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

Program: AUSTRALIAN FEDERAL POLICE

Question No. SBE16/003

Senator Pratt asked the following question at the hearing on 17 October 2016:

Senator PRATT: Thank you. How many cases of revenge porn have been prosecuted under section 474.17 of the Criminal Code?
Mr Colvin: I will see if I have that material. I believe the department might have some of that material; if not, we can certainly get it for you. No, I am told we do not have a list of the numbers of prosecutions so far for revenge porn. And I would be a little cautious because it is a term that has snuck into the way this is described, but it loosely can cover a range of activity.
Senator PRATT: Okay, if you can take on notice that breakdown that would be terrific.
Mr Colvin: Yes.

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

Conduct that may constitute non-consensual sharing of intimate images (commonly referred to as 'revenge porn') is usually, but not exclusively, prosecuted under s 474.17 of the *Criminal Code 1995* (Criminal Code). Section 474.17 makes it an offence to use a carriage service in a way that reasonable persons would regard as being menacing, harassing or offensive. If the matter involved a victim that was a minor, the child pornography offences in the Criminal Code may also be relevant in some circumstances.

Given the breadth of cases prosecuted under s474.17 the Commonwealth Director of Public Prosecutions (CDPP) does not have a mechanism, without expending significant time and resources, of identifying which of these prosecutions relate to the non-consensual sharing of intimate images.

Since the introduction of s474.17 in 2004 there have been 844 charges proven against 410 defendants from prosecutions conducted by the CDPP. These statistics are current up to 5 December 2016.

Several states and territories have introduced or announced an intention to introduce offences that specifically criminalise the non-consensual sharing of intimate images. South Australia and Victoria introduced specific offences for the non-consensual sharing of intimate images in 2012 and 2014 respectively. New South Wales, Western Australia and the Northern Territory have announced plans to introduce specific offences for the non-consensual sharing of intimate images. States and territories also prosecute the non-consensual sharing of intimate images under broad offences such as stalking, identity theft, and domestic violence offences (see, for example, The Queen v Kotynski (unreported) 3 February 2017), also known as the Robyn Night case.

The Government is engaging with states and territories to ensure national consistency in addressing the non-consensual sharing of intimate images. On 9 December 2016, the Council of Australian Governments agreed to the development of principles for nationally consistent criminal offences relating to non-consensual sharing of intimate images. The Commonwealth Attorney-General's Department is leading the development of these principles through the National Cybercrime Working Group for consideration by the Law, Crime and Community Safety Council this year.