



YWCA CANBERRA

Submission on *Electronic Monitoring in the ACT*

Discussion Paper

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Acknowledgement of Country

YWCA Canberra proudly recognises the rights of Aboriginal and Torres Strait Islander peoples to own and control their cultures and pays our respect to these rights. YWCA Canberra acknowledges the need to respect and encourage the diversity of Indigenous cultures and to respect Indigenous worldviews, lifestyles, and customary laws. We extend our respect to the Aboriginal and Torres Strait Islander women who for thousands of years have preserved the culture and practices of their communities on country. This land was never surrendered, and we acknowledge that it always was and will continue to always be Aboriginal land.

About YWCA Canberra

YWCA Canberra is a feminist not-for-profit organisation that has provided community services and represented women's issues in Canberra since 1929.

Our mission is 'We strengthen communities by supporting girls and women through our services and advocacy' and our vision is 'Girls and women thriving'.

We provide essential, quality services for women, girls and families in the ACT and surrounding regions. We work in the areas of children's services, community development, homelessness and affordable housing, youth services, personal and professional training, women's leadership and advocacy.

We are externally accredited against the [Quality Improvement Council \(QIC\) Health and Community Service Standards \(7th Edition\)](#). Accreditation against the QIC standards support us to improve client and community engagement, diversity and cultural appropriateness, management systems, governance and service delivery, while committing to a cycle of continuous quality improvement. In addition to the QIC standards, we are accredited against the following external client related service standards for our key areas of work:

- [Australian Charities and Not for Profit Commission](#)
- [National Quality Standard for Early Childhood Education and Care and School Aged Care](#)
- [National Regulatory System for Community Housing](#)
- [Registered Training Organisations Standards](#)

Through our national Affiliate Association with YWCA Australia, we are part of the World YWCA network, which connects 120 countries across the globe.

Introduction

YWCA Canberra welcomes the invitation from the Justice and Community Safety Directorate to make a submission to the discussion paper regarding the introduction of Electronic Monitoring in the ACT. As providers of a Domestic Violence Support Service and a key referral partner for ACT Policing, we have a strong interest in the introduction of electronic monitoring in the ACT.

We understand that the ACT is commencing this discussion due to a commitment by National Cabinet, and that our adoption of this technology is well past the introduction of similar systems in all other states and territories. While we support electronic monitoring in principle, this context is relevant as there is likely to be a *sense of urgency* towards implementation without consideration of peripheral concerns that may have consequences for survivors of violence or the services they rely on.

We use this submission to share the following concerns from the discussion paper, and urge that they be given consideration in implementing electronic monitoring in the ACT:

1. Triaging domestic violence offenders for the initial roll-out.
 - a. Existing interstate eligibility criteria and the principle of sentencing proportionality leads to the conclusion that medium to high-risk offenders of domestic violence will be the selected offending cohort.
 - b. Managing the risk of electronic monitoring becoming a default alternative for custodial sentences that, given the potential risk, would be more appropriate, such as being placed remand.
2. An overall lack of information regarding the roll-out of the scheme and the involvement of third parties for monitoring.

Triaging domestic violence offenders for the initial roll-out

Evidence from NSW indicates that electronic monitoring of eligible offenders can reduce recidivism.¹ We hold concerns that domestic violence offenders will be slated for the initial roll-out phase given the obligations of the ACT Government to National Cabinet, which may place survivors at unnecessary risk before the system can be fully tested and evaluated. Given that offenders who have been placed on intensive corrective orders (ICOs) or are subject to bail conditions are those who are being proposed for phase 1 of the roll-out, there is a risk that the existence of an electronic monitoring program, as an additional sentencing condition, may facilitate bail where bail would otherwise not be an appropriate management of risk.

¹ <https://bocsar.nsw.gov.au/documents/publications/cjb/cjb251-300/cjb255-dvem-full-report.pdf>

In NSW eligibility to take part in the electronic monitoring program includes that the offender has a no-contact DVO in place with measurable restrictions, as well as a history of medium to high-risk level DV offending. We understand that sentencing is guided by the principle of proportionality, and that high-risk offenders would be subjected to stricter sentencing terms, such as monitoring. And that under proportionality, low-risk offenders would not likely be subjected to the same terms. The inclusion of leave permits on the implementation for phase 1 offers a means to initially introduce electronic monitoring, in a limited fashion, to identify and rectify issues before the wider roll-out.

The relationship between the level of offending and the suitability for electronic monitoring must be given serious consideration that accounts for survivor safety and the recidivism potential of the offender. The implementation of electronic monitoring for medium to high-risk domestic and family violence offenders must coincide with broader structural reforms to address domestic and family violence in the ACT, such as the criminalisation of coercive control and improving frontline service capacity to respond to victim-survivors and their safety needs.

Recommendations:

- Consider using Leave Permits to progressively introduce electronic monitoring so that potential unforeseen issues can be evaluated and rectified in the early stages of implementation.
- Align the introduction of electronic monitoring with broader structural reforms to address domestic and family violence in the ACT.

An overall lack of information regarding the roll-out of the scheme, and the involvement of third-parties for monitoring.

There remains a lack of information on how electronic monitoring will be conducted. In NSW, electronic monitoring operates as follows:

*"Where an offender is found to be entering a buffer exclusion zone, electronic monitoring staff contact them by phone and warn them to exit the area. If this direction is complied with, the matter is considered to have ended. Otherwise, if the offender does not exit the buffer zone, or continues to move towards the ADVO exclusion zone, police are immediately contacted with evidence and details of the incident, and participating victims are alerted to the matter. The program also makes an allowance for victims who meet suitability criteria to have a matched monitoring device, thereby promoting additional risk management and measurement of ADVO compliance while victims are away from home."*²

² <https://bocsar.nsw.gov.au/documents/publications/cjb/cjb251-300/cjb255-dvem-full-report.pdf>, pg. 2.

The discussion paper indicates that it is possible the ACT will engage third-party contractors or private operators to conduct the latent monitoring of devices. While this may be operationally necessary, there is an abundant need for external providers to be suitably trained and receive regular upskilling in risk detection, management and escalation.

There is no indication in the discussion paper on the likelihood of a paired monitoring device, provided to a victim-survivor, that will inform them of any breaches to orders. This option may provide additional reassurance to a victim-survivor and be a suitable feature for their individual safety planning.

Recommendations:

- Ensure third-party operators are suitably trained in risk detection, management and escalation.
- Consider introducing pairing devices for eligible victim-survivors.