

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

Program: Australian Federal Police

Question No. SBE16/012

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

Senator REYNOLDS: What it appears to be—again, through my initial inquiries and those of a number of other people here—is that DFAT is aware of the situation. I understand they do not support these facilities any more because they cannot verify which ones are good versus bad. But the sorts of offences that my research has shown are absolute sexual exploitation of these children, because they have no-one to protect them at all; the trafficking aspect; and also the fraud perpetrated against Australians who donate money and support to these facilities, and who then keep coming back—not realising that their money is actually going to people who have trafficked these children. Also, a lot of these kids have false papers—that is why they are called paper orphans, because their documentation is falsified.

I think there is a whole range of issues here that are relevant to your international engagement. Could I ask on notice if you could review this issue and perhaps come back and provide a little more advice? I think that internationally somebody has to stand up for these kids and that someone has to initiate activities. At the moment, all the jurisdictions are looking at each other and saying, 'Well, it's not quite us.' I think that is why the criminals are now flourishing, because it slips between jurisdictions.

Mr Colvin: We can do that. I think there are two aspects to that. There is where Australians have been victims of this, and that is probably largely overseas offences. But we also need to understand where Australians may be willingly participating in an offshore sex offender arrangement as well.

I am not aware of any investigations specifically into that. There is probably a number of agencies—not just Australian agencies, the UN as well—that need to have a role in educating. We can take that on notice and give you a bit more information.

Senator REYNOLDS: Thank you. And just on that: I understand that there are also local connections. There are many, often sole traders, here in Australia who set up as brokers with schools, community groups and churches. They are paid to facilitate these visits, sometimes at large expense. Some of them undoubtedly are very genuine, but anecdotal evidence is that a lot of them are not. So there are Australians who are actively recruiting schools and community groups in quite sophisticated ways.

Mr Colvin: We need to look to see what offences are applicable, but it sounds like there would potentially be Commonwealth law that they would be breaching if they are facilitating that.

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

AFP Role in combatting Human Trafficking

The AFP works closely with the Department of Foreign Affairs, Department of Immigration and Border Protection, the Attorney-General's Department, state and territory law enforcement agencies and civil society agencies in responding to human trafficking.

Under the *National Action Plan to Combat Human Trafficking and Slavery 2015-2019*, the AFP trains Australian officials posted overseas to recognise the indicators of human trafficking and

slavery and to respond appropriately. The AFP is also involved in delivering training programs on this issue to law enforcement agencies throughout South East Asia.

The AFP supports a number of programs which aim to reduce human trafficking in the ASEAN region, including the Australia-Asia Program to Combat Trafficking in Persons (AATIP) and Bali Process Working Group.

AFP efforts in Cambodia

AFP in Cambodia liaises regularly with, and has an excellent working relationship with various Cambodian Departments and a number of Non-Government Organisations, and provides advice and technical support when required.

When an allegation of child sexual abuse is made against an Australian in Cambodia, the AFP in Cambodia is advised, and where appropriate, will provide assistance to the Cambodian investigators. The AFP has provided victim sexual evidence kits to the Cambodian National Police (CNP) for the purpose of collecting forensic evidence. The AFP provides immediate notification of any Australian registered sex offenders traveling to Cambodia.

It has been confirmed the issues raised by Senator Reynolds were drawn to the attention of Cambodian authorities some years ago. AFP liaison officers have been advised that strong action was, and continues to be, taken to combat the activity.

Australian based brokers and facilitators

Where the AFP receives referrals regarding Australians involved in benefitting from, encouraging or preparing for sexual offences against children outside Australia, the AFP investigates such activity under ss272.18 and 272.19 of the *Commonwealth Criminal Code 1995*. The offence provisions are outlined as follows;

272.18 – benefitting from offences in this Division

A person commits an offence if:

- They engage in conduct;
- They do so with the intention of benefitting from an offence against this divisions; and
- Conduct is reasonably capable of resulting in the person benefitting.

This still applies whether or not the person intends to benefit financially from an offence against this Division.

272.19 – encouraging

- They engage in conduct;
- They do so with the intention of encouraging an offence against this division; and
- Conduct is reasonably capable of encouraging such an offence.

In this section *encourage* means:

Encourage, incite to, or urge, by any means whatever, OR aid, **facilitate**, or contribute to, in any way whatever.

Neither of these requires the offence to have been committed. Both penalties are 20 years imprisonment.