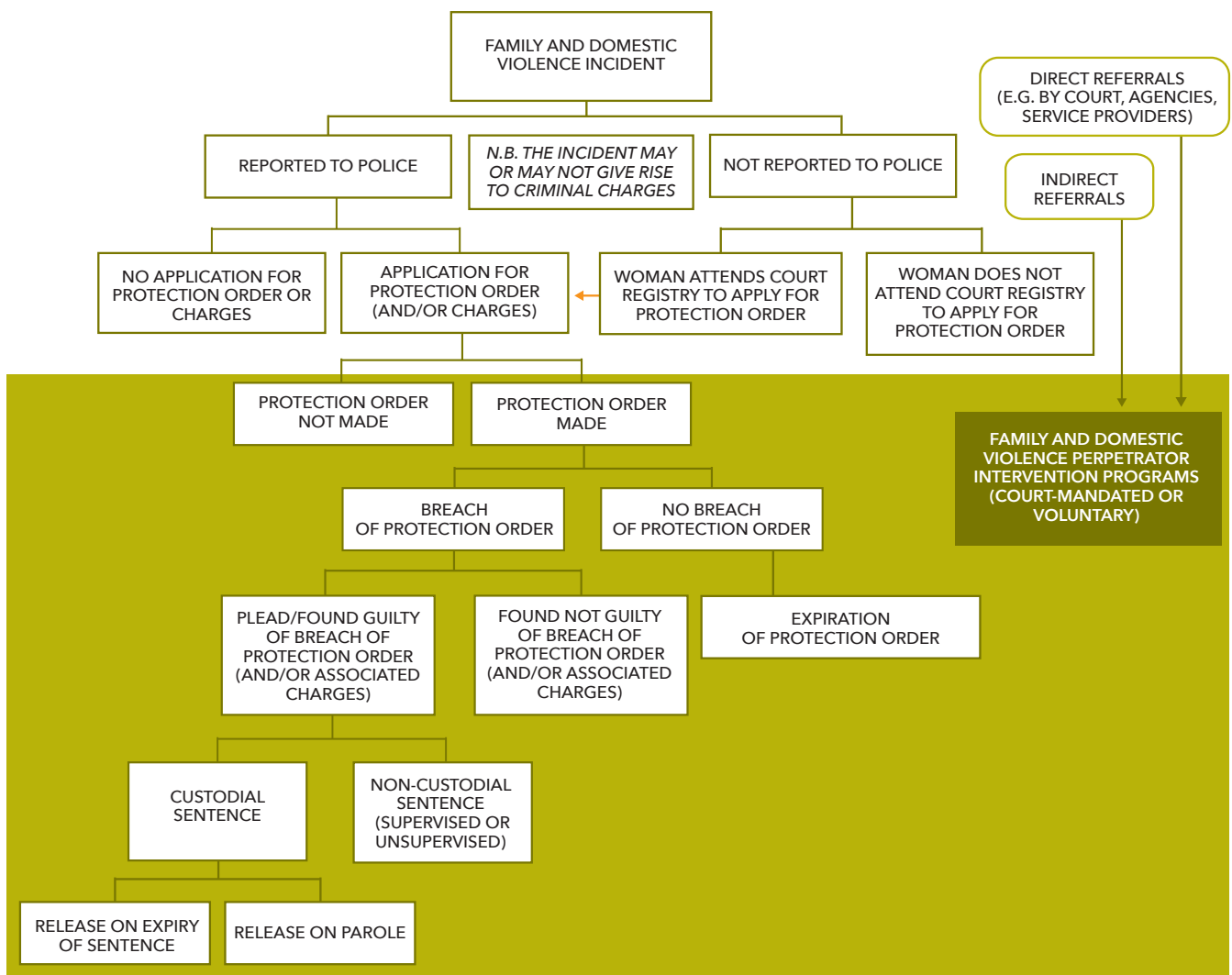
Each of the jurisdictional-specific sections below also contains a list of perpetrator programs available in that jurisdiction. Whilst every effort has been made by jurisdictional representatives and individual services to confirm pathways and available programs, the size, complexity and rapidly changing nature of the landscape in this area mean that the list is not exhaustive.



## Overview of the legal landscape

An overview of the pathways experienced by family/domestic violence perpetrators through the legal and community systems is illustrated in Diagram 1 below. Perpetrators can enter the legal pathway by being charged with a criminal offence when the police respond to a family/domestic violence incident. However, in most cases, perpetrators of family/domestic violence are dealt with via civil protection orders, which although not a criminal response, can lead to entry into the criminal justice pathway if they contravene an order. Explanatory text follows this overview diagram.

**Diagram 1: An overview of the family/domestic violence civil and criminal perpetrator pathways in Australia**



## Civil protection orders

In the family and domestic violence context, civil protection orders are orders made to protect women from further family/domestic violence. In Australia, they are variously called domestic violence orders, family violence orders, intervention orders, violence restraining orders and protection orders.<sup>1</sup> In this paper we use the term “domestic violence order” (DVO) when referring to such orders in general. DVOs are part of civil law, but a breach of an order is a criminal offence. Furthermore, while no Australian jurisdiction has gender-specific laws, throughout the paper we illustrate the various laws with reference to male perpetrators and female victims/survivors of family/domestic violence.

When an incident involving family/domestic violence occurs, this may or may not be reported to the police. The person reporting the incident could be someone other than the woman involved in the incident (e.g. a neighbour). If the incident is reported to the police, the police will investigate the matter. After investigation, an interim protection order may be made if the police consider that it is necessary for the protection of the woman and/or the children, regardless of whether the man was charged with a criminal offence arising from the incident. The interim order is made to protect them until a court considers whether a final order should be made. This order can be made regardless of whether there are criminal charges associated with the incident. In some jurisdictions, even if the incident is not reported to the police, a woman may attend the court registry to apply for a final protection order.

When the matter comes before a court, the court may decide to make a final protection order for a period of time. The final order may have the same conditions as, or different conditions from, those in the interim order. A final order can also be made by the court on the basis that the perpetrator chooses to consent to the order. In other cases, the court may adjourn the matter and extend the interim order to ensure the woman’s continued protection, or dismiss the application for a final order (which would also revoke the interim order).

Both the interim order and the final order fall within the civil jurisdiction of the court. However, if there are charges associated with the incident and the perpetrator has pleaded guilty or was found guilty by the court and sentenced for those charges, the court may require the perpetrator to attend an assessment for a perpetrator intervention program as part of the conditions of the sentence.

A perpetrator may also come into contact with the criminal legal system if he breaches the conditions of the interim or final protection order. The breach itself may also constitute another criminal offence (e.g. assault or intimidation). If the perpetrator pleads or is found guilty of that criminal offence, the court may impose a custodial or non-custodial sentence. The latter may or may not involve supervision by correctional services agencies. Sentenced perpetrators may be eligible for perpetrator intervention program(s) delivered by correctional services agencies or a funded community sector agency.

In some jurisdictions, perpetrators released on bail prior to, or in between, court hearings can attend a voluntary perpetrator intervention program.

1 Apprehended domestic violence orders (*Crimes (Domestic and Personal Violence) Act 2007* (NSW)); domestic violence orders (*Domestic and Family Violence Act 2007* (NT)); family violence orders (*Family Violence Act 2004* (Tas)); family violence intervention orders (*Family Violence Protection Act 2008* (Vic)); intervention orders (*Intervention Orders (Prevention of Abuse) Act 2009* (SA)); violence restraining orders (*Restraining Orders Act 1997* (WA)); protection orders (*Domestic and Family Violence Protection Act 2012* (Qld)).

## Perpetrator intervention programs

### Court-mandated programs

As discussed above, sentenced perpetrators may be eligible for intervention program(s) delivered by correctional services agencies. Such programs are run both within correctional facilities and in community correction centres. Note, though, that there may be a requirement for a perpetrator to be serving a sentence of a certain length before gaining access to a program; with the majority of perpetrators receiving short sentences for DVO breaches, very few perpetrators may gain access to these services. Attending a community-based program may also be a condition of community-based sentencing order or of parole.

While the court may require a perpetrator to attend a program, in some jurisdictions the consent of the perpetrator is still required before he can join the program. Some perpetrators may only consent to attending the program because it is a condition of their parole, or because it would show them in a favourable light in parole applications.

### Voluntary programs

Perpetrators may access voluntary programs by way of indirect or direct referrals. Indirect referrals may be made by housing agencies, doctors, lawyers and counselling services in cases where family/domestic violence is identified as an issue. Direct referrals may be made by family/domestic violence hotlines, police and child welfare/protection agencies. Perpetrators may also self-refer, or be referred by partners or family members.

The majority of perpetrators are under no obligation to attend either an assessment interview or a program. Consequently, a number of men will not take up a referral. If a perpetrator is assessed as suitable for entry into a program, he will be placed on a waiting list. As there is a fixed number of places in a limited number of programs, perpetrators could be waiting for some time and a number of men may no longer be willing to join the program or be reachable during this waiting period. There is also a shortage of programs for perpetrators of family/domestic violence in rural and remote areas of all jurisdictions, which represents a further barrier to access to these programs.

When a perpetrator joins a program, contact is usually made with his partner or ex-partner where possible and relevant. Some perpetrators may undertake another program, or repeat the program upon completion. In some instances, men may attend multiple programs at the same time to address different needs.

If a perpetrator is assessed as ineligible or unsuitable to join or continue with a program, he may be referred to other services, such as drug and alcohol counselling, and mental health services. Perpetrators who are assessed as not ready for group work may be referred to one-on-one counselling sessions or other appropriate services. They may also be invited to re-apply to join group programs when they are more willing to engage productively with such programs.

The following sections provide a more detailed diagram for the perpetrator pathway for each state and territory in Australia, as well as explanatory text for each diagram and a list of perpetrator programs in each jurisdiction.

## New South Wales

The schematic diagram (Diagram 2) sets out the pathway of a perpetrator moving through the New South Wales (NSW) system. The diagram is followed by explanatory notes and a mapping of relevant programs in this jurisdiction.

### Perpetrator pathway

In NSW, an Apprehended Domestic Violence Order (ADVO) can be made against a family/domestic violence perpetrator to protect a woman and/or her children from further violence, stalking, intimidation and harassment. There are two types of ADVOs: an interim ADVO, which can be made by the police, an authorised officer or a court; and a final ADVO, which can be made only by a court. An interim ADVO made by the police or an authorised officer is called a provisional ADVO (PADVO).<sup>2</sup>

#### Police

A police officer may apply for a PADVO either on his or her own initiative, or at the request of the woman subjected to violence.<sup>3</sup> Such an application may be made if there is an incident between the perpetrator and the woman, and if—after conducting an investigation into a family/domestic violence incident and completing a risk assessment using the Domestic Violence Safety Assessment Tool (DVSAT)—the police officer has good reason to believe that the PADVO is needed immediately to ensure the woman's safety and protection or to prevent substantial damage to her property.<sup>4</sup> An application for a PADVO must be made if there is no ADVO currently in place, and an investigating police officer: (a) suspects or believes that domestic violence or child abuse has recently occurred or is occurring, or is about to or likely to occur, or if related criminal proceedings have been commenced against the perpetrator; and (b) has good reason to believe that there is an immediate need to ensure the safety and protection of the woman or to prevent substantial damage to her property.<sup>5</sup> If there is sufficient evidence, police can also charge the perpetrator with a criminal offence and therefore the perpetrator enters the criminal justice system.

The application for a PADVO can be made to a senior police officer or an authorised officer (i.e. a magistrate, a Children's magistrate, a registrar of the Local Court, or an employee of the Department of Justice who is authorised by the Attorney

General to make a PADVO).<sup>6</sup> A PADVO may be issued if there are reasonable grounds for making the order.<sup>7</sup> The PADVO will be in place until the application for a final ADVO is dealt with by the court.

A PADVO made by an authorised officer can be varied or revoked only on the application of a police officer to an authorised officer or the court hearing the application for the final ADVO.<sup>8</sup> A PADVO made by a senior police officer may be varied or revoked on the application of the perpetrator by any court dealing, or that will deal with, the application for the final ADVO.<sup>9</sup> However, if one of the persons protected under the order is a child, an application for variation or revocation of a police-issued PADVO must be made by a police officer.<sup>10</sup> Although the DVSAT is designed to assess the level of threat to women experiencing family/domestic violence and does not specifically assess the needs of perpetrators (NSW Police Force, n.d.), it is at this point that police can refer a perpetrator to appropriate services. Information regarding a perpetrator can also be forwarded to appropriate services without his consent. If children are at risk, police will also make a referral to the Child Wellbeing Unit (NSW Police Force, 2013, pp. 67-68).<sup>11</sup> It is not the responsibility of the police to ensure that a perpetrator follows up on any relevant referrals. It is at this point that a perpetrator is no longer monitored and may drop out of view.

#### Court

Under the *Crimes (Domestic and Personal Violence) Act 2007* (NSW), the Local Court (or the Children's Court—if the perpetrator is less than 18 years old when the application for the order is made) may consider granting an ADVO in a

2 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), s. 3.

3 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), s. 25(3)(a).

4 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), ss. 26, 28(1), 28A(1).

5 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), s. 27.

6 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), ss. 28, 28A.

7 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), ss. 26, 28(1), 28A(1).

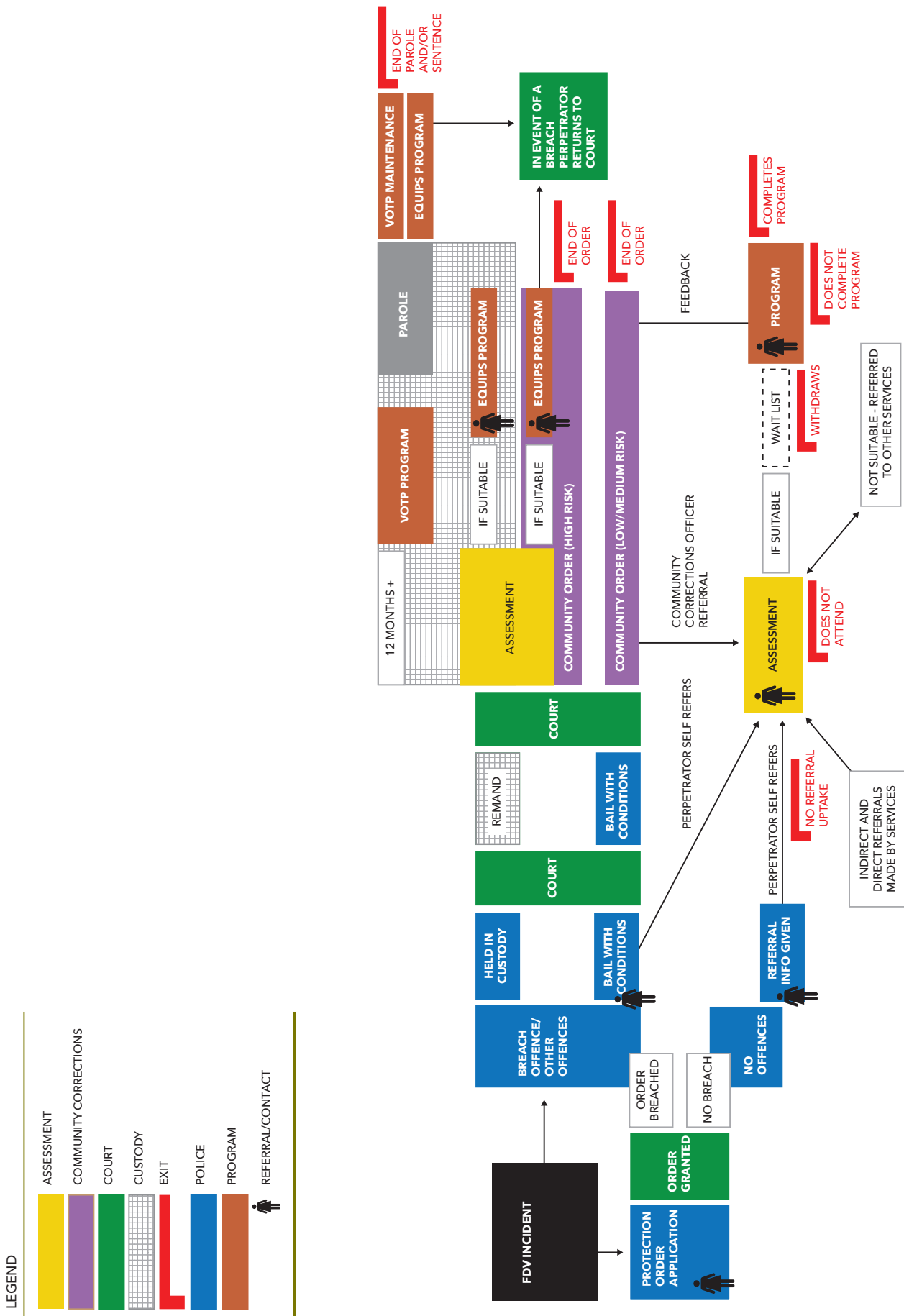
8 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), s. 33.

9 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), s. 33A(1).

10 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), s. 33A(2).

11 In 2010, Child Wellbeing Units were established in four NSW government agencies—Department of Human Services NSW (now Department of Families and Community Services), Department of Education and Training (now Department of Education), NSW Health and the NSW Police Force—to help mandatory reporters (i.e. people who provide services directly to children and young people) assess the level of risks to children and young people and advise them on possible service responses. The primary role of Child Wellbeing Units is to ensure that all concerns about risks of significant harm to a child or young person are reported to the Child Protection Helpline (New South Wales Government, 2015). Mandatory reporting of concerns that a child or young person is at risk of significant harm is a requirement under sections 27-27A of the *Children and Young Persons (Care and Protection) Act 1998* (NSW).

Diagram 2: New South Wales: Family/domestic violence perpetrator pathway



matter where a PADVO has been issued by police.<sup>12</sup> A woman subjected to violence, her legal guardian or a police officer may also initiate the protection order process by applying to the court for an ADVO.<sup>13</sup> The woman may initiate this process with or without legal or police support.

When the matter comes before a court, the court may decide to make a final ADVO for a specified period of time. A court may grant an application for an ADVO if the court decides that the woman has reasonable grounds to fear, and in fact fears, that the man will be violent towards her, stalk her, or intimidate her or a person with whom she has a domestic relationship.<sup>14</sup> It is not necessary for the court to be satisfied that the woman in fact holds such fears if: (a) the woman is under the age of 18 years; (b) she suffers from an appreciably below average general intelligence function; or (c) the court considers that: the woman has been subjected to the man's violent conduct, it is reasonably likely that the man may commit further violence towards her, and the making of the ADVO is necessary to protect her from further violence.<sup>15</sup> In other cases, the court may adjourn the matter and make an interim ADVO to ensure the woman's continued protection until the determination or withdrawal of the application for a final ADVO.<sup>16</sup>

An interim ADVO issued by a registrar or a court, or a final ADVO, can also be made on the basis that both the perpetrator and the woman consent to the making of the order.<sup>17</sup> A final ADVO can be made by consent whether or not the perpetrator admits to any of the details of the application.<sup>18</sup>

A final ADVO may have the same conditions as, or different conditions from, those in an interim ADVO (including a PADVO). All ADVOs contain mandatory conditions that prohibit the perpetrator from: assaulting, molesting, harassing, threatening or otherwise interfering with the woman or someone with whom she has a domestic relationship; and

from intimidating or stalking them.<sup>19</sup> An ADVO may also include any prohibitions or restrictions on the perpetrator's behaviour that are necessary or desirable, especially to ensure the safety and protection of the woman and/or her children from further violence.<sup>20</sup> Examples of additional conditions that may be contained in an ADVO include those prohibiting or restricting the perpetrator from: approaching the woman, accessing places where she lives or works, and destroying or deliberately damaging or interfering with her property.<sup>21</sup>

A breach of an ADVO is a criminal offence that carries a penalty of 2 years imprisonment and/or a fine of 50 penalty units.<sup>22</sup>

An interim ADVO issued by a registrar or a court or a final ADVO can be varied or revoked by the court on the application of the woman (or any other person protected under the order), their legal guardian, a police officer or the perpetrator.<sup>23</sup> An order will be varied or revoked only if the court considers it is proper to do so.<sup>24</sup>

### Breach and sentencing

Although entering the justice system through the civil jurisdiction, a perpetrator comes within the purview of the criminal legal system if he is charged with a criminal offence when the police respond to a family/domestic violence incident, or is found guilty of breaching his ADVO or of another offence in contravening the order. At this stage, a court can decide to place him in custody, sentence him to a community-based order, place him on a good behaviour bond or impose a fine on him.<sup>25</sup> Perpetrators who are supervised by Community Corrections are subject to case management. Case management is the process by which offenders are referred to domestic violence perpetrator programs and to a range of programs and services that target offence-related needs as well as directs the one-to-one work between the supervising Community Corrections Officer and the offender. Additionally, case management strategies also include the monitoring requirements for offenders in order to ensure compliance with legal orders and to support the safety of women and children. For example, the Community Corrections Officer will contact the victim/possible victim to ensure safety as one component of monitoring, which is one component

12 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), s. 91.

13 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), s. 48(2).

14 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), s. 16(1).

15 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), s. 16(2).

16 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), ss. 22, 24.

17 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), ss. 23, 78. If both the perpetrator and the woman consent to the making of the order, an interim ADVO may be made by a Registrar of the Local Court or a Registrar of the Children's Court, and a final ADVO may be made by the Local Court or the Children's Court (*Crimes (Domestic and Personal Violence) Act 2007* (NSW), ss. 23, 78).

18 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), s. 78(2).

19 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), s. 36.

20 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), s. 35(1).

21 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), s. 35(2).

22 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), s. 14.

23 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), s. 72(2).

24 *Crimes (Domestic and Personal Violence) Act 2007* (NSW), s. 73.

25 *Crimes (Sentencing Procedure) Act 1999* (NSW), pt. 2.



of a case management plan. Sentenced perpetrators deemed at “medium”, “medium-high”, or “high” risk of recidivism as measured by the Level of Service Inventory-Revised (LSI-R) are eligible for the EQUIPS Domestic Abuse Program (DAP) delivered by Corrective Services NSW (Corrective Services New South Wales, 2015, p. 8) discussed below.<sup>26</sup> The DAP forms one component of case plans of perpetrators. Monitoring of the perpetrator is ongoing after the completion of the DAP and continues until the legal order expires or until Community Corrections determine that no further action is required. Perpetrators released on bail prior to, and in between, court hearings can attend a voluntary program.

## Programs

There are a number of programs for perpetrators of family/ domestic violence in operation in NSW. Perpetrators may access programs in two ways: they may be required by a court to attend the EQUIPS DAP, or they may be referred to a voluntary program.

### Court-mandated programs

As noted above, only sentenced perpetrators deemed at “medium”, “medium-high”, or “high” risk of recidivism are eligible for the EQUIPS DAP delivered by Corrective Services NSW. Perpetrators with a current conviction for a sexual offence and those with active psychotic symptoms are generally excluded from the program. The EQUIPS program is divided into four parts, each part containing a number of modules, and therefore allows perpetrators to begin the program in custody and to continue the program while on parole. The following modules are included in the EQUIPS program: Foundation, Addiction, Aggression and Domestic Abuse. The EQUIPS DAP is based on a psycho-behavioural framework, with Narrative and Gestalt approaches being employed throughout the program. The program consists of 20 hours divided into five modules of four sessions each (Corrective Services New South Wales, 2015, p. 34).

Perpetrators who have a history of committing one or more violent offences and are considered at medium or high risk of recidivism as measured by the LSI-R can be eligible for the high intensity Violent Offender Therapeutic Program (VOTP). This is a residential therapeutic and educational program that addresses the criminogenic needs and risks of perpetrators. It is offered to perpetrators in custody and in the community. Unlike the EQUIPS DAP, perpetrators that have committed a sexual offence (excluding child sexual offences) can be eligible for VOTP. However, given that VOTP is delivered in

2-hour sessions, three times a week for a period of 12 months, only those receiving a sentence of 12 months or more are eligible.

A VOTP Maintenance and Outreach program is also provided to those perpetrators successfully completing VOTP. This is offered both within a custodial setting and a community setting, for those released on parole and considered high risk.

Perpetrators considered high risk and subject to an order under the *Crimes (High Risk Offender) Act 2006* (NSW) and supervised in the community by Community Corrections, can access VOTP—Community Based Risk Management Intervention program. This one-to-one program provided by VOTP Maintenance and Outreach psychologists aims to provide perpetrators with strategies and coping mechanisms in order to minimise their risk behaviours. Perpetrators must consent to engage with this program.

Corrective Services also delivers the Self-Regulation Program for Violent Offending (SRP-VO) for perpetrators with intellectual disability or cognitive impairment. However, in order to be eligible for the program, perpetrators must receive more than a 2-year custodial or community-based sentence.

Those considered low risk can be referred to a voluntary program discussed below. Failure to attend or complete the EQUIPS DAP or VOTP, when mandated to do so, is a breach of the terms of a community-based sentencing order.

### Voluntary programs

Perpetrators can access a men’s behaviour change program delivered by a non-government organisation currently available in metropolitan and regional areas along the east coast of NSW e.g. BaptistCare, Relationships Australia, Men and Family Centre in Lismore and Port Macquarie Hastings Domestic and Family Violence Specialist Service. Perpetrators can access these programs via direct referrals made from the Men’s Referral Service, police, justice, and child protection services where domestic/family violence is the presenting issue. Referrals can also be made by other agencies where domestic/family violence is identified in the context of other issues e.g. housing, legal, health, and counselling services. In addition, men can self-refer or be referred by partners or family members.

The voluntary nature of these programs means that a perpetrator is not obliged to follow up or respond to a service that has made contact with him. Consequently, after a referral has been made, there is no obligation on the perpetrator to attend an assessment interview. This is a point at which the perpetrator can drop out of view of the system.

<sup>26</sup> EQUIPS stands for “Explore, Question, Understand, Investigate, Practice, Succeed” (Corrective Services NSW, 2015, p. 2).

If a program deems a perpetrator unsuitable at assessment or during the program, he may be referred to other services, such as drug and alcohol and mental health services. Perpetrators deemed not “group ready” are referred to one-to-one counselling sessions or other appropriate services. Perpetrators may also be invited to re-apply in the future when they may be more willing to engage productively in group programs.

Those perpetrators that are deemed suitable for a program are placed on a waiting list. As there is a limited number of programs, perpetrators could be waiting for an extended period and a number of men will simply drop out of view during this waiting period. The relevant program might try to establish

contact with the perpetrator, but beyond this, there is no monitoring system in place for perpetrators on waiting lists.

Because of the voluntary nature of these programs, men are under no obligation to complete them. Consequently, many men drop out of the program—and view of the system—at this point. If completion of the program occurs, the program will follow up with a perpetrator, but efforts to monitor perpetrators are often hampered by inadequate funding, particularly if men refuse to engage, or if contact cannot be established.

#### Program list

The following table contains a list of relevant programs in New South Wales:

Organisation name	Organisation type	Program name
Corrective Services NSW	State Government: corrections/ justice	EQUIPS Domestic Abuse Program
		Violent Offender Therapeutic Program (VOTP)
		VOTP – Maintenance and Outreach
		Self-Regulation Program for Violent Offending (SRP-VO): Intellectual disability/cognitive impairment
		VOTP – Community Based Risk Management Intervention program
Relationships Australia	Large non-government organisation	Taking Responsibility
BaptistCare	Large non-government organisation	Facing Up
CatholicCare Sydney	Large non-government organisation	Choosing Change
Men and Family Centre	Small non-government organisation	Men Exploring New Directions (MEND)
Port Macquarie Hastings Domestic and Family Violence Specialist Service	Small non-government organisation	Insight
Kempsey Family Support Service	Small non-government organisation	Men Exploring New Directions (MEND)
Warrina Domestic and Family Violence Specialist Services with Kempsey Family Support Service and Port Macquarie Hastings Domestic & Family Violence Specialist Service (consortium)	Small non-government organisation	Engage 2 Change



## Victoria

The schematic diagram (Diagram 3) sets out the pathway of a perpetrator moving through the Victorian system. The diagram is followed by explanatory notes and a mapping of relevant programs in this jurisdiction.

### Perpetrator pathway

Under the *Family Violence Protection Act 2008* (Vic), the court may issue a Family Violence Intervention Order (FVIO) aimed at ensuring the safety of women and/or their children.<sup>27</sup> The legislation also provides for a Family Violence Safety Notice (FVSN) to be issued by police against a perpetrator to protect his family members from violence until an application for an intervention order is dealt with by the court.<sup>28</sup>

#### Police

The Victoria Police response to family/domestic violence is governed by the *Code of Practice for the Investigation of Family Violence*. A central plank of the Code of Practice is the “Options Model”, which establishes the three main mechanisms that police can utilise in responding to family/domestic violence:

- referrals to support agencies (informal and formal);
- application for a FVIO or a FVSN; and
- criminal charges: if criminal charges are laid, the affected family member (perpetrator) enters the criminal justice system.

The decision on which of the options to follow is based on the police officer’s risk assessment of the likelihood of future violence, and evidence available to support civil and criminal options. In most cases, a combination of options will be utilised.

A police officer responding to an incident involving family violence may make an application for a FVSN, which needs to be supported by a police officer of the rank of sergeant or above.<sup>29</sup> A FVSN is issued if there are reasonable grounds to believe that: (a) the FVSN is necessary to ensure an affected family member’s safety, preserve their property, or protect a child who has been subjected to or witnessed family violence; and (b) there is no FVIO in place between the perpetrator and the family member.<sup>30</sup> A FVSN contains conditions to prevent the perpetrator from using family violence.<sup>31</sup> Examples of conditions that may be imposed include: forbidding the perpetrator from using family violence against the protected

person; excluding him from where she lives; and prohibiting him from approaching, telephoning or contacting her in any other way unless he is with a police officer or a specified person.<sup>32</sup> A FVSN can contain the same conditions as a FVIO, except that it cannot contain conditions related to the perpetrator’s right to possess, carry or use a firearm or specified weapons under a firearms authority, a weapons exemption or a weapons approval.<sup>33</sup>

In addition to issuing a FVSN, police lay criminal charges against the perpetrator where there is evidence that a criminal offence has occurred (Victorian Police Code of Practice for the Investigation of Family Violence, 2014). When criminal charges are laid, the perpetrator is summoned to court and therefore he effectively enters the criminal justice system.

Police can also pursue a number of referral pathways depending on the circumstances, such as whether children are present and if there is a reasonable belief that they are at risk. However, in many circumstances, police can take the following action: (a) make a formal referral for immediate assistance for an affected family member; (b) make a formal referral to family/domestic violence services for non-immediate assistance for both affected family members and perpetrators; and (c) make informal referrals to services, that is, provide the perpetrator and the affected family member with the contact details of services and encourage them to seek assistance; however, in most cases formal referrals are made (Victoria. Department of Health and Human Services, 2015). No consent is required from the perpetrator in the case of formal referrals. In relation to the first two pathways, police electronically fax a part of their police family violence incident form (L17) to a state-wide referral number, which is automatically sent to the Men’s Referral Service (MRS) during weekends and public holidays, or, during other times to approximately 14 regional men’s Enhanced Service Intake (ESI) across the state. The MRS or the regional ESI tries to establish contact with the perpetrator in order to: (a) conduct an immediate risk assessment in terms of the perpetrator’s potential to contravene the FVSN or other current protection conditions, noting the limitations of assessment based only on the man’s self-reports; (b) assist his understanding of the FVSN or other protection order conditions; (c) provide information regarding the upcoming court process; and (d) refer him to appropriate services, including perpetrator intervention programs, housing, alcohol and drug and other relevant services. The MRS or ESI can refer perpetrators to a perpetrator intervention program or to the

27 *Family Violence Protection Act 2008* (Vic), pt. 4.

28 *Family Violence Protection Act 2008* (Vic), pt. 3 div. 2.

29 *Family Violence Protection Act 2008* (Vic), s. 24.

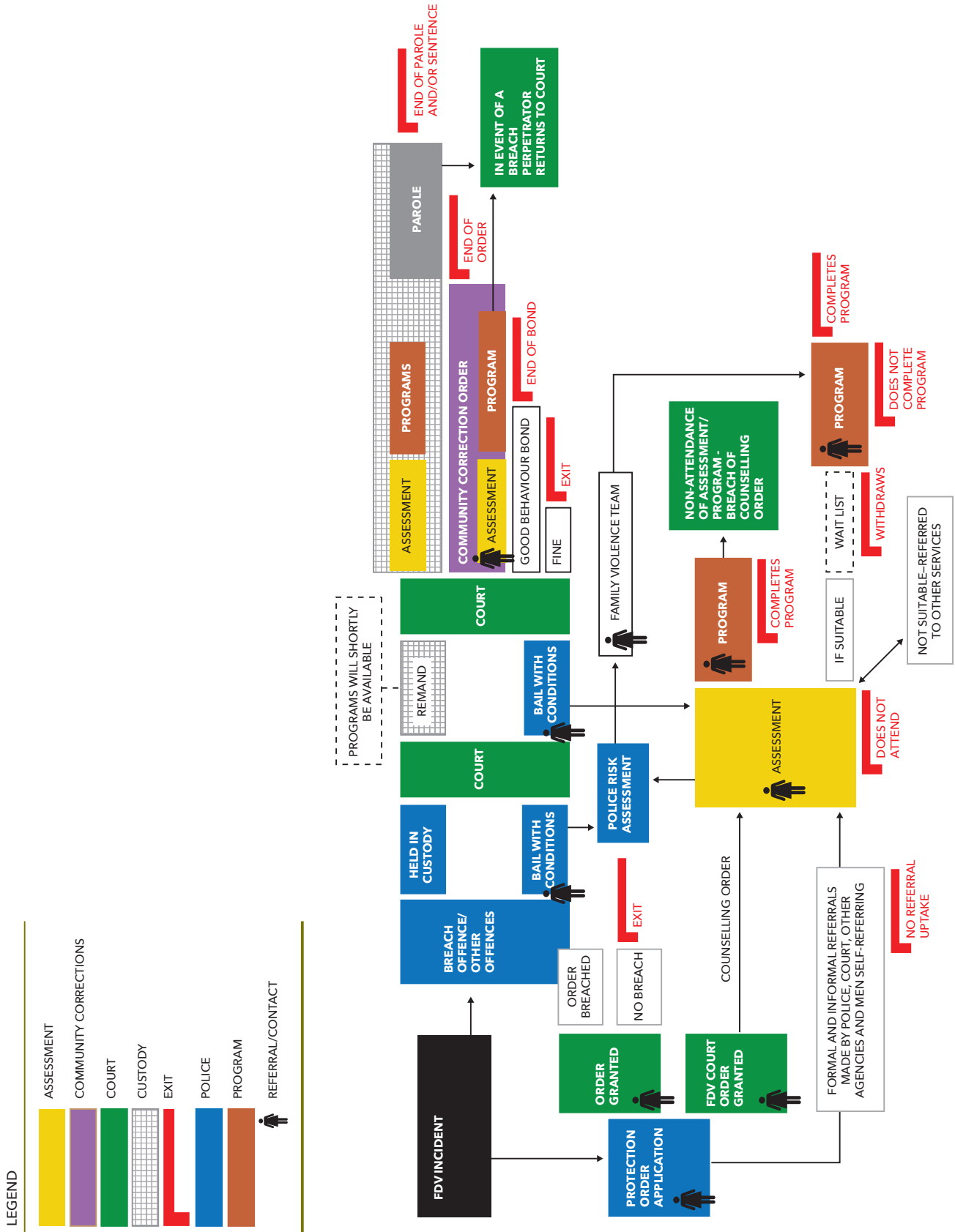
30 *Family Violence Protection Act 2008* (Vic), s. 26.

31 *Family Violence Protection Act 2008* (Vic), s. 29.

32 *Family Violence Protection Act 2008* (Vic), ss. 29, 81(2).

33 *Family Violence Protection Act 2008* (Vic), ss. 29, 81(2).

Diagram 3: Victoria: Family/domestic violence perpetrator pathway



men's case management service; the latter being available in four mainstream and five Indigenous sites across Victoria. These referrals provided to the perpetrator are informal referrals, and there is no tracking or monitoring to determine if they act upon the referrals. In cases where the perpetrator is removed from the home, in accordance with an exclusion condition of a FVSN, the police can make a referral to men's emergency accommodation services. In instances where informal referrals are made by the police, the details of services are provided to the perpetrator directly by police rather than by the MRS or ESI.

The proportion of men who are contactable by the MRS or ESI is generally in the range of 35-55 percent, with a significant proportion of men not answering their phones despite multiple call attempts. Of those contacted, only a small proportion accept a referral to a perpetrator intervention program.

Family/domestic violence support agencies are encouraged to make a report to police where they believe a perpetrator poses a risk or makes a threat against a family member. On responding to a report, police conduct a risk assessment and the perpetrator may be arrested and charged with a criminal offence. If this occurs, the perpetrator enters the criminal justice system.

If police consider the perpetrator to be at "high risk" of reoffending or is a recidivist offender, he may be referred to one of their specialist Family Violence Teams (FVTs) across Victoria. The FVTs work in collaboration with family violence services and other referral agencies (e.g. MRS) to help those affected by family violence (Victoria Police, 2014, p. 51).

## Court

The police or a woman subjected to family violence (affected family member) may initiate the protection order process by applying to the court for a FVIO.<sup>34</sup> The affected family member may initiate this process with or without legal support. A court may make a final FVIO against the perpetrator (the

respondent) if it is satisfied, on the balance of probabilities, that the respondent has committed family violence against the affected family member and is likely to continue to do so or do so again.<sup>35</sup> The court may include any conditions that it considers necessary or desirable, such as conditions that: prohibit the respondent from using family violence against the affected family member; prohibit the respondent from being within a certain distance of an affected family member or within a specified place; and prohibit the respondent from approaching, telephoning or otherwise contacting the affected family member.<sup>36</sup>

The court may also grant a final FVIO if both the respondent and the affected family member consent, or do not oppose, to the making of the order.<sup>37</sup> The court may do so without having to be satisfied that the grounds for making the order have been made out, and whether or not the respondent admits to any or all of the particulars in the application.<sup>38</sup> A FVIO can also be varied, extended or revoked by consent.<sup>39</sup>

A court may decide to issue an interim FVIO to provide protection to the affected family member while an application for a FVIO is being finalised. Section 53(1) of the *Family Violence Protection Act 2008* (Vic) enables the court to make an interim FVIO if: (a) a FVIO has been applied for and the court is satisfied, on the balance of probabilities, that an interim order is necessary to ensure the safety of the affected family member, preserve their property, or protect a child who has been subjected to family violence used by the respondent; (b) a FVIO has been applied for and both the respondent and the affected family member have consented to, or do not oppose, the making of an interim order; or (c) a FVSN has been issued and the court is satisfied, on the balance of probabilities, that there are no circumstances to justify discontinuing the protection of the affected family member until the FVIO application is determined.

Four venues of the Magistrates' Court of Victoria may order respondents to final FVIOs to attend an interview to have their eligibility to attend counselling assessed.<sup>40</sup> If the respondent is

34 *Family Violence Protection Act 2008* (Vic), s. 45(a)-(b). Police applications may be initiated by a FVSN, which not only provides temporary protection for the affected family member, but also acts as an application for a FVIO and a summons for the person against whom the FVIO application has been made (the respondent) to attend court. Other persons who may apply for a FVIO include: (a) someone who has the woman's written consent to make the application; (b) if the person seeking protection has a guardian—either the guardian or another person who has been granted leave by the court to make the application; and (c) if the person seeking protection is a child—the child's parent, anyone with the parent's written consent or granted leave by the court to make the application, or the child if he or she is 14 years of age or older and the court grants leave for the child to make the application (*Family Violence Protection Act 2008* (Vic), s. 45(c)-(e)).

35 *Family Violence Protection Act 2008* (Vic), s. 74.

36 *Family Violence Protection Act 2008* (Vic), s. 81.

37 *Family Violence Protection Act 2008* (Vic), s. 78(1)(a).

38 *Family Violence Protection Act 2008* (Vic), s. 78. However, if the respondent is a child, the court must be satisfied that the grounds for making the FVIO have been made out (*Family Violence Protection Act 2008* (Vic), s. 78(2)).

39 *Family Violence Protection Act 2008* (Vic), s. 78.

40 *Family Violence Protection Act 2008* (Vic), s. 129.

assessed to be eligible to attend counselling, the court may make a counselling order (CO) requiring the respondent to attend a perpetrator intervention program.<sup>41</sup> Failure to comply with an eligibility assessment order or a CO is an offence, which carries a maximum penalty of 10 penalty units.<sup>42</sup> The four venues of the Magistrates' Court that can make COs are the Family Violence Court Divisions at Ballarat and Heidelberg, and Frankston and Moorabbin (Victoria. Department of Justice, 2014, p. 17). COs are completed when a perpetrator completes the assessment or program as required.

Respondents to FVIOs, who are not issued with a CO, can be referred to a community-based voluntary program noted below.

Amendments to the *Family Violence Protection Act 2008* (Vic), which have not yet commenced, will allow a court to make an interim FVIO with a "finalisation condition". This condition will result in the order becoming a final FVIO 28 days after the order is served on the respondent without the need for a further hearing, unless the respondent contests the matter.<sup>43</sup> When considering whether to include a finalisation condition, the court must consider a number of matters, such as whether there is a history of family violence, the existence of recognised family violence risk factors and the existence of other intervention order proceedings. However, courts must not include a finalisation condition if satisfied that, on making a final order, they may be required to order the respondent to have their eligibility for counselling assessed (Victoria. Department of Justice and Regulation, 2015).

### Breach and sentencing

Contravening a FVSN, an interim FVIO or a final FVIO is a criminal offence that carries a maximum penalty of 2 years imprisonment and/or a fine of 240 penalty units (summary offences).<sup>44</sup> There are also three indictable offences that apply to contraventions of FVSNs or FVIOs, which have a higher maximum penalty of 5 years imprisonment and/or a fine of 600 penalty units.

The first two indictable offences apply if the respondent contravenes the FVSN or the FVIO to cause, or knowing that their conduct will probably cause, either physical or mental harm to the affected family member or fear for their own safety or that of another person.<sup>45</sup>

On contravening a FVSN or a FVIO, the police can arrest and place the respondent on bail if it is not practicable to bring the accused before the court. If police refuse bail, the respondent is brought before a bail justice (who has the power to remand an accused person). If the bail justice refuses to grant bail, the accused must be brought before the courts on the next working day or within 2 working days (where the former is not practicable). If the perpetrator is released on bail, it is the responsibility of the police to notify their partner/ex-partner under the *Victims' Charter Act 2006* (Vic).

Under the *Bail Act 1977* (Vic), there is a general presumption in favour of bail, but bail must be refused if there is an unacceptable risk that the accused person will fail to appear at court, commit an offence, endanger the safety or welfare of members of the public or interfere with the course of justice.<sup>46</sup> In making the decision about whether the circumstances constitute an unacceptable risk, a range of matters are taken into account by the bail decision-maker, including the nature and seriousness of the offence, the accused's character, antecedents etc. and the woman's attitude to the grant of bail (if expressed).<sup>47</sup> In some instances, a reverse onus test is applied to a person charged with the contravention of a FVSN or a FVIO and they will have to show cause why their detention in custody is not justified.<sup>48</sup> If the respondent is granted bail, this may include a condition to undergo assessment for a community-based program. While contravention of a bail condition is an offence, the offence does not apply to contravention of a bail condition requiring the accused to attend and participate in bail support services.

A respondent receiving a community correction order may be required to undergo treatment and rehabilitation as a condition of the order.<sup>49</sup> A respondent receiving a custodial sentence may receive a screening and clinical assessment of their treatment needs and be referred into a treatment program. Family violence related programs offered in prisons and community correctional settings include Men's Behaviour Change Programs, ChangeAbout (Corrections Victoria's family violence specific therapeutic program) and broader violence interventions. For perpetrators completing custodial sentences, failure to complete these treatment programs may impact on parole eligibility. Failure to complete treatment programs in a community correctional setting may result in the respondent returning to court, as this would constitute the further offence of breach of their community correction order.<sup>50</sup> On completion of the order, the perpetrator exits the legal pathway.

41 *Family Violence Protection Act 2008* (Vic), ss. 129, 130.

42 *Family Violence Protection Act 2008* (Vic), ss. 129(5), 130(4).

43 The default commencement date of these amendments was recently extended to 1 July 2016, or after the Royal Commission into Family Violence reports to the Victorian Government (Victoria. Department of Justice and Regulation, 2015).

44 *Family Violence Protection Act 2008* (Vic), ss. 37(2), 123(2).

45 *Family Violence Protection Act 2008* (Vic), ss. 37A(2), 123A(2). The third indictable offence applied where the respondent persistently contravenes the FVSN or FVIO (*Family Violence Protection Act 2008* (Vic), s. 125A).

46 *Bail Act 1977* (Vic), s. 4(d).

47 *Bail Act 1977* (Vic), s. 4(3).

48 *Bail Act 1977* (Vic), s. 4(4).

49 *Sentencing Act 1991* (Vic), s.48D(1)

50 *Sentencing Act 1991* (Vic), s.83AD



## Programs

### Court-mandated programs

A number of organisations in Victoria provide programs to those mandated by a court to attend through a counselling order, such as Child and Family Services Inc. (Ballarat), Kildonan UnitingCare (Heidelberg), Relationships Australia, Family Life, and Inner South Community Health Services covering the Frankston and Moorabbin Magistrates' Courts. Mandated programs include up to 40 hours of group work and may also involve individual counselling or intensive response programs for men.

### Voluntary programs

In Victoria, referrals to voluntary programs are either active (formal) or informal (indirect) referrals (Victoria, Department of Human Services, 2009). A perpetrator may be referred to a Victorian Department of Health and Human Services-funded men's behaviour change provider, including: mainstream local or Victoria-wide providers such as Grampians Community Health or Relationships Australia (Victoria), or providers supporting Aboriginal or culturally and linguistically diverse perpetrators. Specific behaviour change or group programs for Aboriginal men who use violence include Latrobe Community Health Service, Mallee District Aboriginal Service and Victorian Aboriginal Health Service.

Active referrals may originate from police, courts, Corrections Victoria, Men's Referral Service (MRS), regional men's Enhanced Service Intake (ESI) and other government and community-based services. Active referrals can also originate from Child Protection Services. The source of indirect referrals may be community-based services, such as drug and alcohol, mental health services, doctors, individual counsellors and legal services. Men may also self-refer, or be referred by concerned family members or partners.

The Department of Health and Human Services and Victoria Police have developed a family violence referral protocol that outlines the agreed process for referrals to specialist family violence services, including men's services.<sup>51</sup>

Perpetrators who are referred to voluntary perpetrator intervention programs are under no obligation to participate. However, participation in pre-program assessment interviews will identify perpetrators' suitability to be admitted into programs. For perpetrators to be eligible to participate in the perpetrator intervention program, the service needs to establish that there is a parallel referral pathway for their partner or ex-partner. Perpetrators undertake to provide contact details of any people with whom they have had an intimate relationship in the previous 2 years, any women the perpetrator has children with and any women the perpetrator forms a relationship with while in the program. If no information is provided about the

man's current or former partner to enable a partner contact service to be offered, either because the information has not been provided to the service via the referral or the perpetrator refuses to provide contact details, then the man is not eligible to participate in the program. In Victoria, perpetrator intervention programs work as part of an integrated system and contact with women experiencing violence is a critical component. Program providers make contact with all of the partners or ex-partners of men who want to join the program, so that their safety can be checked, to identify if they need support and to offer them a chance to tell their story. Following contact, service providers make an assessment of risk to the partner or ex-partner(s) (and children where applicable). The partner and children assessment is based on the Family Violence Risk Assessment and Risk Management Framework. If contact is established with the perpetrator's partner or ex-partner and she refuses to participate, or if she cannot be contacted, the man can still enter the program. If deemed eligible for a perpetrator intervention program, the assessor will contact the perpetrator's partner, and if a space is not immediately available, the man will be placed on a waiting list to commence the program. In order to reduce the waiting period, men may be referred to other local perpetrator intervention program providers, which can offer the intervention at an earlier date (Victoria, Department of Human Services, 2009). This process prevents many men from dropping out of the system at this point. Men may also be supported through the men's ESI.

Alternatively, if the perpetrator is from an Aboriginal or culturally and linguistically diverse (CALD) background or has specific needs, the assessor may refer them to suitable services. Men may undergo additional programs prior to or during their participation in a perpetrator intervention program. A small number of perpetrator intervention programs are targeted at specific CALD groups, in particular, Vietnamese and Arabic groups.

Services funded by the Department of Health and Human Services are required to provide a report to the referring agency, such as the police or the MRS, regardless of whether a perpetrator takes up the referral. Furthermore, since the outcomes associated with onward referrals are recorded by men's services, non-attendance may result in services trying to establish contact with the perpetrator. However, if no contact is made after a number of days or attempts, the situation is recorded, but no further action is taken by the service. In accordance with No To Violence's standards,<sup>52</sup> women are notified when a man leaves or drops out of a program. Ongoing services will be provided to women and children if requested through the specialist family violence service.

51 For more details, see <http://www.dhs.vic.gov.au/about-the-department/documents-and-resources/policies-guidelines-and-legislation/family-violence-referral-protocol-between-dhhs-and-victoria-police>.

52 No To Violence is Victoria's peak body working with men to end family violence (No To Violence, 2013).

For those men voluntarily attending the program, program completion signals their exit from the pathway, with no further formal monitoring.

### Program list

The following table contains a list of relevant programs in Victoria:

Organisation name	Organisation type	Program name
Corrections Victoria, Department of Justice	State Government: corrections/ justice	Offending Behaviour Programs including: <ul style="list-style-type: none"> <li>• ChangeAbout (Corrections Victoria's Family Violence-specific therapeutic intervention)</li> <li>• Men's Behaviour Change Programs (delivered by community organisations under contract with Corrections Victoria)</li> <li>• General Violence Interventions—specifically the Violence Intervention Program</li> </ul>
Department of Human Services, Children Youth & Families Division, Family Violence & Sexual Assault Services	State Government: health/ welfare	Men's Behaviour Change Programs
Inner South Community Health Service	State Government: health/ welfare	Inner South CHS Men's Responsibility Program
Peninsula Community Health Service	State Government: health/ welfare	M.E.N.S. (perpetrator intervention program) and SMR MARS (regional Enhanced Intake Service)
Djerriwarrh Health Services	Community health	Men's Behaviour Change group programs
Link Health and Community (formerly Monashlink Community Health Service)	Community health	Men's Responsibility Group
Gateway Health	Community health	Men's Behaviour Change
Nexus Primary Health	Community health	Men's Behaviour Change Group
Sunraysia	Community health	Men's Behaviour Change Program
Sunbury Community Health Centre	Community health	Men's Business
Yarra Valley Community Health—Eastern Health	Community health	Men's Behaviour Change Program in accordance with NTV guidelines
Anglicare	Large non-government organisation	Anglicare Victoria Men's Family Violence Program
Bethany Community Support	Large non-government organisation	Men's Behaviour Change
Child & Family Services, Ballarat Male Family Violence Programs	Large non-government organisation	Men's Behaviour Change Groups
Gippsland Lakes Community Health	Large non-government organisation	Men's Behaviour Change Program
Grampians Community Health	Large non-government organisation	Men's Behaviour Change Program

Organisation name	Organisation type	Program name
Kildonan Uniting Care, UnitingCare Australia	Large non-government organisation	Men's Behaviour Change Program
		South Asian Men's Behaviour Change Program
Latrobe Community Health Service	Large non-government organisation	Men's Behaviour Change Program
		Choices Men's Behaviour Change Program for Indigenous men
Lifeworks	Non-government organisation	Men's Behaviour Change Program
Plenty Valley Community Health	Large non-government organisation	Men's Behaviour Change Program
Relationships Australia Victoria	Large non-government organisation	Time for Change
		Men's Behaviour Change and Support Groups
		Inroads—Men's Behaviour Change Program
		Men Finding Their Way
VACCA Link-up	Large non-government organisation	Koori Faces
Brophy Family and Youth Service	Medium non-government organisation	Men's Behaviour Change Program
Centre for Non-Violence (formerly EASE)	Medium non-government organisation	Programs For Men Who Use Violence Against Family Members
Family Life	Medium non-government organisation	"MATES" Men's Behaviour Change Program
Whitehorse Community Health	Medium non-government organisation	Men's Behaviour Change Program
Boorndawan Willam Aboriginal Healing Service	Small non-government organisation	Family Violence Counselling and Programs/services
LifeWorks Relationship Counselling and Education Services	Small non-government organisation	Men's Behaviour Change Program
Ngurelban Aboriginal Healing Service	Small non-government organisation	Ngurelban Men's Healing Program
SalvoCare Eastern (formerly Gippscare)	Small non-government organisation	Men's Behaviour Change Program

## South Australia

The schematic diagram (Diagram 4) sets out the pathway of a perpetrator moving through the South Australian system. The diagram is followed by explanatory notes and a mapping of relevant programs in this jurisdiction.

### Perpetrator pathway

In South Australia (SA), intervention orders can be issued by the police or the Magistrates Court to prevent an act of domestic abuse. There are also legislative provisions for issuing associated orders to deal with problem gambling and tenancy agreements.

#### Police

Under the *Intervention Orders (Prevention of Abuse) Act 2009* (SA), police can issue an interim intervention order against a perpetrator if: (a) it is reasonable to suspect that he will commit an act of abuse against a woman, unless some intervention is provided, and the perpetrator is present; and (b) the issuing of the order is appropriate in the circumstances.<sup>53</sup> The Police Interim Intervention Order (PIIO) is effective when served on the perpetrator personally<sup>54</sup> and can have certain conditions attached, such as prohibiting the perpetrator from: contacting, harassing, threatening or intimidating the woman or anyone else at a place where she lives or works; approaching her within a specified distance; or damaging specified property.<sup>55</sup> The PIIO may also contain a condition requiring the perpetrator to undergo assessment to determine appropriate interventions and eligibility for behaviour management and other programs.<sup>56</sup>

Police also conduct a risk assessment of the situation and those cases deemed “high risk” are forwarded to the Family Safety Meeting (i.e. a regular meeting of relevant services at the local level to share information and implement a multi-agency plan of actions for high risk cases) for case management (South Australia. Office for Women, 2015). Although police can refer a perpetrator to a program, it is not the responsibility of police to ensure that the perpetrator follows up on any relevant referrals. Police can also charge the perpetrator with a criminal offence, upon which the perpetrator enters the criminal justice system.

All intervention orders, including PIIOs, continue to be in force until they are revoked.<sup>57</sup>

53 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), ss. 6, 18.

54 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), s. 18(4).

55 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), s. 12.

56 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), s. 13.

57 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), s. 11.

#### Court

Once a PIIO has been served on the perpetrator, the police officer who issued the PIIO is considered to have made an application to the Magistrates Court for an intervention order, and the perpetrator is considered to have been summoned to appear before the Court for the hearing of the application.<sup>58</sup> Alternatively, a woman subjected to violence, her representative or the police may seek an intervention order in the Magistrates Court.<sup>59</sup> Police, legal services or a third party may assist the woman to lodge the application. In cases where there is no PIIO, the Court will hold a preliminary hearing after the application is lodged, without summoning the perpetrator to appear.<sup>60</sup> At the hearing, the Court may issue an interim intervention order until a further hearing or dismiss the application.<sup>61</sup> The Court may issue an interim intervention order if it is reasonable to suspect that the perpetrator will commit an act of abuse against a woman unless some intervention is provided, and the issuing of the order is appropriate in the circumstances.<sup>62</sup>

When a PIIO or a court-issued interim intervention order comes before the Court, the Court may decide to confirm, substitute or revoke the order.<sup>63</sup> A final intervention order is issued on the same grounds as a PIIO, that is: (a) it is reasonable to suspect that the perpetrator will commit an act of abuse against a woman, unless some intervention is provided, and the perpetrator is present; and (b) the issuing of the order is appropriate in the circumstances.<sup>64</sup> However, a final intervention order may be confirmed or issued in the perpetrator’s absence if he failed to appear at the hearing as required by an interim intervention order or by his bail conditions.<sup>65</sup> The Court may also confirm

58 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), s. 18(5).

59 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), s. 20(1)(a)-(b). Other persons who may apply for an intervention order are: a child who may be exposed to the effects of an act of domestic abuse by the perpetrator; or if the perpetrator or the proposed protected person is a child who is the subject of a care and protection order under section 38 of the *Children’s Protection Act 1993* (SA)—the Minister administering that Act (*Intervention Orders (Prevention of Abuse) Act 2009* (SA), s. 20(1)(c)-(d)). Where the applicant is a child, the application may be made by either the child—with the Court’s permission, if the child is aged 14 years or over; or the child’s parent or guardian, a person with whom the child normally or regularly live, or other suitable representative of the child permitted by the Court to apply (*Intervention Orders (Prevention of Abuse) Act 2009* (SA), s. 20(2)).

60 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), s. 21(1).

61 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), s. 20(3).

62 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), s. 6.

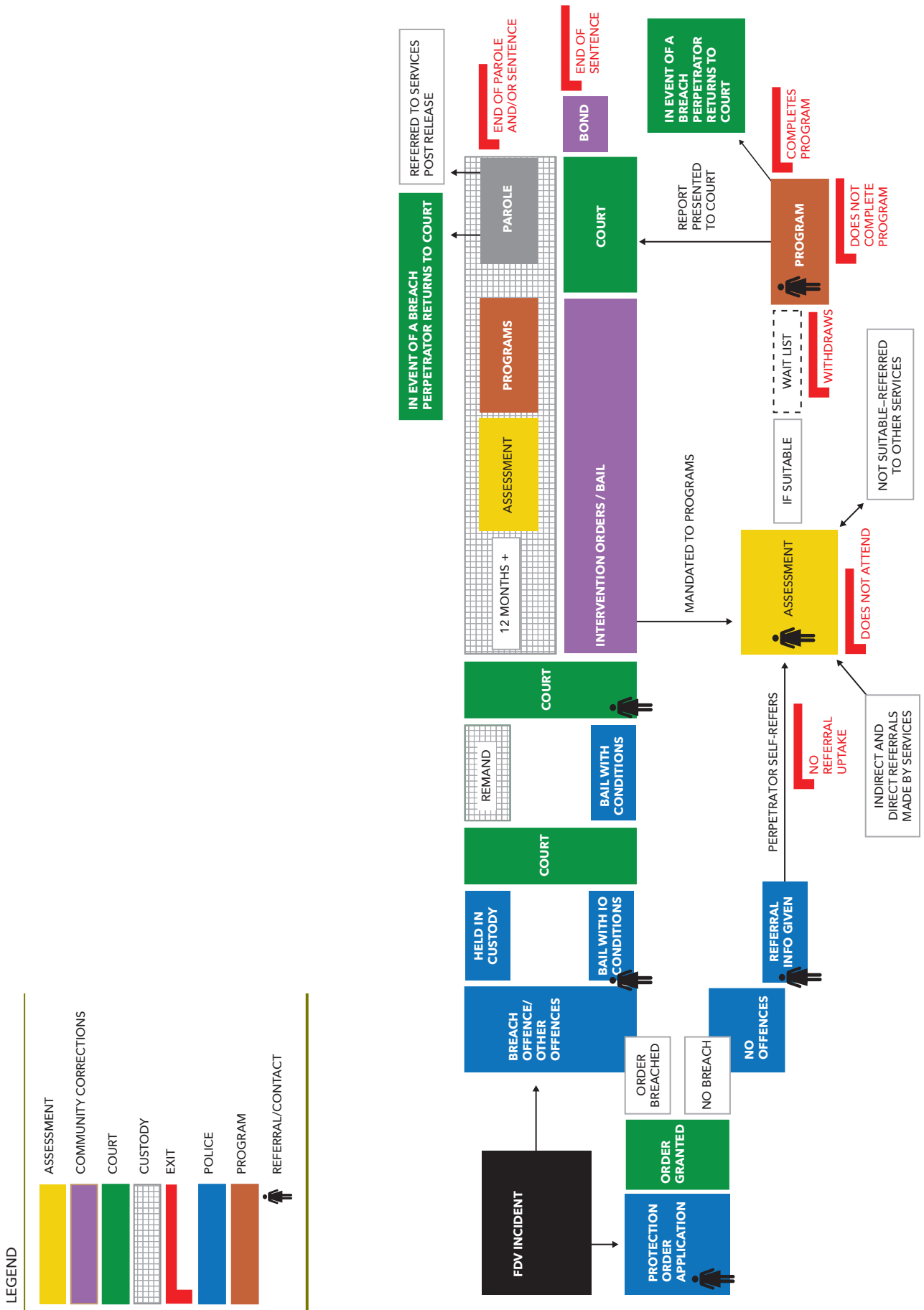
63 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), s. 23.

64 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), ss. 6, 18.

65 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), s. 23(2).



Diagram 4: South Australia: Family/domestic violence perpetrator pathway



or issue the final order without receiving further submissions or evidence as to the grounds of the application if a perpetrator disputes some or all of the grounds but consents to the order.<sup>66</sup>

A final intervention order can have the same conditions as, or different conditions from, a PIIO or an interim intervention order.<sup>67</sup> Accordingly, undergoing assessment and attending a perpetrator program may also be a condition of an order.<sup>68</sup>

If the Court confirms an interim intervention order as an intervention order or issues an intervention order in its place, the Court may make two types of associated orders: a problem gambling order and/or a tenancy order.<sup>69</sup> A problem gambling order is an order that the perpetrator is subject to a problem gambling family protection order under the *Problem Gambling Family Protection Orders Act 2004* (SA).<sup>70</sup> This order may impose specified requirements that the Court considers necessary or desirable to prevent the perpetrator from causing serious harm to family members due to problem gambling—such as a requirement to take part in a counselling, rehabilitation or special education program, and a prohibition from gambling.<sup>71</sup>

A tenancy order may be made if the intervention order bars the perpetrator from being on premises at which the woman lives, the perpetrator and the woman previously lived together on the premises, and the premises are subject to a tenancy agreement to which the perpetrator is a party.<sup>72</sup> The effect of a tenancy order is that the perpetrator is considered to have assigned his interest in the tenancy agreement to a specified person (or persons) with the consent of the landlord.<sup>73</sup>

### Breach and sentencing

A perpetrator comes within the remit of the criminal legal system if he is found guilty of breaching an interim or final intervention order, or another relevant offence. If the perpetrator breaches a condition of an intervention order to undergo assessment or attend an intervention program, he will be liable to a maximum penalty of \$1,250 and an expiation fee of \$160.<sup>74</sup> The maximum penalty for contravening other conditions of an intervention

order is 2 years imprisonment.<sup>75</sup> After a perpetrator has been charged with an offence, he may be remanded in custody or placed on bail. If the perpetrator has been placed on bail, a court may, with the perpetrator's agreement, make it a condition of bail that he attend an intervention program—provided that he is eligible for the program and the program is available for him at a suitable time and place.<sup>76</sup>

If a perpetrator pleads or is found guilty of an offence, a court can decide to place him in custody, sentence him to a community-based order (e.g. a good behaviour bond) or impose a fine.<sup>77</sup> If the perpetrator is placed on a good behaviour bond, a condition of the bond may include the requirement to attend a perpetrator program, discussed below.<sup>78</sup>

## Programs

### Court-mandated programs

The Magistrate has the power to require a perpetrator to be assessed for an intervention program by the intervention program manager, who determines the appropriate form of intervention program and the perpetrator's eligibility for the services included in the program. Perpetrators are not formally assessed in terms of risk; rather this is determined by the nature of the allegations and whether an order is in place. Perpetrators can attend one of the various Abuse Prevention Programs (APPs) delivered by Offenders Aid and Rehabilitation Services (OARS) and Kornar Winmil Yunti (KWY) on behalf of the SA Court Administration Authority. A range of interventions as part of the Abuse Prevention Program are offered to pre-sentenced perpetrators, that is, those on intervention orders and bail. OARS delivers the Abuse Prevention Program, a 24-week, group-based, cognitive behavioural therapy (CBT) program informed by Moral Reconciliation Therapy. They also deliver a 12-week Safe Relationships Program and one-to-one counselling. KWY provides a 12-week program for Indigenous perpetrators in the Adelaide metropolitan areas and 3-day intensive programs in Port Augusta and Murray Bridge. Typically, perpetrators deemed "high risk" are referred to the Moral Reconciliation Therapy program, whereas those considered "low risk" and/or assessed as having literacy and language difficulties can be referred to

66 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), s. 23(3).

67 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), ss. 12–14.

68 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), s. 13.

69 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), ss. 24–25.

70 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), s. 24(1).

71 *Problem Gambling Family Protection Orders Act 2004* (SA), s. 5.

72 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), s. 25(1).

73 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), s. 25(1).

74 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), s. 31(1).

75 *Intervention Orders (Prevention of Abuse) Act 2009* (SA), s. 31(2).

76 *Bail Act 1985* (SA), s. 21B.

77 *Criminal Law (Sentencing) Act 1988* (SA).

78 *Criminal Law (Sentencing) Act 1988* (SA), s. 42(1)(da).

the Safe Relationships Program. A perpetrator can be mandated to attend a program only as a condition of their intervention order. Once mandated to an APP, there is continual monitoring, court reporting and breaching for non-attendance.

Rather than perpetrators being assessed as unsuitable for programs, programs are considered unsuitable for certain perpetrators. For example, certain group programs might be considered inappropriate for men from culturally and linguistically diverse (CALD) backgrounds, as it would be difficult for interpreters to assist in this environment. Consequently, individual counselling is considered more appropriate. Indigenous perpetrators can be referred to a culturally sensitive psycho-educational program delivered by KWY. However, sufficient referrals are required in order for programs to be delivered in Murray Bridge and Port Augusta.

Sentenced perpetrators may attend the Domestic and Family Violence Intervention Program delivered by the SA Department of Correctional Services in both custodial and community settings. They may also be referred to other Department of Correctional Services programs, such as the Violence Prevention Program (VPP) or the Making Changes Program, which are not specifically family/domestic violence programs. Alternatively those on community orders may be referred to a community-based program delivered by Uniting Care Wesley or Relationships Australia (SA). If a perpetrator is referred to a community-based program as part of his community order, the service provider is under no obligation to accept him.

If a perpetrator is mandated to attend a program as part of his intervention order, failure to attend will be a contravention of his order, of which the program facilitator is required to notify the SA Court Administration Authority. However, if a perpetrator is mandated to attend a program as a condition of bail, failure to attend will not be considered a breach of his bail as the perpetrator has to consent to this condition. Perpetrators effectively exit the pathway when they complete the program.

#### Voluntary programs

Perpetrators may be referred to a program delivered by a non-government organisation, such as the Southern Adelaide Local Health Network, Uniting Care Wesley Adelaide Family Services or Relationships Australia (SA). Referrals can also be made to OARS and KWY. Perpetrators may

access these programs via indirect or direct referrals. Direct referrals may be made by sources in government agencies or community-based organisations, such as police, Women's Safety Contact Officers or the SA Court Administration Authority. Indirect referrals can be made by partners, doctors or family counselling services where family and domestic violence is identified. Men may also self-refer.

The voluntary nature of these programs means that men are not obliged to undergo assessment or to attend the program. Consequently, after a referral has been made, a perpetrator can drop out of view of the system.

If an organisation deems a man ineligible for a program, he may be referred to another service, for example, an alcohol and drugs service. Men are not obliged to take up these referrals, and those that are mandated to attend an assessment and perpetrator program are under no obligation to take up any onward referral. In some instances, men will take advantage of other services and then return for assessment for a perpetrator program.

Those perpetrators deemed suitable for a program are placed on a waiting list. Indigenous perpetrators are offered one of the three programs provided by KWY. Maintaining contact with the men not only provides ongoing support to them and their partners and ex-partners, but also prevents them from "dropping out" of view. Perpetrators who complete a program will be offered referrals to other services, and then effectively drop out of view at this point.

## Program list

The following table contains a list of relevant programs in South Australia:

Organisation name	Organisation type	Program name
Department of Correctional Services	State government: corrections/justice	Cross Borders Program
		Pilot of NSW Corrective Services Domestic Abuse Program (2013-2015)
		Domestic and Family Violence Intervention Program (October 2015)
Anglicare at Christies Beach	Large non-government organisation	Dads Moving Towards Responsibility
Uniting Care Wesley Adelaide Inc. Family Services	Large non-government organisation	Specialised Family Violence Service
Relationships Australia South Australia	Large non-government organisation	Specialised Family Violence Services
Kornar Winmil Yunti	Small non-government organisation	12-week Accountability, Responsibility and Change
		3-day intensive Accountability, Responsibility and Change
		Individual counselling
Offenders Aid and Rehabilitation Services	Small non-government organisation	Abuse Prevention Program: Moral Reconciliation Therapy
		Safe Relationships Program
		One-to-one counselling

## Queensland

The schematic diagram (Diagram 5) sets out the pathway of a perpetrator moving through the Queensland system. The diagram is followed by explanatory notes and a mapping of relevant programs in this jurisdiction.

### Perpetrator pathway

In Queensland, a court can issue a domestic violence order (DVO) which can be either a Temporary Protection Order (TPO) or a final Protection Order (PO). Both are issued to protect a woman and/or her children against further domestic violence.<sup>79</sup> In addition, police also have the power to issue a Police Protection Notice (PPN) to provide such protection before the matter is heard by a court.<sup>80</sup>

#### Police

Police attending a domestic violence incident may issue a PPN under the *Domestic and Family Violence Protection Act 2012* (Qld). A PPN may be issued if a police officer is at the same place as the perpetrator, and after investigation, reasonably believes that: (a) the perpetrator has used domestic violence; (b) a PPN is necessary or desirable to protect the woman from domestic violence; and (c) the perpetrator should not be taken into custody.<sup>81</sup> If there is sufficient evidence to suggest a crime has been committed, police can charge the perpetrator with a criminal offence. Being issued with criminal charges effectively brings the perpetrator into the purview of the criminal justice system. The police officer must also obtain the approval of a supervising police officer before issuing the PPN.<sup>82</sup> A PPN will include a standard condition that the perpetrator must be of good behaviour towards the woman and must not use domestic violence against her, and may also include other conditions (e.g. prohibiting the perpetrator from approaching the woman or entering certain premises).<sup>83</sup> Failing to comply with the PPN is a criminal offence.<sup>84</sup>

Alternatively, the police officer may take the perpetrator into custody for a limited period if, after investigation, the police officer reasonably suspects that the perpetrator has used domestic violence and there is a danger that a person would be injured or some property would be damaged by the perpetrator.<sup>85</sup> After taking the perpetrator into custody, the police officer must apply for a PO against the perpetrator as soon as possible, and bring the perpetrator before the court for the hearing of the application while he is still in custody if reasonably practicable.<sup>86</sup> If it is not practicable to bring the perpetrator before the court for the hearing of the application, the perpetrator may be released from custody on release conditions which prohibit the perpetrator from specific behaviours. The release conditions provide an immediate protection to the protected persons.

A police officer may also apply to a magistrate for a TPO against a perpetrator if an application for a PO has already been prepared, and the officer reasonably believes that: (a) the application for the PO will not be decided quickly enough by a court to protect the woman from domestic violence; and (b) a TPO is necessary or desirable for her protection.<sup>87</sup> Reasons why an application for a PO may not be decided quickly enough include, for example, the remoteness or limited availability of a court, and an inability to locate the perpetrator.<sup>88</sup>

A TPO must also be applied for if the police officer had taken the perpetrator into custody for the purpose of applying for a PO, but had to release him (on conditions) because it was not reasonably practicable to bring the perpetrator before the court within 5 business days for the hearing of the protection order application.<sup>89</sup> Police attending a domestic violence incident may make an application for a DVO and refer the perpetrator (with his consent) directly to a perpetrator program via the Supportlink referral agency.

#### Court

An application for a DVO may be made by the woman subjected to domestic violence or by the police to the Magistrates Court if the perpetrator and the woman are in an intimate personal relationship (e.g. married, engaged, de facto), a family relationship or an informal care relationship (i.e. one of them is or was dependent on the other as the carer for help in daily

79 *Domestic and Family Violence Protection Act 2012* (Qld), s. 23(2). While a Protection Order is usually made by the Magistrates Court, another court that convicts the perpetrator of a domestic violence offence may also make a Protection Order against him (*Domestic Violence and Family Violence Protection Act 2012* (Qld), s. 6(c)). In addition, the Children's Court can make a Protection Order against a perpetrator during child protection proceedings (*Domestic and Family Violence Protection Act 2012* (Qld), s. 6(d)).

80 *Domestic and Family Violence Protection Act 2012* (Qld), s. 101.

81 *Domestic and Family Violence Protection Act 2012* (Qld), s. 101.

82 *Domestic and Family Violence Protection Act 2012* (Qld), ss. 101(f), 102.

83 *Domestic and Family Violence Protection Act 2012* (Qld), ss. 106–107.

84 *Domestic and Family Violence Protection Act 2012* (Qld), s. 178.

85 *Domestic and Family Violence Protection Act 2012* (Qld), s. 116.

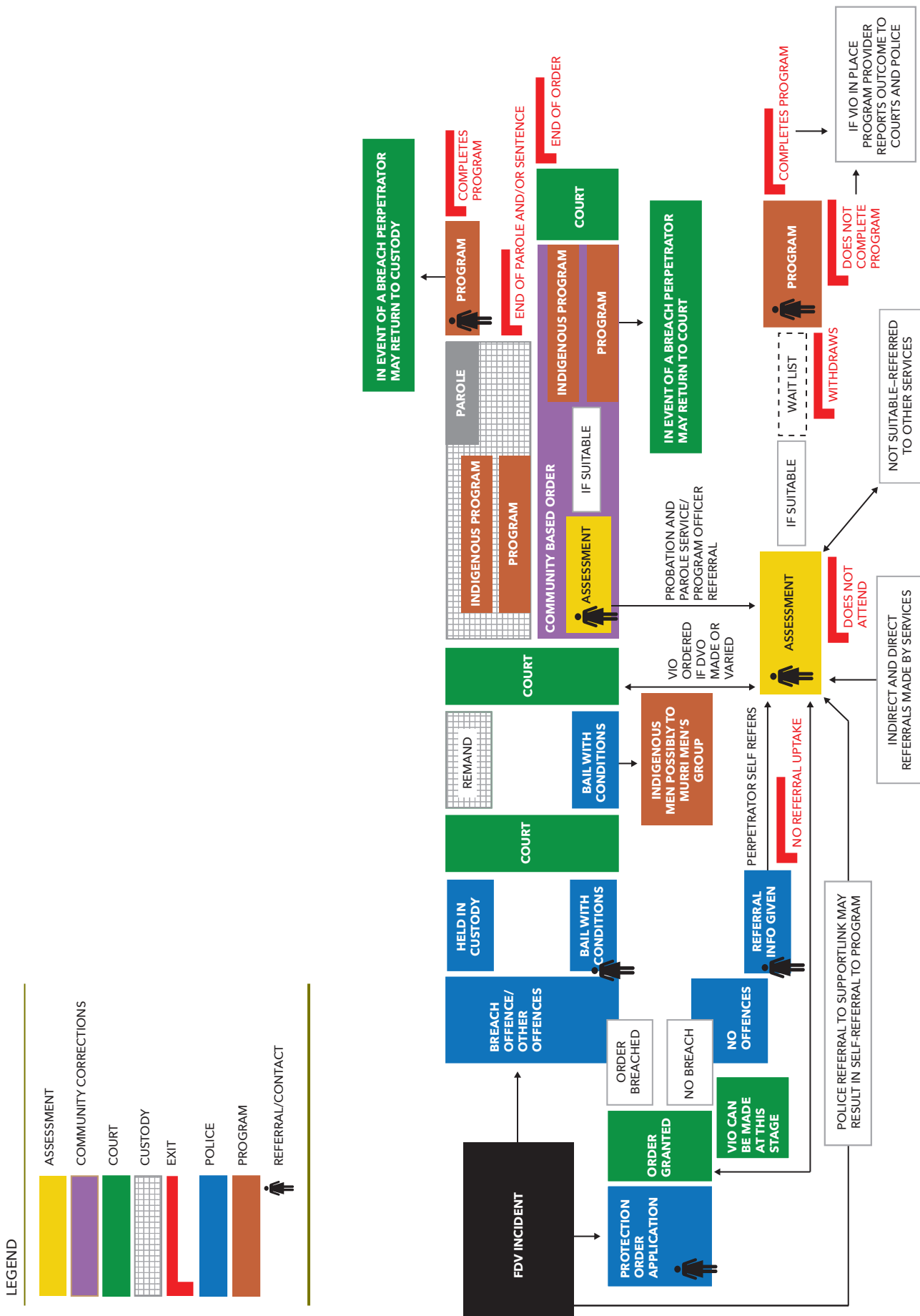
86 *Domestic and Family Violence Protection Act 2012* (Qld), s. 118.

87 *Domestic and Family Violence Protection Act 2012* (Qld), s. 129.

88 *Domestic and Family Violence Protection Act 2012* (Qld), s. 129(1)(b).

89 *Domestic and Family Violence Protection Act 2012* (Qld), s. 129(2).

Diagram 5: Queensland: Family/domestic violence perpetrator pathway





living activities).<sup>90</sup> A court may make a PO if the perpetrator has used domestic violence against the woman, and the PO is necessary or desirable to protect her.<sup>91</sup> Alternatively, the court may make the order if both the perpetrator and the woman agree to the making of the order, regardless of whether the perpetrator admits to any of the details in the application.<sup>92</sup> A court may also issue a TPO while proceedings are adjourned or before the perpetrator receives a copy of the application.<sup>93</sup> A court may make a TPO only if it is satisfied that a relevant relationship (i.e. an intimate personal relationship, a family relationship or an informal care relationship) exists between the woman and the perpetrator, and the perpetrator has committed domestic violence.<sup>94</sup> If the perpetrator has not yet received a copy of the application, the Court may issue a TPO only if it is necessary or desirable to protect the woman (or another person named in the application) from domestic violence.<sup>95</sup> A DVO requires that the perpetrator be of good behaviour and not use domestic violence towards the woman and any children, relatives or associates specifically named on the order.<sup>96</sup> The order also requires that the perpetrator comply with other conditions imposed by the court.<sup>97</sup> Examples of conditions that may be imposed by the court include conditions prohibiting the perpetrator from: approaching the woman; locating, trying to locate or asking someone to locate her; and remaining on, entering or approaching certain premises.<sup>98</sup> If a child is named in the DVO, the perpetrator also must not expose the child to domestic violence.<sup>99</sup> A PO is in force for up to 2 years, but may be in place for more than 2 years if the court considers that there are special reasons for it.<sup>100</sup> There are also provisions for varying a TPO or a PO.<sup>101</sup>

90 *Domestic and Family Violence Protection Act 2012* (Qld), ss. 13-20. An application for a protection order can also be made by another person authorised under other legislation to act on a woman's behalf—such as a guardian or someone with an enduring power of attorney (*Domestic Violence and Family Violence Protection Act 2012* (Qld), s. 25(1)(d)). In addition, a woman can authorise another person to appear in court on her behalf (*Domestic and Family Violence Protection Act 2012* (Qld), s. 25(1)(b), (2)).

91 *Domestic and Family Violence Protection Act 2012* (Qld), s. 37(1).

92 *Domestic and Family Violence Protection Act 2012* (Qld), s. 51. While a protection order is usually made by the Magistrates Court, another court that convicts the perpetrator of a domestic violence offence may also make a protection order against him (*Domestic and Family Violence Protection Act 2012* (Qld), s. 6(c)). In addition, the Childrens Court can make a protection order against a perpetrator during child protection proceedings (*Domestic and Family Violence Protection Act 2012* (Qld), s. 6(d)).

93 *Domestic and Family Violence Protection Act 2012* (Qld), s. 44.

94 *Domestic and Family Violence Protection Act 2012* (Qld), s. 45.

95 *Domestic and Family Violence Protection Act 2012* (Qld), s. 47.

96 *Domestic and Family Violence Protection Act 2012* (Qld), ss. 9, 56.

97 *Domestic and Family Violence Protection Act 2012* (Qld), s. 56.

98 *Domestic and Family Violence Protection Act 2012* (Qld), ss. 56-67.

99 *Domestic and Family Violence Protection Act 2012* (Qld), s. 56(1)(c)(iii).

100 *Domestic and Family Violence Protection Act 2012* (Qld), s. 97.

101 *Domestic and Family Violence Protection Act 2012* (Qld), ss. 91-92.

In addition, a court that convicts a perpetrator of an offence involving domestic violence may make or vary a TPO or a PO without an application from a woman or the police—if it considers that the grounds for making a TPO or PO exist, or that there is a need to vary an existing order.<sup>102</sup>

If a court makes or varies a TPO or a PO, the court may make a Voluntary Intervention Order (VIO) that requires the perpetrator to attend an approved intervention program and/or counselling provided by an approved provider.<sup>103</sup> However, before making a VIO, the court must be satisfied that an approved provider is available to provide the program or the counselling at a location that is reasonably convenient to the perpetrator.<sup>104</sup> Also, the court may make or amend a VIO only if the perpetrator is present in court, agrees to the VIO and agrees to comply with it as made or amended.<sup>105</sup> After the VIO is made, the approved provider must assess the perpetrator's suitability to take part in an intervention program or counselling, and notify the court of the outcome of the assessment.<sup>106</sup> There is no penalty for non-attendance of an assessment interview under a VIO. However, if the perpetrator attends an assessment, the program must notify the court when the man will start and the estimated time it will take to complete the program.<sup>107</sup> Furthermore, the assessor must notify the court and the police of the perpetrator's non-compliance.<sup>108</sup> Contravention of a VIO can be broader than non-attendance. Non-compliance will also be taken into account in the making of any PO in the future, or the variation of a TPO or PO.<sup>109</sup>

### Breach and sentencing

A perpetrator comes within the remit of the criminal legal system if he is charged with contravening a PPN, release from custody conditions, a TPO or a PO, or of committing another relevant offence. It is at this point that a court can decide to place a perpetrator on remand or release him on bail with conditions.<sup>110</sup> A perpetrator may be placed on bail with conditions attached, such as a requirement to attend a perpetrator program or another service,<sup>111</sup> for example, to address alcohol and drug abuse.

102 *Domestic and Family Violence Protection Act 2012* (Qld), s. 42.

103 *Domestic and Family Violence Protection Act 2012* (Qld), s. 69(1). Providers are approved by the chief executive—who is either the chief executive of the department administering the *Magistrates Courts Act 1921* (Qld), or in child protection cases, the chief executive of the department administering the *Child Protection Act 1999* (Qld) (*Domestic and Family Violence Protection Act 2012* (Qld), Schedule—Dictionary).

104 *Domestic and Family Violence Protection Act 2012* (Qld), s. 69(2).

105 *Domestic and Family Violence Protection Act 2012* (Qld), s. 71.

106 *Domestic and Family Violence Protection Act 2012* (Qld), s. 72.

107 *Domestic and Family Violence Protection Act 2012* (Qld), s. 72(3).

108 *Domestic and Family Violence Protection Act 2012* (Qld), s. 73.

109 *Domestic and Family Violence Protection Act 2012* (Qld), ss. 37(2)(b), 91(2)(c).

110 *Bail Act 1980* (Qld), ss. 8, 11.

111 *Bail Act 1980* (Qld), s. 11(9).

If a perpetrator is found guilty of an offence, a court may impose a custodial sentence, a community-based order and/or a fine on him.<sup>112</sup> A community-based order (such as a probation order or an Intensive Correction Order (ICO)) must contain a condition that requires the perpetrator to take part in counselling and satisfactorily attend other programs as directed by the court or an authorised Corrective Services Officer.<sup>113</sup> This may include family and domestic violence intervention programs.

## Programs

### Court-mandated programs

An Indigenous Sentencing Court list is utilised within certain Magistrates Courts, however it is not utilised in all courts across Queensland. Emphasis is placed on directing perpetrators to appropriate supports as part of their bail conditions; these services could include drug and alcohol awareness raising and community support programs. Program providers and elders provide recommendations to the Magistrate in a pre-sentence report, which highlights appropriate programs and supports that could be considered in relation to sentencing options.

Indigenous perpetrators serving a custodial sentence can be referred to attend the Positive Futures Program. The Positive Futures Program is delivered by Queensland Corrective Services and addresses family/domestic violence within a number of modules but is not a specific family /domestic violence program. Queensland Corrective Services also have a suite of therapeutic programs available for non-Indigenous perpetrators in custody, including programs addressing substance abuse, sexual offending and violence. Any prisoner who is serving sufficient time to complete a program is considered eligible for program participation.

Perpetrators on a community-based order may be mandated by a court (pursuant to sections 93(1)(d) for Probation and 114(1)(d) for an ICO) to attend a community-based intervention program. Perpetrators on a community-based order can also be directed to attend a community-based intervention program by an authorised Corrective Services Officer.

Depending on the perpetrator's identified needs, a perpetrator subject to a community-based order may also be referred to other therapeutic programs delivered by Queensland Corrective Services, for example the Positive Futures program or a program to address identified substance abuse issues.

Failure to satisfactorily attend a program as directed by the court or the authorised Corrective Services Officer is a contravention of an order, and may result in the perpetrator being returned to court, where the perpetrator runs the risk of receiving a custodial sentence for failing to comply with the conditions of the order. Where there is no breach of the community-based order the perpetrator exits the pathway.

As noted previously, referrals to perpetrator programs can also be made by a court, and as agreed to by the perpetrator, as part of a Voluntary Intervention Order (VIO). The court is required to be advised if a perpetrator fails to attend, but there is no offence for breaching a VIO. Perpetrators who complete an approved intervention program or counselling under a VIO will either exit the pathway upon completion of this intervention, or, if the VIO was made at the same time as a TPO, the perpetrator will return to court for finalisation of the application for a domestic violence order.

Queensland Corrective Services, in collaboration with the Domestic Violence Prevention Centre Gold Coast Inc., delivers the Men's Domestic Violence Education and Intervention Program (MDVEIP) to those sentenced to a community-based order or on parole. Perpetrators are mandated to attend a minimum of 24 weekly sessions of 2 hours each. On entering the program, perpetrators are required to sign a contract that stipulates the requirements relating to attendance and consequences for non-attendance. The program also contacts the perpetrator's partner or ex-partner where appropriate.

As part of parole, a perpetrator may be ordered to attend a relevant program, which may include a program funded by Queensland Corrective Services. Depending on whether the perpetrator is subject to other program conditions the perpetrator may exit the pathway on completing the program.

### Voluntary programs

Perpetrators may be referred to one of many programs delivered by a non-government organisation in Queensland, such as those delivered by the Gold Coast Domestic Violence Prevention Centre, Uniting Care Community or, for Indigenous perpetrators, the Helem Yumba Central Queensland Healing Centre. Perpetrators access these programs via indirect or direct referrals. Indirect referrals may be made by services such as those dealing with drug and alcohol issues, Queensland Housing, doctors and legal services. A direct referral can be made by the police, courts or child protection services. Men may also self-refer or be referred by family members or partners.

Because of the voluntary nature of the programs, perpetrators are not obliged to take up referrals or attend the relevant program. If a perpetrator does attend an assessment meeting and is deemed unsuitable for the program, referrals are made to other appropriate services. Perpetrators are not obliged to follow up on these referrals. A perpetrator therefore may drop out of view of the system at this point. Alternatively, perpetrators may engage with other services and then return to the organisation for re-assessment for a program.

112 *Penalties and Sentences Act 1992* (Qld).

113 *Penalties and Sentences Act 1992* (Qld), ss. 93(1)(d), 114(1)(d).



With many locations across Queensland operating rolling group programs, perpetrators deemed suitable can attend immediately. Conversely, if there are limited spaces, perpetrators can be placed on a waiting list and consequently a number of men will drop out of view during this period. There is little monitoring at this point. On completion of the program, perpetrators exit the pathway and no further monitoring occurs. Some community groups may offer continuing support or refer men to other services. However, funding and other constraints mean that this is not a uniform practice.

### Program list

The following table contains a list of relevant funded programs in Queensland:

Organisation name	Organisation type	Program name
Queensland Corrective Services, Department of Justice and Attorney-General	State Government: corrections/ justice	Positive Futures Program
Queensland Police Service	State Government: corrections/ justice	Police Intervention Initiative programs that address domestic violence
Queensland's Magistrate Court (Indigenous Sentencing Court List)	Collaboration of Indigenous Community Elders, respected people, non-government and Community Justice Groups	Murri Men's Groups
Domestic Violence Prevention Centre Gold Coast Inc.	Small non-government organisation	Men's Domestic Violence Education and Intervention Program (MDVEIP)
Centacare Catholic Family and Community Services	Large non-government organisation	Changing Gears
Relationships Australia Queensland	Large non-government organisation	Alternative to aggression, REFLECTIONS—Man in the Mirror (FOR MEN) and Through the Looking Glass (FOR WOMEN)
Uniting Care Community	Large non-government organisation	Safe Choices Domestic and Family Violence Counselling Program Next Steps Program Men's Stopping Violence Program Men's Stopping Violence Group Program
YFS Inc.	Large non-government organisation	Responsible Men
Spiritus Counselling and Education Services (formerly Kinnections)	Medium non-government organisation	Living Without Violence
Helem Yumba Central Queensland Healing Centre incorporating Gatharr Weyebe Banabe Program	Small non-government organisation	Gatharr Weyebe Banabe (Darumbal language —Aboriginal man's life change)
Micah Project	Medium non-government organisation	Name of the program to be advised
North Queensland Domestic Violence Resource Service	Small non-government organisation	MenTER (Men Towards Equal Relationships) MenTAIN SAFE Dads MI MenTER GO FARR—Fathers Acting Respectfully and Responsibly
WAVSS (Redlands)	Small non-government organisation	Responsible Men

## Western Australia

The schematic diagram (Diagram 6) sets out the pathway of a perpetrator moving through the Western Australian system. The diagram is followed by explanatory notes and a mapping of relevant programs in this jurisdiction. As there are changes currently being undertaken to processing family violence matters in the Magistrate's Courts in WA, this information is accurate at the time of writing this State of knowledge paper but may be subject to change.

### Perpetrator pathway<sup>114</sup>

In Western Australia (WA), a civil protection order is called a Violence Restraining Order (VRO). It is aimed at restraining a perpetrator's activities and behaviours to prevent him from committing an act of family/domestic violence, causing fear that he will engage in such acts or expose a child to such acts.<sup>115</sup> While a VRO is made by a judicial officer or a court, the police may issue a Police Order that will remain in place for up to 72 hours where there is an urgent need to ensure a person's safety before an application for a VRO is heard.

#### Police

Under the *Restraining Orders Act 1997* (WA), a Police Order may be made if the order is needed to ensure the safety of a person, and if a police officer: (a) reasonably believes that the perpetrator has committed an act of family/domestic violence and is likely to do so again, or a child has been exposed to such an act and the child is likely to be so exposed again; or (b) reasonably fears, or reasonably believes that the woman reasonably fears, that the perpetrator will have committed an act of family/domestic violence against her, or a child will be exposed to an act of family/domestic violence.<sup>116</sup> If there is sufficient evidence, the police can charge the perpetrator with a criminal offence. If this occurs, the perpetrator enters the criminal justice system.

A Police Order is made only if a police officer reasonably believes that it would not be practical for an application for a violence restraining order (VRO) to be made in person, or there is some other reason why a VRO is urgently needed without requiring the perpetrator to appear before a court.<sup>117</sup> The order remains in place for up to 72 hours after it has been served on the perpetrator.<sup>118</sup> The order may impose certain restraints on the perpetrator's activities and behaviours, for example, being on or

near premises where the woman lives or works, or approaching her within a specified distance.<sup>119</sup> It is a criminal offence to breach a Police Order, which carries the same maximum penalty as the breach of a VRO: 2 years imprisonment and/or \$6,000 fine.<sup>120</sup>

When responding to a domestic violence incident, police in WA are required to complete a Domestic Violence Incident Report (DVIR) (Western Australia. Department for Child Protection and Family Support, n.d., p. 26). All DVIRs are then assessed by Family and Domestic Violence Response Teams (FDVRTs) (Western Australia. Department for Child Protection and Family Support, 2013b). The Family and Domestic Violence Response Team (FDVRT) is a partnership between the Department for Child Protection and Family Support, WA Police and non-government family/domestic violence services. The FDVRT "aims to improve the safety of women and children experiencing family/domestic violence through a collaborative approach that focuses on timely and early intervention following a police call out to a domestic violence incident" (Western Australia. Department for Child Protection and Family Support, 2013a, p.2). The FDVRT jointly assesses and triages DVIRs, and decides the most appropriate response. In some instances the response will be initiated by only one of the partner agencies within the FDVRT. The FDVRT also provides multi-agency case management of high-risk cases (Western Australia. Department for Child Protection and Family Support, 2013b, p. 2). The FDVRT can refer perpetrators to domestic violence services with the consent of the perpetrator (Western Australia. Department for Child Protection and Family Support, n.d.). It can also refer the woman subjected to violence to support services with her consent (Western Australia. Department for Child Protection and Family Support, 2013a, p. 15). The non-government family/domestic violence partner agency within the FDVRT also provides proactive follow-up to all women according to an assumed consent model (where consent is not given or is unknown as indicated on a DVIR).

#### Court

A woman subjected to violence or the police may also seek a VRO in court<sup>121</sup> under the *Restraining Orders Act 1997*

114 The Family Violence Courts ceased operating on 1 July 2015. The WA Government is considering various criminal and civil interventions and with planned amendments to the family and domestic violence legislation likely to be introduced later in 2015, changes to the pathway described in this section will occur.

115 *Restraining Orders Act 1997* (WA), ss. 3, 13(1).

116 *Restraining Orders Act 1997* (WA), s. 30A(1).

117 *Restraining Orders Act 1997* (WA), s. 30A(1).

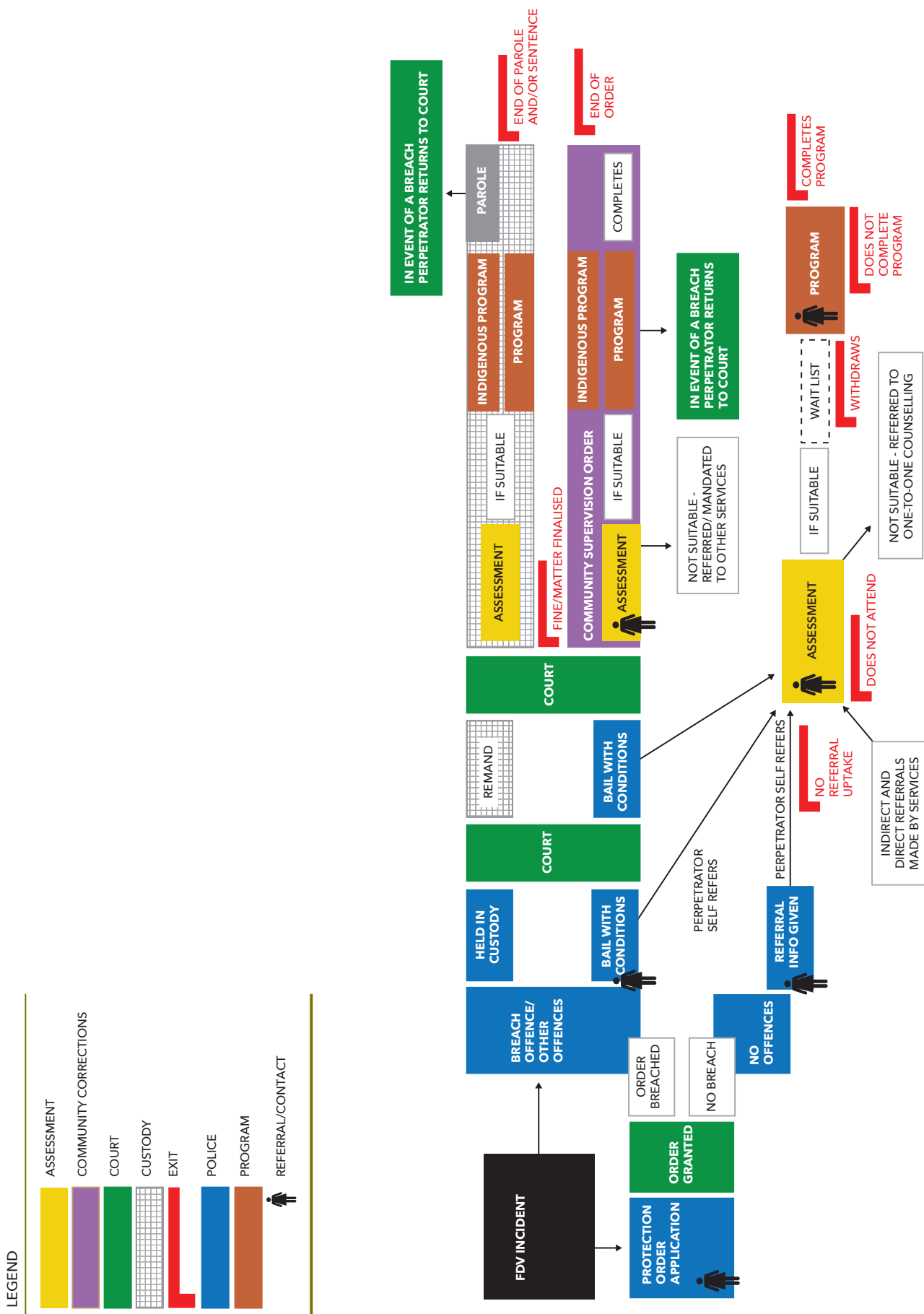
118 *Restraining Orders Act 1997* (WA), s. 30F.

119 *Restraining Orders Act 1997* (WA), s. 30C.

120 *Restraining Orders Act 1997* (WA), s. 61(2a).

121 An order imposing restraints under the *Restraining Orders Act 1997* (WA) may be made by: the Magistrates Court or the Children's Court hearing an application for a VRO, or for a variation or cancellation of a VRO; an authorised magistrate hearing an application for a telephone order (described below); a court considering imposing a VRO on either an accused person or a witness while dealing with a person charged with an offence; a court considering imposing a VRO against a party to family law proceedings or a witness in those proceedings; or a police officer making a police order (*Restraining Orders Act 1997* (WA), s. 7A).

Diagram 6: Western Australia: Family/domestic violence perpetrator pathway



(WA).<sup>122</sup> A woman may initiate this process with or without legal or police support. A court may issue a VRO if it is satisfied that the perpetrator has committed an act of abuse against a woman and he is likely to do so again, the woman reasonably fears that the perpetrator will commit an act of abuse against her, and the making of the VRO is appropriate in the circumstances.<sup>123</sup> Alternatively, the court does not have to be satisfied that there are grounds for making a final VRO if a perpetrator consents to the making of the order.<sup>124</sup> The perpetrator's consent does not constitute an admission by him of any of the matters alleged in the application.<sup>125</sup>

The VRO can impose restraints on the perpetrator's behaviour and activities to prevent him from committing an act of abuse towards the woman, or acting in a way that could reasonably be expected to cause fear that he will commit such an act.<sup>126</sup> For example, a perpetrator may be restrained from: being on or near premises where the woman lives or works; approaching her within a specified distance; and/or communicating, or trying to communicate with her.<sup>127</sup>

There are also provisions for interim orders to be made. A magistrate authorised by the Chief Magistrate to hear telephone applications may issue an order (called a telephone order) in cases where it is not practical for the application for the order to be made in person, or there is an urgent need for the order without requiring the presence of the perpetrator in court.<sup>128</sup> An application for a telephone order may be made by a police officer on a woman's behalf.<sup>129</sup> In addition, the following persons may apply for such an order if they have been introduced by a police officer to the authorised magistrate: (a) a woman subjected to violence; (b) if the person seeking protection is a child, the child's parent or guardian, or a child welfare officer; or (c) the legal guardian of a person seeking protection.<sup>130</sup> The hearing of the application may be conducted by telephone, facsimile, video conference, radio, email and/or other similar methods.<sup>131</sup>

122 *Restraining Orders Act 1997 (WA)*, s. 25(1).

123 *Restraining Orders Act 1997 (WA)*, s. 11A.

124 *Restraining Orders Act 1997 (WA)*, s. 41(1).

125 *Restraining Orders Act 1997 (WA)*, s. 41(2).

126 *Restraining Orders Act 1997 (WA)*, s. 13.

127 *Restraining Orders Act 1997 (WA)*, s. 13(2).

128 *Restraining Orders Act 1997 (WA)*, ss. 17, 20.

129 *Restraining Orders Act 1997 (WA)*, s. 18(1)(a).

130 *Restraining Orders Act 1997 (WA)*, s. 18(1)(2).

131 *Restraining Orders Act 1997 (WA)*, s. 21.

The telephone order is in place for up to 72 hours.<sup>132</sup> In certain circumstances, the court can also make an interim VRO for longer than 72 hours in order to protect the woman before the application for the final VRO is heard.<sup>133</sup> If a perpetrator does not contravene the VRO and commits no further offences, he exits the formal legal pathway, but may be referred to a program outlined below.

### Breach and sentencing

If a perpetrator is charged with breaching a Police Order or VRO, or of committing another offence, he may be placed on remand or bail supervision with conditions.<sup>134</sup> A perpetrator on bail may be required to undertake to attend an intervention program,<sup>135</sup> and he can also be mandated to attend a program once a plea of guilty has been entered and the court has passed a sentence. At this stage, a court can impose a custodial sentence (which may or may not be suspended), a conditional release order, a fine, a community-based order or an intensive supervision order.<sup>136</sup> Some of these orders (namely, a community-based order, an intensive supervision order and a conditional suspended sentence of imprisonment) may require the perpetrator to undergo assessment and treatment, and/or take part in educational, vocational or personal development programs or courses.<sup>137</sup> The relevant programs are discussed below.

## Programs

### Court-mandated programs

A perpetrator sentenced to a period of more than 12 months in a correctional centre will be assessed for suitability to attend family and domestic violence programs delivered by the Department of Corrective Services (DCS). This may include the Stopping Family Violence program, or a program for Indigenous perpetrators. Perpetrators in a correctional centre may be able to access an Indigenous program delivered by DCS. In the event that a perpetrator receives a sentence of less than 12 months in a correctional centre, there is no program requirement.

A perpetrator placed on a community-based order may

132 *Restraining Orders Act 1997 (WA)*, ss. 16(3).

133 An interim order is a telephone order or an order made under section 29(1)(a), 43A(7)(a) or 63(4b) of the Act that has a duration of more than 72 hours: *Restraining Orders Act 1997 (WA)*.

134 *Bail Act 1982 (WA)*, s. 8.

135 *Bail Act 1982 (WA)*, sch. 1 cl. 2(2b).

136 *Sentencing Act 1995 (WA)*.

137 *Sentencing Act 1995 (WA)*, ss. 33G, 66, 73, 84A.

also be required by a court to attend an assessment and, if eligible, attend the community-based mandated program. If the perpetrator successfully completes the program and does not breach other aspects of an order, the matter is finalised when the order expires and the perpetrator is no longer actively monitored. If a perpetrator fails to attend or complete the program, the Prisoner Review Board can decide to place him in custody. After serving a sentence, the matter is finalised and a perpetrator is no longer actively monitored.

A court may also require a perpetrator to attend a community-based program that would otherwise be attended on a voluntary basis. This occurs when there is no other mandated program within a reasonable distance of the perpetrator's residence, or if there is no capacity in a mandated community program. If a perpetrator is mandated to attend a program, then a completion report may be produced for the court.

### Voluntary programs

Perpetrators may be referred to a program delivered by a non-government organisation in WA, such as CentaCare, Relationships Australia (WA), Anglicare WA, or for Indigenous perpetrators, the Nintirri Centre. As noted above, direct referrals may be made by a court granting an application for a VRO. Program referrals can also be made by the police, other services such as drug and alcohol services, the Family

Relationships Centre and the Men's Domestic Violence Help Line. Men can also self-refer to programs, or be referred by partners or family members.

Perpetrators are under no obligation to take up a referral or to attend an assessment interview for a program. If a perpetrator is assessed as eligible for the program, he will be placed on a waiting list. If he is considered ineligible, he will be referred to other services, such as one-to-one counselling or drug and alcohol support services. It is not compulsory for the perpetrator to take up these further referrals. Also, since men referred to individual counselling are required to pay for this service, many men could potentially be discouraged from taking up this referral—particularly men from low socio-economic backgrounds.

The assessment and waiting periods are when perpetrators may drop out of view of the system. If perpetrators fail to complete the program, there is no penalty as their attendance was voluntary. Perpetrators may also fall out of view of the system upon completion of the voluntary program as there is no active monitoring.

### Program list

The following table contains a list of relevant programs in Western Australia:

Organisation name	Organisation type	Program name
Corrective Services WA	State Government: corrections/ justice	Stopping Family Violence
		Indigenous Program
Relationships Australia WA	Large non-government organisation	Mandated Men's Domestic Violence Program
Relationships Australia WA	Large non-government organisation	Family Abuse Integrated Response (FAIR)
Centacare Inc.	Large non-government organisation	Men Choosing Respect
Anglicare WA	Large non-government organisation	Changing Tracks
Communicare	Large non-government organisation	Breathing Space
		Families Without Fear
Nintirri Centre Inc.	Small non-government organisation	Karijini Family Violence and Prevention Service



## Tasmania

The schematic diagram (Diagram 7) sets out the pathway of a perpetrator moving through the Tasmanian system. The diagram is followed by explanatory notes and a mapping of relevant programs in this jurisdiction.

### Perpetrator pathway

In Tasmania, a court may make a Family Violence Order (FVO) to protect a woman and/or her children from family violence. In addition, the police may issue a Police Family Violence Order (PFVO) to provide them with immediate protection.

#### Police

In Tasmania, a PFVO may be issued by police under the *Family Violence Act 2004* (Tas). A PFVO provides the woman experiencing violence immediate protection during the period of time in which an application for a FVO can be made. A PFVO may be issued if police are satisfied that the perpetrator has committed, or is likely to commit, family violence.<sup>138</sup> A PFVO may contain a number of conditions; for example, it may require the perpetrator to: not harass, threaten, verbally abuse or assault the woman; not approach her within a certain distance; or vacate certain premises.<sup>139</sup> It is an offence to contravene a PFVO, which carries the same maximum penalties as an interim or final FVO. A PFVO remains effective for up to 12 months.<sup>140</sup> Alternatively, if there is sufficient evidence that a criminal offence has been committed, the police may charge the perpetrator, upon which he enters the criminal justice system.

#### Court

The police or a woman subjected to violence may seek a FVO in a court of summary jurisdiction<sup>141</sup> under the *Family Violence Act 2004* (Tas).<sup>142</sup> A woman may initiate this process with or without legal or police assistance. A court may issue an FVO if the court is satisfied that the perpetrator has committed family violence and may do so again.<sup>143</sup> The FVO may include any conditions that the court considers are necessary or desirable

to prevent further family violence, such as a requirement that the perpetrator leave or not enter certain premises.<sup>144</sup> At any stage during the proceedings, the court can decide to issue an interim FVO before an application for a FVO is finalised, regardless of whether it is satisfied that the perpetrator has used family violence or may do so again.<sup>145</sup> A FVO can also be made by a court in terms agreed to by the perpetrator and the woman subjected to violence.<sup>146</sup> If a FVO is made by consent, the court may record that the perpetrator makes no admission to any of the matters alleged in the application.<sup>147</sup>

A FVO may include a condition that a perpetrator undergo an assessment for an appropriate program, discussed below.

### Breach and sentencing

A perpetrator enters the criminal legal system if he is charged with contravening a PFVO, an interim FVO or a final FVO, or of another offence committed in the process of breaching an order. The maximum penalty for breaching a FVO depends on whether it is the perpetrator's first offence or not—the range of maximum penalty starts from 12 months imprisonment and/or a fine of 20 penalty units for a first offence, to 5 years imprisonment for a fourth or subsequent offence.<sup>148</sup> Before the charges are heard, a court may decide to place a man on bail with the requirement to attend an assessment for the Family Violence Offender Intervention Program (FVOIP) delivered by Community Corrections Tasmania.

If a perpetrator is found guilty of an offence, the court may impose one or more of the following sentencing orders on him, namely: a custodial sentence, a suspended sentence of imprisonment, a community service order, a probation order, a fine, a conditional release, a discharge, a dismissal, a drug treatment order and a rehabilitation program order.<sup>149</sup> If a court is satisfied that a perpetrator is suitable for the FVOIP, it can make a rehabilitation program order in addition to other sentencing orders (e.g. a sentence of imprisonment, a suspended sentence of imprisonment, a community service order, or a probation order).<sup>150</sup> The order requires that the perpetrator attend and take part in a family violence rehabilitation program,

138 *Family Violence Act 2004* (Tas), s. 14.

139 *Family Violence Act 2004* (Tas), s. 14(3).

140 *Family Violence Act 2004* (Tas), s. 14(6).

141 A court of summary jurisdiction means a courts of petty sessions (usually constituted by a magistrate sitting alone) or a court held by one justice (*Justices Act 1959* (Tas), s. 3(1)).

142 *Family Violence Act 2004* (Tas), s. 15(2)(b). Other persons who may apply for a FVO include: a child, if the court is satisfied that the child can understand the nature of the proceedings; and any person permitted by the court to make the application (*Family Violence Act 2004* (Tas), s. 15(2)).

143 *Family Violence Act 2004* (Tas), s. 16(1).

144 *Family Violence Act 2004* (Tas), s. 16(2)-(3).

145 *Family Violence Act 2004* (Tas), s. 23.

146 *Family Violence Act 2004* (Tas), s. 22(1).

147 *Family Violence Act 2004* (Tas), s. 22(2).

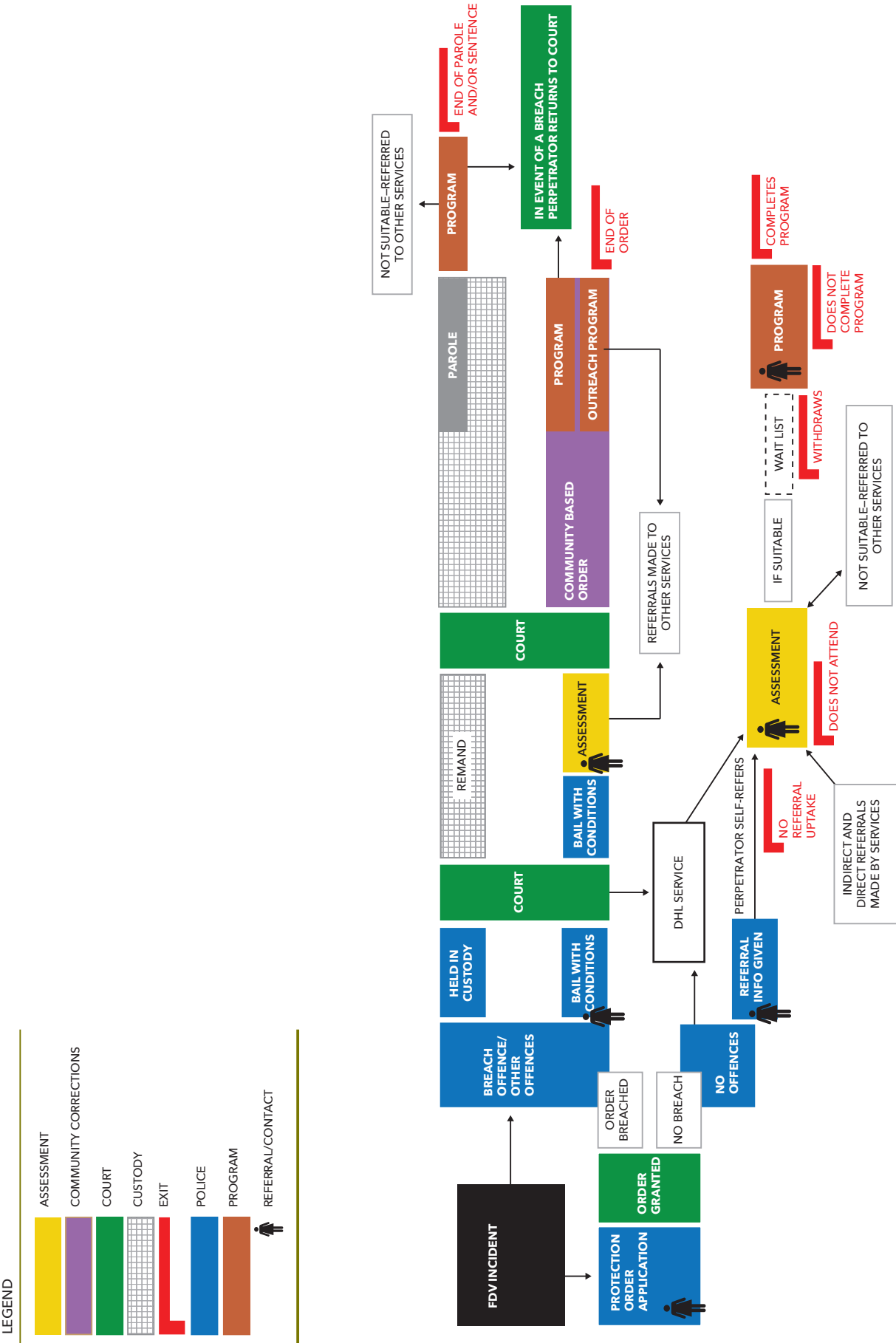
148 *Family Violence Act 2004* (Tas), s. 35(1).

149 *Sentencing Act 1997* (Tas), s. 7.

150 *Sentencing Act 1997* (Tas), ss. 7(ea), 8, 24. The court can order that a rehabilitation program assessment be prepared as part of the pre-sentence report (*Sentencing Act 1997* (Tas), ss. 82, 89A).



Diagram 7: Tasmania: Family/domestic violence perpetrator pathway



and comply with the reasonable directions of the program provider.<sup>151</sup> If the perpetrator breaches the rehabilitation program order, a court may either order that he continue attending the program, or cancel the rehabilitation program order and deal with the perpetrator as if it had just found him guilty of the offence which resulted in the order.<sup>152</sup> This pathway is generally reserved for perpetrators who are considered “high risk” in terms of reoffending, but who are suitable for rehabilitation within the community. Perpetrators who have contravened an order(s) a number of times and who are deemed “high risk” may be sentenced to a term of imprisonment.

## Programs

### Court-mandated programs

Perpetrators considered by a court to be “high risk” may be required to attend the FVOIP delivered by Community Corrections Tasmania. An outreach program is also available for those in remote areas or for offenders who have suitability or responsiveness factors that preclude them from attending a group program. Referrals to appropriate services to address comorbidities occur before perpetrators enter the perpetrator intervention program. Should comorbidities become apparent during the FVOIP, appropriate referrals are made to the Salvation Army Bridge Program or Holyoake (Drug and Alcohol), a Literacy Coordinator and the Department of Health and Human Services Forensic Mental Health Unit or a private psychologist for mental health issues. The FVOIP program is 50 hours in duration and perpetrators are case managed by a probation officer during their participation. On completion of the program, the program coordinator provides the court and Community Corrections with a report and recommendations. If a perpetrator has made progress and has not contravened the relevant order, the matter is finalised and he exits this pathway with no further monitoring.

### Voluntary programs

At the time of writing in August 2015, CatholicCare's Challenging Abusive Behaviour (CAB) program is the only voluntary perpetrator program operating in Tasmania. This program is available in Hobart, Launceston and Devonport. For many men, access to CatholicCare's voluntary CAB program occurs

via direct or indirect referrals. Direct referrals can originate from Defendant Health Liaison Service (DHLS) Officers, the Family Violence and Response Referral Line, and police and child protection services. The Department of Health and Human Services through the DHLS conducts assessments of criminogenic needs of a perpetrator and makes appropriate referrals based on those assessments; assessments by DHLS are undertaken on a voluntary basis for those offenders who wish to engage. The sources of indirect referrals include service providers, such as drug and alcohol and mental health services; doctors; Housing Tasmania; and legal services. However, the majority are self-referrals, particularly from men who have previously completed the program (CatholicCare Tasmania, 2015).

The CAB program provides an initial 1.5-hour assessment, followed by a 4-week orientation and a 16-week group educational program. Because the program is only available in three locations, this could deter those men who live in other areas from attending the program. The voluntary nature of the program means that perpetrators are not obliged to take up a referral and many men will drop out of view of the system after a referral has been made.

Those deemed suitable for the CAB program are placed on a waiting list, while those considered unsuitable are referred to other services, such as drug and alcohol, and mental health services. Upon entering the CAB program, the perpetrator's partner, or ex-partner, is contacted and offered support. If a man drops out of the program, his partner/ex-partner will be informed and some effort will be made by CatholicCare to re-engage the man. However, because of the voluntary nature of the program, perpetrators are not obliged to respond.

Upon completion of the program, a perpetrator effectively exits the pathway, although CatholicCare may refer men to other services to offer ongoing support—for example, some men may re-attend the CAB program.

There are no specific programs for Indigenous perpetrators available in Tasmania.

### Program list

The following table contains a list of relevant programs in Tasmania:

Organisation name	Organisation type	Program name
Tasmania Prison Service, Department of Justice	State Government: corrections/ justice	Stopping Violence
Community Corrections, Department of Justice	State Government: corrections/ justice	Family Violence Offender Intervention Program
CatholicCare Tasmania	Large non-government organisation	Challenging Abusive Behaviour

<sup>151</sup> *Sentencing Act 1997* (Tas), s. 4.

<sup>152</sup> *Sentencing Act 1997* (Tas), s. 54A.

## Australian Capital Territory

The schematic diagram (Diagram 8) sets out the pathway of a perpetrator moving through the Australian Capital Territory (ACT) system. The diagram is followed by explanatory notes and a mapping of relevant programs in this jurisdiction.

### Perpetrator pathway

A Domestic Violence Order (DVO) can be made by the ACT Magistrates Court to protect a woman and/or her children from domestic violence. Where the police have not identified an offence or cannot otherwise justify an arrest, they may apply for an Emergency Order (EO) to provide immediate protection before an application for a DVO can be heard.

### Police

Upon responding to a domestic violence incident, police can make an application for an EO by telephone to a judicial officer, in cases where they believe a woman and/or her children require immediate protection under the *Domestic Violence and Protection Orders Act 2008* (ACT).<sup>153</sup> Additionally, if there is sufficient evidence, the police can also charge the perpetrator with a criminal offence, thus effectively bringing the perpetrator into the purview of the criminal justice system. A judicial officer may make an EO if it is outside the sitting hours of the Magistrates Court, and: (a) there are reasonable grounds for believing that the perpetrator could cause physical injury to a woman or her children, or substantial damage to their property; (b) the woman is or was in an intimate, domestic or familial relationship with the perpetrator; and (c) it is not practicable to arrest the perpetrator or there is no ground to arrest him.<sup>154</sup> The EO may contain certain prohibitions, such as forbidding the perpetrator from being on the premises where the woman lives.<sup>155</sup>

An EO remains in place until close of business the next day (unless it is revoked earlier), or until an Interim Order (IO) or a final order is served on the perpetrator.<sup>156</sup> IOs are to allow an application for a DVO to be made and to protect women and children or prevent substantial damage to their property during the court process until a decision is made by a court to grant a DVO.<sup>157</sup>

153 *Domestic Violence and Protection Orders Act 2008* (ACT), ss. 68, 70.

154 *Domestic Violence and Protection Orders Act 2008* (ACT), s. 69. A judicial officer could be a magistrate, or (if permitted by regulation) the registrar or deputy registrar (*Domestic Violence and Protection Orders Act 2008* (ACT), sch. 2 item 2.2).

155 *Domestic Violence and Protection Orders Act 2008* (ACT), s. 76.

156 *Domestic Violence and Protection Orders Act 2008* (ACT), s. 77.

157 *Domestic Violence and Protection Orders Act 2008* (ACT), s. 29.

### Court

The police or a woman subjected to violence may apply to the Magistrates Court for a non-emergency DVO.<sup>158</sup> Alternatively, police can help a woman make the application or make it on her behalf.<sup>159</sup> The registrar must hold a preliminary conference to: find out whether the proceeding could be settled by consent before being heard by the Court, identify and narrow down the issues to be decided in the proceeding, and ensure that the parties are taking the necessary measures for a quick hearing.<sup>160</sup> A preliminary conference is not required if the registrar is satisfied that such a conference will not achieve some or all of its objectives.<sup>161</sup>

The Magistrates Court can make a final DVO if it is satisfied that the perpetrator has used domestic violence.<sup>162</sup> Before an application for a final DVO is decided, the Court may also make an interim order if it is necessary to ensure the safety of a woman or her children and/or to prevent substantial damage to their property.<sup>163</sup> Alternatively, the Court can also make an interim or a final DVO with the consent of both the perpetrator and the woman.<sup>164</sup> If both parties consent to the making of the DVO, the order can be made regardless of whether any of the grounds for making the order have been made out, and without any proof or admission of guilt.<sup>165</sup> An interim DVO made by consent will remain in place for up to 16 weeks and cannot be extended.<sup>166</sup> A final DVO will remain in place for up to 2 years, unless special or exceptional circumstances exist to warrant a longer period.<sup>167</sup>

158 *Domestic Violence and Protection Orders Act 2008* (ACT), s. 18(1). There are other persons who have the legal right to make an application for a non-emergency DVO on another person's behalf—for example, a child's parent or guardian, or the agent of a person seeking protection (*Domestic Violence and Protection Orders Act 2008* (ACT), s. 3).

159 *Domestic Violence and Protection Orders Act 2008* (ACT), s. 18(2).

160 *Domestic Violence and Protection Orders Act 2008* (ACT), s. 24(1); *Domestic Violence and Protection Orders Regulation 2009* (ACT), reg. 8.

161 *Domestic Violence and Protection Orders Act 2008* (ACT), s. 24(2); *Domestic Violence and Protection Orders Regulation 2009* (ACT), reg. 9.

162 *Domestic Violence and Protection Orders Act 2008* (ACT), s. 46(1).

163 *Domestic Violence and Protection Orders Act 2008* (ACT), s. 89.

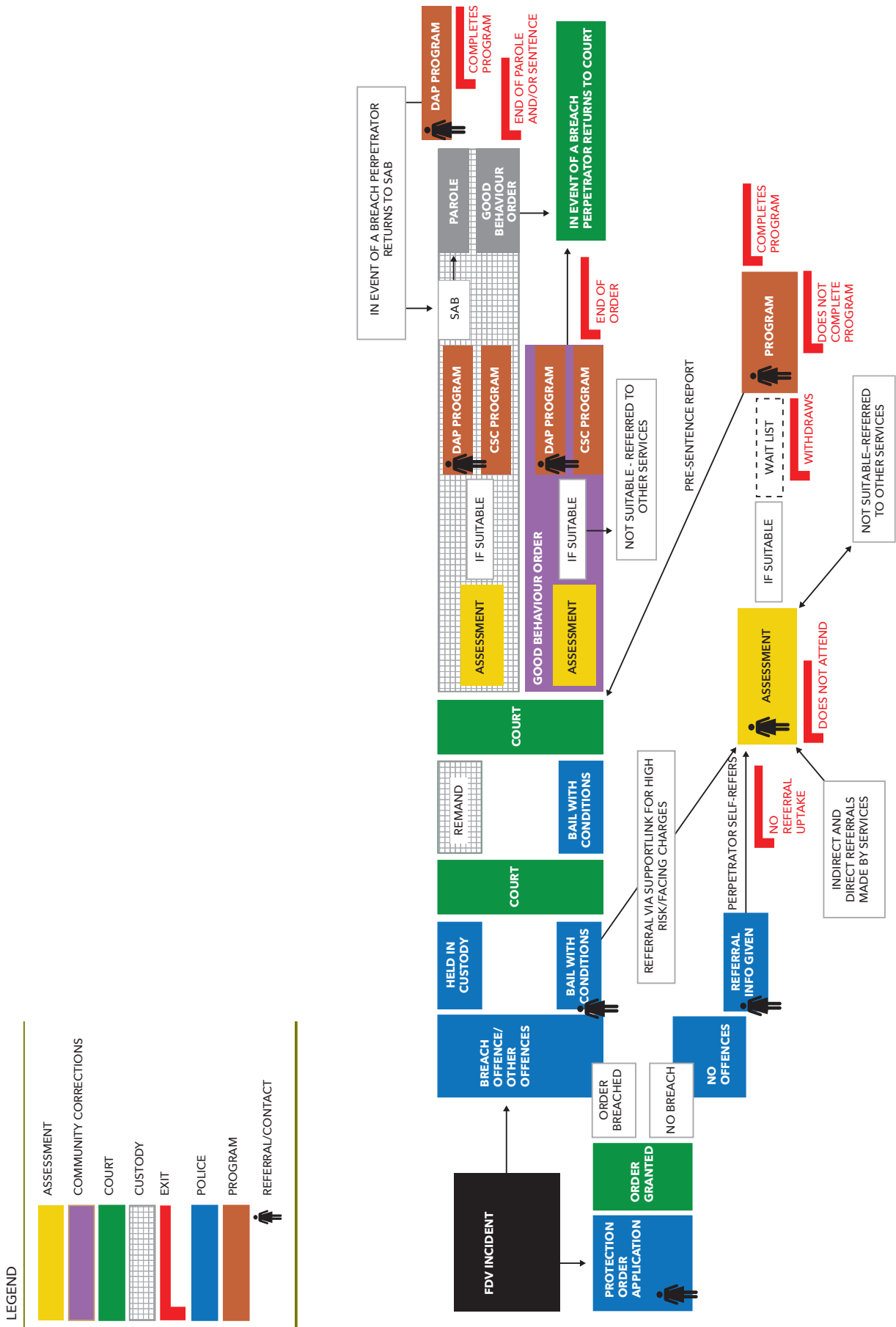
164 *Domestic Violence and Protection Orders Act 2008* (ACT), s. 43(1). However, if either the perpetrator or the woman has a legal disability and is not separately represented by another person—and the Court considers that he or she should be separately represented—the Court must not make an interim or final DVO, but may adjourn the proceedings to allow the person to obtain a litigation guardian (*Domestic Violence and Protection Orders Act 2008* (ACT), s. 44).

165 *Domestic Violence and Protection Orders Act 2008* (ACT), s. 43(2).

166 *Domestic Violence and Protection Orders Act 2008* (ACT), s. 45.

167 *Domestic Violence and Protection Orders Act 2008* (ACT), s. 55(1)-(2). However, a final DVO made by consent cannot be longer than 2 years (*Domestic Violence and Protection Orders Act 2008* (ACT), s. 55(3)).

Diagram 8: Australian Capital Territory: Family/domestic violence perpetrator pathway



The DVO restrains the perpetrator from committing domestic violence against the woman, and may also contain conditions or prohibitions that the Court considers necessary or desirable, such as forbidding the perpetrator from: being on the premises where the woman lives or works; and contacting, harassing, threatening or intimidating her.<sup>168</sup> In addition, in making an interim or final DVO, the Court may recommend that the perpetrator, the woman or another relevant person attend an assessment, counselling, training, mediation or rehabilitation program.<sup>169</sup>

A breach of the DVO is a criminal offence, with a maximum penalty of 5 years imprisonment and/or a fine of 500 penalty units.<sup>170</sup>

### Breach and sentencing

If a perpetrator has been charged with breaching a DVO or committing a related offence, he may be remanded in custody or placed on bail. If placed on bail, a perpetrator may be required to take part in a training, rehabilitation or personal development program as part of his bail conditions.<sup>171</sup> If a perpetrator pleads or is found guilty of an offence and convicted, the court may request a Pre-Sentence Report (PSR). For family/domestic violence matters, preparation of the PSR will involve completing assessment tasks for entry into the Domestic Abuse Program (DAP), which will enable the PSR to advise the sentencing court about case management options that are under consideration. The court can hand down a custodial sentence or a non-custodial order (such as a good behaviour order or a fine order). As part of a good behaviour order, a perpetrator can be mandated to attend a community-based Domestic Abuse Program (DAP) delivered by ACT Corrective Services,<sup>172</sup> discussed further below. A perpetrator undertaking a custodial sentence may be referred to the custodial-based DAP. Perpetrators of family/domestic violence may attend the Cognitive Self Change (CSC) program in custody or in the community or be referred to external organisations. Perpetrators who do not breach their EO or are considered “low risk” can be referred or self-refer to the Canberra Men’s Centre to undergo a program assessment. This program is discussed further below.

168 *Domestic Violence and Protection Orders Act 2008* (ACT), ss. 10, 48.

169 *Domestic Violence and Protection Orders Act 2008* (ACT), s. 29.

170 *Domestic Violence and Protection Orders Act 2008* (ACT), s. 90(2).

171 *Bail Act 1992* (ACT), s. 25(4)(d).

172 *Crimes (Sentencing) Act 2005* (ACT), s. 13(3)(c); *Crimes (Sentencing) Regulation 2006* (ACT), reg. 2(1)(d). If a good behaviour bond has a condition that requires the perpetrator to undertake a rehabilitation program, it is called a rehabilitation program order (*Crimes (Sentencing) Act 2005* (ACT), s. 13(7)).

## Programs

### Court-mandated programs

Entry to the community-based DAP delivered by ACT Corrective Services is reserved for those men convicted of family/domestic violence against a female partner and assessed as “medium risk” of reoffending or higher, and who are otherwise suitable to undertake the DAP. If a perpetrator is considered “program ready”, he is asked to sign a DAP consent form, by which he agrees to his current partner being referred to the Domestic Violence Crisis Service (DVCS) for partner support. If a perpetrator who is otherwise suitable declines to consent to facilitate partner referral, he is not referred to the DAP and the matter is returned to Court by way of breach action. If a perpetrator is considered not program ready or inappropriate for the community-based DAP, he is case managed in the community with a focus on assisting him to be able to enter the program through motivational interviewing and/or referral to a short “readiness program”. Other perpetrators may require alcohol and drug or mental health treatment before they can enter the DAP.

When a perpetrator enters the DAP, his partner or ex-partner is referred to the DVCS for support during the DAP and subsequent case management. The progress of a perpetrator through the DAP is monitored by case management and collaborative meetings with DVCS, Community Corrections and the program facilitator. Successful completion of the program requires perpetrators to attend all components of the 40-hour program. Approval for non-attendance must be sought from the program facilitator. Unauthorised absences are a breach of an order and the court is notified. Case managers support the DAP by regular interviews with the perpetrator to support their attendance and engagement with program content, and by undertaking regular home visits. The Court will only have further involvement if breach action is initiated during the period of supervision. If the good behaviour order provides authority and the perpetrator has met the expectations of the case manager and achieved stability, supervision may be terminated. There is no further monitoring at this point.

Those considered for parole may have completed the DAP in custody and after entering parole will be referred to the community-based mandated DAP. As a condition of his parole, a perpetrator must attend and complete the DAP, otherwise he risks returning to detention. Breaches of parole will result in a breach report to the Sentence Administration Board (SAB). Once a perpetrator completes the DAP, he will continue to be supervised until the expiry date of his parole order.



## Voluntary programs

The Canberra Men's Centre runs a voluntary program in the ACT. Entry into this program usually occurs via an indirect or direct referral. A direct referral can be made by the court under a recommendation or community supervised order. Direct referrals can also come from an ACT government agency or community organisation (Canberra Men's Centre, 2015). Indirect referrals can originate from doctors or family counsellors who identify domestic violence as an issue. Men can self-refer to the Canberra Men's Centre and self-referrals can occur after an incident or intervention, such as at the time of a police response, a court appearance and the issuing of a DVO. Men can also self-refer to the Anger Management for Men program run by Relationships Australia.

At assessment, the Canberra Men's Centre considers whether a man has the capacity to acknowledge and take responsibility for his behaviour (Canberra Men's Centre, 2015). The assessment may uncover drug and alcohol, gambling, mental health and housing issues. Therefore, men may be referred to other services provided by Canberra Men's Centre or other organisations. Alternatively, depending on the level of need, a perpetrator may be accepted into the program and also receive assistance from other agencies. Although men might return to the program after being referred to engage with other services, it is at this point that many perpetrators will drop out of the system.

After a perpetrator attends an assessment, the Canberra Men's Centre will contact the perpetrator's partner or ex-partner in order to offer support. Perpetrators deemed suitable for the program are placed on a waiting list. Because of the limited number of places on the program, men may be waiting for some time to enter the program, which increases the risk that they will drop out of view of the system.

Upon entering the program, a case plan is developed between the perpetrator and the program facilitator. The Canberra Men's Centre will also contact the perpetrator's partner or ex-partner to offer support. The program includes group work and individual counselling, depending on the man's needs.

At any point during the program, the man may withdraw from the program. This could be a planned withdrawal (i.e. in consultation with his case manager), or an unplanned "drop out". The latter scenario would result in the case manager trying to re-establish contact with the man and making contact with his partner or ex-partner. Although the case manager would make a reasonable effort to re-connect with the client, in a number of cases the man will not re-engage. Non-attendance over time will effectively be a voluntary withdrawal from the program.

If a perpetrator successfully completes the program, the case manager could refer him to other services. Nevertheless, for many men completion of the program signals the end of the pathway.

### Program list

The following table contains a list of relevant programs in the Australian Capital Territory:

Organisation name	Organisation type	Program name
ACT Corrective Services' Offender Services Corrections Program Unit	State Government: corrections/ justice	Domestic Abuse Program (custodial)
		Domestic Abuse Program (community)
		Cognitive Self Change program
Relationships Australia	Large non-government organisation	Anger Management for Men program
Canberra Men's Centre	Small non-government organisation	Preventing Violence, Managing Anger



## Northern Territory

The schematic diagram (Diagram 9) sets out the pathway of a perpetrator moving through the Northern Territory (NT) system. The diagram is followed by explanatory notes and a mapping of relevant programs in this jurisdiction.

### Perpetrator pathway

Under the *Domestic and Family Violence Act 2007* (NT), Domestic Violence Orders (DVO) can be made to protect victims and/or their children from domestic violence. A DVO can be made by a court or the police.

#### Police

On responding to a domestic violence incident, NT Police can issue a Police Domestic Violence Order (police DVO) if they consider that the victim and/or children require protection from the perpetrator before a DVO can be issued by the court.<sup>173</sup> If there is sufficient evidence, the police can also charge a perpetrator with a criminal offence, upon which the perpetrator enters the criminal justice system. Police can issue a police DVO if satisfied that: (a) the order is necessary to ensure a victim's and/or the children's safety because of urgent circumstances, or because it is impracticable to obtain a DVO from the court of summary jurisdiction (CSJ DVO); and (b) a CSJ DVO might reasonably have been made if it were practicable to apply for one.<sup>174</sup> The police DVO is taken to be a summons to the perpetrator to appear in court to explain why the court should not confirm the police DVO.<sup>175</sup>

Police will also carry out a risk assessment as part of the Family Safety Framework, an action-based multi-agency integrated response to people at high risk of serious injury or death from family/domestic violence (Northern Territory. Department of Prime Minister and Cabinet, 2015, p. 1). The Framework is led by NT Police, in partnership with other government agencies (child protection, justice, correctional services, education, housing, health, and human services) as well as non-government organisations (Northern Territory. Department of Prime Minister and Cabinet, 2015, pp. 15, 28-31). The police can make referrals to the NT Department of Correctional

Services Family Violence Program (NTDCS FVP), generally in a remote community setting where the community-based police officer will inform program facilitators of whom they think should attend the program. Perpetrators are not mandated to attend; participation is voluntary. However, if attendance is a condition of a community-based order, parole or bail, then attendance is mandatory.

A police- or court-issued DVO can impose any restraints on the perpetrator that are considered just or desirable in the circumstances of the particular case to prevent domestic violence being committed against the victim—for example, restraints prohibiting the perpetrator from contacting or approaching the victim, or restraints requiring the perpetrator to not harass, threaten, verbally abuse or assault the victim.<sup>176</sup> A DVO remains in place for the period stated in it.<sup>177</sup>

#### Court

Under the *Domestic and Family Violence Act 2007* (NT), a court may consider granting a DVO in a matter where a police DVO has been issued by police. The police or a victim subjected to violence may also initiate the process by applying to the court for a DVO.<sup>178</sup> A victim may initiate this process with or without legal or police assistance. A court may grant an application for a DVO if it decides that there are reasonable grounds for a victim to fear that the perpetrator will use domestic violence against them.<sup>179</sup> Alternatively, the court or a clerk of the court may make a DVO if both the perpetrator and the victim consent to it—even if the perpetrator does not admit, or denies, the grounds of the DVO application or any allegations made against them.<sup>180</sup> An interim DVO may also be made at any time during the hearing of an application for a CSJ DVO.<sup>181</sup>

In addition to restraints that the court considers necessary or desirable, a court-issued DVO can also include a requirement that the perpetrator attend a rehabilitation program; however, this requirement can only be imposed with the perpetrator's consent.<sup>182</sup> The court must also be satisfied that the perpetrator

173 *Domestic and Family Violence Act 2007* (NT), ch. 2 pt. 2.6.

174 *Domestic and Family Violence Act 2007* (NT), s. 41. A court of summary jurisdiction is constituted by a magistrate, or two or more Justices of the Peace (*Justices Act* (NT), s. 41).

175 *Domestic and Family Violence Act 2007* (NT), s. 41.

176 *Domestic and Family Violence Act 2007* (NT), s. 21.

177 *Domestic and Family Violence Act 2007* (NT), s. 27. Section 27 relates to DVOs generally.

178 *Domestic and Family Violence Act 2007* (NT), s. 28(1)(a)-(b).

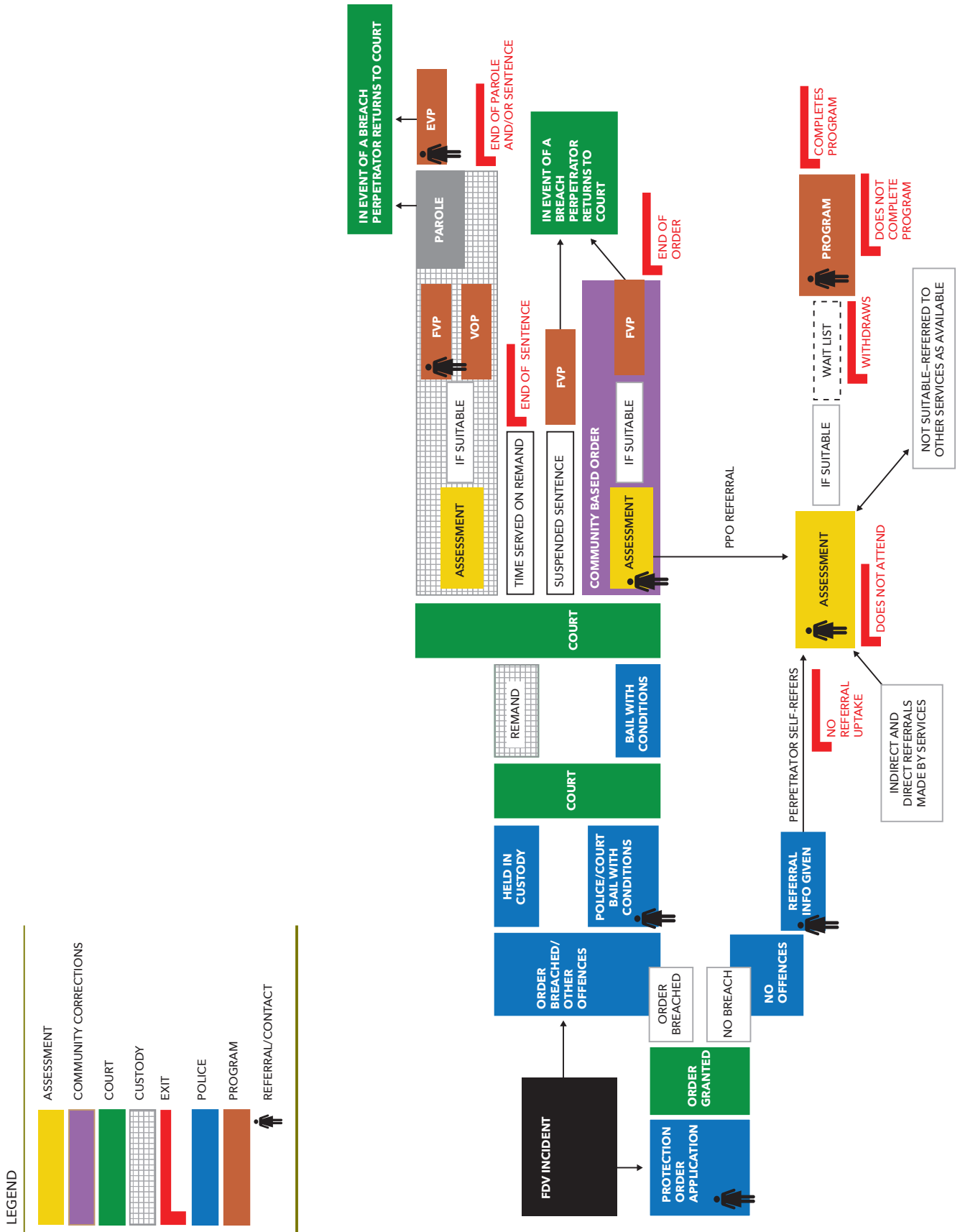
179 *Domestic and Family Violence Act 2007* (NT), s. 18(1). If the protected person is a child, there must be reasonable grounds to fear that the child will be exposed to domestic violence used by or against a person with whom the child is in a domestic relationship (*Domestic and Family Violence Act 2007* (NT), s. 18(2)).

180 *Domestic and Family Violence Act 2007* (NT), s. 38.

181 *Domestic and Family Violence Act 2007* (NT), s. 35.

182 *Domestic and Family Violence Act 2007* (NT), s. 24(2).

Diagram 9: Northern Territory: Family/domestic violence perpetrator pathway



is suitable to take part in the program and that the program has a place available.<sup>183</sup> If a referral is not suitable, the Department of Correctional Services is able to return the referral with the suggestion of making the referral to another agency or program. Limited programs are available for perpetrators on remand and those available do not specifically address family/domestic violence. For those on bail, referrals can be made through police via Supportlink (a centralised referral system) to community-based organisations.

### Breach and sentencing

Breach of a DVO is a criminal offence, with a maximum penalty of two years imprisonment and/or a fine of 400 penalty units.<sup>184</sup> If a perpetrator is charged with breaching a DVO or committing a related offence, police may decide to hold the perpetrator in custody until a suitable court date, or release him on bail with conditions.<sup>185</sup> If a court finds a perpetrator guilty of an offence, they can be sentenced to time in custody, or—provided that the perpetrator has not been found guilty of committing a violent offence (including the threatened use of violence)—place the perpetrator on a community based order or a community custody order.<sup>186</sup> As part of a community based order or a community custody order, a court may order a perpetrator to undergo testing in relation to alcohol or certain drugs, or mandate the perpetrator to attend a program noted below.<sup>187</sup> Community Corrections manages offenders on community based orders and provides reports to the sentencing courts and the Parole Board of the Northern Territory (Parole Board NT), including when there has been a breach. Perpetrators considered at high risk of reoffending are referred to programs as a priority. Once a perpetrator has completed his sentence, he is released straight into the community.

In addition, if a court finds a perpetrator guilty of a domestic violence offence or breaching a DVO, the court may make a Perpetrators' Program Order (PPO) requiring participation in a perpetrators' program—provided they are a suitable person to take part in the program and there is a place in the program available.<sup>188</sup> This order can be made without the perpetrator's consent.<sup>189</sup> The perpetrator is considered in breach of the PPO if he: (a) without reasonable excuse, fails to comply with a

term or condition of the order or fails to carry out obligations under the PPO; (b) breaches a DVO; or (c) commits a domestic violence offence.<sup>190</sup> If the perpetrator is found to be in breach of the PPO, the court may impose a fine, as well as confirm, vary or revoke the PPO.<sup>191</sup>

## Programs

### Court-mandated programs

Perpetrators considered “high risk” by a court may be required to attend the NTDCS FVP in the community as part of a community-based sentence. Those perpetrators sentenced to a custodial sentence can access the Family Violence Program (FVP). Additionally, the Department of Correctional Services makes a number of programs available for people serving custodial sentences including drug and alcohol programs, anger management programs and treatment programs such as the Violent Offenders Program and the Sex Offender Program. The FVP is not specifically for Indigenous peoples; however, it was originally created for Indigenous peoples and has been expanded to include non-Indigenous peoples. The Elders Visiting Program (EVP) is available to Indigenous peoples in custody and is a Department of Correctional Services initiative to reduce high recidivism rates in NT prisons. This program has a healing component and promotes reintegration into the community. The program currently operates in Darwin and Alice Springs Correctional Centres.

For a perpetrator on a community based order or community custody order, the program manager will keep the court or the community correctional officer informed of any absences and completion of the program. Completion of the program may result in the end of a sentence and the perpetrator moving out of view of the system. For a perpetrator in custody, completion of the program can be taken into account by the Parole Board NT when considering parole. Perpetrators on parole can be referred to community-based organisations, although some program guidelines exclude sex or violent offenders from eligibility to participate.

The FVP can refer perpetrators to locally-based services to provide support post-release, such as anger management, mental health and general support services (e.g. job and training agencies). These referrals are frequently informal, unless there is a specific referral process by the agency in place. These referrals are only determined by what is available in the community, and whether program facilitators are able to clearly identify the need and the participant is willing. If offenders have

183 *Domestic Violence and Family Violence Act 2007* (NT), s. 24(2).

184 *Domestic Violence and Family Violence Act 2007* (NT), ss. 120, 121, 122.

185 *Bail Act* (NT), s. 16.

186 *Sentencing Act* (NT), ss. 39A, 48A.

187 *Sentencing Act* (NT), ss. 39F, 48F; *Sentencing Regulation* (NT), reg. 2.

188 *Sentencing Act* (NT), s. 78K(1)–(2).

189 *Sentencing Act* (NT), s. 78K(5).

190 *Sentencing Act* (NT), s. 78N.

191 *Sentencing Act* (NT), s. 78N.

completed their sentence and there is no parole period, then they are released straight into the community and no further programs can be mandated.

### Voluntary programs

There are a number of voluntary programs in the NT offered by non-government organisations, such as CatholicCare NT, the Darwin Aboriginal and Islander Women's Shelter, and Holyoake. These services are accessed via direct or indirect referral. Direct referrals may be made by child protection services, courts and police. Indirect referrals can originate from other community-based or government services, such as drug and alcohol, mental health services, and the NT Department of Health and Families. Men can also self-refer.

As in other jurisdictions, there is no obligation to attend assessment interviews or programs. Perpetrators who are assessed and who are considered unsuitable may be referred to other services. If

deemed eligible, perpetrators will be placed on a waiting list, but given the limited space and number of programs, may drop out of the system at this point. In these circumstances, organisations may attempt contact, but are unlikely to have the resources to pursue them. Organisations are under no obligation to inform police or other agencies of non-attendance if the participant had voluntarily registered in the program, although organisations may inform partners or ex-partners of it, where appropriate.

For those voluntarily attending the program, program completion signals their exit from the pathway, with no further formal monitoring.

### Program list

The following table contains a list of relevant programs in the Northern Territory:

Organisation name	Organisation type	Program name
Department of Correctional Services	State Government: community corrections/justice	NT Department of Correctional Services Family Violence Program (NTDCS FVP)
		NTDCS FVP Community
		Treatment based Violent Offenders Program
		Elders Visiting Program (EVP)
Department of Justice	State Government: corrections/justice	Cross Border Program
Relationships Australia	Large non-government organisation	In Pursuit of Respectful Relationships (IPRR)
Anglicare NT	Large non-government organisation	Resolve (individual counselling for male and female offenders)
Holyoake	Medium non-government organisation	Individual counselling and group programs
CatholicCare NT	Medium non-government organisation	Specialised Family Violence Counselling (including behaviour change programs in Indigenous communities)
Danila Dilba Health Service —Emotional Social and Wellbeing Centre	Aboriginal community-controlled organisation	Individual counselling
DAIWS (Darwin Aboriginal and Islander Women's Shelter)	Small non-government organisation	Indigenous Men's Service Project
Consortium consisting of Tangentyere Council, the Alice Springs Women's Shelter and Jesuit Social Services	Consortium	Men's Behaviour Change Program (under the Alice Springs Integrated Response to Family and Domestic Violence)

# Summary

All jurisdictions have adopted a civil approach to protecting women and their children from family/ domestic violence in the form of domestic violence orders. In many jurisdictions, legislation requires police to clearly record the justification for not issuing a domestic violence order when responding to incidents of family/ domestic violence. Police guidelines in many jurisdictions also emphasise the need to conduct risk assessments and formally or informally refer perpetrators to appropriate services, in some cases without their consent.

All jurisdictions' family/ domestic violence legislation allows police to issue a police intervention order, which provides women experiencing violence a degree of security and allows them sufficient time to apply for a domestic violence order, if they so desire. It is also the case that in many jurisdictions police can apply for a domestic violence order on behalf of the woman experiencing violence.

There are many similarities across jurisdictions in terms of court processes and procedures with regard to the civil pathway. For instance, all state and territory jurisdictions have legislative provisions for the issue of interim domestic violence orders until an application for a domestic violence order has been finalised or the matter is resolved. In all jurisdictions, domestic violence orders may also be issued by consent, where the perpetrator and, in some cases, the woman experiencing violence, consent to the order. However, there are also subtle differences between jurisdictions in terms of domestic violence orders mandating perpetrators to attend a specific perpetrator intervention program. For example, in South Australia a man issued with a domestic violence order can be mandated to attend a specific program and non-attendance is considered a contravention of the order. Conversely, in some jurisdictions such as Victoria, courts can mandate a perpetrator to attend an eligibility interview under a domestic violence order; but need to issue a counselling order in order to mandate eligible perpetrators to attend programs.

Within many jurisdictions there are few pre-sentence perpetrator intervention programs delivered by community correctional services or other government organisations. Indeed, there are limited programs available for perpetrators on remand. Access to specific perpetrator intervention programs in custodial settings is also limited, as many perpetrators are given short sentences and programs in

custody are often only available to those on sentences of more than 12 months. It is also the case that there is a shortage of programs specifically designed for Indigenous and CALD perpetrators in custody or on community-based orders in many jurisdictions.

Perpetrators generally do have the opportunity to avail themselves of help and support from non-governmental organisations, although there is a disparity between jurisdictions in terms of the number of organisations available, with Victoria and New South Wales having more program providers than other jurisdictions. Of course, one could argue that this is understandable given the population of these states compared to other jurisdictions. Support can also be limited for those perpetrators residing in rural and remote areas in Tasmania, South Australia, Northern Territory and Queensland.

Finally, many jurisdictions have developed an integrated and systematic response to family/ domestic violence, with the police, government and non-government agencies working together. However, in many instances, there is a clear distinction between the civil/ criminal and the non-government, community-based pathways. Therefore, there are opportunities for further collaboration and integration between these two pathways, particularly in the space before perpetrators enter the criminal justice system and before they are sentenced.

# Sex offender perpetrator interventions

The following sections set out sexual assault perpetrator pathways and map sex offender programs for each jurisdiction. As noted previously in relation to family/ domestic violence perpetrator interventions, every effort has been made to contact services and jurisdictional representatives to confirm the accuracy of the information presented for each jurisdiction, but these should not be taken to be definitive maps or exhaustive lists of programs. Note too that the literature on sex offender programs is discussed in part one of this paper.

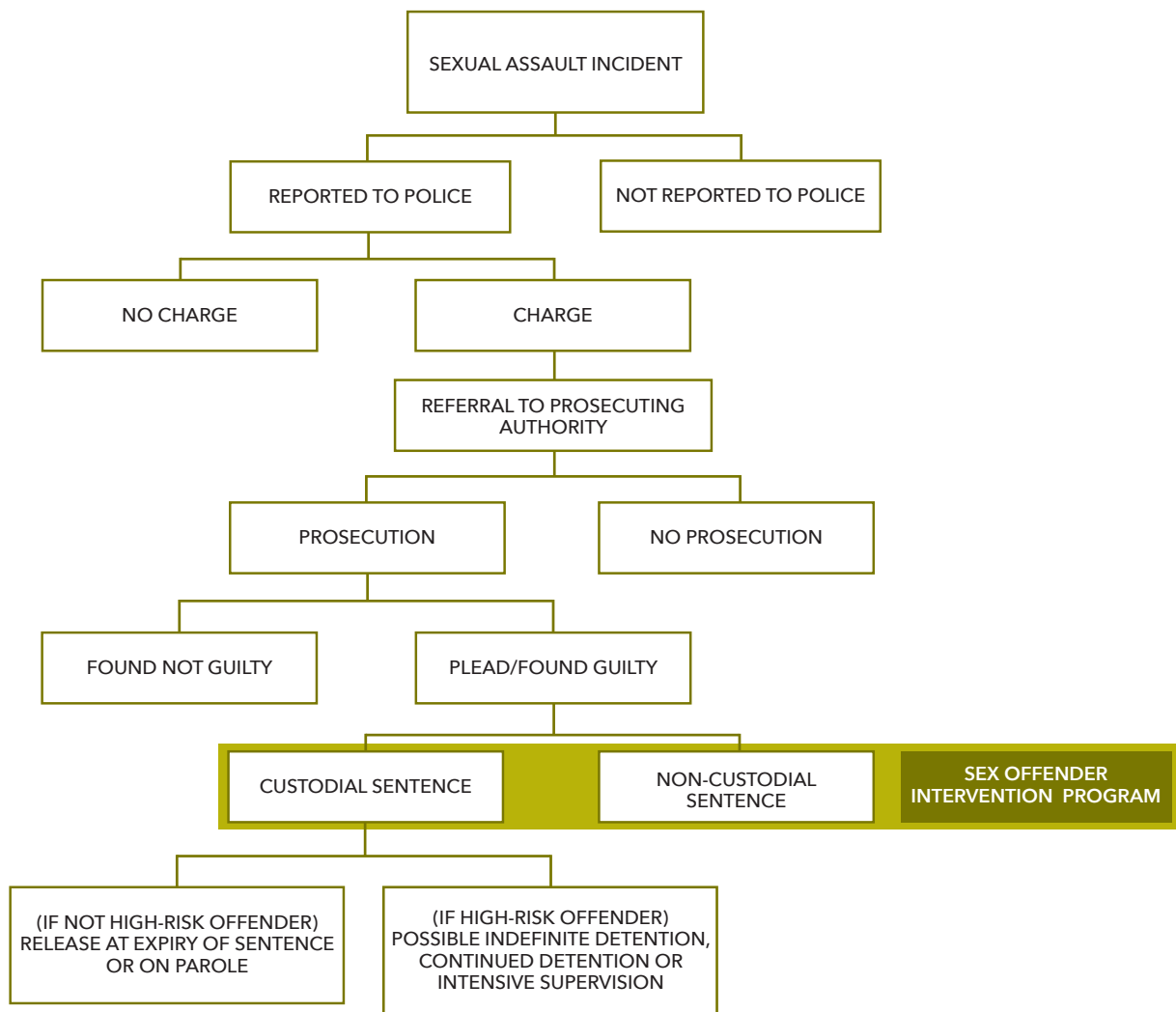
This section first provides a brief overview of perpetrator interventions for each Australian jurisdiction, including a general overview diagram of the legal and program pathways for perpetrators of sexual assault. The section then turns to an examination of each Australian state and territory jurisdiction, containing a specific diagram of the perpetrator pathway for each jurisdiction, and noting points at which perpetrators may access perpetrator programs in that jurisdiction. Referral points for women, and key points of system vulnerability, are also noted in each diagram.



## Overview of the legal landscape

An overview of the pathways experienced by sexual assault perpetrators through the legal and community systems is illustrated in Diagram 10 below. Explanatory text follows this overview diagram.

**Diagram 10: An overview of sexual assault perpetrator pathways through the criminal legal system**



## Criminal legal system interventions

Most interventions with perpetrators of sexual assault in Australia occur under the auspices of the criminal legal system, and involve interventions by police, prosecuting and correctional agencies. The vast majority of sexual offence provisions are located in the legislation of each state and territory in Australia, rather than under federal legislation.<sup>192</sup> The sexual offence provisions in each state and territory vary, particularly with respect to the acts that are proscribed as criminal and the way in which consent is defined. Sexual offences include offences such as indecent assault, acts of indecency and sexual intercourse without consent (or rape).

While the precise details of the way a perpetrator proceeds through the criminal justice system may differ from jurisdiction to jurisdiction, the standard process is as follows. First, the offence must come to the attention of the relevant police force or service. Typically, this occurs when a woman subjected to violence—or another person who knows the woman, such as a friend or doctor—reports the offence to the police. The police may then investigate the matter and, after the investigation (which will include taking a statement from the woman), the police may decide to charge a man with the offence. This is an important referral point for women who have been subjected to violence, and many policing organisations have a policy to offer to assist women to make contact with a counselling or support service.

After a man is charged with a sexual offence, a decision is made about whether or not he will be permitted to remain at liberty until the charges against him are heard and determined by a court. Depending on the nature of the sexual offence, a man may be permitted to remain in the community until his court hearing without being the subject of any bail order.<sup>193</sup> Often, however, a man will be released on bail pursuant to the relevant state or territory bail legislation. The grant of bail may require the man to comply with certain conditions. If a man is not allowed to remain in the community, he will be held at a correctional centre

(or prison) until his case is heard and determined. In this case, he is said to be “on remand”. While on remand, the man is not generally eligible to attend any programs run by the correctional centre as it is unclear how long he will remain in custody and many of the sex offender programs require an acknowledgement of guilt. There may be a lengthy delay between the point in time that a man is charged with a sexual offence and the conclusion of the proceedings against him, depending on the offences the man is charged with and the resources of the criminal justice system in question.

After a man has been charged with a sexual offence, the charges against him will be referred to a prosecuting authority. More serious offences are referred to the Office of the Director of Public Prosecutions (DPP) in the relevant state or territory. If the DPP determines that there is sufficient evidence to support a prosecution and it is in the public interest to proceed with the prosecution, the case will proceed and a perpetrator will appear before court. The DPP may change the charges that a man faces at this stage of the proceedings depending on a legal assessment of the available evidence. This is another important referral point for women, and many DPPs have established services designed to support victims of offences involved in the prosecution process.

A man may enter a plea of guilty at any stage in the court proceedings. Alternatively, he may be found guilty by a judicial officer or a jury at the conclusion of the hearing of the case against him. The “complainant” (the woman who was subjected to the sexual offence) will generally be required to give evidence at any court hearing held to determine the charges against the man. In the case of an indictable sexual offence (that is, an offence that is serious enough to be heard and determined “on indictment”), the complainant may also have to give evidence during “committal proceedings”, which are proceedings that are held in a lower court to determine whether a man should be committed to stand trial in a higher court.

If a man is found guilty of a sexual offence, he will be sentenced by a court. During the period of time between the finding of guilt and the sentencing hearing, the man may be released on bail or held in remand. The sentencing options available to a court are contained in the sentencing legislation of each state and territory. Sentencing options vary among the different jurisdictions. A number of sex offender programs are also available to perpetrators, with most of these hosted in correctional centres. If a man is sentenced to full-time

<sup>192</sup> Federal legislation, also referred to as Commonwealth legislation, includes the *Family Law Act 1975* (Cth) and the *Crimes Act 1914* (Cth). Legislation specifically addressing sexual offences are enacted at a state and territory level, although certain Commonwealth legislation, such as the *Crimes Act 1914* (Cth) and the *Broadcasting Services Amendment (Online Services) Act 1999* (Cth) are sometimes enacted in relation to sexual offences. The latter legislation in particular relates to the distribution of illicit pornography.

<sup>193</sup> Most jurisdictions’ legislation distinguishes various forms of sexual offences. For example, the *Crimes Act 1958* (Vic) provides sentencing guidelines in relation to different sexual offences.

imprisonment for a sexual offence, he will be detained in a correctional centre until the expiration of his sentence or his release on parole. When a man is released on parole, he serves the remainder of his sentence of imprisonment in the community. He is usually supervised during the parole period and may also be required to comply with certain conditions. Often, a “victim” of a sexual offence (a woman subjected to sexual violence that forms the basis of a sexual assault offence) will have the opportunity to provide a submission to the relevant Parole Board regarding the release of a man from prison on parole.

In addition to imprisonment, there are community-based sentencing options available to a court in which a man has pleaded, or been found, guilty of a sexual offence; many of which require the man to comply with certain conditions. A number of jurisdictions also have provisions for the indefinite detention, continued detention, or intensive supervision of sex offenders who are considered to pose a significant risk to the community.

Note that a man may drop out of view of the system at any point when a law enforcement or investigating agency decides that there is not enough evidence to proceed, or when a court finds a man not guilty. A “not guilty” finding does not necessarily mean that the man did not perpetrate sexual violence, but rather, it may be that there was insufficient evidence to meet the high legal standard of proof (“beyond reasonable doubt”).

The following diagrams show the basic pathway of an adult man who has been arrested, charged and convicted of a sexual offence through the criminal justice system in each jurisdiction in Australia. Each diagram shows the sex offender programs available in the state or territory and the point in which these programs may be accessed by a man, and is accompanied by an explanation of the legislative and policy framework for perpetrators in that jurisdiction.

## New South Wales

The schematic diagram (Diagram 11) sets out the pathway of a perpetrator moving through the NSW system. The diagram is followed by explanatory notes and a mapping of relevant programs in this jurisdiction.

### Perpetrator pathway

#### Initial report

Matters come to the attention of the criminal legal system when reported to police. When a woman reports a sexual offence to the NSW Police Force, she will be asked if she wishes to speak to a counsellor. If she does wish to speak to a counsellor, the police will assist her to make contact with either a NSW Health sexual assault counsellor or, if such a counsellor is unavailable in the area, a counsellor at the NSW Rape Crisis Service (a telephone and online crisis counselling service) (Rape and Domestic Violence Services Australia, n.d.).

#### Arrest, bail and sentencing

If a man is charged with a sexual offence, the police will consider whether to grant him bail under the *Bail Act 2013* (NSW). If the police refuse to grant him bail, and a court agrees with this decision and also refuses to grant the man bail, he will be taken to a correctional centre and held on remand.<sup>194</sup> Alternatively, the police or a court may decide that a man can remain at liberty until his matter is determined. In many of these cases, the man will be placed on bail and may be required to comply with conditions (or “conduct requirements”) that, for example, prevent the man from contacting the victim of the offence or going to certain locations.<sup>195</sup> The police are required to notify a victim of a sexual offence about any bail decision that is made in respect of the man accused of committing the offence.<sup>196</sup> If a man breaches any of his bail conditions, his bail may be revoked and he may be detained at a correctional centre.

If a man pleads, or is found, guilty of a sexual offence by a court, he will be sentenced pursuant to the *Crimes (Sentencing Procedure) Act 1999* (NSW). One sentencing option under this Act is imprisonment. A sentence of imprisonment may be “fixed”, so that all of it must be served in a correctional centre or it may contain a non-parole period. Any sentence of 6 months or less must be a fixed term of imprisonment.<sup>197</sup>

If the sentence is greater than 6 months, the court may set a non-parole period.<sup>198</sup>

A man who has been found guilty of a sexual offence will not always be sentenced to imprisonment. He may be sentenced to a non-custodial sentencing option, such as a supervised good behaviour bond, a supervised suspended sentence or an intensive correction order. In the community correctional setting supervised offenders are subject to case management. Case management is the process by which offenders are referred to sex offender programs and to a range of programs and services that target offence-related needs as well as directs the one-to-one work between the supervising Community Corrections Officer and the offender. Additionally, case management strategies also include monitoring requirements for offenders in order to ensure compliance with legal orders. He may also be required to comply with certain conditions, including, for example, that he attend a certain program (which may be a community-based sex offender program).<sup>199</sup>

#### Court support for victims

The NSW Office of the Director of Public Prosecutions (ODPP) has a Witness Assistance Service that may provide support to a woman who has been the victim of a sexual assault. This support could include helping the woman to prepare to give evidence, providing the woman with information about Victim Impact Statements and Victims Registers, or referring the woman to other victim support services. There is also an Aboriginal Witness Assistance Officer in every region of the NSW ODPP who is able to provide support to Indigenous victims of sexual assault (New South Wales. Office of the Director of Public Prosecutions, n.d.).

#### Release and parole

At the end of a fixed term of imprisonment, a man is released into the community with no supervision or conditions. At the end of the non-parole period, a man may be released on parole to serve the remainder of his sentence in the community. When this occurs, the man will be subject to certain standard conditions (to be of good behaviour, not commit any offences, and adapt to normal lawful community life),<sup>200</sup> as well as any additional conditions set by the court at

194 *Bail Act 2013* (NSW), ss. 43-44.

195 *Bail Act 2013* (NSW), s. 25.

196 *Bail Act 2013* (NSW), s. 8; *Bail Regulation 2014* (NSW) reg. 15.

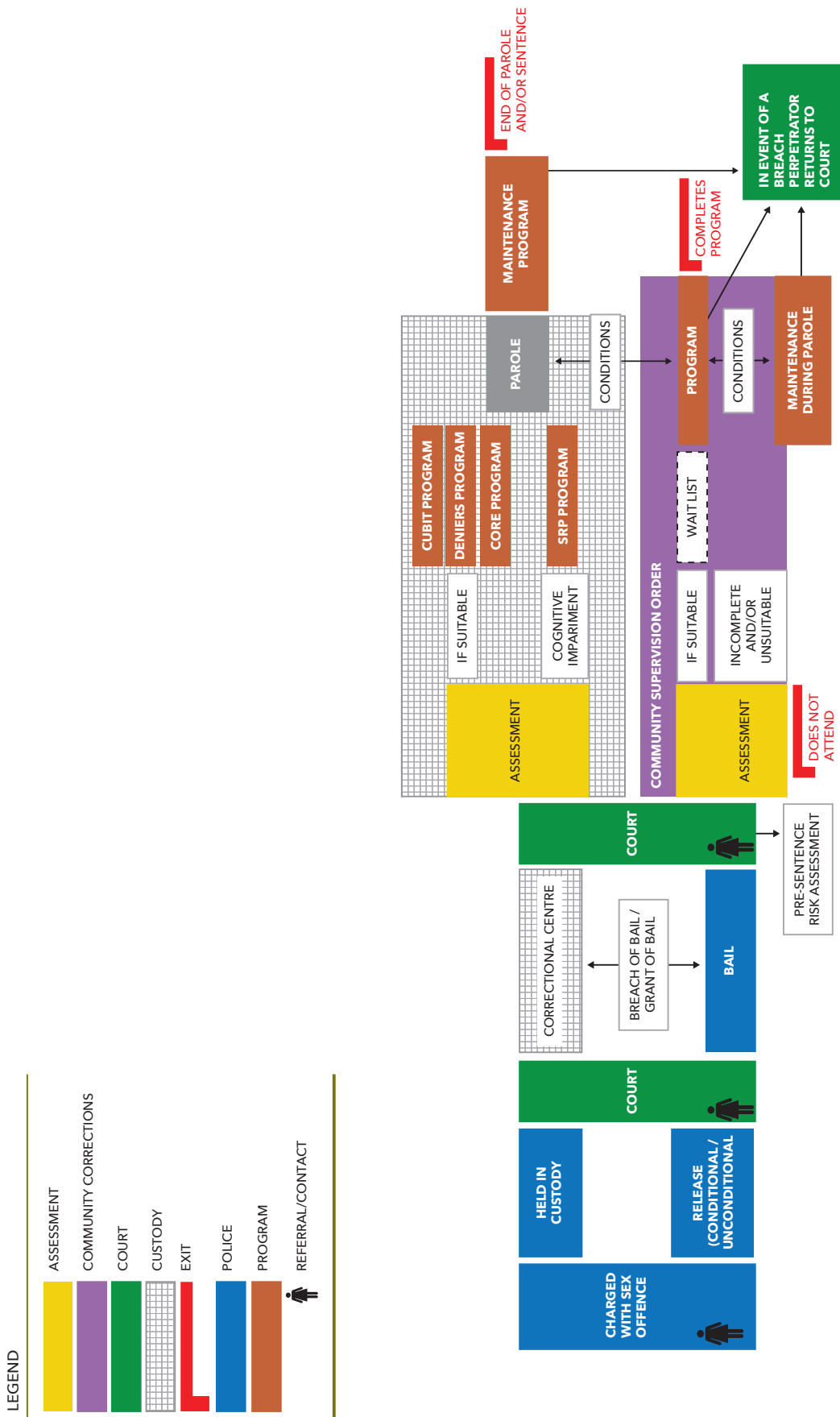
197 *Crimes (Sentencing Procedure) Act 1999* (NSW), s. 46.

198 *Crimes (Sentencing Procedure) Act 1999* (NSW), ss. 44-45.

199 *Crimes (Sentencing Procedure) Act 1999* (NSW), ss. 12, 95-95A; *Crimes (Administration of Sentences) Regulation 2014* (NSW), reg. 186. Note that intensive correction orders are not available for certain sexual offences: *Crimes Sentencing Procedure Act 1999* (NSW), s. 66.

200 *Crimes (Administration of Sentences) Regulation 2014* (NSW), reg. 214.

Diagram 11: New South Wales: Sex offender perpetrator pathway



the time of sentence (if the sentence is less than 3 years) or by the NSW State Parole Authority at the time of release (if the sentence is greater than 3 years).<sup>201</sup>

Often, a condition of the parole order will be that the man be subject to supervision by a community corrections officer.<sup>202</sup> The man may also be required to undertake treatment for substance abuse or psychological issues, or to attend certain programs (such as a community-based sex offender program). In some cases, when the man is classified as a serious offender, the NSW State Parole Authority must inform the man's victims of any intention to grant the man parole.<sup>203</sup> If a man breaches the conditions of his parole, the NSW State Parole Authority may revoke it and the man will be returned to a correctional centre.

#### Extended supervision or continued detention

If the Supreme Court is satisfied to a high degree of probability that an offender poses an unacceptable risk of committing a serious sex offence<sup>204</sup> if he is not kept under supervision, the man may also be subject to extended supervision or continuing detention under the *Crimes (High Risk Offenders) Act 2006* (NSW) at the conclusion of his sentence.

#### Programs

If a man is imprisoned, he may be able to access a sex offender program. All such programs in NSW are group-based and are designed for offenders with both adult and child victims. Offenders must consent to being referred to the program and to undertake the intervention.

Offenders can access the Sex Offender Program—Preparatory Program for Sexual Offenders (PREP), a program designed to enhance motivation among offenders who are to participate in a sexual offender intervention program (New South Wales Corrective Services, 2015, p. 46). Entry into the PREP is organised so that offenders can complete the program before their release date or sentence expires. Entry into the PREP will be postponed for perpetrators deemed to be suffering from mental health issues. The Custody-Based Intensive Treatment (CUBIT) is an open-ended or “rolling” group program for moderate-high risk sex offenders and is delivered in a residential setting over a period of approximately 6-10 months.

201 *Crimes (Administration of Sentences) Act 1999* (NSW), s. 128.

202 *Crimes (Administration of Sentences) Regulation 2014* (NSW), regs. 218-219.

203 *Crimes (Administration of Sentences) Act 1999* (NSW), s. 145.

204 A serious sex offence is defined in section 5 of the *Crimes (High Risk Offenders) Act 2006* (NSW).

Perpetrators deemed low-moderate to moderate-high risk in accordance with the STATIC 99R assessment can access the SOP—CUBIT Outreach (CORE) Moderate program. This is a prison-based, non-residential group program that is delivered over a period of six to eight months (New South Wales. Corrective Services, 2015, p. 51). As it is a non-residential program, offenders continue to engage in other educational or work programs offered by Corrective Services NSW.

Corrective Services NSW also deliver the SOP—Custody-based Deniers Program, to those men convicted of sexually abusing adults or children, but refuse to accept responsibility or any wrongdoing. This program is for those men considered “high risk” and runs for six to eight months, with two sessions per week. There is also the SOP Self-regulation Program for sex offenders with a cognitive impairment. A SOP—Custody-based Maintenance Program is also offered to those men who have previously engaged with a sex offender intervention program (New South Wales. Corrective Services, 2015).

In addition, Corrective Services NSW offers the SOP-Community-based Treatment Group (CBTG) for those men who have not received a custodial sentence, or those released on parole who had been unable to undertake an intervention program in prison. This option is only offered to offenders considered low to moderate risk. An offender considered low risk participates in group programs delivered by Corrective Services NSW's Forensic Psychology Services. The SOP CBTG is a rolling group program that runs for 6-12 months with one session per week. The length of time an offender is on the program depends on their level of need and responsiveness.

There is also the SOP Maintenance program, which is offered to perpetrators on community-based orders or those released on parole. High risk perpetrators who are deemed ineligible for group-based interventions may be offered a limited one-to-one intervention delivered by the SOP psychologists. In some cases, a man serving a sentence in the community will be subject to electronic monitoring and may have his movements restricted.<sup>205</sup> A court may also make a non-association or place restriction order if it deems that the order is necessary to ensure the man does not commit any further offences.<sup>206</sup>

205 *Crimes (Administration of Sentences) Regulation 2014* (NSW), regs. 186, 187.

206 *Crimes (Sentencing Procedure) Act 1986* (NSW), s. 17A.



## Program list

The following table contains a list of relevant programs in New South Wales:

Organisation name	Organisation type	Program name
Corrective Services NSW	State Government: corrections/ justice	PREP (Preparatory Program for Sexual Offenders)
		Custody-Based Intensive Treatment (CUBIT)
		CUBIT Outreach (CORE-Moderate)
		Custody-Based Maintenance Program
		Self-Regulation Program: Sexual Offenders (SOP-SRP)
		Custody Based Denier's program
		SOP—Community Based Maintenance Program
		SOP—Community Based Treatment Group
		SOP—Community-based Risk Management Intervention
Juvenile Justice, Department of Justice	State Government: corrections/ justice	Sex Offender Program
NSW Health	State Government: health/ welfare	New Street Adolescent Service program
Pastoral Counselling Institute, Uniting Church	Large non-government organisation	Men Taking Responsibility

## Victoria

The schematic diagram (Diagram 12) sets out the pathway of a perpetrator moving through the Victorian system. The diagram is followed by explanatory notes and a mapping of relevant programs in this jurisdiction.

### Perpetrator pathway

#### Initial report

In Victoria, if a woman reports a sexual assault, the offence is usually investigated by specialist police from the Sexual Offences and Child Abuse Investigation Team. The *Code of Practice for the Investigation of Sexual Assault* outlines the way in which members of Victoria Police must respond to an allegation of sexual assault, and includes requirements that the women be informed of relevant sexual assault counselling and support services (Victoria Police, 2005).

#### Arrest, bail and sentencing

When a man is arrested for a sexual offence, the police may refuse to grant him bail. If a man is refused bail after hours and it is not practicable to bring him before a court, he must be brought before a bail justice.<sup>207</sup> If the bail justice also refuses to grant the man bail, he must then be taken before a court.<sup>208</sup> If a court refuses to grant the man bail, he will be remanded in custody.

Alternatively, the police or a court may release the man on bail. When a man is released on bail, the bail may be subject to conduct conditions, which may include that the man not contact a certain person, attend a certain place, or that the man comply with a curfew.<sup>209</sup>

A man who pleads or is found guilty of a sexual offence may be sentenced to a term of imprisonment.<sup>210</sup> The term of imprisonment may be fixed or, if greater than one year, may include a non-parole period.<sup>211</sup> A man who is found guilty of rape, or assault with intent to rape, may be given an indefinite sentence if the court is satisfied to a high degree of probability that he poses a serious danger to the community.<sup>212</sup> A man who has been given an indefinite sentence can only be released if a court finds that he no longer poses a serious danger to the community.<sup>213</sup>

207 *Bail Act 1977* (Vic), s. 10(2)(a).

208 *Bail Act 1977* (Vic), s. 12(1)(a).

209 *Bail Act 1977* (Vic), s. 5(2A).

210 *Sentencing Act 1991* (Vic), s. 7.

211 *Sentencing Act 1991* (Vic), s. 11.

212 *Sentencing Act 1991* (Vic), ss. 3, 18A, 18B.

213 *Sentencing Act 1991* (Vic), s. 18M.

If a man is not sentenced to full-time imprisonment, he may be sentenced to another sentencing option under the *Sentencing Act 1991* (Vic). If sentenced to a community correction order under this Act, a man must comply with core conditions, such as not to reoffend and to report to a community correction centre, as well as any number of additional conditions, such as to undertake a rehabilitation program or avoid certain places or contact with certain people.<sup>214</sup>

#### Court support for victims

The Office of Public Prosecutions Victoria has a Witness Assistance Service that can provide a woman who has been a victim of a sexual assault with information about the court process and the progress of a matter through the court. It can also provide the woman with information about a number of other matters, including Victim Impact Statements, victims of crime compensation, the Victims Register and the parole process. It may also refer the woman to other support services where appropriate (Victoria. Office of Public Prosecutions, n.d.).

#### Release and parole

A man who completes a fixed term of imprisonment is released without supervision. A man who has committed a sexual offence, and has received a sentence of imprisonment that includes a non-parole period, may be released by the Sexual Offender Parole division of the Adult Parole Board at the expiration of the non-parole period.<sup>215</sup> A man on parole will be required to comply with certain mandatory conditions, including a condition requiring him not to commit another offence and a condition requiring him to accept the supervision of a parole officer.<sup>216</sup> He may also be required to comply with additional conditions, such as a condition to undergo psychological or psychiatric treatment or to remain in a specific area.<sup>217</sup> To these additional conditions, it is possible to attach a requirement that the man be monitored electronically in order to ensure compliance with the condition.<sup>218</sup>

#### Extended supervision or continued detention

In addition to the indefinite sentence noted above, under the *Serious Sex Offenders (Detention and Supervision) Act 2009* (Vic), the Supreme Court may make a supervision order of up to 15 years in length in respect of an offender who has served a custodial sentence for one of several sexual

214 *Sentencing Act 1991* (Vic), s. 45.

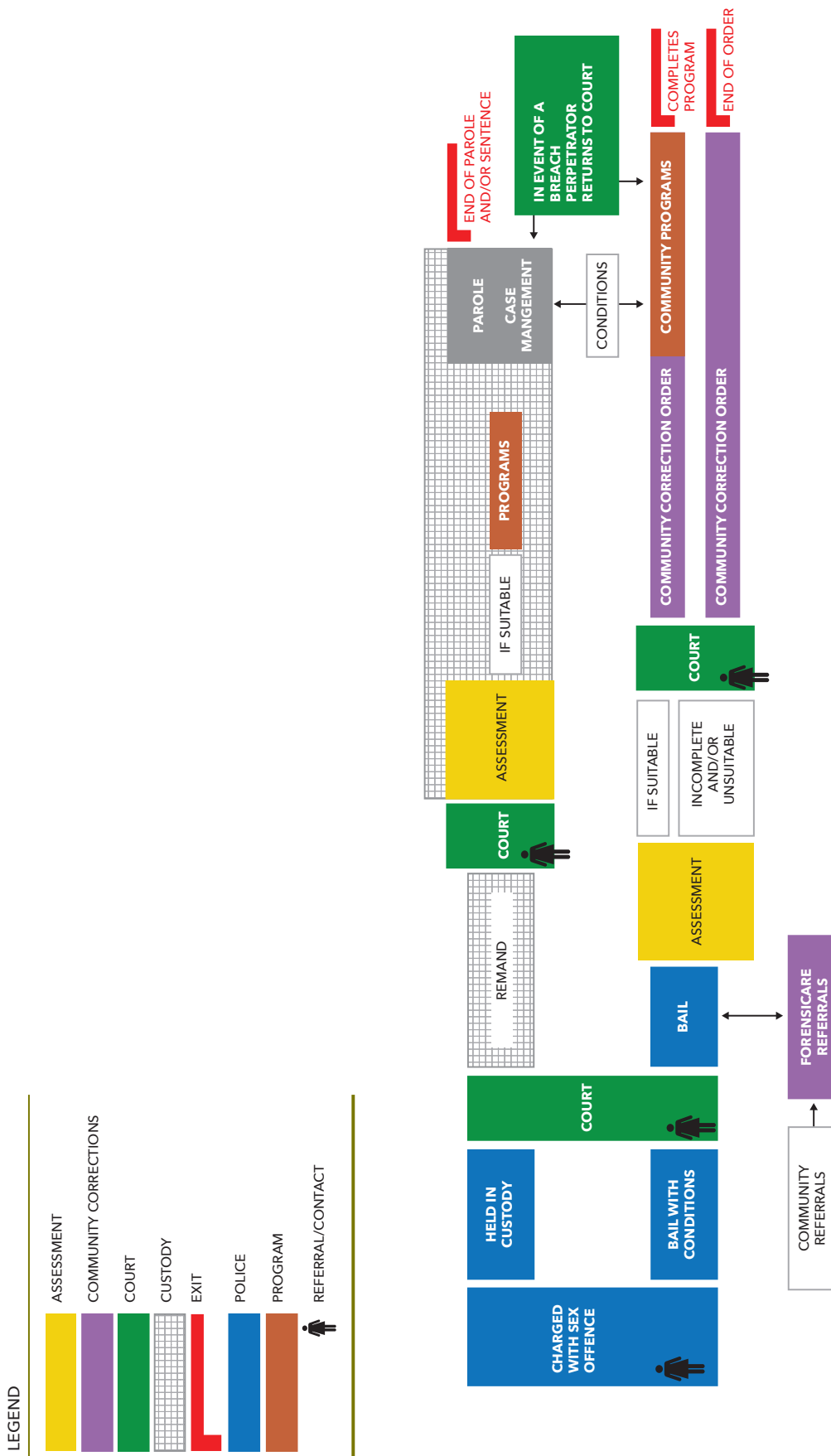
215 *Corrections Act 1986* (Vic), s. 74AAB.

216 *Corrections Act 1986* (Vic), s. 74; *Corrections Regulations 2009* (Vic), reg. 83A.

217 *Corrections Act 1986* (Vic), s. 74; *Corrections Regulations 2009* (Vic), reg. 83B.

218 *Corrections Act 1986* (Vic), s. 74(5).

Diagram 12: Victoria: Sex offender perpetrator pathway



offences if satisfied that the man poses an unacceptable risk of committing a relevant offence in the community. The supervision order will contain core conditions, such as a condition not to commit another offence and attend any place for the purpose of making assessments required by the court. It may also contain other conditions, such as conditions that restrict the man's access to certain places or require the man to participate in rehabilitation programs.<sup>219</sup> Further, the Supreme Court may order that a man to whom the Act applies remain in detention for a period of up to three years if satisfied that he poses an unacceptable risk of committing a relevant offence in the community.<sup>220</sup>

## Programs

While in prison, a man may access a High Intensity Modular Management Intervention Program (150 hours in length) or a Moderate-High Intensity Modular Management Intervention Program (120 hours in length). These group-based programs utilise cognitive behaviour therapy (CBT) and are rolling

programs, so that they can be commenced at any time. Other programs that are available for sex offenders include the Moderate-Low Sex Offender Treatment Program (a 72-hour closed program that targets specific skills to reduce reoffending) and the Crossroads program (a 42.5-hour program aimed at addressing dysfunctional behaviours) (Victoria. Adult Parole Board, 2015).

Outside of prison, the Problem Behaviour Program, run by Forensicare, is available to men who have committed sexual offences and may be undertaken as a condition of a court order (or parole). It is also available to men who are referred from other community-based organisations or who self-refer (Victoria. Forensicare, n.d.).

## Program list

The following table contains a list of relevant programs in Victoria:

Organisation name	Organisation type	Program name
Sex Offender Programs, Corrections Victoria	State Government: corrections/ justice	Modular Management Intervention Program (custodial: residential)
		Modular Management Intervention Program (community-based correctional)
		Skills Based Intervention program (custodial: residential)
		Skills Based Intervention Program (community-based correctional)
		Maintaining Change
Forensicare	Incorporated Public Statutory Authority (Victoria. Forensicare, 2015, p. 5)	Problem Behaviour Program

219 *Serious Sex Offenders (Detention and Supervision) Act 2009* (Vic), ss. 10, 15-17.

220 *Serious Sex Offenders (Detention and Supervision) Act 2009* (Vic), ss. 35, 40.

## South Australia

The schematic diagram (Diagram 13) sets out the pathway of a perpetrator moving through the South Australian system. The diagram is followed by explanatory notes and a mapping of relevant programs in this jurisdiction.

### Perpetrator pathway

#### Initial report

In South Australia, if a woman reports a sexual assault, the offence is usually investigated by specialist police from South Australia Police's Sexual Crime Investigation Branch. Officers will inform women who have experienced sexual assault of relevant sexual assault counselling and support services.

#### Arrest, bail and sentencing

If a man charged with a sexual offence has been taken into custody, he may be refused bail by a police officer.<sup>221</sup> If refused bail, he must be taken before a court as soon as reasonably practicable and not later than 4pm on the next working day after the arrest.<sup>222</sup> If the court also refuses to grant the man bail, he is remanded in custody.

Alternatively, the police or the court may grant the man bail for the offence. This bail may be subject to conditions, such as a condition to submit to the supervision of a community corrections officer, to remain at home and not leave except for certain reasons, or to avoid contacting a victim of the offence.<sup>223</sup> If the man agrees, the court may also order that he undertake an intervention program designed to address behavioural problems, substance abuse or mental impairment.<sup>224</sup> If the victim of the offence feels the need for further protection from the man, consideration must be given as to whether to grant an intervention order under the *Intervention Orders (Prevention of Abuse) Act 2009* (SA).<sup>225</sup> An intervention order under this Act can do a number of things, including prohibiting the man from attending certain places, or approaching or contacting the victim.

If a man pleads or is found guilty, the court may sentence him to imprisonment. A sentence of imprisonment may be fixed or, if it is greater than 12 months, it may include a non-parole period.<sup>226</sup>

A man who is not sentenced to imprisonment may be sentenced to another sentencing option under the *Criminal Law (Sentencing) Act 1988* (SA), such as a suspended sentence (on the condition that the man enters into a bond) or a discharge without sentence on the man entering into a bond.<sup>227</sup> A bond may contain conditions including that the man be supervised by a community corrections officer or undertake an intervention program.<sup>228</sup> However, currently there are no programs available for men entering into a bond. The court may also make a non-association or place restriction order if the sexual offence is an indictable offence,<sup>229</sup> and must also consider whether or not to make a restraining order or an intervention order.<sup>230</sup>

#### Court support for victims

The South Australian Office of the Director of Public Prosecutions has a Witness Assistance Service that provides a range of services to victims of crime. The services that may be provided to a woman who has been the victim of a sexual assault may include: providing the woman with information about the court process; acting as a liaison between the woman and prosecution lawyers; attending meetings between prosecution lawyers and the woman; providing crisis support to the woman during the prosecution process; and helping the woman prepare a victim impact statement (South Australia. The Office of the Director of Public Prosecutions, 2011).

#### Release and parole

A sex offender is not eligible for automatic parole at the expiration of his non-parole period (as are some other offenders)<sup>231</sup> and instead must apply to the Parole Board for release on parole. Sex offenders are not eligible for release on home detention. A man released on parole is required to comply with certain conditions, such as a condition not to commit any offence, not to possess a firearm, and to submit to the supervision of a community corrections officer.<sup>232</sup> The Parole Board may also impose additional conditions, including that the man be monitored by an electronic device.<sup>233</sup> If a

221 *Bail Act 1985* (SA), ss. 5, 13.

222 *Bail Act 1985* (SA), s. 13.

223 *Bail Act 1985* (SA), s. 11.

224 *Bail Act 1985* (SA), ss. 3, 21B.

225 *Bail Act 1985* (SA), s. 23A.

226 *Criminal Law (Sentencing) Act 1988* (SA), s. 32.

227 *Criminal Law (Sentencing) Act 1988* (SA), ss. 38, 39.

228 *Criminal Law (Sentencing) Act 1988* (SA), s. 42.

229 *Criminal Law (Sentencing) Act 1988* (SA), s. 19AA, *Summary Procedure Act 1921* (SA), pt. 4 div. 5.

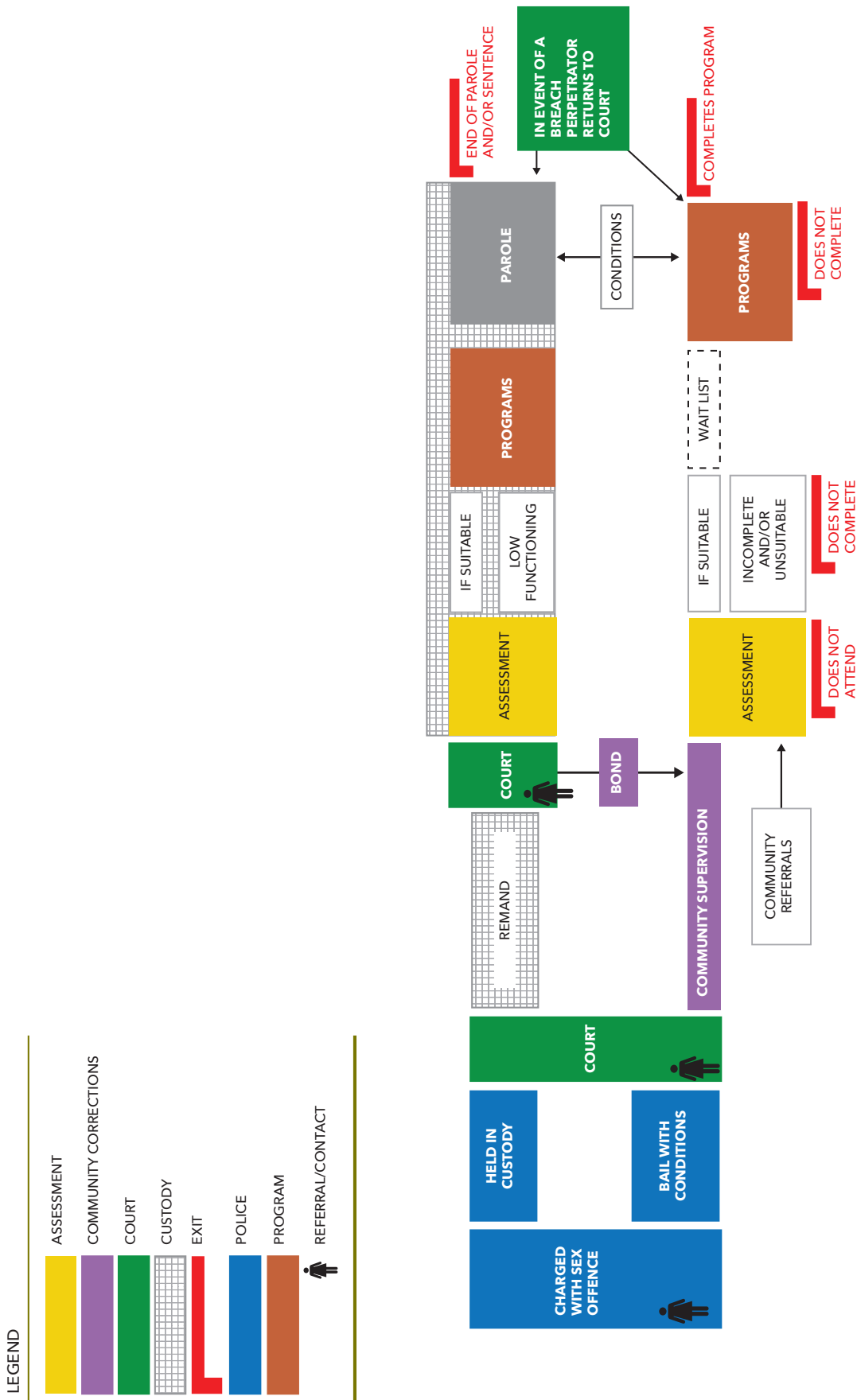
230 *Criminal Law (Sentencing) Act 1988* (SA), s. 19A.

231 *Correctional Services Act 1982* (SA), s. 66.

232 *Correctional Services Act 1982* (SA), s. 68.

233 *Correctional Services Act 1982* (SA), s. 68(1a)(b).

Diagram 13 - South Australia: Sex offender perpetrator pathway





man released on parole has been serving a life sentence, the Parole Board may order that he attend certain programs.<sup>234</sup>

### Extended supervision or continued detention

If the Supreme Court determines that a man who has committed certain sexual offences is incapable of controlling or unwilling to control his sexual instincts, it may order that the man be detained in custody until further order.<sup>235</sup> If this order is made in addition to an order of imprisonment, it commences on the expiration of the man's period of imprisonment.<sup>236</sup> If a man who has murdered a woman also committed a serious sexual offence against the woman, the court may declare him to be a "dangerous offender" and order that the non-parole period of his sentence of imprisonment be negated.<sup>237</sup>

### Programs

While in prison, a man may undertake the Sexual Behaviour Clinic (SBC) or the Violence Prevention Program (VPP). The SBC program adopts a cognitive behavioural therapy approach and is designed for male sex offenders. It involves approximately 200 hours of group sessions with another 10 to 15 hours of individual treatment, and takes between six

to nine months to complete (South Australia. Department for Correctional Services, n.d.; Hill, 2015; South Australia. Department for Correctional Services, 2014). The SBC-me program is a similar group-based program designed for men with lower cognitive function. It is a 300-hour program that is delivered twice a week for approximately 14 months (South Australia. Department for Correctional Services, n.d.). The SBC and the VPP are only available within a custodial setting.

### Program list

The following table contains a list of relevant programs in South Australia:

Organisation name	Organisation type	Program name
Department for Correctional Services, South Australia	State Government: corrections/justice	Sexual Behaviour Clinic SBC-me (Sexual Behaviour Clinic for men with a cognitive disability)
SA Health's Health and Forensic Mental Health	State Government: health/welfare	Owenia House
SA Health's Child Adolescent Mental Health Service	State Government: health/welfare	Mary Street (Adolescent Sexual Abuse Prevention Program)

<sup>234</sup> *Correctional Services Act 1982 (SA)*, s. 68(1)(b)(i)(B).

<sup>235</sup> *Criminal Law (Sentencing) Act 1988 (SA)*, s. 23.

<sup>236</sup> *Criminal Law (Sentencing) Act 1988 (SA)*, s. 23(7).

<sup>237</sup> *Criminal Law (Sentencing) Act 1988 (SA)*, s. 33A.

## Queensland

The schematic diagram (Diagram 14) sets out the pathway of a perpetrator moving through the Queensland system. The diagram is followed by explanatory notes and a mapping of relevant programs in this jurisdiction.

### Perpetrator pathway

#### Initial report

When a woman reports a sexual offence to the Queensland Police Service, a police officer will assist the woman to make contact with a support service (if she wishes to do so) (Queensland Police, n.d.).

#### Arrest, bail and sentencing

If a man is charged with a sexual offence, the police may refuse to grant him bail if it is not possible to take him to court within 24 hours; there is an unacceptable risk he will commit further offences, will not attend court in the future or interfere with witnesses; or he must remain in custody for his own protection.<sup>238</sup> If the court also refuses to grant the man bail, he is remanded in custody. Alternatively, the police may grant the man bail (and must grant the man bail if it is not possible to bring him to court within 24 hours).<sup>239</sup> Bail may be subject to special conditions made by the police officer.<sup>240</sup> A court may also grant the man bail<sup>241</sup> and this may also be subject to additional conditions, or special conditions, including a condition that the man attend a rehabilitation, treatment or other intervention program or course.<sup>242</sup>

If a man pleads or is found guilty of a sexual offence, he may be sentenced to a period of imprisonment and a date must be fixed when he is eligible for parole (regardless of the length of the sentence).<sup>243</sup> If a man is released from custody on a supervision order, he must comply with certain conditions, which may include, for example, that the man wear a device for monitoring his location, comply with a curfew or attend a particular rehabilitation program.<sup>244</sup>

A man who is not sentenced to full-time imprisonment for a sexual offence may receive another sentence under the *Penalties and Sentences Act 1992* (Qld). If he receives a probation order or an intensive correction order, he will be

supervised by corrective service officers.<sup>245</sup> He will also be required to comply with core conditions, such as to attend any programs as directed by either the court or a corrective services officer,<sup>246</sup> and may also be required to comply with additional conditions, such as to submit to medical, psychiatric or psychological treatment.<sup>247</sup>

In addition to sentencing orders, a sentencing court may also make a non-contact order if it convicts a man for an indictable sexual offence.<sup>248</sup> This order may prohibit the man from contacting the victim of an offence or going near a stated place (or both).<sup>249</sup> If the man has been sentenced to imprisonment, this order will commence on the day the term of imprisonment ends.<sup>250</sup> A Domestic Violence Order can be made or varied also, in addition to sentencing orders in the event the sexual offence/s involved family/domestic violence.

#### Court support for victims

The Queensland Office of the Director of Public Prosecutions has a Victim Liaison Service that provides information to victims of crime about the court process and also refers victims of crime to other agencies, such as Victims Assist Queensland, for further support (Queensland. Department of Justice and Attorney-General, 2014).

#### Release and parole

There are three parole boards in Queensland. The Queensland Parole Board decides applications for release by serious offenders (offenders who are serving sentences of imprisonment that are over 8 years in length), while two regional parole boards decide applications for release by offenders serving sentences of imprisonment that are less than 8 years in length.<sup>251</sup> If a man who has been found guilty of a sexual offence is released on parole, he will be required to comply with certain conditions, such as to remain under the chief executive's supervision, and may also be required to comply with any additional conditions that are deemed necessary to ensure his good conduct or to prevent him from committing an offence.<sup>252</sup> These conditions may require him to undertake a particular program or abide by a curfew.<sup>253</sup>

238 *Bail Act 1980* (Qld), ss. 7, 16.

239 *Bail Act 1980* (Qld), s. 7.

240 *Bail Act 1980* (Qld), s. 11.

241 *Bail Act 1980* (Qld), ss. 8-9.

242 *Bail Act 1980* (Qld), s. 11.

243 *Penalties and Sentences Act 1992* (Qld), s. 160D.

244 *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld), ss. 16A-16B.

245 *Penalties and Sentences Act 1992* (Qld), ss. 92-93, 114.

246 *Penalties and Sentences Act 1992* (Qld), ss. 93, 114.

247 *Penalties and Sentences Act 1992* (Qld), ss. 94, 115.

248 *Penalties and Sentences Act 1992* (Qld), s. 43B.

249 *Penalties and Sentences Act 1992* (Qld), s. 43C.

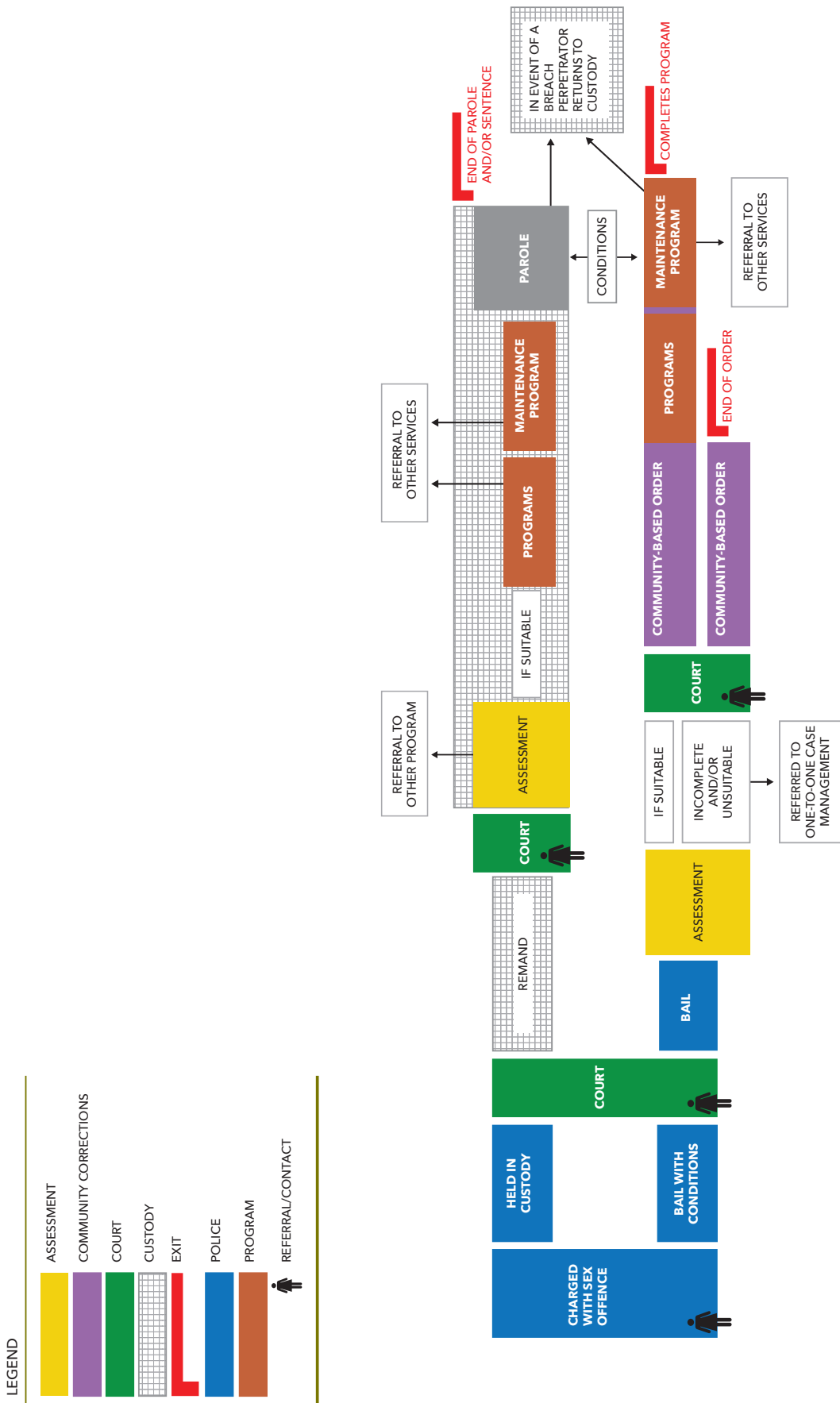
250 *Penalties and Sentences Act 1992* (Qld), s. 43C.

251 *Corrective Services Act 2006* (Qld), s. 187.

252 *Corrective Services Act 2006* (Qld), s. 200.

253 *Corrective Services Act 2006* (Qld), s. 200.

Diagram 14: Queensland: Sex offender perpetrator pathway



### Extended supervision or continued detention

A man who has been found guilty of certain sexual assault offences may be sentenced to an indefinite period of imprisonment if the court is satisfied that he is a serious danger to the community.<sup>254</sup> In addition, the Supreme Court (on the application of the Attorney-General) may order that that a man in prison remain in custody for an indefinite term or that he be released only under a supervision order if it is satisfied to a high degree of probability that he represents a serious danger to the community.<sup>255</sup>

### Programs

While in prison, a man may attend a program designed to address his sexual offending. Queensland has a wide range of prison-based and community-based sex offender programs. It has a preparatory program, Getting Started, which is mandatory for all moderate to high risk sex offenders. Further, it has a high intensity program and a moderate intensity

program for sex offenders, generally, as well as a high intensity and moderate intensity program for Indigenous sex offenders, specifically. It also has an inclusion sex offender program designed for sex offenders with lower intellectual functioning and a maintenance program that may be completed while in custody (Queensland. Corrective Services, n.d.).

Getting Started, the moderate intensity sex offender program, and the maintenance program offered in certain Queensland prisons, are also available to offenders sentenced to probation and intensive correction orders.

### Program list

The following table contains a list of relevant programs in Queensland:

Organisation name	Organisation type	Program name
Queensland Corrective Services, Department of Justice and Attorney-General	State Government: corrections/ justice	Getting Started: Preparatory Program for Sexual Offending
		New Directions (The Medium Intensity Sexual Offending Program; MISOP)
		Inclusion: Cognitive impairment/low IQ
		New Horizons: High Intensity Sexual Offender Program for Indigenous Offenders
		Back on Track: Moderate Intensity Program for Indigenous Offenders
		Crossroads (The High Intensity Sexual Offending Program) (custodial: non-residential)
		Crossroads (The High Intensity Sexual Offending Program) (community)
		Staying On Track: Sexual Offender Maintenance Program

<sup>254</sup> *Penalties and Sentences Act 1992* (Qld) s. 163, sch. 2.

<sup>255</sup> *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld), ss. 5, 13.

## Western Australia

The schematic diagram (Diagram 15) sets out the pathway of a perpetrator moving through the Western Australian system. The diagram is followed by explanatory notes and a mapping of relevant programs in this jurisdiction.

### Perpetrator pathway

#### Initial report

When a woman reports a sexual assault to the Western Australia Police, she is offered access to the Department of Health's counselling services (Western Australia Police, n.d.) Sexual offences are usually investigated by the Sex Assault Squad (Western Australia Police, n.d.).

#### Arrest, bail and sentencing

If, after an investigation, a man is charged with a sexual offence, the police are required to take him before a court or consider his case for bail.<sup>256</sup> If the police refuse to grant the man bail, he must be brought before a court as soon as is practicable.<sup>257</sup> If the court also refuses to grant the man bail, he is remanded in custody.

The police or the court may also release a man without bail,<sup>258</sup> or on bail that is granted with or without conditions.<sup>259</sup> A condition of bail may include conditions regulating the man's conduct, such as a condition not to endanger the safety, welfare or property of any person. In addition, a judicial officer may impose a condition that the man attend counselling or a program to assist with a behavioural problem or that he remain at home on home detention.<sup>260</sup>

If a man pleads or is found guilty of a sexual offence, he may be sentenced to a term of imprisonment.<sup>261</sup> This term must not be less than 6 months.<sup>262</sup> If the term of imprisonment is greater than 12 months, the court may set a non-parole period.<sup>263</sup> If the term is less than 4 years, the man is eligible to be released after he has served one half of the sentence. If it is more than 4 years, he is eligible to be released when he has served 2 years less than the full term.<sup>264</sup> A superior court may also order that a man who has been found guilty of an indictable offence be imprisoned indefinitely if satisfied on the balance of probabilities that he poses a danger to society.<sup>265</sup>

If a court considers that the man's offence warrants a term of imprisonment but it may not make a term of imprisonment if the man addresses his criminal behaviour, it may make a pre-sentence order.<sup>266</sup> This order may be for a period of up to 2 years, and requires the man to comply with a number of standard conditions, such as that the condition that he report to a community corrections centre, as well as additional requirements imposed by the court.<sup>267</sup> These may include a supervision requirement, a program requirement or a curfew requirement.<sup>268</sup> At the expiration of the pre-sentence order, the man will be sentenced for the offence.<sup>269</sup>

If a man is not sentenced to a period of full-time imprisonment, he may receive another sentencing option under the *Sentencing Act 1995* (WA). If he receives a community-based order, an intensive supervision order or a conditional suspended sentence of imprisonment, he will be placed under the supervision of a community corrections centre and will be required to comply with conditions.<sup>270</sup> In the case of a community-based order or a conditional suspended sentence, the conditions may include a supervision requirement, a program requirement or a community service requirement.<sup>271</sup> In the case of an intensive supervision order, the conditions *must* include a supervision requirement,<sup>272</sup> and may also contain a program requirement, a community service requirement or a curfew requirement.<sup>273</sup> A restraining order may also be made against the man at the time of sentence.<sup>274</sup>

#### Court support for victims

In WA, the Victim Support Service provides support to victims of crime, including victims of sexual assault. The service, which is part of the Attorney General's Victim Support and Child Witness Service, is staffed by counsellors and trained volunteers. It provides victims of crime with a range of support services and can, for example, provide a woman who has been a victim of a sexual assault with counselling, as well as information about the court process or the status of a convicted offender. It can also assist the woman to prepare a victim impact statement or refer her to other support services where appropriate (Western Australia. Department of the Attorney General, n.d.).

256 *Bail Act 1982* (WA), s. 6.

257 *Bail Act 1982* (WA), s. 5.

258 *Bail Act 1982* (WA), ss. 6A, 7A; *Criminal Investigation Act 2006* (WA), s. 142.

259 *Bail Act 1982* (WA), s. 17.

260 *Bail Act 1982* (WA), s. 13, sch. 1 pt. 2 cls. 2, 2b, 3.

261 *Sentencing Act 1995* (WA), s. 39.

262 *Sentencing Act 1995* (WA), s. 86.

263 *Sentencing Act 1995* (WA), s. 89.

264 *Sentencing Act 1995* (WA), s. 93.

265 *Sentencing Act 1995* (WA), s. 98.

266 *Sentencing Act 1995* (WA), s. 33A.

267 *Sentencing Act 1995* (WA), ss. 33B, 33D.

268 *Sentencing Act 1995* (WA), s. 33E.

269 *Sentencing Act 1995* (WA), s. 33J.

270 *Sentencing Act 1995* (WA), ss. 63, 70, 83.

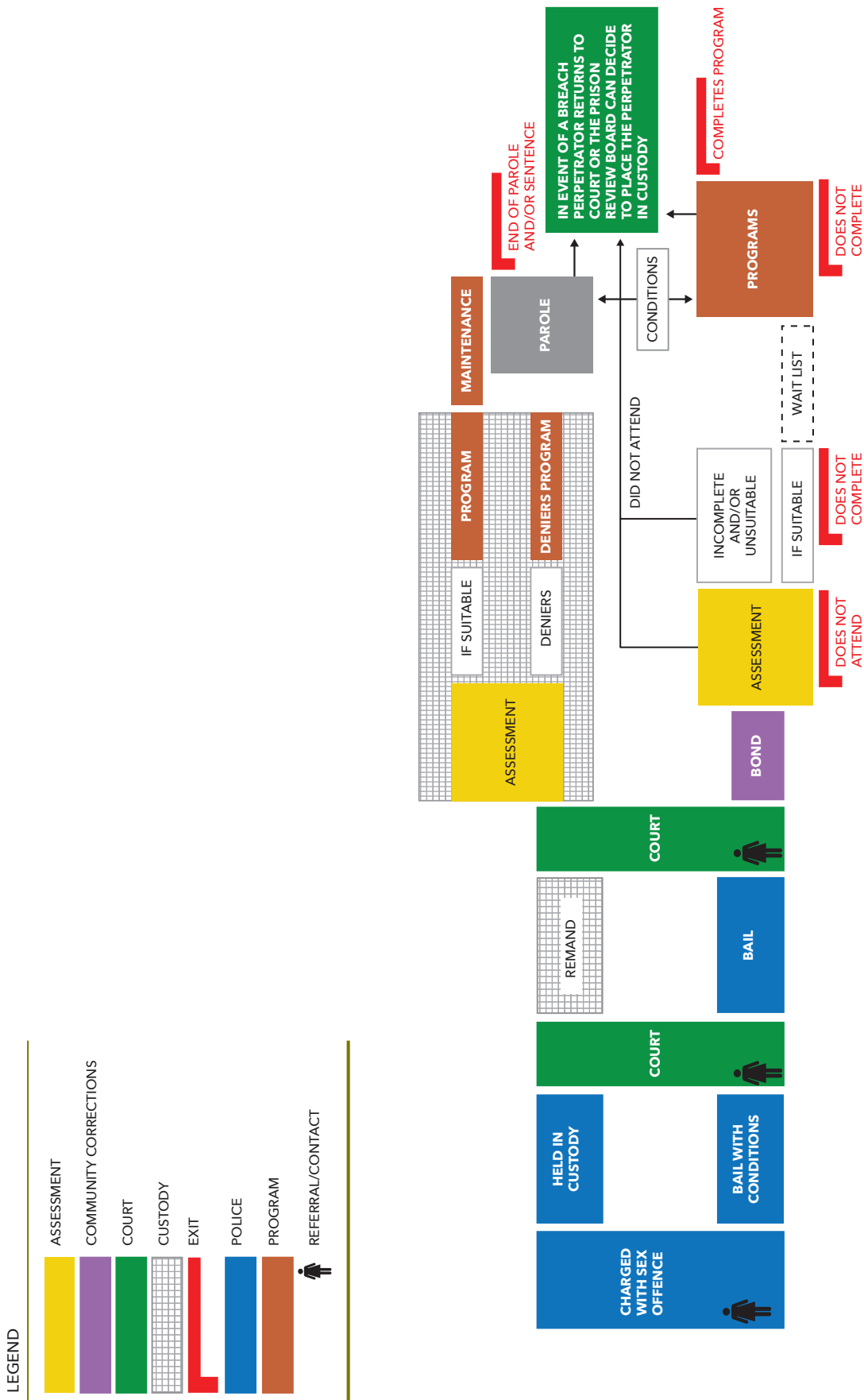
271 *Sentencing Act 1995* (WA), ss. 64, 84.

272 *Sentencing Act 1995* (WA), ss. 69, 71.

273 *Sentencing Act 1995* (WA), s. 72.

274 *Sentencing Act 1995* (WA), ss. 123-124.

Diagram 15: Western Australia: Sex offender perpetrator pathway





## Release and parole

Following conviction, an offender may be sentenced to a period in a correctional centre; or be placed on a community supervision order, with or without a programs requirement. At the conclusion of any non-parole period, the Prisoners Review Board may release a man in prison on parole.<sup>275</sup> A parole order is subject to standard conditions, such as to report to a community corrections centre, and may include additional conditions, such as to wear an electronic monitoring device or attend a rehabilitation program.<sup>276</sup> A man may also apply to the Prisoners Review Board for a re-entry release order if he has been in custody for 12 months and has less than six months left to serve of the sentence or non-parole period.<sup>277</sup> A re-entry release order may contain a requirement that the man undertake counselling, attend a personal development program or wear a monitoring device.<sup>278</sup> In WA, there is a community-based maintenance program available for men who have completed a prison-based program which is aimed at men who still demonstrate some risk of reoffending and have little community support (Western Australia. Department of Corrective Services, 2009).

## Extended supervision or continued detention

In addition to the indefinite sentence noted above, a man in prison may not always be released at the end of his sentence. If a man receives a sentence of more than 2 years for a sexual offence, his case will be referred to a review committee to determine whether he is considered to be a serious offender. The Attorney General or the Director of Public Prosecutions may apply to the Supreme Court for a continuing detention order or a supervision order for men identified as meeting the criteria of a serious offender. The Court may make the requested order if it is satisfied, to a high degree of probability, that the man poses a serious danger to the community.<sup>279</sup> If a supervision order is made, it will require the man to be under the supervision of a community corrections officer and be subject to electronic monitoring, and may also contain conditions relating to the rehabilitation of the man.<sup>280</sup> Men convicted of child sexual assaults may also be required to report to the WA Police Sex Offender Management Team. This may include a monitoring period of 8 years, 15 years, or life (indefinite period).

## Programs

If a perpetrator receives a sentence in a correctional centre of less than 12 months, there is no program requirement. If a perpetrator is sentenced to a period of more than 12 months in a correctional service, an assessment is required for suitability to attend sex offender programs delivered by the Department of Corrective Services. This may include waitlisting for one of the following programs: Intensive Sex Offender Program, Medium Sex Offender Program, Good Roads (Indigenous Sex Offender Program), Sex Offending Intellectual Disabilities Program, or a Denier's Program (Heseltine, Sarre, & Day, 2011; Western Australia. Department of Corrective Services, 2014; Western Australia. Department of Corrective Services, 2009). In WA, there is a community based maintenance program available for men who have completed a prison based program. The maintenance program is suitable for men who demonstrate a medium or high risk of offending and have little community support (Western Australia, Department of Corrective Services, 2009).

There is a community-based sex offender program available to offenders subject to a supervision order in the metropolitan area (Western Australia. Department of Corrective Services, 2009). Perpetrators who have a program requirement as a condition of their community supervision orders will be assessed for suitability and waitlisted to a program. If a perpetrator is enrolled in a community-based sex offender program and does not attend, the Prisoner Review Board can decide to place the perpetrator in custody.

If a perpetrator is released to parole but has not completed their prison based program, the Prisoner Review Board may impose a program requirement as a condition of release. The perpetrator will then be assessed and waitlisted for a community-based sex offender program if appropriate.

## Program list

The following table contains a list of relevant programs in Western Australia:

Organisation name	Organisation type	Program name
Corrective Services WA	State Government: justice/corrections	Medium Sex Offender Program
		Good Roads Indigenous Sex Offender Program
		Intensive Sex Offender Program
		Offender Deniers Program
		Sex Offending Intellectual Disabilities Program
		Maintenance Program

<sup>275</sup> *Sentence Administration Act 2003* (WA), s. 20.

<sup>276</sup> *Sentence Administration Act 2003* (WA), ss. 28–30.

<sup>277</sup> *Sentence Administration Act 2003* (WA), s. 50.

<sup>278</sup> *Sentence Administration Act 2003* (WA), ss. 56, 57.

<sup>279</sup> *Dangerous Sexual Offenders Act 2006* (WA).

<sup>280</sup> *Dangerous Sexual Offenders Act 2006* (WA), s. 18.

## Tasmania

The schematic diagram (Diagram 16) sets out the pathway of a perpetrator moving through the Tasmanian system. The diagram is followed by explanatory notes and a mapping of relevant programs in this jurisdiction.

### Perpetrator pathway

#### Initial report

When a woman reports a sexual assault to Tasmania Police, she may be referred to the Sexual Assault Support Service (South) or Laurel House (North and North-West) which are community-based support services that provide information and support services to women in Tasmania who have been recently sexually assaulted and counselling to women who have experienced sexual assault at any time in their lives (Tasmania Police, n.d.).

#### Arrest, bail and sentencing

A man who has been charged with a minor sexual offence in Tasmania may be issued a summons which requires him to attend court on a particular date. Alternatively, if the charge is more serious, he may be granted or refused bail. The police may grant or refuse a man bail under s. 34 of the *Justices Act 1959* (Tas) or s. 4(3) of the *Criminal Law (Detention and Interrogation) Act 1995* (Tas). If the police refuse to grant a man bail, he must be taken before a magistrate or justice as soon as practicable<sup>281</sup> and, if the magistrate or justice also refuses to grant the man bail under the *Bail Act 1995* (Tas), the man will be remanded in custody. A man on remand in a Tasmanian prison is automatically classified as a maximum security prisoner (Tasmania. Prison Service, n.d.).

If the police or a court grants a man bail, the bail may be made subject to conditions, which can include conditions that control a man's movements or the people with whom he may be in contact.<sup>282</sup> If a man has been charged with a family violence offence, which includes a sexual offence committed against a spouse or partner, he may not be granted bail unless the court or police officer is satisfied that a grant of bail would not be likely to adversely affect the safety, wellbeing and interests of the victim of the offence or a child affected by family violence.<sup>283</sup>

If a man pleads or is found guilty of a sexual offence, he will be sentenced pursuant to the *Sentencing Act 1997* (Tas). Under the Act, the court can combine certain sentencing orders so that,

for example, a man who is sentenced to imprisonment may also be subject to a probation order, or a man who is sentenced to a community service order may also be ordered to pay a fine.<sup>284</sup> If a man is sentenced to imprisonment, the court may fix the term of imprisonment or set a non-parole period.<sup>285</sup> A court may also declare a man who has been convicted of a crime involving violence and who has a previous conviction for a crime involving violence to be a "dangerous criminal".<sup>286</sup> A dangerous criminal is not eligible to be released from custody until the court's declaration is discharged.<sup>287</sup>

If the man is sentenced to a suspended sentence, a probation order or a community service order, the court may impose conditions on the man, including conditions that he be subject to the supervision of a probation officer or attend an educational program.<sup>288</sup> If a man is convicted of a family violence offence (which may include a sexual offence), the court may include conditions in an order that the offender undertake treatment or attend programs to reduce the likelihood of him reoffending in future.<sup>289</sup> A man who has been found guilty of a sexual offence may also be subject to an area restriction order, which prevents the man from loitering in an area or class of area at any time or particular times.<sup>290</sup>

#### Court support for victims

The Tasmanian Office of the Director of Public Prosecutions has a Witness Assistance Service in its Criminal Division. The service has two officers in Hobart, one in Launceston and one in Burnie. These officers help victims of crime, including victims of sexual assault, to prepare for court, liaise with police and prosecution lawyers and prepare victim impact statements. The Witness Assistance Service may also refer women who have been victims of sexual assault to other specialist counselling or treatment services (Tasmania. Director of Public Prosecutions, 2014).

284 *Sentencing Act 1997* (Tas), s. 8.

285 *Sentencing Act 1997* (Tas), s. 17.

286 *Sentencing Act 1997* (Tas), s. 19.

287 *Sentencing Act 1997* (Tas), ss. 19(4), 20.

288 *Sentencing Act 1997* (Tas), s. 24 (suspended sentence), s. 37 (probation orders), s. 28 (community service orders).

289 *Sentencing Act 1997* (Tas), s. 24 (suspended sentence), s. 37 (probation orders), s.28 (community service orders)

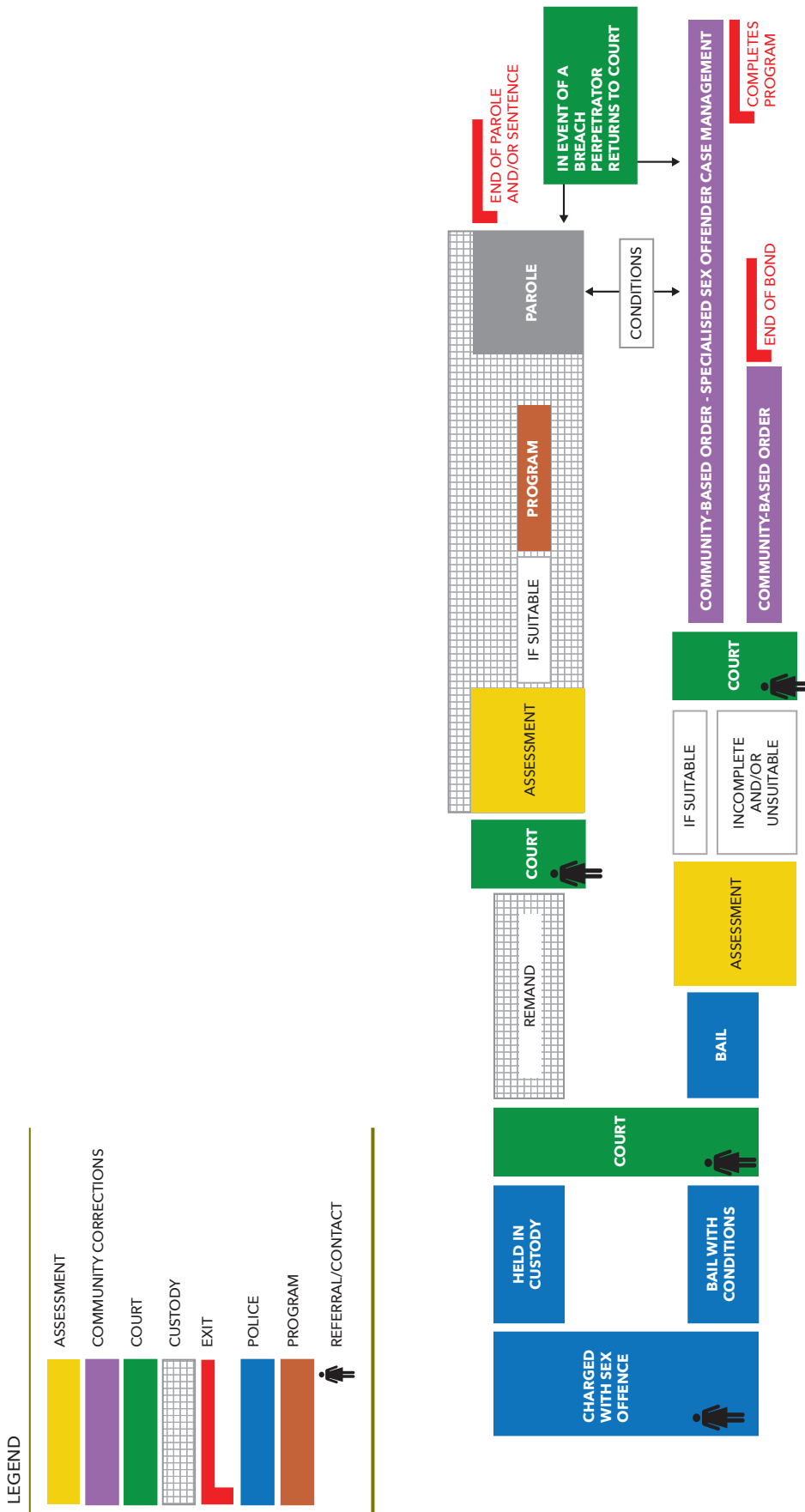
290 *Sentencing Act 1997* (Tas), s. 70.

281 *Criminal Law (Detention and Interrogation) Act 1995* (Tas), s. 4(1).

282 *Bail Act 1994* (Tas), ss. 5, 6.

283 *Family Violence Act 2004* (Tas), ss. 7, 12(1).

Diagram 16: Tasmania: Sex offender perpetrator pathway



## Release and parole

When a man is released from custody at the end of a fixed sentence, he is not subject to any supervision by a probation officer. When a man is released by the Parole Board of Tasmania, he may be released subject to parole conditions which will include supervision by a probation officer and may include specialised sex offender case management.

## Programs

While in Risdon Prison, a man who admits his offence or offences may undertake the New Directions Sexual Offender program. However, some men may be ineligible to attend the program due to issues relating to their mental capacity or if their sentence is less than 9 months in duration. If a man denies his offence or offences, he may still undertake a modified version of the New Directions Program, which is usually provided on a one-to-one basis.

When a man is released on parole, he may be required to attend the New Directions program noted below.

### Program list

The following table contains a list of relevant programs in Tasmania:

Organisation name	Organisation type	Program name
Tasmania Prison Service Intervention Programs Unit	State Government: corrections/ justice	New Directions sex offender treatment program
The TFD Project	Private business	The TFD Project

## Australian Capital Territory

The schematic diagram (Diagram 17) sets out the pathway of a perpetrator moving through the ACT system. The diagram is followed by explanatory notes and a mapping of relevant programs in this jurisdiction.

### Perpetrator pathway

#### Initial report

When a woman reports a sexual offence in the ACT, it may be investigated by the Sexual Assault and Child Abuse Team (SACAT), a specialist unit of ACT Policing. The victim of the sexual assault may also be offered a “wrap-around” service, which is essentially a coordinated service response to the victims of sexual assault provided jointly by the Canberra Rape Crisis Centre, Australian Federal Police, Victim Support ACT, Forensic Medical Sexual Assault Care and Office of the Director of Public Prosecutions (Canberra Rape Crisis Centre, n.d.). The wrap-around service ensures that ACT Policing notifies the Canberra Rape Crisis Centre of sexual offence matters and aims to ensure that victims of sexual offences are referred to appropriate support services at an early stage of proceedings (Anderson, Richards, & Willis, 2012).

#### Arrest, bail and sentencing

In the ACT, bail is dealt with pursuant to the *Bail Act 1992* (ACT), which provides that there is a presumption in favour of bail, no presumption for bail, or a presumption against bail depending on the offence with which the man has been charged. When a man is charged with a sexual offence in the ACT, the police may refuse to grant the man bail, after which he must be brought before a court as soon as practicable and, in any case, within 48 hours.<sup>291</sup> If the court also refuses to grant the man bail, he will be detained at the Remand Unit at the Alexander Maconochie Centre.

Alternatively, the police or the court may release a man charged with a sexual offence. Often, this will be a release on bail that is granted with or without conditions.<sup>292</sup> The conditions of a bail order may include that the man avoids certain people or places or that he undertakes a personal development, training or rehabilitation program.<sup>293</sup> If the victim of a sexual offence has expressed concern about the need for protection from the man, a victim liaison police officer must take all reasonable steps to tell the victim about the bail decision made in respect of the man charged with the sexual offence.<sup>294</sup>

291 *Bail Act 1992* (ACT), s. 17.

292 *Bail Act 1992* (ACT), ss. 15, 24.

293 *Bail Act 1992* (ACT), s. 25.

294 *Bail Act 1992* (ACT), s. 47A.

If a man pleads or is found guilty of a sexual offence, he will be sentenced pursuant to the *Crimes (Sentencing) Act 2005* (ACT). If the man is sentenced to imprisonment, his sentence may be combined with other sentencing options, such as a suspended sentence or a good behaviour order.<sup>295</sup> A sentence of full-time imprisonment may be fixed or, if it is greater than a year, it may contain a non-parole period.<sup>296</sup> A court may recommend conditions for the man’s parole at the time of sentence.<sup>297</sup>

A man may not be sentenced to full-time imprisonment after being found guilty of a sexual offence. Instead, he may be sentenced to another sentencing option under the *Crimes (Sentencing) Act 2005* (ACT), such as a suspended sentence, a good behaviour order, or a combination of these. If a man is sentenced to a suspended sentence or a good behaviour order, he may be required, as a condition of his order, to undertake a rehabilitation program for his sexual offending.<sup>298</sup> If a man is sentenced to periodic detention or a good behaviour order, he may also receive a non-association or place restriction order in some circumstances.<sup>299</sup>

#### Court support for victims

The ACT Office of the Director of Public Prosecutions has a Witness Assistance Service which supports vulnerable witnesses, including victims of sexual assault. It works closely with the Sexual Offences Unit, which specialises in prosecuting sexual assault cases, and helps victims of sexual assault to prepare for court and give evidence, as well as to prepare relevant documentation, such as Victim Impact Statements. The Witness Assistance Service is also involved in providing the “wraparound” service provided to victims of sexual assault and attends monthly meetings with other participants involved in the provision of this service to provide updated information about court proceedings relating to a sexual assault matters (Australian Capital Territory. Director of Public Prosecutions, 2014).

#### Release and parole

When a man is released from custody at the end of a fixed sentence, he is not subject to any supervision by a probation officer. If a man’s sentence contains a non-parole period, he may

295 *Crimes (Sentencing) Act 2005* (ACT), s. 29.

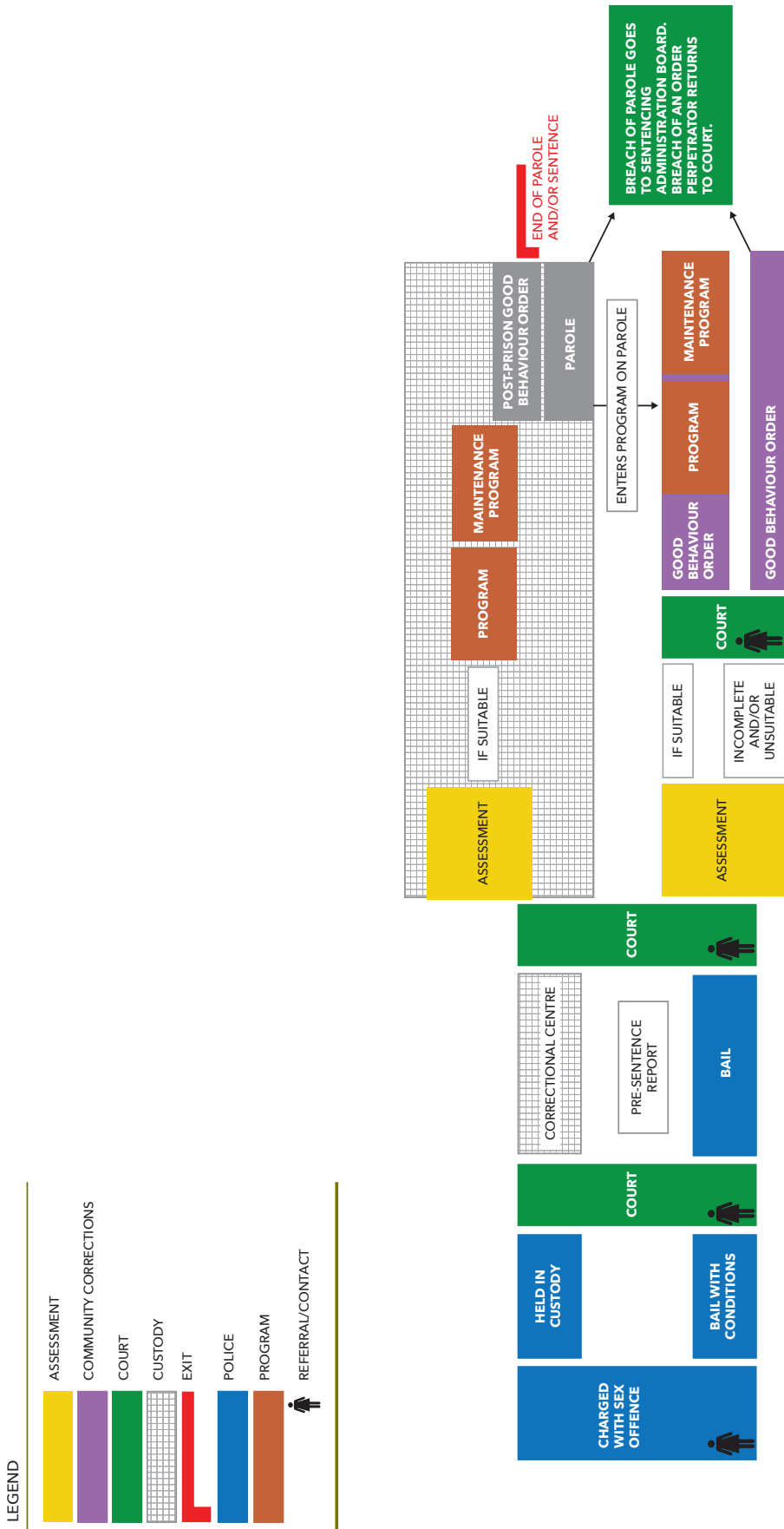
296 *Crimes (Sentencing) Act 2005* (ACT), s. 65.

297 *Crimes (Sentencing) Act 2005* (ACT), s. 67.

298 *Crimes (Sentencing) Act 2005* (ACT), s. 12 (suspended sentence must also contain a good behaviour order), s. 13; *Crimes (Sentencing) Regulation 2006* (ACT), reg. 2.

299 *Crimes (Sentencing) Act 2005* (ACT), pt. 3.4.

Diagram 17: Australian Capital Territory: Sex offender perpetrator pathway





be released by the Sentence Administration Board on parole.<sup>300</sup> If granted, a man's parole will always be subject to certain core conditions, including that he not commit any offences and apply to have any changes in his contact details approved.<sup>301</sup> It may also be subject to additional conditions, such as those preventing the man from associating with a particular person or contacting the victim of the offence (Australian Capital Territory. Corrective Services, 2010a). A man on parole may be able to attend the community-based Sex Offenders Program.

## Programs

While in prison at the Alexander Maconochie Centre (the only full-time adult correctional centre in the ACT), a man may be able to attend the Adult Sex Offenders Program, a rolling and open-ended group-based program that takes approximately two years to complete (Australian Capital Territory. Corrective Services, 2010b).

There is a community-based Sex Offenders Program that may be available to a man ordered to undertake a rehabilitation program.

### Program list

The following table contains a list of relevant programs in the Australian Capital Territory:

Organisation name	Organisation type	Program name
ACT Corrective Services' Offender Services Corrections Program Unit	State Government: corrections/ justice	Adult Sex Offender Program (ASOP) (Custody and Community) Maintenance Adult Sex Offender Program (ASOP) (Custody and Community)

<sup>300</sup> *Crimes (Sentence Administration) Act 2005* (ACT), s. 135.

<sup>301</sup> *Crimes (Sentence Administration) Act 2005* (ACT), s. 137.

## Northern Territory

The schematic diagram (Diagram 18) sets out the pathway of a perpetrator moving through the Northern Territory (NT) system. The diagram is followed by explanatory notes and a mapping of relevant programs in this jurisdiction.

### Perpetrator pathway

#### Arrest, bail and sentencing

When a man is charged with a sexual offence in the NT, generally under the *Criminal Code* (NT), the police may decide to release him on bail or to refuse to grant him bail.<sup>302</sup> Under the *Bail Act* (NT), there is a presumption in favour of bail for less serious offences and a presumption against bail for more serious offences, including a “serious sexual offence”; that is, a sexual offence which carries a maximum penalty of more than seven years.<sup>303</sup> If the police refuse to grant a man bail and the man expresses a wish to apply to a magistrate or justice for review of the decision, the police must arrange for the person to be brought before or put in contact with the magistrate or justice as soon as practicable.<sup>304</sup> If a victim expresses concern to the prosecutor about the release of the man on bail, the prosecutor must inform the court of the victim’s concern.<sup>305</sup>

A court may dispense with bail,<sup>306</sup> or may release the man on bail, either conditionally or unconditionally.<sup>307</sup> A grant of bail that is made subject to conditions may require a man to enter into a conduct agreement,<sup>308</sup> which may require an accused to keep away from a specified person or particular place, or to wear a monitoring device.<sup>309</sup>

If a man pleads or is found guilty of a sexual offence, the court may order that he serve a term of imprisonment.<sup>310</sup> If the man is found guilty of certain serious sexual offences, such as sexual intercourse without consent, the court must impose a term of actual imprisonment (which may be partly suspended).<sup>311</sup> If the term of imprisonment is greater than 12 months, the court must set a non-parole period unless satisfied that to do so would be

inappropriate.<sup>312</sup> The non-parole period must be greater than 50 percent of the period of imprisonment but cannot be less than eight months.<sup>313</sup> If a man is convicted of the offence of sexual intercourse without consent, the non-parole period must be greater than 70 percent of the total period of imprisonment.<sup>314</sup> Further, the Supreme Court may sentence a man convicted of the offence of sexual intercourse without consent or gross indecency without consent to an indefinite period of imprisonment if it is satisfied to a high degree of probability that he represents a serious danger to the community.<sup>315</sup>

Other sentencing options are also available under the *Sentencing Act* (NT). If a man is released on a bond, a suspended sentence or a home detention order, he may be required to comply with conditions which may include, for example, that he wear an approved monitoring device.<sup>316</sup> If a man is sentenced to a community work order, he may be ordered to undertake a rehabilitation program.<sup>317</sup> If the maximum penalty for the offence is imprisonment for 12 months or more, the court may also make a non-association or place restriction order which prevents a man from being in contact with a particular person or being in a particular place.<sup>318</sup>

#### Court support for victims

The Witness Assistance Service of the Director of Public Prosecutions has staff in three offices in the NT. Within this service, priority is given to assisting certain witnesses, including children and victims of sexual offences. When an officer from the Witness Assistance Service is allocated to a case, he or she will make contact with the victim of the offence, provide her with information about the court process and help her prepare to give evidence. A witness assistance officer may also provide the woman with information about victims’ compensation, Victim Impact Statements and the parole process, and may also refer her to other support services (Northern Territory, Director of Public Prosecutions, n.d.).

302 *Bail Act* (NT), ss. 13, 16.

303 *Bail Act* (NT), ss. 3A, 7A, 8.

304 *Bail Act* (NT), s. 33.

305 *Bail Act* (NT), s. 24(6).

306 *Bail Act* (NT), s. 9.

307 *Bail Act* (NT), ss. 20, 27.

308 *Bail Act* (NT), s. 27(2)(a).

309 *Bail Act* (NT), s. 27A.

310 *Sentencing Act* (NT), s. 7.

311 *Sentencing Act* (NT), s. 78F, sch. 3.

312 *Sentencing Act* (NT), s. 53.

313 *Sentencing Act* (NT), s. 54.

314 *Sentencing Act* (NT), s. 55.

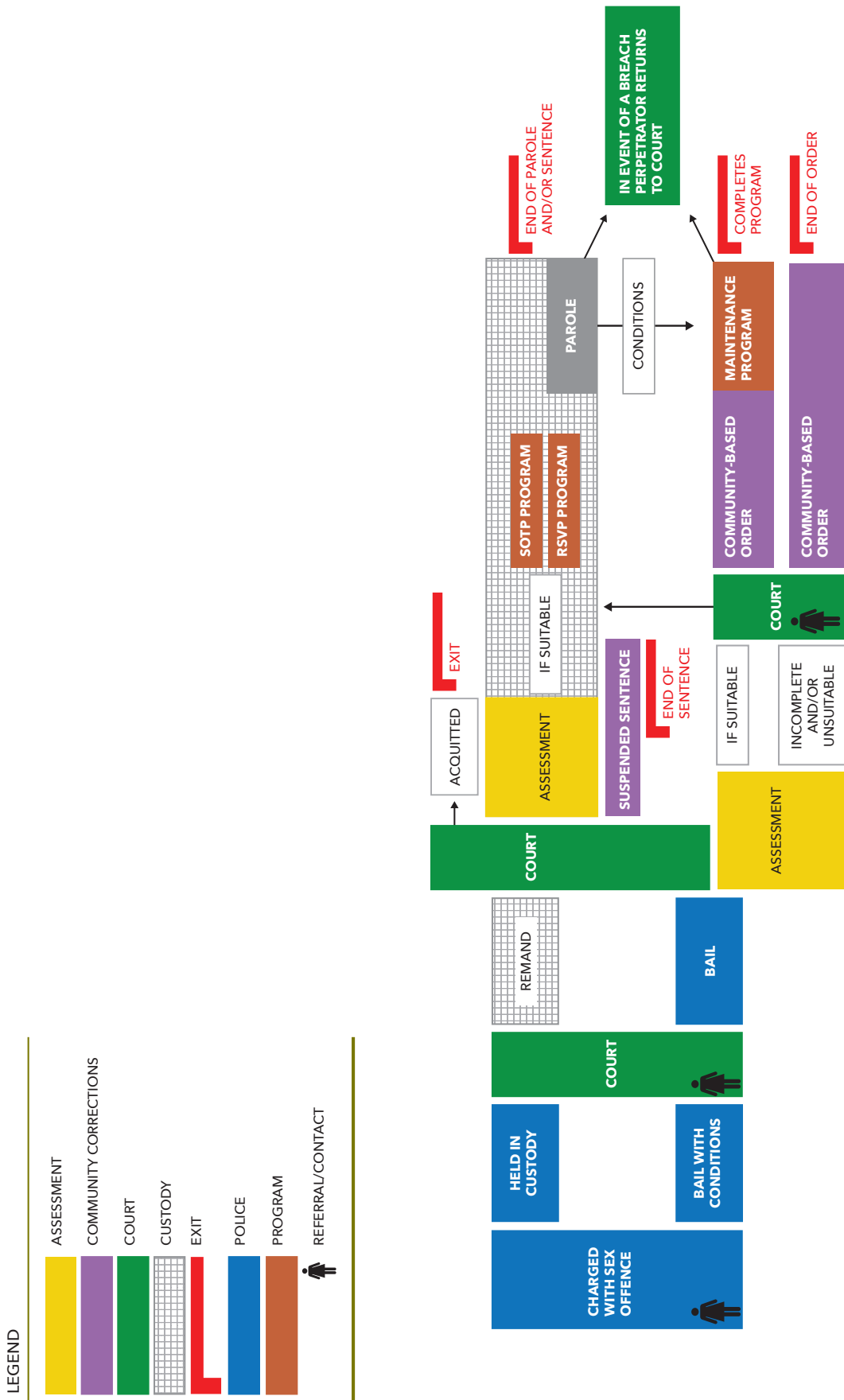
315 *Sentencing Act* (NT), ss. 65, 71.

316 *Sentencing Act* (NT), ss. 11, 13, 40, 44.

317 *Sentencing Act* (NT), ss. 3, 34.

318 *Sentencing Act* (NT), s. 39A.

Diagram 18: Northern Territory: Sex offender perpetrator pathway



## Release and parole

At the conclusion of a fixed term of imprisonment, the man is released without supervision. At the expiration of a man's non-parole period, he may apply to the Parole Board of the Northern Territory for release on parole. If released on parole, the man will be subject to the supervision of a probation and parole officer and may be required to comply with other conditions, including conditions that he reside at a specific place or wear an approved monitoring device.<sup>319</sup> Offenders released on parole may be required to attend the maintenance program offered by Community Corrections.

## Extended supervision or continued detention

If the Supreme Court is satisfied to a high degree of probability that a man who has committed a serious sex offence (as defined in the Act) poses a serious danger to the community, it may order that the man be subject to a continuing detention order or a supervision order.<sup>320</sup> A supervision order contains compulsory requirements, including that the man comply with any directions given to him by a probation and parole

officer, and any optional requirements the court considers appropriate.<sup>321</sup> A probation and parole officer may direct the man to do a number of things, including to wear an approved monitoring device, remain at or leave specified areas, and participate in a rehabilitation or treatment program.<sup>322</sup> An application for a continuing detention order or a supervision order must be made by the Attorney-General.<sup>323</sup>

## Programs

While in prison, a man may undertake the high intensity Sex Offenders Treatment Program and a 20-session sex offender program known as Responsibility, Safety, Victims and Planning Program (Northern Territory. Department of Correctional Services, 2014).

## Program list

The following table lists the relevant program in the Northern Territory:

Organisation name	Organisation type	Program name
Department of Correctional Services	State Government: corrections/justice	Sex Offenders Treatment Program (High intensity program)
		Responsibility, Safety, Victims and Planning Program (Moderate Risk program)
		Maintenance Program (Community-based)

319 *Parole Act* (NT), ss. 3R, 5.

320 *Serious Sex Offenders Act* (NT), ss. 6, 7.

321 *Serious Sex Offenders Act* (NT), ss. 18-20.

322 *Serious Sex Offenders Act* (NT), s. 20.

323 *Serious Sex Offenders Act* (NT), s. 23.

# Summary

There is generally uniformity in jurisdictions' response to incidents of sexual assault. Incidents of sexual assault are addressed via the criminal justice system, with no civil approach being adopted by any jurisdiction. This is in stark contrast to the issue of family/domestic violence, where a civil pathway is explored.

Across all jurisdictions, support is offered to women who have experienced sexual assault before and during the court process. This is also the case for those women who have experienced family/domestic violence. However, where the pathways diverged is that women who have experienced sexual assault are not contacted or involved in the rehabilitation process, whereas family/domestic violence perpetrator intervention programs provide support to women and may involve them in the perpetrator's behaviour change process. For family/domestic violence perpetrator intervention programs, involving and being accountable to women who have experienced violence is central to their underlying principle of holding men accountable for their behaviour. Even when sex offenders are placed on community-based orders and are mandated to attend a sex offender program, contact is not established with their victims.

Another similarity between the sex offender and family/domestic violence perpetrator pathways is that there are limited programs for men placed on remand. Indeed, men on remand for sexual offences and/or family/domestic violence are not generally assessed to determine their eligibility for programs. It is only until perpetrators have been sentenced that they are assessed and have access to specific programs. In many jurisdictions, sex offenders are assessed in terms of risk, cognitive ability and their readiness to change (i.e. whether they deny or take responsibility for their behaviour). Consequently, different programs are available for sex offenders depending on their level of need and risk. In some jurisdictions, perpetrators can access high intensive residential programs or medium intensive non-residential programs. This process of differentiating offenders in terms of their level of risk and whether or not they "deny" their behaviour is an aspect which is absent in the family/domestic violence response.

A number of jurisdictions in Australia deliver sex offender and maintenance programs within the community for those offenders placed on community-based orders, good

behaviour orders or parole. Attending a community-based program can be a condition of parole, particularly if the offender did not have the opportunity to attend the program while in custody. Some jurisdictions also offer maintenance programs in order to assist them in developing strategies to reduce their risk of reoffending. Although family/domestic violence service providers do offer perpetrators support beyond specified intervention programs, no jurisdiction offers dedicated maintenance programs.

Finally, this review of jurisdictions' sex offender pathways illustrates that a criminal justice response is overwhelmingly employed, with very few non-government organisations providing specified sex offender programs within the community. Indeed, only New South Wales and Tasmania have sex offender programs delivered by non-government organisations, whereas all jurisdictions across Australia have family/domestic violence perpetrator intervention programs delivered by non-government organisations. Therefore, the role of non-government organisations and other community-based organisations in response to sex offenders is an area that is underdeveloped in Australia. It is clear that there are lessons that organisations delivering sex offender programs can learn from those services delivering perpetrator intervention programs and vice versa in order to improve women and children's safety.

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