

**Parliamentary Joint Committee on the  
Australian Crime Commission**

**Inquiry into trafficking in women for  
sexual servitude**

**Submission No:37**

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**Inquiry: Trafficking in Women – Sexual  
Servitude**

Submitted by the Australian Federal Police

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## DEFINITIONS

Throughout this submission, the following definitions apply:

### ***Trafficking***

The internationally agreed definition of '*trafficking*' is contained in the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*, a protocol to the *United Nations Convention Against Transnational Organized Crime*. The basic elements of this definition are the recruitment, transportation, harbouring or receipt of persons; by means of threats, force, coercion, deception or abuse of power; for the purposes of exploitation. This exploitation can incorporate the concept of '*sex trafficking*' which includes slavery, sexual servitude and deceptive recruiting.

Australia has signed this Protocol and will move to ratification as soon as domestic requirements are in place.

### ***Smuggling***

'*Smuggling*' is defined as the procurement, in order to obtain directly or indirectly a financial or other material benefit, of the illegal entry of a person into a state party of which the person is not a national or permanent resident.

It is important to note the distinction between people smuggling and trafficking in persons: people *smuggling* is usually limited to illegally transporting person(s) to another country after which the relationship between the smuggler and smuggled person terminates. This differs from trafficking in persons, where the person(s) are delivered to organisations or individuals who have paid for their delivery, after which the trafficked person(s) must repay their debt to the organisers through prostitution or forced labour.<sup>1</sup>

The following definitions have been taken from the *Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999*. The Australian Government, as part of its recent announcement of a major package to combat people trafficking, will introduce offences to more comprehensively criminalise trafficking activity.

### ***Slavery***

'*Slavery*' is defined as the condition of a person over whom any or all of the powers attaching to the right of ownership are exercised. '*Slave trading*' is defined to include capturing, transporting or disposing of a person with the intention of reducing the person to slavery, as well as purchasing or selling a slave.

### ***Sexual Servitude***

'*Sexual servitude*' is defined as the condition of a person who provides sexual services and who, because of the use of force or threats, is not free to cease providing sexual services, or is not free to leave the place or the area where the person provides sexual services. The offence of *sexual servitude* applies to Australian citizens and residents who force others into the condition of sexual servitude.

### ***Deceptive Recruiting***

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<sup>1</sup> Kelly, L. and L. Regan (2000) *Stopping Traffic: Exploring the Extent of, and Responses to, Trafficking in Women for Sexual Exploitation in the UK*. Police Research Series, Paper 125, London.

Under the Commonwealth Criminal Code, ‘*deceptive recruiting*’ is where a person deceives a second person about the fact that their employment will involve the provision of sexual services, where the first person intends to induce that second person into an engagement to provide a sexual service.

## **1. INTRODUCTION**

### **1.1. Overview**

The Australian Federal Police (AFP) welcomes the opportunity to make a submission to this Inquiry. Given the nature of the Inquiry and the Committee’s terms of reference, this submission focuses on the AFP’s relationship with the Australian Crime Commission (ACC). This submission also outlines the major new package to combat people trafficking announced recently by the Australian Government, particularly the establishment of a new AFP investigative team.

Recent years have seen an increase in both international and domestic focus on trafficking in persons for the purposes of sexual exploitation. Internationally, there has been an upward trend in sex trafficking, as a form of transnational crime. While Australia is not a source or transit country, it is a destination country for trafficking in persons, particularly women for the purpose of slavery and sexual servitude.

The AFP notes these international trends, and recognises that people trafficking is a major form of transnational organised crime and indeed a serious regional and global problem. Australia is making a serious and sustained effort to eliminate trafficking in persons, investigate and prosecute traffickers, and protect the welfare of victims. This effort is demonstrated in the recently announced package which strengthens the Australian Government’s ability to combat trafficking at all levels.

The AFP recognises the impact this crime has on its victims. Criminal syndicates which traffick in women for sexual servitude exploit the desperation of women who live in conditions of economic and sometimes social deprivation. The victims of slavery and sexual servitude can generally be categorised in one of two ways. Firstly, there are victims who choose to travel to Australia for the purpose of working in the sex industry, but are forced into sexual servitude; and secondly, victims who travel to Australia believing that they will work in some other industry, but who are subsequently forced into sexual servitude.

### **1.2. The AFP’s Roles & Responsibilities**

The AFP investigates complex and serious transnational criminal activity, including activity associated with trafficking in persons. The *Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999* introduced the offences of slavery, sexual servitude and deceptive recruiting. The AFP works closely with the ACC on this and other areas of nationally significant crime.

The AFP established a Transnational Sexual Offences Team (TSOT) in December 2002 within the AFP’s Transnational Crime Coordination Centre (TCCC). The TSOT was established to develop targets, coordinate investigations and liaise with other

agencies in relation to transnational sexual offences, including child sex tourism, slavery and sexual servitude. Its location within the TCCC provided the TSOT with an opportunity to access and share information across other teams and crime types.

The AFP also utilises its extensive International Liaison Network to facilitate enquiries, exchange information with law enforcement agencies and share intelligence. The Network is instrumental in establishing regional law enforcement partnerships and assisting in the development of a regional approach to trafficking in persons.

### *New Measures*

On 13 October 2003, the Australian Government announced a major package to substantially enhance existing efforts to combat people trafficking. Overarching this package will be a Commonwealth Action Plan to Eradicate Trafficking in Persons. The AFP will be closely involved in developing this plan, to be led by the Attorney-Generals' Department (AGD).

Under the new package, the AFP will incorporate the TSOT into a new and larger strike team, the Transnational Sexual Exploitation and Trafficking Team (TSETT). This mobile strike force, modelled on the AFP's successful Avian counter-narcotics strike teams will strengthen the AFP's capacity to actively target and investigate trafficking syndicates. It will make a substantial impact on combating sexual servitude in Australia. The Team will have 23 members and will be located within the TCCC for national coverage and flexibility. While the team will be primarily focused on trafficking in persons, it will also continue the important work of the TSOT in fighting child sex tourism – another form of transnational sexual exploitation.

To build the capacity of law enforcement, the AFP will also develop a People Trafficking Specialist Investigations Training program. The program will advance expertise in areas critical to the successful investigation of people trafficking, including legislation, investigative methodologies, and victim liaison and support. This training package will in time also be offered to partner government agencies on a cost recovery basis.

In addition to this new package, the Minister for Justice and Customs is sponsoring the development of a Law Enforcement National Plan of Action through the Australasian Police Ministers' Council (APMC). APMC recognised that trafficking in women for the purposes of sexual servitude is a serious crime that all jurisdictions need to address. It agreed that all jurisdictions should review their relevant laws, consider ways to enhance intelligence and information sharing, and review their operational arrangements with the Department of Immigration and Multicultural and Indigenous Affairs, particularly to ensure victims of trafficking and sexual servitude are identified and dealt with as victims of crime.

The AFP is leading the development of the plan, on behalf of the Minister for Justice and Customs, and proposals will be considered by APMC at its meeting in November 2003.

Other key elements of the Australian Government's package to combat people trafficking include:

- Closer links between AFP and DIMIA officers in the detection and investigation of trafficking and enhanced training on trafficking issues, ensuring that the existing close cooperation is further enhanced. A major new initiative is the creation of a new Senior Migration Officer (Compliance) in Thailand, focused on trafficking in persons. The AFP will work closely with this position and local authorities to identify possible trafficking organisers and organisations;
- New visa arrangements for people identified as possible trafficking victims;
- Comprehensive victim support measures provided through a contracted case manager, including appropriate accommodation and living expenses and access for victims to a wide range of social support, legal, medical and counselling services;
- Enhancement of arrangements, including access to additional support, for the small number of potential victims who may be required to remain in immigration detention;
- Development of a reintegration assistance project for trafficking victims who are returned to key source countries in South East Asia;
- Improvements to legislation to comprehensively criminalise trafficking activity;
- Legislative amendments to make telecommunications interception available for *Criminal Code* offences of slavery, sexual servitude, deceptive recruiting and people smuggling with exploitation. This legislation was passed through the House of Representatives on 15 October 2003; and
- Ratification, once all domestic requirements are in place, of the *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*.

## **2. TERMS OF REFERENCE**

In relation to the Committee's terms of reference, the AFP provides the following:

### **2.1 The ACC's work in establishing the extent of people trafficking for the purposes of sexual servitude**

The ACC's primary mandate is to collect and analyse criminal intelligence, to establish National Criminal Intelligence Priorities (NCIPs) for all law enforcement agencies and to conduct investigative and intelligence operations into nationally significant crime. The AFP and other law enforcement agencies also look to the ACC for advice on emerging trends.

The AFP contributed to the ACC's development of a strategic criminal intelligence assessment on trafficking in sexual servitude.

In addition to this assessment, the ACC Board has issued National Criminal Intelligence Priorities (NCIPs), which include 'illegal and indentured prostitutes'.

The AFP understands that the ACC's submission to this Inquiry will provide further detail on the NCIP process and the illegal and indentured prostitutes category.

The ACC Board has also authorised a range of ACC intelligence operations and special investigations, although no authorisation has been issued in relation to trafficking in women for the purposes of sexual servitude. However, the AFP notes that the ACC's strategic assessment may result in further consideration of the issue by the Board. The AFP also notes that the ACC has taken other preliminary action under its *Midas* determination targeting money laundering and tax offences.

### **AFP Investigations**

The AFP has investigated 37 matters since the introduction of the legislation in 1999. Of these, 15 matters remain open. Since June 2003 the AFP has made eight arrests relating to sexual slavery, servitude and deceptive recruiting. These charges were the first brought under the 1999 legislation noted in 1.2 above. These matters are still before the courts so the AFP is able to provide only limited detail.

In Melbourne in July, four people were arrested and charged with slavery and aid and abet slavery. The charges relate to six Thai women who were allegedly recruited to Australia for work in the hospitality industry. The women alleged that they were held against their will, locked in "safe houses", and forced to work until they had repaid a large "debt" incurred before being brought to Australia. The AFP and the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) worked closely in the execution of the search warrants which resulted in these arrests.

In Sydney in June, three people were charged in relation to allegations that three Indonesian women were lured to Sydney with the promise of work in the public relations and hospitality industries but were told when they arrived in that they would be required to work in the sex industry. In August a further arrest was made in relation to this investigation. The charges laid include aiding and abetting the conduct of a business involving sexual servitude, with aiding and abetting deceptive recruitment for sexual services and with deceptive recruitment for sexual services.

The new initiatives announced by the Australian Government on 13 October will considerably enhance the AFP's capability to fight people trafficking. While continuing to investigate these offences, the AFP has commenced the establishment of the TSETT and in the short to medium term, priorities for the AFP include:

- Establishing the TSETT and associated specialist investigations training package by 1 January 2004.
- Negotiating improved protocols with DIMIA on matters relating to investigation of people trafficking involving sexual exploitation.
- Negotiating arrangements between relevant agencies for individuals holding a people trafficking Criminal Justice Stay Visa (CJSV) to receive victim support. The AFP will maintain its access to victims - which is crucial for the collection of evidence to investigate people traffickers - while continuing to recognise the unique needs of trafficking victims.



- Developing proposals, in consultation with all jurisdictions, for the Law Enforcement National Plan of Action.
- The Commonwealth Attorney-General's Department will coordinate the development of a *Commonwealth Plan of Action to Eradicate Trafficking in Persons* and the AFP will actively participate in this process.

## **2.2 The ACC's relationships with other relevant Commonwealth and State agencies.**

### **The AFP's relationship with the ACC**

The AFP is closely engaged with the ACC at a strategic level through the Commissioner's role as Chair of the ACC Board, and at an operational level through joint intelligence and investigative work. Both agencies are working to improve the collection, analysis and dissemination of intelligence on nationally significant crime, including trafficking in persons and work collaboratively on assessments.

From the AFP's perspective, the ACC delivers a range of important national criminal intelligence information systems, including the Australian Criminal Intelligence Database (ACID) and the Australian Law Enforcement Intelligence Net (ALEIN). The AFP also utilises the ACC's range of criminal intelligence products to inform decision making at strategic, operational and tactical levels.

The AFP is one source of intelligence for the ACC on sexual servitude and related matters. The ACC provides the AFP with insight into criminal threats and crime trends. The continued exchange and sharing of intelligence between the ACC and AFP will effectively serve to increase the law enforcement response to sex trafficking. The ACC has agreed to use the AFP's International Liaison Network as its primary point of access to overseas law enforcement agencies. The Network has posts in many strategically important locations around the world, including a strong presence in North and South East Asia.

The ACC is a new agency and is still in the process of establishing its formal consultation mechanisms and relationships with other agencies. The AFP notes the efforts of the ACC in establishing these relationships, including its presentations to forums such as the Heads of Criminal Intelligence Agencies meetings and the Australasian Crime Commissioners' Forum. The AFP is a member of the ACC established National Information Sharing Working Group, which has commenced detailed work in improving intelligence and information sharing between agencies. At agency level, senior managers from the AFP and the ACC participate in regular fortnightly meetings. These discussions cover various criminal intelligence and inter-agency coordination issues, and are assisting the development of the relationship between both agencies.

### **2.3 The adequacy of the current legislative framework.**

The AFP enforces Commonwealth criminal law and in the case of trafficking in persons is responsible for enforcing the offences of sexual servitude, slavery and deceptive recruiting as listed in the *Criminal Code Amendment (Slavery and Sexual Servitude) Act 1999*. The recent arrests in Sydney and Melbourne demonstrate the adequacy of these offences to bring charges against alleged offenders. The Australian Government's new package to combat trafficking includes legislative amendments to more comprehensively criminalise trafficking activities.

The Commonwealth Attorney-General's Department (AGD) is responsible for administering this legislation and the AFP notes that the AGD submission to this Inquiry will provide expert commentary on the existing Commonwealth legislative framework, and proposals for the new offences.

In addition to Commonwealth offences, Commonwealth legislation also provides mechanisms for assistance to criminal investigations. In addition to the normal range of law enforcement powers, the *Migration Act 1958* provides for the issuing of CJSVs. The victim support elements of the package announced by the Government on 13 October provide a more flexible and appropriate support mechanism for both law enforcement agencies and victims of people trafficking.

Currently unlawful non-citizens who are victims or witnesses in people trafficking investigations can remain in Australia on a CJSV. The AFP is the applicant for the Visa in such cases and must shoulder the responsibility for the whole cost of maintaining the victim or witness while they are required to remain in Australia for criminal justice purposes.

Under the new package, trafficking victims will be allowed to stay in Australia under an extended Bridging Visa arrangement, for up to 30 days. After this 30 day period the AFP, or other law enforcement agency, can apply for a CJSV on behalf of the victim. During this time they will be provided a Case Manager who will arrange for extensive support, including income support for living expenses; secure accommodation; access to medical treatment; training such as English language and skills development courses; access to legal services; and social support. The costs of the looking after people staying in Australia on a CJSV will now be covered by the provisions of the new victim support package.

These new victim support arrangements will allow the AFP to continue its role in maintaining the integrity of relevant evidence relating to criminal investigations, while also working closely with the Case Manager and other victim support services. International experience and research, as well as the AFP's own, shows that evidence from victims is often key to successful investigations. The AFP recognises that this can pose a considerable burden on victims and will continue to undertake its investigations in a sensitive and understanding way. The AFP's specialist investigations training package will provide further expert advice to officers involved in investigating trafficking offences, who inevitably come in close contact with victims.

## **CONCLUSION**

The AFP is committed to ongoing strategic alliances, both offshore and domestically, in the fight against people trafficking. The AFP also recognises the importance of appropriate support for victims of these crimes.

The AFP believes the ACC has taken some important first steps in assessing the extent of trafficking in persons for sexual servitude in Australia. The AFP recognises its own role in contributing to the ongoing efforts by government to fully understand this crime, and effectively respond to it.

The Australian Government's major package to fight people trafficking provides the AFP with a significantly increased capability to tackle this serious form of organised crime and to actively assist other agencies in doing the same. The whole of government approach to this problem, which includes both the AFP and ACC, demonstrates the commitment of a wide range of agencies to fight people trafficking, particularly of women and children for sexual servitude.

The AFP's developing relationship with the ACC, at the strategic level through the Board and other forums, and at operational level through joint intelligence and investigations work, will be a vital component of Australia's response to this and other nationally significant crime. The AFP will work closely with the ACC as the new initiatives are implemented and opportunities for joint working arrangements become apparent.