

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO

Senator Hinch asked the following question at the hearing on 20 September 2017:

Senator HINCH: The criticism is that most crime is state crime or should be handled at the state level. But, increasingly, what they call cybersex trafficking is your bailiwick because the internet is federal and all those internet crimes are federal—is that correct?

Mrs Sengstock: There are Commonwealth laws that cover the field of online offences. Who takes the lead in terms of the AFP or the state and territory counterparts will depend on the particular nature of the case. Just because it's a Commonwealth offence does not necessarily mean that it will be the AFP who is leading, but it provides a way to cover the field. But we can provide you with some more information about how that's divided up—

Senator HINCH: I'd like that. You've become the umbrella group. I say that because the new Carly's law is a federal law, even though the crimes were committed in a state.

Mrs Sengstock: Yes. So, if something were to trigger that offence needing an investigation, there would be a decision made about who is better placed given the circumstances of that particular offence. But, if you'd like some more information on how that's allocated between the Commonwealth and the states and territories, we can provide that.

Senator HINCH: Yes, I'd like that. Thank you.

The answer to the honourable senator's question is as follows:

Combatting the sexual exploitation of children requires a nationally and internationally coordinated policing response.

Online child sexual abuse is criminalised under the *Criminal Code Act 1995* (Cth) (Criminal Code):

- Division 474 contains offences relating to the use of a carriage service to transmit access and produce child abuse material, to procure or groom a child for sexual activity, and to engage in sexual activity with a child.

Commonwealth legislation also includes offences for child sexual abuse that occurs overseas (Divisions 272 and 273 of the Criminal Code) and via a postal service (Division 471 of the Criminal Code).

Live-streamed child abuse (sometimes referred to as 'cybersex trafficking') is criminalised by Commonwealth offences for engaging in sexual activity with a child outside Australia (section 272.9 of the Criminal Code) and using a carriage service for sexual activity with a person under 16 years of age (section 474.25A of the Criminal Code).

State and territory legislation criminalises the full spectrum of child sexual abuse, including sexual intercourse with a child, grooming, procuring and possession of child exploitation and abuse material.

The Victim Based Crime (VBC) portfolio within the Australian Federal Police (AFP) is responsible for the investigation of Commonwealth online child sex offences and travelling child sex offenders.

Child Protection Operations (CPO), within VBC, targets and investigates offenders who sexually exploit and abuse children, use the internet to manipulate and distribute child exploitation material (CEM), facilitate the sexual exploitation of children, and travel offshore to commit sexual offences against children.

The Child Protection Assessment Team, within CPO, plays an integral role as a conduit between state and territory police, INTERPOL, EUROPOL, international law enforcement agencies and non-government organisations (NGO). The team is responsible for receiving reports from stakeholders, triaging available evidence and developing referral packages related to online child exploitation and travelling sex offender matters. These referrals are then sent to the relevant Joint Anti Child Exploitation Team (JACET) for their consideration.

The JACETs are joint AFP and state and territory police child protection teams which collaboratively share the risks and responsibilities in combatting child sexual exploitation. The teams were implemented in response to the high volume and velocity of child sexual exploitation pieces of information received by the AFP.

The JACETs are staffed with specially trained officers to assess all child exploitation referrals and investigate the most serious matters. The seriousness of these matters is assessed with the assistance of risk assessment tools.

Due to the nature of the crime type and the large number of variables that must be taken into account, there is no specific division of investigative responsibility between state and federal members of the JACETs.

All referrals allocated to the JACET teams are assessed by respective team leaders and a decision is made based on the experience of the officers and the particulars of the referral. This assessment also takes into account the seriousness of the alleged offending, persons at risk, and whether state or Commonwealth offences are the most applicable to the particular circumstances of the case. Referrals are then either investigated by the JACET or referred to the relevant AFP or state/territory police office for assessment in accordance with their normal protocols.