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AUSTRALIAN FEDERAL POLICE



Parliamentary Joint Committee on Law Enforcement

Inquiry into Law
Enforcement Capabilities in
Relation to Child
Exploitation

25 August 2021

Submission by the
Australian Federal Police

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Introduction

1. The Australian Federal Police (AFP) welcomes the opportunity to make a submission to the Parliamentary Joint Committee on Law Enforcement (the Committee) Inquiry into law enforcement capabilities in relation to child exploitation.
2. The threat to children, those most vulnerable in our community, is evolving. Operational experience has shown that the borderless crime of online child sexual exploitation is progressively difficult to tackle, especially as the use of anonymising technology and encrypted platforms become increasingly prevalent.
3. The AFP is at the forefront of combatting child exploitation in Australia, and leads the coordination of national efforts to uncover and locate child sex offenders who engage in all forms of exploitation and abuse.
4. The AFP is not only responsible for the operational response and investigation of offenders coordinated by AFP Child Protection Operations (CPO) through the Joint Anti-Child Exploitation Teams (JACETs) and the Northern Territory Child Abuse Taskforce (NT CAT), but is also a leader in prevention and education initiatives such as the AFP *ThinkUKnow* program, and strategic leadership, research and collaboration through the AFP-led Australian Centre to Counter Child Exploitation (ACCCE). A detailed overview of the ACCCE is below at paragraphs 40-50.
5. Child exploitation is a high volume crime, requiring substantial resourcing and the use of all available legislative and technological capabilities to combat. Through AFP's extensive operational experience, a number of gaps have been identified in the existing frameworks, which are detailed further in this submission. Addressing these gaps will further assist the AFP and our partners to tackle child exploitation. This submission was prepared in consultation with the AFP's close partner, the Australian Criminal Intelligence Commission (ACIC) to focus on operational experiences in combatting child exploitation. The Department of Home Affairs has also prepared a submission, which provides policy context. The AFP recommends the submissions be read alongside one another to provide a full picture of the Commonwealth response to the criminal environment.

Nature and Extent of the Threat: Child Exploitation

Online child exploitation and the impact of COVID-19

6. Child exploitation has unfortunately been a considerable problem for law enforcement authorities for an extensive period of time. Since the onset of the COVID-19 pandemic, and as a result of the growing number of households spending considerably increased time online (with sometimes limited security measures) the availability and access to children online has increased.
7. In 2020/21, the AFP arrested 235 offenders, laid 2,772 charges, identified 184 victims and removed 232 victims from harm. This is a significant increase from previous years as per below.

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ACCCE/AFP statistics	2018/19 FY	2019/20 FY	2020/2021
Incoming reports child exploitation received	14,285	21,668	22,600
Arrests	74	161	235
Charges laid	372	1,214	2,772
Victims identified	38	37	184
Children removed from harm	72	134	232

Note: Stats include online and contact offending.

8. A number of means can be attributed to the significant increase of reports, arrests, charges laid, victims identified and children removed from harm in comparison to previous years. An increase in victim identification capability and the ACCCE's Victim Identification Units review of the International Child Sexual Exploitation (ICSE) database material has attributed to some of these increases, in conjunction with national collaboration and coordination efforts that have seen an increase in victims being uploaded to the ICSE.
9. The AFP and ACCCE have observed the emergence of a number of child abuse forums established as a result of COVID-19 stay at home measures. These forums now include more than 1,000 members combined and specifically provide advice on how to establish online relationships with children in the COVID-19 environment.
10. The use of carriage services contributes heavily to the proliferation of child exploitation. Between 01 July 2020 and 31 June 2021, the most commonly used Commonwealth offences have been:

Offence	Counts
Criminal Code section 474.22 – using a carriage service for Child Abuse Material	494
Criminal Code section 474.22A – Possessing or controlling child abuse material obtained or accessed using a carriage service	264

11. Some material uncovered by police can be extreme – depicting children, including very young children, being subjected to physical and sexual abuse, torture and cruelty.

Application of technological advancements to offending

12. Online child exploitation continues to be difficult to track and investigate. This complexity is compounded by wide-scale adoption of encryption, anonymising technologies, streaming services and 'pay-per-view' models, and use of virtual

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currencies to obfuscate law enforcement detection. However, online child abuse offenders do also operate on the 'clear-net', and law enforcement continues to observe offenders using non-encrypted communication channels. It is important to note that the vast majority of reports received by NCMEC are from clear net electronic service providers, which continues to demonstrate the prevalence of online child exploitation on clear net platforms.

13. Law enforcement continues to observe offenders using non-encrypted communications channels, such as web forums and social media chat functions. Offenders share insights, tips and protocols with each other, with the aim of preventing or defeating law enforcement detection. It is the case that this communication is, at times, not in the encrypted communications space.
14. The hosting, sharing and distribution of child abuse material is increasingly occurring on dark web hidden services, which require specialised browsers and other anonymising software to access. These technologies are free or low cost for perpetrators to use, yet make a significant impact on the ability for law enforcement to detect and access.
15. The scale of offending on such platforms is significant and many services have tens of thousands of users across the world. Offenders using such platforms are cautious of law enforcement, and often produce and share 'how to' guides to assist perpetrators on avoiding law enforcement detection alongside instructional guides for producing child abuse material. Traditional law enforcement techniques struggle to address the scale of this problem.
16. Maliciously designed remote administration tools (RATs) are a common form of malware intended to provide an offender with control over a victim's computer. Though RATs have legitimate uses, they can be used to facilitate the commission of child exploitation offences. For example, through unauthorised access to a child's account to assume their identity and obtain exploitation material from others, or the activation of a victim's web camera to create child exploitation material.
17. Overall, the volume of child abuse material facilitated by and shared on the dark web is difficult to quantify. However, since the beginning of the COVID-19 pandemic, the ACCCE has identified over **800,000** registered accounts utilising anonymised platforms such as the dark web and encrypted apps, solely for the purposes facilitating child abuse material.
18. To ensure the protection of children during the COVID-19 pandemic, the AFP bolstered resources within the ACCCE Child Protection Triage Unit to address the increase in referrals received.

Self-generated sexual content

19. Children and young people are being targeted by online child sex offenders through social networking, image, video and instant messaging applications to self-produce online child sexual exploitation material.
20. Self-generated content can occur for a number of reasons, including but not limited to, consensual sexting, feeling pressured or coerced, sexual extortion, financial gain

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and in some instances children are being groomed and blackmailed to produce more extreme material.

21. In cases of sexual extortion, offenders are manipulative and make the victim feel there is no way out of the situation. Offenders employ fear, coercion and manipulation tactics to continue to force the victim produce more material, including threatening that if the victim does not comply, previous material will be shared. Offenders exploit young victims' feelings that they have done something wrong and will be reprimanded by parents or carers and even prosecuted by the law if their actions are discovered.
22. Law enforcement face challenges in dealing with self-generated content as it is a highly stigmatised issue and in the majority of cases parents and carers are unwilling to discuss the topic with their children or with others; which can adversely affect the number of cases reported.
23. Research conducted by the ACCCE indicates that 21% of parents and carers thought the topic of self-generated material to be too sickening or disgusting to think about, 21% of parents thought that online child sexual exploitation could not happen in any form to their child and 15% of parents and carers reported that if their child was exploited online they would be too embarrassed to discuss this with others.
24. The ACCCE Prevention and Engagement team are innately aware of the challenges faced with the issue of self-generated content. The AFP, through the *ThinkUKnow* program, takes an educative approach to addressing the issue of self-produced child abuse material. The AFP believes it is important to empower young people to make informed decisions to promote their safety, and the safety of those they interact with, as well as encouraging help seeking behaviours. With a crime prevention focus, *ThinkUKnow* engages with educators, parents, carers and children, supporting the community to work together with police in reducing the incidences of online child sexual exploitation.
25. Further to the above the ACCCE is working on a number of projects to address these issues and fill the gaps. This includes the soon to be launched '*Stop the Stigma*' national awareness campaign, which the ACCCE has worked on in conjunction with ACCCE Prevention Working Group partners.

Live Online Child Sexual Abuse (LOCSA)

26. The AFP is aware that in the current online-heavy operating environment there has been demand for consumption of Live Online Child Sexual Abuse (LOCSA), also known as 'Live Distance Child Abuse'. This can be largely attributed to the limitations of international travel and the consumption of online child abuse material being seen as a 'safer' way to offend.
27. This phenomenon is distinct from other forms of child abuse material, as LOCSA is primarily executed through livestreaming. No electronic trace is left on the device or remote servers except for session logs or data usage statistics, and law enforcement are often only alerted to the crime where the offender captures and uploads screenshots or video to other platforms. Although LOCSA can occur in various countries, facilitators often come from Southeast Asia. Countries in this region with

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high levels of poverty, high-speed internet connections, English language proficiency, and advanced remittance services leave facilitators well positioned to profit from this abhorrent offending.

28. Such criminal activity is captured under section 474.24A of the *Criminal Code 1995* (Criminal Code) which captures conduct where children are coerced into participating in sexual activities (performed alone or with others) which are broadcast live over the internet for criminals to watch remotely (using a carriage service). Consumers paying for the abuse to be broadcast often direct the facilitator to perform requested acts on a victim.
29. Due to the methodology associated with this offending, law enforcement and partners only have visibility of a fraction of the offending in this space and are required to estimate the proliferation of LOCSA. As a result of the relationships formed between the offenders (consumers and facilitators) and the victim, there remains a risk that the consumer may travel to offend in person against the victim or other children.

Travelling child sex offenders following re-opening of international borders

30. While the COVID-19 pandemic has affected the ability of Australians to travel freely, the threat posed by travelling child sex offenders is significant.
31. In 2017, the Australian Parliament passed world-leading reforms in the *Passports Legislation Amendment (Overseas Travel by Child Sex Offenders) Act 2017* that allow for the cancellation of passports held by registered sex offenders to prevent them from travelling overseas.
32. Due to COVID-19 international border restrictions, the AFP have not charged any registered child sex offenders for attempting to travel without permission between 01 July 2020 and 30 June 2021.
33. However, the AFP charged 4 individuals with 44 counts of engaging in sexual activity with a child outside Australia contrary to section 272.9(1) of the Criminal Code in the 2020/2021 financial year.
34. The AFP have issued **101** notifications to foreign law enforcement agencies relating to the travel of registered child sex offenders in the last financial year, down from previous years (187 in 19/20 and 347 in 18/19) due to the international border closure. The majority of alerts were for travellers being deported or who have renounced Australian citizenship.
35. The total number of notifications may not fully represent the total number of child sex offenders travelling, noting that the AFP may leverage its strong international relationship to engage with foreign law enforcement not captured by these statistics.
36. The AFP is cognisant that the re-opening of international borders in 2021-22 will likely result in a corresponding increase in travel overseas by child sex offenders to engage in, encourage, or benefit from sexual activity with children.
37. As the borders begin to open, the AFP will continue to engage with key partner agencies, such as Home Affairs and the Australian Border Force to prevent and

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disrupt the sexual exploitation of children outside of Australia posed by travelling child sex offenders.

Human trafficking and forced marriage

38. Forced marriage remains the highest reported human trafficking/modern slavery offence type, making up approximately 35% of reports made to the AFP of human trafficking/modern slavery. The average age of victims is between 15 and 19 years.
39. During the 2020/21 financial year the AFP received 224 reports of Human Trafficking, with 79 of these reports relating to forced marriage. The number of reports relating to forced marriage in 2020/21 is less than in 2019/20 (92 report) with this slight decline being attributed to the environmental conditions caused by COVID-19. This includes the downturn in domestic and international travel and decreased presence of young persons in schools, limiting schools' ability to identify and report potential victims of forced marriage. However, the AFP remains concerned by these recent figures.
40. Though international travel restrictions have limited the opportunity to facilitate the movement of people into and out of Australia for exploitation purposes there are concerns that the COVID-19 pandemic has increased the risks within Australia. Individuals in vulnerable circumstances, including those under financial hardship and at risk of family violence, are at greater risk of exploitation.
41. The AFP's human trafficking operations have been maintained throughout the pandemic. Importantly, this has included the removal of **57** victims from harm domestically during the 2020/21 financial year and the repatriation of **one** victim who had been trafficked from Australia during international travel restrictions. The AFP works with its domestic and international partners to support the repatriation of victims from overseas.
42. Prevention and education is crucial to improving the identification and reporting of forced marriage, and reducing its prevalence in the community. Between 2013 and 2021, **46%** of forced marriage reports involved disruption or intervention strategies that prevented an offence from occurring. The AFP leverages its strong working relationships with government, industry, academia and non-government organisations (NGOs) through initiatives such as *Project SKYWARP*.
43. The AFP's *Look a Little Deeper* is a human trafficking and slavery information and awareness program for frontline police and other government agencies, with the program extending its remit to include NGOs and the Australian community in 2021. The extended version of the package is currently being developed with a specific focus on education relating to forced marriage. The package will be delivered to the community through our Community Liaison Teams (CLTs) and is the first of its kind in Australia.
44. Community engagement remains essential to addressing this crime type. The AFP, through the CLTs, has taken steps to actively engage with female community leaders to foster awareness and increase education on forced marriage. These community leaders have expressed an interest in working closely with the CLTs in

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the future to prevent a broader range of criminal activity experienced within their communities.

45. In comparison, *Project SKYWARP* was a localised campaign first delivered in 2019 in partnership with Anti-Slavery Australia, the Sydney Airport Corporation and the Australian Border Force. The project involved the placement of forced marriage awareness materials in transit areas and washrooms across Sydney International Airport for a period of six months, to educate the public on the indicators of forced marriage and encouraged victims and witnesses to contact authorities for help. The materials directed people to the *My Blue Sky* website run by Anti-Slavery Australia, which provides extensive advice on forced marriage and anonymous support services to those affected.
46. Following *Project SKYWARP*, traffic to the *My Blue Sky* website increased from **5704** users in 2019/20 to **6842** users in 2020/21. The awareness campaign may also have contributed to a rise in reports of human trafficking to the AFP, which increased from **61** in 2018 to **91** in 2019, and to **92** in 2020.

AFP role in combatting child exploitation

Australian Centre to Counter Child Exploitation (ACCCE)

47. Operational since 2018, the AFP-led ACCCE is a world-class collaborative hub, bringing together law enforcement, public and private sectors and civil society, to drive a national response to deter, disrupt and prevent child exploitation, with a specific focus on countering online child sexual exploitation.
48. The ACCCE does not perform a traditional investigative function, in that it does not directly investigate or charge offenders or undertake briefs of evidence, but rather supports the investigative role and remit of the AFP Child Protection Operations, and state and territory police. The ACCCE endeavours to: reduce economic, social and individual rewards from child exploitation; reduce harm from organised child exploitation networks; enhance capability and interoperability between public and private sectors, and civil society; and enhance community confidence. AFP and the state and territory police, through the JACETs, retain the investigative authority in responding to child exploitation.
49. The ACCCE was developed out of Australian law enforcement experiencing an ongoing increase of reports relating to online child sexual exploitation in Australia. The ACCCE's foundational principle is partnership, with its four pillars being prevent, prepare, pursue and protect. Housed within the ACCCE are co-located resources from Queensland Police Service, Home Affairs (HA), Australian Border Force (ABF), AUSTRAC and the ACIC. The support received from these partners is significant. For example, in 2020 the ACIC established the Child Exploitation Intelligence Team (CEIT). The CEIT is dedicated to identifying new and emerging trends in online child sexual abuse, including livestreamed abuse. This team develops enhanced intelligence products by linking criminal intelligence, criminal history information, suspicious matter reports (SMRs) and international travel data.

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50. Between 1 July 2020 and 30 June 2021, the ACCCE Child Protection Triage Unit received **22,600** reports of child sexual exploitation. Each report may contain hundreds of thousands of images of children being abused. This significant number of reports may be attributable to the increasing access globally, and growth in technology (such as faster and more available data exchanges).
51. Operation MOLTO is an ACCCE-coordinated operation as part of its role in enhancing interoperability with state and territory partners. The operation commenced in 2020, when the ACCCE was referred information from an international partner. The ACCCE conducted the initial review of the information, before a joint national operation was commenced involving the AFP and all Australian state and territory police. Through the collaborative efforts of key state and territory partners, the operational leads were dispersed across the country for investigation.
52. Initially, the operation targeted offenders sharing some of the most abhorrent child abuse material circulating online. Operation MOLTO has identified alleged offenders in all Australian states and territories, ranging in ages from 19 to 57 years old. As at 31 July 2021, a total of **100** persons have been charged with **888** offences and **30** children have been removed from harm.
53. Operation MOLTO represents a fraction of this extensive criminal environment. Each year, the ACCCE and the AFP's workload grows.
54. The AFP and the ACCCE's role is further reaching than just Australia. The AFP is committed to pursuing individuals engaged in child exploitation and contact offending even when the child victims are outside of Australia. The below statistics represent charges over the last financial year and demonstrate that the AFP will endeavour to apprehend and charge Australian citizens who engage in this behaviour regardless of their whereabouts.

Offence	Counts
Criminal Code section 273.5 – Possess, control, produce, distribute, obtain child porn material outside Australia [repealed offence – captures historical offending]	55
Criminal Code section 273.6 – Possess, control, produce, distribute, obtain child abuse material outside Australia	52
Criminal Code section 272.9(1) – Engaging in sexual activity with a child outside Australia	44

55. The ACCCE also engages in a significant body of work to spread awareness of online child sexual exploitation in Australia and internationally. For example, in March 2021, the ACCCE launched the *Stop Child Abuse - Trace an Object* initiative in Australia. Originally developed by Europol, the initiative engages with the community to assist with the identification of objects, clothing or surroundings taken from the background of child sexual abuse images and videos. The ACCCE website hosts these images and is currently

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the most viewed page on the website. Since its launch the page has been viewed **51,882** which has resulted in **571** reports made to the ACCCE Victim Identification Unit.

56. In June 2021 the ACCCE, in partnership with the AFP, launched the *Closing the Net* podcast, a ten part series that highlights the work of law enforcement, government, academia, and non-government organisations. The series shares compelling insights of more than 55 people who dedicate their lives to combatting child exploitation through their work, as well as people who have committed to preventing child abuse through dedicating education and resources to the cause.
57. *Closing the Net* showcases that knowledge is power, and aims to encourage hard conversations between parents, carers, teachers and community members. It provides tips and advice around how to protect children online, and how to identify and report offensive online behaviour. The podcast has proven to have a significant impact with more than **45,000** downloads since its launch.

Joint Anti Child Exploitation Teams (JACETs)

58. The JACETs are teams comprised of AFP and state and territory police, located in all capital cities across Australia. The JACETs establish a collaborative framework for combatting child sexual exploitation in Australia and by Australians offshore. In 2020/21 financial year the JACETs finalised **155** cases in relation to child exploitation, with **63** cases remaining before the court and **7** awaiting finalisation.
59. As an example of collaborative success, Operation ARKSTONE is an ongoing AFP-led operation, facilitated through the JACETs in conjunction with New South Wales Police, Western Australia Police and US Homeland Security Investigations. Following information provided by the United States' National Centre for Missing and Exploited Children (NCMEC) to the ACCCE for triage and evaluation, the operation commenced by targeting an alleged online network of offenders producing and sharing child abuse material.
60. Below is a case study of one offender identified through Operation ARKSTONE:

Case Study:

A part of Operation ARKSTONE, the AFP uncovered the online Australian network of alleged child sex offenders after the arrest of a 30 year-old Wyong man in February 2020.

Upon examination of the man's seized electronic devices, investigators followed leads and discovered encrypted social media forums and applications where some members were allegedly producing Child Abuse Material (CAM), while others accessed and circulated CAM. The evidence gathered from the initial arrest led to the unravelling of this alleged online network.

By March 2021, one of the original offenders appeared at court to face **196** charges relating to child sexual abuse and bestiality offences. These included the alleged sexual abuse of young children and filming the abuse to share online including multiple counts of sexual intercourse with a child under 10 years. He had originally been charged with

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44 offences but as the investigation continued towards the court hearing, officers continued to examine evidence.

Additional charges were laid as more illicit activity was discovered. This reflects the fact that, even at the brief preparation stage of enforcement activity, officers continue to work hard in assembling and analysing evidence to identify potential offences in conjunction with the Commonwealth Director of Public Prosecutions.

61. Operation ARKSTONE is the largest domestic investigation into online child sexual abuse and continues to yield operational success. As at 31 July 2021, legal proceedings have been initiated against **20** offenders, with a total of **1,236** charges and **54** victims identified. In addition, **146** referrals have been sent to international partners.

Northern Territory Child Abuse Taskforce (NT CAT)

62. The NT CAT provides a targeted joint response to identify and respond to reports of sexual abuse and serious harm against children in the Northern Territory. The taskforce is comprised of members from the AFP, Northern Territory Police and Northern Territory Department of Children and Families (Department). As at June 2021, the AFP has **three** members within the taskforce.
63. The majority of NT CAT engagement is conducted in remote Indigenous communities, within isolated locations in the Northern Territory. The NT CAT response work is augmented by prevention initiatives and targeted operations focusing on community engagement, raising awareness and resilience, and high visibility in communities.
64. This joint police and Department approach reduces the victim's exposure to multiple stakeholders. Its success is amplified by close working relationships between the NT CAT and youth groups, community groups, and government and private entities in health and education.

ThinkUKnow

65. *ThinkUKnow* is an evidence-based education program led by the AFP and delivered nationally to prevent online child sexual exploitation and has been delivered nationally since 2010. The program is a partnership between the AFP, Microsoft Australia, Datacom and the Commonwealth Bank of Australia, and is delivered in collaboration with all state and territory police and Neighbourhood Watch Australasia.
66. *ThinkUKnow* aims to support parents, carers and teachers in preventing and managing safety challenges that children and young people may face online. The program was developed to assist children and young people, from kindergarten/prep to year 12, to identify safe or unsafe situations and know when and how to seek help. The content is pro-technology, encourages help seeking behaviours, and addresses topics including self-generated online child exploitation material, online grooming, image-based abuse and sexual extortion.

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67. The rapid increase of children online as a result of COVID-19 reinforces the program's importance. In the 2020/2021 financial year, **25** presentations were delivered to an estimated **1,460** parents, carers and teachers across Australia, while **2,226** presentations were delivered to an estimated **198,680** students.
68. In response to COVID-19 and the suspension of face-to-face presentations, the AFP transitioned to online sessions to support parents, carers and teachers through developing teacher toolkits and at home learning activities.

Operation SOTIERA

69. In February 2021, the AFP established Operation SOTERIA to undertake ongoing environmental scanning into the extent of child sexual abuse and online child safety issues in a small sample of remote indigenous communities. The Operation SOTERIA team consists of AFP investigators and intelligence officers, Online Child Safety and the NT CAT.
70. The environmental scan focuses on local perspectives from police, schools, youth organisations, government and non-government organisations, conducting criminal intelligence analysis and landscape mapping, including technology trends. The scan identifies future prevention and engagement opportunities as well as strategic partnership opportunities.

National Child Offender System

71. Administered by the ACIC, the National Child Offender System (NCOS) helps police protect the community by enabling them to uphold child protection legislation in their state and territory by recording and sharing child offender information. This allows police in each state and territory to meet their obligations under respective child protection legislation.
72. The NCOS consists of the Australian National Child Offender Register (ANCOR) and the Managed Person System (MPS). The ANCOR allows authorised police officers to register, case manage and share information about registered persons. It assists police to uphold child protection legislation in their state or territory.
73. The MPS holds information on alleged offenders who are charged but not convicted, or after an offender's reporting obligations have been completed. It supports the Australian Child Protection Offender Reporting scheme, established by legislation in each state and territory. This scheme requires child sex offenders, and other defined categories of serious offenders against children, to keep police informed of their whereabouts and other personal details for a listed period of time after their release into the community. This register is not intended to be punitive in nature, but is implemented to protect the community by allowing police to exercise authority to case manage offenders thereby reducing the likelihood that an offender will reoffend.

Family Law and Children's Rights Conference

74. The AFP is proud to have been a major sponsor of the 8th *Family Law & Children's Rights Conference: World Congress 2021 'Through the Eyes of a Child'*. Originally

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due to be held in Singapore in 2020, the conference was hosted virtually in July 2021.

75. The conference is a major international event which focused on family law, processes and the rights of children and youth. The congress connects lawyers, judges, academics, government, non-government associations, psychologists, medical professionals and social scientists with a common interest in the active protection of children and in sharing best practices to promote the rights of children and family law issues.
76. The AFP delivered five sessions as part of the event and covered topics ranging from prevention efforts, collaboration and coordination in the fight against online child sexual exploitation, families effected by online child sexual exploitation and human trafficking. These sessions included international participants representing the International Centre for Missing and Exploited Children, and NCMEC.

Recently passed laws and legislation before parliament

Combatting Child Sexual Exploitation (CCSE) Act 2019

77. The *Combatting Child Sexual Exploitation Legislation Amendment (CCSE) Act 2019* passed Parliament on 17 September 2019. The CCSE amended the *Commonwealth Crimes Act 1914* and *Criminal Code 1995* to protect children from sexual abuse and exploitation by improving the Commonwealth framework of criminal offences relating to child abuse material including the possession of child-like sex dolls, overseas child sexual abuse, forced marriage, failing to report child sexual abuse and failing to protect children from such abuse.
78. Between its introduction in September 2019 and 30 June 2021, the AFP has commenced proceedings under Criminal Code sections 474.22A *possessing or controlling child abuse material obtained or accessed using a carriage service* against **213** people and 273A.1 *possessing a child-like sex doll* against **six** people.

Crimes Legislation Amendment (Sexual Crimes against Children and Community Protection Measures) Act 2019

79. The *Crimes Legislation Amendment (Sexual Crimes against Children and Community Protection Measures) Act 2019* passed Parliament on 16 June 2020 and amended the *Crimes Act 1914* and *Criminal Code 1995* to address community concerns regarding sentencing and the evolving use of the internet in child sexual abuse. The Bill also inserted a range of aggravated offences for child sexual abuse, new offences relating to 'grooming' and the provision of electronic services to facilitate dealings with child abuse material online.

Crimes Legislation Amendment (Economic Disruption) Regulations 2021

80. The *Crimes Legislation Amendment (Economic Disruption) Regulations 2021*, which came into force on 5 May 2021, amended the *Proceeds of Crime Regulations 2019* to provide that specified offences relating to child sexual abuse, grooming third parties to procure a child for sexual activity, possessing child-like sex dolls, conduct

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in relation to child abuse material, failing to report child sexual abuse and failing to prevent child sexual abuse are 'serious offences' for the purposes of seizing proceeds of crime under the *Proceeds of Crime Act 2002*.

81. To date the AFP has not taken proceeds of crime action against any persons under the new offences within the *Crimes Legislation Amendment (Economic Disruption) Regulations 2021*. The Criminal Assets Confiscation Taskforce (CACT) has taken proceeds of crime action in two matters involving child exploitation matters to date.
82. In November 2020, the AFP restrained the Adelaide home of a man accused of ordering and instructing live-distance child abuse that he watched online. This is the **first time** the AFP has restrained the home of an alleged child sex offender, who is not accused of profiting from his crimes but of allegedly using his property to commit serious offences.
83. On 28 January 2021, the suspect was charged with **50** offences connected with suspected child abuse material found on electronic devices located at his residence. The proceeds of crime proceedings remain before the court.

Impact of the Surveillance Legislation Amendment (Identify and Disrupt) Bill 2020

84. *The Surveillance Legislation Amendment (Identify and Disrupt) (SLAID) Bill* currently before Parliament proposes new powers for the AFP and the ACIC to identify and disrupt serious crime online, including crime on the dark web and the evasion of law enforcement through use of encryption and anonymising technology.
85. The powers in the SLAID Bill will give law enforcement an edge in disrupting and apprehending offenders. The Bill will introduce three new warrant frameworks, each which will provide critical capabilities for combatting child exploitation material being produced and distributed using anonymising technologies and encryption.
86. It is anticipated that the proposed Account Takeover Warrants (ATW) will assist the AFP in locating child abuse victims and assist in charging offenders with the full scope of their suspected abusive conduct. The ability to takeover an offender's account under an ATW and controlled operation will significantly reduce the length of time for some investigations, as it will allow the AFP to assume the account of the offender on the platforms and chat groups they are already a member of, engaging with others within that forum to gather intelligence and evidence. This removes the need for AFP to spend lengthy periods of time creating online profiles and infiltrating online networks of offenders, which can take up to two years and significantly impact on the welfare of officers.
87. Further, the proposed Data Disruption Warrant may provide assistance in denying offenders access to significant volumes of child abuse material on dark web hidden services, and removing heinous exploitation material so it cannot be further shared, therefore removing the ability for continued victimisation.

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Gaps in existing framework

88. The AFP and partners require comprehensive powers, resources and expertise to address the adapting methodologies of child sex offenders and protect the community. AFP operational experience has identified a number of instances where existing legislative frameworks can present challenges and impede the ability to progress an investigation.
89. In these instances, the AFP works closely with the Department of Home Affairs and the Attorney-General's Department to consider appropriate legislative reforms to address gaps identified.

Impact of providers 'going dark' and the adoption of end-to-end encryption

90. The wide scale adoption of end-to-end encryption by major service providers for the stated purpose of protection of individual's private information, has a resulting impact on citizens and societies by eroding a digital platform's ability to detect and respond to illegal content and activity, such as child sexual exploitation and abuse. This, in turn, impacts the ability to inform law enforcement of such crimes and impacts the ability to investigate and collect evidence.
91. The move by the major platforms to end-to-end encryption will have a significant impact upon the ability for law enforcement to detect, identify and respond to offending. Between 01 July 2020 and 30 June 2021, the NCMEC referred **21,399** to the AFP following reports from one major provider. Once that provider moves to end-to-end encryption, they will no longer have visibility of the content being shared across their platforms, and therefore will not be able to detect and refer the matters to the NCMEC. This will result in a significant reduction of referrals to the AFP, making detection and prevention of offending significantly harder for law enforcement.
92. The implications of end-to-end encryption was one of the key issues the AFP Commissioner discussed at his National Press Club address on 22 July 2020. Commissioner Kershaw observed the adoption of end-to-end encryption makes it harder for police to catch predators, noting that the AFP is "very worried about when that day comes, while on the other hand, paedophiles are counting down the days because they cannot wait." The adoption of end-to-end encryption on digital platforms allows predators to remain out of the view of law enforcement and allows their continued offending.
93. The Australian, United Kingdom and United States Governments have publically recognised the need for law enforcement to access information they require to safeguard the public, investigate crimes and prevent future criminal activity.

National Child Offender System

94. Though administered by the ACIC, ACIC access to information and data within the NCOS does not extend to intelligence or investigatory purposes. This significantly limits the Commonwealth government's ability to develop a coordinated national intelligence picture and potential linkages between contact and online child sex

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offending. It further limits the ACIC's ability to share relevant information and strategic insights with the AFP and other law enforcement partners.

95. It is anticipated that extending ACIC access to the NCOS would facilitate data analysis and matching against its criminal intelligence and national policing information holdings to:

- Enhance AFP and partners tactical and strategic targeting of child abuse activities, including by assessing known persons of interest, identifying high priority offenders, refining the profiles and offending patterns of these individuals, and enabling the effective allocation of resources to maximise disruption opportunities.
- Generate additional insights about the child sexual abuse threat landscape, enabling the AFP, ACCCE and other partners to map, monitor and profile changes.
- Provide greater visibility to appropriate agencies undertaking prevention and interdiction activities, including national statistics about the number of registers child sex offenders in the NCOS and how these individuals are distributed across Australia.

96. Further, in the event the ACIC was able to leverage their specialist powers and tools, including coercive examinations and human source capabilities, this information could benefit the Commonwealth in developing and disseminating strategic intelligence and break-through understandings of the methodologies, planning and motivations of child sex offender syndicates. ACIC Board approval is required for any expansion of access to NCOS.

Section 3LA

97. Section 3LA of the *Crimes Act 1914* enables the AFP to apply to a magistrate for an order requiring the provision of information or assistance necessary to access data held in, or accessible from, a computer or data storage device.

98. Recent operational experience, including in the child protection space, has demonstrated that although there is a penalty attached to this offence to encourage compliance, this does not always provide sufficient incentive for a person under investigation to comply. In the AFP's experience, persons under investigation for child exploitation offences are often more willing to accept the potential ten year imprisonment offence for failure to comply with a 3LA order, rather than provide access to the device that has evidence of serious offending as these incur more significant penalties.

99. This willingness to accept a penalty rather than complying with 3LA orders creates a significant gap for the AFP, as we are not only unable to gather evidence as to the full scope of that offenders criminality, but it also prevents us gathering essential intelligence on other offenders they are communicating with. The increase in penalty for non-compliance with these orders from 2 years to 10 years in December 2018 did not result in a significant shift in the level of compliance. Broader consideration

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of options could be considered, including possible presumption against bail, to ensure that orders are complied with.

Cryptocurrency

100. The increasing use of cryptocurrency as method of payment for child exploitation offenders has presented difficulties for the AFP. Though the AFP has limited abilities to seize or restrain cryptocurrencies, these powers first require identification of the private key or seed phrase that provides access or compliance from the person of interest to facilitate access.
101. Where access has not been possible, or an offender refused to comply with a section 3LA order, the AFP has limited further recourse, and suspects and other parties retain the ability to dissipate the funds upon notification of law enforcement interest.

Proceeds of Crime Act 2002

102. In 2020, the AFP Commissioner set a new strategy for the AFP-led Criminal Assets Confiscation Taskforce to actively investigate whether the assets of child sex offenders can be confiscated. It is anticipated that, as the AFP increasingly targets assets connected with the commission of child exploitation offences (see example at paragraph 82-83 above), suspects will start to structure their offending to avoid forfeiture of their property. For example, a suspect may commit their offending in a rented property instead of a property that they own to prevent their own property from becoming the instrument of their offending.
103. It is important that frameworks adapt to address this criminality, noting that the privacy afforded by a property facilitates the commission and concealment of offending, even though the property may not necessarily need to be altered or adapted for its use in the offending.

Controlled operations

104. The existing controlled operations legislation was built for short-term activities, and was established prior to the emergence of the dark web as a primary facilitator for child exploitation. The covert infiltration of sophisticated dark web criminal syndicates requires long term strategies that require extensive resources and are conducted under the auspices of a major controlled operation.
105. The current legislation limits each authority period to three months, covering a maximum period of 24 months with extensions from the Administrative Appeals Tribunal. This is not reflective of the operational reality associated with progressing long-term operations investigating significant offending. At the 24 month period, the AFP is required to close the original controlled operation prior to gaining approval for a new controlled operation and transferring the existing work to the new approval.
106. The requirement for quarterly extension applications increases the administrative burden on the investigators, with significant supporting material required to gain an extension. A longer initial period for controlled operations, combined with greater extension period would better meet the needs for the type of long and protracted investigations conducted in the child exploitation space.

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Conclusion

107. The exploitation of children is a borderless crime that is constantly evolving to evade law enforcement attention and action. The offenders exploiting those vulnerable in our community are highly adaptable and employ technological advancements as they emerge.
108. To address this ever evolving threat, the AFP and partners must work together at local, national and international levels to maintain an ability to coordinate a full suite of expertise, resources and technology to swiftly combat these threats and protect the community.
109. Wherever possible, Australian authorities will pursue, arrest and prosecute Australian-based individuals involved in child exploitation to the fullest extent of the law.

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