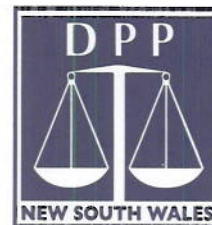


OUR REFERENCE

DIRECTOR'S CHAMBERS

J.Pheils 02 9285 8669; 02 9267 5305 (fax)

YOUR REFERENCE



DATE
17 June 2010

Inquiry Secretary
Joint Select Committee on Cyber-Safety
PO Box 6021
Canberra ACT 2600

SUBMISSION NO.47

Inquiry into Cyber-Safety

Dear Ms Hearn

Inquiry into Cyber Safety

I refer to your letter dated 14 May 2010 inviting submissions to the Joint Select Committee's inquiry into cyber-safety issues affecting children and young people.

The Office of the Director of Public Prosecutions, NSW (ODPP) prosecutes serious indictable crime under the laws of NSW. Increasingly the Office is prosecuting offences involving young persons and the use of the internet. The factual scenarios include offenders procuring and grooming their victims through websites and chat rooms and the use of the internet between young people who otherwise know each other. The ODPP is also prosecuting an increasing number of offences relating to child abuse material.

In 2009 the ODPP participated in an interagency working party, the Child Pornography Working Party. The report¹ of the working party was published in January 2010 and made a number of recommendations in respect of the prosecution of child abuse offences in NSW. That report discusses in detail many of the issues that may be of interest to the Committee in respect of the prosecution of these offences including the following.

1) It is not unusual for there to be a combination of Commonwealth and State offences in this area due to the use of telecommunications and therefore it is important for there to be consistency in the legislation; for instance, NSW has recently amended the definition of child abuse material to bring it in line with the Commonwealth definition².

Many of these cases involve possession of child abuse material only and will not involve a victim who is required to give evidence; however, in cases that involve offences with child victims it is noted that the NSW ODPP is better placed than the Commonwealth ODPP when prosecuting matters to offer support and assistance to victims through our Witness Assistance Service. More information may be obtained about the Witness Assistance Service at our website.³

2) Significant resources are required to investigate and prosecute matters. Cases involving child abuse material frequently involve very large numbers (thousands) of images. This material will be in varying degrees of seriousness and will typically involve a variety of

¹ published at www.lawlink.nsw.gov.au/lawlink/clrd/ll_clrd.nsf/pages/CLRD_reports

² Crimes Amendment (Child Pornography and Abuse Material) Act 2010.

³ www.odpp.nsw.gov.au

formats such as images and video files. The material is often located in a number of different storage devices; for example, multiple computers, portable hard drives, thumb drives and storage discs. This has very significant implications for all those involved in the investigation and prosecution of the offences in a number of ways, including:

- a) the need to view every image to determine whether or not the child depicted can be identified;
- b) the distressing nature of the images;
- c) the time taken to complete an investigation.

One of the most significant impacts of these factors is the risk of vicarious trauma through exposure to the material for, particularly, investigators but for all those involved in the criminal process.

A technological solution, the Australian National Victim Image Library (ANVIL)⁴ and the use of Microsoft software Child Exploitation Tracking System (CETS), has been developed to assist in the investigation of these matters. This system, when up and running, will greatly reduce the need for investigators and others involved in the prosecution of offences to view child abuse material. Presently we understand that Queensland is the only State where this system is being trialled. For the significant benefits of ANVIL to be realised it needs to be used nationally and resources should be allocated to Police throughout Australia to get this system up and running.

Thank you for inviting this Office to comment. If any further information is required about these matters please contact Ms Johanna Pheils, A/Deputy Solicitor (Legal) on (02) 9285 8669 or JPheils@odpp.nsw.gov.au.

Yours faithfully

N R Cowdery AM QC
Director of Public Prosecutions

⁴ See Report of Child Pornography Working Party at page 31 for description of this system.