

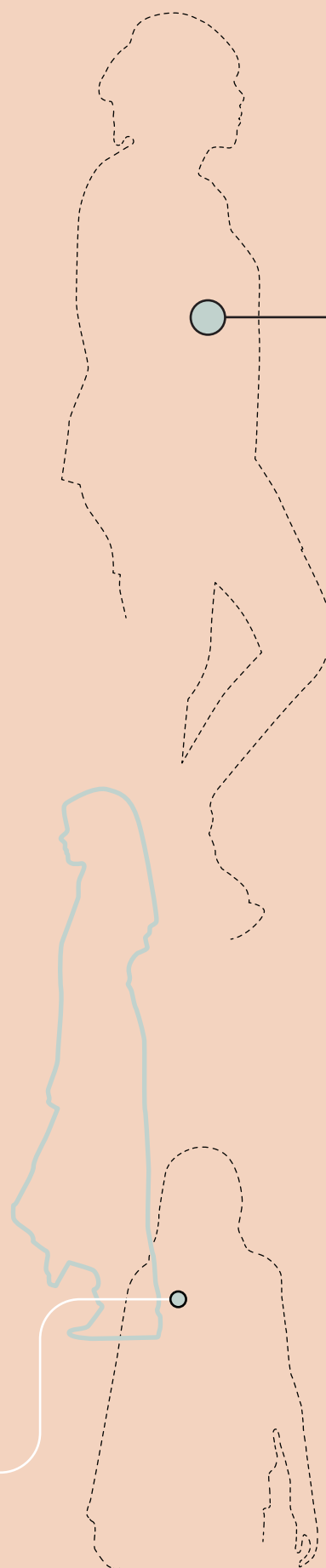
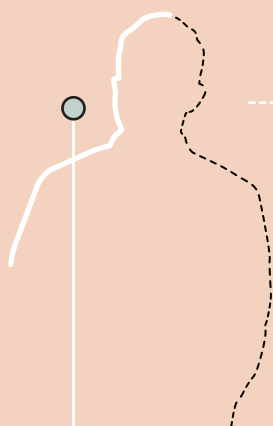


SECURING WOMEN'S LIVES:

Examining system interactions
and perpetrator risk in intimate
femicide sentencing judgments
over a decade in Australia

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Acknowledgement of Country

We acknowledge the Traditional Custodians of the land on which we come together to conduct our research and recognise that these lands have always been places of learning for Aboriginal and Torres Strait Islander peoples. We pay respect to all Aboriginal and Torres Strait Islander Elders – past and present – and acknowledge the important role of Aboriginal and Torres Strait Islander voices and their ongoing leadership in responding to domestic, family and sexual violence.

Acknowledgements

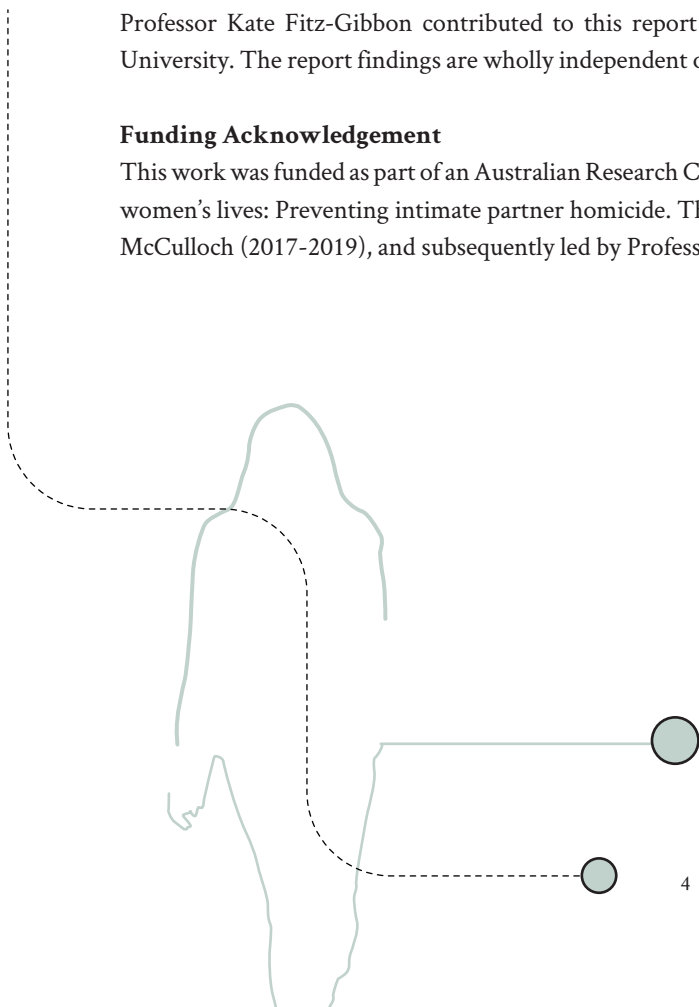
For this project, our team read in detail and analysed sentencing remarks made in 250 Australian intimate femicide cases. The totality of the loss represented through these cases is horrific. We acknowledge the lives of the women in these cases, their family members, friends and community. Our hope is that this work can play a role in building the evidence base needed to prevent these deaths through improved system responses and earlier interventions.

The project team would like to acknowledge and thank Kate Thomas, Jessica Burley and Dr Naomi Pfitzner, who provided valuable research assistance on this project and, in particular, support during the data analysis phase.

Professor Kate Fitz-Gibbon contributed to this report in her capacity as a Professor (Practice) at Monash University. The report findings are wholly independent of Kate Fitz-Gibbon's role as Chair of Respect Victoria.

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Acronyms

AAP

Australian Associated Press

ADFVR

Australian Domestic and Family Violence Death Review

ARC

Australian Research Council

AustLII

Australasian Legal Information Institute

DSS

Department of Social Services (Commonwealth)

DFV

Domestic and family violence

DV

Domestic violence

FSV

Family Safety Victoria

IPH

Intimate Partner Homicide

MBCP

Men's Behaviour Change Program

NOSPI

National Outcome Standards for Perpetrator Interventions

NSW

New South Wales

NSWSC

New South Wales Supreme Court

RCFV

Royal Commission into Family Violence

SA

South Australia

UN

United Nations

UNODC

United Nations Office on Drugs and Crime

VSC

Victorian Supreme Court

WA

Western Australia

WHO

World Health Organisation

Introduction

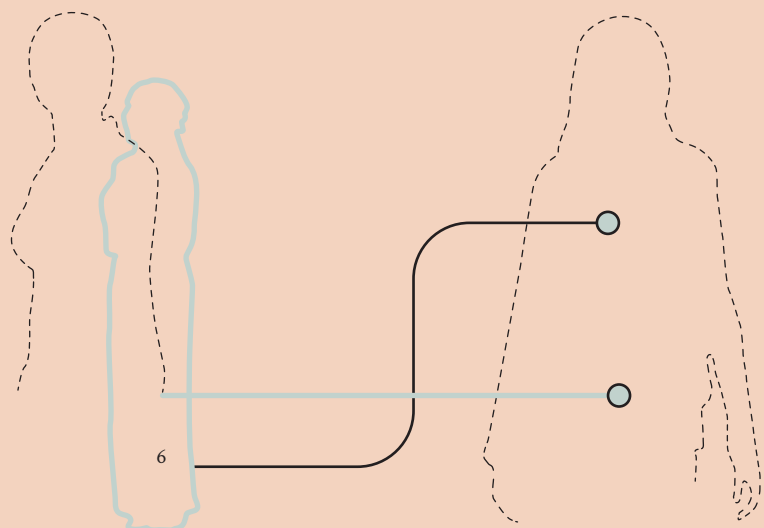
The United National Office on Drugs and Crime (UNODC, 2022: 3) has found:

in 2021, around 45,000 women and girls worldwide were killed by intimate partners or other family members. This means that more than five women or girls are killed every hour by someone in their own family.

In Australia, at least one woman a week is murdered by her current or former partner. According to Destroy the Joint, this equated to the killing of at least 57 women in 2022 and at least 64 women in 2023 allegedly as a result of men's violence. At the time of finalising this report, an unusually high number of killings allegedly by men's violence in the first four months of 2024 in Australia has reignited national attention over the need to better address women's risk of fatal violence (see, inter alia, AAP, 2024; Priestley, 2024; Tuohy, 2024).

Intimate partner homicides are recognised as the most preventable type of homicide because it is assumed that histories of abuse can provide clear indicators of risk (see, inter alia, Bugeja et al., 2013; Dearden & Jones, 2008; Virueda & Payne, 2010). While intimate partner homicides are monitored and examined in Australia via the work of the Australian Institute of Criminology and state-based death review teams, there is no fully funded, multi-systems approach to the prevention of men's lethal violence against women (McPhedran & Baker, 2012). As in Australia, international efforts to review and count such deaths are carried out in different ways and are often fraught with difficulties (see, inter alia, Walklate et al., 2020; Dawson & Vega, 2023).

In Australia and comparable international jurisdictions, a range of provisions, measures, laws and programs are designed to assess and address the risk of intimate partner violence. These include civil orders alongside programs that provide increased levels of protection and monitoring for women deemed at high risk of repeat victimisation. These instruments include the development of various risk assessment and management frameworks (Walklate et al., 2020). While magistrates, police and specialist support services use these instruments to identify and respond to risk (Boxall et al., 2015; Robinson & Moloney, 2010; Wakefield & Taylor, 2015), there is evidence that these approaches are limited by their conceptualisations of risk and in their scale of implementation and inconsistency in application.



This project sought to contribute new evidence to inform the further development of whole-of-systems preventive approaches to repeat violence and intimate femicide. Specifically, the project aimed to build evidence based on the following touchpoints:

- Places where an intervention between the initial emergence of family violence and the fatal outcomes had occurred.
- What could potentially be known about those points of intervention.
- If/how the pathway from intervention to safety could be better supported.

These touchpoints are important and complex to assess. Research published by the Australian Domestic and Family Violence Death Review (ADFVR) Network– which reflected on intimate partner homicides between 2008-2014 – indicated that in over 90 per cent of these cases, the male killer had been the primary abuser prior to the woman’s death (92.6%) (ADFVR Network, 2018, see also, 2022). The review indicated that very few of these deaths happened without warning signs. Contacts with services, both specialist family violence and general services, presenting the most concrete evidence of such ‘signs’.

WHAT IS INTIMATE FEMICIDE?

‘Femicide’ is the gender-based killing of a woman. The term was first coined by Diana Russell in 1976 – however, it was not until the 1990s that it entered into more common usage to delineate the gendered patterning to acts of lethal violence. Since that time, the term has driven the international agendas of the United Nations (UN) and the World Health Organisation (WHO). Within the conceptualisation of femicide, intimate femicide refers to the killing of a woman by her current or former male partner. This includes killings by a male partner of a woman with whom they were in a marriage, domestic partnership, de facto relationship or dating relationship.

Intimate partner homicides involving a female victim and committed by a male perpetrator are the most common type of femicide. The killing of women by their male intimate partner is widely recognised as both preventable and gendered. Significant power and control dynamics are often present within the relationship preceding the act of fatal violence, which are taken to be central to understanding the act of femicide (see, for example, Monckton Smith, 2020, 2021; Pierobom De Avila, 2018).

Throughout this report – and following on from earlier work from this project (Walklate et al., 2020) – the term ‘intimate femicide’ is used to refer to the killing of a woman by her current or former male intimate partner.

ABOUT THIS PROJECT

This project aimed to develop new understandings of risk and system interactions prior to intimate femicide in order to build the evidence base required to inform early intervention and the prevention of intimate femicide in Australia. Drawing on a quantitative and qualitative analysis of intimate femicide sentencing decisions imposed over a decade in Australian superior courts, the new knowledge generated from this project is intended to inform and assist in developing a more risk-sensitive approach to preventing and responding to intimate femicide in Australia and overseas, thereby enhancing women’s security.

Research Design

This report presents findings from the collection of over 250 intimate femicide sentencing judgments and the in-depth analyses of 235 of these. These judgements were used, in part, to identify potential points of intervention that might have provided an opportunity to prevent such killings. Sentencing judgments typically include narrative accounts from a judge, who describes how and where the crime took place as well as the circumstances that led to it. In this section, we detail our methodological approach to obtaining the data set of sentencing judgments used for this research.

SOURCING AND IDENTIFYING THE DATASET

To identify cases and locate sentencing remarks, we drew on publicly accessible legal data bases (e.g. Australasian Legal Information Institute [AustLII] and LexisNexis) and from court services in Australian state and territory jurisdictions. Sentencing judgments in intimate femicide cases involving a male offender convicted of the murder, manslaughter, defensive homicide and assault resulting in death of their female intimate partner (current or former) were identified through this process.¹

INCLUSION AND EXCLUSION CRITERIA

This research project was primarily concerned with generating new knowledge to better prevent intimate femicide in Australia. It is, by definition, about women's risk. Consequently, male victims of intimate partner homicide are excluded from the dataset, including male victims of male intimate partners. There were six cases of male same-sex intimate partner homicide identified as sentenced during the 10-year period that this study examined. No cases of female same-sex intimate partner homicide were identified as sentenced during the 10-year period.

Each case in the dataset represents one offender. In order to be included, the offender was required to have been the current or former intimate partner of the female victim. This means that co-offenders to the primary intimate partner offender are not included in the dataset. Nine co-offender cases were identified in the 10-year period. In all of these cases, femicide was committed in the context of an intimate partner relationship. However, in only one of these cases was the perpetrator of the homicide the current or former intimate partner (see, *R v Evans*; *R v Rawlinson*; *R v Proud* [2014] NSWSC 979). Consequently, this is the only co-offender case included in this dataset.

To be included in the dataset, the sentence was required to have been delivered within a 10-year window between January 2007 and December 2016. This means that intimate femicides preceding 2007 but sentenced within the 10-year window are included, while homicides that occurred within this window but sentenced after 2016 are not included. Only original sentencing judgments – and not sentencing-relevant remarks made on subsequent appeal – are included in the dataset.

¹ For a brief description of the process undertaken to gain access to the relevant sentencing judgments in each state and territory, see Appendix 1.

This report does not include an analysis of findings of not guilty by reason of mental illness in cases of intimate femicide. Findings of not guilty by reason of mental illness were only made available to the research team for New South Wales (NSW) cases. In the remaining Australian states and territories (excluding Queensland), such findings are not categorised as ‘sentences’. The decision to exclude the NSW findings was made to ensure consistency across the dataset.

AUSTRALIAN INTIMATE FEMICIDE SENTENCING JUDGMENT DATASET

The final dataset collected for this project consists of 235 intimate femicide sentencing judgments from across Australia (excluding Queensland). This total includes:

- 77 from New South Wales
- 59 from Victoria
- 51 from Western Australia
- 23 from the Northern Territory
- 19 from South Australia
- 4 from Tasmania
- 2 from the Australia Capital Territory.

These sentencing judgments were handed down over a 10-year period between 2007 and 2016. The homicides that were the subject of the sentencing judgments took place between 1983 and 2015, with the majority of femicide cases occurring post-2000. The sentencing judgments analysed in this report varied in length from two pages to over 50 pages. The judgments typically provide a narrative in relation to the biographies of the victim and the accused, the history of their relationship, the characteristics of the homicide and the circumstances surrounding it. However, the extent to which each of these elements is set out, and the emphasis given to each aspect, remains at the discretion of the judicial officers delivering the judgments.

DATA ANALYSIS

The data analysis utilised in this project was primarily quantitative, but this project also included a substantive qualitative analysis. The key focus of how to better prevent intimate femicide drove the establishment of categories and themes through which the data was analysed. The research team developed a number of key data points considered most pertinent to illuminating potential points of interventions prior to the homicide and providing necessary context for understanding the homicides. The process of refining categories took place at a number of key points throughout the project and incrementally as the analysis progressed. The identified data points in each judgment were based on victim and offender characteristics, the nature of the relationship between the victim and offender, the circumstances of the homicide, the history of the victim, and/or offender interactions with the criminal justice system and other agencies – including alcohol and other drug services, medical and mental health services, specialist family violence services, housing services and child protection – plus any prior knowledge of violence or threats by neighbours, friends of family.

Specifically, the data from each case was entered into an Excel spreadsheet across 186 individual categories. Upon completion, the final dataset of 235 cases underwent a systematic review in which the quantitative variables were cleaned and recoded to facilitate analyses. This spreadsheet was then analysed quantitatively and qualitatively by

the research team. This multi-phased approach allowed information presented in each sentencing judgment to be analysed individually, across state and territory locations, and by key themes. Inconsistencies related to data entry of quantitative variables were cross-checked with the data-entry team and, where necessary, against the original transcripts.

As outlined in the following *data limitations* section, the narrative provided by the judge in the sentencing remarks is limited to the evidence provided by the parties involved – namely the state prosecution and the defence, as well as the discretion of the sentencing judge. This last point is demonstrated by the disparity in the length of the sentencing remarks, which varied considerably. As a consequence of this and the structure and purpose of judicial sentencing remarks, there were many variables across the dataset that were missing in individual judgments. During the data-entry process, these missing variables were recorded as ‘not stated’.

DATA LIMITATIONS

This report recognises that the dataset under examination has a number of limitations. Data collection for sentencing judgments required different approaches in different states, creating potential gaps in the datasets, such as instances where cases were not made public by the courts. While the intention was to collect sentencing judgments from each Australian jurisdiction, access barriers meant there are no sentencing judgments included from Queensland. In addition, sentencing judgments are only available in cases where the perpetrator of a killing was charged and convicted of manslaughter, murder or assault resulting in death.

Intimate femicide-suicides are not included, as there were no criminal proceedings and, consequently, no sentencing judgments. Cases where women were killed by an intimate partner but the crime was never discovered are also not included. Research indicates that intimate partner homicides are more likely to be undiscovered than other types of homicides, as a result of perpetrator crime scene manipulation (Bitton & Dayan, 2019). Additionally, because of the structured violence arising from the continuing history of colonisation in Australia, disappearances and killings of Aboriginal and Torres Strait Islander women are less likely to be discovered, carefully investigated and prosecuted. As a result, the killings of Aboriginal and Torres Strait Islander women are less likely to feature in the dataset (see, for example, Higgins & Collard, 2019; in relation to First Nations women in Canada, see, National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019). Currently, the Australian Parliament has an *Inquiry into Missing and Murdered First Nations women and children* in progress, with the Legal and Constitutional Affairs References Committee due to report on 30 June 2024.

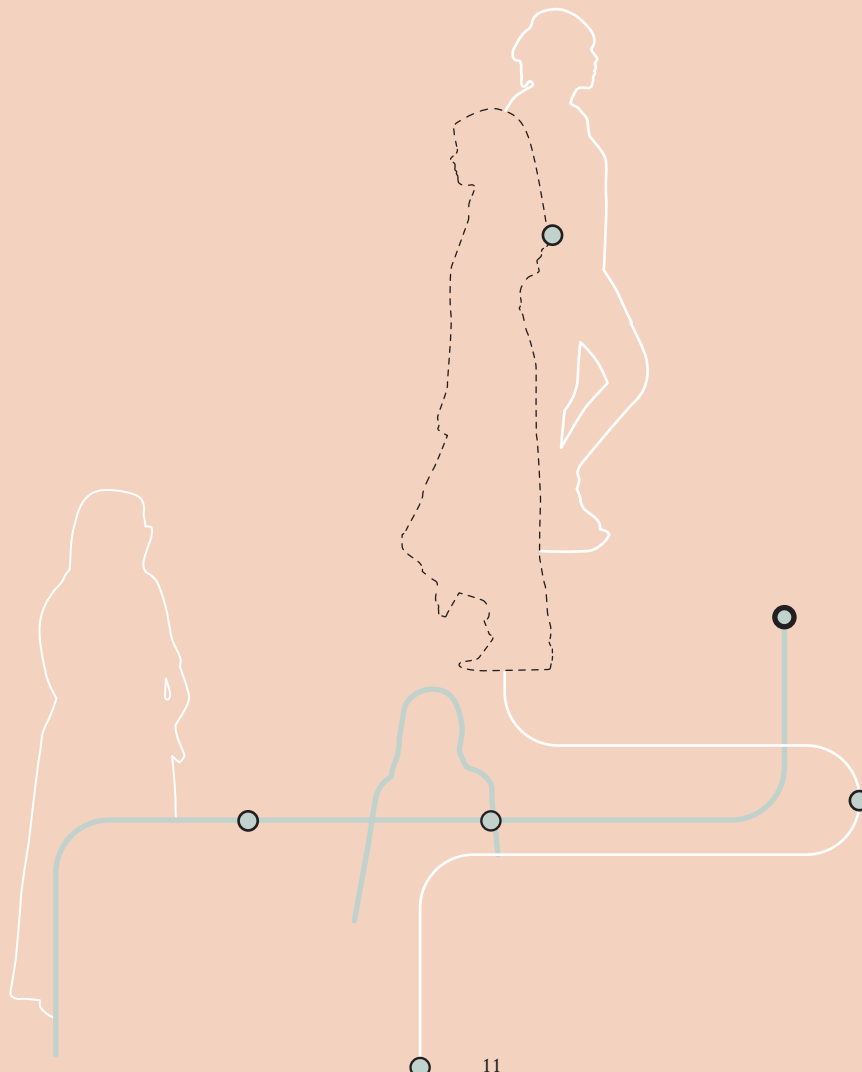
This report also notes the importance of contextualising this dataset. The primary purpose of a sentencing judgment is to set out the rationale for the sentence imposed on an offender who has plead or been found guilty of murder, manslaughter or – less commonly – assault resulting in death. Because of this, the information contained in the judgments focuses heavily on the offender rather than the victim. For example, in over 90 per cent of the judgments, the age of the offender is indicated, while the age of the victim is indicated in only 58 per cent of cases. The narratives provided by the judicial officer are necessarily limited to the evidence provided by the parties, the state prosecution and the defence. They do not include information known only to the deceased woman or anyone else whose evidence was not included in the case. One of the broader aims of this project is to consider the extent to which the totality of circumstances set out in the judgments points to lessons that might be learnt to prevent intimate femicide in Australia.

Finally – and significantly – the intimate femicides included in this study are limited to deaths that occurred as a result of violence fixed in a time and place, and in relation to which an individual is held to account. Intimate partner violence is typically a process rather than an incident, and the resulting harms can be cumulative. What has been labelled the ‘slow violence’ of intimate partner violence is sometimes invisible. Nixon (2011: 2) defines slow violence as:

A violence of delayed destruction that is dispersed across time and space, an attritional violence that is typically not viewed as violence at all.

The untimely deaths and shortened lives of women due to denied human rights, injury, disability, poverty, homelessness, and poor physical and mental health results from what Wonders (2018) similarly refers to as ‘slow intimate partner violence’. The cumulative harms of slow intimate partner violence are underpinned and exacerbated by inadequate social safety nets and gender inequality, as well as the impacts of systemic and structural entrapment (see, Douglas, Tarrant & Tomie, 2021; Tolmie et al., 2018).

Slow intimate femicides are not included in this study, as the focus is on intimate femicides that are dealt with as crimes in the criminal justice system. However, the authors of this report argue elsewhere that these deaths should *count* in the sense that they matter, and should be considered ‘slow femicides’ (Walklate, Fitz-Gibbon, McCulloch & Maher, 2020). The focus of this project was not intended to detract attention from those intimate femicides that were never discovered, those not adequately investigated or instances where an individual is not held accountable because the death/killing is ‘slow’.



Intimate Femicide Case Characteristics

CHARACTERISTICS OF THE VICTIM

Victims ranged from 17 to 85 years of age. The majority of victims were aged under 51 years old at the time of the femicide.

The percentage of intimate femicide victims within each 5-year age range:

Age range	%
17-22	5.5
23-28	11.1
29-34	13.3
35-40	8.1
41-46	7.3
47-52	5.1
53-58	3.8
59-64	1.7
65-70	0.4
71-76	0.4
77-82	0.8
83-85	0.4
Age of the victim not stated	42.1

5% of victims were pregnant at the time of the femicide (n=11)

8% of victims were identified during sentencing as Aboriginal or Torres Strait Islander (n=19)²

17% of victims were born overseas (n=40)

4.5% of victims were identified at sentencing as having a disability (n=10)

6% of victims were identified at sentencing as having a mental health issue (n=14)

25% of victims were identified at sentencing as having a **history of alcohol and other drug (AOD) issues/abuse** (n=58)

² Where Aboriginal or Torres Strait Islander identity was not explicitly stated, this variable was recorded as 'not stated'. This means that the actual numbers of Aboriginal and Torres Strait Islander victims are likely to be underrepresented in the dataset.

CHARACTERISTICS OF THE OFFENDER

Offenders were aged between 17 and 80 years of age. The majority of offenders were under 41 years old at the time of the femicide.

The percentage of intimate femicide offenders within each 5-year age range:

Age range	%
17-22	3.8
23-28	9.6
29-34	16.7
35-40	19.6
41-46	14.2
47-52	11.9
53-58	6.9
59-64	7.3
65-70	0.4
71-76	0.8
77-80	0.9
Age of the offender not stated	8.1

- 20% of offenders were identified at sentencing as having a disability (n=47)
- 46% of offenders were identified at sentencing as having a **mental health issue** (n=108)
- 63% of offenders were identified at sentencing as having a **history of AOD issues/abuse** (n=149)

34% of offenders **were employed** at the time of the femicide (n=81)

31% of offenders were unemployed at the time of the femicide (n=72)

26% of offenders were born overseas (n=61)

20% offenders were identified during sentencing as Aboriginal or Torres Strait Islander (n=46)

- In 29% of cases, the judge cited that the perpetrator had **experienced intergenerational violence** (n=67). This is an important and, to date, relatively unexplored factor in research on men's use of fatal violence.

Intimate Femicide Case Characteristics

THE RELATIONSHIP BETWEEN THE VICTIM AND OFFENDER

77% of the victims and offenders were **in a relationship** at the time of the femicide (n=180)

19% of the victims and offenders had been involved in a prior intimate partner relationship (n=44)

10% of the victims and offenders were recently separated (n=23)

Status of the prior or current relationship at the time of the femicide, as described by the judge at sentencing:

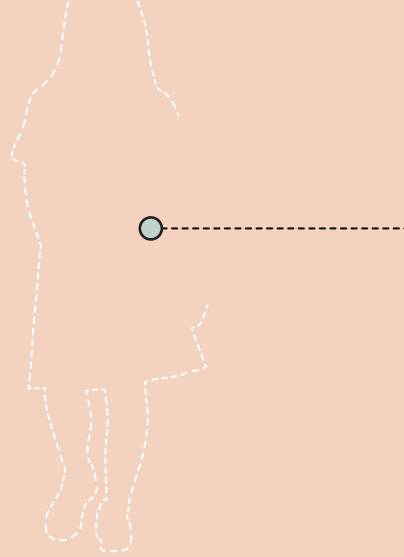
- **De facto: 33% (n=78)**
- Girlfriend/boyfriend relationship: 18% (n=42)
- Married: 28% (n=65)
- Separated but cohabiting: 3.5% (n=8)
- Sexual: 5% (n=12)
- Other: 3% (n=7)

METHOD OF KILLING

Across the 235 cases of intimate femicide that were analysed, the descriptions provided by judges at sentencing for the means of killing included “blunt object”, “physical attack”, “firearm”, “knife/edged weapon”, “strangulation”, “poison” and “other”. Where “other” is stated below, in the majority of cases this indicated a combination of means of killing, typically using physical attack and a blunt object.

- **35% knife or other edged weapon (n=81)**
- 17% blunt object (n=40)
- 13% strangulation (n=31)
- 12% physical attack (n=28)
- 6% firearm (n=14)
- 17.5% other (n=41)

Intimate Femicide and the Impact on Children



Research on intimate partner homicide has begun to document the significant impact that femicide has on children (see, inter alia, Alisic et al., 2015, 2017a, 2017b; Hardesty et al., 2008; Haydar, 2021). This includes children of the relationship, children of the victim and perpetrator, and, most notably, children present at the time of the intimate femicide. As noted above, in this study a significant majority of the women killed (190 victims) were mothers at the time of their deaths. In these cases, 35 per cent of women killed had children with the femicide offender (n=83), and 54 per cent had children outside of their relationship with the femicide offender (n=126).

In 23 per cent of the sentenced cases, the judge noted that there were children present at the time of the intimate femicide. This equated to 55 children within the intimate femicides analysed who were present at the time of a victim's death. As part of the qualitative analysis of the sentencing judgments, we examined how judges spoke about the presence of, and impact on, these children.

In a small number of these cases, the judge referred directly to the child's presence when sentencing. For example, in *Diver* (2008), the judge stated:

Your own child was in the house at the time of the murder, and it was only a matter of good luck that he was not a witness to it. (R v Diver [2008] VSC 399, per Coghlan, J.)

In cases where a child or children were present at the time of the homicide, there was often a focus within judgments as to whether the child was in the room when the intimate femicide occurred, and whether the child saw the act of fatal violence. For example, in *Felicite* (2010), the judge stated:

I am satisfied beyond reasonable doubt that at least part of your attack upon your wife was viewed by your four-year-old son Ronan. (R v Felicite [2010] VSC 245, per T Forrest, J., at 2)

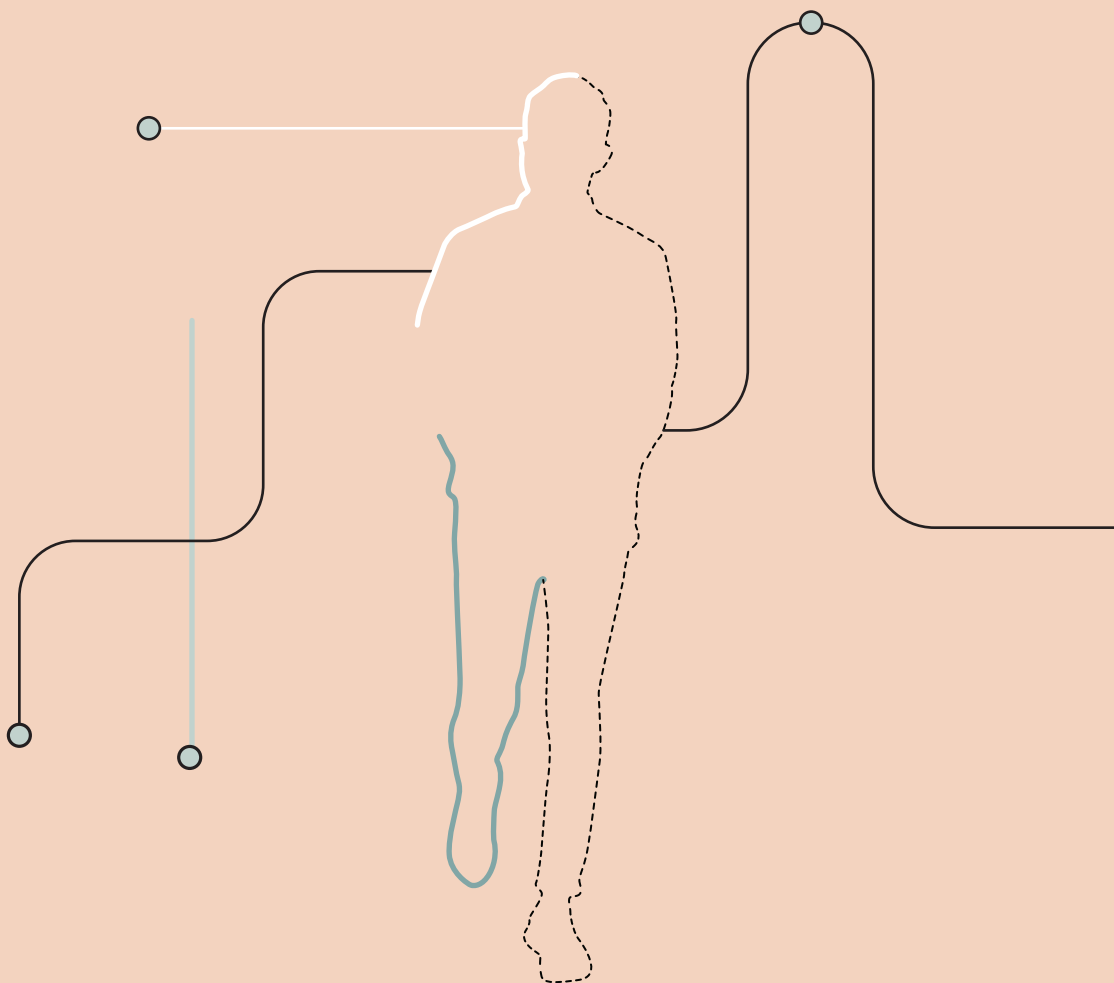
The question of proximity is somewhat curious. To some degree, it implies that children who are outside of the room where the incident occurs, but in the home, are less impacted – or, as illustrated in the *Diver* excerpt above, they are beneficiaries of 'good luck.' Indeed, despite over 50 cases involving the presence of children, it was rare for sentencing judgments to include specific commentary on the impact on children. There were a small number of exceptions to this. For example, in *Tran*, the judge stated:

Your children were very close when the attack occurred. Your son saw you kill his mother and his step-brother. He will be burdened by that memory for the rest of his life. Notwithstanding the terrible situation he found himself in, he called the police. (R v Tran, SASC [2009], per Doyle, C.J., at 5)

Recognising the impact and trauma of intimate femicide on children is critical. As such, there is a need for greater recognition of children's experiences within the intimate femicide sentencing process.

Perpetrators and the Role of Suicide

An increasing body of evidence is emerging that examines the role of threats to suicide as a tactic of coercive control and a risk factor preceding intimate femicide (see, inter alia, Bridger et al., 2017; Messing & Campbell, 2019; Office of the Chief Coroner for Ontario, 2015; Stark, 2018). Suicide was a relevant factor referred to by several judges at the time of sentencing. In 17 per cent of cases, the sentencing judge noted that the perpetrator had attempted or threatened to kill himself at the time of the femicide (n=39). In a further 15 per cent of the sentencing judgements analysed, the judge cited that the perpetrator had a history of suicidality (n=36).



Offender Risk and Dangerousness



Our analysis of the sentencing judgments dataset provides insights into the extent to which understandings of offender histories of violence inform judicial constructions of risk and dangerousness when sentencing men convicted of killing a female intimate partner. Indicators of risk and dangerousness captured through this data include:

- prior interactions with the police and other legal settings
- prior convictions
- prior histories of domestic and family violence
- prior civil orders and breaches.³

With regards to the offenders' criminal justice system involvement prior to the femicide:

- 68% of offenders had prior engagement with the police (n=159)
- 65% of offenders had prior engagement in a legal setting (n=153)⁴
- 3.5% of offenders had prior engagement with child protection/child first (n=8)

When considered together, the analysis revealed that 71 per cent of offenders within this dataset had prior contact with at least two of the above-mentioned points. In 3.5 per cent of cases the judge noted in sentencing that the offender had prior contact with the police, child protection and a legal setting prior to perpetrating intimate femicide (n=8).

BAIL AND PAROLE AT THE TIME OF THE FEMICIDE

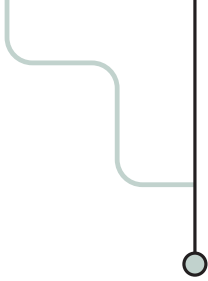
In 10 per cent of intimate femicide judgements analysed in this report, the offender was on bail or parole at the time of the intimate femicide. This includes 18 cases where the offender was on bail (8%) and six cases where the offender was on parole at the time of the femicide (2.5%).

Unsurprisingly, in cases where an offender was on bail at the time of their lethal violence, this was cited as an aggravating factor during the sentencing process – particularly where the bail conditions had been put in place specifically to secure improved safety for the victim. As two judges remarked during cases where the offender was on bail at the time of the intimate femicide:

A final feature of the offence that heightens its gravity is the fact that the offender murdered Ms Pearson when he was subject to conditional liberty, being on bail for the earlier assault upon her together with the related offences, and when subject to a court order which restrained his conduct towards Ms Pearson. (R v Archer [2015] NSWSC 1487, per Wilson, J., at 111)

³ Throughout this report we refer to civil orders - this is inclusive of intervention orders and apprehended violence orders.

⁴ For the purposes of this analysis, legal settings include perpetrators who had been the subject of an intervention order and any subsequent breaches, had prior convictions, had been charged with a prior criminal offence, and those who were on bail or parole at the time of the femicide.



First, your presence at Rosser Street on the night in question was a breach of the bail you had been granted but two months earlier. This condition was doubtless inserted to prevent what in fact happened. (R v Middendorp [2010] VSC 202, per Byrne, J, at 20)

Similar sentencing remarks were made of offenders on parole at the time they committed fatal violence:

It is a matter of aggravation that you were on parole with respect to a sentence of imprisonment imposed for crimes of domestic violence towards Ms Hogan at the time you acted to cause her death. (R v Curtis [2009] NO.SCCRM-09-29, per Gray, J, at 3)

The time at which an offender is on bail and parole could be assumed as one where they are under the intense scrutiny of the criminal justice system and consequently, one in which their risk is highly visible and effectively monitored. However, within this study, the period of being on bail and parole emerged as key risk points for the perpetration of intimate femicide.

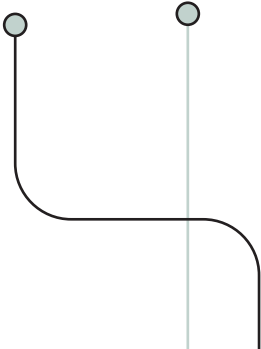
At the time of finalising this report, this is a particularly significant finding in the wake of the killing of Molly Ticehurst allegedly by her former partner – who was on bail for rape and stalking charges at the time of her death (Needham, 2024). This case has shone a national spotlight on bail decision-making and its relation to judicial management of risk and escalation of intimate partner violence (McGowan & McSweeney, 2024; see also, Ng & Douglas, 2016). In the weeks following Molly’s killing, the NSW Government announced a review of bail decision making (Kirk, 2024), and there are calls for a national review of all intimate femicides perpetrated by an offender while on bail (Eddie, 2024).

PRIOR CONVICTIONS AND CIVIL ORDER HISTORIES

Our analysis of the dataset reveals significant patterns in perpetrator histories prior to committing intimate femicide, both in terms of histories of domestic and family violence (DFV) specifically and, also, histories of broader criminal activity. Specifically, within the sentencing judgments studied:

- 65% of offenders had a prior conviction for a criminal offence (n=153)
- 34% of offenders had a prior conviction for a DFV-related incident (n=79)
- 15% of offenders had a prior conviction for a DFV-related incident involving the femicide victim (n=36)
- 11.5% of offenders had a prior conviction for a DFV-related incident involving a former partner, not the femicide victim (n=27)
- 37% of offenders had a conviction for a non-family violence related violent offence (n=86).

One in four convicted intimate femicide offenders within this dataset were listed as a primary aggressor on a civil order prior to their use of fatal violence. Specifically, within the dataset:

- 18% of offenders were listed as a primary aggressor on a current civil order at the time of the femicide (n=42)
 - 19% of offenders had been listed as a primary aggressor on a civil order at a time prior to the femicide (n=44)
 - 16% of offenders had a recorded prior breach of a civil order (n=37).
- 



Despite the presence of significant criminal histories, and other indicators of risk, there are relatively few remarks made across the sentencing judgments on the dangerousness of perpetrators. Indeed, the sentencing judgments rarely adopt a risk lens in understanding the actions of the offender involved.

These findings build on earlier research which has adopted a criminal career lens to understanding the perpetration of violent crime (see, *inter alia*, DeLisi & Piquero, 2011). In Australia, the work of Eriksson et al., (2019) has previously found that offenders of intimate partner homicide in Australia had on average committed 2.8 criminal offences prior to their perpetration of fatal violence. Similarly, the findings from Boxall et al's (2022) study of pathways into perpetration of intimate partner homicide, conceptualised the 'persistent and disorderly' pathway as one characterised by frequent criminal justice system contact among other factors. Boxall et al (2022) concluded that 40 per cent of offenders within their study fell into this pathway.

KNOWN HISTORIES OF VIOLENCE

In addition to the recorded points of interaction with the criminal legal system prior to a perpetrator's use of fatal violence, the sentencing remarks in several cases also detail instances where there were known histories of violence involving the perpetrator as the primary aggressor prior to the act of intimate femicide. Specifically, through the sentencing process, judges often referred to incidents where the femicide offender had previously been abusive to the femicide victim as well as other intimate partners.

	Number	Percentage
1 victim	176	75%
2 victims	25	11%
3 victims	4	2%
4 victims	1	0.4%
5+ victims	1	0.4%
Multiple but number unclear	27	11.5%

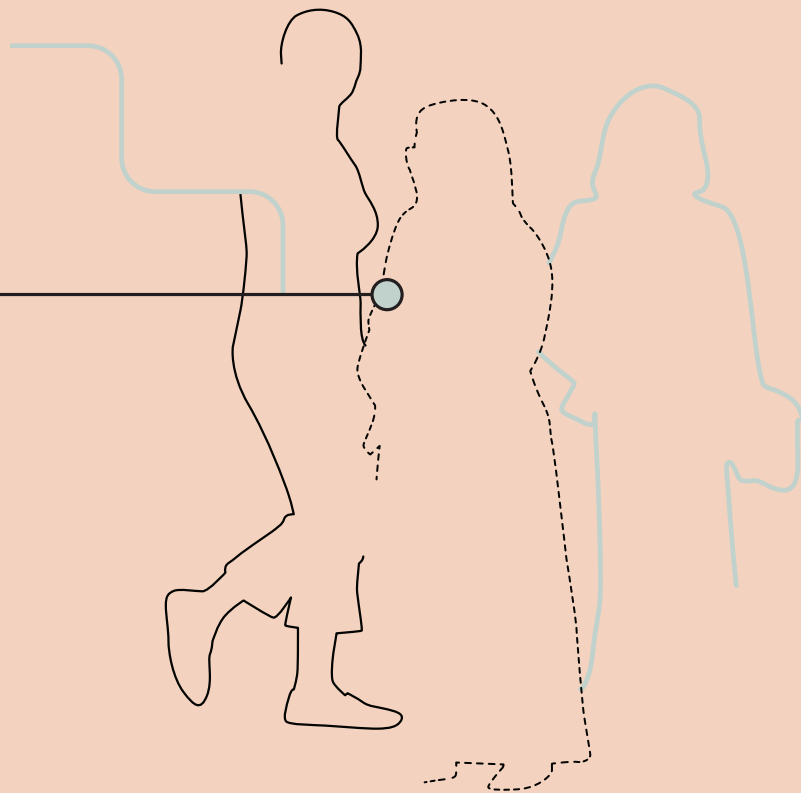
When looking closer at perpetrators' histories of violence, our analysis found:

- In 63% of intimate femicide judgments, a prior family violence allegation involving the perpetrator as the primary aggressor was cited in sentencing (n=147).
- In 18% of intimate femicide judgments, a prior threat to kill involving the perpetrator as the primary aggressor was cited in sentencing (n=43).
- In 5% of intimate femicide judgments, a prior threat of or act of non-fatal strangulation involving the perpetrator as the primary aggressor was cited in sentencing (n=11).

Cases involving non-fatal strangulation include those where the judge specifically cited that a prior act of non-fatal strangulation had occurred, as well as cases where the judge cited an incident in the sentencing remarks where the victim had been grabbed by the throat by the offender. A history of non-fatal strangulation is well established in research as a key risk factor of intimate partner femicide (Campbell et al., 2003; Glass et al., 2008). Given the underreporting of all forms of DFV in Australia, references to prior acts of non-fatal strangulation in judicial remarks are likely to be an underestimation of the commission of these incidents against the victim prior to her death.

NO HISTORY OF LEGAL SYSTEM INTERACTION

Alongside our analysis of cases where there was a point of legal system interaction prior to the act of intimate femicide, for this study we also examined cases where there was no prior system engagement. In 14 per cent of cases (n=33), the offender had no cited contact with police, child protection or a legal setting prior to their use of fatal intimate partner violence. Supporting findings from Boxall et al's (2022) fixated threat pathway analysis, our analysis highlights the importance of ensuring that frontline workers specifically and community bystanders more broadly are trained in how to identify, assess and manage risk of coercive control. In addition, while on the surface such figures might support the notion that the perpetrated lethal violence was 'out of the blue' (see further, Dobash, Dobash & Cavanagh, 2009), such figures need to be understood within the already well-known data that points to the low rates of reporting of DFV to criminal justice agencies in Australia.



Perpetrator Points of Contact Beyond the Criminal Legal System

There is increasing recognition of the need to build whole-of-system interventions for perpetrators of domestic and family violence. There has been a focus in recent inquiries and research at the state and national level into the need to ensure responses across the service and criminal justice system hold perpetrators to account, and actively identify, assess and manage their dynamic risk (see, inter alia, Chung et al., 2020; DSS, 2022; Fitz-Gibbon et al., 2020; RCFV, 2016). Australian-based research by Chung et al. (2020) highlights the range of different points of the service system that engage with and are responsible for identifying and responding to perpetrators of DFV. These points include specialist DFV services, mainstream agencies with a specialist DFV responses, police and other justice sector agencies, those that engage perpetrators but whose core business is not DFV (such as alcohol and other drug services), and mainstream services that have a ‘peripheral engagement’ with perpetrators (such as general practitioners and mental health services) (Chung et al., 2020: 11). Taking this articulation of the perpetrator intervention system as a starting point, our analysis of sentencing judgments identified the points of system contact that perpetrators of intimate femicide were known to have had prior to their use of lethal violence. This section presents those findings, focusing on engagement with services outside of the criminal legal system.

Of central focus in recent state-level Australian reforms is the trialling and expansion of men’s behaviour change programs (MBCPs), including the development of National Outcomes Standards for Perpetrator Interventions (NOSPI, see DSS, 2015) and state levels minimum standards for behaviour change programs (see, for example, Family Safety Victoria, 2018; NSW Government, 2017, 2018).

Members of this research team have previously published an analysis of the sentencing remarks made in the Victorian *Middendorp* case (*R v Middendorp* [2010] VSC 202; see further, Fitz-Gibbon et al., 2020: 65-66; Maher, 2014). Here, the intimate femicide offender had previously attended a community program; the judge cited this and ‘confidence’ in the prospects of rehabilitation, despite the fact that the killing occurred after the offender had ‘completed’ the program. The judge stated:

One of the purposes of sentencing is that the offender be exposed to rehabilitation so that he is better able to fit into society upon his release ... I note, too, Mr King’s report of your positive involvement in 2006 in the Link Out program conducted by Brosnan Youth Services and his confidence in your rehabilitative prospects. I will have regard to this in fixing a relatively short non-parole period. (Middendorp, per Byrne, J, at 23)

Looking beyond *Middendorp*, only four offenders of intimate femicide in this dataset were cited by the judge at sentencing as having previously attended a MBCP. Interestingly, in three of the four cases the offender was sentenced in the Western Australia Supreme Court. In those four cases, mention of that program at sentencing was brief. For example, in one case the judge noted that the offender had previously participated in:

a strong man group, as it is called, to address problems of this nature. Clearly that form of address was not enough. (State of Western Australia v David Churnside [2006] WASCSR 91, per Simmonds, J., at 60)

In another case, the judge mentioned the offender's enrolment in the program as an indication of the offender's likely awareness of his problematic use of violence, stating:

Domestic violence had become part of your relationship with the deceased. You participated in a domestic violence men's group in 2006 up until January 2007. You then attended a further six group sessions in 2007. These attendances indicate that you were aware that you had a problem with domestic violence at those times. (State of Western Australia v James Bill Payet (2014) WASCSR 88, at 55)

In the other two cases, each offender's prior participation in a behaviour change program was commented upon negatively by each judge at sentencing. The judges noted that, given the offender's subsequent conviction for intimate femicide, the program had clearly not achieved the desired impact. In *McDonald* and *Hill*, the sentencing judges each stated:

In July 2010 you were dealt with by the Adelaide Magistrates Court in relation to an aggravated assault against Ms Towers. For this offence you escaped conviction but were placed on a bond to be of good behaviour for 12 months. It was a condition of that bond that you undertake a domestic violence program. That program must have fallen on deaf ears as you were again charged with aggravated assault against Ms Towers in November 2012. (R v Michael Suve McDonald [2014] SASC No. SCCRM-14-69, per Stanley, J., at 2)

Ms Martin considered that you presented a relatively high risk of future violence and noted that you had completed a family violence program in the past but did not appear to have made any gains from the program. She considered that the prognosis for change was poor. (State of Western Australia v Hill [2014] WASCSR 52, per Corboy, J., at 51)

It is worth noting that since these remarks – which were made prior to 2014 – there has been a significant increase in behaviour change program offerings across Australia. However, while there have been some program evaluations and reviews (see, inter alia, Day et al., 2019; Helps et al., 2023; Hine et al., 2022; Taylor et al., 2020), the degree to which MBCPs achieve desistance from violence and prevent escalation of abuse is still unclear, particularly for high-risk offenders.

Beyond MBCPs, our analysis of the dataset reveals that over 20 per cent of perpetrators of intimate femicide had engaged with at least one point of the service support system. This equates to 1 in 5 of the 235 offenders sentenced during the period under study. Perpetrators were most likely to have received a referral to a counselling service or mental health advocate (21%, n=50). Research in Australia and internationally has identified a connection between intimate partner homicide (IPH) and mental health issues (Boxall et al., 2022; Chang et al., 2011; Kivisto & Watson, 2015; Murphy, Liddell & Bugeja, 2016; Oram et al., 2013; Pottinger, Bailey & Passard, 2019). Murphy

et al. (2016), for example, found that the most common service contact for perpetrators related to mental health issues. In a similar review conducted in England and Wales from 1997 to 2008, Oram et al. (2013) found that 14 per cent (n=164) of perpetrators had been in contact with a mental health service in the year before the homicide, and 20 per cent showed symptoms of mental illness at the time of the offence (7% psychosis and 13% depression). Interestingly, the majority of those perpetrators had a lifetime history of mental illness which the authors defined as a “longstanding illness rather than a sudden onset of symptoms” (Oram et al., 2013: 4).

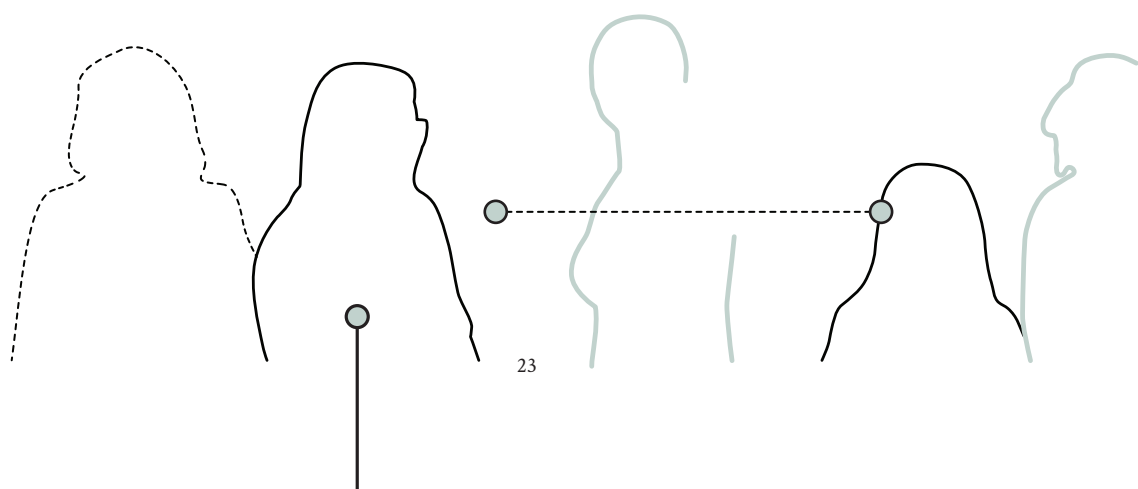
As well as the mental health system, offenders in this data set had engaged with other service support systems. These included:

- In 5% of intimate femicide cases, the offender was noted as having engaged with a housing service prior to the victim’s death (n=11).
- In 2% of intimate femicide cases, the offender was noted as having received a referral to a specialist family violence service prior to the act of femicide (n=5).

Our analysis also reveals opportunities to enhance perpetrator risk identification, assessment and management at a range of different points of the wider service system. This is particularly so, given the presence of recorded histories of alcohol, drug and mental health illness among the offender sample. Acknowledging that this information would not necessarily have been noted by the judge at sentencing in all cases, our analysis found that:

- In 53% of intimate femicide sentencing judgments, it was cited that the perpetrator had a history of alcohol misuse/abuse (n=124).
- In 41% of intimate femicide sentencing judgments, it was cited that the perpetrator had a history of drug misuse/abuse (n=96).
- In 46% of intimate femicide sentencing judgments, it was cited that the perpetrator had a history of mental health illness (n=108).

While service involvement beyond the criminal legal system is less likely to be deemed relevant at sentencing for a homicide offence, it is notable that among 25 per cent of sentenced offenders, there was no cited history of engagement with counselling, mental health or drug and alcohol services (n=59). This absence likely indicates that femicide prevention strategies will need to extend well beyond accountability that can be achieved through such services. This observation is not to undermine the importance of whole of system responses which keep people who use violence in view. Previous research by Boxall et al., (2022) in Australia has emphasised the importance of opportunities for intervention where a domestic violence offender is in contact with medical services, including alcohol and drug use programs. This research lends further weight to these findings, emphasising that an offender’s engagement with intervention points beyond the criminal justice system demonstrate the importance of whole-of-systems approaches to early intervention and prevention, particularly given the histories mentioned above.



Perpetrator Engagement with Legal and Service Settings

When interactions with a legal and/or service setting are combined, this analysis reveals that 15 per cent of intimate femicide offenders in this data set were not known to any point of the system prior to an act of fatal violence. Of those offenders who did interact with a point of the system, there were, often, numerous points of interactions – each representing a point of potential intervention, risk identification, assessment and management. Specifically, our analysis found that, in the 235 sentencing judgments studied:

- 11% of offenders were cited as having interacted with at least one legal agency or service setting prior to the act of intimate femicide (n=25)
- 40% of offenders were cited as having interacted with at least two legal agencies or service settings prior to the act of intimate femicide (n=94)
- 21% of offenders were cited as having interacted with at least three legal agencies or service settings prior to the act of intimate femicide (n=50)
- 5% of offenders were cited as having interacted with at least three legal agencies or service settings prior to the act of intimate femicide (n=12).

These findings point to the opportunities and spaces in which further engagement with the offender and effective information sharing might have contributed towards enhanced victim safety. Given the relatively high number of interactions that perpetrators of intimate femicide in Australia have with legal and service settings prior to their use of fatal violence, there is a need to better understand how the risk of future harm and violence escalation can be identified earlier and disrupted.

Victim Service Setting Engagement

Our analysis interrogated the extent to which help-seeking behaviours by victims prior to their deaths were acknowledged in the sentencing judgments. We were particularly interested in identifying the degree to which histories of healthcare system engagement was acknowledged in the sentencing judgements, given that healthcare services have emerged in studies in Australia and internationally as a critical site for disclosure. For example, a 2012 Victorian Coroner's Court study, which examined 120 intimate partner homicides, indicated that health services may be the last point of contact for victims prior to a fatality. Looking at cases between 2000 and 2008, this study found that in 75.8 per cent of cases, either the victim, perpetrator or both had accessed a service in the 12 months leading up to the fatal incident (89 of these homicide victims were female) (Murphy et al., 2016). Overall, 125 service contacts were made and, of these, 31 (24.8%) involved the victim (Murphy et al., 2016). In the 12 months leading up to the homicides, 51.7 per cent of female victims had made contact with services. This was predominantly the justice system (43.2%), but also included the healthcare system (27.3%; including GPs, mental health practitioners and hospital admissions) and other services (29.5%; such as family violence services, community services and non-criminal legal services) (Murphy et al., 2016). The importance of service system touch points cannot be underestimated.

Given the nature of the sentencing exercise and its explicit focus on determining culpability of the offender and responsibility for the incident, it is perhaps unsurprising that there were relatively few remarks in the sentencing judgments studied that were relevant to a victim's history of service involvement and help-seeking behaviours prior to the act of femicide. This point is analysed in further detail in the final section of this report, which examines the invisibility of victims through the sentencing process.

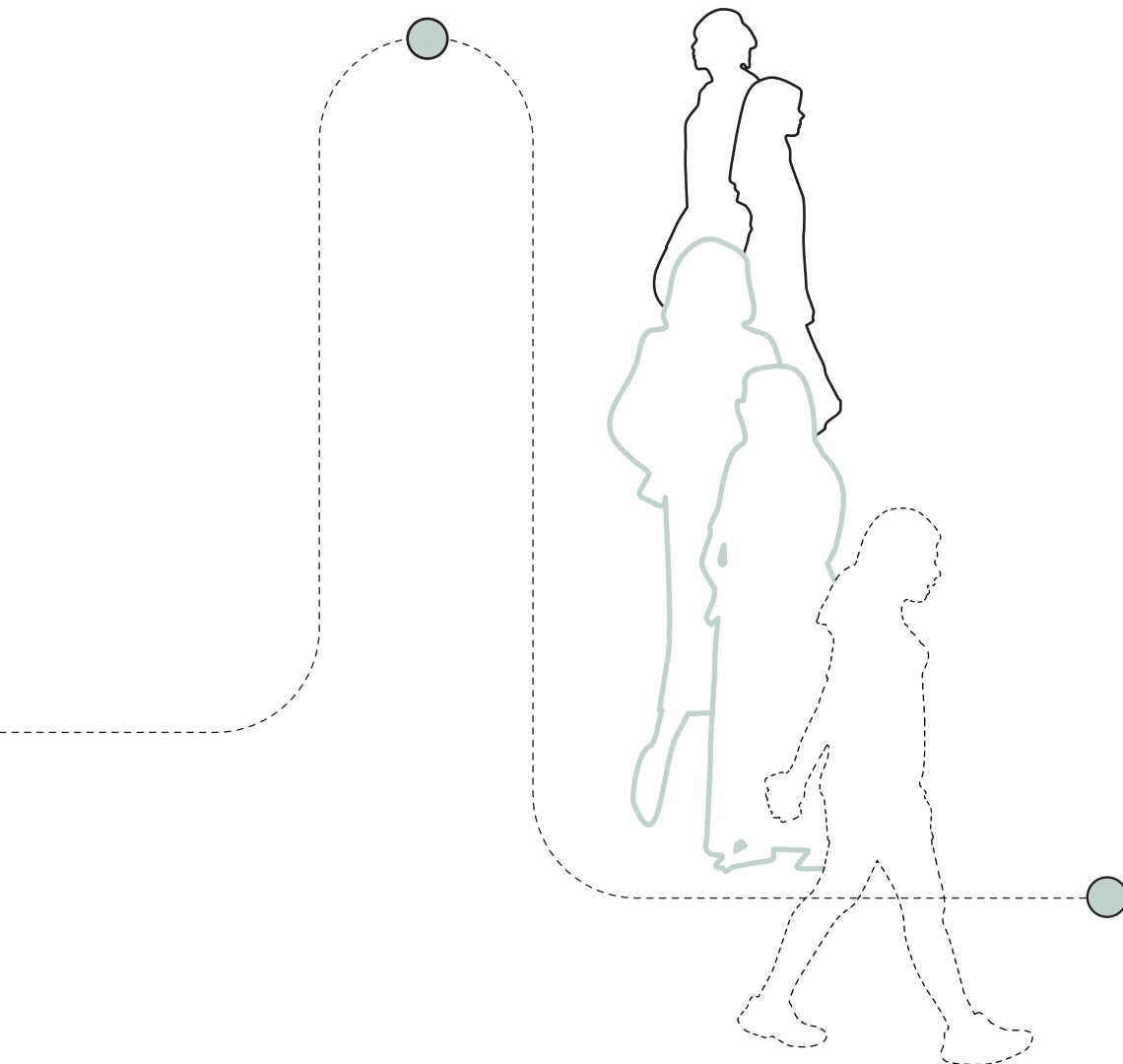
In sentencing judgments where the victim's service seeking history was mentioned, our analysis found:

- In 9% of cases, it was noted that the victim had received a referral to counselling or a mental health advocate prior to their death (n=21).
- In 7% of cases, victims were noted as having engaged with a housing service prior to their death (n=16).
- In 5.5% of cases, victims were noted as having engaged with a specialist family violence service prior to their death (n=13).
- In 5% of cases, victims were noted as having engaged with a drug or alcohol service prior to their death (n=12).

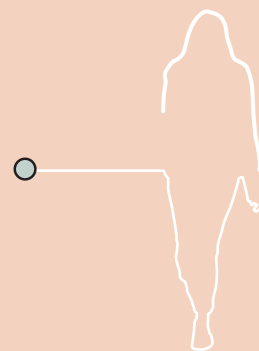
Mirroring the previous analysis of the perpetrator-focused information included within the sentencing judgments, our analysis of the sentencing judgments reveals opportunities for broader service system interaction given the alleged presence of recorded histories of alcohol, drug and mental health illness among the victim sample. Noting that this information would not have been cited by the judge at sentencing in all of the cases studied, our analysis found:

- In 25% of intimate femicide sentencing judgments, it was cited that the victim had a history of alcohol and/or drug misuse/abuse (n=58).
- In 6% of intimate femicide sentencing judgments, it was cited that the victim had a history of mental health illness (n=14).

Taking the data on offenders' and victims' engagement with different points of the service delivery system lends support to the findings of Boxall et al. (2022) on the potential for identifying the constellation of factors that contribute to one pathway into femicide.



The Role of Bystanders



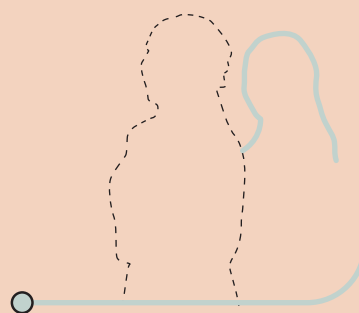
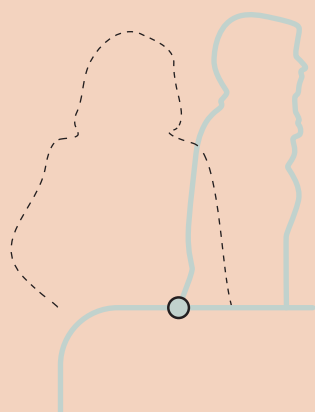
Bystanders – including family, friends, neighbours and co-workers – have always played a key role in supporting victims of DFV and facilitating help-seeking. Over the last decade, there has been an increasing focus around the world on the role of bystanders and the need for governments to implement policies and programs to education members of the community on how to intervene in violent incidents (Kuskoff et al., 2023). ‘Bystanders’ are broadly defined as:

Those individuals that are not directly involved in violence as a victim or perpetrator, but who observe an act of violence, discrimination or other unacceptable or offensive behaviour. (Powell, 2012)

Throughout the sentencing judgments analysed for this study, judicial officers often cited where family, friends, neighbours and co-workers were bystanders to the intimate femicide, or where these informal networks were aware of abuse in the intimate partner relationship prior to the femicide. References to the role of bystanders were made in over half of the cases examined. This specifically included:

- 53% of cases where judicial reference was made to the role of family (n=125).
- 48% of cases where judicial reference was made to the role of friends (n=112).
- 27% of cases where judicial reference was made to the role of neighbours (n=64).
- 9% of cases where judicial reference was made to the role of work colleagues (n=21).

While it is unrealistic to think that all interactions with informal support networks could serve as an effective point of intervention and prevention of future harm, there is absolutely a need to equip members of the broader community with the information needed to positively intervene to support an individual’s safety or to hold a perpetrator’s problematic behaviours to account. It is critically important to equip bystanders with the necessary knowledge and confidence around how to respond to witnessed violence and/or where to seek help (Meyer & Fitz-Gibbon, 2020). This aligns with wider efforts across Australia to ensure that all members of the community understand the role that they can play to address the national crisis of men’s violence against women (see also, Fitz-Gibbon & Meyer, 2023).



The Invisibility of the Victim in the Sentencing Process

As our analysis in this report has revealed, sentencing judgments typically offer little information on the deceased victim. To better understand this finding, we examined the purposes of the sentencing process, observing the extent to which the invisibility of the victim should be considered in line with legislative requirements of the sentencing process. The *Victorian Sentencing Act 1991* (Vic) – a useful Australian example – cites five purposes for sentencing:

- **Just punishment:** to punish the offender to an extent and in a way that is just in all circumstances.
- **Deterrence:** to deter the offender (specific deterrence) or other people (general deterrence) from committing offences of the same or a similar character.
- **Rehabilitation:** to establish conditions that the court considers will enable the offender's rehabilitation.
- **Denunciation:** to denounce, condemn or censure the offending conduct.
- **Community protection:** to protect the community from the offender.⁵

While in one way, these principles can be understood as creating a justification for how the sentencing process is conducted – that is primarily offender focused – there are a number of these principles including just punishment, deterrence and denunciation, which imply an obligation for sentencing judgements to offer a full and accurate account of the circumstances of the crime beyond a singular focus on the perpetrator and his histories. There is an important role for sentencing judgments to play in including the community and service lines of intersection and oversight, since those lines of oversight and intersection are necessarily contextual for the commission of the crime in focus – the fatal killings. Our analysis of sentencing judgments demonstrates that, like so many other points of the legal system, the lives that the victims lived, their experiences and, specifically, their searches for safety through service outreach are largely absent in the official accounts of their deaths.

These absences starkly reveal that the limits in legal responses – to respond and recognise DFV against women in their lifetimes – extend to their deaths as well. These absences in sentencing accounts not only mean that the crimes are not fully accounted for – and women's lives are therefore made invisible – but also that they contribute to a much broader system failure. Our analysis here supports earlier findings by Boxall et al. (2022: p. 114) who, in their pathways study of intimate partner homicides in Australia, recognised that 'a key limitation of the current analysis was the absence of victim information and "voice".'

In the small number of cases where patterns of the victim's help-seeking were discussed at sentencing, the sentencing process offered a clear picture of the victim's efforts to create safety and security for themselves. These judgments illuminate opportunities to intervene. For example, in *Barrett*, the judge stated:

Although it is not disputed that in the weeks and months leading up to 7 June you did engage in counselling and supervision as required by your parole, your counsel nonetheless described your efforts in this regard as "floundering". Indeed when you and Ms Brodhurst were seen by a counsellor on 22 May 2003, some

⁵ For further information, see: <https://www.sentencingcouncil.vic.gov.au/about-sentencing/sentencing-principles-purposes-factors>

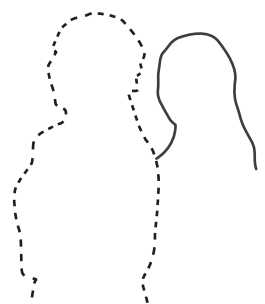
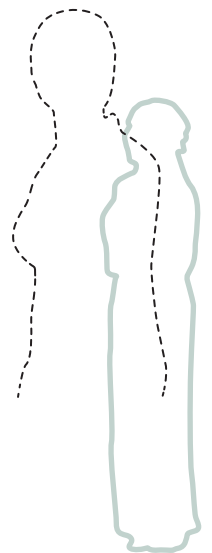
fortnight or so before her death, Ms Brodhurst was observed to be pale, her face battered and her top lip swollen. Such was your behaviour at this time that your father contacted your case worker to express his concerns. (R v Barrett [2008] VSC 234, per Curtain, J., at 9)

Raju is another case where the victim's prior system help-seeking is detailed:

On 6 May the deceased made contact with Kitty Waddell, the AVO Support Officer working at the Wollongong Women's Centre. She explained her circumstances and expressed concern about losing the children. Ms Waddell made arrangements for her to obtain legal advice. She was also seen by Freda Botica, a counsellor at the Centre. Ms Botica said that the deceased was on edge and in a pretty distraught state. They discussed alternative accommodation, but the deceased refused assistance. The deceased attended a further interview with Ms Botica during which she expressed concern about her children being taken away from her. She was also worried that the authorities had come to learn that she was working in breach of the conditions of her visa. She feared that she would end up in a refugee camp. She appeared very fragile and upset ... On Monday 13 May, [day after they got back together and returned to NSW] ... the deceased attended at the Women's Centre early in the morning. She told Ms Stylianou that she was afraid of her husband and they discussed alternative accommodation. Ms Stylianou made inquiries with a number of refuges in the Wollongong area, but was not able to find any accommodation for the deceased at that time. The deceased gave Ms Stylianou her passport and the children's passports, asking that Ms Stylianou keep them in a safe place because she feared that her husband was going to take the girls. The deceased returned to the Centre the following day, spending most of the day there ... On Friday 31 May the deceased telephoned Ms Stylianou and told her that she needed to collect the children's passports. She arranged to collect them from Ms Stylianou on Monday 3 June. (R v Raju [2007] NSWSC 1418, per Bell, J., at 13-19)

These two extracts demonstrate a variety of factors, including service contacts, referrals, the impacts of visa abuse, limited accommodation options, and a failure to respond to evidence of violence and abuse. These accounts contrast with the invisibility of victims' help-seeking journeys in the majority of sentencing judgments analysed for this project. When women's efforts to disclose violence in healthcare contexts – or to make connections with specialist services as part of processes to secure their own safety – do not form part of a sentencing narrative, or appear in only 15 per cent of the sentencing judgements, a critical opportunity is lost towards understanding where the system might be bolstered to improve safety planning, risk identification, assessment and management processes. While perhaps aligned with a narrow application of traditional sentencing principles, this approach serves to narrow the gaze so that only the perpetrator is seen. In this final systemic failure, the murdered woman is therefore invisibilised. As Easteal et al. (2019) persuasively argue, these narratives create “dominant realities” that permeate institutions and the communities they serve.

During the time period of the dataset examined in this study, moves have been made in Australia and elsewhere to rectify the absence of the victim in cases of murder and manslaughter in court proceedings. Various labels such as ‘victim impact statements’ and/or ‘victims’ advocacy schemes’, these initiatives offer a space in court for family members to make a statement to the court before sentencing which contextualises the life and loss of their loved one. While early research from England and Wales (Sweeting et al, 2008) suggested that people welcomed the opportunity to be heard in court, the work of Rock (2010) observed that the “memorialisation” of the dead reflected in these statements was met with “civil inattention”. This finding is echoed by Booth (2012), looking at a similar scheme in Australia. This work suggests that such statements may have missed the mark in ensuring the court's “duty to understand” (Bottoms, 2010).





Discussion and Conclusion

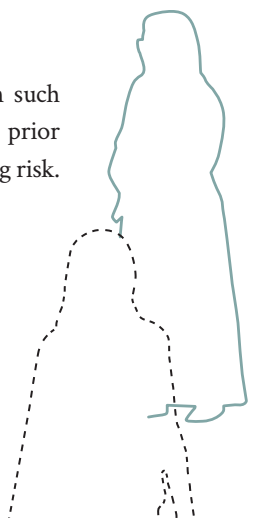
Intimate femicide is preventable. However, we cannot prevent what we do not fully understand. This project has sought to contribute to building the evidence base needed to better understand – and ultimately prevent – intimate femicides through earlier points of intervention and opportunities for violence disruption.

At the national, state and territory level, there is a growing emphasis on implementing comprehensive interventions for DFV perpetrators across legal and service systems, with recent inquiries highlighting the need for greater perpetrator accountability, visibility and dynamic risk identification, assessment, and management (see, among others, DSS, 2022; RCFV, 2016; Special Taskforce on Domestic and Family Violence in Queensland, 2015). Analysing sentencing judgments, this study identified points of contact that perpetrators had with service systems before perpetrating femicide, underscoring the importance of understanding intervention pathways within and beyond the criminal legal system.

Specifically, this study provides insights into how offenders' histories of violence inform, or indeed fail to inform, judicial assessments of risk and dangerousness in sentencing men convicted of intimate femicide across Australian state and territory jurisdictions. Indicators of risk captured in the analysed judgments include prior interactions with the police and legal settings, convictions, histories of DFV offending, and being listed as a respondent on a prior civil order(s). The analysis presented in this report identified significant prior criminal justice system involvement among perpetrators, with 71 per cent having contact with at least two legal points prior to the intimate femicide. Notably, 10 per cent of offenders were on bail or parole at the time of the intimate femicide, highlighting systemic failures in risk management and bail decision-making.

Prior convictions and civil order histories indicate concerning patterns of violence among perpetrators. 65 per cent of offenders in the analysed judgments had prior criminal convictions, with 34 per cent having a prior conviction for a DFV-related incident, and 25 per cent having been previously listed as a primary aggressor on a civil order. Despite these indicators of risk, throughout the sentencing judgments judicial officers rarely adopt a risk lens to represent perpetrators actions. Known histories of violence, including prior abuse towards the victim and other partners, are frequently cited, with 75 per cent of cases involving one victim and 11 per cent involving two victims. Building on this – and in addition to identified legal system interactions – this study reveals significant prior violence histories among perpetrators convicted of intimate femicide. Throughout the judgments, and aligning with well-established risk factors for intimate femicide, histories of DFV, threats to kill and non-fatal strangulation are cited as occurring prior to acts of lethal violence.

This analysis of over 235 intimate femicide sentencing judgments also reveals that we cannot rely on such touchpoints only to work against the commission of violence. In 14 per cent of cases, offenders had no prior legal system engagement, underscoring the underreporting of domestic violence and complexity of assessing risk.



For perpetrators who had interacted with a point of the system, multiple points of contact were common – presenting opportunities for perpetrator-focused risk identification, assessment and management. Specifically, findings show that 12 per cent of perpetrators interacted with at least one agency, 44 per cent with two, 24 per cent with three and 6 per cent with four prior to perpetrating femicide. These findings highlight the potential for enhanced victim safety through increased perpetrator-focused engagement and information sharing. Given the frequent interactions before fatal violence, there is a pressing need to understand and disrupt violence escalation earlier in the system.

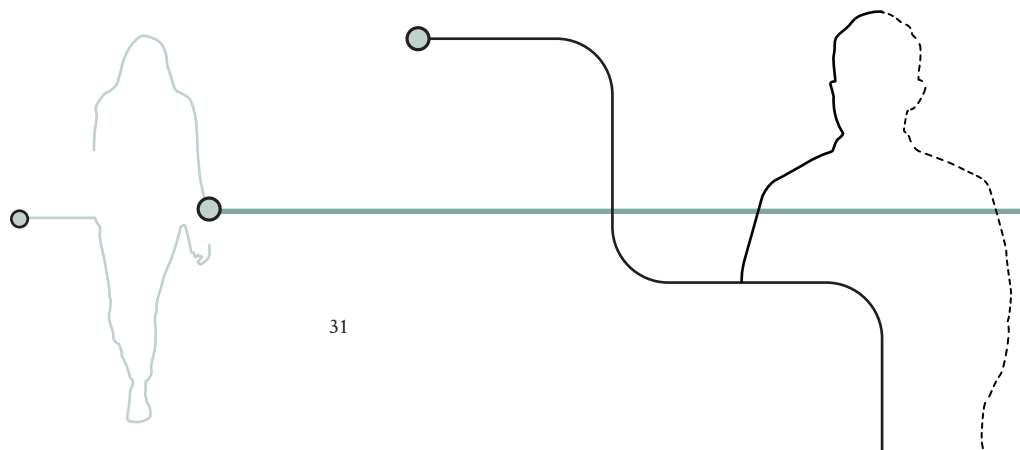
Moreover, recent reform agendas have focused on developing a suite of perpetrator interventions, including men’s behaviour change programs, but expanding to include targeted case management and a range of other initiatives. While there is presently mixed evidence on the effectiveness of MBCPs in preventing violence escalation – particularly for high-risk offenders – it is imperative to understand how interventions with perpetrators can be utilised and expanded to more effectively disrupt trajectories of harm.

Noting that there are often minimal details about the victim and their histories of help-seeking during the sentencing process, this analysis identified some opportunities for intervention during victims’ help-seeking behaviours prior to the act of intimate femicide. In particular, healthcare services emerged throughout the judicial remarks as a crucial disclosure opportunity point. Across the analysed sentencing judgments, judicial remarks noted that victims had engaged with counselling services, housing supports, family violence specialist services and substance abuse services prior to their deaths. However, this analysis starkly reveals how absent the victim and a detailing of their lives are in judicial recounts of their deaths. These sentencing judgments – and their silences – represent yet another example of a point of the system in which understanding the safety needs of the victim is invisibilised.

In Australia, there has been a significant shift in recent years to call for more attention to be placed on perpetrators and better understanding of perpetration. As Flood and Dembele (2021) have stated:

It is time to reframe the problems of domestic and sexual violence in Australia: to put perpetrators in the picture and to focus more on preventing and reducing the perpetration of abusive behaviours.

This project sought to utilise intimate femicide sentencing judgments for homicide offences to build current understandings of the potential points of intervention prior to the killing of women by their male intimate partners. In doing so, this project has contributed to building understanding of who perpetrates intimate femicide. Within the cases examined, the perpetrators sentenced for intimate femicide exhibited a narrower age range, primarily concentrated below 41 years old, with the majority of perpetrators aged between 29 and 40 years old. In the analysed sentencing judgments, judges identified among the perpetrators of intimate femicide high rates of mental health issues, substance abuse histories and disability. The offenders’ employment statuses varied, with a notable portion being unemployed at the time of the femicide. Moreover, a significant proportion of offenders were born overseas. These findings contribute to building better understandings of the diverse profile of perpetrators of intimate femicide as represented in judicial remarks during the sentencing of homicide offences.



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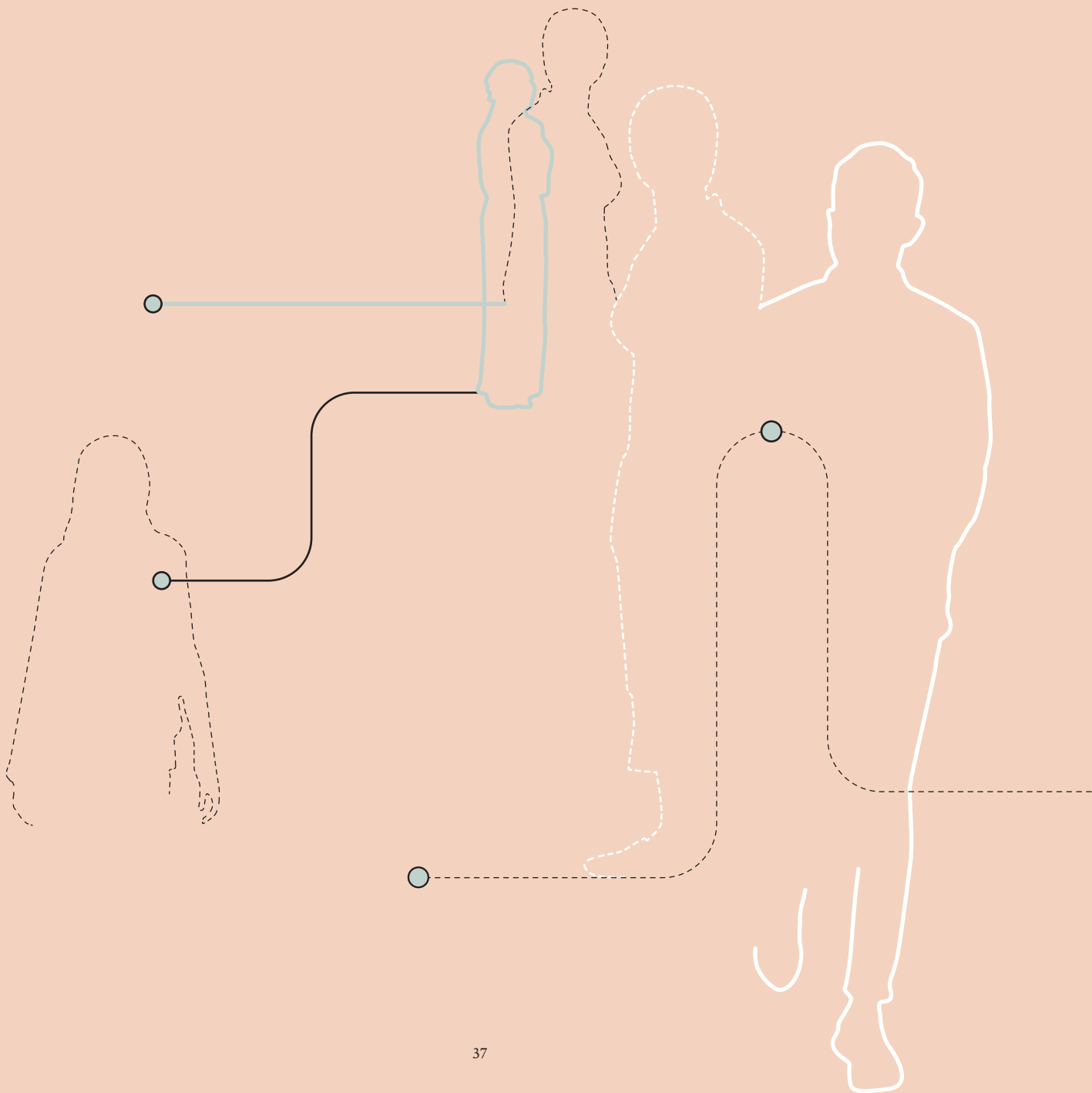
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APPENDIX 1. PROCESS FOR GAINING ACCESS TO HOMICIDE SENTENCING REMARKS

Jurisdiction	Process for gaining access to homicide sentencing remarks
Australian Capital Territory	Sentencing remarks were located onsite by researchers in the Supreme Court Library.
New South Wales	Sentencing remarks were publicly available through the AustLII database.
Northern Territory	Access to sentencing remarks was negotiated. The Supreme Court requested a USB from researchers, which was sent. The USB was checked by the NT IT team and the remarks were uploaded onto the USB and returned via post.
South Australia	Some difficulties were encountered in gaining access to sentencing remarks. Multiple attempts to negotiate access through the Supreme Court were unsuccessful. The Supreme Court reported it did not grant open access to sentencing remarks, and that it could not allow access to internal databases. It also could not provide a list of relevant homicides cases. Researchers established a contact at the Office of Public Prosecution (OPP) and requested access to a list from the OPP of all murder and manslaughter cases resolved by way of plea or guilty verdict during the time period being studied for this research. The OPP supplied this. Researchers conducted a media search to eliminate cases of non-intimate partner homicides, which were outside the scope of the study. The OPP then advised researchers that the sentencing remarks required were held by the Supreme Court and it would need to receive the list to facilitate access to the transcripts of the sentencing remarks. Researchers contacted the Supreme Court and were advised of an intention to charge a fee for access to the sentencing transcripts. This included a search fee for each file of \$23.60 and a per-page fee of \$7.90 (electronic copy) or \$10 (hard copy). Soon after researchers spoke with the Chief Justice of the Supreme Court, who granted access to the registry without such fees and supplied researchers with a letter stating that data were to be supplied. Relevant sentencing remarks were received via email 10 days later.
Tasmania	Sentencing remarks were publicly available through the AustLII database.
Victoria	Sentencing remarks were publicly available through the AustLII database.
Western Australia	Remarks were gathered onsite by the research team who were granted access to the internal Supreme Court database, after signing an undertaking with the court. Researcher access was monitored.
Queensland	Despite formal requests and/or communication with all relevant Queensland agencies, our research team was unable to gain access to sentencing judgments within that state. The Office of the Deputy Director-General, Justice Services in the Queensland Department of Justice and Attorney General provided a list of offenders sentenced within the relevant time period and the date of the sentencing judgment. However, the high cost of obtaining the judgments through the private court transcription service was prohibitive.

APPENDIX 2. OTHER PROJECT OUTPUTS

As part of our work on this ARC Discovery Project (1701000706), Securing Women's Lives, members of the project team have produced a range of research outputs, government submissions and media contributions, including:

- Fitz-Gibbon, K. & Walklate, S. (2023) 'Cause of death: femicide'. *Mortality*, 28(2): 236-249. DOI: 10.1080/13576275.2022.2155509
- Fitz-Gibbon, K., Walklate, S., McCulloch, J. & Maher, J.M.M. (2023) Intimate femicide/Intimate Partner Femicide. In M. Dawson & Saide, M.V. (eds.) *The Routledge International Handbook on Femicide and Feminicide*. Routledge, Chapter 27, pp. 301-310. DOI: 10.4324/9781003202332-32.
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Recommended citation

Fitz-Gibbon, K., Walklate, S., Maher, J., McCulloch, J. & McGowan, J. (2024) Securing women's lives: examining system interactions and perpetrator risk in intimate femicide sentencing judgments over a decade in Australia. Monash University and University of Liverpool. **DOI:** 10.26180/25855543.