



Australian Government

DEFENCE ABUSE RESPONSE TASKFORCE

FINAL REPORT

MARCH 2016

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Defence Abuse
Response Taskforce

MARCH 2016

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DEFENCE ABUSE RESPONSE TASKFORCE

31 March 2016

Senator the Hon Marise Payne
Minister for Defence
Parliament House
CANBERRA

The Hon Michael Keenan MP
Minister for Justice
Parliament House
CANBERRA

Dear Ministers

Final Report

I am pleased to present the Final Report by the Defence Abuse Response Taskforce in accordance with its Amended Terms of Reference issued in June 2015 and further Amended Terms of Reference signed on 11 November 2015.

This Report does two things. It records the completion since 1 July 2015 of all remaining Taskforce outcomes other than counselling (noting that the outstanding counselling sessions are to be delivered before 30 June 2016) and a very small number of restorative engagement conferences which are expected to be finalised in April.

It also:

- contains further analysis of the Taskforce's data based on its final statistics
- sets out eight recommendations for your consideration including suggestions the Taskforce has made to the Chief of the Defence Force to carry forward the implications of its work as part of ongoing improvements to Defence culture and practices
- provides a list of key Taskforce policies, standard operating procedures and other documentation which have been published on the Taskforce's website and deposited in the Attorney-General's Department library in case they are of interest to other agencies in future, and
- includes some reflections about the Taskforce's experience and findings over the last three years.

As some matters will require attention after 31 March 2016, I note you have recently extended the operation of the Taskforce from 1 April to 30 June 2016. In addition to the remaining counselling and restorative engagement outcomes, these matters include:

- receiving and recording information and reports about referrals the Taskforce has made to police in regard to possible criminal offences and the Chief of the Defence Force for consideration of disciplinary or administrative action

- keeping in safe custody the Taskforce's database of confidential and sensitive information provided by complainants
- maintaining a website with information about the Taskforce that could be of continuing interest
- dealing with freedom of information and other access requests, and
- financial, accounting and administrative matters related to winding up the Taskforce.

The Taskforce acknowledges the courage and commitment of complainants in coming forward. The very personal details they provided about the abuse they suffered have deepened our collective understanding of the impacts of abuse and will inform ongoing cultural change in Defence.

Finally, the Taskforce has been very well served by the members of the Leadership Group (Susan Halliday and Rudi Lammers APM), the Reparation Payments Assessor (Robyn Kruk AM), its Executive Directors (Matt Hall PSM and Kirsty Windeyer) and all the officers who have worked in the Taskforce over the last three years. I thank all of them for their dedicated contribution to the achievements recorded in this Report.

Yours sincerely



Robert Cornall AO
Chair
Defence Abuse Response Taskforce

Contents

AMENDED TERMS OF REFERENCE JUNE 2015	viii
AMENDED TERMS OF REFERENCE 1 NOVEMBER 2015	x
EXECUTIVE SUMMARY	1
RECOMMENDATIONS	7
SUMMARY STATISTICS 1 JULY 2015 – 15 MARCH 2016	9
FINAL REPORT TO THE MINISTER FOR DEFENCE AND THE MINISTER FOR JUSTICE	11
SECTION 1: OUTCOMES DELIVERED	12
1.1 Total complaints	12
1.2 Assessment of complaints	12
1.3 Reparation payments	14
1.4 Referrals to police or military justice authorities	16
1.5 Referrals to the Chief of the Defence Force for possible administrative or disciplinary action	18
1.6 Restorative engagement	19
1.7 Counselling	20
1.8 Complainant Support Group	24
SECTION 2: WOMEN WHO EXPERIENCED SEXUAL ABUSE AT THE AUSTRALIAN DEFENCE FORCE ACADEMY DURING THE PERIOD 1991 AND 1998	26
2.1 Complaints received by 31 May 2013	26
2.2 Complaints received from 1 June 2013 to 30 June 2015	26
2.3 Advertising the 15 September 2015 ADFA deadline	26
2.4 Complaints received from 1 July 2015 to 15 September 2015	26
2.5 Assessment of ADFA complaints	27
2.6 Outcomes provided to women who experienced sexual abuse at ADFA during the period 1991 and 1998	27
SECTION 3: SEXUAL HARASSMENT AND SEXUAL ABUSE CASES 2000–2011	28
3.1 Overview of the 2000–2011 cases	28
3.2 Notable features of the 2000–2011 cases	29
3.3 Factors contributing to abuse in the 2000–2011 cases	30
3.4 Mismanagement in the 2000–2011 cases	31
3.5 Locational analysis 2000–2011	31

SECTION 4: LIAISON WITH DEFENCE AND OTHER AGENCIES	32
4.1 Defence	32
4.2 The Department of Veterans' Affairs	32
4.3 The Sexual Misconduct Prevention and Response Office	33
4.4 The Royal Commission into Institutional Responses to Child Sexual Abuse	34
4.5 The Sex Discrimination Commissioner	34
4.6 Victoria Police	35
SECTION 5: FINAL CONSIDERATIONS CONCERNING A ROYAL COMMISSION	36
5.1 A general Royal Commission into abuse in Defence	36
5.2 A Royal Commission into abuse at the Australian Defence Force Academy	37
5.3 Review of the ADFA recommendation by the Sex Discrimination Commissioner	37
5.4 An alternative to a Royal Commission into ADFA: a joint Australian Crime Commission – ACT Policing investigation	38
5.5 Consideration of possible criminal prosecutions	39
5.6 Summary in regard to abuse at ADFA	40
SECTION 6: IMPLICATIONS FOR DEFENCE'S REVIEWS INTO DEFENCE CULTURE AND PRACTICES	41
6.1 Investigations undertaken by the Inspector-General ADF	41
6.2 Investigations undertaken by the Australian Defence Force Investigative Service	42
6.3 Military justice issues	43
6.4 Advancing administrative and disciplinary referrals from the Taskforce	44
6.5 Internal inquiries, particularly in regard to allegations of sexual harassment	45
6.6 Mismanagement of reports of abuse	45
6.7 Advising complainants about the progress and outcome of their complaints	46
6.8 Maintaining the impetus to improve Defence culture and practices	46
6.9 Monitoring Defence's performance in improving Defence culture and practices	47
SECTION 7: ADMINISTRATIVE MATTERS	48
7.1 Staffing	48
7.2 Budget and expenditure	48
7.3 Legal issues and access to information	49
7.4 The Taskforce Wellbeing Program	49
SECTION 8: COMMENTS AND FEEDBACK	50
SECTION 9: LEGACY ARRANGEMENTS	53
9.1 Post-Taskforce legacy issues	53
9.2 Remaining counselling outcomes	54
9.3 Post-cut-off reports of, or contacts about, abuse	54

SECTION10: AVAILABLETASKFORCERESOURCES	57
SECTION11: REFLECTIONS	58
SECTION12: CONCLUSION	61
APPENDIX1: COMMENTSBYTHEREPARATION PAYMENTASSESSOR	63
APPENDIX2: UNAUDITEDTASKFORCEXPENDITURE2012-13TO2015-16 (AS AT 29 FEBRUARY 2016)	65
ATTACHMENTS- THENATUREANDEXTENTOF ABUSEIN DEFENCE	67



Australian Government

DEFENCE ABUSE RESPONSE TASKFORCE AMENDED TERMS OF REFERENCE

The Defence Abuse Response Taskforce is to operate, in accordance with the following terms of reference, effective from 1 July 2015 until 31 December 2015.


The Taskforce is to:

- (a) assess any outstanding complaints of sexual and other forms of abuse by Defence personnel alleged to have occurred prior to 11 April 2011 (the date of the announcement of the DLA Piper's *Report of the Review of allegations of sexual and other forms of abuse in the Australian Defence Force*) and registered with the Taskforce by 31 May 2013 or complaints from women who experienced sexual abuse at ADFA during the period 1991 and 1998 and registered with the Taskforce by 15 September 2015 and conclude by 30 September 2015 any outstanding assessments of those complaints;
- (b) determine, in close consultation with those who have made complaints, appropriate actions in response to those complaints;
- (c) conclude by 30 September 2015 any outstanding assessments of reparation payments (except for the abovementioned ADFA complaints);
- (d) conclude by 30 September 2015 any outstanding referrals of appropriate matters to police or military justice authorities for formal criminal investigation and assessment for prosecution (except for the abovementioned ADFA complaints);
- (e) conclude by 30 September 2015 any outstanding referrals to the Chief of the Defence Force for possible administrative or disciplinary action (except for the abovementioned ADFA complaints);
- (f) conclude the above mentioned ADFA complaints under paragraphs (c), (d) and (e) by 31 December 2015;
- (g) conclude as soon as possible the provision of restorative engagement conferences;
- (h) conclude as soon as possible the provision of counselling;
- (i) as appropriate, gather additional information relevant to consideration of the handling of particular allegations e.g. relevant records held by Defence;
- (j) take account of the rights and interests of complainants, alleged abusers and other parties;
- (k) liaise with the Minister for Defence, Chief of the Defence Force, Secretary of the Department of Defence and the Sex Discrimination Commissioner on any implications of its work for Defence's 'Pathway to Change,' and other responses to the series of reviews into Defence culture and practices; and in particular for the consideration of the Sex Discrimination Commissioner's report in response to the Taskforce's recommendation in its Report on abuse in Defence regarding a Royal Commission into ADFA;

- (l) provide a final report to the Minister for Defence and Minister for Justice by 31 December 2015 on complaints of abuse received by the Taskforce, the completion of its delivery of remaining actions in response to those complaints and any other matters relevant to the Taskforce's operations; and,
- (m) do anything incidental to or conducive to the performance of any of the above matters and finalisation of its work.



THE HON KEVIN ANDREWS MP
Minister for Defence
DATED: 15.6.15



THE HON MICHAEL KEENAN MP
Minister for Justice
DATED: 4.6.15




Australian Government

DEFENCE ABUSE RESPONSE TASKFORCE AMENDED TERMS OF REFERENCE

The Defence Abuse Response Taskforce is to operate, in accordance with the following terms of reference, effective from 1 January 2016 to 31 March 2016.

The Taskforce is to:

- (a) determine, in close consultation with those who have made complaints of sexual and other forms of abuse by Defence personnel alleged to have occurred prior to 11 April 2011 (the date of the announcement of the DLA Piper *Report of the Review of allegations of sexual and other forms of abuse in the Australian Defence Force*) ~~from~~ registered with the Taskforce by 31 May 2013 or complaints from women who experienced sexual abuse at ADFA during the period 1991 and 1998 and registered with the Taskforce by 30 September 2015, any outstanding appropriate actions in response to those complaints;
- (b) conclude as far as possible outstanding restorative engagement conferences by 31 March 2016;
- (c) conclude as far as possible the provision of counselling by 31 March 2016;
- (d) as appropriate, gather additional information relevant to consideration of the handling of particular allegations e.g. relevant records held by Defence;
- (e) take account of the rights and interests of complainants, alleged abusers and other parties;
- (f) liaise with the Minister for Defence, Chief of the Defence Force, Secretary of the Department of Defence and the Sex Discrimination Commissioner on any implications of its work for Defence's 'Pathway to Change,' and other responses to the series of reviews into Defence culture and practices; and in particular, for the consideration of the former Sex Discrimination Commissioner's report in response to the Taskforce's recommendation in its *Report on abuse in Defence* regarding a Royal Commission into ADFA;
- (g) provide a final report to the Minister for Defence and Minister for Justice on or about 31 March 2016 (in lieu of the final report which was to be provided by 31 December 2015) on complaints of abuse received by the Taskforce, the completion of its delivery of remaining actions in response to those complaints, the implications of its work for Defence culture and practices and any other matters relevant to the Taskforce's operations; and
- (h) do anything incidental to or conducive to the performance of any of the above matters and finalisation of its work.


 SENATOR THE HON MARISE PAYNE
 Minister for Defence

DATED: 11. November 2015


 THE HON MICHAEL KEENAN
 Minister for Justice

DATED: 11. 11. 2015

Executive Summary

The Taskforce was established on 26 November 2012 to assist complainants who had suffered sexual abuse, physical abuse, sexual harassment and workplace harassment and bullying in Defence prior to 11 April 2011. Ministers have recently extended the operation of the Taskforce from 1 April to 30 June 2016.

This Report – the Taskforce's twelfth and final Report – does two things. It records the work completed since 1 July 2015 in accordance with the Amended Terms of Reference dated June 2015 and the further Amended Terms of Reference issued on 11 November 2015 and is to be read in conjunction with the Taskforce's other principal Reports

This Report also:

- contains some further analysis of Taskforce data as at 31 March 2016
- assesses the implications of its work as part of Defence's ongoing improvements to its culture and practices, and
- sets out some concluding reflections about the Taskforce's experience and findings over the last three years.

At the outset, it is important to make clear that the Taskforce accepted allegations of abuse that were within scope and plausible². The Taskforce does not have any powers of investigation as they were not necessary for its purpose, that is, to provide redress to persons plausibly abused in Defence.

It follows that none of the allegations accepted by the Taskforce have been established to the higher standards of proof required for administrative action or disciplinary or criminal proceedings (balance of probabilities or beyond reasonable doubt).

Outcome summary

The Taskforce received 2,439 complaints of which 1,751 were assessed as within scope and plausible.

Subject to certain conditions, complainants could access up to five outcomes which were taken up as follows:

- a reparation payment (1,723 complainants at a total cost of \$66.63 million)
- counselling (577 complainants)³
- participation in the Restorative Engagement Program (715 complainants)⁴
- referral to police for possible criminal investigation and prosecution (133 complainants), and
- referral to the Chief of the Defence Force for consideration of possible administrative or disciplinary action (132 complainants).

Detailed statistics in regard to each outcome are set out in the relevant part of Section 1 of this Report.

1 *Report on abuse in Defence* (November 2014), *Report on abuse at the Australian Defence Force Academy* (November 2014), *Report on abuse at HMAS Leeuwin* (June 2014) and *Report on progress, operations and future structure* (June 2015)

2 The plausibility test is explained in Section 1.2

3 The National Counselling Program is not yet complete but will finish before 30 June 2016

4 It was hoped to finish the Restorative Engagement Program by 31 March 2016 but a small number of conferences have been put back to April for various reasons which will then complete that program

Because the Taskforce's purpose was to assist complainants, the selection of outcomes was entirely a matter for the individual complainant. So, for example, irrespective of the Taskforce's views about the strength of a complainant's allegations, a complaint would not be referred to police or the Chief of the Defence Force without the complainant's consent or support.

Women who experienced sexual abuse at the Australian Defence Force Academy during the period 1991 and 1998

The Taskforce's Terms of Reference have all included specific requirements in relation to abuse alleged to have occurred at the Australian Defence Force Academy (known as ADFA).

Women alleging abuse at ADFA during the period 1991 and 1998 were not caught by the general cut-off date for lodging a complaint with the Taskforce (31 May 2013). Under the June 2015 Terms of Reference, the final date for those women to lodge a complaint with the Taskforce was extended to 15 September 2015.

After extensive advertising of the extended cut-off date, the Taskforce received a further five complaints in this category between 1 July and 15 September 2015.

In total, the Taskforce received 24 complaints from women abused at ADFA during the period 1991 and 1998 and details of the outcomes they sought and other particulars are set out in Section 2.

None of these complainants elected to have their matter referred to police while three of them supported a referral to the Chief of the Defence Force for consideration of administrative or disciplinary action.

Sexual harassment and sexual abuse cases 2000–2011

Men and women were subjected to alleged sexual harassment and sexual abuse throughout the period to 11 April 2011 (being the end date for complaints of alleged abuse specified in the Terms of Reference).

The analysis of alleged sexual harassment and sexual abuse cases reported in the decade to 2011 set out in Section 3 illustrates this point.

The analysis also illustrates that the Taskforce's database is a unique resource. It contains a wealth of information about abuse which took place in Defence over six decades. Subject to permission from the Minister for Defence (who owns the data) and appropriate confidentiality undertakings, the database could provide future researchers with useful insights (on a de-identified basis) into the nature and contributing causes of abuse.

Liaison with other agencies

The Taskforce has continued to liaise cooperatively with Defence and other agencies. Details are set out in Section 4.

In particular, the Taskforce has liaised with the Royal Commission into Institutional Responses to Child Sexual Abuse and Victoria Police, both of which have proposed or are considering redress schemes containing similar elements to the Taskforce's reparation payments, restorative engagement and counselling programs⁵

The Taskforce is aware that it has broken new ground in responding to abuse in a large organisation. So that others can draw on the Taskforce's experience in future, the Taskforce has published its key documents on its website and deposited a copy in the library in the Attorney-General's Department⁶

⁵ The Victoria Police proposal is contained in the Victorian Equal Opportunity and Human Rights Commission Phase 1 Report (2015) into sex discrimination and sexual harassment including predatory behaviour in Victoria Police

⁶ See Section 10

However, those documents come with a serious caution. Many victims or survivors of abuse are severely affected by the abuse they suffered resulting in significant mental health issues. So the Taskforce's policies and procedures are based on the principles of trauma informed care⁷ and carried out by staff with appropriate training, skills and experience with victims of crime and abuse.

It follows that other organisations should not select aspects of the Taskforce's programs without careful consideration of all of the factors that made those programs successful. To do so could do more harm – and possibly a great deal more harm – than good.

Final considerations concerning a Royal Commission

One common feature of the several Terms of Reference has been a requirement to consider whether a Royal Commission would be merited into any of the matters considered by the Taskforce.

A general Royal Commission into abuse in Defence

The Taskforce has carefully considered whether a general Royal Commission into abuse in Defence would be warranted on a number of occasions and concluded that it is not. Put simply a Royal Commission would not hold abusers to account and would be unlikely to uncover any significant new information or insight into abuse in Defence, given the information that is already available from the Taskforce and other reviews and inquiries.

This conclusion and a detailed consideration of the reasons for it are set out in the *Report on abuse in Defence* November 2014 and in the *Report on progress, operations and future structure* published in June last year. Nothing has changed since 1 July 2015.

A Royal Commission into abuse at ADFA

In the *Report on abuse in Defence* the Taskforce recommended that:

*The Government establish a Royal Commission to inquire into, report and make recommendations in respect of allegations of abuse, and the management of reports of allegations of abuse, at ADFA from its inception to the present day.*⁸

The Government has not responded to that recommendation other than to seek advice on the recommendation from the then Sex Discrimination Commissioner, Ms Elizabeth Broderick AO. The Taskforce has not been given a copy of her advice.

However, the Commissioner told the Taskforce that, while she believed doing nothing is not an option, her discussions with the women she had consulted who were sexually assaulted at ADFA want action to be taken but do not believe a Royal Commission is necessarily the best solution. This advice sat comfortably with the fact that none of the ADFA women wanted the Taskforce to refer their complaints to the police.

As a result, the Taskforce looked to see if there was another option. It proposed for the Sex Discrimination Commissioner's consideration a joint Australian Crime Commission-ACT Policing investigation instead.¹⁰

The Taskforce's view was that such an inquiry would have the same powers as a Royal Commission but it would attract less public attention and therefore may be more acceptable to the women who suffered the abuse.

⁷ See Section 1.8

⁸ Page 62

⁹ *Report on progress, operations and future structure* page 23

¹⁰ See *Report on progress, operations and future structure* pages 25–27

However, the Chief Executive Officer advised that the Board of the ACC determined at its meeting on 4 December 2015:

...that the nature and scope of the proposal and associated offences do not fit within the ACC's legislated functions ... As a result, there are a number of legislative amendments that would be necessary to ensure the ACC had the authority to conduct coercive examinations on relevant ADF witnesses.

The above-mentioned issues, combined with the critical element of change management facing the ACC ... resulted in a decision by the Board not to support the ACC/AFP investigation as recommended by the DART.

In considering this matter, the Police Commissioners and the ACT Chief Police Officer expressly asked that I convey that all the police jurisdictions stand ready to receive any complaint or referral from the DART or directly from victims. All Police Commissioners and the ACT Chief Police Officer undertake to respond to and investigate any such formal complaints.¹¹

In light of the information set out above (especially the attitude of the women who suffered the abuse), the Taskforce's view is that:

- it no longer supports the recommendation to establish a Royal Commission into ADFA, and
- the proposal for a joint ACC-ACT Policing investigation cannot go ahead.

Implications for Defence's reviews into Defence culture and practices

All of the Terms of Reference have required the Taskforce to liaise with the Chief of the Defence Force and the Secretary of the Department of Defence on any implications of its work for Defence's *Pathway to Change* and other responses to the series of reviews into Defence culture and practices.

In accordance with that requirement and in that spirit, the Taskforce raised a number of matters for consideration by the CDF and the Secretary in September 2015 for their consideration.

The matters set out in Section 6 were based on an analysis of information provided by complaints about alleged abuse which occurred over the last six decades.

The Chief of the Defence Force responded positively on 22 September 2015 and advised that he had directed his staff to prepare a full briefing for him on the issues the Taskforce had highlighted.

Taskforce officers are not expert in military justice and the matters put forward for Defence's consideration may not take account of all of the applicable laws, regulations and other governing provisions. In addition, some problems which occurred in the past may now have been rectified.

Nonetheless, the recommendations set out in this Report build on that correspondence and, in effect, propose that the CDF continue with his consideration of the Taskforce's suggestions and take appropriate action, in his words, *to improve our processes ... but ultimately to improve the outcomes for our people*

The Taskforce has also suggested an enhanced role for the Sexual Misconduct Prevention and Response Office as set out in Recommendation 6. That role would include:

- developing policies (or revising existing policies) about prevention of abuse and its management when it does occur
- delivering and implementing training, educational and other programs to address and prevent abuse

¹¹ See Section 5.4

- improving the understanding of the nature of sexual harassment and sexual abuse, and
- gathering and publishing statistics on abuse in Defence.

In addition, the Taskforce has proposed an enhanced role for the Defence Force Ombudsman which is noted below under *Legacy arrangements*

Administrative matters

Brief details of the Taskforce's staffing, budget (\$147.40 million) and unaudited expenditure to 29 February 2016 (\$131.75 million), legal issues and its staff Wellbeing Program are set out in Section 7 and Appendix 2.

Comments and feedback

While the Taskforce has not been able to satisfy every complainant, the comments and feedback set out in Section 8 indicate the overwhelming success and effectiveness of the Taskforce's work.

As the Taskforce seeks written reports after each restorative engagement conference, most of the comments (but not all) come from complainants, Defence representatives and facilitators engaged in the Restorative Engagement Program.

All quotations set out in that Section have been published with the consent of the author.

Legacy arrangements

The Government is presently finalising arrangements for the conduct of the Taskforce's legacy work after 30 June 2016:

The Taskforce has recommended that the Defence Force Ombudsman should be responsible for all of the Taskforce's legacy work combined with an expanded complaints mechanism for victims of abuse in Defence and independent monitoring of Defence's improvements in culture and practices.¹²

The Taskforce has made preliminary arrangements to deposit a copy of its database for safe keeping with the National Archives of Australia before 30 June 2016.

Reflections

Now that the Taskforce can look back on its experience and findings over the last three years, the reflections set out in Section 11 highlight some of the most important observations the Taskforce has made.

In short, they are:

- many complainants said the reason they made a complaint to the Taskforce was to help prevent members of Defence being abused in future and, in some cases, to help Defence become a better institution
- it took great courage for complainants to come forward and tell their very personal stories to the Taskforce
- it takes time before a person can be ready to talk about abuse. There are no doubt other members and former members who were abused in Defence but are not yet able to talk about it. These circumstances reinforce the Taskforce's recommendation that Defence develop and implement processes to enable them to bring their complaints forward in future and have them responded to appropriately

¹² See Section 9.1

- the complainants had to learn to trust the Taskforce and that did not happen all at once. Trust was only developed over time. When a complainant deals with another agency, that agency has to establish its own relationship of trust
- there is no direct correlation between the objective assessment of the level of abuse suffered and the impact it had on the complainant
- if Defence leaders had not failed to act on their actual or constructive knowledge that abuse was occurring, much of the abuse reported to the Taskforce would not have taken place
- the Defence culture described in many of the complaints was that you do not jack (or dob) on your mates, even if those so-called mates sexually or physically abused you. This flawed and dysfunctional culture discouraged some complainants from reporting abuse and, in other cases, complainants who did report their abuse were further abused and mistreated, and
- as a result, highly trained members were adversely affected in their job performance – often for years – or they were driven out of Defence and lost their careers. Both outcomes resulted in a high human and personal cost to the complainants and a significant economic cost to Defence.

Conclusion

While the Taskforce has very substantially finished its job, the work in Defence will go on indefinitely. It would be a great pity if Defence's focus on improving culture and practices which has resulted in so much good work over the last few years was to lose impetus and the current commitment to continual improvement wither on the vine.

So the Taskforce has recommended strengthening Defence's internal processes for preventing and dealing with sexual and other abuse and the oversight and public monitoring of its progress and performance by the Defence Force Ombudsman as a way of ensuring Defence maintains that determination.

Finally, the Ministers and the Government had high aspirations and made a large commitment of resources and funding when the Taskforce was set up. It is a pleasure now to report that the Taskforce has done its job and those aspirations – in terms of acknowledgment and benefit to complainants and a contribution to improving Defence culture and practices – have been met.

Recommendations

The Taskforce makes these final recommendations.

The Taskforce has set out in Section 6 of this Report the implications of its work for Defence's *Pathway to Change* and other responses to the series of reviews into Defence culture and practices. Detailed descriptions of the issues involved are contained in Sections 6.1 to 6.9.

Recommendation 1 That the training provided to officers employed by the Inspector-General ADF and the Australian Defence Force Investigative Service accord with policing best practice in responding to Defence members who have suffered sexual assault or other abuse.

Recommendation 2 That:

2.1 civilian criminal offences involving acts of abuse by members of Defence should (except for minor offences) be investigated and prosecuted through an Australian criminal justice system unless the alleged offence was committed overseas and Australian authorities have no jurisdiction

2.2 details of any alleged criminal offences that involve acts of abuse investigated or prosecuted through the military justice system (whether or not there was a conviction) should be provided to the relevant police authority, and

2.3 Defence strictly comply with the provisions of Defence Instruction (General) PERS 35-*Reporting and management of sexual misconduct including sexual offences*

Recommendation 3 That Defence ensure that all officers who conduct formal inquiries into allegations of sexual harassment have, in addition to a knowledge of and familiarity with the relevant legislation and applicable process, a clear understanding of the definition and nature of sexual harassment and best practice in responding to victims of such abuse. Senior officers and managers would also benefit from training directed at understanding the nature of sexual harassment and recognising it when it occurs.

Recommendation 4 That, noting the number of complaints which included an element of mismanagement, Defence ensure its processes include proper and effective management of abuse where it has actual or constructive knowledge of the abuse whether or not a complaint has been made.

Recommendation 5 That Defence amend its policies and procedures to ensure that complainants can be and are kept advised of the progress of their complaints and given a clear explanation about any action taken, its outcome and any sanction imposed.

The following recommendation is directed towards maintaining Defence's current impetus in improving its culture and practices. Details are set in Section 6.8 of this Report.

Recommendation 6 That, in addition to its current responsibilities, Defence empower and appropriately staff and resource the Sexual Misconduct Prevention and Response Office reporting directly to the Chief of the Defence Force to:

6.1 develop or revise policies and training and other programs to address and prevent sexual abuse, sexual harassment, workplace harassment and bullying and other specific areas of concern

6.2 have a Defence-wide education and training role to continue with and give ongoing impetus to the present efforts to improve Defence culture and practices

6.3 gather and regularly publish statistics on allegations of abuse in Defence, and

6.4 bring forward and advise the Chief of the Defence Force on further initiatives or programs to advance and continue improvements in Defence culture and practices.

A considerable number of complainants told the Taskforce they did not trust Defence as a result of the abuse they had suffered and the treatment they received when they reported it. It follows that some people may be sceptical about the effectiveness of Recommendation 6 if the work is undertaken solely within Defence.

The Taskforce therefore makes the following recommendation to overcome this concern.

Recommendation 7 That the Defence Force Ombudsman monitor Defence's implementation of these Recommendations, including in particular Recommendation 6, and report his findings to the Chief of the Defence Force and in the Defence Force Ombudsman's Annual Report.

Finally there remains the issue of persons who have suffered abuse in the past but have not, for whatever reason, come forward. In the *Report on abuse in Defence*, the Taskforce made the following suggestion for consideration by the Government and Defence.

Recommendation 8 As subjects of past abuse will continue to come forward when they feel able to do so for many years into the future, the Taskforce considers that the Government and Defence should develop and implement processes to enable them to do so and to have their complaints responded to appropriately.

Summary statistics 1 July 2015 – 15 March 2016

This table sets out the Taskforce's workload at 1 July 2015 and shows how complaints were assessed (and reconsidered when requested) and then progressed through the available outcomes sought by complainants.

ASSESSMENT GROUP					
Total complaints referred at 1.7.15	Complaints finalised at 1.7.15	Complaints pending on 1.7.15	New complaints referred between 1.7.15 – 15.3.16	Complaints finalised between 1.7.15 – 15.3.16	Complaints pending on 15 March 2016
2223	2222	1	11	12	0

RECONSIDERATIONS					
Total reconsiderations at 1.7.15	Reconsiderations finalised at 1.7.15	Reconsiderations pending on 1.7.15	New reconsiderations referred between 1.7.15 – 15.3.16	Reconsiderations finalised between 1.7.15 – 15.3.16	Reconsiderations pending on 15 March 2016
156	156	0	4	4	0

COMPLAINANT SUPPORT GROUP					
Total complaints referred to Case Coordination at 1.7.15	Total complaints allocated to a CaseCoordinator at 1.7.15	Complaints awaiting allocation of a CaseCoordinator on 1.7.15	New complaints referred between 1.7.15 – 15.3.16	Complaints allocated between 1.7.15 – 15.3.16	Complaints awaiting allocation on 15 March 2016
1728	1728	0	8	8	0

ADMINISTRATIVE AND DISCIPLINARY SANCTION TEAM					
Total complaints referred at 1.7.15	Complaints finalised at 1.7.15	Complaints pending on 1.7.15	New complaints referred between 1.7.15 – 15.3.16	Complaints finalised between 1.7.15 – 15.3.16	Complaints pending on 15 March 2016
666	666	0	25	25	0

CRIME GROUP					
Total complaints referred at 1.7.15	Complaints finalised at 1.7.15	Complaints pending on 1.7.15	New complaints referred between 1.7.15 – 15.3.16	Complaints finalised between 1.7.15 – 15.3.16	Complaints pending on 15 March 2016
189	189	0	2	2	0

REPARATION PAYMENTS					
Total complaints referred at 1.7.15	Complaints finalised at 1.7.15	Complaints pending on 1.7.15	New complaints referred between 1.7.15 – 15.3.16	Complaints finalised between 1.7.15 – 15.3.16	Complaints pending on 15 March 2016
1725	1717	8	7	15	0

RESTORATIVE ENGAGEMENT					
Total complaints referred at 1.7.15	Complaints finalised at 1.7.15	Complaints pending on 1.7.15	New complaints referred between 1.7.15 – 15.3.16	Complaints finalised between 1.7.15 – 15.3.16	Complaints pending on 15 March 2016*
501	322	179	214	363	30

COUNSELLING					
Total complaints referred at 1.7.15	Complaints finalised at 1.7.15	Complainants undergoing counselling on 1.7.15	New complaints referred between 1.7.15 – 15.3.16	Complaints finalised between 1.7.15 – 15.3.16	Complainants undergoing counselling on 15 March 2016*
533	199	334	44	215	163

* Note:

1. Twenty-one restorative engagement matters are anticipated to be completed between 15 and 31 March 2016 and the remaining nine conferences in April 2016.
2. Counselling is due to be completed before 30 June 2016.

Final Report to the Minister for Defence and the Minister for Justice

The Defence Abuse Response Taskforce was established on 26 November 2012 for an initial period of one year to assist complainants who had suffered sexual abuse, physical abuse, sexual harassment and workplace harassment and bullying in Defence prior to 11 April 2011.¹³

The appointment of the Taskforce was one of a range of measures undertaken in response to *Pathway to Change* and a series of reviews into Defence culture and practices.

It soon became apparent that the task was too big to be completed by October 2013 and the Taskforce's Terms of Reference were subsequently extended several times. Ministers have recently further extended the operation of the Taskforce from 1 April to 30 June 2016.

This Report – the twelfth Report presented by the Taskforce – is made in accordance with the two Amended Terms of Reference issued by Ministers in June 2015 and on 11 November 2015. It is to be read in conjunction with the Taskforce's other Reports including the:

- *Report on abuse in Defence* (November 2014), and
- *Report on progress, operations and future structure* (June 2015)¹⁴.

All of the Reports have been tabled in Parliament and published on the Taskforce's website so a great deal of information about the Taskforce and its activities is already publicly available.

This Report:

- records the Taskforce's progress and operations for the period from 1 July 2015 to 31 March 2016
- contains some further analysis of the Taskforce's data as at 31 March 2016¹⁵
- assesses the implications of its work as part of Defence's ongoing improvements to Defence culture and practices, and
- sets out some reflections on the Taskforce's experience and findings over the last three years.

In accordance with those two Amended Terms of Reference, the Taskforce has completed:

- All assessments (including five new Australian Defence Force Academy complaints received since 1 July 2015)
- All assessments of reparation payments
- All referrals to the Chief of the Defence Force for consideration of disciplinary or administrative action
- All referrals to police, and
- All restorative engagement conferences save for a very small number of matters which are to be completed in April 2016.

The November 2015 Amended Terms of Reference recognised it would not be possible to finalise the National Counselling Program by 31 March 2016¹⁶. On 15 March 2016, 163 complainants were still participating in the program. Their remaining counselling sessions are to be delivered before 30 June 2016.

¹³ The term Defence includes the Australian Defence Force and the Department of Defence

¹⁴ The Taskforce's two other principal Reports are *Report on abuse at HMAS Leeuwin* (June 2014) and *Report on abuse at the Australian Defence Force Academy* (November 2014)

¹⁵ This analysis is supplementary to the Taskforce's principal report, *Report on abuse in Defence*

¹⁶ The Taskforce was required to *conclude as far as possible the provision of counselling by 31 March 2016*

Section 1: Outcomes delivered

Some parts of this Section 1 repeat information previously published in earlier Taskforce Reports¹⁷ to the extent necessary to make this Report self-explanatory without having to refer to those earlier publications.

1.1 Total complaints

The Taskforce received a total of 2,439 complaints by the cut-off date of 31 March 2013 or the extended cut-off date of 15 September 2015 for women who experienced sexual abuse at the Australian Defence Force Academy (known as ADFA) during the period 1991 and 1998.

The oldest complaints made allegations about abuse which took place over 60 years ago. So it is important to recognise that much of the alleged abuse occurred at times when Defence's accepted or tolerated culture and practices were different from today.

As at 31 March 2016:

- 1,751 complaints had been assessed as fully or partially within the scope of the Terms of Reference
- 374 complaints had been assessed as out of scope or not plausible and therefore ineligible to receive outcomes
- 314 complaints did not progress because the complainant did not supply the necessary documentation or stopped communicating with the Taskforce
- 2,049 complaints had been closed, and
- 390 complaints were still on foot for various reasons.

In addition, the Taskforce recorded 452 reports of, or contacts about, abuse which could not be dealt with as they were received after the cut-off date. In those cases, the Taskforce advised the potential complainants why the Taskforce could not progress their matters and informed them about other avenues through which they could seek assistance.¹⁸

A detailed analysis of the nature and extent of the abuse described in complaints received by the Taskforce is set out in the Attachments at the end of this Report.

1.2 Assessment of complaints

The first step in the Taskforce process was to make an assessment of the complainant's allegations of abuse. The assessment determined if the complaint fell within the scope of the Terms of Reference and met the Taskforce's standard of plausibility.

Each complainant was required to provide a Personal Account Form detailing their allegations and verified by statutory declaration along with any other available information to support their complaint (including proof of identity).

If it was necessary to determine issues of scope or plausibility, the Taskforce requested further information from the complainant or issued a request for information to Defence's Organisational Response Unit. Most commonly, the Taskforce sought service records from Defence for the complainant and any other persons of interest.

¹⁷ In particular, the *Report on progress, operations and future structure* dated 30 June 2015

¹⁸ Also see *Report on abuse in Defence*, pages 65-66 and Section 9.3 of this Report

To meet the Taskforce's standard of plausibility, a complainant's allegations had to have the appearance of reasonableness based on all the available information. This standard is less demanding than balance of probabilities and far less than beyond reasonable doubt.

The former Chair of the Taskforce, the Hon Len Roberts-Smith RFD QC, explained the need for a lower standard of proof for acceptance of complaints in these terms:

For many different reasons, including (but not limited to) complainants not reporting the alleged abuse at the time nor for years afterwards; minimising descriptions of the abuse when it was reported; lack of forensic evidence; lack of witnesses; credibility issues because of psychological illness, alcohol or drug addiction (often the result of the abuse itself); and the absence of documentation, many if not most complainants to the Taskforce would have no prospect of having their allegations accepted as true in any formal administrative investigation or judicial process. The application of legal standards of proof (the balance of probabilities or beyond reasonable doubt), with the complainants having the onus of proving the truth of their allegation, would be an insurmountable obstacle. It was against this background that the Taskforce is required to accept an allegation of abuse as true, if satisfied on all the material available, that it is plausible.¹⁹

While the Taskforce had regard to the rights and interests of alleged abusers, the advantage of the plausibility test is that the Taskforce did not have to deal with them directly and divert its focus from assisting the persons who suffered the abuse.

The plausibility test was a key factor in enabling the Taskforce to assess, process and complete its handling of so many complaints over the last three years. It enabled the Taskforce to progress complaints without imposing a burdensome and, in most cases, unachievable obligation on complainants to prove their allegations to a higher standard. This approach was completely consistent with the Taskforce's primary purpose to assist complainants.

A complaint was assessed as wholly or partially within scope, out of scope or not plausible. It is important to note that many complaints contained several allegations of abuse, often made against multiple alleged abusers or mismanagers²⁰, which may have occurred at different places over a period of years.

When all or part of a complaint was assessed as out of scope or not plausible, the complainant was advised of that initial assessment. The complainant was given 28 days to request a reconsideration of the decision and to submit any further information in support of that request. The matter was then reconsidered by another senior officer and the assessment finalised.

In line with the Amended Terms of Reference issued in June 2015, all assessments and reconsiderations were completed by 30 September 2015.

The Summary Statistics 1 July 2015 – 31 March 2016 set out at the end of the Executive Summary show that:

- the Taskforce had completed 2,222 assessments at 1 July 2015
- a further 12 assessments were completed during the period to 31 March 2016, and
- four assessments were reconsidered during that period.

Over the entire period of its operation to 31 March 2016, the Taskforce has:

- assessed 2,234 complaints, and
- reconsidered 160 initial assessments.

¹⁹ Address to the Institute of Arbitrators & Mediators Australia Conference, Canberra, 3 May 2014, page 8

²⁰ Mismanagers refers to Defence personnel who received actual or constructive notice of the alleged abused but did not deal with it appropriately or at all

A total of 1,751 of the 2,439 complaints lodged with the Taskforce were accepted as plausible and wholly or partially within scope.

1.3 Reparation payments

The Taskforce has finalised all payments under the Defence Abuse Reparation Scheme.

The Reparation Payments Assessor, Ms Robyn Kruk AM, has made a total of 1,726 final decisions on applications for a reparation payment.²¹ Payments were assessed against four categories of abuse with a possible further payment for Defence mismanagement. Reparation payments ranged from \$5,000 to a maximum payment of \$50,000.

These payments are not compensation for the abuse suffered. They are an acknowledgement that the abuse was wrong and ought not to have occurred. Reparation payments were made without any requirement for a confidentiality undertaking from, or a waiver of legal rights by, the applicants.

In making her decisions, the Reparation Payments Assessor considered all the information received from the complainant as well as any other information available to her. Where the Assessor reached a preliminary decision that the applicant qualified for a payment less than the \$50,000 maximum, the applicant was given the opportunity to provide further information for the Assessor to consider prior to finalising her decision.

Factors the Assessor took into account in determining the level of abuse include:

- the nature and seriousness of the plausible abuse
- whether the applicant suffered one or more instances of abuse
- the time period over which the abuse occurred
- whether there was one or more alleged abusers
- the seniority or rank of the alleged abuser or abusers
- whether the abuse was witnessed or encouraged by others
- the applicant's circumstances when the abuse occurred, and
- whether a person in a position of seniority in Defence had any involvement in the abuse.

The Reparation Payments Assessor also considered all the information available about Defence's management of any actual or constructive report of abuse in coming to her decision whether to award an applicant a *Category 5 (Mismanagement by Defence)* payment. Mismanagement payments were made in cases where the Assessor was plausibly satisfied that:

- Defence failed to take reasonable management action to prevent abuse occurring where it knew or ought reasonably have known that abuse would occur
- Defence failed to take reasonable management action to stop abuse at the time it was occurring where it knew or ought reasonably to have known that abuse was occurring, or
- Defence management failed to respond appropriately where Defence knew abuse had occurred as a result of a report or complaint made about the abuse or Defence ought otherwise to have known the abuse had occurred (for example, by observation of unexplained injuries or irregular behaviour).

²¹ As all reparation payment assessments were made by one Assessor, there was a consistency in decision making which would have been more difficult to achieve with multiple assessors

During the life of the Taskforce:

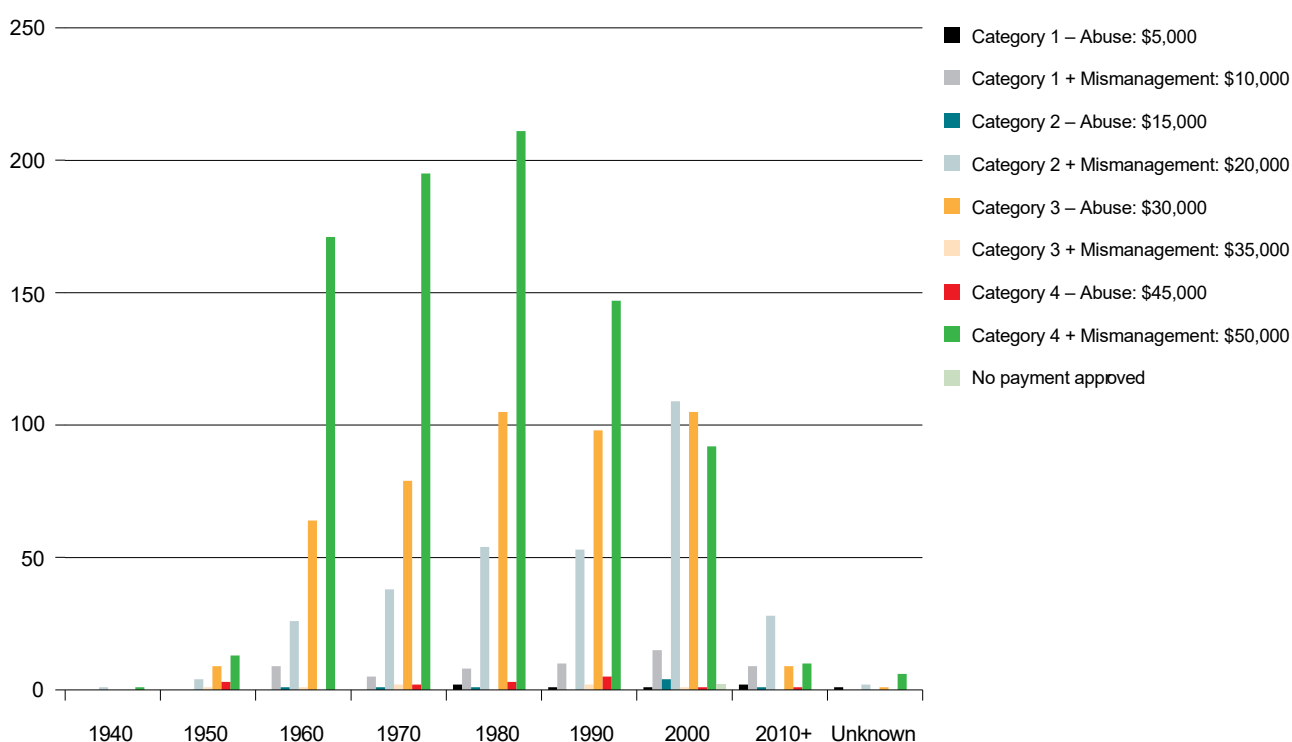
- the Taskforce made 1,723 reparation payments
- a total of \$66.63 million has been paid to applicants
- one complaint was offered a reparation payment but chose not to accept it, and
- in two cases, the Reparation Payments Assessor determined that, while the applicants' allegations amounted to abuse, the nature of the conduct did not meet the threshold for a category of payment.

The total amount paid in reparation payments is made up as follows:

- 846 payments of \$50,000 (category 4 abuse and category 5 Defence Mismanagement)
- 15 payments of \$45,000 (category 4 abuse)
- 470 payments of \$35,000 (category 3 abuse and category 5)
- 7 payments of \$30,000 (category 3 abuse)
- 314 payments of \$20,000 (category 2 abuse and category 5)
- 8 payments of \$15,000 (category 2 abuse)
- 56 payments of \$10,000 (category 1 abuse and category 5), and
- 7 payments of \$5,000 (category 1 abuse).

The column chart set out below shows reparation payments made by the decade in which the alleged abuse occurred, the breakdown of payments by category and the total number of payments.

Reparation Payments Made by Decade



In considering this chart, it is important to note:

- some reparation payments were made in respect of multiple allegations of abuse which took place over a period which spans more than one decade. Those payments are included in the first decade in which the alleged abuse occurred, and
- the *Unknown column* record those few plausible allegations where the complainant did not identify a specific date or dates when the abuse is alleged to have taken place.

Some comments by the Reparation Payments Assessor about her role are included in Appendix 1 to this Report.

1.4 Referrals to police or military justice authorities

Police

The June 2015 Amended Terms of Reference required the Taskforce to *conclude by 30 September 2015 any outstanding referrals of appropriate matters to police or military justice authorities for formal criminal investigation and assessment for prosecution (except for the abovementioned ADFA complaints)*. The Taskforce met this requirement.

The Taskforce has had no authority or power to conduct investigations into allegations of abuse.

However, when requested by a complainant, the Taskforce's Crime Group considered the available information and assessed whether a criminal offence may have occurred. The Taskforce then assisted the complainant by referring the matter to the appropriate police authority. In each case, it was then a matter for the police to decide if there should be a criminal investigation and possibly prosecution in accordance with their standard procedures.

Even in a case where it appeared that a serious offence may have been committed, the Taskforce would not refer the matter to the police without the complainant's consent for three reasons:

- first, the principal purpose of the Taskforce was to assist complainants, not to pursue allegations of criminal acts
- second, complainants provided very personal and sensitive information to the Taskforce on a confidential basis to support their complaint and the Taskforce had no authority to use that information for any other purpose, and
- third, many complainants have mental health issues as a result of their abuse and mistreatment and acting without their consent could have breached the Taskforce's guiding principle to do no further harm.

If the Crime Group assessed that no offence could be identified under the law in force at the time of the abuse in the relevant jurisdiction, the Taskforce would not take the matter further. However, this decision did not prevent the complainant referring the alleged offence directly to the police if he or she wished to do so.

One hundred and thirty-three complaints (that is, about 7.6% of all complaints) have been referred to police. In most cases, the complainant did not want to seek that outcome for a variety of reasons including:

- not wanting to drag up the past
- concerns about giving evidence and cross-examination
- doubts about the prospects of a successful outcome
- fear of reprisals or repercussions, and
- inability or unwillingness to cope with the stress, trauma or disruption that would be involved.

During the life of the Taskforce, the 133 complaints comprising 191 separate allegations of abuse that could constitute a criminal offence were referred to State and Territory police as follows:

NSW	VIC	QLD	WA	SA	TAS	ACT	NT
71	47	33	13	5	1	13	8

The matters referred to police include the following possible offences:

- rape; sexual assault; indecent assault; sexual assault in company; sexual intercourse without consent; sexual penetration without consent; act of gross indecency; abusing a girl under ten; abusing a girl between ten and sixteen; and carnal knowledge
- buggery; attempted buggery; unnatural offences; indecent assault on a male; and act of gross indecency on a male
- grievous bodily harm; malicious wounding; aggravated assault; assault; and common assault
- threat to kill; threat to inflict grievous bodily harm; stalking; stalking or intimidation with intent to cause fear of physical or mental harm; and use of a carriage service to menace, harass or cause offence, and
- property damage; break and enter with intent to commit a felony; and burglary with intent to assault.

Another 58 allegations were not referred to police as the Crime Group assessed there was no criminal element identified; the conduct occurred overseas (and therefore outside the jurisdiction of Australian police); the alleged abuser was deceased; or the statute of limitations for prosecuting the alleged offence had expired. Due to the age of some matters, there was no relevant statutory offence at the time the abuse occurred although the abuse was subsequently criminalised in later legislation.

As at 31 March 2016, the status of the complaints referred to police is:

- one complaint was resolved by the complainant reconsidering the matter and withdrawing consent to the referral after it had been made
- one matter is listed for hearing in the ACT Magistrates' Court in 2016, and
- one matter was prosecuted by Victoria Police and subsequently withdrawn by the Victorian Director of Public Prosecutions.

The Taskforce acknowledges there are a number of significant challenges for police in investigating matters referred to them by the Taskforce.

The Taskforce assesses complaints on the basis of plausibility (that is, that the complaint has the appearance of reasonableness). This assessment is far lower than the beyond reasonable doubt standard of proof required to sustain a criminal prosecution and police investigations face all the difficulties identified by Mr Roberts-Smith in Section 1.2 of this Report.

Military justice authorities

Referrals to military justice authorities are dealt with in the following Section of this Report.

The Taskforce has conducted some analysis of the interaction of the criminal justice and military justice systems based on the information it has received from complainants and Defence which is out in Section 6.3.

1.5 Referrals to the Chief of the Defence Force for possible administrative or disciplinary action

The June 2015 Amended Terms of Reference required the Taskforce to *conclude by 30 September 2015 any outstanding referrals to the Chief of the Defence Force for possible administrative or disciplinary action (except for the abovementioned ADFA complaints)*. The Taskforce met this requirement.²²

These two choices were described this way in the November 2014 *Report on abuse in Defence*

Administrative action is generally taken when the conduct or performance of a member of the ADF is below the standard required. If the Taskforce identifies conduct that is below the expected standards and that conduct has either been mismanaged or not addressed, it may refer these cases to the CDF to consider whether administrative action is appropriate.

Disciplinary action may be appropriate where the allegation suggests an offence had been committed against the Defence Force Discipline Act 1982.²³

Obviously Defence administrative or disciplinary action cannot be taken against former members of Defence and members of the Inactive Reserve have limited susceptibility to such action.

Where it appeared an allegation of abuse raised a matter that could be subject to administrative or disciplinary action, the Taskforce's policy was to refer the matter to the CDF unless it met one or more of the Taskforce's criteria for non-referral. The criteria for non-referral and other relevant factors affecting these matters are discussed in the June 2015 *Report on progress, operations and future structure*.

Irrespective of the severity of the alleged abuse, an effective referral to the CDF could only be made with the support of the complainant, as any administrative or disciplinary action would require his or her cooperation and active participation.

It should also be noted that some complainants had reported the alleged abuse to appropriate authorities at the time it occurred. In some cases, no action was taken against the alleged abuser but in other cases action was taken and in some instances resulted in a criminal, disciplinary or administrative penalty being imposed. These factors were also taken into account in determining whether to refer a matter to the CDF for consideration. However, the fact that the alleged abuse had been reported previously did not prevent the Taskforce referring the matter to the CDF if it appeared the earlier report may not have been thoroughly dealt with at that time.

During the life of the Taskforce:

- 691 decisions were made about referrals to the Chief of the Defence Force
- 132 matters (that is, 19% of matters considered) were referred to the CDF
- those cases involve 180 alleged abusers and 41 alleged mismanagers identified as still serving in Defence, and
- 559 matters were considered by the Taskforce but not referred to the CDF as they met one or more of the criteria for non-referral.

²² Note that some complaints had also been referred to police. In those cases, the Taskforce consulted with the police before passing the administrative or disciplinary referral to the CDF to ensure that referral would not interfere with or prejudice a police investigation. As a result, some referrals were withheld for some time while awaiting police advice that it was in order to proceed.

²³ Page 40

²⁴ Page 16

The Taskforce's criteria for non-referral include:

- the allegations were not of sufficient substance to refer to the Chief of the Defence Force
- based on the information known to the Taskforce, the allegations were unlikely to satisfy the higher standards of proof for either administrative or disciplinary action to succeed
- the complainant was not supportive of referral
- there was a risk that, due to his or her health vulnerabilities, referral would have had an adverse impact on the complainant contrary to the Taskforce's guiding principle to do no further harm, and
- the allegations had already been reported to, and investigated by, Defence or another relevant agency such as the Defence Force Ombudsman, the Inspector-General of the ADF or the Australian Human Rights Commission.

As at 15 March 2016, Defence had advised that investigations have been completed into 61 of the complaints referred to by the Taskforce and no formal administrative or disciplinary action had been taken in relation to those referrals. Informal action of some kind had been taken in relation to seven complaints.

Defence has advised that the reasons why no administrative or disciplinary action was taken include:

- there was insufficient evidence to meet the standard of proof required to support administrative or disciplinary action
- the alleged abusers were no longer serving in Defence
- appropriate action had been taken previously, and
- the complainant withdrew his or her support for further investigation into the complaint.

The other complaints referred by the Taskforce remain under consideration.

Taskforce and Defence officers have worked together to identify any possible areas where the Taskforce could assist Defence in its handling of these administrative and disciplinary referrals.

1.6 Restorative engagement

The Terms of Reference require the Taskforce to *conclude as far as possible outstanding restorative engagement conferences by 31 March 2016*

The Taskforce has worked hard to conclude all restorative conferences by that date and only a very small number have been delayed until April 2016²⁵. The Chief of the Defence Force, Air Chief Marshall Mark Binskin AC, will be the Defence representative at one of those conferences.

The Taskforce trained a total of 41 facilitators to conduct restorative engagement conferences and 352 senior Defence officers to participate in them.

A total of 619 restorative engagement conferences have been or are about to be held. Of that number, 579 were direct, face to face conferences and 40 were indirect conferences.

An indirect conference was held when the complainant's personal circumstances were such that he or she could not, or preferred not to, meet in person or the Taskforce assessed it was the more suitable option. Both types of conference were conducted by a trained facilitator.

²⁵ See the notes to the Summary Statistics 1 July 2015 – 15 March 2016 set out earlier in this Report

²⁶ For the sake of completeness, the outstanding conferences delayed until early April 2016 are included in this figure.

Ninety-six matters referred to the Restorative Engagement Group did not proceed to a conference for the following reasons:

- the complainants decided not to proceed because, for example, they felt their needs had already been met through other outcomes provided by the Taskforce or they did not think the restorative engagement conference would meet their expectations (94 matters), and
- in two cases, Defence declined to participate as, from its perspective, the necessary preconditions for a successful outcome did not exist.

This unique program has been an outstanding success for most complainants as evidenced by the feedback many of them have provided to the Taskforce after their conference. That success is in no small part due to the preparatory efforts of the complainants' case officers in explaining how the program works and what it can achieve.

A key factor in the program's achievements is the training, experience, care and understanding the trained facilitators have demonstrated in preparing the participants for their conference and skilfully managing what has often been a highly emotional meeting.

Examples of the comments and feedback received from complainants, Defence representatives and facilitators are set out in Section 8 of this Report.

The Restorative Engagement Program has clearly had a great impact on the Defence representatives, many of whom will comprise the next one or even two generations of Defence leaders. As a consequence, the program is expected to make a lasting contribution to cultural change in Defence.

However, it should be noted that Defence representatives are not spread evenly across Defence. There are some locations which have no Defence representatives and therefore will not share in the contribution they are expected to make to cultural change.

1.7 Counselling

Under the Amended Terms of Reference issued on 11 November 2015, the Taskforce was required *to conclude as far as possible the provision of counselling by 31 March 2016*. The Terms of Reference were expressed this way as it was acknowledged that the Taskforce's National Counselling Program could not be finished by that date.

Some complainants will not complete their Taskforce counselling and transition to another mental health service (where necessary) until after 31 March 2016 because of the time it takes to complete their Taskforce counselling.

In other cases, complainants have required counselling support before, during and after their restorative engagement conferences, some of which have only been completed recently.

The last date a complainant could be referred for counselling was 31 March 2016. All counselling approved by the Taskforce is to be concluded before 30 June 2016. However, the Taskforce policy is that the Chair can approve the delivery of counselling services after those dates in exceptional circumstances.

The allowance for exceptional circumstances takes into account that some complainants are suffering severe mental health problems and, in those cases, flexibility may be necessary to avoid potentially serious adverse outcomes while other arrangements are being made for their ongoing care and support.

As at 15 March 2016:

- 414 counselling outcomes had been finalised
- 6,968 counselling hours had been approved by the Chair of the Taskforce

- 4,500 counselling hours had taken place, and
- 163 complainants were still undergoing counselling.

The Counselling Program supports complainants who need such assistance while their complaint is being progressed. It was designed to help address the impacts of their abuse and the distress that could be involved in speaking to a Taskforce officer about their experience.

Approximately 33% of all complainants whose complaint was assessed as in scope and plausible chose to accept counselling support and the Taskforce has approved the delivery of around 7,000 hours of counselling. In a small number of cases, the Taskforce also provided counselling (as part of the complainant's allocation of hours) to people close to a complainant, including partners and children, if they had been affected by the abuse as well.

Complainants were initially approved for five or 10 hours counselling and then, progressively if required, 15 and up to 20 hours (or more in exceptional circumstances)²⁷. The Taskforce also paid transport costs and mileage reimbursement in appropriate cases.

Many complainants had not successfully accessed counselling before taking part in the Taskforce program.

The Counselling Program has been delivered principally through the Taskforce's contracted service provider, Davidson Trahaire Corpsych. Counsellors selected by DTC to take part in the program are professionally qualified psychologists or mental health accredited social workers. They are required to give high priority to the interests, needs and preferences of complainants and to be experienced in the principles of trauma informed practice²⁸.

Before making a counselling referral, the Taskforce's case coordinator discussed the Counselling Program with the complainant, explaining what he or she could expect from Taskforce counselling and the program's scope and limitations. The Taskforce also obtained clinical advice on individual matters when required from trained counsellors within the Taskforce and the Taskforce psychologist.

Complainants could specify if they preferred a male or female practitioner and whether counselling was to take place face to face or by telephone. As the Taskforce recognised the importance of a positive rapport between the counsellor and client, complainants are allowed to change their counsellor if they feel the need to do so.

Where a complainant had an existing relationship with another counsellor, the Taskforce agreed the complainant could continue with that counsellor provided he or she met the Taskforce's requirements.

Over the period of its contract, Davidson Trahaire Corpsych had 117 clinicians in over 93 locations around Australia and overseas to support complainants referred by the Taskforce. In addition, the Taskforce approved 75 independent practitioners to continue counselling for complainants who were existing clients.

Given the Taskforce's limited period of operation, the Counselling Program could only provide support on a short-term basis. As a result, the Taskforce endeavours to ensure that complainants who need further ongoing assistance are transitioned to another health service provider when their Taskforce counselling comes to an end.²⁹

The following statistics provide some more detailed information about the Counselling Program.

Gender of complainants accessing Taskforce counselling

Sixty-eight percent of complainants accessing counselling are male and 32% are female. This breakdown is broadly consistent with the overall gender breakdown of the Taskforce's registered complainants (73% male and 27% female).

²⁷ In some cases, additional hours have been required to support a complainant who has already been receiving counselling support for some time to cover the period leading up to and after his or her restorative engagement conference

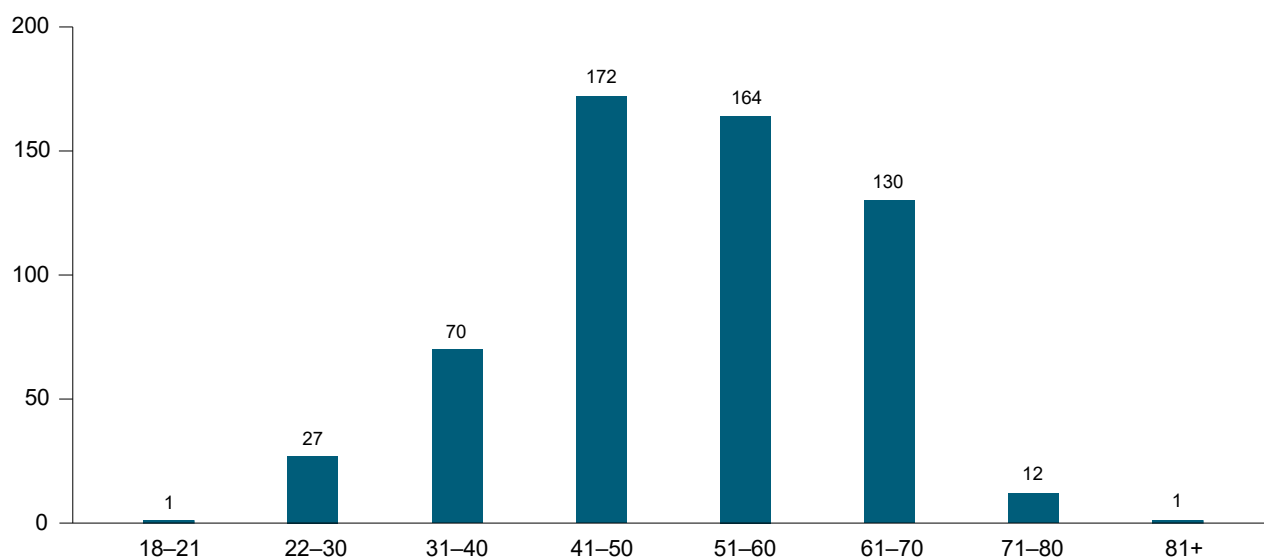
²⁸ See Section 1.8 for the principles of trauma informed care

²⁹ See also Section 4.2 regarding counselling provided by the Department of Veterans' Affairs

Age range of complainants accessing Taskforce counselling

The vast majority of complainants accessing counselling are aged between 40 and 70 years of age.

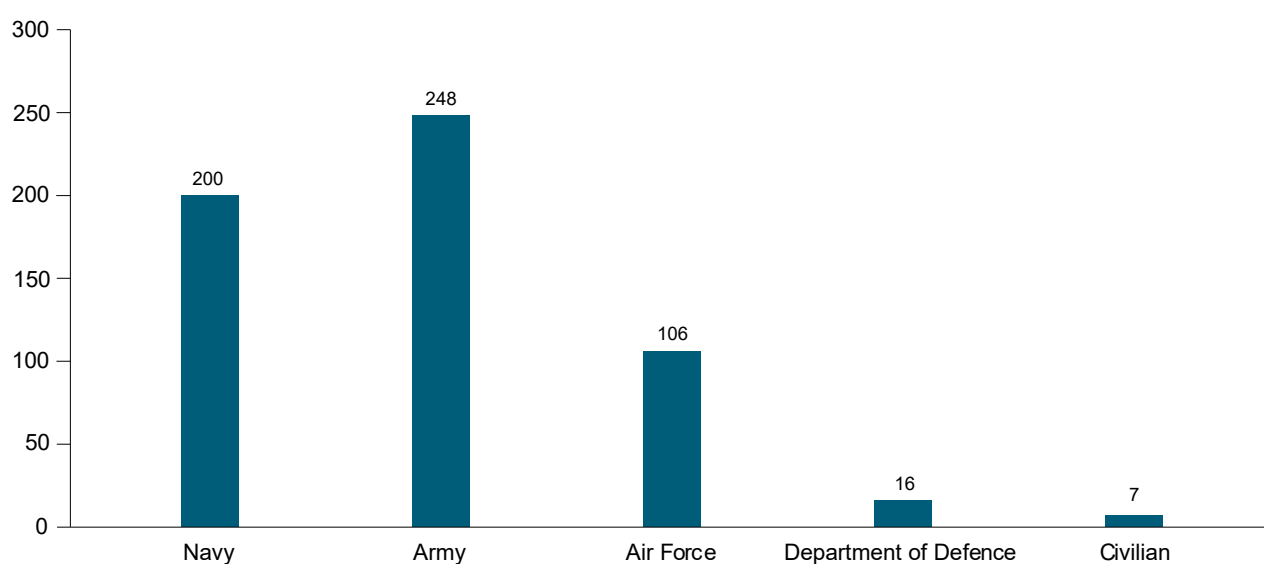
Age of complainants



Australian Defence Force service backgrounds

Complainants with a background in the Australian Army represent the largest cohort of complainants in counselling, followed by the Royal Australian Navy and the Royal Australian Air Force. A small number of people close to a complainant accessed part of his or her Taskforce allocated counselling.

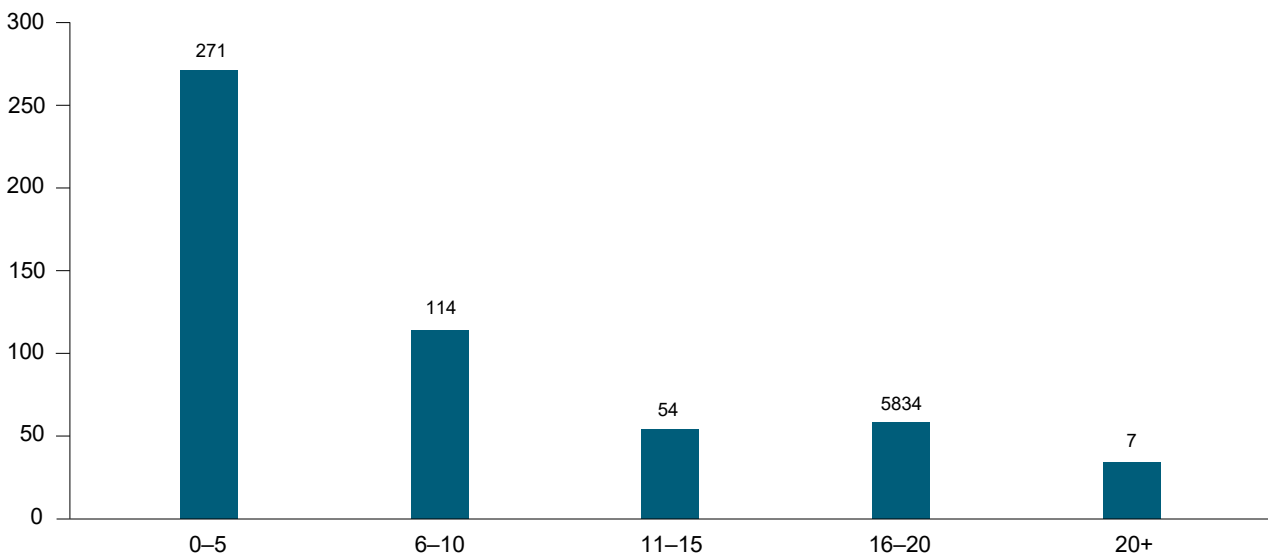
Complainants by service



Number of counselling hours used and modality

As previously noted, Taskforce complainants are able to access up to 20 hours of supportive counselling (or more in exceptional circumstances). Nearly half of all complainants participating in the program accessed five hours of counselling. A minor number of people accessed over 20 hours. Eighty percent of the sessions took place face to face, while 12% were delivered in an indirect manner (predominantly by telephone). In the remaining 8% of approved sessions, the complainant did not attend.

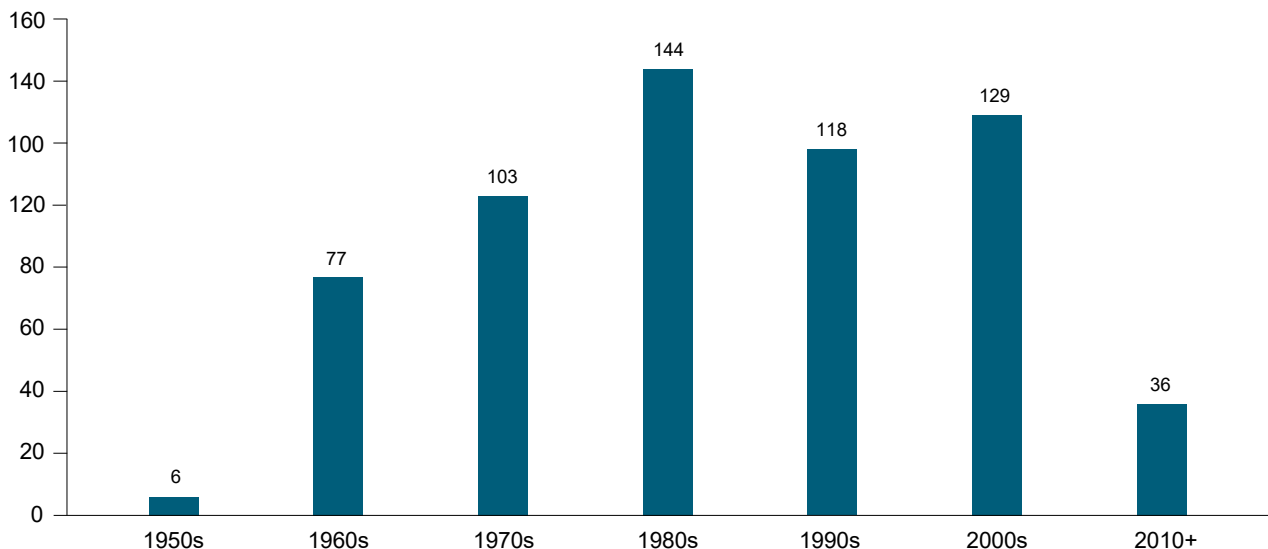
Number of hours used



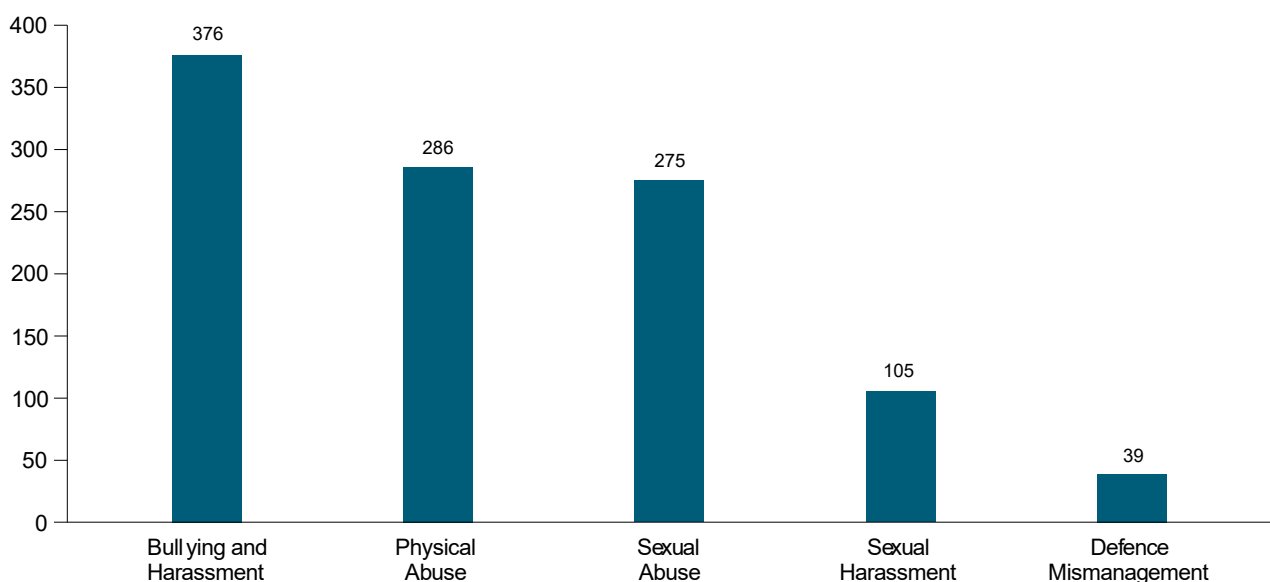
Decades and types of abuse

For the majority of complainants in counselling, their abuse took place during the decades spanning the 1980s to the 2000s. While many matters involved multiple cases of different types of abuse, bullying and harassment were common issues faced by a large number of complainants who sought counselling through the Taskforce.

Decades of abuse



Types of abuse



In considering the above graph, it should be noted some complaints involved multiple allegations of abuse.

1.8 Complainant Support Group

Complainants reported that the abuse they experienced had had a significant effect on various aspects of their life and career, both at the time of the abuse and for years afterwards. For many complainants, the impact of the abuse has been ongoing, often affecting their daily lives.

Many complainants distrusted Defence as a result of their abuse or the mismanagement of their attempts to report their abuse and have appropriate disciplinary or administrative action taken. Their distrust was exacerbated by colleagues and superior officers who did not believe them or positively acted against them for making a report or jacking on their so-called mates, that is, the alleged abusers.

A major challenge for the Taskforce was to engage complainants as abuse can significantly damage a person's capacity to trust others.

Very early on the Taskforce took three important decisions:

- it would establish a Complainant Support Group staffed by officers with training, skills and experience in dealing with victims of abuse
- each complainant would have one case officer as his or her sole point of contact with the Taskforce so that officer could provide an individualised service and hopefully build a constructive and trusting relationship with the complainant over time, and
- all of the Taskforce's assessment, outcome and administrative groups would funnel their requests for information and other responses from a complainant through his or her case officer.

As a result, the Complainant Support Group became the Taskforce's central engine room.

One of CSG's key initial tasks was to assist potential complainants complete a Personal Account Form. For many complainants, this was not only the first time they had fully acknowledged their abuse but also the first time they had put their experiences in writing.

Case officers helped complainants to complete their Personal Account Form if they were having difficulty, including by taking notes of the abuse over the telephone and filling in the form for them. In some cases, these conversations could take hours spread over several days or even months, depending on the complainant's ability to cope.

Best practice in working with trauma is to avoid triggering and re-traumatisation through the victim's retelling of his or her experience of abuse. Case officers had to delicately balance this consideration with the Taskforce's requirements for sufficient information to support a complaint in accordance with the Taskforce's operating procedures and timeframes.

Once a complaint was accepted as within scope and plausible, the case officer's next task was to assist the complainant to understand the outcomes offered by the Taskforce and select the outcome or outcomes he or she wanted to pursue. Their responsibilities also included dealing with all of the enquiries and administrative arrangements that needed the complainant's attention (such as organising restorative engagement conferences).

CSG officers adopted a flexible, compassionate and empathetic approach to each complainant and treated them with respect and dignity.

The Group's operating policies and procedures reflect current views on best practice in working with survivors of abuse and trauma. Their guiding principle is to do no further harm. Staff were required to maintain their skills and knowledge in these areas by participation in regular training.

A key document used by CSG in the development of its policies was the Adult Survivors of Child Abuse Guidelines: *The last frontier. Practice guidelines for the treatment of complex trauma and trauma informed care and service delivery*

The Taskforce's policies and procedures reflect the principles of trauma informed care which are: safety (physical and emotional); trustworthiness (clarity, consistency and interpersonal boundaries); choice (maximising the complainant's choice and control); collaboration (maximising collaboration and sharing of power); and empowerment (self-determination by the complainant).

Section 2: Women who experienced sexual abuse at the Australian Defence Force Academy during the period 1991 and 1998

The Taskforce's Terms of Reference have all included specific requirements in relation to abuse that was alleged to have occurred at the Australian Defence Force Academy.

The cut-off date for lodging complaints with the Taskforce was 31 May 2013 with one exception.

The Amended Terms of Reference issued in June 2015 provided that the Taskforce was to assess *complaints from women who experienced sexual abuse at ADFA during the period 1991 and 1998 and registered with the Taskforce by 15 September 2015 and conclude by 30 September 2015 any outstanding assessments of those complaints*

The Amended Terms of Reference also allowed more time for the delivery of outcomes to those ADFA complainants.

2.1 Complaints received by 31 May 2013

By 31 May 2013 the Taskforce had received seven complaints from women alleging sexual abuse at ADFA during the period 1991 and 1998.

2.2 Complaints received from 1 June 2013 to 30 June 2015

Between 1 June 2013 and 30 June 2015 the Taskforce had received a further 12 complaints from women alleging sexual abuse at ADFA during the period 1991 and 1998.

2.3 Advertising the 15 September 2015 ADFA deadline

The Taskforce took a number of steps to raise public awareness of the extended 15 September 2015 deadline for women alleging abuse at ADFA during the period 1991 and 1998. Those steps included:

- distributing three media releases to print, online and broadcast media outlets on 30 July 2015, 12 August 2015 and 8 September 2015
- advertising in 11 major metropolitan newspapers and 16 major regional newspapers
- providing information about the deadline to Defence service papers (Navy News, Air Force News and Army News) which was published online on 24 August 2015 and in print on 27 August 2015
- distributing a Message from the Chair to subscribers, and
- prominently displaying information about the deadline on the Taskforce website home page.

The Taskforce also arranged for Defence to publicise the cut-off date internally. Defence has advised that ADF-wide communications were circulated on 12 August 2015, including a DEFGRAM (338/2015), CDF Signal and CDF Order of the Day.

2.4 Complaints received from 1 July 2015 to 15 September 2015

Between 1 July 2015 and 15 September 2015 the Taskforce had received a further five complaints from women alleging sexual abuse at ADFA during the period 1991 and 1998.

2.5 Assessment of ADFA complaints

During the Taskforce's entire period of operation to 31 March 2016:

- 24 women made a complaint to the Taskforce about sexual abuse at ADFA during the period 1991 and 1998 with one of these women withdrawing from the Taskforce before the assessment of her complaint was completed
- The first of these 24 complaints was transferred to the Taskforce on 20 February 2013
- The most recent complaint was made to the Taskforce on 11 September 2015, and
- The Taskforce completed all assessments of complaints from these complainants (other than one who withdrew) by 30 September 2015 as required by the Terms of Reference.

2.6 Outcomes provided to women who experienced sexual abuse at ADFA during the period 1991 and 1998

During the Taskforce's entire period of operation to 31 March 2016, the following outcomes were provided to these ADFA complainants:

- 23 reparation payments (totalling \$1.135 million) were made
- 11 complainants elected to participate in the Restorative Engagement Program
- Six complainants elected to receive counselling
- no complainants elected to have their matter referred to civilian police, and
- three complainants supported the referral of their complaint to the Chief of the Defence Force for consideration of administrative or disciplinary action by Defence.

Section 3: Sexual harassment and sexual abuse cases 2000–2011

The Taskforce database is a unique resource.

It contains a wealth of information about abuse which took place in Defence over decades. Subject to permission from the Minister for Defence and confidentiality undertakings, the database could provide future researchers with useful insights (on a de-identified basis) into the nature and contributing causes of abuse not only in Defence but also, to a somewhat lesser extent, in large organisations.

Obviously some of those insights would be qualified by the particular circumstances found in Defence where members live, work and socialise together more than is the case in, say, a multi-national corporation. Nonetheless, the research could provide valuable points of comparison and indicate further lines of investigation.

A majority of the complaints lodged with the Taskforce allege abuse which took place before 2000. But, as in other workplaces, abuse is still occurring. The Taskforce decided to look into more recent sexual harassment in Defence for the purposes of this Report and also as an illustration of the de-identified information which can be extracted from the database.

The period selected for this purpose ends on 11 April 2011 as that was the end date of the period covered by the Taskforce's Terms of Reference.

However, it must be remembered that these cases were assessed as plausible (that is, having the appearance of reasonableness) on the basis of the information available to the Taskforce. They have not been investigated or tested to a higher standard of proof.

3.1 Overview of the 2000–2011 cases

The Taskforce sampled 118 (30%) of the 257 cases of sexual abuse and the 139 cases of sexual harassment (396 cases in all) which occurred in 2000–2011.

The findings derived from the sample which are set out below confirm the general findings recorded in the Taskforce's *Report on abuse in Defence*

- significant levels of sexual abuse and harassment persisted in all three services during that decade
- the Navy had the highest number of sexual abuse and sexual harassment cases sampled, a high percentage of which cases involved abuse on ships
- the sample suggests there has been a higher number of cases of sexual abuse and sexual harassment in the Air Force in the last decade compared with earlier years
- there were high levels of abuse of young people at recruit and training establishments, and
- women are significantly overrepresented as complainants compared with the proportion of women serving in Defence (around 74% of the 2000–2011 sexual abuse and sexual harassment cases were alleged by women³⁰).

³⁰ According to the Defence Annual Report 2014–15, pages 157–158, the proportion of women serving in Defence is 15.3% Permanent ADF and 40.6% in the Australian Public Service,

3.2 Notable features of the 2000–2011 cases

The notable features of the sample of 2000–2011 cases are set out below.

Sexual abuse

- almost all incidents examined were experienced by women
- most complainants were relatively young (under 25 years of age) and most complaints that occurred during initial recruit and employment training involved sexual abuse of young women
- almost all alleged abusers were male. Most commonly incidents involved a single alleged abuser – a peer or co-worker who the complainant trusted or a person of higher rank or position with authority over the complainant
- indecent assault in the workplace and at work functions was often witnessed by others
- complainants were often targeted in a vulnerable situation (for example, when they were isolated, intoxicated, asleep or drugged), and
- some recent cases involve the use of technology. Complainants were filmed, recorded or photographed while in state of undress without their consent (including when engaged in consensual sex).

Sexual harassment

- sexual harassment appears to have become more personal, targeted and more covert than in complaints made about abuse in earlier decades
- sexual harassment included: sexist language; intrusive questions of a sexual nature; indecent exposure; exposure to pornographic material; unwelcome touching and sexual advances; sexual innuendo; offensive humour; malicious rumours (such as rumours about the complainant's sexual behaviour); and repeated unwanted propositions for sex
- as with other complaints, sexual harassment was often accompanied by other types of abuse (including sexual abuse and workplace harassment and bullying) carried out by the same alleged abuser
- the abuse was often exacerbated and the complainant victimised after it became known that the complainant had reported the sexual harassment
- the abuse was mainly carried out by members of a higher rank or position
- most incidents involved alleged abusers acting alone, although some complainants identified the same alleged abuser as responsible for abuse of a number of individuals over the same period of time
- the abuse could involve multiple incidents or ongoing campaigns over several months or years or endured for the duration of complainant's career in Defence
- sexual harassment cases often involved gender-related discrimination:
 - typically on basis of family commitments (such as denial or restriction of maternity leave and negative attitudes towards family or caring responsibilities)
 - against women's participation in Defence (such as deliberate attempts to undermine the authority or decisions of high ranking women)
 - other negative attitudes towards the participation of women through, for example, sexualised intimidation and bullying including exposure to pornographic material or images, and
 - verbal abuse targeting gender, including derogatory terms, sexually suggestive comments, physical comments, sexualised insults or making inappropriate comments about a complainant to others

- some recent cases involve the use of technology including sexual harassment and bullying via email or social media and by being exposed to pornography or sent offensive images or comments on mobile phones or by email or text messages
- in instances involving male complainants, the abuse commonly involved harassment by other males on the basis of sexuality or perceived sexuality, sexual performance (such as jokes about impotency) or being perceived as a prude in a male-dominated environment. It could also involve coerced participation in sexualised initiation ceremonies. The abuse of males included sexualised insults and inappropriate comments, often made by higher ranking members
- overt abuse in this decade typically involves discrimination on the basis of family commitments through the inappropriate application or use of Defence policies and procedures to legitimise discrimination
- covert abuse includes:
 - superior officers making propositions for sexual favours in return for not sabotaging the career of, or otherwise damaging, a more junior complainant, and
 - sexual grooming of young recruits (both male and female) by persons in positions of authority over complainants (sexual harassment which could lead to sexual abuse).

3.3 Factors contributing to abuse in the 2000–2011 cases

The analysis of the sample of cases confirmed earlier Taskforce findings about the following key factors as contributing to abuse:

- the physical environment of some Defence establishments including:
 - when a complainant was working in a remote or isolated location (for example, on a ship or on deployment)
 - when a complainant was working in an isolated job or a job involving exposure to alcohol consumption (such as stewards, kitchen hands, wardroom attendants, mess workers and musicians), and
 - peers and superiors trying to get rid of a complainant who was isolated as a female (for example, the first or only female posted into a unit) through insults based on gender
- the lack of adequate supervision of young people:
 - concerns about the suitability and experience of some members supervising young people in a mixed gender environment and their understanding of their duty of care, and
 - inadequate levels of supervision and security in shared accommodation, especially during the weekends and after dark
- the influence of hierarchy and authority:
 - the alleged abusers were often older and more senior persons and therefore involved a significant power imbalance between complainant and alleged abuser, and
 - the abuse can involve members in positions of seniority modelling unacceptable behaviour in the workplace or turning a blind-eye to sexual harassment which could lead to the conduct being broadly condoned by other members of the workplace team
- a culture targeting difference
- excessive alcohol and drug use, and
- complainants feeling under considerable pressure to acquiesce out of fear of repercussions for rejecting advances by work colleagues or superiors.

3.4 Mismanagement in the 2000–2011 cases

In relation to mismanagement, the 2000–2011 cases more typically involve an actual report about the abuse than the underreporting of abuse in earlier decades. The main reasons for the reported mismanagement are:

- no action was taken by Defence in response to the report
- insufficient action was taken
- inappropriate action was taken including official punishment or discipline of the complainant
- the complainant suffered further abuse after making a report, and
- Defence did not provide appropriate support (such as offering access to appropriate medical, legal and counselling advice or services) to the complainant following the abuse being reported.

Some complainants did not report their abuse. The reasons they gave for not doing so include:

- the abuse was effected by a person in a position of seniority or higher rank (possibly a person to whom the complainant would otherwise have reported the abuse), and
- fear of threats, or a perceived risk, of damage to their career or being subjected to further abuse.

The Taskforce's *Report on abuse in Defence* noted that female complainants' reasons for underreporting often included stigma or shame associated with having been abused, particularly in the case of sexual abuse¹.

The sample of 2000-2011 sexual harassment cases indicated there was a lack of awareness among persons in positions of seniority or higher rank to whom the abuse was reported about:

- the behaviour that constitutes sexual harassment, and
- their obligations under the *Sex Discrimination Act 1984*

This lack of awareness often resulted in the development of a sexualised work environment where sexual harassment was ignored or condoned.

3.5 Locational analysis 2000–2011

Ten or more plausible cases of sexual abuse or sexual harassment reported to the Taskforce occurred at each of the following locations in 2000–2011.

Location	Sexual Harassment	Sexual Abuse	TOTAL
HMAS Stirling – Garden Island WA	3	13	16
HMAS Cerberus – Crib Point VIC	8	10	18
Australian Defence Force Academy (ADFA) – Campbell ACT	7	7	14
Army Recruit Training Centre, Blamey Barracks, Kapooka – Wagga Wagga NSW	9	7	16
Holsworthy Barracks – Sydney NSW	6	6	12
Lavarack Barracks – Townsville QLD	7	5	12

Section 4: Liaison with Defence and other agencies

4.1 Defence

The Chair, Executive Director and Taskforce officers have continued to work closely with Defence in:

- supporting the delivery of the remaining restorative engagement conferences through Defence's Organisational Response Unit, and
- considering the implications of the Taskforce's work for Defence culture and practices.

The Taskforce conducted forums with Defence representatives on 12 and 13 November 2015 to discuss the insights they had gained about abuse and the damage it can cause from their participation in restorative engagement conferences. Their perspectives will help shape Defence policies for dealing with and preventing abuse in future.

Taskforce officers have held several preliminary discussions with Defence personnel (including on 13 October 2015 and 22 October 2015) about adapting the Restorative Engagement Program or at least some aspects of it for ongoing use in Defence. That possible program is currently referred to under the name *Restorative Conversation*. Those discussions did not advance very far.

It is important to note the reservations about the Restorative Conversations proposal set out in the *Report on abuse in Defence* which were summarised as follows:

The current view of the Taskforce is that the Restorative Engagement Program in its current form as developed by the Taskforce could not feasibly be run internally by Defence. However, that is not to say that some modified form, or elements of it, could not be established within Defence.³²

The Chair:

- wrote to the Chief of the Defence Force on 10 September 2015 putting forward some suggestions for improvements in Defence culture and practices based on the Taskforce's experience for Defence's consideration, and
- met with the CDF on 15 February 2016 to discuss possible ways to entrench the positive benefits achieved through the Taskforce (along with the other measures Defence has been taking improve its culture and practices) after 31 March 2016.

These last two matters are dealt with in more detail in Section 6 of this Report.

Unfortunately, the Taskforce has received several reports from complainants still serving in Defence alleging ongoing victimisation due to their involvement with the Taskforce.

Defence requested that, where such reports are received by the Taskforce and the complainant consents, this information be passed to a central point of contact within Defence so it could consider an appropriate response. The Taskforce understands Defence has taken action to resolve a number of these complaints.

4.2 The Department of Veterans' Affairs

Pursuant to the Memorandum of Understanding between the two bodies, the Taskforce has continued to cooperate with the Department of Veterans' Affairs on matters of policy and in responding to information requests to support DVA claims.

³² Page 67

The Department has been giving careful attention to addressing the evidentiary difficulties faced by members or ex-members of the Australian Defence Force who alleged they suffered abuse. To assist both claimants and the Department, the Taskforce has provided DVA with detailed location profiles of aggregated, de-identified data about clusters of abuse at particular military establishments based on the complaints it received. DVA is finalising its consideration of how to use this data as additional evidence that could support a contention that an alleged abuse event occurred.

During consideration of the draft DVA proposal on the use of this data, the Taskforce identified some potential issues. The Chair and other Taskforce officers discussed these matters with the Secretary at a meeting held on 21 October 2015.

The Department took this feedback into consideration during the final development of the policy on the use of Taskforce data. The Repatriation Commission and the Military Rehabilitation and Compensation Commission have now considered the use of Taskforce data in their claims process and will be finalising their approach in the near future.

A number of complainants have been transferred to DVA counselling (including the Veterans and Veterans Families Counselling Service) once their Taskforce counselling allocation came to an end. However, some complainants have had difficulty in making that transition or are not eligible for DVA or VVCS support.

The Chair wrote to the Secretary about this issue on 8 December 2015 and suggested that the Department consider establishing a single point of entry for Taskforce complainants into DVA support, including to VVCS counselling services where eligibility exists, to make the transition easier.

The Department and the Taskforce have since worked together to ensure that the appropriate support remains available to complainants. This work includes discussion between the Taskforce and the Veterans and Veterans Families Counselling Service regarding transitional arrangements.

4.3 The Sexual Misconduct Prevention and Response Office

Taskforce officers met with the head of SeMPRO and her associates on 8 September 2015.

The meeting canvassed SeMPRO's current objectives and responsibilities as well as its structure, resourcing and personnel. A number of the matters detailed in Section 6 were also discussed.

The Taskforce flagged its tentative view that SeMPRO could have a broader role than it presently has to address some of the concerns raised in this Report. In addition to its present responsibilities (including providing support to, and advocacy for, members of Defence who allege they have been abused), SeMPRO could, if adequately staffed and resourced:

- develop or revise policies and training and other programs to address specific areas of concern
- have a Defence-wide education and training role to continue with and give ongoing impetus to the present efforts to improve Defence culture and practices
- be responsible for gathering and publishing statistics on allegations of abuse in Defence including physical abuse, sexual harassment and workplace harassment and bullying as well as sexual abuse, and
- bring forward and advise the Chief of the Defence Force on further initiatives and programs to prevent abuse³³

³³ Also see Section 6.8

4.4 The Royal Commission into Institutional Responses to Child Sexual Abuse

Since the Taskforce's last Report in June 2015, the Taskforce has continued to engage with the Royal Commission to discuss areas of common interest and lessons learned by the Taskforce in delivering outcomes to complainants.

This discussion was particularly appropriate as the Taskforce's Reparation Scheme and Restorative Engagement and Counselling Programs are a forerunner to the monetary payments, direct personal response and counselling and psychological care proposals put forward in the Royal Commission's *Redress and Civil Litigation Report*

The Taskforce and the Royal Commission have an information sharing protocol to facilitate the exchange of information between them. In accordance with the protocol, the Taskforce has provided de-identified locational information to the Commission to assist it in understanding clusters of abuse.

The protocol allows the Taskforce to give personal information to the Royal Commission where complainants who are registered with both bodies have given their consent. In accordance with that provision, in January and February 2016 the Taskforce handed 23 complaint files to the Royal Commission with the complainants' consent.

This information will assist the Royal Commission with its assessment of reports of child sexual abuse. It will also relieve the complainants of the need to provide a further detailed account of the abuse they suffered which can be a confronting and traumatic experience for them.

4.5 The Sex Discrimination Commissioner

All of the Taskforce's Terms of Reference have included a requirement that the Taskforce liaise with the Sex Discrimination Commissioner about *Pathway to Change* and Defence culture and practices.

The Taskforce engaged closely with the former Sex Discrimination Commissioner, Ms Elizabeth Broderick AO, in regard to her work on Defence culture and practices until her appointment in that office came to an end on 5 September 2015. The Taskforce continued to liaise with the Australian Human Rights Commission after that date.

The insights Ms Broderick offered, based on her conversations with women who experienced abuse at ADFA, have been of invaluable assistance to the Taskforce.

The Amended Terms of Reference for the periods 1 July 2015 to 31 December 2015 and 1 January 2016 to 31 March 2016 also included a particular requirement for liaison in regard to the consideration of the Sex Discrimination Commissioner's report in response to the Taskforce's recommendation in its *Report on abuse in Defence* regarding a Royal Commission into ADFA.

In its June 2015 *Report on progress, operations and future structure*, the Taskforce noted it had suggested to the Sex Discrimination Commissioner that an alternative approach to a Royal Commission into abuse at ADFA could be a joint investigation by the Australian Crime Commission and ACT Policing (which is a business unit of the Australian Federal Police).

The Taskforce has not been provided with a copy of the Sex Discrimination Commissioner's Report to the Minister. However, the Taskforce has been told its suggestion was taken up by Ms Broderick and included in her recommendations.

That matter is discussed further in Sections 5.3 and 5.4 of this Report.

4.6 Victoria Police

Victoria Police engaged the Victorian Equal Opportunity and Human Rights Commission to undertake an independent review into sex discrimination and sexual harassment including predatory behaviour in Victoria Police. The Commission delivered its Phase One Report last year.

The Report's first recommendation is:

Recommendation 1: Redress Scheme and public acknowledgment of harm

Based on contemporary best practice, Victoria Police, supported by the Victorian Government should develop a redress scheme for Victoria Police personnel that includes a:

- *Restorative engagement initiative*
- *Reparation scheme – financial and non-financial³⁴, and*
- *Public acknowledgment of harm.*

As that recommendation was influenced by the Taskforce's programs, the Chair was invited to discuss the Taskforce's learnings and experience with senior officers at Victoria Police headquarters in Melbourne on 12 February 2016.

The police officers attending the meeting included Deputy Commissioner Wendy Steendam and Assistant Commissioner Luke Cornelius.

³⁴ *Non-financial reparation avenues include the provision of health and wellbeing related support, memorial projects, awards/scholarships, establishing and supporting survivor/victim networks and access to personnel and complaint (see Phase One Report 2015, page 127)*

Section 5: Final considerations concerning a Royal Commission

The Taskforce's Terms of Reference have been revised each time they have been extended to take account of the progress the Taskforce had made to that date and the work remaining to be done.

One common feature – however expressed – has been a requirement to consider whether a Royal Commission would be merited into any of the matters considered by the Taskforce.

The Taskforce has responded to these Terms of Reference in its earlier Reports but it may be useful to summarise the final position and the alternatives that have been explored.

5.1 A general Royal Commission into abuse in Defence

The initial Terms of Reference issued in December 2012 contained this provision:

(ix) to advise whether a Royal Commission would be merited into any categories of allegation raised with the DLA Piper review or the Taskforce, in particular the 24 ADFA cases.

The Taskforce Leadership Group discussed the need for a general Royal Commission into abuse in Defence on many occasions and was always of the view that such a Royal Commission was not merited. In short, it would be unlikely to uncover any significant information about abuse in Defence that was not already available to Defence and the Government and it would not hold alleged abusers to account.

The Taskforce thoroughly analysed all of the issues and arguments for and against Royal Commissions insofar as they relate to the Taskforce's work in the *Report on abuse in Defence*³⁵

In the end, the Taskforce concluded that:

*The Taskforce considers that a final recommendation in respect of the need for a general Royal Commission would best be made shortly prior to the conclusion of its work.*³⁶

As a result, the Leadership Group kept this matter under review. In its *Report on progress, operations and future structure*, the Taskforce revisited this issue:

The Taskforce understands that some complainants and advocates support the establishment of a Royal Commission and, in making its recommendation in accordance with the Terms of Reference, does not wish to minimise their concerns.

However, the Taskforce's final recommendation is that there is no need for a general Royal Commission. It would not hold alleged abusers to account or be likely to uncover any significant new information about abuse in Defence. As a result, a general Royal Commission would be an ineffective use of time, money and resources.

*Based on what is already now well-known about past abuse in Defence, the Taskforce considers that attention is better focused on supporting Defence's initiatives to change culture and practices to prevent and deal with abuse in future.*³⁷

³⁵ Pages 53-62

³⁶ Page 59

³⁷ Page 31

Nothing has changed since June 2015. The Taskforce confirms its final recommendation that a general Royal Commission into abuse in Defence is not merited.

5.2 A Royal Commission into abuse at the Australian Defence Force Academy

In November 2014, the Taskforce also delivered its *Report on abuse at the Australian Defence Force Academy*

The Report acknowledged that there are real difficulties for Defence in responding to allegations of sexual abuse at ADFA in the 1990s and concluded:

However, the fact remains that a significant cluster of very serious allegations within Defence have never been thoroughly investigated, and that individuals alleged to have committed or acquiesced in very serious offences have never been called to account.

Given the actual or perceived lack of capacity of Defence to deal with the issues outlined above, the Taskforce has come to the view that the only means of doing so is by way of a Royal Commission, to ensure a thorough and complete investigation of abuse that has occurred at ADFA³⁸

The Taskforce therefore recommended:

... that the Government establish a Royal Commission to inquire into, report and make recommendations in respect of allegations of abuse, and the management of reports of allegations of abuse, at ADFA from its inception to the present day.³⁹

That recommendation and a fuller consideration of the issues involved were included in the *Report on abuse in Defence*⁴⁰

To date, the Government has not accepted or rejected the ADFA recommendation. The Taskforce's final position on this matter is set out below in Section 5.6.

5.3 Review of the ADFA recommendation by the Sex Discrimination Commissioner

However, the Government engaged the Sex Discrimination Commissioner to provide advice about the recommendation that there should be a Royal Commission into abuse at ADFA.

The Terms of Reference issued by Ministers in December 2014 required the Taskforce to liaise with:

(h) ... the Sex Discrimination Commissioner ... in particular for the consideration of an appropriate response to the Taskforce's recommendation in its Report on abuse in Defence regarding a Royal Commission into ADFA.

Details of the Taskforce's cooperation with the Commissioner in accordance with that requirement are set out in the *Report on progress, operations and future structure*⁴¹

The Taskforce has not been given a copy of the Commissioner's report but it understands the Sex Discrimination Commissioner delivered her report to the Minister for Defence in or about July 2015 and the report included the Taskforce's alternative suggestion discussed in Section 5.4.

³⁸ Page 96

³⁹ Page 96

⁴⁰ Pages 59–62

⁴¹ Pages 3–4 and 22

5.4 An alternative to a Royal Commission into ADFA: a joint Australian Crime Commission – ACT Policing investigation

In its June 2015 Report, the Taskforce noted that the Government had not responded to the Royal Commission recommendation made in its earlier *Report of abuse in Defence* and its *Report on abuse at the Australian Defence Force Academy*

Therefore, the Taskforce looked for another way to deal with abuse at ADFA. The June Report explains:

In part, this reconsideration has been influenced by informal advice from the Sex Discrimination Commissioner. Whilst Commissioner Broderick believes that doing nothing is not an option, her discussions with the women she has consulted who were sexually assaulted at ADFA want action to be taken but do not believe a Royal Commission is necessarily the best solution².

This view was consistent with the advice received from the Chief of the Defence Force that most of the women who alleged abuse at ADFA did not want him to take any administrative or disciplinary action in regard to their allegations³ and the fact that none of the ADFA women who made a complaint to the Taskforce wanted their complaint referred to the police⁴.

As a result, the Taskforce looked for an alternative approach and suggested to the Sex Discrimination Commissioner that she could consider a joint ACC – ACT Policing investigation, noting in its June Report:

Standard investigations by police on a case by case basis combined with the unwillingness or inability of the complainants to cooperate in a public process militate against any successful outcome. At least some of these problems could be overcome by a joint Australian Crime Commission – Australian Federal Police investigation into allegations of sexual abuse at ADFA⁵.

The advantages the Taskforce saw in this proposal included:

- it was a criminal investigation of possible criminal offences
- it would attract less publicity than a Royal Commission and therefore women who were abused might be more prepared to give evidence at an ACC hearing
- the ACC has statutory coercive powers to compel witnesses to appear and give evidence (subject to direct use immunity), and
- failure to attend, answer questions honestly or refusal to answer could result in criminal charges under the *Australian Crime Commission Act 2002*

However, the Taskforce acknowledged the suggestion was not guaranteed to succeed and would require an amendment to the ACC Act.

The Taskforce summarised the situation in these terms:

.... even if there are no subsequent prosecutions or they do not result in convictions, the complainants, Defence, the Government and the Australian public could be satisfied that all that could be done to pursue the alleged abusers and bring them to account has been done⁶.

⁴² Page 23

⁴³ See for example the Table headed *Status of ADFA 24 matters referred to Defence* attached to the letter dated 1 March 2014 from the Chief of the Defence Force to the Chair

⁴⁴ See Section 2.6

⁴⁵ Pages 25–27

⁴⁶ Page 27

On 9 September 2015, the Chair and a senior officer from the Australian Human Rights Commission attended a meeting of the ACC Board in Sydney to discuss the joint investigation proposal. The ACC Board members were concerned that nothing had been done about the alleged abuse but clearly had reservations about the ACC undertaking an investigation into sexual offences and doubts about the likely outcome. No decision was reached at that meeting and the proposal was deferred for further consideration at a later Board meeting.

Subsequently, the ACC's Chief Executive Officer, Chris Dawson APM, wrote to the Taskforce on 2 February 2016 and advised that the ACC Board does not support the proposal:

Notwithstanding the serious nature of the allegations, following discussions at its most recent meeting on 4 December 2015, the Board determined that the nature and scope of the proposal and the associated offences do not fit within the ACC's legislated functions.

The definition of serious and organised crime, as outlined in the Australian Crime Commission Act 2002, is not sufficiently broad to encompass allegations of sexual misconduct within the ADF. As a result, there are a number of legislative amendments that would be necessary to ensure the ACC had the authority to conduct coercive examinations on relevant ADF witnesses.

The above-mentioned issues, combined with the critical element of change management facing the ACC post agreement by the Law, Crime and Community Safety Council to merge CrimTrac and the ACC, coupled with the merge of the Australian Institute of Criminology, resulted in a decision by the Board not to support the proposed ACC/AFP investigation as recommended by the DART.

In considering this matter, the Police Commissioners and the ACT Chief Police Officer expressly asked that I convey that all the police jurisdictions stand ready to receive any complaint or referral from the DART or directly from victims. All Police Commissioners and the ACT Chief Police Officer undertake to respond to and investigate any such formal complaints.

The Taskforce understands the ACC's position, having noted in its 2015 *Report on progress, operations and future structure* that its joint investigation proposal fell outside the ACC's statutory areas of activity in serious and organised crime, although this objection could be overcome by amending legislation as was done for the Northern Territory intervention several years ago.

The Taskforce has also acknowledged a joint investigation would have limited prospects of reaching a successful conclusion (that is, bringing criminal charges in cases where the accumulated evidence was strong enough to support a decision to prosecute) although the private nature of ACC hearings and the use of its coercive powers appeared to the Taskforce to provide the best avenue to pursue these cases if complainants were prepared to support it.

5.5 Consideration of possible criminal prosecutions

In anticipation of that ACC response, the Taskforce decided the only remaining option was to ascertain if any of the ADFA cases appeared to be strong enough to justify seeking consent from one or more complainants to refer their allegations for a standard police investigation by ACT Policing.

In the *Report on abuse at the Australian Defence Force Academy*, the Taskforce noted:

The Taskforce has consulted with Australian Capital Territory Policing (ACT Policing) Criminal Investigations regarding the information it holds on cases of sexual abuse of women at ADFA in the 1990s. ACT Policing advised the Taskforce that, unless the women in those cases have registered with the Taskforce and consent to their matters being referred to civilian police for assessment and possible investigation, or they have directly provided their consent to a police or other agency, ACT Policing will not initiate unsolicited contact with them.

The Taskforce undertook a thorough examination of the information it held in relation to 23 complaints of sexual abuse at ADFA which was carefully considered by the Leadership Group at its meeting in December 2015. The ACT Chief Police Officer, Rudi Lammers APM, is a member of the Leadership Group and he took an active part in that discussion.

None of the cases were assessed as likely to support a police investigation based on the known reluctance of the complainants, the lack of evidence and the age of the alleged offence or offences.

5.6 Summary in regard to abuse at ADFA

The dilemma is that there appears to be common agreement that something should be done about abuse at ADFA, particularly in the 1990s, but none of the possible responses seem likely to achieve a satisfactory outcome for various reasons.

As a result, the Taskforce has reconsidered the earlier recommendation that there should be a Royal Commission into abuse at ADFA. The Taskforce has taken into account:

- all of the arguments for and against a Royal Commission set out in its *Report on abuse in Defence*
- a Royal Commission would have to involve the participation of the women abused at ADFA but the Sex Discrimination Commissioner advised the Taskforce that the women she had spoken *do not believe a Royal Commission is necessarily the best solution*
- the fact that none of the women who complained about abuse at ADFA wanted the Taskforce to refer their complaint to police
- the advice from the Chief of the Defence Force that most of the ADFA women referred to him do not want him to take any administrative or disciplinary action or have declined to engage with Defence, and
- the very limited outcomes that could be achieved by a Royal Commission.

The Taskforce has weighed all the issues involved, taking into account further information received since November 2014, and concluded that it no longer supports the earlier recommendation *that the Government establish a Royal Commission to inquire into, report and make recommendations in respect of allegations of abuse, and the management of reports of allegations of abuse, at ADFA from its inception to the present day*

The most compelling reason for the Taskforce's decision is that, in all of its work, it is guided by the wishes of complainants and the principle to do no further harm.

As the women who have alleged abuse at ADFA, on all the available evidence, do not or are unlikely to support any of the options considered for further action, the Taskforce cannot take this matter any further.

Section 6: Implications for Defence's reviews into defence culture and practices

The Terms of Reference require the Taskforce liaise with the Chief of the Defence Force and the Secretary of the Department of Defence on any implications of its work for Defence's *Pathway to Change* and other responses to the reviews into Defence culture and practices.

The Chair wrote to the Chief of the Defence Force and the Secretary on 10 September 2015 in accordance with this requirement. The letter said:

We had some preliminary discussion in this regard at our meeting on 28 July 2015 and I foreshadowed that the Taskforce's experience in dealing with complainants has indicated some areas for consideration.

Those areas are:

- *Investigations undertaken by the Inspector-General ADF*
- *Investigations undertaken by the Australian Defence Force Investigative Service*
- *Military justice issues*
- *Advancing disciplinary and administrative referrals from the Taskforce*
- *Internal investigation, particularly in regard to allegations of sexual harassment*
- *Mismanagement of reports of abuse, and*
- *Advising complainants about the progress and outcome of their complaint.*

The letter then provided some detail in regard to each matter.

The Chief of the Defence Force responded positively in a letter dated 22 September 2015 in which he said:

I have directed my staff to prepare a full briefing for me on the issues you have highlighted. I want to look at all aspects of the issues you have raised in order to improve our processes, where appropriate, but ultimately to improve the outcomes for our people.

The best approach to some of these issues may be to convene working forums between Defence subject matter experts and the relevant elements of the Taskforce once Defence has had the opportunity to fully consider the issues you have raised.

Each of these matters is described in more detail below.

6.1 Investigations undertaken by the Inspector-General ADF

Many Taskforce complainants have been severely affected by the abuse they suffered in Defence. As a result, the Complainant Support Group has worked closely with complainants to gain their trust and willingness to provide detailed information to the Taskforce and participate in its processes.

The same issues arise in relation to citizens making reports of sexual assaults to police and Australia's police agencies have developed specialised policies and procedures to deal with them.

Some comments made by complainants suggested IGADF's processes for responding to victims of abuse could be improved. That is not surprising, given IGADF does not have the same level of involvement in this sensitive area of investigation as policing agencies.

Taskforce officers met with the Inspector-General on 8 July 2015 and discussed some of the particular issues these cases present. IGADF took up the suggestion to speak with ACT Policing about its policies and procedures in sexual assault matters.

It was subsequently agreed that ACT Policing would provide IGADF with a training package to supplement existing IGADF training in working with victims of sexual assault and other abuse.

The ACT Policing training package focuses on: initial contact with victims; information provided to victims in the preparation phase of an investigation; best practice interviewing strategies and methods for vulnerable witnesses; and ongoing interaction with victims. The training package includes scenarios and case studies.

The first ACT Policing training session for IGADF personnel was held on 2 March 2016. It was strongly focused on victim management. The training was presented by a Detective Sergeant from ACT Policing's Sexual Assault and Child Abuse Team and attended by about 50 participants.

The presentation received positive feedback and it is likely that further ACT Policing training will be conducted in future.

6.2 Investigations undertaken by the Australian Defence Force Investigative Service

The Taskforce raised two issues in regard to ADFIS.

First, the Taskforce queried whether the issues noted in regard to IGADF were equally applicable to ADFIS as some comments made by complainants suggested its processes for responding to victims of abuse could also be improved.

The Taskforce understands that, in addition to other ADFIS training, ACT Policing's Sexual Assault and Child Abuse Team has been providing some training to ADFIS for eighteen months or so on a quarterly basis and it is anticipated to continue indefinitely. The training is designed for ADFIS members who are deploying overseas. It consists of a two hour package focusing on first responders' attendance, their duties, collection and preservation of forensic evidence and an interactive case study presented by a SACAT team leader or suitably qualified team member.

However, the Taskforce suggests that consideration be given to extending that ACT Policing training to ADFIS members in Australia.

In relation to both Section 6.1 and Section 6.2, the training will need to be delivered and updated at regular intervals to maintain a best practice standard.

Recommendation 1: That the training provided to officers employed by the Inspector-General ADF and the Australian Defence Force Investigative Service accord with policing best practice in responding to Defence members who have suffered sexual assault or other abuse.

Secondly, the information provided by complainants indicates that, on occasions in the past, ADFIS had investigated offences under section 61(3) of the *Defence Force Discipline Act 1982* (that is, offences under the civilian criminal law).

Alternatively, allegations of abuse had been dealt with as a (lesser) service offence (such as prejudicial conduct) and not referred to police to be handled more appropriately as a civilian criminal offence.

While in some instances the complainant may have agreed with this approach, it gives rise to the following concerns:

- alleged offenders may have been prosecuted through the military justice system for criminal matters that should have been dealt with in the criminal courts
- complainants in some cases told the Taskforce they were dissuaded by ADFIS from reporting their allegations of abuse to civil law enforcement agencies on the basis that they would be dealt with through the military justice system, and
- based on information provided to the Taskforce, in some cases ADFIS had not appropriately advised police when a member was convicted of an offence with an equivalent criminal offence.

These concerns fall within the broader category of military justice issues which are dealt with in the next part of this Report.

6.3 Military justice issues

The complaints lodged with the Taskforce concern allegations of abuse which took place over six decades. Obviously some problems which occurred in the past may not arise today due to changes in law or practice.

The Taskforce's general concern is that the military justice system should not be used to prosecute offences that are more appropriately dealt with through the criminal justice system. To do so could effectively quarantine Defence members from the possibility of a criminal investigation, prosecution and the consequences of conviction for a criminal offence.

The Taskforce identified eight areas of possible concern relating to conviction under the military justice system based on a detailed analysis of 67 cases reported to the Taskforce:

- no criminal record results from the conviction
- relevant offenders are not placed on the sex offender register
- there is no exposure to civilian sanctions such as probation, parole and good behaviour bonds
- there is no access to drug treatment options and other offender programs
- there is no opportunity for victim impact statements as part of the sentencing process
- the victim's eligibility for compensation under victims of crime schemes is affected
- prosecutions under the *Defence Force Discipline Act* are subject to a statutory limit of five years which would not apply to a criminal prosecution based on the same alleged offence, and
- police may not have access to a convicted member's conviction record because the conviction is not recorded in police intelligence databases.

In response to those points, the Taskforce understands:

- pursuant to a memorandum of understanding between them, the Director of Military Prosecutions will seek the consent of the Director of Public Prosecutions before prosecuting offences under section 61(3), and
- there may be some military equivalents to sentencing options, offender programs, mechanisms for victims to be heard and so on.

The Taskforce also notes that section 190A (2) of the *Defence Force Discipline Act* permits certain information to be disclosed by Defence to police authorities.

Section 190A (2) provides:

A service chief or an authorised officer may disclose the fact that a person has been convicted of an offence, and any information relating to the conviction, to an authority of the Commonwealth, or of a State or Territory, for purposes connected with investigating, prosecuting or keeping records in relation to offences against laws of the Commonwealth, the State or the Territory.

While that section permits information to be disclosed, it does not mandate it and the authority to disclose is limited to information about convictions. It does not include information about significant investigations or prosecutions that do not result in a conviction.

To deal with these concerns, the Taskforce put forward several suggestions for consideration by the Chief of the Defence Force. These suggestions are directed to ensuring:

- civilian criminal offences involving acts of abuse by members of Defence should as a general rule be investigated and prosecuted through an Australian criminal justice system unless the alleged offence was committed overseas and Australian authorities have no jurisdiction, and
- details of any alleged criminal offences that involve acts of abuse investigated or prosecuted through the military justice system (whether or not there was a conviction) should be provided to the relevant police authority.

The Taskforce acknowledges these concerns are based on complaints to the Taskforce and its understanding of the military justice system. It is important to obtain Defence's views on the Taskforce's analysis and recommendations before any firm conclusion can be reached on these matters.

The Taskforce also acknowledges that some of the issues that relate to sexual offences are addressed in the August 2014 amendments to the Defence Instructions (General) PERS 35-~~Reporting and management of sexual misconduct including sexual offences~~ as long as there is strict compliance with those relatively new provisions.

Recommendation 2 That:

2.1 civilian criminal offences involving acts of abuse by members of Defence should (except for minor offences) be investigated and prosecuted through an Australian criminal justice system unless the alleged offence was committed overseas and Australian authorities have no jurisdiction

2.2 details of any alleged criminal offences that involve acts of abuse investigated or prosecuted through the military justice system (whether or not there was a conviction) should be provided to the relevant police authority, and

2.3 Defence strictly comply with the provisions of Defence Instruction (General) PERS 35-~~Reporting and management of sexual misconduct including sexual offences~~

6.4 Advancing administrative and disciplinary referrals from the Taskforce

The Taskforce's *Report on progress, operations and future structure* delivered to Ministers on 30 June 2015 acknowledged there are considerable impediments to the Chief of the Defence Force taking further action on administrative and disciplinary matters referred to him for consideration.

Nonetheless, it is important to ensure that every effort is made to investigate and advance appropriate matters where the complainant has agreed to participate and the available evidence justifies proceeding.

Around the end of September 2015, Defence and the Taskforce established a liaison arrangement in regard to processing administrative or disciplinary referrals. At Defence's request, the Taskforce has provided assistance by:

- communicating with complainants whose matters have been referred to the Chief of the Defence Force, and
- obtaining further details required by Defence in relation to those complaints.

6.5 Internal inquiries, particularly in regard to allegations of sexual harassment

Investigators who conduct inquiries into sexual harassment allegations require, in addition to a knowledge of and familiarity with the relevant legislation and applicable process, a clear understanding of the definition and nature of sexual harassment and best practice in responding to victims of such abuse.

In these circumstances, the Taskforce has suggested that Defence should implement training programs specifically adapted to focus on sexual harassment for all officers who conduct formal inquiries into these allegations. The training should encompass all of the possible consequences arising from such abuse (including criminal, disciplinary and administrative proceedings and appropriate management action).

Senior officers and managers would also benefit from training directed at understanding the nature of potential and escalating situations that could amount to sexual harassment and recognising it when it occurs.

Recommendation 3: That Defence ensure that all officers who conduct formal inquiries into allegations of sexual harassment have, in addition to a knowledge of and familiarity with the relevant legislation and applicable process, a clear understanding of the definition and nature of sexual harassment and best practice in responding to victims of such abuse. Senior officers and managers would also benefit from training directed at understanding the nature of sexual harassment and recognising it when it occurs.

6.6 Mismanagement of reports of abuse

The Taskforce has made 1,723 reparation payments and 97% of them included a payment for Defence mismanagement.

The Taskforce's assessments of plausible mismanagement of a complaint were based on factors such as:

- the abuse was observed by a senior officer or officers but no action was taken
- the alleged abuse was reported but the complainant was dissuaded from pursuing the complaint (for reasons such as reporting sexual assault by another member could prejudice the complainant's future career)
- the alleged abuse was reported but no, or no appropriate, action was taken against the alleged abuser or abusers
- the alleged abuse was or should have been apparent to senior officers in other ways, for example through obvious physical injuries or irregular behaviour, but no enquiries were made as to their cause, and
- the abuse, such as bastardisation rituals, was generally well known to take place but no action was taken to put an end to it.

The Taskforce acknowledges that many of these complaints are quite old and may not reflect current practice in Defence. Even so, the Taskforce is concerned at these statistics and notes that the issue of proper and effective management of complaints of abuse where Defence has actual or constructive knowledge that it took place appears to be an area requiring careful and ongoing attention.

Recommendation 4: That, noting the number of complaints which included an element of mismanagement, Defence ensure its processes include proper and effective management of abuse where it has actual or constructive knowledge of the abuse whether or not a complaint has been made.

6.7 Advising complainants about the progress and outcome of their complaints

Many complainants have criticised Defence's lack of communication in relation to their complaints, any action taken, its outcome and any sanction imposed.

The Taskforce's view is that providing timely communication and accurate information about these matters may well have alleviated at least some of the complainants' concern about Defence's handling of their complaints.

Conversely, the failure to do so has no doubt contributed to the complainants' perception that their complaints have not been taken seriously or handled satisfactorily and consequently supported plausible allegations of mismanagement of reports of abuse.

The provision of this sort of information is often considered to be prohibited on privacy grounds. However, that is not the case if an organisation's policies and procedures allow the information to be provided.

The Australian Public Service Commission has published two papers on this topic:

- *Circular 2008/3: Providing information on Code of Conduct investigation outcomes to complainants*
 - *Privacy and Transparency: Disclosing outcomes of misconduct complaints – a discussion paper*
- Although the closing date for comments was 7 October 2014, the Taskforce understands the APSC has not taken this issue any further since then.

The Taskforce's experience suggests it would be desirable to amend Defence's procedures and practice to ensure that complainants are kept advised of the progress of their complaints and given a clear explanation about any action taken, its outcome and any sanction imposed.

Recommendation 5: That Defence amend its policies and procedures to ensure that complainants can be and are kept advised of the progress of their complaints and given a clear explanation about any action taken, its outcome and any sanction imposed.

6.8 Maintaining the impetus to improve Defence culture and practices

At the meeting which took place on 15 February 2016, the Chair and the Chief of the Defence Force discussed the need to put appropriate arrangements in place to maintain the impetus for improvement in Defence culture and practices which has been generated over the last few years.

The Taskforce's view is that the only effective way to maintain that impetus over time is for it to be implemented within Defence and driven from the top.⁴⁸

Defence has already taken some steps in this direction by establishing the Sexual Misconduct Prevention and Response Office (known as SeMPRO).

⁴⁸ In the *Report on abuse in Defence* the Taskforce said at page 66: *The primary responsibility for dealing with abuse in Defence must lie with Defence itself*

However, SeMPRO currently has a limited remit. The Taskforce considers SeMPRO (or possibly another suitable area) could, with broader objectives, increased authority and adequate staff and resources, take on the ongoing responsibility within Defence of advancing improvements in culture and practices.

The Taskforce envisages SeMPRO would report directly to the Chief of the Defence Force and have the CDF's authority to take whatever actions are necessary to achieve its objectives which will be clearly spelt out and publicised within Defence.

In addition to its current duties in relation to receiving and dealing with complaints of sexual abuse (including providing support to, and advocacy for, members of Defence who allege they have been abused), SeMPRO would also:

- develop or revise policies and training and other programs to address and prevent sexual abuse, sexual harassment, workplace harassment and bullying and other specific areas of concern
- have a Defence-wide education and training role to continue with and give ongoing impetus to the present efforts to improve Defence culture and practices
- gather and regularly publish statistics on allegations of abuse in Defence, and
- bring forward and advise the Chief of the Defence Force on further initiatives or programs to advance and continue improvements in Defence culture and practices.

Recommendation 6: That, in addition to its current responsibilities, Defence empower and appropriately staff and resource the Sexual Misconduct Prevention and Response Office reporting directly to the Chief of the Defence Force to:

- 6.1 develop or revise policies and training and other programs to address and prevent sexual abuse, sexual harassment, workplace harassment and bullying and other specific areas of concern
- 6.2 have a Defence-wide education and training role to continue with and give ongoing impetus to the present efforts to improve Defence culture and practices
- 6.3 gather and regularly publish statistics on allegations of abuse in Defence, and
- 6.4 bring forward and advise the Chief of the Defence Force on further initiatives or programs to advance and continue improvements in Defence culture and practices.

6.9 Monitoring Defence's performance in improving Defence culture and practices

A considerable number of complainants told the Taskforce they did not trust Defence as a result of the abuse they had suffered and the treatment they received when they reported it. It follows that some people may be sceptical about the effectiveness of Recommendation 6 if the work is undertaken solely within Defence.

The Taskforce therefore makes the following recommendation to overcome this concern.

Recommendation 7: That the Defence Force Ombudsman monitor Defence's implementation of these Recommendations, including in particular Recommendation 6, and report his findings to the Chief of the Defence Force and in the Defence Force Ombudsman's Annual Report.

Section 7: Administrative matters

The Taskforce has adjusted its staffing levels and other administrative requirements as it has progressively completed its work.

7.1 Staffing

On 1 July 2015, the Taskforce had 106 staff (a full time equivalent of 102.6 officers). This number had been reduced to 56 (FTE 53.8) by 31 March 2016. Some of the reductions were the result of employment contracts coming to an end. In other cases, officers gave notice so they could take up other permanent or other ongoing job opportunities or return to their home agency.

The Taskforce extended the engagement of 37 officers to 30 June 2016 to finalise the last few restorative engagement conferences, complete the Counselling Program, deal with the outstanding administrative details associated with winding up and facilitate the transfer of other ongoing matters to a legacy agency as discussed in Section 9 of this Report.

As these extended contracts are within six months of their termination date, they can be brought to an end without penalty prior to 30 June 2016 if the work is completed before that date. In any event, officers are leaving the Taskforce when they obtain another ongoing appointment or decide or are required to return to the home agency.

It is worth noting the very high satisfaction ratings recorded in the Taskforce's 2015 APS Employee Census. The Taskforce assesses that these results reflect officers' awareness of the importance of their work, a clear sense of the Taskforce's purpose and their role in achieving its objectives and the value they place on the opportunity to be involved in directly assisting complaints through this unique government initiative.

7.2 Budget and expenditure

While the Taskforce is administratively housed in the Attorney-General's Department, all costs related to the Taskforce's work (including reparation payments and the cost of the Counselling and Restorative Engagement Programs) are met by the Department of Defence.

In the *Report on progress, operations and future structure*, the Taskforce noted its total budget was \$157.40 million.⁴⁹ The total revised Taskforce budget is \$147.40 million as summarised in the following table. It is likely that the final cost of the Taskforce from November 2012 to 30 June 2016 will be less than the currently budgeted \$147.40 million.

Measures	2012–13 (\$m)	2013–14 (\$m)	2014–15 (\$m)	2015–16 (\$m)	Total (\$m)
Measure 1 – Operational	7.24	12.84	9.09	5.83	35.00
Measure 2 – Outcomes	0.80	40.72	50.60	20.28	112.40
Total	8.04	53.56	59.69	26.11	147.40

The net budget reduction of \$10.0 million principally reflects that the Taskforce received a lower number of applications for reparation payments at a slightly lower average cost than initially projected.

⁴⁹ Page 33

The increase in the budgeted expenditure in 2015–16 is attributable to:

- the extension of the Taskforce from 31 December 2015 to 31 March 2016 and the volume of work (particularly the number of restorative engagement conferences to be completed in that period), and
- the retention of a core of Taskforce officers between 1 April and 30 June 2016 to complete the delivery of counselling outcomes and the finalisation of financial, accounting and administrative matters related to the winding up of the Taskforce.

Further details of the Taskforce's unaudited expenditure as at 29 February 2016 are set out in Appendix 2.

7.3 Legal issues and access to information

As at 31 March 2016 there are two active legal proceedings involving the Taskforce:

- One matter in the Administrative Appeals Tribunal relating to a Freedom of Information request made to the Attorney-General's Department for access to Taskforce documents, and
- One application for judicial review in the Federal Court.

As these matters are currently before the courts, it would not be appropriate to comment further.

There are two ways Taskforce complainants can access information the Taskforce holds about them. They can seek access to documents held by the Taskforce under the Administrative Access Scheme or the *Freedom of Information Act 1982*

The aim of the Administrative Access Scheme is to deal more simply and efficiently with requests for information outside of the formal process set out in the *Freedom of Information Act*. As at 15 March 2016, the Taskforce had received 459 requests seeking access to information under its Administrative Access Scheme and had responded to 436 of them.

As at 31 March 2016, the Attorney-General's Department had received 21 freedom of information requests for access to Taskforce documents and three requests for internal review of freedom of information decisions on requests for Taskforce related documents. All of those requests have been finalised.

Two requests were made for the Information Commissioner to review the Attorney-General's Department decisions and both of those requests have been finalised by the Office of the Australian Information Commissioner.

7.4 The Taskforce Wellbeing Program

As the complainants' reports of abuse often contained disturbing and sometimes distressing details, the Taskforce implemented a staff Wellbeing Program. The program provided support to staff to reduce the adverse impact that daily or frequent exposure to those accounts could have on them.

The Taskforce engaged psychologists to implement a range of strategies to assist its officers. The program included regular individual and group sessions where wellbeing and self-care strategies were encouraged.

The Taskforce psychologists were able to:

- screen for the development of vicarious trauma
- assist staff to process strong reactions to the information they were dealing with
- encourage lifestyle factors, such as regular exercise and social activity, that are known to enhance emotional wellbeing, and
- facilitate referral to external professionals if an individual officer was in need of more targeted support.

The Wellbeing Program was well received by staff. It was a key management initiative in supporting staff to undertake the Taskforce's difficult and challenging work.

Section 8: Comments and feedback

The comments and feedback received by the Taskforce have continued to be overwhelmingly positive. The comments set out below should be read in conjunction with the commentary in Section 7 of the Taskforce's *Report on progress, operations and future structure*⁹.

Complainants

Many complainants have written to the Complainant Support Group expressing their appreciation for the assistance they have received. Recently, one complainant managed to capture in a very moving letter the essence of the best outcomes the Taskforce has achieved.

These quotes are taken directly from his letter.

- *I found it to be both emotionally and physically impossible to complete the initial paperwork by the due date. After months, all I could manage to achieve was my name on the top of the form. I would sit and cry for hours looking at the form, and relive the horrible feelings of the abuse ... Ultimately with [the case officer's] help ... and with his compassionate, never ending understanding I went on to complete the form and for the first time in my life I shared my story with another person*
- *The blackness that had sat inside me for so long and which had become a companion that I could see no escape from other than via suicide is now to a large degree under control. I have learned from my counselling, provided by the Taskforce, many exercises that take away its power over me*
- *I would always lie to cover my absolute shame about what had happened. Both mum and dad are very elderly now and I was fearful one or both would pass away without ever knowing the truth. They now both know the truth. This has totally changed my relationship with them both, they are now much more understanding and compassionate about some of my past self-destructive behaviours*
- *My restorative engagement ... was something that I could never have envisaged being able to achieve. It has been an integral part of my journey, I feel at peace knowing the military has heard my story ...*
- *As the Taskforce is coming to an end please be assured my journey has not ended, I feel mine has just begun. ... From the Taskforce's work I now know how to get and receive help, I am no longer walking the road alone as I had done for years and years. Even my parents are now an active part of my recovery, and*
- *At all times I have been treated with the utmost respect and compassion by all concerned and this has meant the absolute world to me.*

The Taskforce receives written comments from the participants after each restorative engagement conference. Those comments have provided a continuous source of specific feedback about the Restorative Engagement Program but also useful general insights into the effect of the Taskforce's work more broadly (including contributing to improvements in Defence culture and practices).

50 Pages 34–36

Complainants who participated in the Restorative Engagement Program have spoken of how powerful the conference experience has been for them:

- *The process went very well and was definitely beneficial. For senior leadership to front up to the coal face of abuse was very symbolic and powerful. I felt that it was genuine and constitutes a paradigm shift I have not seen before. I'm not saying that they didn't care before, but their willingness to contact with victims has shown me personally that they care a lot more than was previously understood...Master stroke!!*
- *I was able to express my feelings of the traumatic experiences I went through after the assault, especially with the lack of support from Army personnel. The meeting was relaxed and I felt very comfortable and in control. I am extremely grateful to have had this opportunity, thank you and*
- *I felt the conference went very well. I was made to feel comfortable throughout. I felt I got a lot out of the process and am so glad that I did it. I saw another side of Defence that I did not expect to see and felt that Defence was genuine. I hope that my experiences will go towards improving the conditions for those who will come after me. I am content in the thought that through this process I am helping to shape in some small way a much better Defence force.*

Defence representatives

Senior Defence representatives have described the impact their participation in a restorative engagement conference had and indicated how the program has made a substantial contribution to cultural change in Defence:

- *[Participation] brought home the wider impact on families. Several generations are often affected, not only the serving member. It clearly highlighted the responsibility the chain of command has in preventing such incidents and the culture a unit develops also has an important part to play*
- *[Participation] has changed the way I try to respond. I find myself paying more attention to the personal impact than the 'Defence position', & I put more effort into recognising this & expressing regret early where I can,*
- *It is not often that you are put in the position to make such a large impact on another life. It's a considerable responsibility, although when it goes well, it's extremely rewarding.*

It has been common for Defence representatives to make comments like these:

- *You have given me a much deeper understanding of the problem and what it is that needs to be solved*
- *I must admit that it's only now that I really get it*
- *I feel ashamed that I have given my life to an organisation that has done this to you,*
- *I've learnt more in the last two hours than in my entire career.*

On the Taskforce's feedback forms, Defence representatives are asked *Can you share the most important impacts the restorative engagement process has had for you?*

Here are three recent responses Defence representatives have provided to that question.

- *Defence destroyed this person's life – all aspects. Marriage, jobs, mental health, physical health, other relationships. He only needed one champion, and he got nothing. We owe it to the parents [and] people of Australia to ensure people who do this are removed from our ranks (Colonel, Army)*
- *It has reinforced the critical role leadership and chain of command has within Defence. It has reinforced that our culture is a foundation of our organisation that must be preserved and protected vigorously (Colonel, Army), and*
- *I came away feeling that I had done something really positive for an individual that Defence had let down (Brigadier, Army).*

The sincerity of those comments is clearly apparent from, and reinforced by, the very personal letters of regret and apology many Defence representatives have sent to complainants following a restorative engagement conference.

Facilitators

Facilitators have also spoken about their observations of complainants and the positive impact the Defence representative has had in conferences they have facilitated:

- *The [Defence representative] demonstrated excellent leadership both in relation to the Army and for the DART program. He was warm, empathetic and very strong in his praise of the complainant. After the conference the complainant said it was like a huge weight had been lifted from her shoulders, she felt great!*
- *The complainant beforehand, while committed to attending the process, was sceptical about its value - thought it may be an expensive exercise aimed at 'cover up' and making the complainant go away. After the conference, the complainant was effusive about its value – 'much more positive than he had expected' 'would recommend it to others' 'Defence rep really understood',and*
- *After the conference the complainant reflected that she was surprised at how much the apology had meant to her and was very pleased she had decided to undertake a face to face conference. The complainant stated she found the Defence rep to be genuine and this had made a big difference to her. Also stated that she had hopes that over time she would once again be proud of serving her country and being associated with the Defence Force.*

Section 9: Legacy arrangements

The Taskforce paid considerable attention to legacy issues in the *Report on abuse in Defence*⁵¹. The comments in this Section and elsewhere in this Report supplement or add to those observations.

9.1 Post-Taskforce legacy issues

Any significant undertaking such as the Taskforce has ongoing legacy issues that require attention by another agency after it has finished, noting that the Taskforce has been extended from 1 April to 30 June 2016.

The Taskforce raised on several occasions the need for Ministers to determine which agency would be responsible for these legacy arrangements. The Taskforce has previously proposed that the Defence Force Ombudsman would be the most appropriate agency to take on that role.⁵² Ministers are considering that proposal.

One issue is to consider the Taskforce view that, subject to determining a suitable format:

The Taskforce experience to date very strongly suggests that the Restorative Engagement Program should be continued beyond 30 June 2016.

Other legacy issues requiring longer term attention include:

- following up and recording details of referrals to police for possible criminal investigation and to the Chief of the Defence Force for consideration of administrative or disciplinary action
- responding to enquiries from complainants
- the finalisation of all outstanding accounting and administrative requirements
- the safe custody and maintenance of the Taskforce's highly sensitive and confidential database and case management system. In this regard, the Taskforce has made preliminary arrangements for a copy of its records to be deposited with the National Archives before 30 June 2016
- maintaining the Taskforce website
- providing appropriate information in response to ministerial, freedom of information or administrative access requests
- providing appropriate information and other assistance in relation to any litigation or other inquiry involving or touching on the Taskforce or its activities
- allowing access to the Taskforce's valuable database for further research and analysis subject to approval by the Minister for Defence and enforceable undertakings regarding confidentiality⁵⁴, and
- complying with the National Archive's requirements for preserving records.

There is a detailed discussion of legacy issues in the *Report on abuse in Defence*⁵⁵

51 Pages 63–68

52 See, for example, *Report on abuse in Defence* pages 64–65

53 See *Report on abuse in Defence* pages 67–68

54 The Taskforce documents and other data are held by it on behalf of the Minister for Defence – see *Report on abuse in Defence* page 66

55 Pages 63–68

9.2 Remaining counselling outcomes

The only outcome that was not completed or very substantially completed by 31 March 2016 was the Taskforce's Counselling Program.

The November 2015 Terms of Reference required the Taskforce to *conclude as far as possible the provision of counselling by 31 March 2016*.⁵⁶ The Taskforce met that requirement.

On 15 March 2016, the Taskforce had finalised counselling for 414 complainants while 163 complaints had outstanding counselling sessions yet to be delivered.

Some complainants had not completed their Taskforce counselling because of the time it takes to do so and to make arrangements to transition to another mental health service (where necessary). In other cases, complainants have required counselling support before, during and after their restorative engagement conferences and a large number of conferences were held in February and March 2016.

All counselling outcomes are to be finalised as soon as possible and in any event before 30 June 2016.

9.3 Post-cut-off reports of, or contacts about, abuse

As at 1 March 2016, the Taskforce had recorded 452 contacts from people wishing to register or making an enquiry about registration after the cut-off date of 31 May 2013.

When applicants were informed they were too late and the Taskforce could not register their complaints, they were advised of alternative ways they could seek assistance. The options included the police, internal Defence complaints processes, the Inspector-General of the ADF, the Defence Force Ombudsman, the Australian Human Rights Commission and, where appropriate, the Royal Commission into Institutional Responses to Child Sexual Abuse.

While there was nothing further the Taskforce could do to assist these people, it is important that Defence and the Defence Force Ombudsman (or other legacy agency) are aware of their situation.

In the November 2014 *Report on abuse in Defence*,⁵⁷ the Taskforce noted it can take a long time before people who experience abuse can report or talk about it. The Taskforce said:

*However, the Taskforce does agree that people who missed the cut-off date should be able to have their complaints appropriately responded to by the Government and Defence.*⁶⁵

The Taskforce also suggested that, in addition to the applicants who missed the cut-off date:

*It is likely that other subjects of past abuse will continue to come forward when they feel able to do so, for many years into the future. The Taskforce considers that the Government and Defence should develop and implement processes to enable them to do that, and to have their complaints appropriately responded to.*⁵⁷

To assist Defence, the Taskforce has analysed the information received through the 452 contacts and the results of that analysis are set out below.

The Taskforce received 174 of those contacts on the telephone hotline, 151 by email, 100 from DLA Piper, 24 by mail, two by referral from the Attorney-General's Office and one matter that was identified from media reports.

⁵⁶ Page 65

⁵⁷ Page 66

Many of the people said they were not aware of the Taskforce until after the cut-off date had passed. Others were aware the cut-off date had passed but still wanted to advise the Taskforce of their alleged abuse. A small number advised it had taken them some time to trust the Taskforce and speak about their experiences.

The level of information provided by the people who contacted the Taskforce after 31 May 2013 varies greatly. Some contacts were just enquiries about registration requirements that contain no information about allegations of abuse. At the other end of the spectrum, some people provided a full set of completed documentation including a certified Personal Account Form.

Location

One hundred and seventy contacts identified the location where the alleged abuse had occurred, mainly HMAS Leeuwin and locations where basic training occurs (ADFA, Balcombe, Kapooka, HMAS Cerberus and HMAS Nirimba) as follows:

- a large proportion (almost one-third) identified HMAS Leeuwin as a location where the alleged abuse had occurred
- 6 identified ADFA
- 7 at the Army Apprentice School in Balcombe
- 7 at HMAS Cerberus
- 5 at HMAS Nirimba, and
- 9 at Kapooka.

Service

Two hundred and eight contacts identified the service they were in at the time of the alleged abuse as follows:

- 108 contacts were serving in the Navy
- 22 contacts were serving in the Air Force
- 72 contacts were serving in the Army, and
- the remaining six contacts identified their alleged abuse occurring in cadets, at ADFA, in the Department of Defence or as a child of a serving member.

Type of abuse reported

Around 200 contacts alleged a specific type of abuse and, in some cases, several types of abuse.

Not all of these contacts disclosed alleged abuse that clearly fell within one of the Taskforce's Terms of Reference (that is, sexual abuse, physical abuse, sexual harassment and workplace harassment and bullying).

A rough outline of the types of abuse reported after the contact date is set out below, noting that these allegations are self-reported and have not been assessed by the Taskforce as plausible:

- 72 instances of sexual abuse
- 50 instances of physical abuse
- 17 instances of sexual harassment, and
- 72 instances of workplace harassment and bullying.

Year in which the alleged abuse occurred

One hundred and sixty-five contacts identified the time period in which they had been abused. The alleged abuse reported to the Taskforce after 31 May 2013 did not occur in any specific decade or year but was fairly evenly spread across all time periods as follows:

- 1950–1959: six contacts
- 1960–1969: 33 contacts
- 1970–1979: 31 contacts
- 1980–1989: 29 contacts
- 1990–1999: 18 contacts
- 2000–2009: 35 contacts, and
- After 2010: 13 contacts.

These statistics support the Taskforce's earlier judgment that persons who have been abused in Defence in the past but did not make a complaint to the Taskforce (before the cut-off date or at all) are likely to wish to bring their complaints forward at some time in the future if they have the opportunity to do so.

In these circumstances, the Taskforce draws attention to the previous suggestion in this regard set out in the *Report on abuse in Defence*

Recommendation 8: As subjects of past abuse will continue to come forward when they feel able to do so for many years into the future, the Taskforce considers that the Government and Defence should develop and implement processes to enable them to do so and to have their complaints responded to appropriately.

Section 10: Available Taskforce resources

The Taskforce developed unique policies, procedures, protocols, reports, forms and other documentation to enable it to discharge its Terms of Reference. A number of the key documents may provide useful reference material which could be of assistance to, or adapted by, other agencies, organisations and institutions.

This documentation is available on the Taskforce's website (www.defenceabusetaskforce.gov.au) and upon request through the library in the Attorney-General's Department.

Handle with care

However, the publication of this material comes with a serious caution.

Many of the Taskforce's complainants had been severely affected by their abuse, both at the time the abuse occurred and often for years afterwards. The ongoing impacts resulting from that abuse could include physical injuries, emotional distress, ruined careers, relationship breakdowns, drug or alcohol addiction and more severe psychological disorders.

The Taskforce's policies and procedures were based on the principles of trauma informed care⁵⁸ and developed as a cohesive program across the delivery of all outcomes in accordance with the guiding principle to do no further harm⁵⁹.

The programs were delivered by officers with special and appropriate training, skills and experience working with victims of crime, sexual abuse and violence. Complainants were supported by a dedicated case officer throughout their involvement with the Taskforce, including in selecting and accessing the outcomes available to them.

It follows that other agencies should not select limited aspects of the Taskforce's programs without careful consideration of all of the factors that made those programs successful. To do so could result in doing more harm – and possibly a great deal more harm – than good.

Outline summary

The summary below sets out the categories under which the documents are grouped:

- Foundational documents
- Taskforce Reports
- Registration and assessment process
- Complainant engagement and support
- Taskforce Counselling
- Reparation Scheme
- Restorative Engagement Program
- Referral to police or military justice authorities
- Referral to the Chief of the Defence Force for possible administrative or disciplinary action, and
- The Taskforce Psychological Support Program (for Taskforce staff).

⁵⁸ See Section 1.8

⁵⁹ The *Report on abuse in Defence* describes the Taskforce's outcomes as a suite of separate but interdependent components, page 67

Section 11: Reflections

This and earlier Reports have included the Taskforce's findings about the nature and extent of abuse in Defence and the factors which contributed to or facilitated that abuse.

These reflections highlight some of the most important observations the Taskforce has made over the last three years.

Complainants

Many complainants told the Taskforce the reason they made a complaint was to help prevent other members of Defence being abused in future.

In some cases, it was not just to help the personnel involved. Those complainants still have an attachment to Defence as a national institution and they hope, by helping Defence to understand and stamp out abuse, it will become a better organisation.

Courage

Before the Taskforce could do anything, complainants had to have the courage to come forward and tell Taskforce officers about their very personal and often distressing experiences.

Some complainants had never told anyone about their abuse until they approached the Taskforce – not their spouse or partner, their children, other family members or close friends. It took real strength to take that step and it is only because of their personal bravery that the Taskforce has succeeded.

Not the right time

However, for some potential complainants, now was not the right time to deal with their abuse.

In its Report on abuse in Defence, the Taskforce observed:

The experience of the Taskforce has confirmed the long-accepted understanding that those who have experienced abuse may take many years – often decades – to get to a point at which they can report or talk about it. It follows that there are likely to be many subjects of abuse in Defence who have not come forward to the DLA Piper Review or to the Taskforce. ... It is likely that other subjects of past abuse will continue to come forward when they feel able to do so, for many years into the future⁶⁰

Trust

But coming forward to the Taskforce did not mean that the complainants did so without some reservations and trepidation.

The Taskforce had to build trust with them over time and key factors in doing so were:

- allocating a specific case officer to work with and build a rapport with each complainant, and
- engaging case officers with extensive experience in working with victims of abuse and the principles of trauma informed care.

⁶⁰ Page 66

Apart from developments in the tone and nature of the interaction between a complainant and his or her case officer, increasing trust was often noticed in the following way.

At first, a complainant might only ask for a reparation payment but, as time passed, he or she felt able to explore other outcomes offered by the Taskforce. In particular, agreeing to participate in the Restorative Engagement Program required the complainant to have confidence that the contact with a senior Defence officer would be conducted in a safe, secure and supportive way.

Similarly, some complainants were able to access counselling for the first time through the Taskforce.

However, in some cases, the Taskforce could not build the necessary trust and rapport and was unfortunately not able to meet some, or even all, of those complainants' expectations.

Other agencies

In advancing their complaint, some complainants have had to deal with other agencies. Those agencies have included the Inspector-General ADF, the Australian Defence Force Investigative Service, other sections of Defence, the Department of Veterans' Affairs and police authorities.

That agency has to establish its own relationship of trust. The trust the complainant built up with the Taskforce is not transferable.

The Taskforce has endeavoured where possible to facilitate those dealings or at least make the other agency aware of the need to respect the complainants' vulnerability as a result of the abuse they have suffered. Otherwise, the complainants could lose heart and withdraw from seeking any further action or remedy in regard to the abuse.

Categories of abuse and impact on the complainant

The independent Reparation Payments Assessor made an objective assessment of each allegation of abuse to determine which of the Taskforce's categories of abuse it fell into.

The Taskforce has observed that there was no direct correlation between the objective assessment of the level of abuse and the impact it had on the complainant. Similar types of abuse had quite different impacts on different complainants.

The Taskforce does not have the expertise to explain why that is the case but reasons could include earlier abuse or mistreatment outside Defence, other stress factors in the complainant's life and the complainant's personal strength and resilience.

The Taskforce was not required to assess the impact the abuse had had on a complainant. However, the Taskforce's view is that it could not assess the subjective impact the abuse had had in any event because the Assessor did not have sufficient information or the professional training and skill to make such an assessment.

Failure of Defence leadership

Defence leadership failed in several ways.

In regard to many complaints, Defence had actual or constructive knowledge that abuse was occurring but did nothing to prevent it or stop similar abuse occurring in future.

In other complaints, no report was made because the complainant believed they would suffer adverse consequences for doing so and, in any event, nothing would be done about it.

But for these failures, much of the abuse reported to the Taskforce would not have taken place.

Don't jack ⁶¹ on your mates

The Defence culture underpinning many complaints at the time the abuse occurred was that you don't jack on your mates, even if those so-called mates sexually or physically abused you.

This flawed and dysfunctional culture discouraged some complainants from reporting abuse and, in other cases, led to complainants who did report their abuse being further abused and mistreated, often without receiving any support from the chain of command.

On occasions, that subsequent mistreatment was worse than the initial abuse. This result was captured most movingly by Private Veronica Wadley in these terms:

'It's not the rape' she says ... 'it hurts, but I can let that go. It's how the Army treated me that killed me the most. They were my family. We were supposed to look out for each other, to watch each other's backs. But when push came to shove, they showed me the door. They just broke my heart.'

Loss of trained personnel

Like Private Wadley, other complainants told the Taskforce they were effectively forced out of Defence after reporting their abuse.

One complainant observed:

I can also relate to the sense of loss of my career while the abusers kept theirs and even flourished in spite of what had occurred.

Some complainants told the Taskforce the only career they ever wanted was in the Army, the Navy or the Air Force. A number of them were hoping to follow a family tradition of serving their country.

So the abuse was totally unacceptable not only because of the damage and harm it caused to the complainant.

It also wasted the time, effort and cost involved in training and developing highly committed and capable personnel as fully qualified members of Defence keen to serve for the duration of their careers and never realised the potential contribution they would have made to Defence over that time.

In some cases, where the complainant put up with the abuse and stayed in Defence, it was obvious that they were affected – perhaps severely affected – by their abuse and it contributed to reduced performance and a disrupted and sometimes dysfunctional workplace.

⁶¹ The term *jacking* means making a complaint about another individual to a staff member, perceived as disloyalty

⁶² See *Closing Ranks* by Cameron Stewart, The Weekend Australian Magazine, 1-2 June 2013

Section 12: Conclusion

The Defence Abuse Response Taskforce was established on 26 November 2012 – well over three years ago.

Given the breadth of the task, uncertainty about how many complainants would come forward and the need to develop at that time undetermined outcomes to provide some redress for their abuse, no one knew how long the Taskforce would take to do its job.

As a result, the original Terms of Reference required the Taskforce to report to the Attorney-General and the Minister for Defence:

- *every 3 months on its progress and issues arising and*
- *by October 2013 on whether, in what form, the Taskforce should continue in effect beyond the initial 12 month period*

As time passed, three things became clear.

First, the number of complaints received – well over 2,000 – was significantly more than initially expected.

Second, the development of five outcomes to be offered to or considered for each complainant took time, added considerably to the Taskforce's workload and resulted in a complex, Australia-wide delivery network.

Third, the Taskforce's Restorative Engagement Program was having a real impact on the senior Defence officers who took part and therefore making a significant contribution towards improvements in Defence culture and practices.

In the end, the Taskforce's period of operation was progressively extended until 31 March 2016 by which date its work was almost complete.

In the view of the Taskforce Leadership Group and its Executive and Program Directors, those extensions have been thoroughly justified by the volume of work and the results the Taskforce has achieved.

Many complainants have benefited greatly from the Taskforce's assistance, as evidenced by their feedback included in this and earlier Reports. It is not an exaggeration to say that many complainants' lives – and the lives of members of their families – have been greatly improved over the last three years.

The success of the Taskforce's efforts to redress abuse in Defence – to the extent that is possible – is reflected in the fact that recommendations for the implementation of similar programs have been made by:

- the Royal Commission into Institutional Responses to Child Sexual Abuse in its *Redress and Civil Litigation Report* and
- the Victorian Equal Opportunity and Human Rights Commission in its *Phase One Report 2016* following its independent review into sex discrimination and sexual harassment, including predatory behaviour in Victoria Police.

While the Taskforce has very substantially finished its job, the work in Defence will go on indefinitely. It would be a great pity if Defence's focus on improving culture and practices which has resulted in so much good work over the last few years was to lose impetus and the current commitment to continuing improvement wither on the vine.

So the Taskforce has recommended strengthening Defence's internal processes for preventing and dealing with sexual and other abuse and the public monitoring of its progress and performance by the Defence Force Ombudsman as a way of ensuring Defence maintains that determination.

It is a measure of the importance of the Taskforce's work that a considerable number of its staff have been engaged since the beginning in 2012 or at least the greater part of that time. Many of them have said that this is the best and the most important job they have ever had and the most rewarding.

The Ministers and the Government had high aspirations and made a large commitment of resources and funding when the Taskforce was set up. It is a pleasure now to report that the Taskforce has done its job and those aspirations – in terms of acknowledgment and benefit to complainants and a contribution to improving Defence culture and practices – have been met.

Finally, this Report closes with a very important acknowledgment.

The Taskforce acknowledges the courage and commitment of complainants in coming forward. The very personal details they provided about the abuse they suffered have deepened our collective understanding of the impacts of abuse and will inform ongoing cultural change in Defence.

Appendix 1: Comments by the Reparation Payments Assessor

As the independent Reparation Payments Assessor, my task was to determine the amount to be paid to each one of the 1726 complainants who made a valid application for a reparation payment.

I decided which of four categories of abuse applied to each complaint and if a further amount was to be added due to Defence mismanagement. Importantly, I was not required – and would have found it very difficult, if not impossible – to assess and take into account the impact the abuse had had on the complainant.

Some complainants' experience of abuse was reasonably recent. In other cases, the abuse had occurred in their youth as cadets or trainees. Some complainants had given up life-held ambitions to serve their country because of intimidation, fear, ostracism, physical assault or verbal abuse.

The plausibility test adopted by the Taskforce rather than a higher standard of proof, such as balance of probabilities, was critical to the success of the Reparation Scheme.

Some complainants had previously been denied any recourse or remedy for their abuse due to a lack of evidence. In those cases, the plausibility test enabled them to have their experiences formally acknowledged for the first time.

However, the Taskforce received many claims of abuse where the complainant had not reported the abuse. The Reparation Scheme, underpinned by the plausibility test, acknowledged that *aculture of silence* had prevented many individuals from reporting abuse when it occurred.

As a consequence, reporting the abuse was not a prerequisite to my decision that Defence had mismanaged a complaint. Instead, the Taskforce applied a definition of *reporting* which included *constructive reporting*. This policy was applied in cases where there was no actual report of abuse to Defence (formal or informal) but:

- the circumstances of the abuse contributed to the complainant not making a report (for example, abuse by a senior officer), or
- the circumstances were such that Defence ought to have known abuse was occurring but took no action to prevent or stop it.

The plausibility test was also pivotal in humanely considering complaints from many individuals who were aged, frail or in a vulnerable state of health or wellbeing or otherwise reluctant or unable to recount often very traumatic instances of abuse.

In reaching my decisions, I was able to draw upon Defence records, findings of previous inquiries, earlier complaints or analysis of patterns of alleged abuse at separate Defence locations. This information provided a context for my consideration of individual allegations and further minimised the distress caused to complainants in recounting details of their abuse.

Mismanagement decisions were made in over 97% of reparation payment applications which was no doubt disturbing and disappointing to Defence. In making these determinations, I acknowledged that improvements could be seen in the handling of some abuse cases in more recent years.

Complainants were most focused on the payment they received for Defence mismanagement (\$5,000) even though it was only a minor part of most reparation payments. In a few cases, I assessed that a complaint came within the highest category of abuse (Category 4) while at the same time finding that Defence mismanagement had not occurred. In those instances, some complainants felt that the process had failed them.

It was heartening to receive feedback from complainants about the ways they had used their reparation payment to rebuild their lives. However, overwhelmingly complainants referred to the importance of finally being acknowledged and their desire for future Defence members to be free from the experiences they suffered and that the Taskforce was established to address.

For most complainants who received a reparation payment, the most important part of the Taskforce process was knowing that the information they had provided would contribute to stopping abuse in Defence in future.

Robyn Kruk AM

Appendix 2: Unaudited taskforce expenditure 2012–13 to 2015–16 (as at 29 February 2016)

2012–2016 Unaudited Expenditure as at 29 February 2016

Operational Expenditure (Measure 1)	2012–13 (\$m)	2013–14 (\$m)	2014–15 (\$m)	YTD 2015–16 (\$m)	Total (\$m)
Supplier expenses	2.28	2.87	3.20	1.47	9.82
Employee expenses	3.84	8.54	4.04	1.17	17.59
Overheads	1.12	1.43	1.85	0.61	5.01
Total	7.24	12.84	9.09	3.25	32.42

Outcome Expenditure (Measure 2)	2012–13 (\$m)	2013–14 (\$m)	2014–15 (\$m)	YTD 2015–16 (\$m)	Total (\$m)
Reparation Payments Scheme	0.00	31.59	34.41	0.81	66.81*
Reparations Group (supplier and employee expenses)	0.00	0.69	1.36	0.21	2.26
Reparation Payments Total	0.00	32.28	35.77	1.02	69.07
Counselling Scheme	0.00	0.24	0.58	0.41	1.23
Complainant Support Group (supplier and employee expenses)	0.00	1.33	3.77	2.04	7.14
Counselling Total#	0.00	1.57	4.35	2.45	8.37+
Restorative Engagement Program	0.00	0.39	1.50	1.21	3.10
Restorative Engagement Group (supplier and employee expenses)	0.00	0.89	2.36	1.50	4.75
Restorative Engagement Total	0.00	1.28	3.86	2.71	7.85
Other Operational Outcome Total	0.80	5.59	6.62	1.03	14.04#
Total	0.80	40.72	50.60	7.21	99.33

Total	8.04	53.56	59.69	10.46	131.75^
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2012–2016 Unaudited Outcome Expenditure as at 29 February 2016

	2012–13 (\$m)	2013–14 (\$m)	2014–15 (\$m)	YTD 2015–16 (\$m)	Total (\$m)
Operational Expenditure					
Expenditure Total	8.04	21.34	23.20	8.03	60.61

	2012–13 (\$m)	2013–14 (\$m)	2014–15 (\$m)	2015–16 (\$m)	Total (\$m)
Outcome Expenditure					
Reparation Payments Total	0.00	31.59	34.41	0.81	66.81*
Counselling Total	0.00	0.24	0.58	0.41	1.23
Restorative Engagement Total	0.00	0.39	1.50	1.21	3.10
Expenditure Total	0.00	32.22	36.49	2.43	71.14

	2012–13 (\$m)	2013–14 (\$m)	2014–15 (\$m)	2015–16 (\$m)	Total (\$m)
Total Operational and Expenditure					
Total	8.04	53.56	59.69	10.46	131.75^

Notes:

- * The total figure for reparation payments is \$66.63 million. The figure of \$66.81 million includes \$180,000 posted to the incorrect cost centre which cannot be reversed now due to the closure of the accounts for the relevant period
- + This figure does not include the cost of counselling sessions provided to complainants before the engagement of the Taskforce's counselling service providers and the commencement of the National Counselling Program during 2013–14. The cost of those early sessions is included in the Other Operational Outcome Total
- # The Other Operational Outcome Total includes costs associated with assessment of complaints, casework, consideration of matters for possible referral to police and consideration of matters for possible referral of matters to the Chief of the Defence Force
- ^ All figures are GST exclusive.

Attachments – The nature and extent of Abuse in Defence

The following charts update the information provided in the charts contained in the November 2014 *Report on abuse in Defence*

Graph 1: Total cases by decade

Graph 2: Cases by service over time

Graph 3: Cases by service over time

Table 1: Cases by service and decade

Graph 4: Number of cases relating to each service

Graph 5: Sex of complainant by decade (all cases)

Graph 6: Cases by sex of complainant by service

Graph 7: Cases by sex of complainant – Abuse occurring in 1990–2011

Graph 8: Cases by type of abuse

Graph 9: Cases by type of abuse by decade

Table 2: Cases by type of abuse by decade

Graph 10: Cases by service and type of abuse

Graph 11: Types of abuse experienced by men and women as a percentage of all cases for that sex

Graph 12: Cases of sexual abuse by decade

Graph 13: Sexual abuse cases by service

Graph 14: Sexual harassment cases by decade

Graph 15: Sexual harassment cases by service

Graph 16: Physical abuse cases by decade

Graph 17: Physical abuse cases by service

Graph 18: Harassment and bullying cases by decade

Graph 19: Harassment and bullying cases by service

Graph 20: Cases of abuse of children

Graph 21: Cases of abuse of children by service

Graph 22: Cases of abuse of children by type of abuse

Graph 23: Cases of abuse of boys and girls by decade

Graph 24: Types of abuse experienced by boys and girls

Graph 25: Navy cases by decade

Graph 26: Sex of the complainant by decade (Navy)

Graph 27: Navy cases by type of abuse

Graph 28: Types of abuse as a percentage of cases for each service

Graph 29: Navy cases by type of abuse by decade

Graph 30: Army cases by decade

Graph 31: Percentage of male and female Army personnel (2010-2011) compared to percentage of male and female cases of abuse over whole time period

Graph 32: Sex of the complainant by decade (Army)

Graph 33: Army cases by type of abuse

Graph 34: Types of abuse as a percentage of cases for each service

Graph 35: Army cases by type of abuse by decade

Graph 36: Air Force cases by decade

Graph 37: Percentage of male and female Air Force personnel (2010-2011) compared to percentage of male and female cases of abuse over whole time period

Graph 38: Sex of the complainant by decade (Air Force)

Graph 39: Air Force cases by type of abuse

Graph 40: Types of abuse as a percentage of cases for each service

Graph 41: Air Force cases by type of abuse by decade

Graph 42: Cases by service between 2000 and 2011

Graph 43: Percentage of men and women as complainants in each service between 2000 and 2011

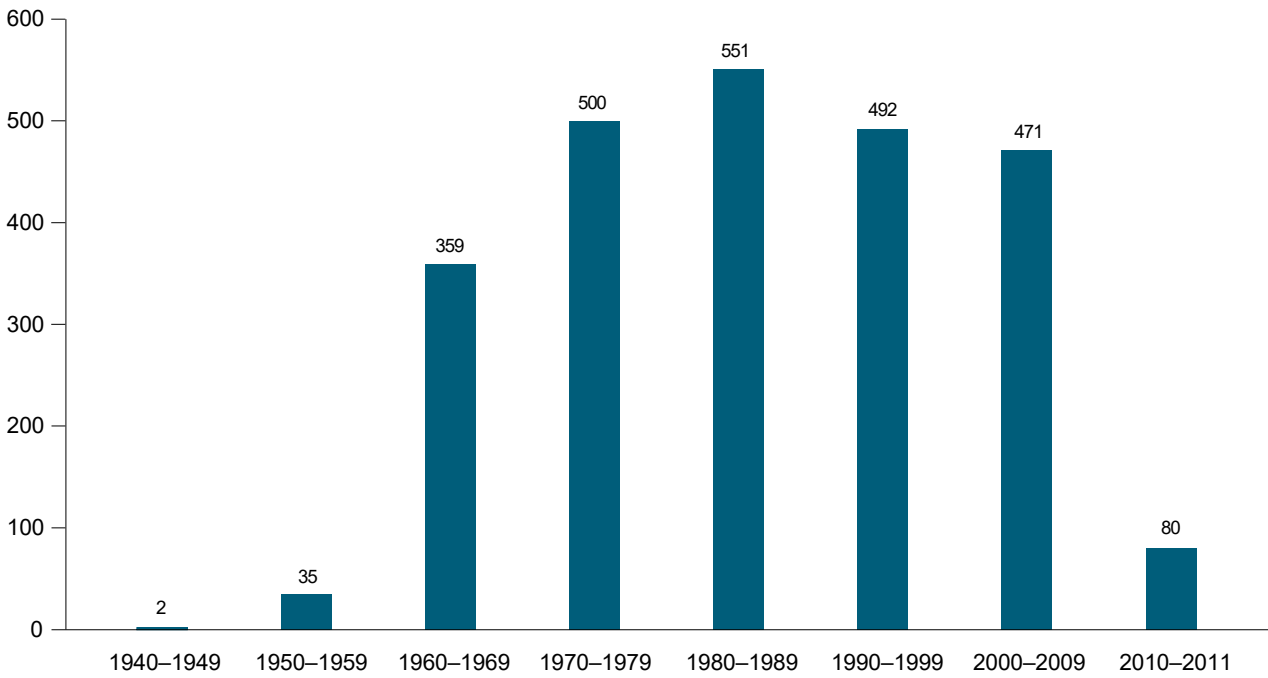
Graph 44: Types of abuse in 1940-1999 and 2000-2011

Graph 45: Cases by types of abuse by service between 2000 and 2011

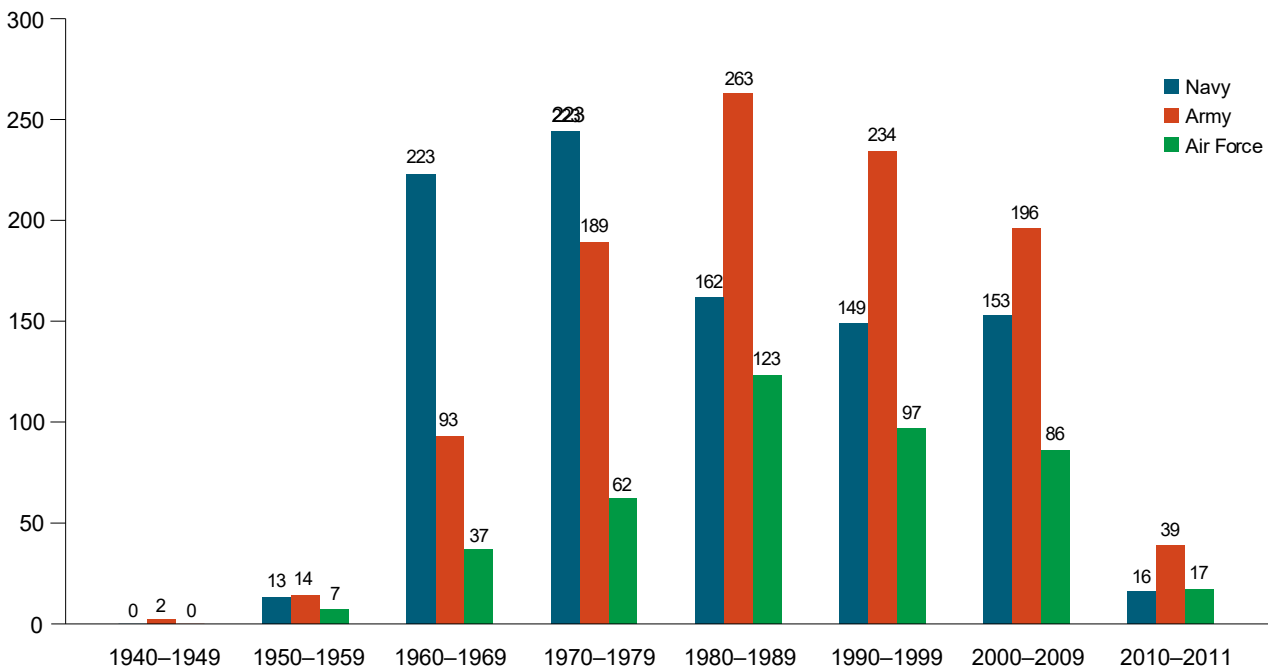
Graph 46: Percentage of cases involving each type of abuse by service between 2000 and 2011

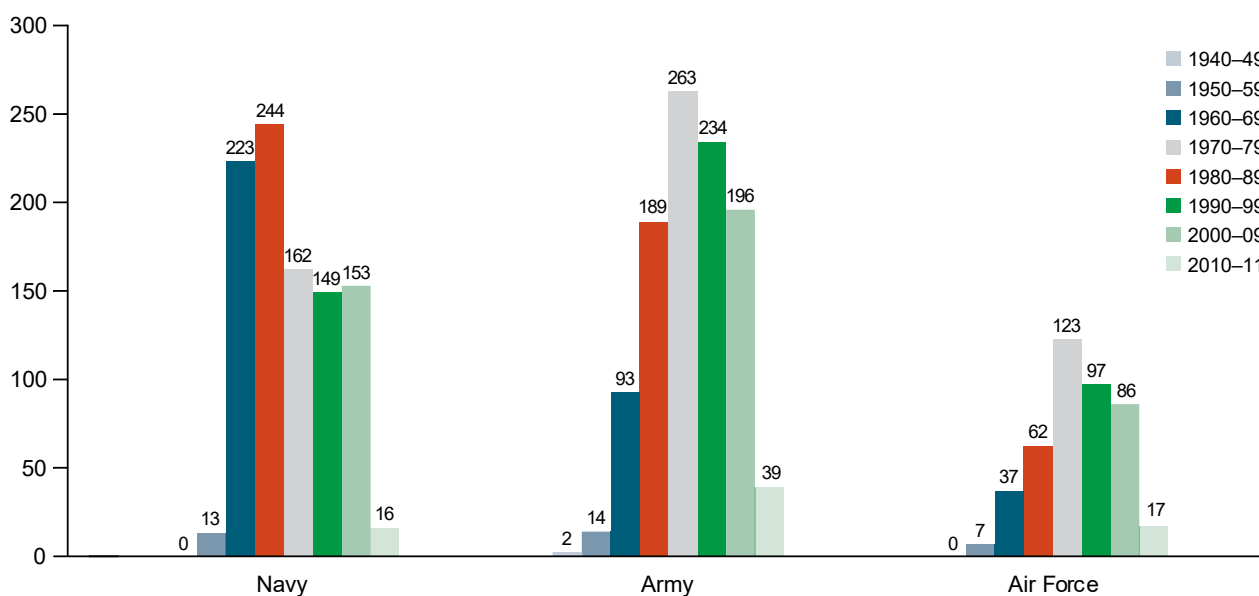
Graph 47: Percentage of cases involving women and men as complainants between 2000 and 2011

Graph 1: Total cases by decade

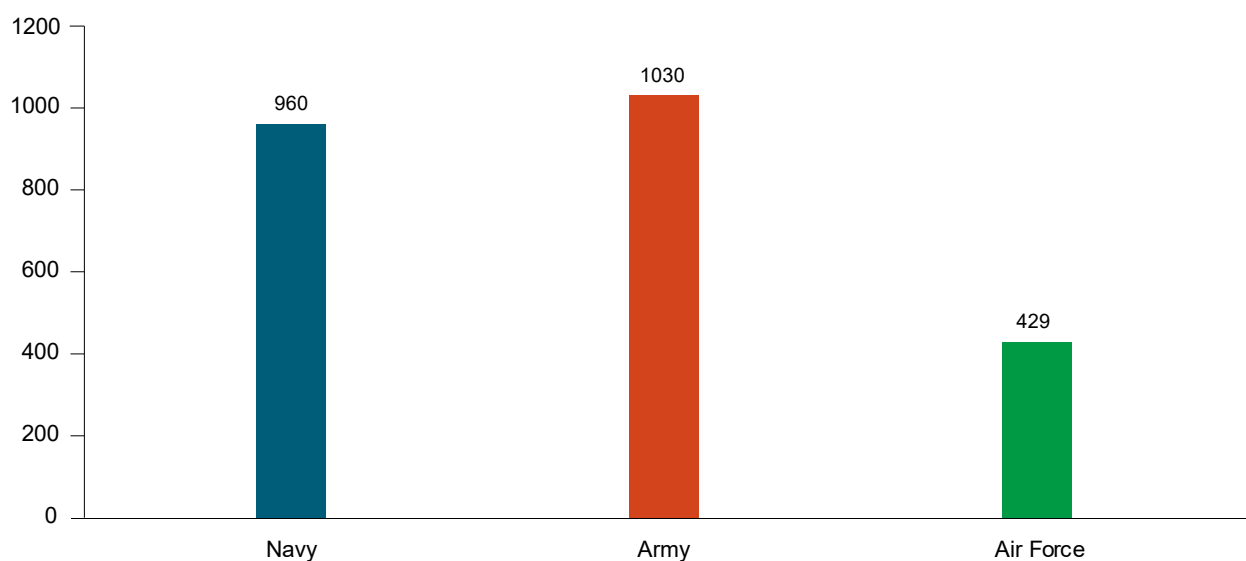


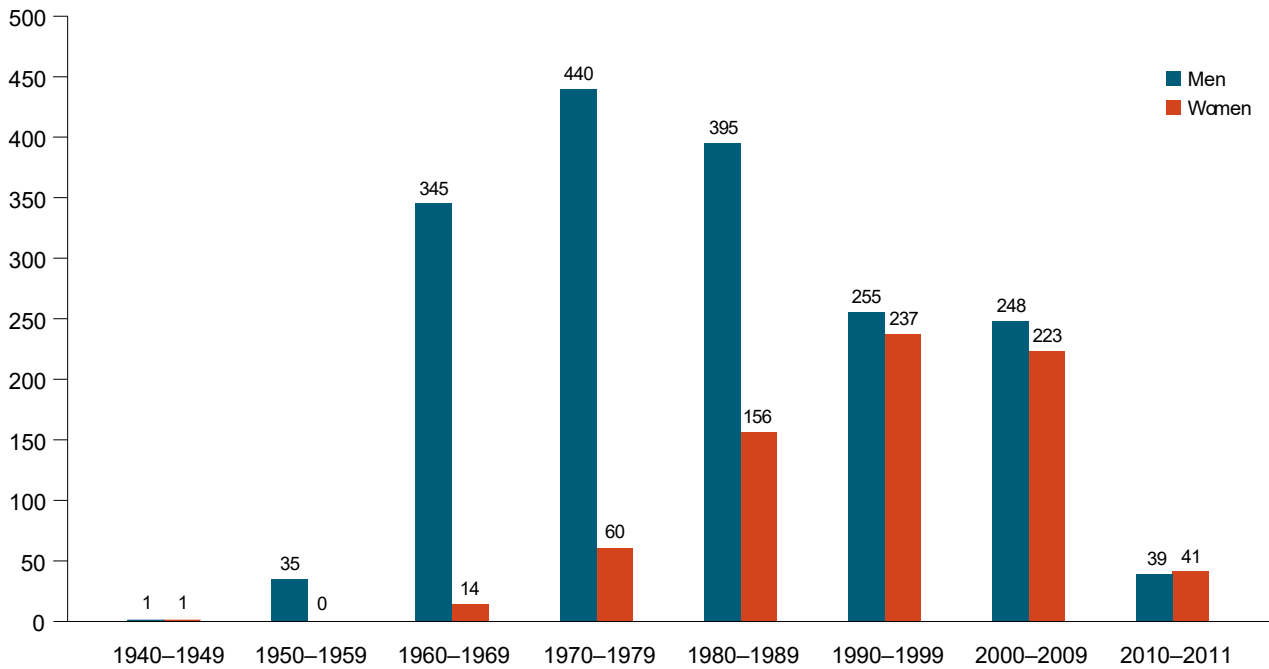
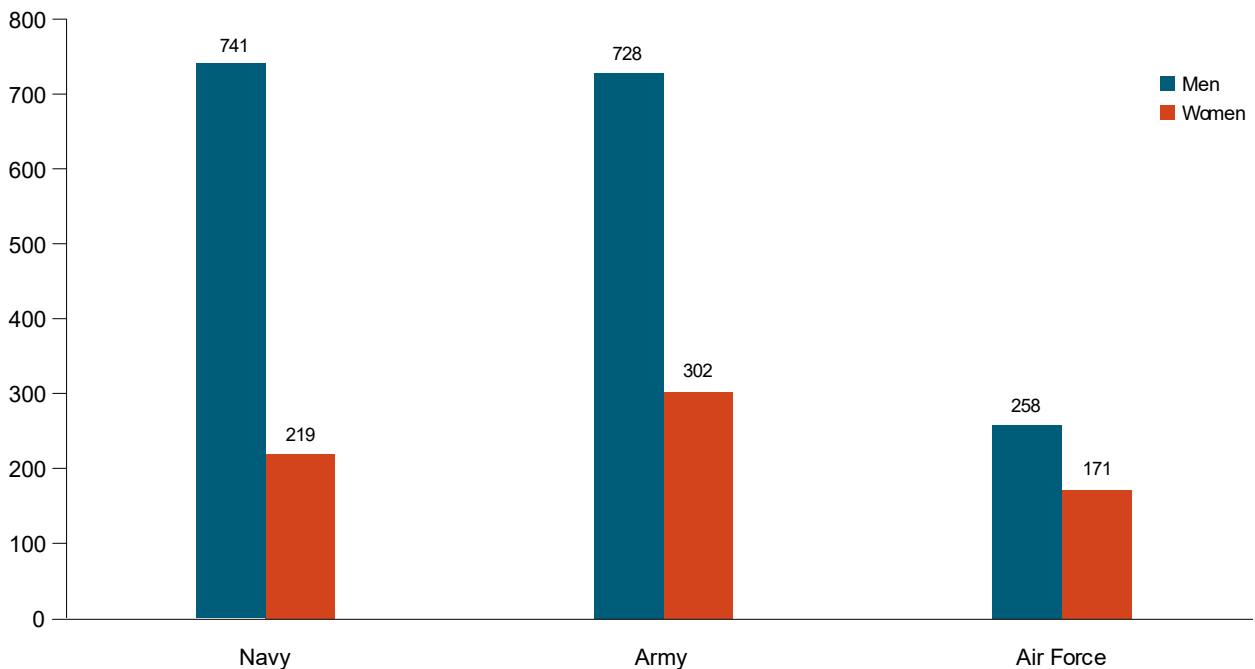
Graph 2: Cases by service over time

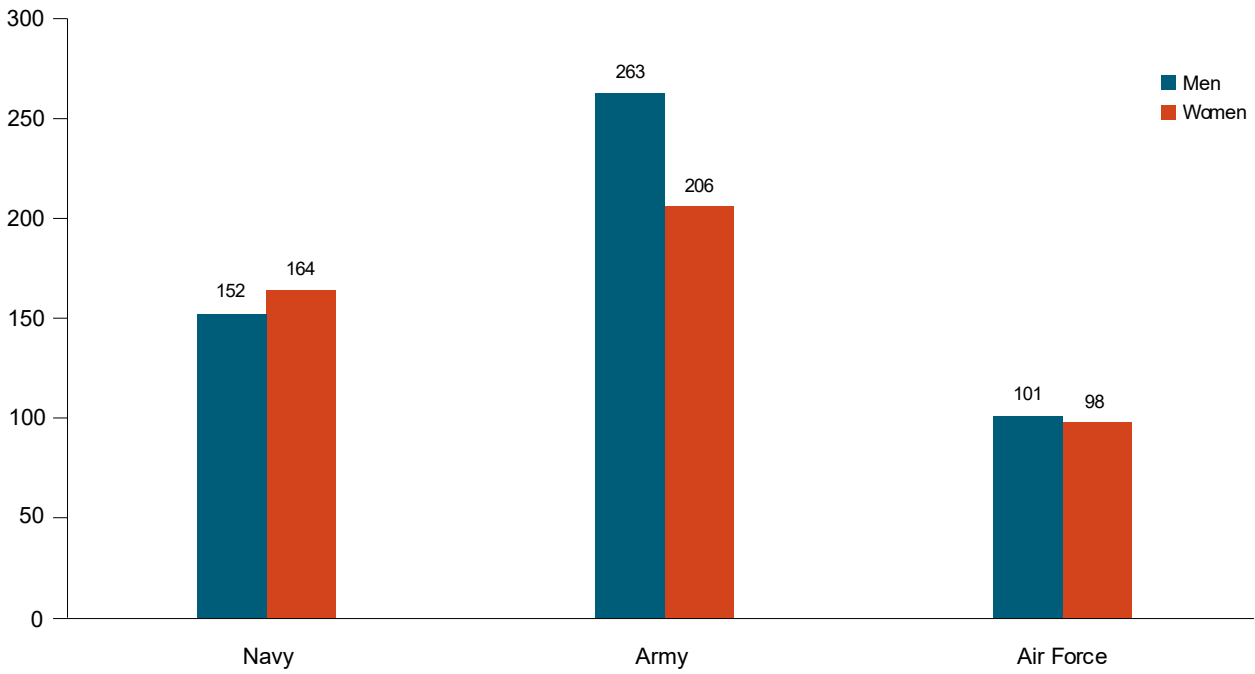
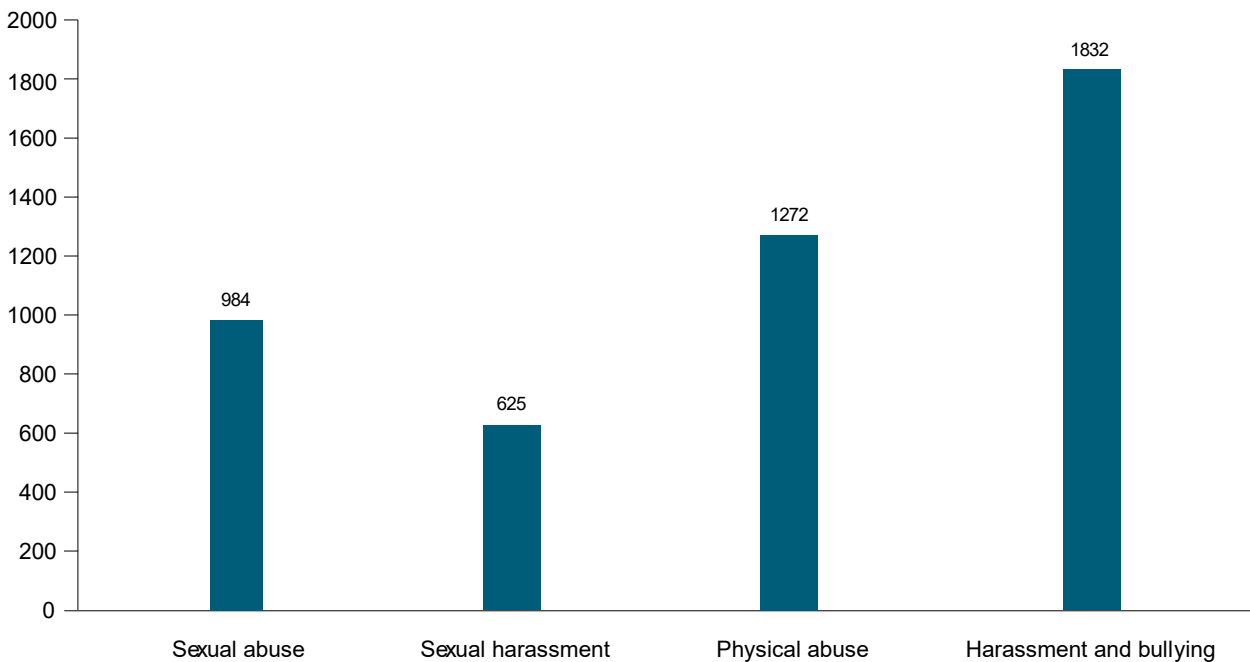


Graph 3: Cases by service over time**Table 1: Cases by service and decade**

	1940-49	1950-59	1960-69	1970-79	1980-89	1990-99	2000-09	2010-11	Total
Navy	0	13	223	233	162	149	153	16	960
Army	2	14	93	189	263	234	196	39	1030
Air Force	0	7	37	62	123	97	86	17	429

Graph 4: Number of cases relating to each service

Graph 5: Sex of complainant by decade (all cases)**Graph 6: Cases by sex of complainant by service**

Graph 7: Cases by sex of complainant – Abuse occurring in 1990–2011**Graph 8: Cases by type of abuse**

Graph 9: Cases by type of abuse by decade

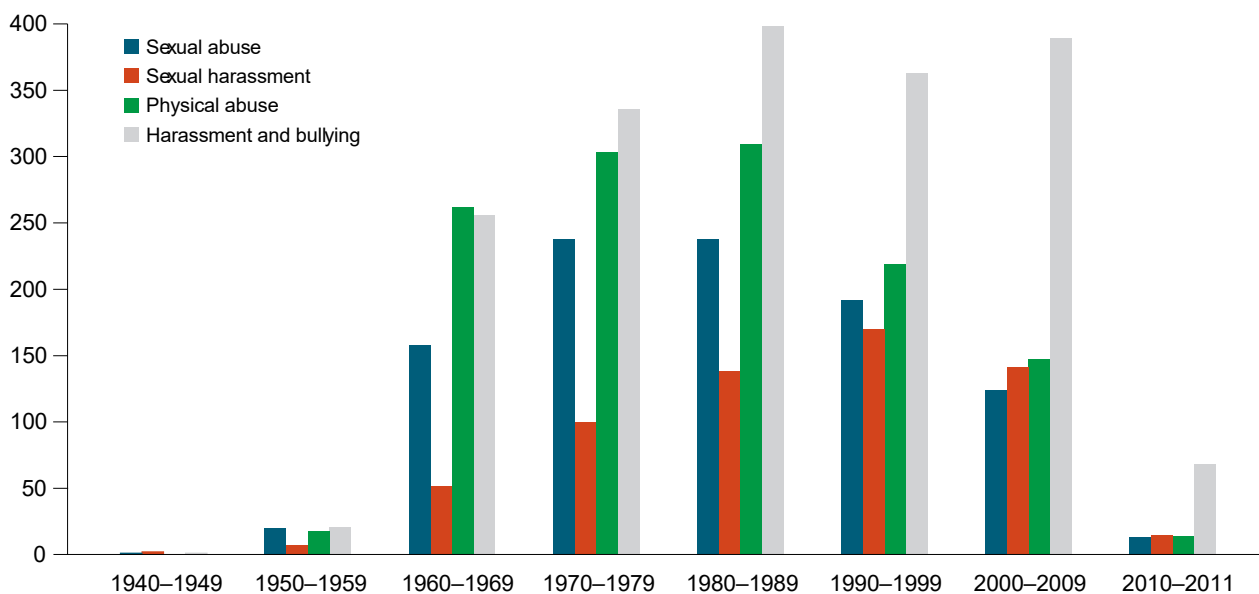
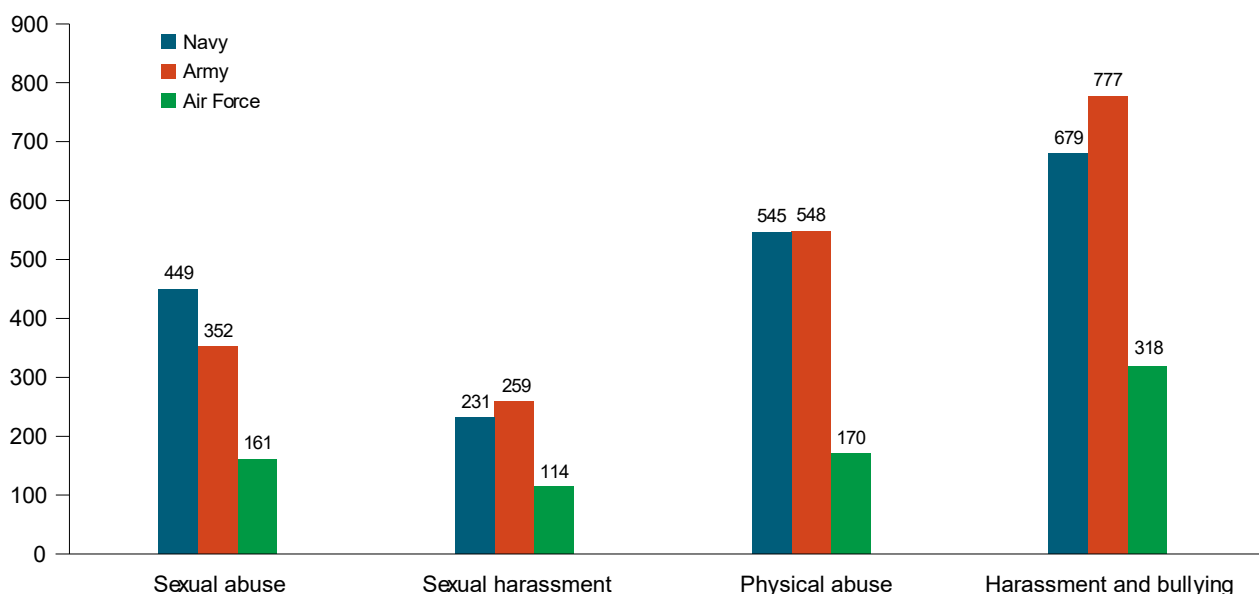
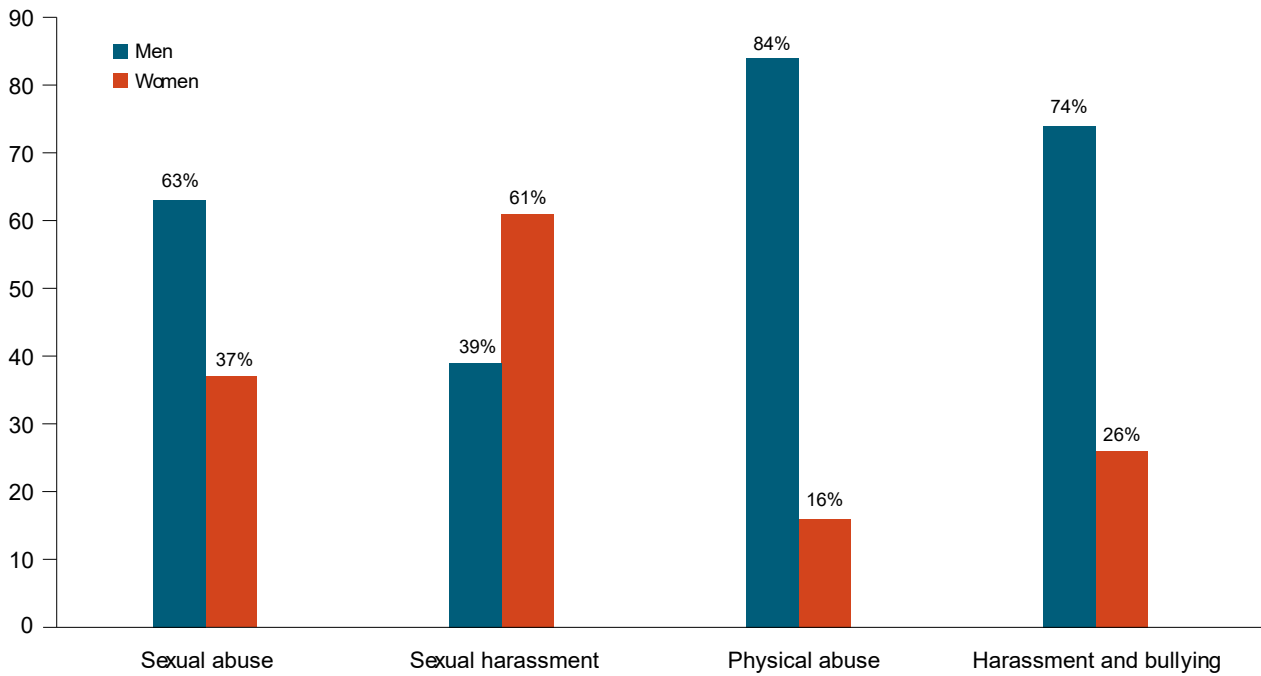
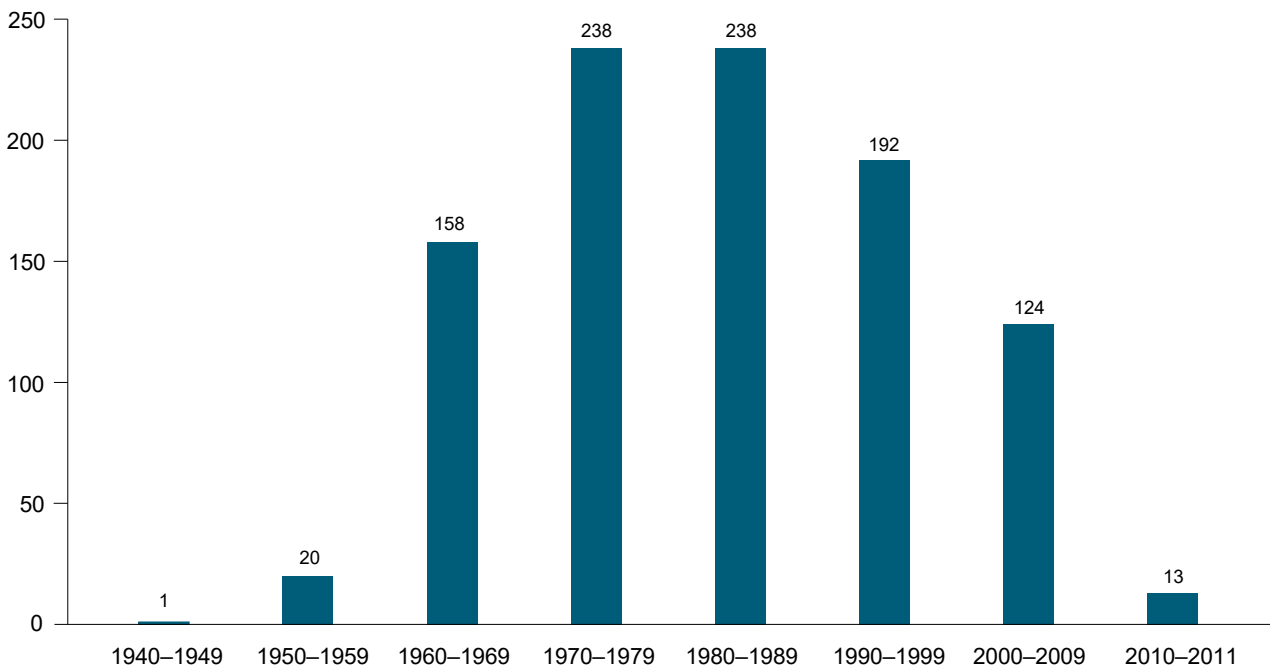


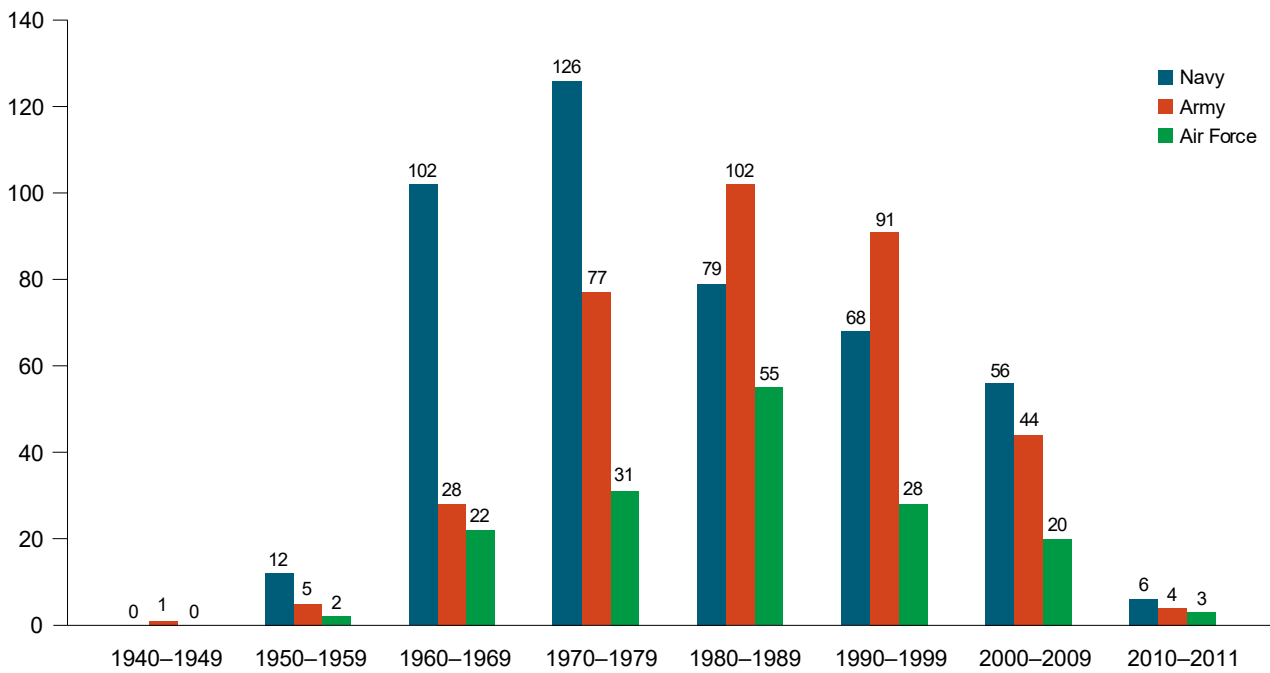
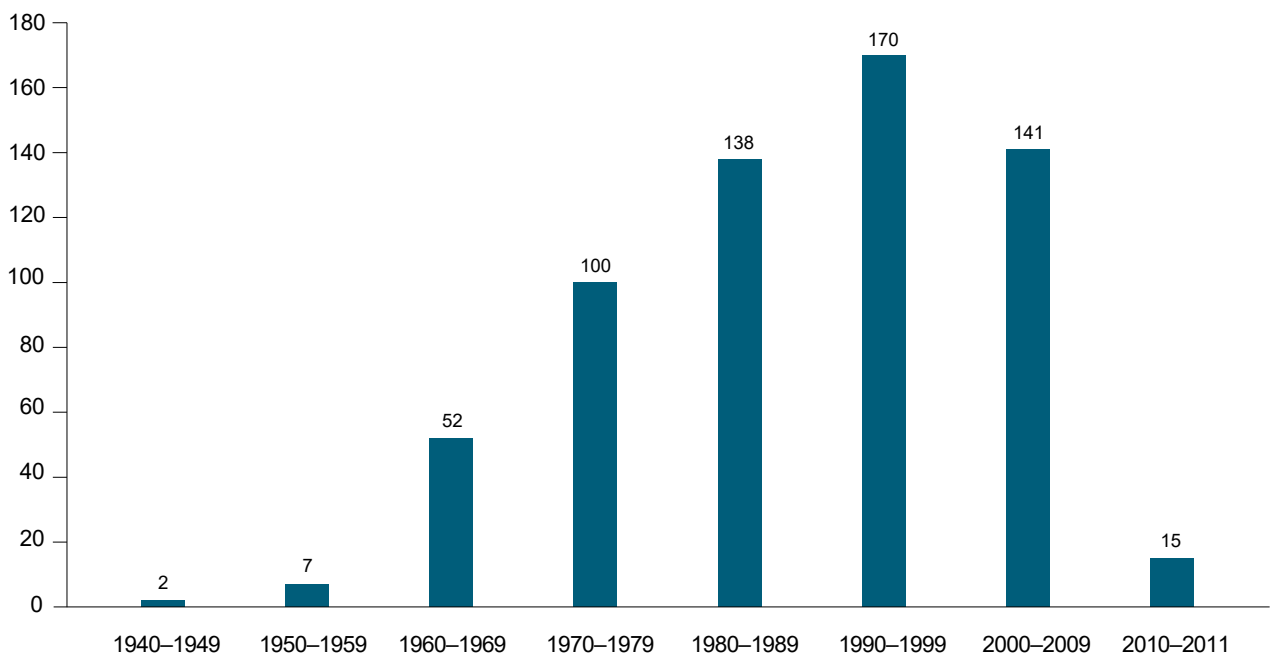
Table 2: Cases by type of abuse by decade

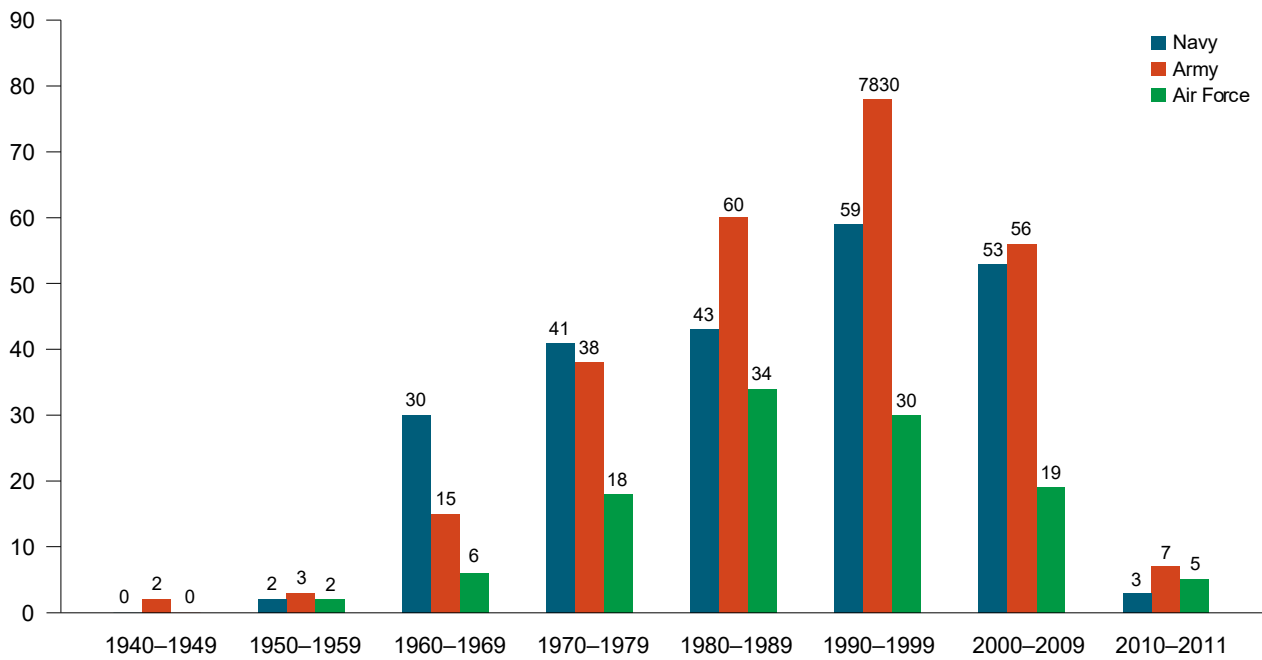
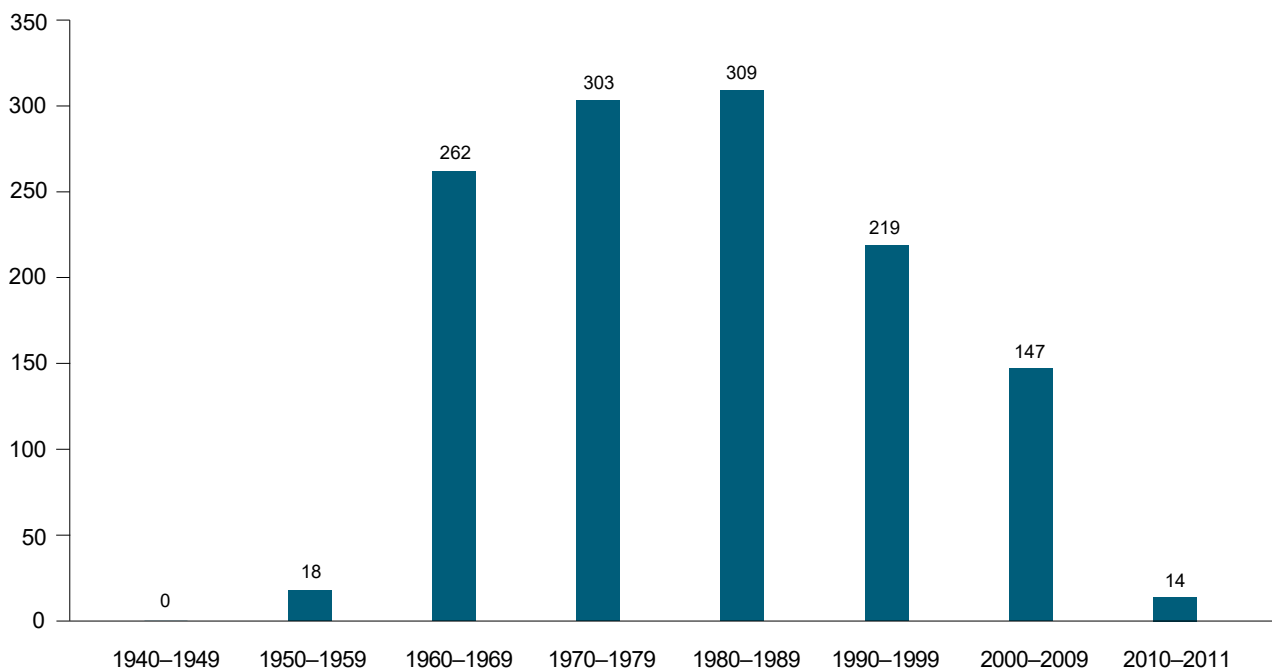
	1940-49	1950-59	1960-69	1970-79	1980-89	1990-99	2000-09	2010-11	Total
Sexual abuse	1	20	158	238	238	192	124	13	984
Sexual harassment	2	7	52	100	138	170	141	15	625
Physical abuse	0	18	262	303	309	219	147	14	1272
Harassment and bullying	1	21	256	336	398	363	389	68	1832

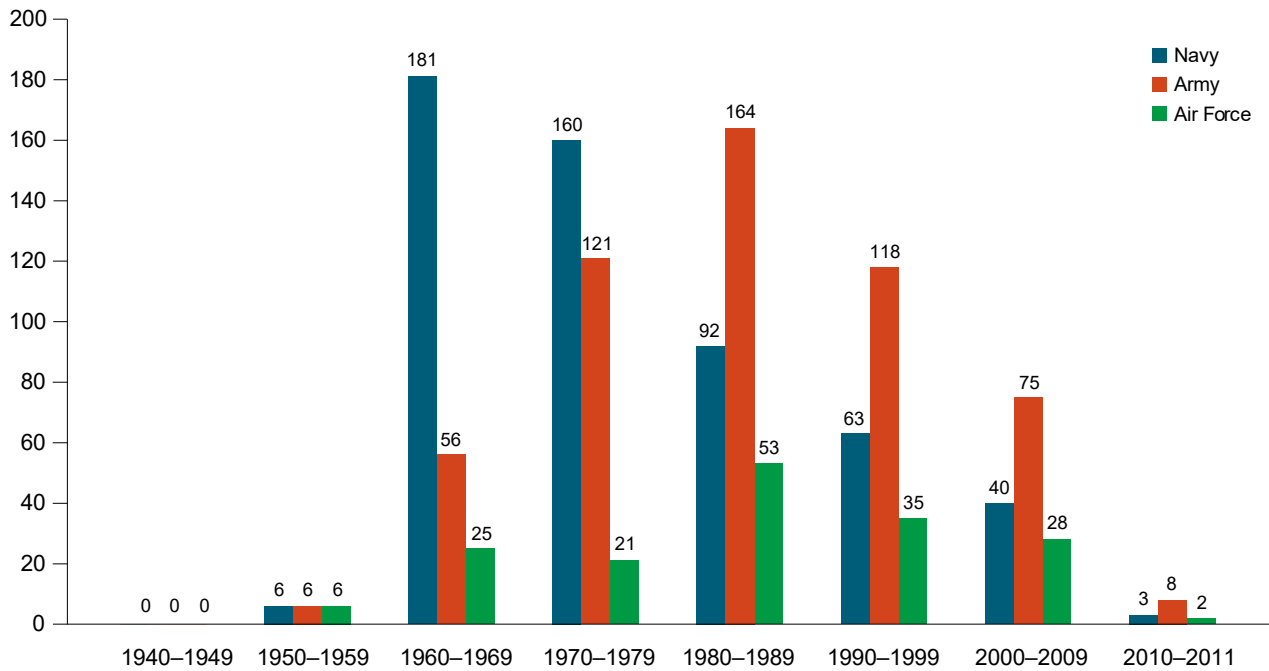
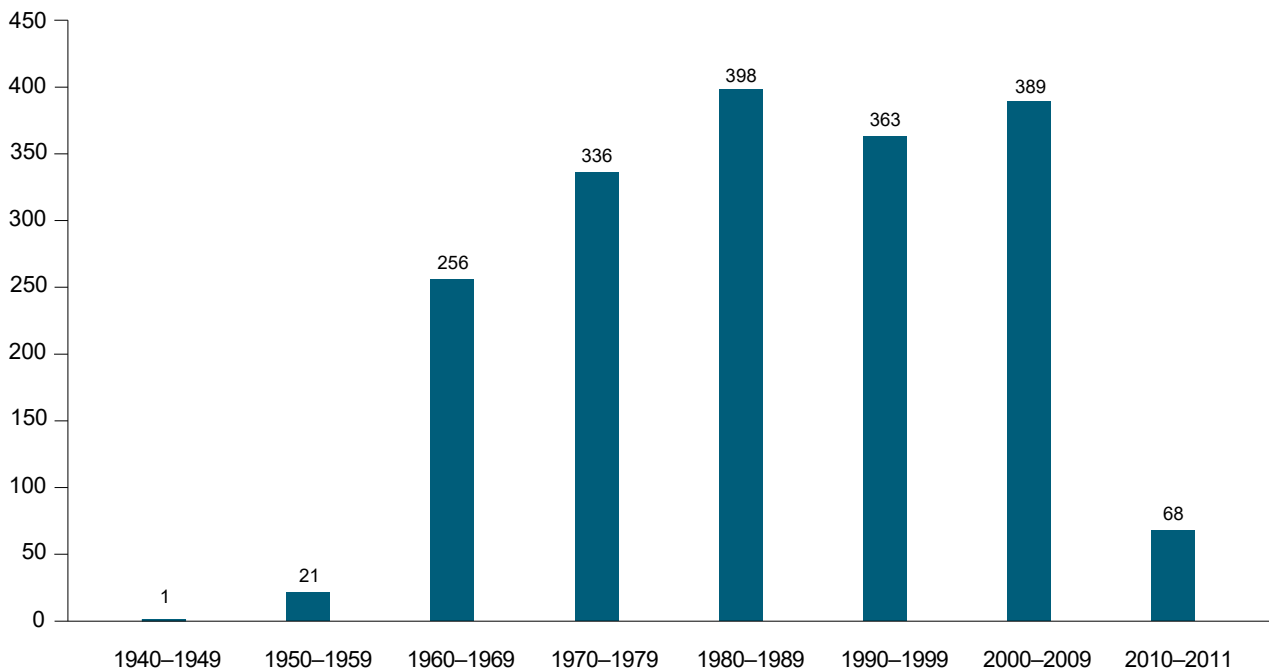
Graph 10: Cases by service and type of abuse



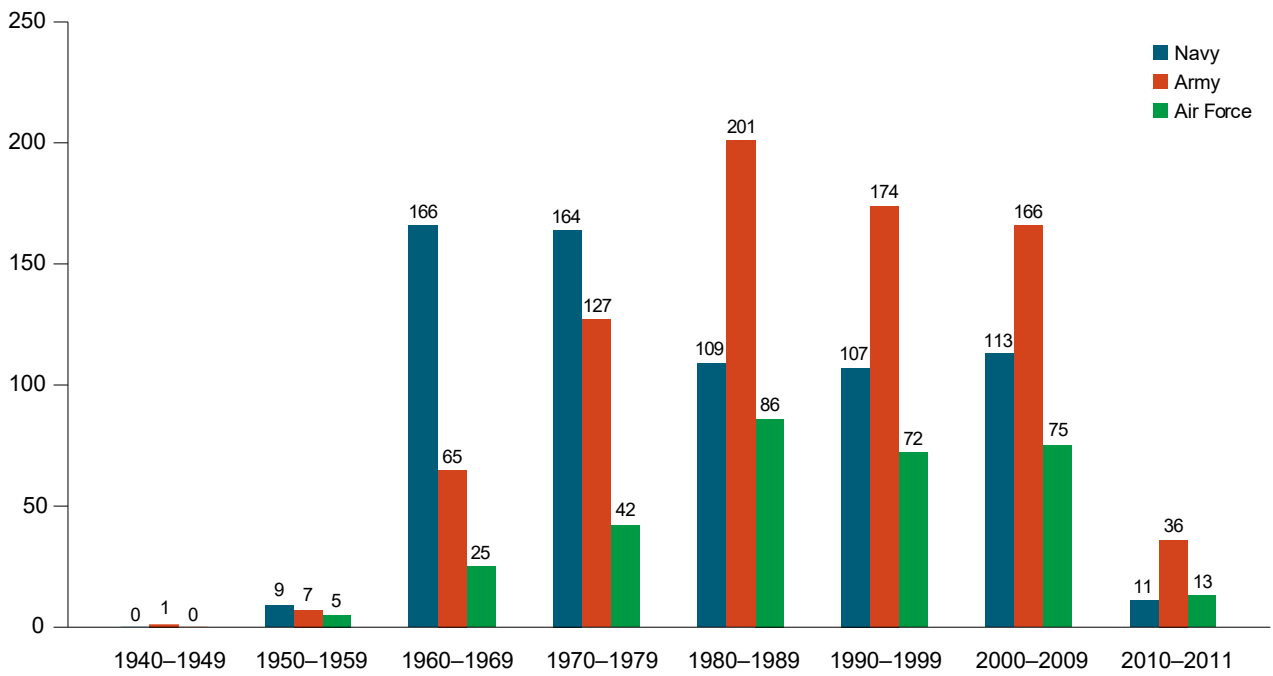
Graph 11: Types of abuse experienced by men and women as a percentage of all cases for that sex**Graph 12: Cases of sexual abuse by decade**

Graph 13: Sexual abuse cases by service**Graph 14: Sexual harassment cases by decade**

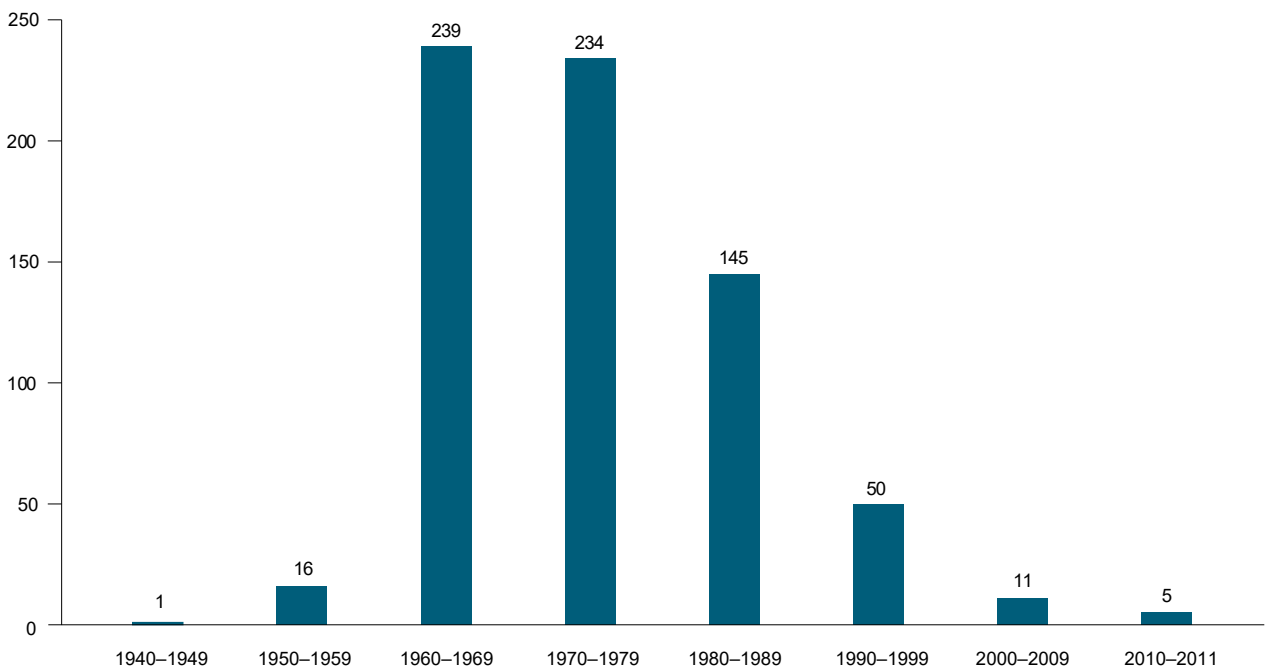
Graph 15: Sexual harassment cases by service**Graph 16: Physical abuse cases by decade**

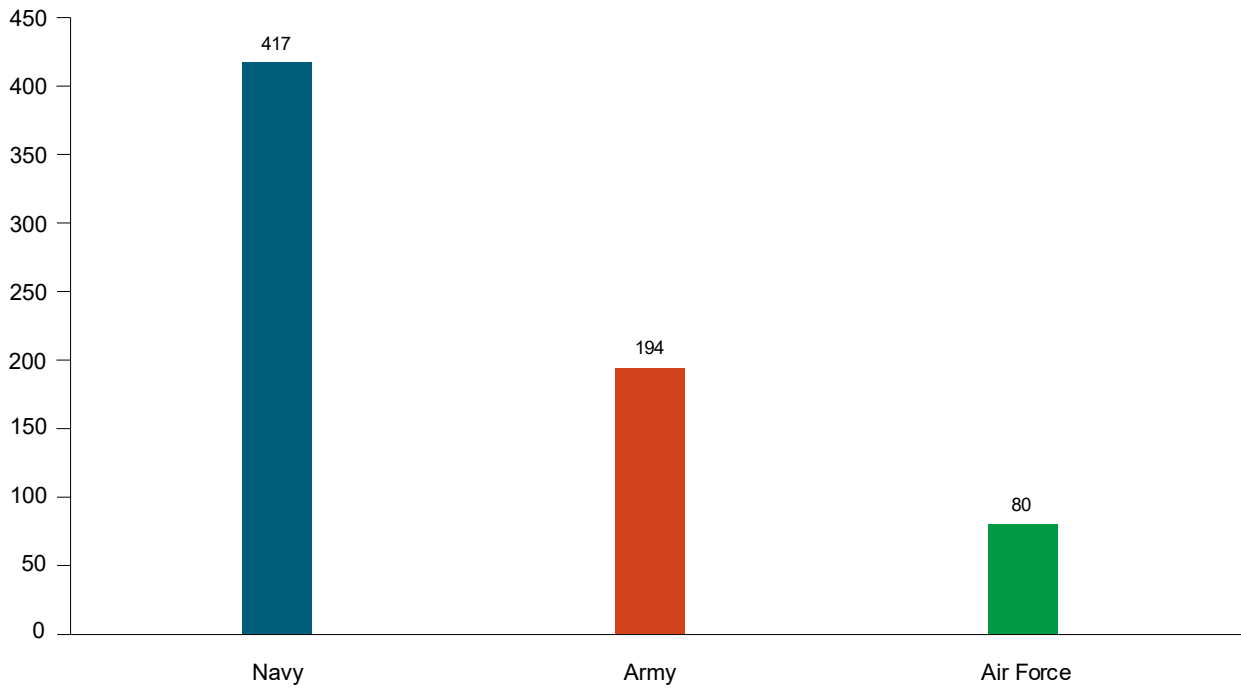
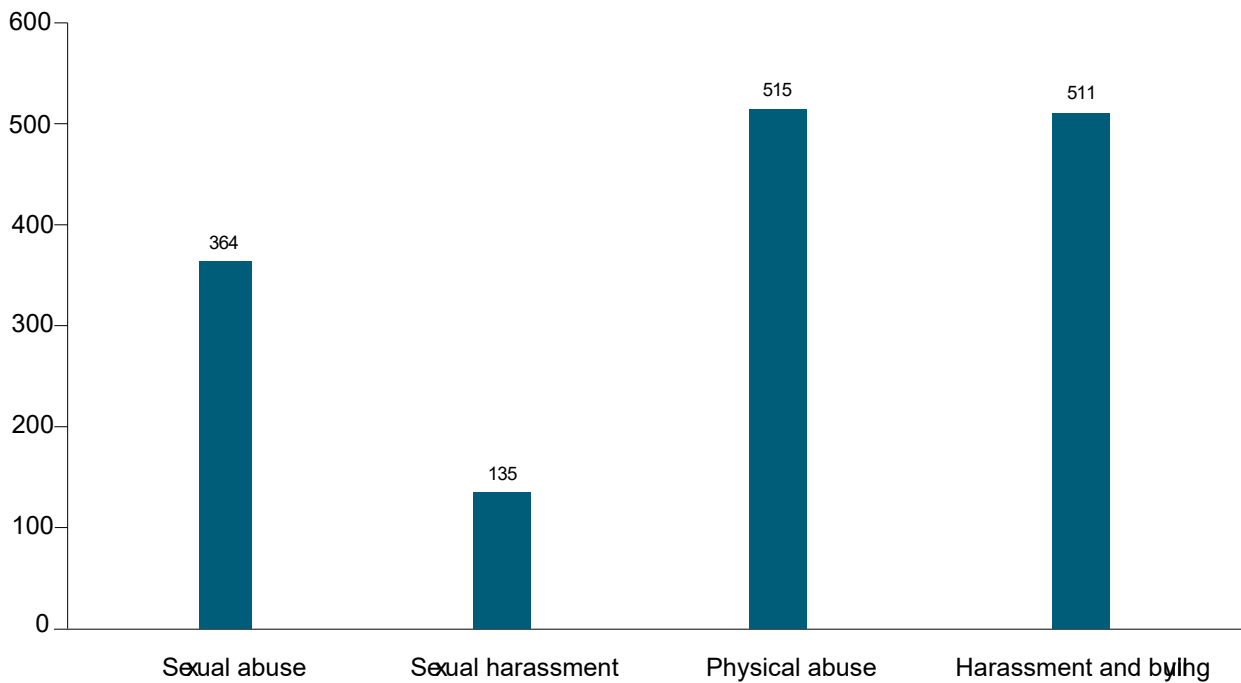
Graph 17: Physical abuse cases by service**Graph 18: Harassment and bullying cases by decade**

Graph 19: Harassment and bullying cases by service

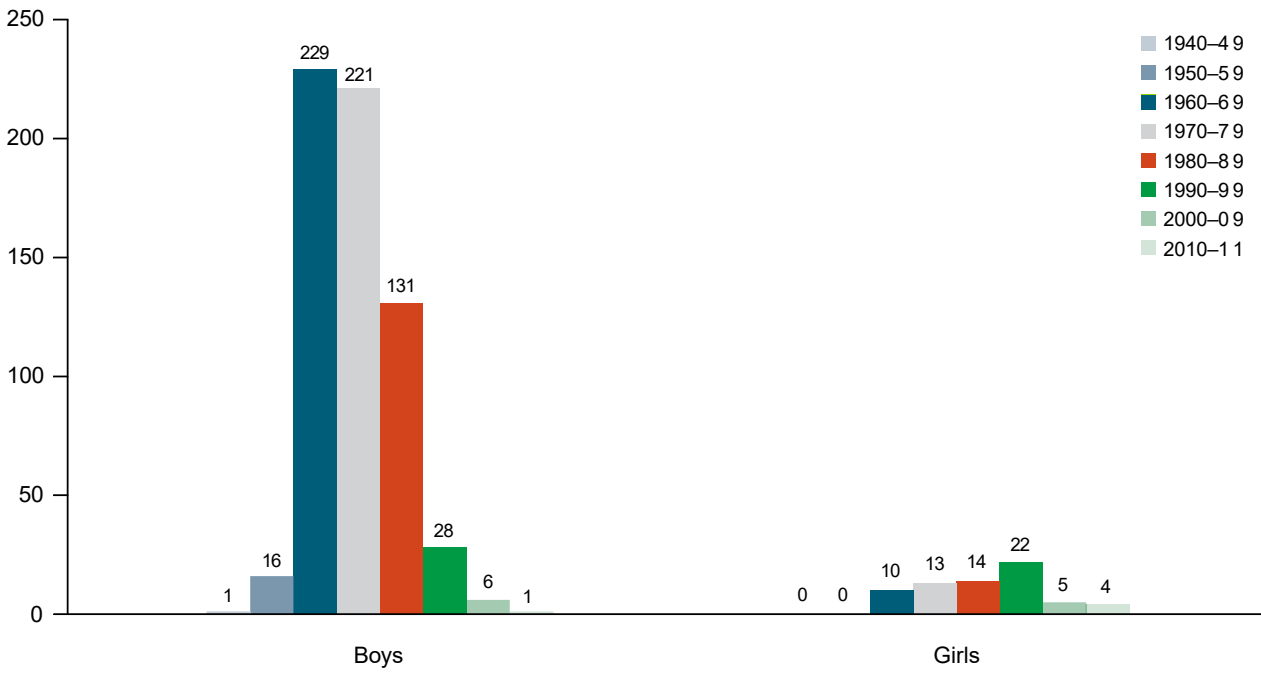


Graph 20: Cases of abuse of children

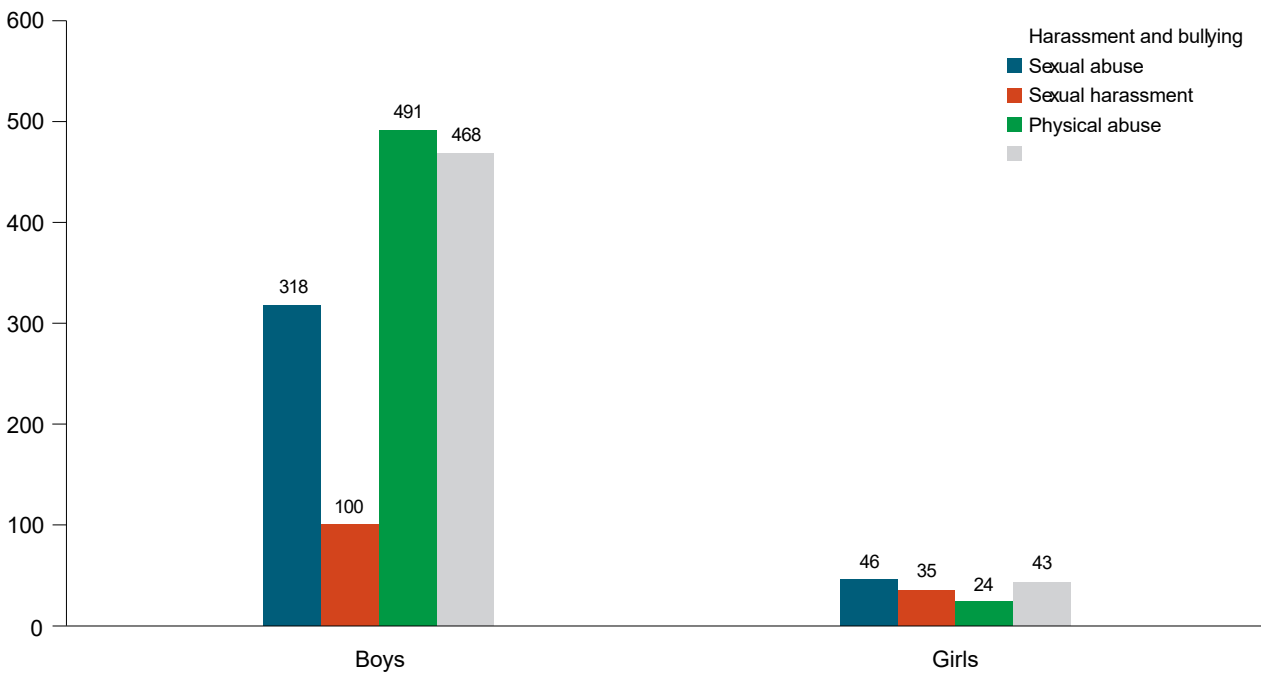


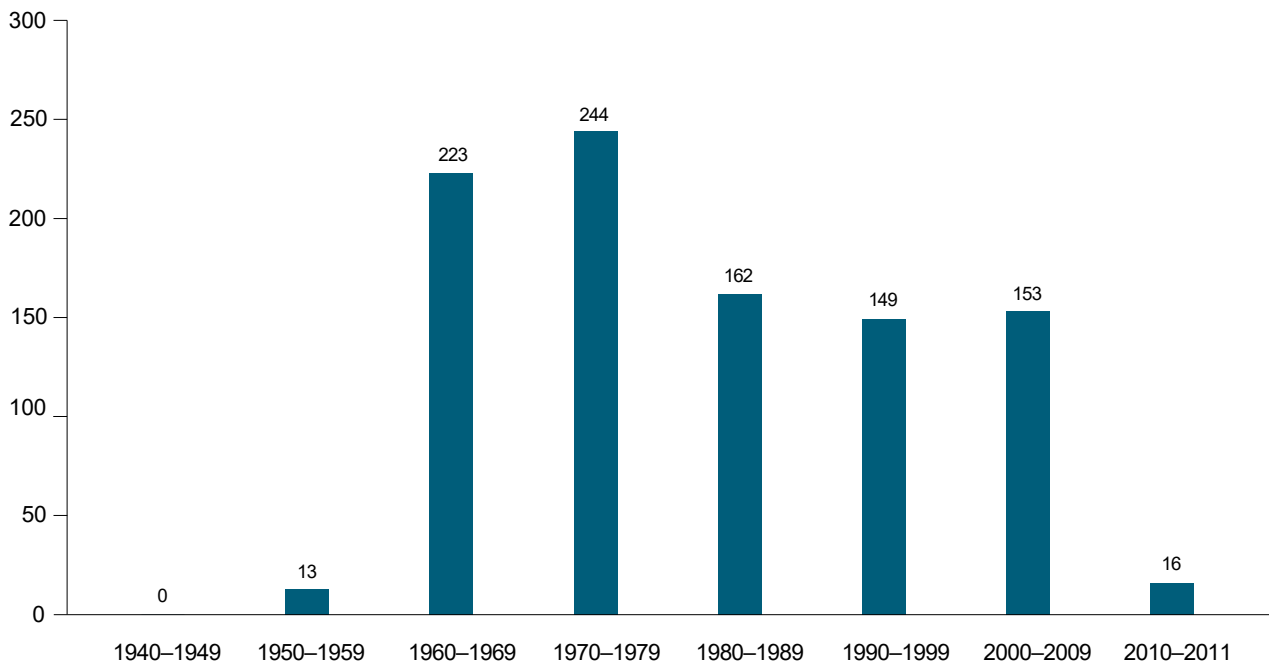
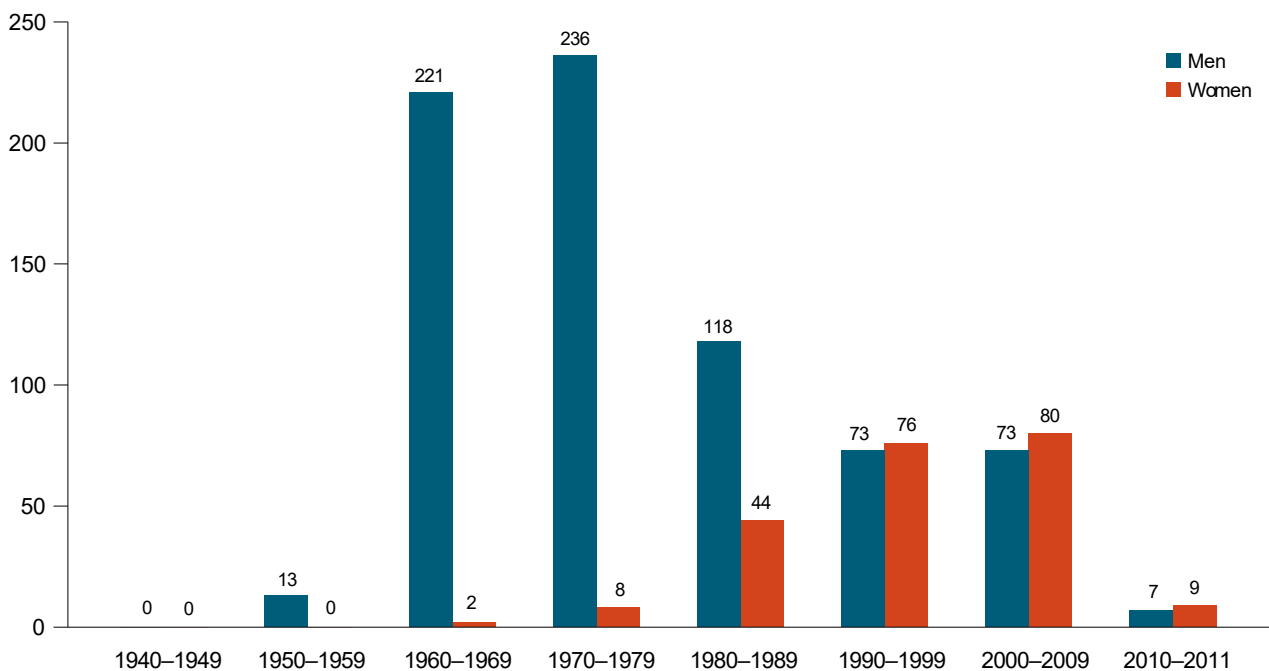
Graph 21: Cases of abuse of children by service**Graph 22: Cases of abuse of children by type of abuse**

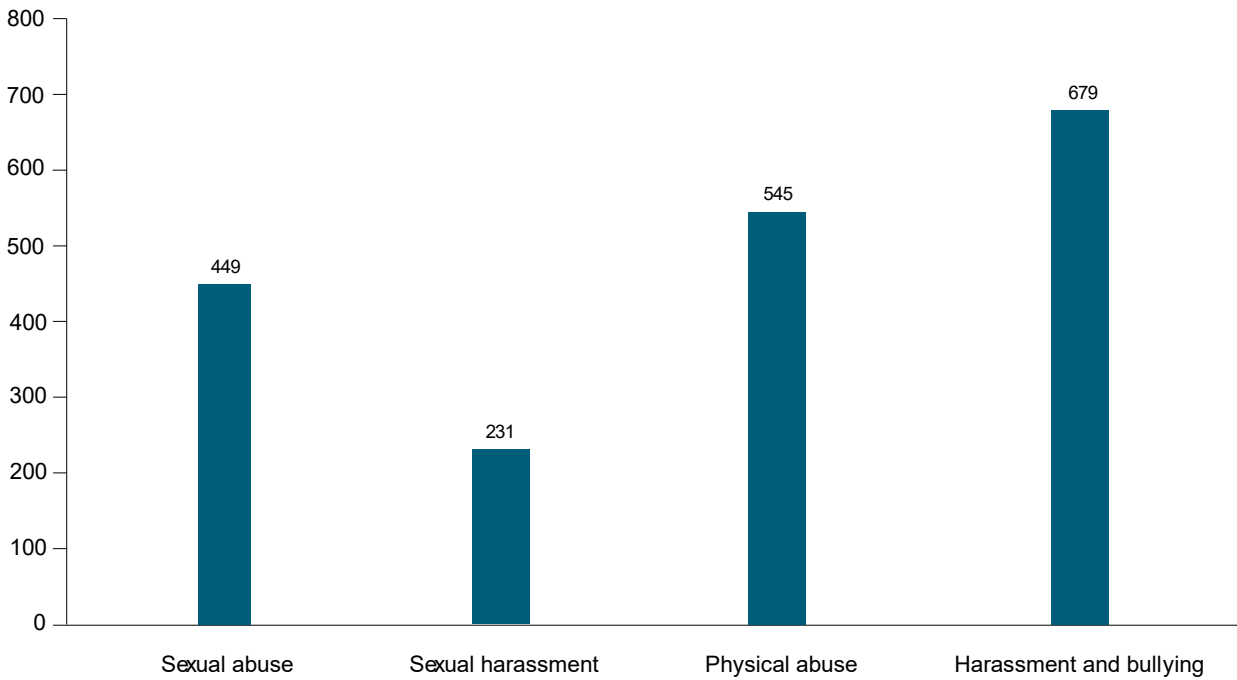
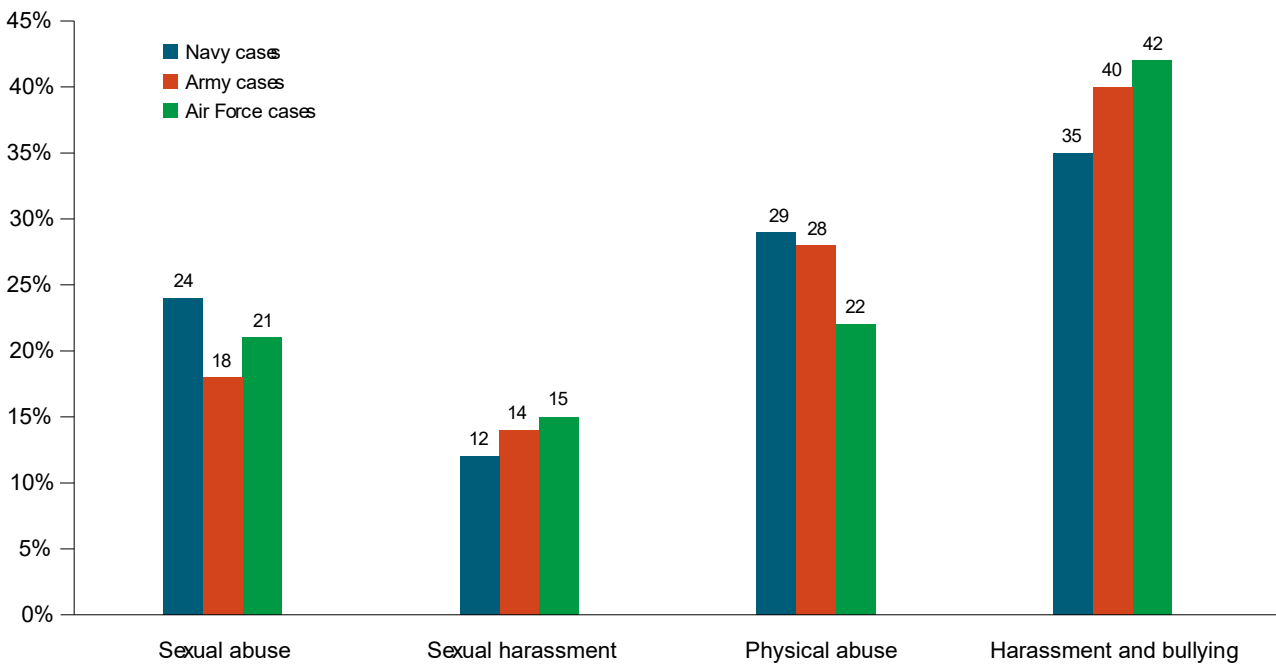
Graph 23: Cases of abuse of boys and girls by decade



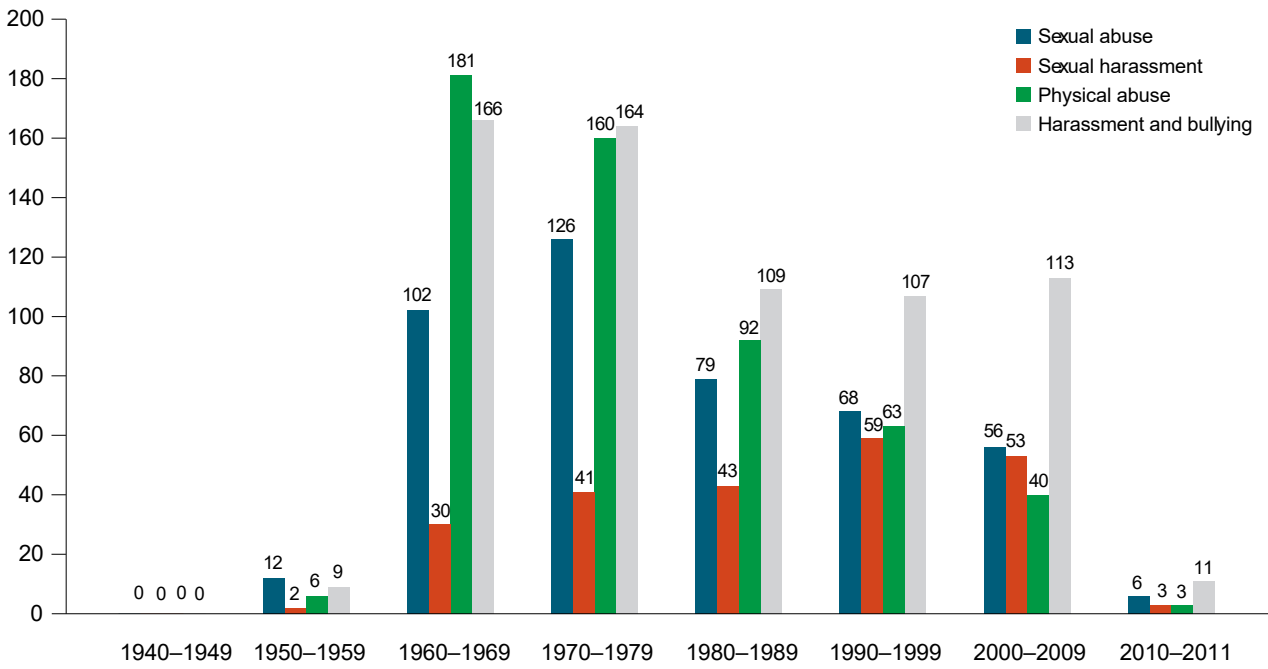
Graph 24: Types of abuse experienced by boys and girls



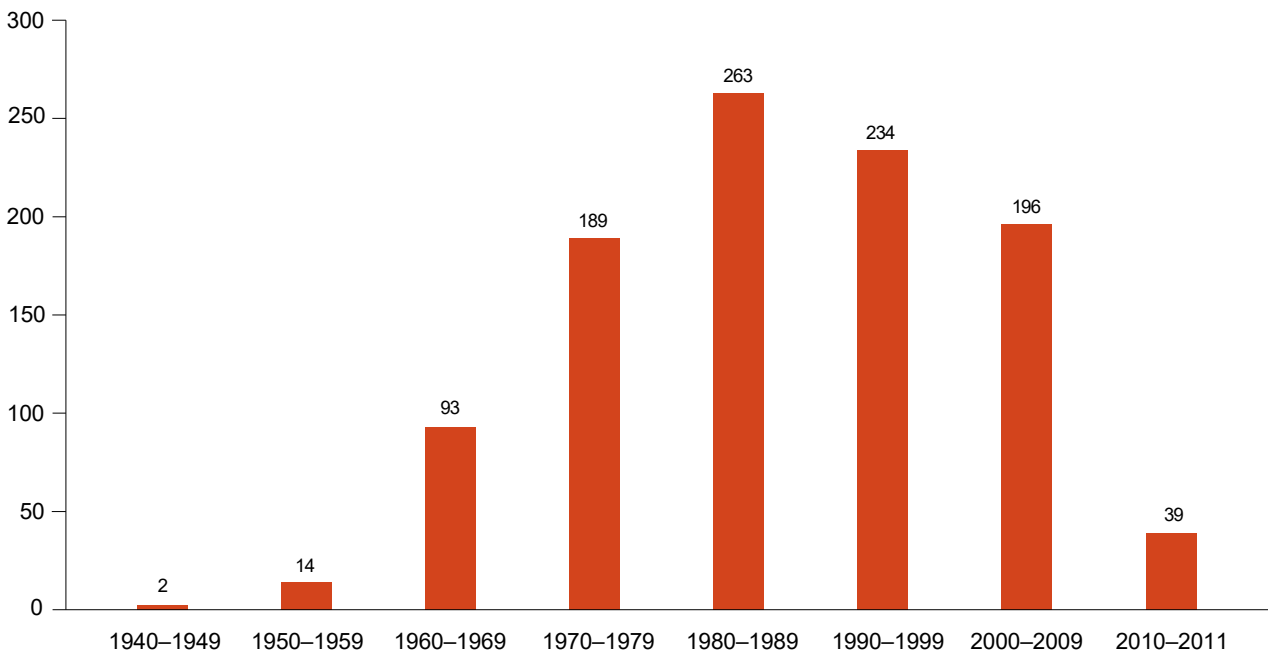
Graph 25: Navy cases by decade**Graph 26: Sex of the complainant by decade (Navy)**

Graph 27: Navy cases by type of abuse**Graph 28: Types of abuse as a percentage of cases for each service**

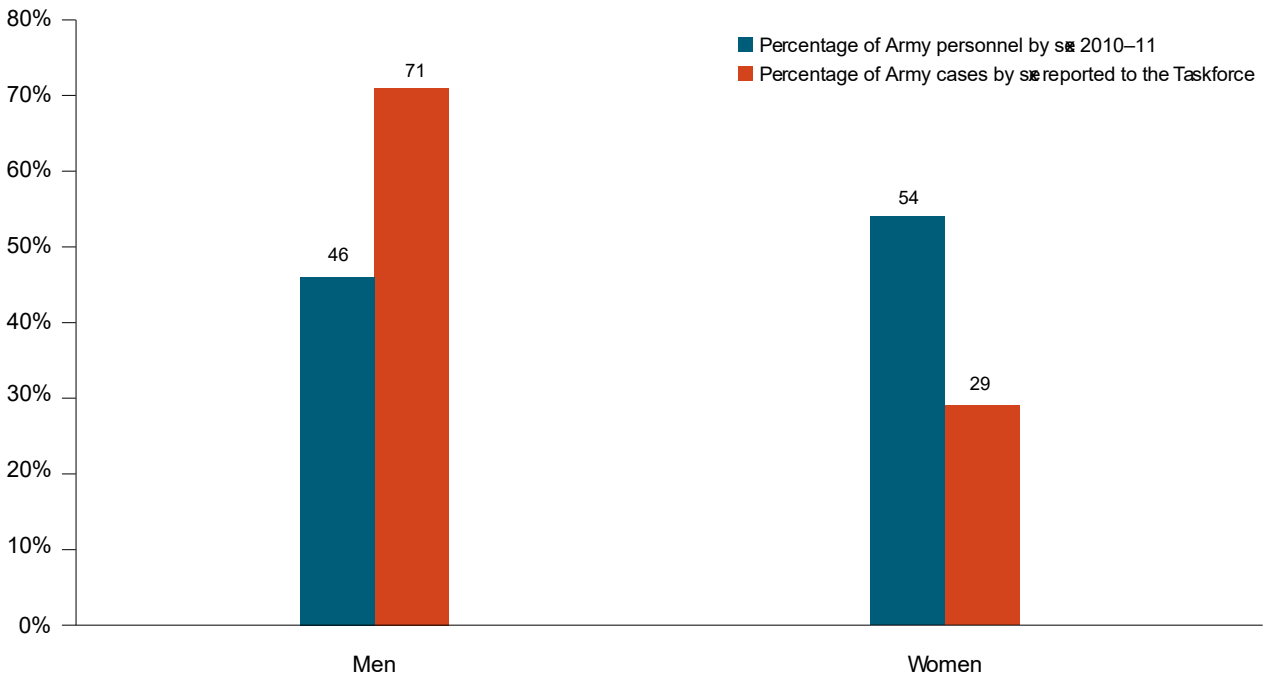
Graph 29: Navy cases by type of abuse by decade



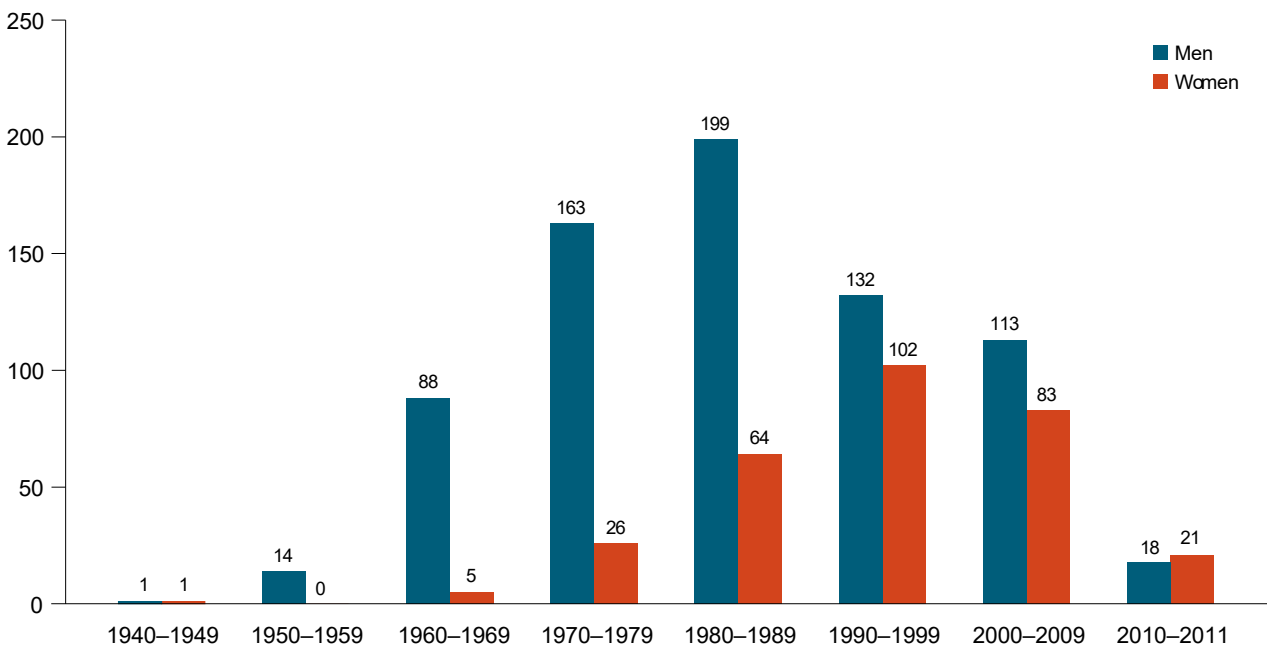
Graph 30: Army cases by decade

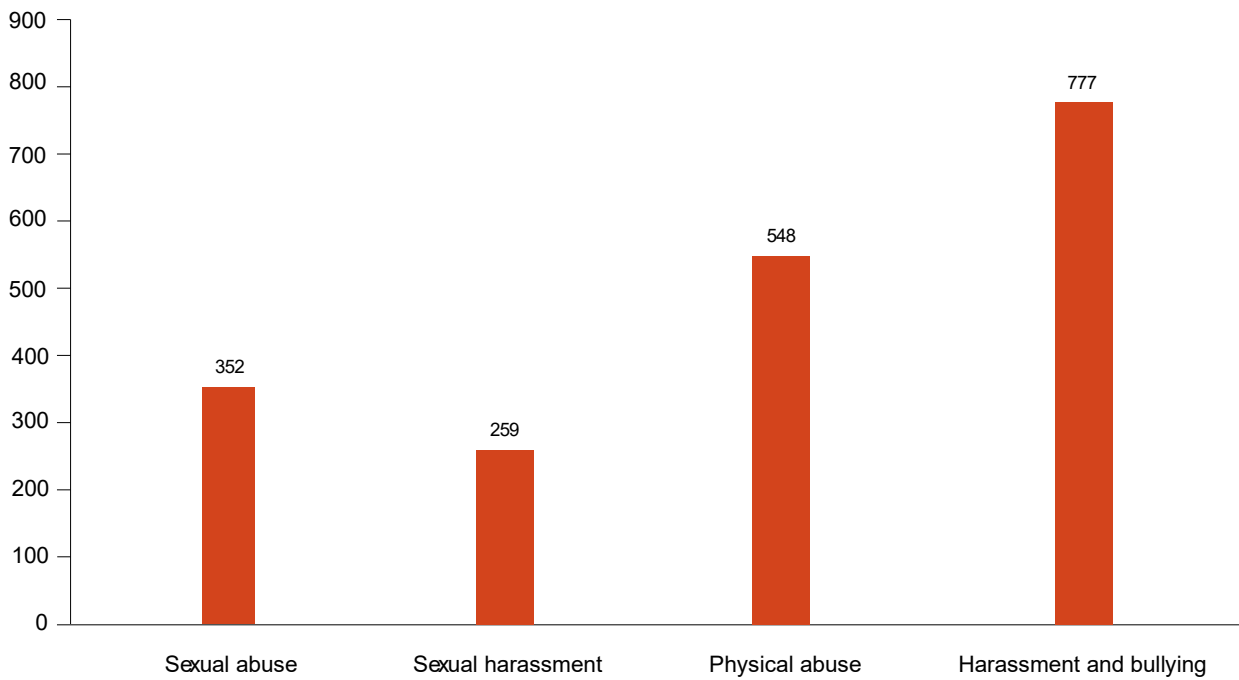
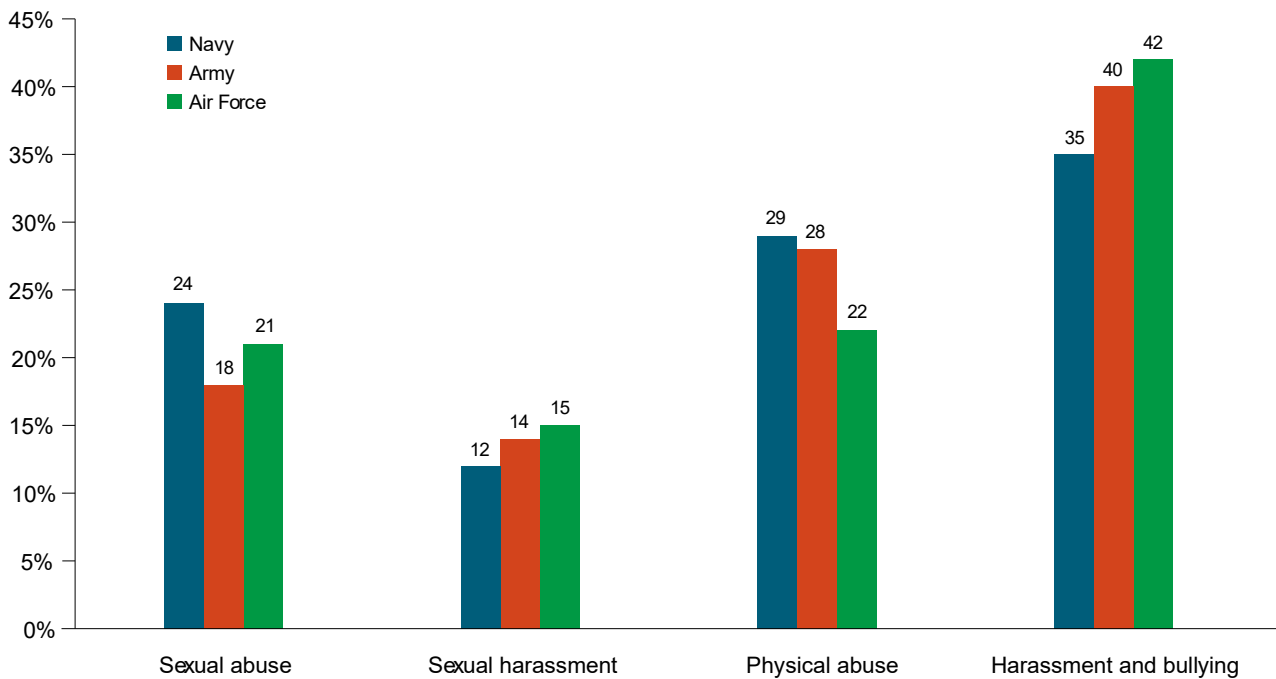


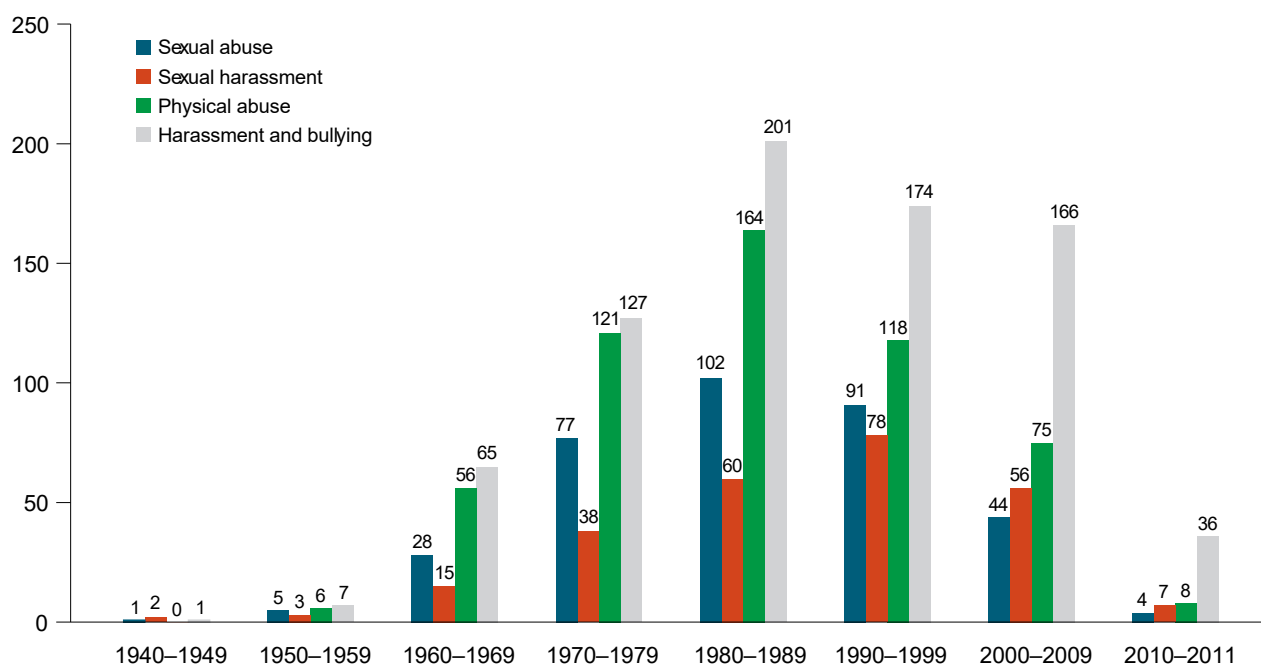
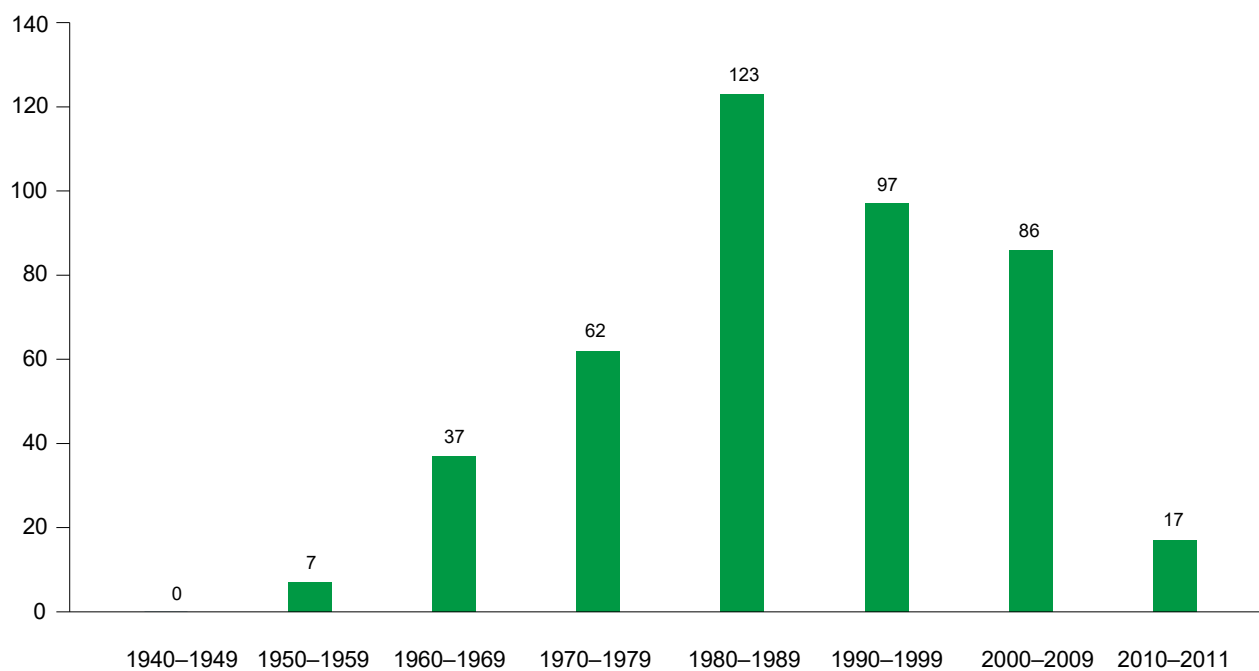
Graph 31: Percentage of male and female Army personnel (2010-2011) compared to percentage of male and female cases of abuse over whole time period



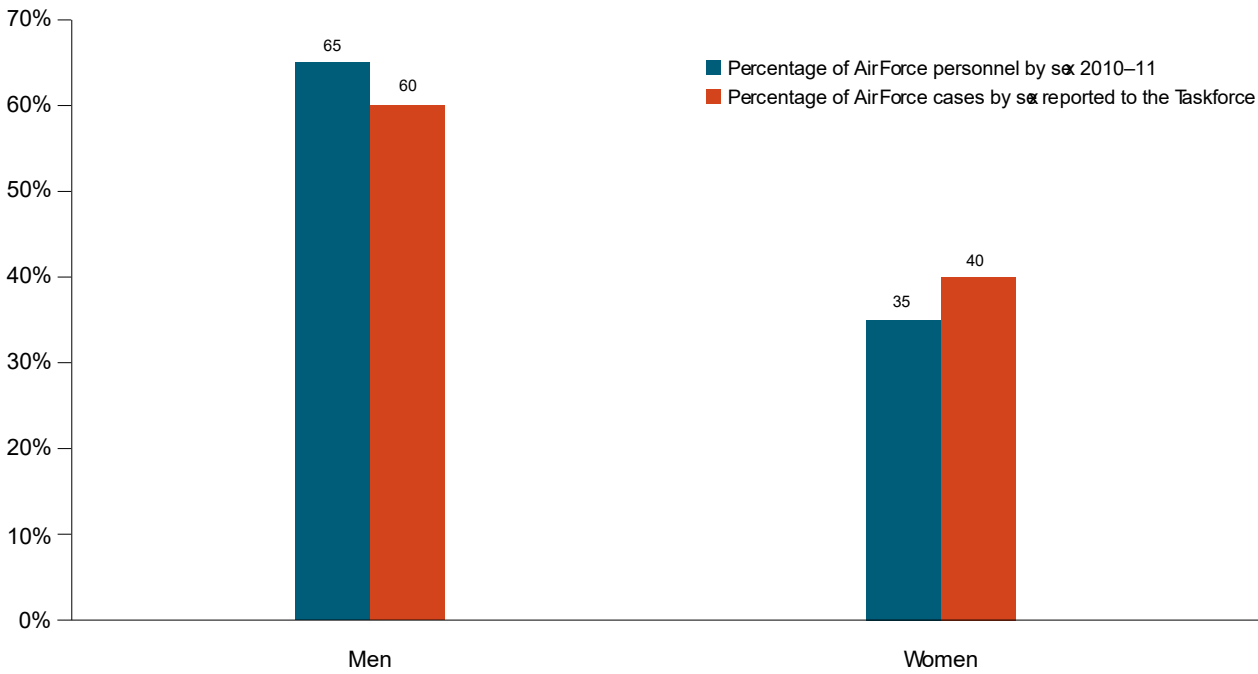
Graph 32: Sex of the complainant by decade (Army)



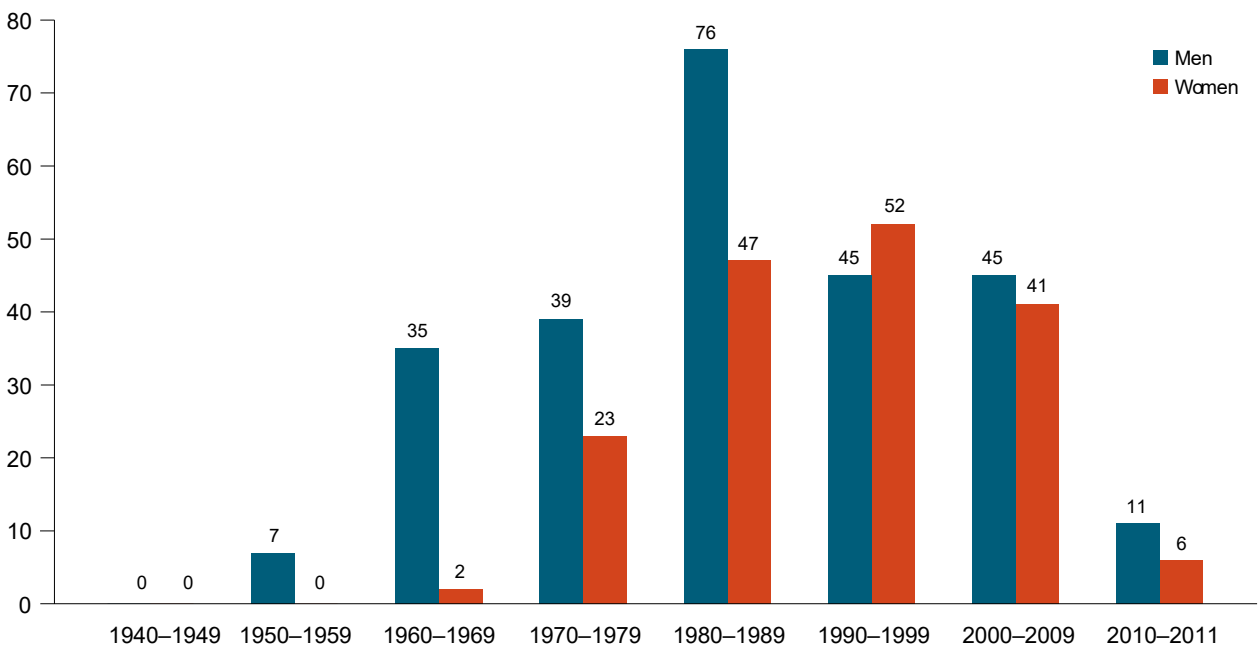
Graph 33: Army cases by type of abuse**Graph 34: Types of abuse as a percentage of cases for each service**

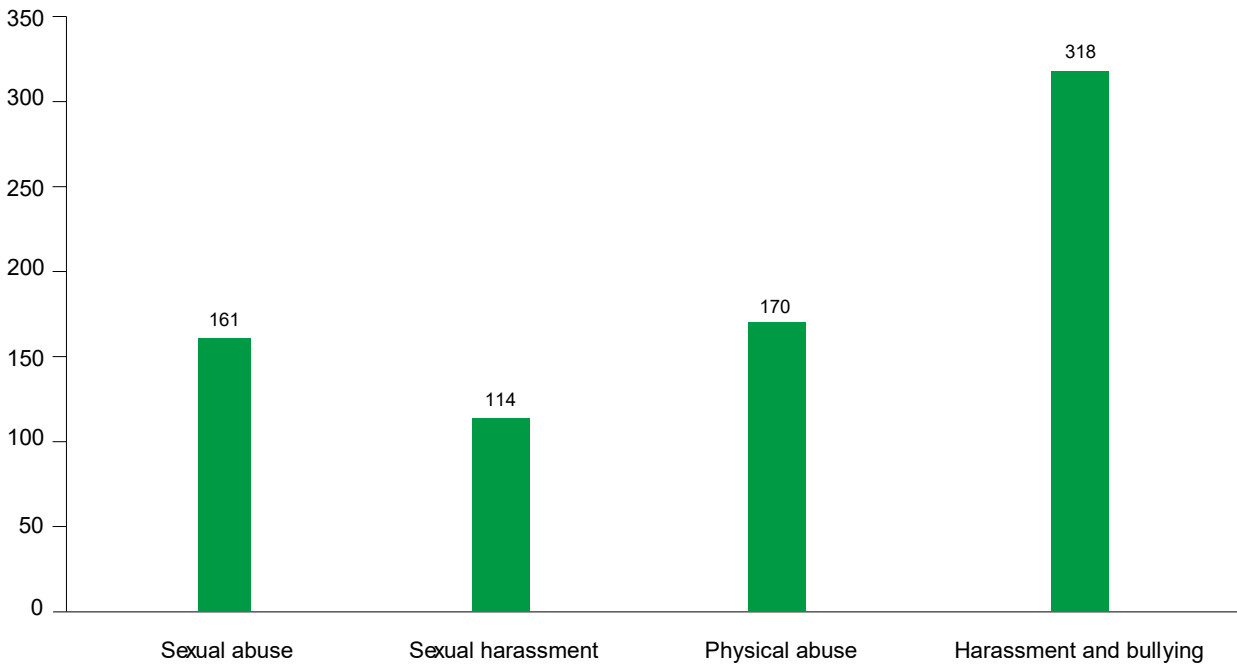
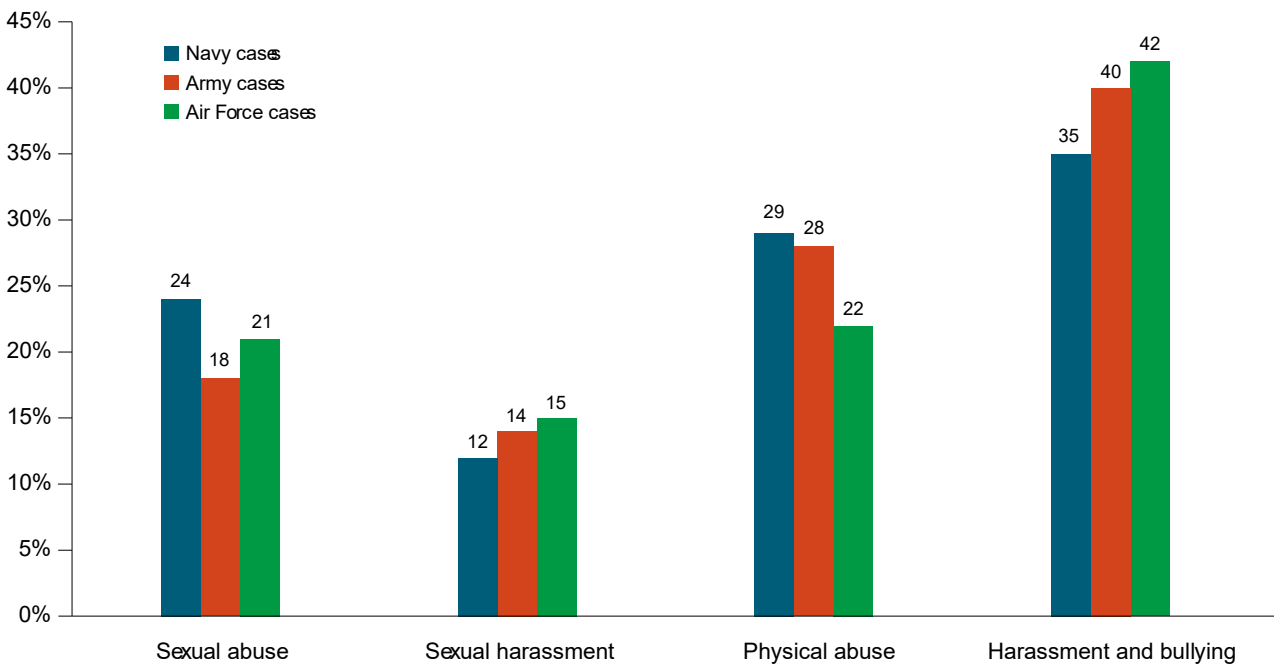
Graph 35: Army cases by type of abuse by decade**Graph 36: Air Force cases by decade**

Graph 37: Percentage of male and female Air Force personnel (2010-2011) compared to percentage of male and female cases of abuse over whole time period

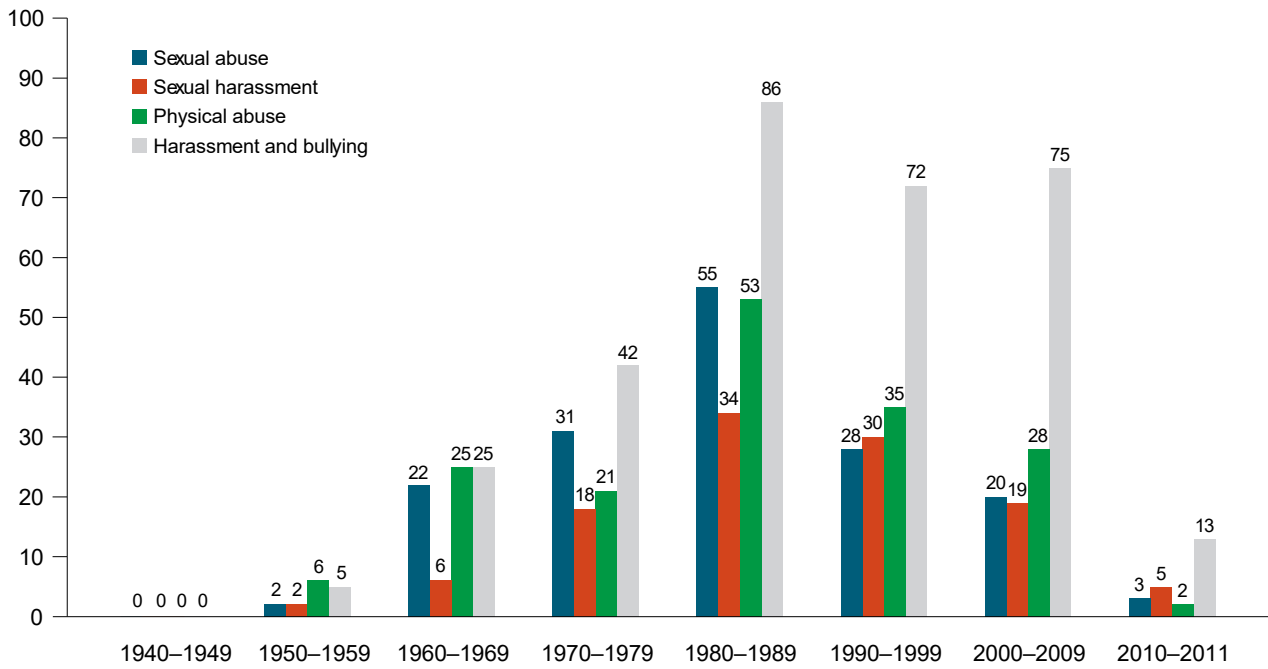


Graph 38: Sex of the complainant by decade (Air Force)

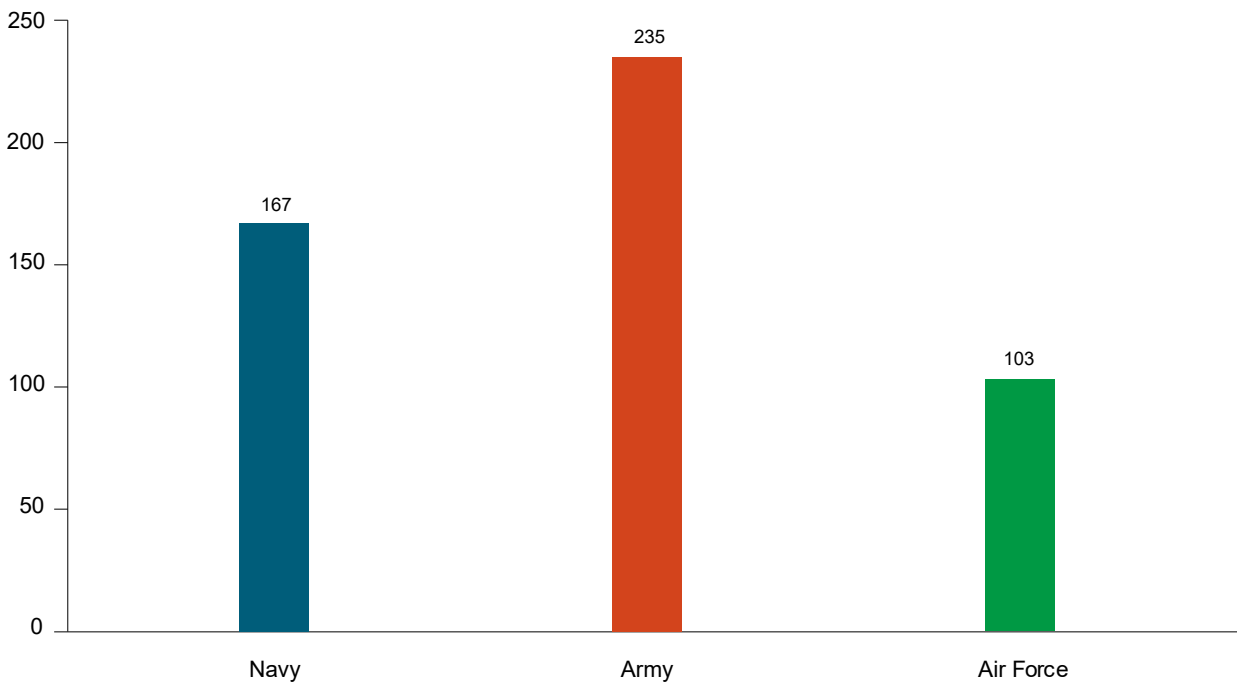


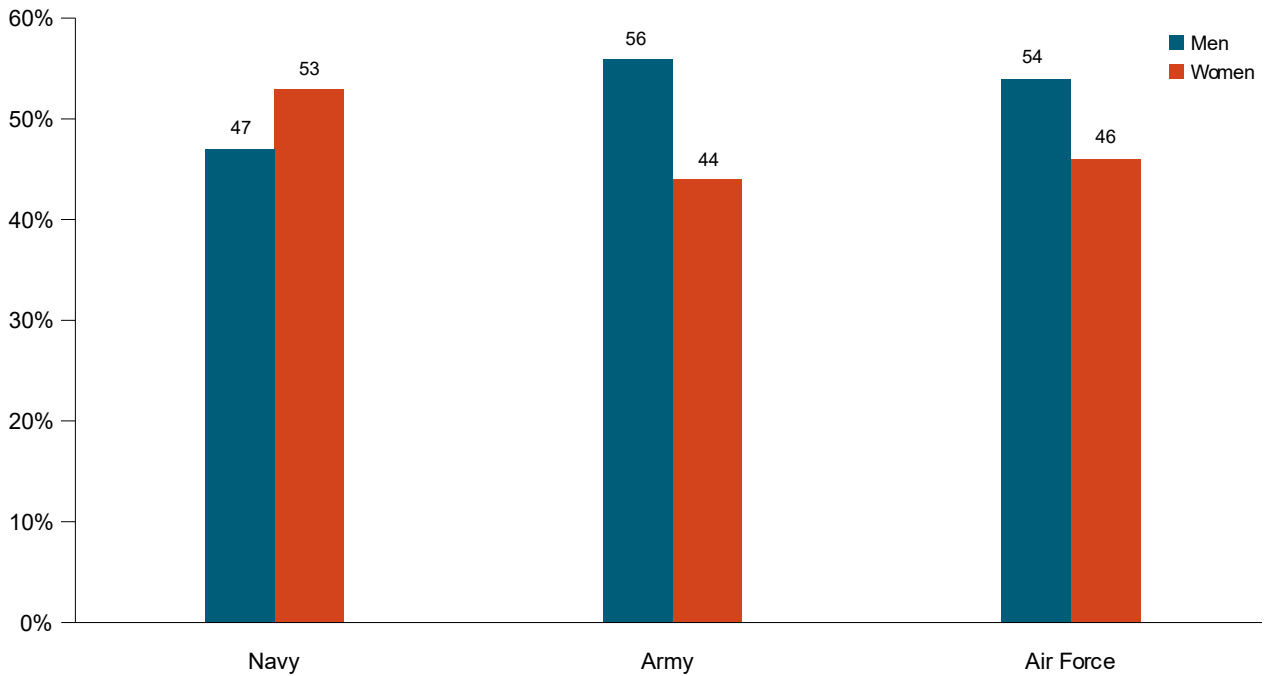
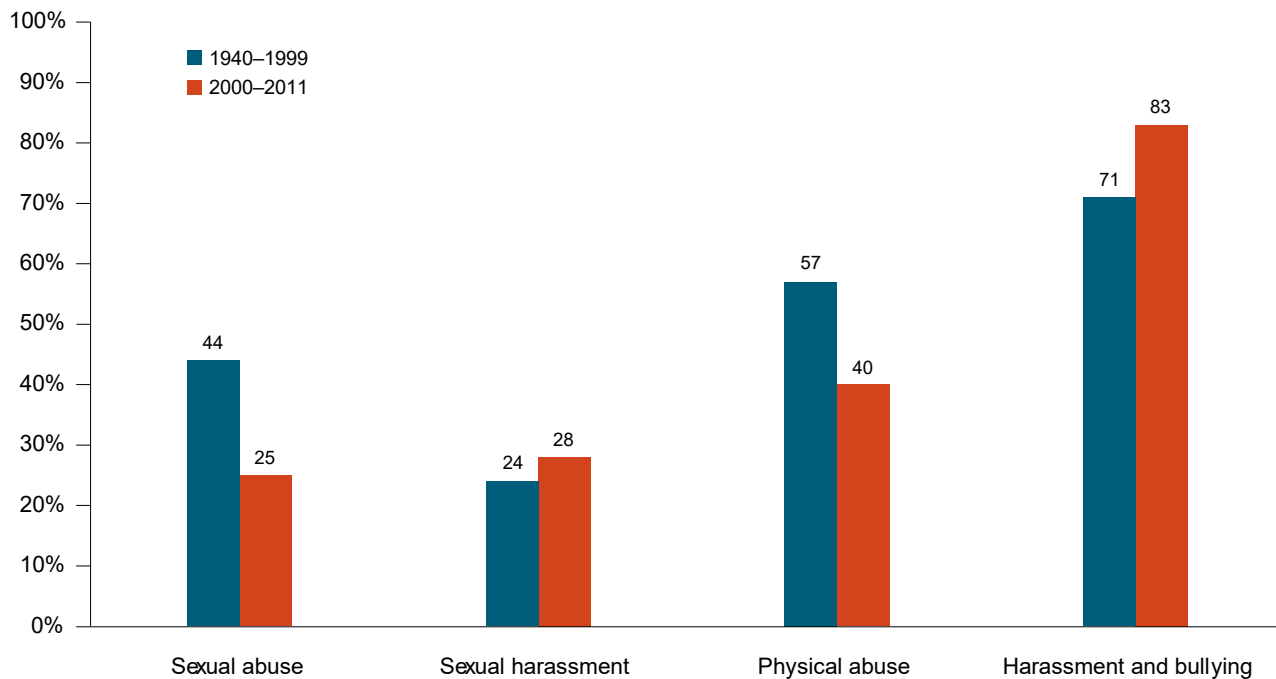
Graph 39: Air Force cases by type of abuse**Graph 40: Types of abuse as a percentage of cases for each service**

Graph 41: Air Force cases by type of abuse by decade

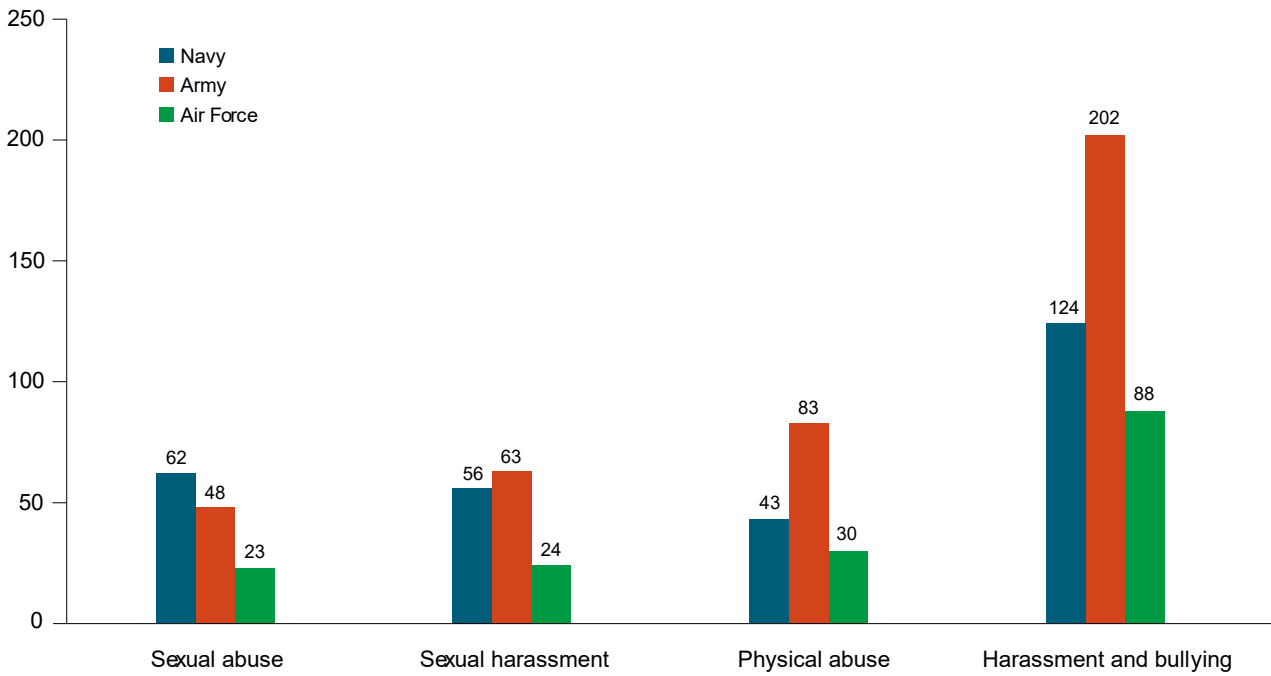


Graph 42: Cases by service between 2000 and 2011

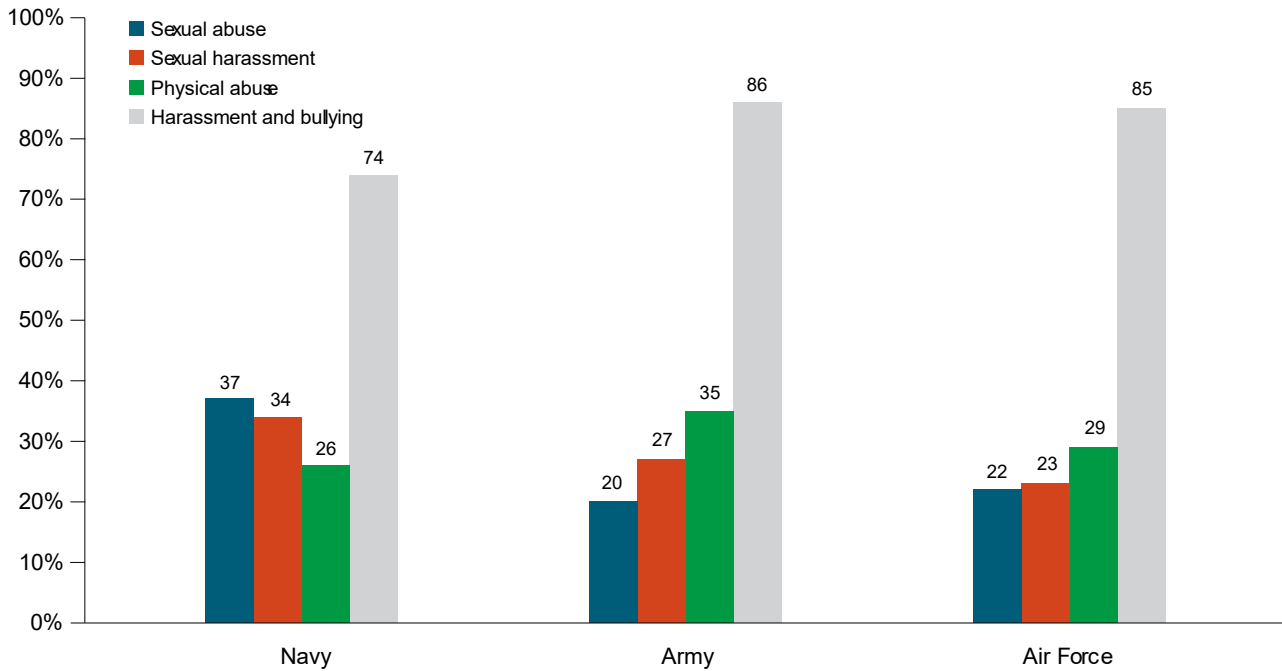


Graph 43: Percentage of men and women as complainants in each service between 2000 and 2011**Graph 44: Types of abuse in 1940-1999 and 2000-2011**

Graph 45: Cases by types of abuse by service between 2000 and 2011



Graph 46: Percentage of cases involving each type of abuse by service between 2000 and 2011



Graph 47: Percentage of cases involving women and men as complainants between 2000 and 2011