

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

Program: 1.7 National Security and Criminal Justice

Question No. AE17/150

Senator Pratt asked the following question at the hearing on 24 March 2017:

To the department –

1. In December 2016, COAG agreed to the development of principles for nationally consistent criminal offences relating to non-consensual sharing of intimate images.

a) How will these principles ensure national consistency?

b) How will these principles ensure consistency between States and Territories that have already introduced criminal offences that are inconsistent with each other?

To the Attorney-General –

c) Why did the Government decide that the development of principles for nationally consistent criminal offences across the States and Territories was preferable to introducing a nationally consistent criminal offence into the Commonwealth Criminal Code?

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

a) & b) The principles for nationally consistent criminal offences relating to the non-consensual sharing of intimate images were developed by the National Cybercrime Working Group, which includes Commonwealth, state and territory representatives from justice and law enforcement agencies. The Law, Crime and Community Safety Council (LCCSC) endorsed these principles on 19 May 2017. The principles reflect protocols agreed with states and territories that recognise that state and territory police should generally handle criminal investigations into cybercrimes against the person. The principles will articulate core elements and considerations to support the development and review of criminal offences for the non-consensual sharing of intimate images. The principles will aid consistency and victim outcomes by providing a reference for legislative reforms undertaken by states and territories.

c) The Commonwealth has legislated extensively to address the use of carriage services to commit offences, including an offence of using a carriage service to menace, harass, or cause offence. Comprehensive offences for child pornography material will also apply when an intimate image depicts a minor. These existing Commonwealth criminal laws appropriately capture the non-consensual sharing of intimate images, as demonstrated by a number of successful prosecutions.

Criminal laws in relation to offences against the person are primarily the responsibility of state and territory governments, and cybercrimes against the person, including investigations related to sharing intimate images, are generally handled by state and territory police. This approach reflects the Australia New Zealand Policing Advisory Agency (ANZPAA) *Protocols for Law Enforcement Agencies on Cybercrime Investigations*.

More broadly, and in addition to maintaining relevant Commonwealth criminal offences, the Government is taking a holistic approach to addressing the non-consensual sharing of intimate images. Education, victim support and civil avenues are equally important to combat the non-consensual sharing of intimate images. The Government is developing an online reporting portal for victims to report incidents and access immediate and tangible support, and delivering cyber-

safety presentations to children, parents and teachers through the AFP's Think U Know Program. The Government has also launched the eSafety Women initiative to empower Australian women to take control of their online experiences, is funding women's online safety programs under the Third Action Plan of the *National Plan to Reduce Violence Against Women*, and is conducting public consultations on a proposed civil penalties regime targeted at both perpetrators and sites which host intimate images shared without consent.