

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

BUDGET ESTIMATES 2017

Australian Federal Police

Question No. BE17-120

Senator Kakoschke-Moore asked the following question on 02 June 2017:

Has the AFP noticed a recent increase in the issue of Australians involved with cyber sex trafficking?

How many investigations has AFP conducted into cyber sex trafficking?

How many referrals a month do AFP make to international agencies in regards to cyber sex trafficking crimes?

What sections of the criminal code do you routinely prosecute cyber sex trafficking under?

How do you charge people who have commissioned cyber sex or cyber sex trafficking?

is the AFP of the opinion that it would be easier to investigate cyber sex trafficking if it was placed on the national agenda ?

Would the AFP find it useful if cyber sex trafficking offences were included within the Bali process?

What issues does the AFP have when investigating cyber sex crimes? What changes would they suggest would increase their ability to successfully charge people with cyber sex crimes?

The response to the honourable Senator's question is as follows:

1. Has the AFP noticed a recent increase in the issue of Australians involved with cyber sex trafficking?

In responding to the question, we have taken 'cybersex trafficking' to mean a person using the internet to view, to pay to view, or to provide instructions and view, in real time, child sexual exploitation. This type of offending against children is referred to by law enforcement as Live Distance Child Abuse (LDCA).

The AFP investigates a range of offences related to child sexual abuse and exploitation. Offences include LDCA; the production, supply, and distribution of child exploitation materials; online grooming; and matters relating to travelling child sex offenders.

The AFP has experienced a general upward trend in referrals in relation to child sexual abuse and exploitation offences, including Live Distance Child Abuse.

2. How many investigations has AFP conducted into cybersex trafficking?

The AFP investigates a range of offences related to child sexual abuse and exploitation under Division 474 of the Criminal Code which relates to use of a carriage service for child exploitation.

It is not possible to quantify the number of investigations previously undertaken which might broadly be categorised as ‘cybersex trafficking’; however, there are currently more than 100 ongoing investigations in relation to child sexual abuse and exploitation.

3. How many referrals a month does AFP make to international agencies in regards to cyber sex trafficking crimes?

Between 1 June 2016 and 31 May 2017, the AFP referred 25 matters relating to offences under section 474 of the Criminal Code relating to use of a carriage service for child exploitation to its international partners. These referrals, however, are not limited to LDCA, and on occasion can incorporate a range of child exploitation offences.

4. What sections of the criminal code do you routinely prosecute cyber sex trafficking under?

While the AFP is not a prosecution agency, there are offences under the Commonwealth *Criminal Code Act 1995* that could be used to prosecute a person in Australia using the internet to request and watch child sexual abuse in another country.

These include:

- s272.9 Sexual activity (other than sexual intercourse) with a child outside Australia
- s474.14 Using a telecommunications network with intention to commit a serious offence
- s474.19 Using a carriage service for child pornography material
- s474.20 Possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service
- s474.22 Using a carriage service for child abuse material
- s474.23 Possessing, controlling, producing, supplying or obtaining child abuse material for use through a carriage service
- s474.25A Using a carriage service for sexual activity with person under 16 years of age
- s474.26 Using a carriage service to procure persons under 16 years of age
- s474.27 Using a carriage service to “groom” persons under 16 years of age
- s474.27A Using a carriage service to transmit indecent communication to person under 16 years of age

5. How do you charge people who have commissioned cyber sex or cyber sex trafficking?

The AFP investigates offenders using a variety of means, and considers appropriate charges on a case-by-case basis, dependent on the individual facts and circumstances of the matter.

6. Is the AFP of the opinion that it would be easier to investigate cyber sex trafficking if it was placed on the national agenda?

The AFP has the ability to investigate LDCA under the offences listed in response to question 4 above.

7. Would the AFP find it useful if cyber sex trafficking offences were included within the Bali Process?

There are identified links between child sexual exploitation and abuse and human trafficking, with similarities and trends emerging between the two crime types. Work undertaken under the auspices of the Bali Process assists in addressing trends and issues in relation to child exploitation.

8. What issues does the AFP have when investigating cyber sex crimes?

Cyber-related child sexual exploitation and abuse poses challenges due to the anonymity of the cyber environment and the related tools and platforms available to offenders to engage with potential victims and mask their true identity.

Advances in technology, the ease of access to the internet, tools and knowledge available to offenders to disguise their identity, and increasing use of the internet by younger children all pose challenges to such investigations. For regulatory authorities and law enforcement agencies, the immediate challenge lies in finding ways to mitigate the risks posed by increased anonymity in The Onion Router and the darknet. Additionally, these matters often cross international borders, which can increase complexity. For example, obtaining foreign evidence can be challenging across all crime types.

9. What changes would they suggest would increase their ability to successfully charge people with cyber sex crimes?

The range of offences that the AFP has at its disposal is extensive. The relevant offences under Divisions 474 and 272 of the Criminal Code extend to serious offences in foreign jurisdictions as well as offending in Australia. Changing technologies and increased capacity for anonymity online mean that legal frameworks require frequent review to ensure legislation keeps pace with technological advances. To that end, the AFP regularly discusses the appropriateness of the legislative framework with the Attorney-General's Department.