

Multi-layered trap awaits human traffickers

Human traffickers now face a wider array of sanctions and punitive measures as the AFP Human Trafficking Team and allied stakeholders ramp up their efforts against them.



"What these human traffickers need to know is that we're watching them. The net is wide. Our network is remarkable. We have a very robust mechanism in place – and once we identify somebody, we will target them innovatively and relentlessly."

Manager AFP Special References Chris McDevitt is clear when it comes to tracking and prosecuting human traffickers. In charge of the AFP Human Trafficking Teams under the Agency's Crime Program, the investigations run by his area have unearthed some horrendous sexual slavery and labour exploitation crimes in Australia.

In the past 12 months, the Human Trafficking Team – consisting of 30 dedicated personnel in Melbourne, Brisbane, Sydney, and a National Coordinator in Canberra – have actively pursued new cases and reinvigorated others using intense investigative work and capacity building, including skills development, research, law reform, and collaboration with government, non-government and private sector stakeholders.

Under the leadership of the Attorney General's Department, the AFP and its many partner agencies have attracted international accolades, with United Nations

01: Manager AFP Special References Chris McDevitt says his teams have shown a high level of investigative prowess during a hectic 12 months.
02: *The Anti Human Trafficking Community Resource* provides options when the judicial system alone cannot address the crimes perpetrated by traffickers.

Snapshot 2011: the AFP Human Trafficking Team

This is how 2011 unfolded across the board for the AFP 'HTT':

APRIL: An exercise to identify legislative, administrative and socio-legal measures to disrupt criminal groups benefiting from people trafficking is hosted by the HTT in Canberra.

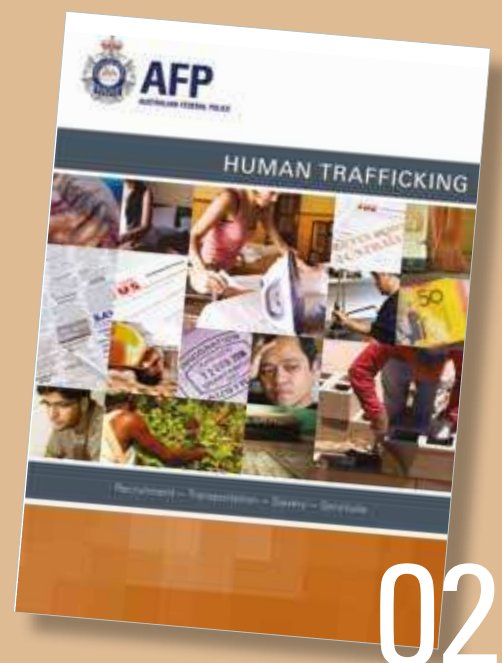
APRIL: The *Australian Policing Strategy to Combat Trafficking in Persons 2011-13* is signed off by State and Territory Police.

JULY: The team conducts a revised 'Human Trafficking Investigations Program' for 20 police personnel from around Australia.

JULY: A revised *Practical Guide on Human Trafficking Investigations* is produced. This is followed by the distribution of a human trafficking 'first response' aide memoire for non-specialist operational members.

OCTOBER: The 'Diveye Trivedi' case: Listed for sentencing in January 2012, this significant AFP case marks the second prosecution for labour trafficking after the introduction of a trafficking offence in the Criminal Code in 2005.

NOVEMBER: The *Anti Human Trafficking Community Resource* is developed and collated.



Special Rapporteur in Trafficking in Persons, Joy Ngozi Eszeilo, recently acknowledging the AFP's efforts.

"I have learnt of a range of important initiatives [in Australia], including a strong and committed unit within the Australian Federal Police devoted to the issue of trafficking," she said.

According to Commander McDevitt, penalties available under the *Criminal Code Act 1995* are vital, but form only part of a range of punitive options to bring human traffickers to account.

In November last year, the breadth of this punitive net was highlighted when the AFP developed and collated the *Anti Human Trafficking Community Resource*, which advocates a collective disruption/collaboration approach.

The Resource comprises submissions from 29 AFP stakeholders and provides options when the judicial system alone cannot address the crimes perpetrated by traffickers – crimes which can include imprisonment, repeated rape, assault, forced labour, sexual servitude, debt bondage, money laundering and identity fraud.

In addition to outlining relevant Commonwealth, State and Territory legislation, the 52-page Resource details the interdependent roles of regulators, industry, government, law enforcement, unions, employers and non-government and community organisations in supporting and protecting victims. It highlights alternative means of punishing offenders, including imposing health, safety, business and tax regulations and sanctions.

AFP Commissioner Tony Negus said addressing human trafficking requires innovative and robust solutions from all sectors of society.

"This is not a crime type that can be dealt with in isolation of the community, nor is it a crime type that is always effectively dealt with through the judicial system," he said.

"We need to work together with other government agencies and non government organisations. This includes health inspectors, local councils, consumer affairs, unions, community groups and the media at every level."

The AFP's success over recent years is evident in official statistics

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showing that it has investigated 324 cases of human trafficking since 2003. In the 2010-11 financial year alone, it progressed 45 cases, 35 of these new referrals.

Commander McDevitt says that if the AFP, state or territory police are unable to get a brief of evidence or achieve a prosecution, then the cooperative relationships will lead to other punitive options.

"The Resource has gone out to all police services who will be able to quickly consider the crime type from a multi-agency perspective and identify other measures if they don't have sufficient evidence to prosecute," he said.

The AFP has a solid history in human trafficking investigations, with Federal Government funding boosts in 2003 and 2007 strengthening the capacity to detect and investigate. The Agency also provides specialist training to law enforcement in the Asia-Pacific region, from where 1.4 million trafficked persons a year originate.

Specialist investigators currently deliver human trafficking investigations training programs, providing participants with the skills to disrupt, prevent, detect and investigate this crime type.

03: Human trafficking crimes can encompass imprisonment, repeated rape, assault, forced labour, sexual servitude, debt bondage, money laundering and identity fraud.



Precedent: sexual slavery and the Wei Tang case

Until August 2008, one unanswered legal question posed a significant problem for those seeking to convict traffickers involved in 'sexual slavery'.

How do you convict for a crime or expose slavery in a legal system that does not recognise or define its existence?

The answer came after a majority Australian High Court ruling upheld the conviction of Melbourne brothel owner, Wei Tang, for slavery offences in relation to her treatment of five Thai women.

The women had been brought from Thailand to a Melbourne brothel, where they were 'debt bonded' and forced to slowly pay off a significant debt to the brothel owner.

The High Court heard that the five women 'voluntarily' entered into the arrangement, fully knowing what was ahead of them, and that the accused did not necessarily intend to exercise rights of 'ownership' over them.

However, a majority ruling concluded that the Thai women were slaves if, after they arrived, they did not retain any freedom to choose what was done with them in Australia.

After a person's choices are removed, the High Court ruled, the presence or absence of assent is not meaningful.

But while convictions are a driving force for the AFP Human Trafficking Teams, Commander McDevitt says that the interests of the victim are always paramount.

"We and our partner agencies want to ensure that any victim rescued from these horrendous situations is given every available opportunity and all assistance, to get their lives back together," he said.

"It is very satisfying to the Human Trafficking Teams, and indeed all of our partners, to rescue a victim from these abhorrent circumstances and prosecute those involved in inflicting it upon them. It beggars belief what one human being can do to another."

The AFP's International Network of police liaison officers is critical in assisting agent access to witness statements and intelligence, as well as helping with repatriation of victims and supporting the investigation of extraterritorial offences when identified.

The AFP's support role has been formalised through the 'Support for Victims of People Trafficking Program' administered by the Attorney-General's Department, which assists witnesses giving evidence in judicial proceedings against their alleged traffickers. The Commonwealth-funded program is run by the Australian Red Cross, with victim referrals from the AFP.

In conjunction with its investigative and support role, the AFP is also involved in several high-level interdepartmental groups, providing updates and receiving information on the state of human trafficking in Australia. In November last year, the AFP participated in the National Roundtable on People Trafficking and in April it was instrumental in producing the *Australian Policing Strategy to Combat Trafficking in Persons 2011-13*.

This Strategy will see all Australian police jurisdictions working together to combat all forms of human trafficking, including sexual servitude, forced labour trafficking, organ harvesting, servile marriages and associated State and Territory offences.

As part of the negotiations for the Strategy, the AFP Commissioner and his State and Territory counterparts agreed to progress anti-human trafficking strategies as part of a united approach to a high priority policing issue.

The associated implementation plan – which includes an 'Intelligence Collection Plan' for stakeholders to contribute information toward police resourcing decisions – is currently being developed.

04: The AFP Human Trafficking Teams have unearthed some horrendous sexual slavery and labour exploitation crimes in Australia.



'Brilliant' investigations rewarded

Protracted. Confronting. Multinational. Complex.

Just some of the words used to describe the tasks of investigators pursuing human traffickers.

The continued success of AFP members in dealing with these hurdles was recognised in December last year when Federal Agent Jennifer Cullen received the 'Anti Slavery Australia Freedom Award' for her significant contribution in the field.

Manager Special References Chris McDevitt praised the work of Federal Agent Cullen during her time as National Coordinator of the former Transnational Sexual Exploitation and Trafficking Team.

"It is very pleasing to see that one of our very dedicated AFP

members has been identified by an independent panel of experts for her work in our whole-of-community efforts against this abhorrent crime," he said.

The Freedom Awards, funded by the Attorney-General's Department, were established by Anti Slavery Australia, a research and legal centre of the University of Technology in Sydney.

Commander McDevitt acknowledged the dedication of Federal Agent Cullen and others in the area.

"It's extremely difficult. They are very complex investigations requiring a very high level of investigative prowess. I am pleased to say that the AFP has some brilliant investigators doing this," he said.

"You're relying on different processes like mutual

assistance. You've got different cultures. You've got communication barriers.

"They dedicate sometimes thousands of hours of police time to some complex investigations."

It took almost five years from when human trafficker Wei Tang was arrested in 2003 to her eventual conviction in 2008, following an appeal to the Australian High Court.

"Yes, there are complexities surrounding the gathering of information and intelligence – but we are patient and relentless," Commander McDevitt said.