



Submission to the Family Law Amendment Bill 2023



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Introduction

Our submission will focus upon the proposed repeal of the presumption of equal shared parental responsibility in section 61DA, and its associated provisions to consider the practicality of equal time, or substantial and significant time in section 65DAA.

We believe there is a lack of evidentiary basis for the proposed repeal, and that even if widespread community misconception about the current legislation does exist, repeal is not the solution. The problem could be addressed by re-wording of The Act as well as community education. Repeal may in fact lead to a different but equally dangerous community misconception arising. We believe the government lacks a mandate for these reforms. There is no research indicating whether the best interests of children are prioritised or not within the family law system, so a hypothetical focus upon children's best interests is open to skepticism.

As such we urge the Committee not to repeal the presumption of equal shared parental responsibility in section 61DA, and its associated provisions to consider the practicality of equal time, or substantial and significant time in section 65DAA.

About the One in Three Campaign

One in Three is a diverse community group made up of male and female professionals – academics, researchers, social workers, psychologists, counsellors, lawyers, health promotion workers, trainers and survivor/advocates. The Campaign aims to raise public awareness of the existence and needs of male victims of family violence and abuse; to work with government and non-government services alike to provide assistance to everyone affected by family violence; and to reduce the incidence and impacts of family violence on Australian men, women and children. We believe our society has the capacity to support all victims of family violence, whether male or female, young or old, gay or straight, rich or poor, wherever they live.

One in Three is primarily a lobbying and advocacy organisation. While we would love to do more, and there is a desperate need for additional services, we lack the resources to provide our own services or work extensively with other NGOs to provide services.

The main resource we provide is our website oneinthree.com.au. It provides:

- information about the experiences of male victims of family violence and the barriers they often face to disclosing;
- research and statistics about male victims;
- opportunities for men to tell their own personal story and read almost 300 accounts from other men;
- news from around the globe; and
- a comprehensive list of national and international resources to assist males in crisis.

We have produced some powerful videos¹ of men telling their personal experiences of family violence and abuse. We regularly give conference presentations, provide research assistance to students and give talks at high schools. We have produced a series of seven free digital poster designs² aimed at educating boys and young men about respectful and healthy relationships. Unless we give men and boys the courage and support to disclose their experience as victims of family violence, they will continue to suffer in silence.

¹ https://www.youtube.com/watch?v=h_VhEXei2s8

² <http://www.oneinthree.com.au/posters>



We have collaborated with various NGOs to establish better services for male victims, most notably working with *Victims & Witnesses of Crime Court Support (VWCCS)*, *NSW Police* and *Women's Domestic Violence Court Advocacy Service* to develop the *Insight* trial court support scheme for male victims of violence at the Downing Centre and Parramatta Courthouses in inner and western Sydney.

Some other examples of collaborative work with NGOs include:

- assisting the *Men's Advocacy Network* in WA in developing the groundbreaking 2010 *Intimate Partner Abuse of Men*³ report conducted by researchers from the School of Psychology and Social Science at Edith Cowan University
- collaborating with the *Western Sydney Men's and Relationship Services Network* to produce a poster⁴ listing domestic and family violence services available to male victims, which was distributed widely amongst service providers in Western Sydney.

One in Three regularly lodges submissions, attends consultations and appears before government inquiries and royal commissions into family violence. As a result, many recent state and federal inquiries have acknowledged the existence and needs of male victims of family violence and have recommended that better support services be provided for them.

For example:

- The 2012 NSW Legislative Council's Inquiry into *Domestic violence trends and issues in NSW*⁵ found that:
 - "There was a broad recognition among inquiry participants that women offenders and male victims do exist". "Of [reported] victims of domestic assault in 2010, 69.2% were female, while 30.8% were male."
 - "Male victims have been much less visible and able to access supports than should be the case"
 - "The experience of [males]... is equally as bad as that of other victims"
 - "We recognise the gap in services for male victims and encourage the government to examine how services can most appropriately be provided to male victims of domestic violence"
 - "Male victims... were identified during the inquiry as in need of special consideration with regard to domestic violence" along with "older people; young people; Aboriginal people; GLBTI people; people from culturally and linguistically diverse (CALD) backgrounds; and people with a disability."
- The 2015 Victorian *Royal Commission Into Family Violence*⁶ recommended that:
 - The Victorian Government publicise and promote the Victims Support Agency in any information campaign relating to family violence as the primary source of assistance for male victims. The agency should also provide appropriate online resources for male victims [within 12 months].
 - The Victims Support Agency continue to receive all police referrals (L17 forms) relating to male victims, including after the establishment of the Support and Safety Hubs. The agency and all other relevant support services

³ Tilbrook, E., Allan, A. & Dear, G. (2010), [Intimate Partner Abuse of Men](#). East Perth: Men's Advisory Network, May 26, 2010.

⁴ http://www.oneinthree.com.au/s/Domestic_Violence_Services_for_Male_Victims_2015.pdf

⁵ New South Wales Parliament (2012), Legislative Council, Standing Committee on Social Issues, [Domestic violence trends and issues in NSW](#) (Report ; no. 46), p.xxxii.

⁶ State of Victoria (2016), [Royal Commission into Family Violence: Summary and recommendations](#), Parl Paper No 132 (2014–16), p93.



should develop joint arrangements to ensure that male victims of family violence are supported in obtaining the help they need [within two years].

- The 2015 Federal Parliamentary Inquiry into *Domestic Violence in Australia*⁷ recommended that:
 - The committee recommends that the Commonwealth Government recognise the need to provide appropriate services to male victims of domestic and family violence.
- The 2021 Federal *Inquiry into Family, Domestic and Sexual Violence*⁸ recommended that:
 - "...the next National Plan be inclusive of the diversity of victim-survivors. In particular, the next plan should recognise the rights and needs of women; children in their own right; men; older Australians; LGBTQI people; and people living with a disability."
 - "...the Australian Government commission research into the prevalence of family, domestic and sexual violence against men, and its impact on male victim-survivors..."
 - "...the Department of Social Services review the adequacy of advice and referral services for men as victim-survivors of family, domestic and sexual violence."

One in Three receives no funding and operates on an entirely voluntary basis.

Lack of an evidentiary basis for the proposed repeal

The Consultation Paper states the following:

"The proposed repeal of the presumption of equal shared parental responsibility in section 61DA, and its associated provisions to consider the practicality of equal time, or substantial and significant time in section 65DAA, is a response to substantial evidence of community misconception about the law - that is, that parenting arrangements after separation are based on a parent's entitlement to equal time, rather than an assessment of what arrangements serve the child's best interests. This misunderstanding may lead parents to agree to unsafe and unfair arrangements, or encourage parties to prolong litigation based on the incorrect expectation of equal time. These provisions also increase the length of judgments and the time spent in court resolving these matters."

The paper fails to cite a single piece of evidence in the form of reputable research or survey data to support its claim of "substantial evidence of community misconception about the law". Instead it relies entirely upon unreferenced claims of community misconception from those with potential vested interests in repealing the presumption of equal shared parental responsibility and associated provisions.

As such, we recommend the commissioning of quality research into this area by a reputable, neutral research organisation in order to ascertain the extent, if any, of current community misconception about the law.

If community misconception does exist, repeal is not the solution

Even if we were to take the unreferenced claims of community misconception cited by the Consultation Paper at face value, and made the assumption that there exists widespread community misconception about the law leading parents to agree to unsafe and unfair arrangements or encourage parties to prolong litigation based on the incorrect expectation of equal time, the solution is not to repeal the relevant clauses. Instead, any community misconception could easily be remedied by a

⁷ The Senate Finance and Public Administration References Committee (2015), [Domestic violence in Australia](#), August 2015, p109.

⁸ House of Representatives Standing Committee on Social Policy and Legal Affairs (2021). [Inquiry into family, domestic and sexual violence](#). Canberra: Parliament of the Commonwealth of Australia.



combination of community education and re-wording of the language of The Act in order to avoid any future misunderstandings, while retaining the spirit and intent of the current legislation.

Repeal may lead to a different and dangerous community misconception

If, as argued by the Consultation Paper, the existence in legislation of the presumption of equal shared parental responsibility and its associated provisions has created a community misconception about the law that parenting arrangements after separation are based on a parent's entitlement to equal time, we would argue that their removal risks the reverse situation occurring: that another dangerous community misconception could easily develop that both parents will NOT have parental responsibility for their children. What mechanisms will the Government put in place to ensure this does not happen?

The government lacks a mandate for these reforms

The proposed repeal of the presumption of equal shared parental responsibility in section 61DA, and its associated provisions to consider the practicality of equal time, or substantial and significant time in section 65DAA were not taken to the public during the 2022 federal election campaign. Instead the government sprung them upon the public immediately upon forming government, while allowing insufficient time for community comment and consultation.

There is no research indicating whether the best interests of children are prioritised or not within the family law system

The rationale for the proposed repeal of the presumption of equal shared parental responsibility and associated provisions is that “the Australian Government wants to make sure the best interests of children are prioritised and placed at the centre of the family law system”. While this is a laudable aim, it remains completely untested. We are unaware of any research that has asked the children of separating parents whether or not they believe the decisions made by the Family Court of Australia have been in their best interests or not. Without asking children about their experiences, how do we know whether the system is meeting their interests? Without asking children about their experiences, the rationale behind the proposed repeal – to ensure the best interests of children are prioritised and placed at the centre of the family law system – is open to the criticism that it actually masks another unspecified agenda.

Recommendations

1. Do NOT repeal the presumption of equal shared parental responsibility in section 61DA, and its associated provisions to consider the practicality of equal time, or substantial and significant time in section 65DAA.
2. Commission quality research by a reputable, neutral research organisation in order to ascertain the extent, if any, of current community misconception about the presumption of equal shared parental responsibility in section 61DA, and its associated provisions to consider the practicality of equal time, or substantial and significant time in section 65DAA.
3. The wording of section 61DA and 65DAA of The Act be reviewed and adjusted to prevent future misconceptions while retaining the spirit and intent of the current legislation. Consideration be given to what could be done in terms of community education so the community has a full and accurate understanding of the re-worded provisions.
4. That a thorough and transparent Gender Impact Assessment of the government's proposed Family Law Reforms be undertaken to identify whether the recommended changes will affect women, men and gender diverse people differently. These findings should be made available to the public.

One in Three Campaign



On behalf of all male victims of domestic and family violence and their children, we request that you give serious consideration to this submission.

Thank you for the opportunity to provide input into the Family Law Amendment Bill 2023.

Greg Andresen
Senior Researcher
23rd June 2023



APPENDIX A - MALE VICTIMS OF FAMILY VIOLENCE: KEY NATIONAL STATISTICS



Research from the 2016 ABS Personal Safety Survey and Australian Institute of Criminology shows that both men and women in Australia experience substantial levels of violence.

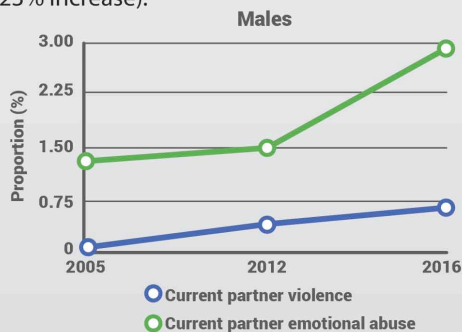
Males make up a significant proportion of victims of family and sexual violence, yet are excluded from government anti-violence programs.

32 males were killed in domestic homicide incidents between 2018-2019.

This equates to one death every 11 days.

EXPERIENCE OF FAMILY VIOLENCE BY GENDER

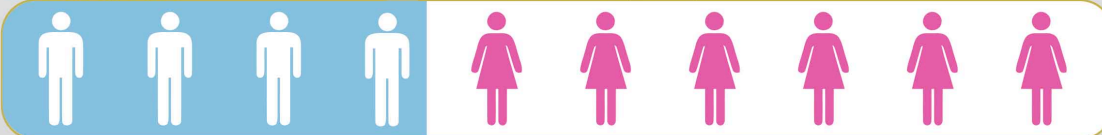
The proportion of men experiencing **current partner violence** in the last 12 months between the 2005 and 2016 ABS Personal Safety Surveys rose **more than five-fold** (a 552% increase), while the proportion of men experiencing **emotional abuse** from a current partner in the last 12 months **more than doubled** (a 223% increase).



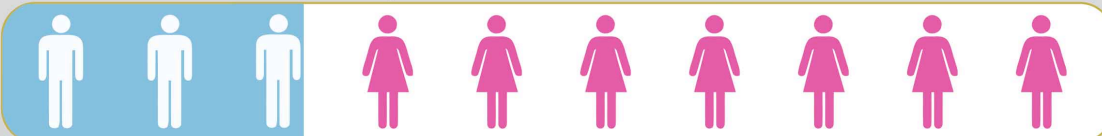
The majority of men that experienced intimate partner violence experienced it by a female perpetrator (93.6%). The remainder were in same-sex relationships with male perpetrators*.

DURING THE PERIOD 2018-2019:

More than 1 in 3 victims of **domestic homicide** were male (38.1%)



More than 1 in 4 victims of **intimate partner homicide** were male (27.1%)



* Some men may have experienced violence by both a male and female intimate partner.



For more information and research about male victims of family violence, or for media comment visit www.oneinthree.com.au

If you are experiencing family violence, seek support, call MensLine Australia on 1300 78 99 78

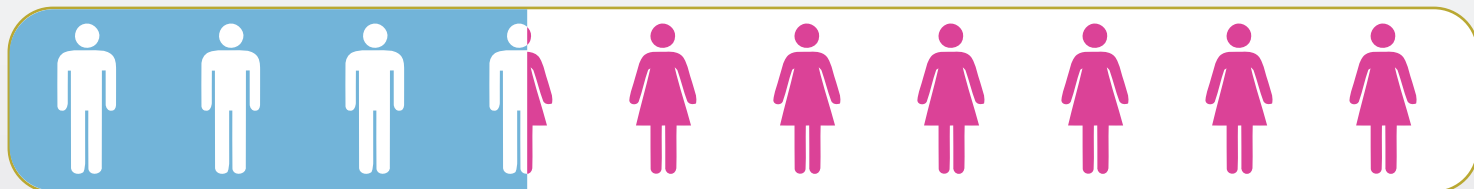
Information has been sourced from the ABS and the AIC. Produced by the One in Three Campaign (oneinthree.com.au/infographicrefs)

MALE VICTIMS OF FAMILY VIOLENCE: KEY STATISTICS

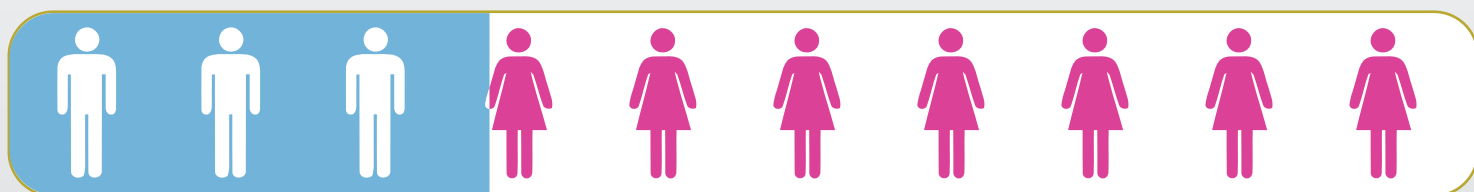
EXPERIENCE OF FAMILY VIOLENCE BY GENDER

DURING THE LAST 12 MONTHS*:

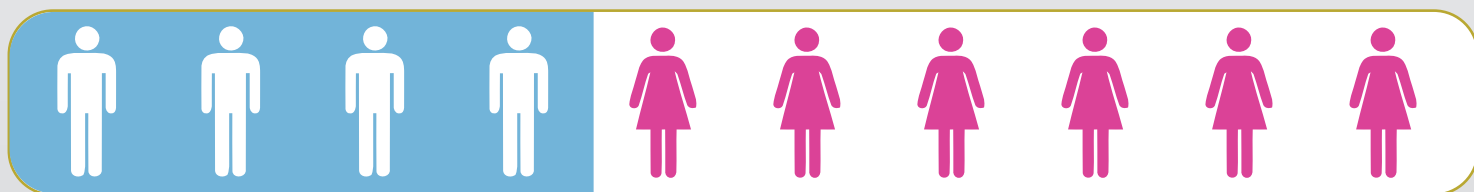
Over 1 in 3 persons who experienced violence from an **intimate partner** were male (35.3%)



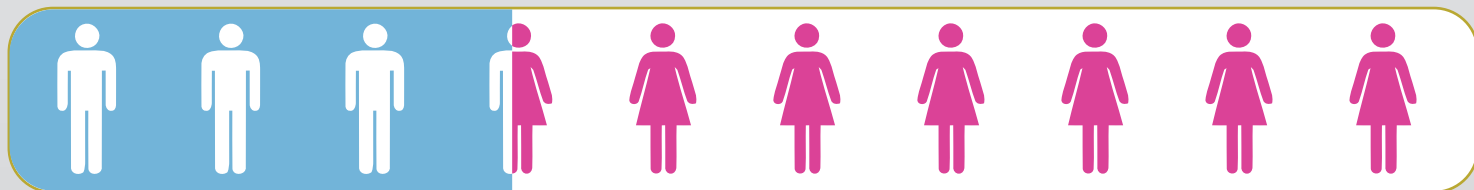
Almost 1 in 3 persons who experienced violence from a **cohabiting partner** were male (32.7%)



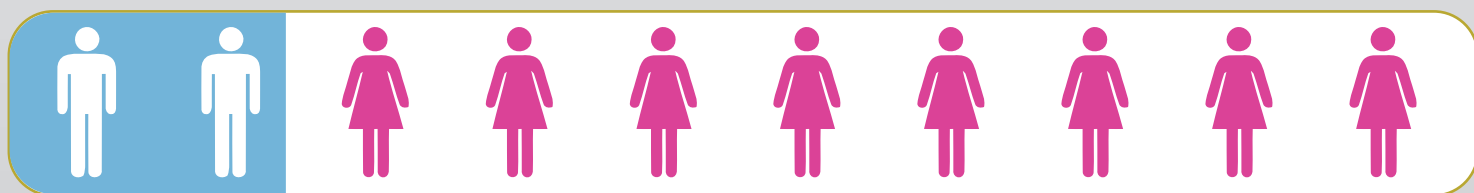
Almost 2 in 5 persons who experienced violence from a **current partner** were male (39.9%)**



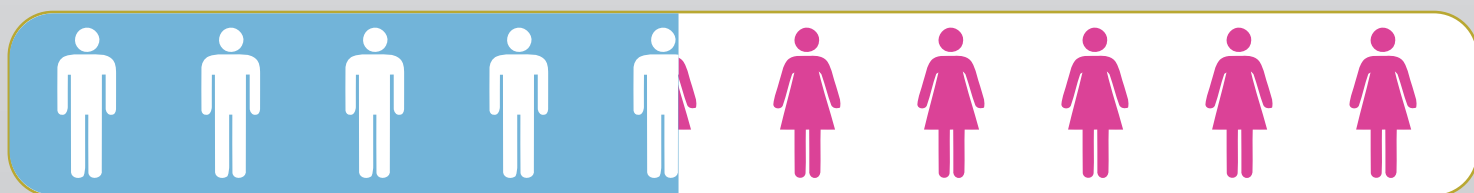
Over 1 in 3 persons who experienced violence from a **boyfriend/girlfriend or date** were male (34.3%***)



Almost 1 in 5 persons who experienced violence from a **previous partner** were male (18.8%****)



Almost half the persons who experienced violence from a **known person** were male (45.5%)



* Last 12 month data are better measures of current rates of violence than are lifetime data ("since the age of 15"), as lifetime data include incidents that happened many years ago.

** Estimate has a Relative Standard Error (RSE) of 25.5% and should be used with caution due to the relatively small number of males surveyed by the ABS (34.8% of persons since the age of 15 were male with no RSE warning)

*** Estimate has a Relative Standard Error (RSE) of 40.1% and should be used with caution due to the relatively small number of males surveyed by the ABS (20.0% of persons since the age of 15 were male with no RSE warning)

**** Estimate has a Relative Standard Error (RSE) of 26.7% and should be used with caution due to the relatively small number of males surveyed by the ABS (22.5% of persons since the age of 15 were male with no RSE warning)



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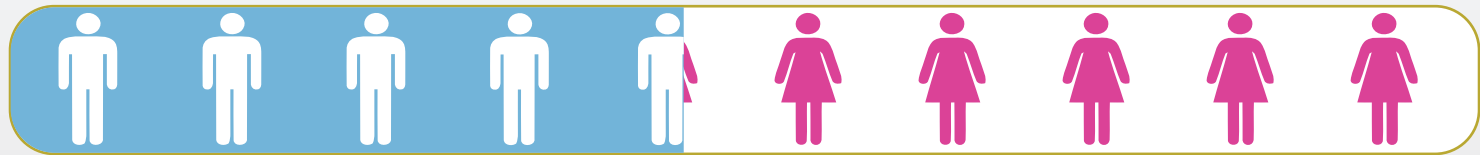
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MALE VICTIMS OF FAMILY VIOLENCE: KEY STATISTICS

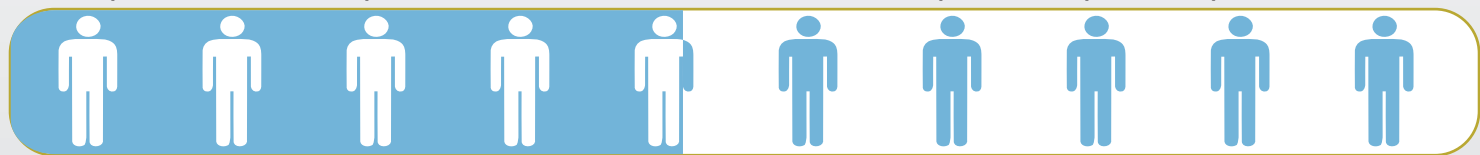
EXPERIENCE OF FAMILY VIOLENCE BY GENDER

DURING THE LAST 12 MONTHS*:

Almost half the persons who experienced emotional abuse by a **partner** were male (45.8%) (47.7% of persons who experienced it by a **current partner** and 43.4% by a **previous partner**)



Almost half of these males experienced **anxiety or fear** due to the emotional abuse (41.4% of males who experienced current partner abuse and 43.1% of males who experienced previous partner abuse)



13.8% of men that experienced emotional abuse by a current partner had their partner **deprive them of basic needs** such as food, shelter, sleep, or assistive aids, compared to 6.4% of women.



8.9% of men that experienced emotional abuse by a current partner had their partner **threaten to take their child/ren away from them**, compared to 4.6% of women.



38.5% of men that experienced emotional abuse by a previous partner had their partner **lie to their child/ren** with the intent of turning them against them, compared to 25.1% of women.



7.3% of men that experienced emotional abuse by a current partner had their partner **lie to other family members or friends** with the intent of turning them against them, compared to 6.6% of women.



10.1% of men that experienced current partner emotional abuse had their current partner **keep track of where they were and who they were with**, compared to 9.9% of women.



* Last 12 month data are better measures of current rates of violence than are lifetime data ("since the age of 15), as lifetime data include incidents that happened many years ago.



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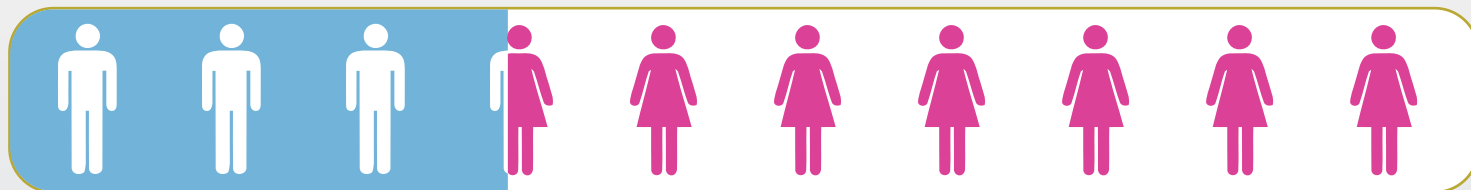
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MALE VICTIMS OF FAMILY VIOLENCE: KEY STATISTICS

EXPERIENCE OF FAMILY VIOLENCE BY GENDER

DURING THE LAST 12 MONTHS*:

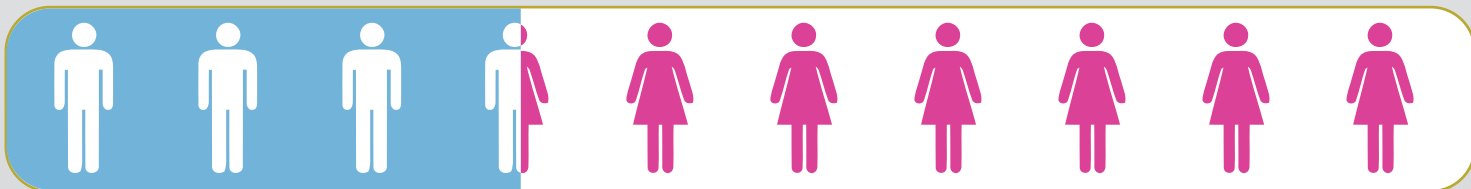
Over 1 in 3 persons who experienced **sexual harassment** were male (34.0%). Most males who experienced sexual harassment were harassed by a female perpetrator (72.2% were harassed by a female while 48.2% were harassed by a male**).



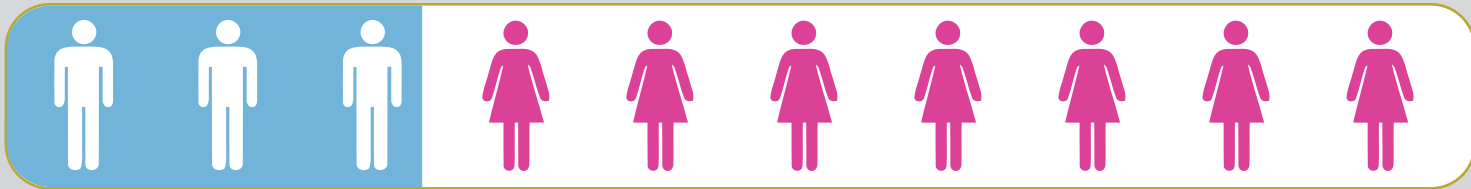
The largest category of increase in sexual harassment between 2012 and 2016 was in **males harassed by a female perpetrator**, which rose by a massive 67.5%. Females harassed by a male perpetrator rose by 15% during the same period.



Over 1 in 3 persons who experienced **stalking** were male (35.0%). Most males who experienced stalking were stalked by a male perpetrator (68.9% were stalked by a male while 36.3% were stalked by a female***).



Almost 1 in 3 persons who experienced **sexual assault** were male (28.4%). Most males who experienced sexual violence were assaulted or threatened by a female perpetrator (82.9%****).



6 per cent of all males experienced **violence** compared to 4.7% of all females.



* Last 12 month data are better measures of current rates of violence than are lifetime data ("since the age of 15"), as lifetime data include incidents that happened many years ago.
 ** Proportions don't add up to 100% because some respondents may have been sexually harassed by both a male and a female perpetrator.
 *** Proportions don't add up to 100% because some respondents may have been stalked by both a male and a female perpetrator.
 **** Estimate has a Relative Standard Error (RSE) of 25.0% and should be used with caution due to the relatively small number of males surveyed by the ABS (55.2% of males experienced sexual violence from a female since the age of 15 with no RSE warning)



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Information has been sourced from the ABS and the AIC. Produced by the One in Three Campaign (oneinthree.com.au/infographicrefs)

MALE VICTIMS OF FAMILY VIOLENCE: KEY STATISTICS

EXPERIENCE OF FAMILY VIOLENCE BY GENDER

MEN WHO HAVE EXPERIENCED PARTNER VIOLENCE ARE:

2 to 3 times more likely than women to have **never told anybody*** about experiencing

• Current partner violence



• Previous partner violence



Around 50% more likely than women to have **never sought advice or support** about experiencing

• Current partner violence



• Previous partner violence



Almost 20% more likely than women to have **not contacted police** about experiencing

• Current partner violence



• Previous partner violence



Less than half as likely as women to have had a **restraining order** issued against the perpetrator of

• Previous partner violence



* This data is taken from the 2012 ABS PSS, as it was not published in the 2016 ABS PSS.

** Estimate has a Relative Standard Error (RSE) of 25.2% and should be used with caution due to the relatively small number of males surveyed by the ABS



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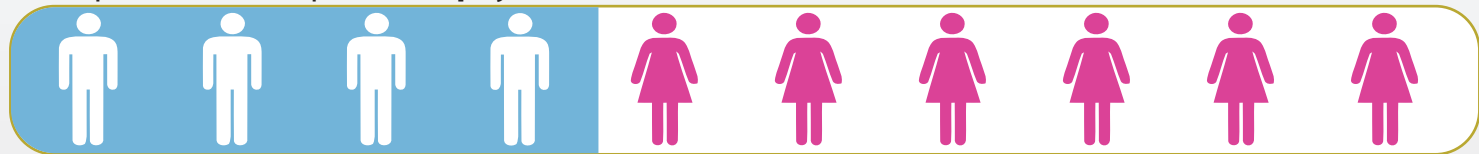
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MALE VICTIMS OF FAMILY VIOLENCE: KEY STATISTICS

EXPERIENCE OF FAMILY VIOLENCE BY GENDER

BEFORE THE AGE OF 15:

2 in 5 persons who experienced **physical and/or sexual** abuse were male (40.1%)



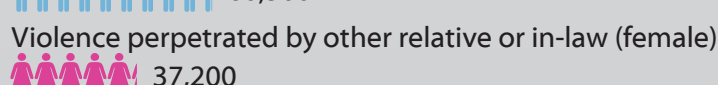
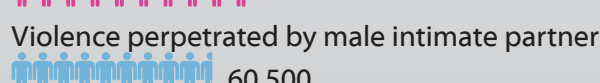
Around 1 in 20 persons (4.5%) witnessed **violence towards their father** by a partner and more than 1 in 10 persons (11.3%) witnessed **violence towards their mother** by a partner.



SINCE THE AGE OF 15*:

While a greater percentage of males experienced violence from an intimate partner or family member of the same sex than did females, the majority of males experienced family violence **perpetrated by a female**. The **perpetrators of family violence** against males by gender, ranked in order of prevalence, were as follows:

Violence since the age of 15. Violence by relationship to and sex of perpetrator, estimate, males (n)



* Lifetime data (since the age of 15) is used here because the ABS didn't publish data from the last 12 months.



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