

DEPARTMENT OF HOME AFFAIRS

PARLIAMENTARY INQUIRY WRITTEN QUESTION ON NOTICE

Parliamentary Joint Committee on Law Enforcement
Inquiry into Law Enforcement Capabilities in Relation to Child Exploitation

15 November 2022

QoN Number: 03

Subject: Responsibilities between Commonwealth Government portfolios and departments regarding policies, programs and legislation that relate to child sexual exploitation.

Asked by: Helen Polley

Question:

Could you please outline the division of responsibilities between Commonwealth Government portfolios and departments regarding policies, programs and legislation that relate to child sexual exploitation. In particular, could you please outline the division of responsibilities for policies, programs and legislation relating to end-to-end encryption on social media and other technology platforms.

This question has also been asked of the Department of Infrastructure, Transport, Regional Development, Communications and the Arts and the Attorney Generals Department.

Answer:

Portfolio	Areas of responsibility
Attorney-General's Department	<ul style="list-style-type: none">• The Attorney-General's Department, through the National Office for Child Safety, leads national policy reforms to enhance children's safety and reduce future harm, with a particular focus on child sexual abuse. This includes leading oversight and implementation of measures under the National Strategy to Prevent and Respond to Child Sexual Abuse 2021-2030 in partnership with Commonwealth agencies and the States and Territories.• The Attorney-General's Department is also responsible for the Commonwealth's criminal justice and law enforcement policy response to child sexual abuse. This includes law and justice regional capacity building, international and industry engagement, policy responsibility for the child abuse offences in the <i>Criminal Code Act 1995</i> (Cth), sentencing, bail, vulnerable witness protections and other matters under the <i>Crimes Act 1914</i> (Cth) and managing federal offenders. The department also has responsibility for Commonwealth law enforcement powers, including under the <i>Crimes Act 1914</i> (Cth), <i>Surveillance Devices Act 2004</i> (Cth), <i>Telecommunications (Interception and Access) Act 1979</i> (Cth) and

	<p><i>Proceeds of Crime Act 2002</i>. The department also has policy responsibility for cybercrime.</p> <ul style="list-style-type: none"> • As part of the National Plan to End Violence against Women and Children 2022-2032, the Attorney-General's Department is responsible for the development and delivery of training to enhance the effectiveness of police responses to family, domestic and sexual violence through a national training package. • The Attorney-General's Department is also responsible for leading and coordinating the whole-of-government domestic policy response to human trafficking, slavery and slavery-like practices (collectively modern slavery). These crimes can involve the sexual exploitation and abuse of children. The Attorney-General's Department is responsible for coordinating and leading action under the <i>National Action Plan to Combat Modern Slavery 2020-25</i>, administering and implementing the <i>Modern Slavery Act 2018</i> (Cth), leading criminal law and policy development connected to modern slavery offences in the <i>Criminal Code Act 1995</i> (Cth) (Divisions 270 and 271), and delivering capacity-building and technical assistance to partner governments in the Indo-Pacific region.
Australian Federal Police	<ul style="list-style-type: none"> • The Australian Federal Police (AFP) Child Protection Operations works collaboratively with domestic and international partners to prevent, detect, investigate and disrupt online child sexual exploitation, and sexual abuse of children offshore. The AFP is focused on Australian offenders engaged in the sexual abuse of children offshore, by either travelling to offend or engaged in 'live online child sexual abuse' and on Australians involved in the production and supply of child abuse material. • The AFP is also focused on identifying victims depicted in child abuse material with the goal of removing them from harm and leads efforts under the National Strategy to Prevent and Respond to Child Sexual Abuse, to bolster law enforcement capabilities in relation to child sexual abuse. The AFP will lead a number of measures under the National Strategy, including a national enhancement of victim's identification, forensic training capability, enhancing AFP's Technology Detection Dog program, expanding AFP international operations and enhancing child protection investigations into online sexual exploitation in the Northern Territory. • The AFP-led Australian Centre to Counter Child Exploitation (ACCCE) delivers a consistent, holistic and coordinated response to counter child sexual abuse in Australia. It does this by using the expertise of law enforcement agencies, governments, non-government agencies, academics and industry. The ACCCE has a range of capabilities to deliver on its mission including; the triage of incoming reports to determine appropriate course of

	<p>action; covert capability to proactively target online child abuse syndicates; a victim identification capability that leads national coordination and de-confliction of victim identification efforts and an intelligence function to bring together intelligence capabilities from the Department of Home Affairs, the Australian Criminal Intelligence Commission and AUSTRAC.</p>
Commonwealth Director of Public Prosecutions	<ul style="list-style-type: none"> • The Commonwealth Director of Public Prosecutions (CDPP) prosecutes crimes against Commonwealth law. • The CDPP has a Practice Group that has a key focus on prosecuting Commonwealth child exploitation offences. A number of Commonwealth child exploitation offences prosecuted by the CDPP can involve the use of end-to-end encryption on social media and other technology. Examples of those offences are contained in Divisions 272, 273 and 474 (Subdivisions D, E, and F) of the <i>Criminal Code</i> (Cth).
Australian Criminal Intelligence Commission (ACIC)	<ul style="list-style-type: none"> • The ACIC continues to contribute to the First Commonwealth Action Plan 2021-2024, under the National Strategy to Prevent and Respond to Child Sexual Abuse, through: <ul style="list-style-type: none"> ○ Theme 5: Improving the evidence base; and ○ Measure 33 – Link data to help prevent and disrupt livestreamed child sexual abuse. • To achieve this, the ACIC works with law enforcement and other partners to coordinate a strategic response and collect, assess and disseminate intelligence and policing information in regard to child sexual abuse and exploitation. The ACIC has a dedicated intelligence team working to target Australians who pay to watch live-streamed sexual abuse of children overseas.
Australian Institute of Criminology	<ul style="list-style-type: none"> • The Australian Institute of Criminology delivers the Online Sexual Exploitation of Children Research Program, which aims to produce research that helps to understand, prevent, and disrupt child sexual abuse and online sexual exploitation.
Australian Transaction Reports and Analysis Centre (AUSTRAC)	<ul style="list-style-type: none"> • AUSTRAC has a dedicated Child Sexual Exploitation Response Team, focused on using financial intelligence capabilities and products to support investigations and prosecutions of child exploitation and abuse, including live-streaming. The team is a member of ACCCE. • AUSTRAC's public-private partnership, Fintel Alliance, has a working group focusing on combating child exploitation. In addition to law enforcement and financial industry partners, it includes the non-profit organisation International Centre for Missing and Exploited Children, and the Australian Institute of Criminology.

<p>Department of Infrastructure, Transport, Regional Development, Communications and the Arts</p>	<ul style="list-style-type: none"> • The online sexual exploitation of children comprises a range of offence types, crosses domestic and international jurisdictions, and reflects the challenges for government posed by emerging technologies. This complex and evolving crime type demands government leadership on multiple fronts. This response sets out Department of Infrastructure, Transport, Regional Development, Communications and the Arts' (DITRDCA) responsibilities in relation to online child sexual exploitation. • DITRDCA provides advice to the Minister for Communications and the Australian Government on online safety, including the <i>Online Safety Act 2021</i> (the Act) which establishes the eSafety Commissioner. The Act includes the following elements relevant to child exploitation: <ul style="list-style-type: none"> ○ The Online Content Scheme, including industry codes ○ Image Based Abuse scheme ○ Basic Online Safety Expectations. • Further information is set out in DITRDCA's submission to the Committee. • We defer to the Departments of the Attorney General and Home Affairs' descriptions of their portfolio responsibilities.
<p>Home Affairs and Australian Border Force</p>	<ul style="list-style-type: none"> • End-to-end encryption has implications for privacy, law enforcement, cyber security and national security. Home Affairs and the Attorney-General's Department lead whole-of-Government policy on end-to-end encryption. • Home Affairs' Intelligence (Child Exploitation Border Targeting) aims to discover previously unknown travelling child sexual exploitation offenders, including those generally not identifiable through traditional intelligence analysis or existing border targeting methods. Home Affairs Intelligence is also a member of the Australian Centre to Counter Child Exploitation intelligence fusion cell. • Home Affairs combines its data with Australian Border Force intervention powers, and applies sophisticated threat discovery capabilities. This significantly increases child abuse material detections at the border and provides post border investigation opportunities through discovery of previously unknown travelling child sex offenders.