

Online child sexual exploitation offenders: A study of Australian law enforcement data

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Foreword

Children are among the most vulnerable members of our society and need our nurture, care and protection, yet too many children around the world experience some form of child abuse. The exploitation of children for sexual purposes, in which children are used as commodities for the sexual pleasure of adults, is particularly heinous.

Child sexual exploitation (CSE) is a global problem that demands strong and effective responses. The full extent and nature of the problem, both historically and currently, is only now beginning to be recognised. The reality of child sexual exploitation within families, in institutions and elsewhere must be confronted.

Evidence tells us that intrafamilial sexual exploitation of children has been, and remains, a major problem. The reality—of exploitation by offenders who are known to their child victims—runs counter to the perceived danger presented by strangers. The focus on the danger presented by strangers appears to have been part of a collective denial of the reality of exploitation committed by those entrusted with the care of children.

A key concern for those working to address this problem is to determine how the viewing of child exploitation material (CEM) is linked to involvement in the production and sharing of such material, or its use in the grooming of children for sexual purposes or the commission of further sexual assaults on children. Most CEM is held online; it is therefore important to understand how offenders inhabit and use the internet to groom children for sexual purposes.

This exploratory study examines data related to a sample of offenders convicted of online child sexual exploitation offences under Australian Commonwealth law, to determine the relationship between offline or contact offences and online CSE offending. In this sample, most CEM offenders appeared to commit only online offences, although there did appear to be a connection between CEM, grooming and contact offending in a minority of cases. This study is an important early step in improving our understanding of Commonwealth online CSE offenders. It points to the need to further assess the nature of online CSE and its relationship to other forms of sexual and violent offences.

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Acronyms

ABS	Australian Bureau of Statistics
ACMA	Australian Communications and Media Authority
AFP	Australian Federal Police
AIC	Australian Institute of Criminology
CDPP	Commonwealth Director of Public Prosecutions
CEM	Child exploitation material
CETS	Child exploitation tracking system (developed by Microsoft)
CPO	Child Protection Operations (a unit of the AFP)
CRC	United Nations Convention on the Rights of the Child
CSA	Child sexual assault
CSDB	Criminal sexually dangerous behaviour
CSE	Child sexual offending
FBI	Federal Bureau of Investigations
ICT	Information communication technology
NBN	National Broadband Network
NPRS	National Police Reference System
OCSET	Online Child Sex Exploitation Team (a unit of the AFP that later became the CPO – in this report included in references to the CPO)
OPCRC	United Nations Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
OCSEQ	Online Child Sex Offenders Questionnaire
PROMIS	Police Real-time Online Management System (used by the AFP)
RCIRCSA	Royal Commission into Institutional Responses to Child Sexual Abuse
UC	University of Canberra
USSC	United States Sentencing Commission
VGIT	Virtual Global Taskforce

Executive summary

This study examined whether any relationship exists between the use of online child exploitation material (CEM), the online grooming of children for sexual purposes and contact sexual offending against children. As discussed in the Appendix-Terminology, the term 'child exploitation material' (CEM) is used in this report in place of the term 'child pornography'. The principal aim of the research was to determine the level of risk CEM offenders pose in terms of reoffending or escalation to more severe forms of child sexual exploitation (CSE) offending.

Sample composition

The study sample was comprised of all offenders investigated by the AFP's specialist Child Protection Operations unit, or CPO, between 1 March 2005 and 31 December 2011 (the study period) and convicted of at least one Commonwealth CSE offence (the index offence).

Index offending data were extracted for 152 individuals. The index offence was defined as all charges arising from an investigation and prosecuted conjointly. All offenders in the sample were men; most were described as Caucasian, and the majority were aged between 46 and 55 years. Given the limited scope of Commonwealth criminal law, which principally addresses online offences, most index offending primarily involved online CEM offences, with a small number of offences involving grooming a child online for sexual purposes. As shown in Table 1, each of the offenders was categorised as a CEM-only offender, a dual offender (convicted of both CEM and other grooming or contact CSE offences) or a grooming-only offender.

Table 1: Number of offenders by child sexual offence categories						
	CEM only	CEM and grooming	CEM and a contact CSE offence	CEM grooming and contact	Grooming	All offenders
Number	131	9	8	0	4	152
Percentage	86.2	5.9	5.3	0	2.6	100.0

Source: AIC AFP CEM Project, 2013 [computer file]

The majority (148 offenders) were convicted of CEM-only and dual CEM offending (97%). A total of 131 offenders (86%) were CEM-only offenders, convicted of index offending involving one or more CEM offences. Another 17 offenders (11%) were dual offenders convicted of index offending involving one or more CEM offences and either grooming or contact offences. Of these dual offenders, nine (6%) were

convicted of a CEM offence and a grooming offence, and eight (5%) were convicted of a CEM offence and a contact CSE offence. There were also a small number of grooming-only offenders, with four offenders (3%) convicted of an online grooming offence but no CEM or other offence.

The offenders' criminal histories were accessed in November 2013, giving an average follow-up period of four years. While the CPO investigated index offending related to Commonwealth offences, the criminal histories were sourced from criminal history databases that all police services in Australia subscribe to, to obtain a comprehensive criminal history for each offender. These criminal histories were used to determine how many offenders had a history of other convictions—in particular, for CSE offending—as shown in Table 2.

Conviction dates were based on the timing of court proceedings rather than on the date of the offence. Three periods were relevant to the consideration of possible relationships between offending behaviours: convictions entered as part of the index offending, those entered before the conviction date for the index offending and those entered after.

Table 2: Number of offenders by child sexual offence category committed as part of the index offending, and prior and post index offending convictions

	CEM only	CEM and grooming	CEM and a contact CSE offence	CEM grooming and contact	Contact CSE	Grooming	All offenders
Prior conviction	11	0	0	0	10	0	
Index offending	131	9	8	0	0	4	152
Post-conviction	7	0	0	0	1	1	

Source: AIC AFP CEM Project, 2013 [computer file]

Findings

CEM and contact offending

Caution should be exercised in drawing conclusions from the analysis because of the limited number of contact offenders in this study. The study found a relationship between CEM offenders with a criminal history of contact offending and both the age at which the offender was detected (for the age category 36–45 years), and an offender's low socioeconomic status (regardless of age).

This study found that a criminal history of contact offending was related to taking on a network facilitator role in the index offending (ie by coordinating an offender network and/or producing or providing CEM to others). The findings relating to the production of images might seem obvious but, because of how CEM is defined in section 473.1 of the *Criminal Code Act 1995* (Cth) (CCA), its production does not always involve contact offending against children. Given that an offender's recorded criminal history may not represent the full extent of their offending, offender cohorts should be further studied—considering other sources of information about possible CSE offending behaviour including unproven matters and criminal intelligence information. Additional research using qualitative interviews with victims (Gelb 2016) and offenders would provide a more complete picture of offending and the effects on victims.

Conclusions

This study confirms the results of other research that indicates CEM offenders can be divided into CEM-only offenders and dual offenders involved in CEM and grooming offences, or CEM and contact offences. It did not find evidence of an offending trajectory where offenders move from viewing CEM to grooming, and then to contact CSE offending. It is likely that this is at least in part due to the limited scope of the study period, the small sample group and, more particularly, to the selection pressure affecting the investigation and prosecution of Commonwealth online CSE offences.

Further comparative research on offenders investigated and prosecuted by state and territory police would shed more light on the nature of offending trajectories. Such research should distinguish between offenders of different ages and the extent of their lifetime exposure to the internet. Research into the possible transition from online to offline CSE offending, and the factors that influence such a change in offending behaviour, is also necessary—again, focused on offenders investigated by state or territory police—as is long-term follow-up analysis of Commonwealth offenders like those examined in this study.

Introduction

The *National plan to combat cybercrime* launched in 2013 identified the ‘serious and evolving threat’ posed by cybercrime. The national plan included responses to crimes against computers as well as ‘crimes where computers or ICTs are an integral part of an offence (such as online fraud, identity theft and the distribution of child exploitation material)’. It also referred to the unquantifiable cost of ‘the harm caused to victims by the distribution of child exploitation material’ (AGD 2013: 4).

The national plan established the fostering of an intelligence-led approach, promoting information sharing as a priority to better understand and respond to the rapidly changing nature of cybercrime. This study contributes to the plan’s research agenda, which encourages increased information sharing and cooperation between industry, law enforcement and other agencies on mutually beneficial research designed to increase knowledge of, and minimise the incidence and impacts of, cybercrime. This goal aligns with the national plan’s objective of minimising opportunities available for criminals to exploit the online environment.

This study sought to determine whether there is any relationship between the use of online CEM, online grooming, and contact offending against children. In particular, it examined how different types of exploitative material are used in grooming and whether this is associated with the commission of further CSE offences. Offenders may transition from engaging with CEM online to committing contact CSE offences with children—for example from accessing or possessing CEM, to grooming a child online for sexual purposes or committing a contact CSE offence.

The study addressed the question of what level of risk online CEM offenders pose for reoffending or escalation to more severe CSE offending by examining their offending trajectories to determine if any features distinguished those offenders with more extensive convictions from those without. While convictions are an imperfect measure of actual offending, they provide the best readily available guide to confirmed offender behaviour.

Data were taken from case files maintained by the AFP’s CPO unit. The case files related to 152 offenders convicted as a result of CPO investigations conducted between 1 March 2005 and 31 December 2011 (the study period). These data constitute a convenience sample of offenders convicted in Australia of CSE offences, principally Commonwealth online CSE offences, in the study period.

The files were originally created to support the prosecution of offenders investigated by the CPO. The research examined the following specific questions concerning the relationship between online and offline CSE offending.

- Do online offenders also offend offline?
- To what extent, if at all, do online offenders become offline offenders?

- What factors affect any possible transition from online to offline offending?

The legal background

Australia's first Commonwealth obscenity laws regulating adult pornography and equivalent CEM were enacted in 1901 (Boxall et al. 2014). CEM regulation was initially directed at images involving nudity or sexual activity in the context of general censorship laws that criminalised the production, sale and distribution, rather than the possession, of such material. The terminology used in various contexts over time in relation to child sexual exploitation, child abuse, child sexual abuse, child exploitation material and child pornography is summarised in the Appendix-Terminology.

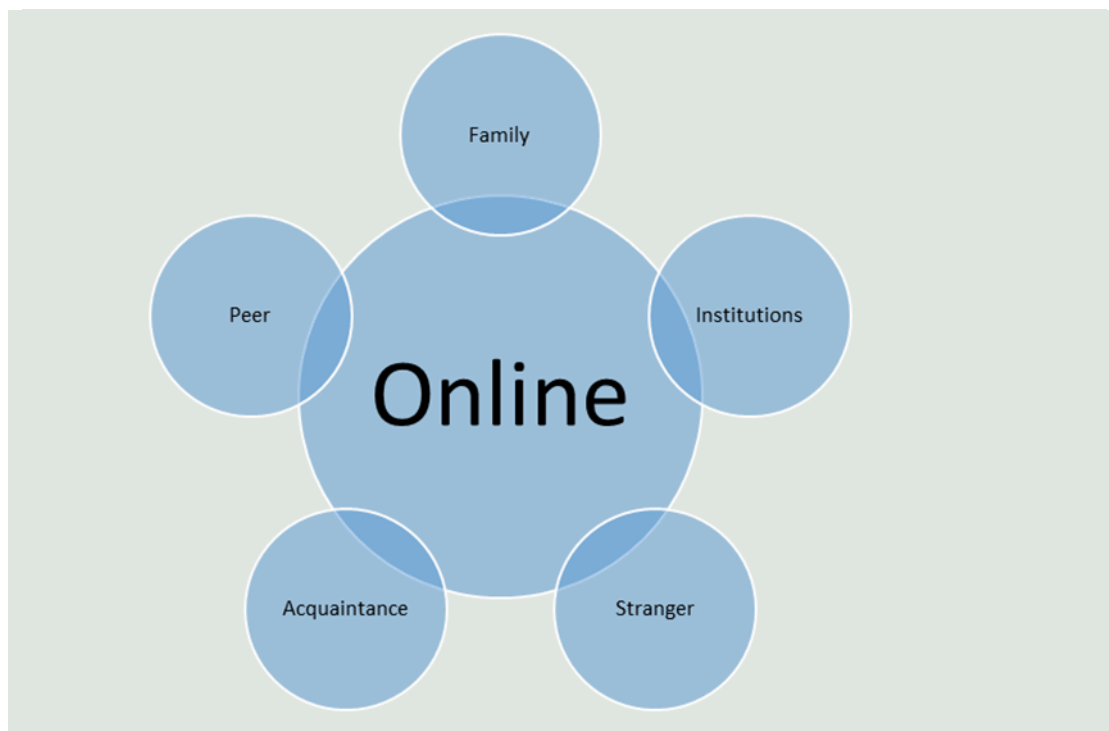
The possession of CEM and online engagement with CEM was only relatively recently criminalised. Online CEM laws, based on the Commonwealth's constitutional power enabling it to regulate telecommunications, were inserted into the CCA in 2004 via the *Crimes Legislation Amendment (Telecommunications Offences and Other Measures) Act (No. 2) 2004* (Cth). These provisions to regulate 'child pornography' were enacted to give effect to the United Nations *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography* (OPCRC), adopted in 2000.

Attention to the problem of CSE historically has concentrated on the physical criminal conduct of offenders, with consideration given to the role of pornography and child pornography as a possible influence on physical offending. Prior to the existence and widespread uptake of the internet, physical CSE took place in specific spheres based on the relationship between the offender and a child victim; these could be defined in terms of family members, institutional figures, strangers, acquaintances, children overseas and child peers and peer groups. Among the transformative and disruptive effects of the internet, it allows CSE offenders to:

- create, store and transfer images digitally;
- connect with children on internet-enabled devices anywhere; and
- connect with like-minded offenders anywhere.

Figure 1 illustrates how the internet can bring these different spheres of physical CSE offending together. Pre-internet offenders have learnt to adapt to the impact of information and communications technology (ICT) in this new offending environment, and a new generation of younger offenders and victims have been immersed in the internet age. This makes it even more important to pay careful attention to, and study, the impact of new technology on CSE offending.

Figure 1: The integration of various spheres of CSE offending into the online environment



Our knowledge of CSE offending—whether pre- or post-internet age—remains incomplete. However, much of what is known about online CSE offending has been shaped by our, albeit limited, understanding of physical CSE in the pre-internet era.

The extent of the problem

Contact offending

The incidence of sexual assault, for victims of any age, is unknown. The need for data on the incidence of sexual assault, and particularly child sexual assault, has been noted on a number of occasions.

The Australian Law Reform Commission (ALRC) report into family violence reviewed available data sources and concluded that improved data collection on the reporting and prosecution of sexual assault offences is 'clearly desirable.' The report argued that the collection of comprehensive statistics on attrition rates and outcomes of sexual assault cases is 'critical to identifying problems and designing and monitoring solutions.' The Commission called for the collection of 'comprehensive data in relation to sexual assault, particularly where perpetrated in a family violence context' (ALRC 2010: 1192).

The Australian Bureau of Statistics (ABS 2013b: 5) also noted the need for data on the prevalence of violence and sexual assault in response to the *National plan to reduce violence against women and their children 2010–2022* produced by the Council of Australian Governments (COAG 2012). The problem of defining and measuring CSE offending was examined by the ABS in its report *Defining the data challenge for family, domestic and sexual violence*, where it was noted that 'a key challenge...lies in the complexity

of the behavioural acts involved, and the relationships and situations in which these acts occur' (ABS 2013b: 7).

Many difficult and complex issues must be addressed in devising a way to better measure the incidence of CSE offending. The existing statistical measures of sexual assault using crime victimisation surveys and reported crime data do not adequately assess the incidence of CSE offending.

A major study of research on the prevalence of child sexual abuse in Australia was conducted for the Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA; Mathews et al. 2016). The study included a systematic review of international literature as well as a review of Australian surveys and official data collections, and found that there was no consistently reliable source of data on the prevalence of child maltreatment, including child sexual abuse, physical abuse, emotional abuse, neglect and exposure to family violence:

There are significant gaps in Australian research into the prevalence, nature and context of all forms of child abuse and neglect, including child sexual abuse and in particular child sexual abuse in an institutional context. The data currently available can best be described as indicative rather than definitive. There is little consistency in survey design, samples and research methods, thus limiting comparability over time and place. A particular weakness is that most studies in Australia (and internationally) do not identify the nature and context of the maltreatment, including the settings in which abuse occurs. Thus we have limited insight into the extent to which abuse occurs in institutional, family, neighbourhood and other settings. The major conclusion we have reached after considering the existing evidence is that further research is needed in Australia (Mathews et al. 2016: 10).

Crime victimisation survey data

For its Crime Victimisation Survey (CVS) of 2014–15, the ABS defined sexual assault to include actual or attempted non-consensual sexual acts using physical force, intimidation or coercion, including indecent assault and assault with intent to sexually assault. However, only people aged 18 years and over were questioned about sexual assault victimisation as adults. The ABS estimated that 55,900 persons over the age of 18 had experienced at least one sexual assault in the previous 12 months (ABS 2016a).

In 2005, the ABS added a special component to the personal safety survey (PSS) to allow the incidence of CSE in Australia to be cautiously estimated. It asked adults to recount any historical experiences of being sexually abused as a child, and may therefore encompass both reported and unreported offences. Population estimates for the incidence of sexual abuse before the age of 15 were produced. It found that ‘women were more likely to have been sexually abused than men. Before the age of 15, 956,600 (12%) women had been sexually abused, compared to 337,400 (4.5%) men’ (ABS 2005: 1). The 2005 PSS indicates that a child sexual abuse offender was likely to be a close male relative of the child or a male person in a position of trust through an institution or friendship circle. As shown in Table 1, for those who reported experiencing sexual abuse before the age of 15, 91.5 percent nominated a known person as the perpetrator, including 13.5 percent who identified their father or stepfather as the perpetrator.

Table 1: Perpetrator of child sexual abuse of victims under 15 years of age, by relationship

Nominated perpetrator	Percentage of respondents
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Father or stepfather	13.5
Other male relative	30.2
Family friend	16.9
Acquaintance/neighbour	15.6
Other known person	15.3
Total where offender known to victim	91.5

Source: ABS personal safety survey (2005)

When the personal safety survey was reiterated in 2012, the component concerning individual experience of sexual assault before the age of 15 years was not included (ABS 2013a: 1).

Recorded sexual assault data

While there are limited data available to assess the actual incidence of CSE offences, there is information about reported rates for disclosed incidences of sexual assault. However, the ABS found that in 2014–15 just 25 percent of the adult victims of sexual assault reported their most recent incident to police (ABS 2016d). In the reporting of recorded of sexual assault data, the age recorded for a victim is at the time of reporting to police, not the age at which a person became a victim. The ABS notes that recorded sexual assault data have the ‘highest proportion of offences that were committed more than 12 months ago. Care should be exercised when interpreting age data for sexual assault victims.’ (ABS 2016d: explanatory note 21).

According to Bricknell (2008), the prevalence of sexual assault disclosed increased by 22 percent between 1995 and 2006, from 72.5 to 88.4 per 100,000. Bricknell observed that the overall rise in sexual assault disclosed between 1995 and 2005 was boosted by an increase in the disclosure of sexual assaults on victims aged 0–14 years, with a particularly noticeable increase between 1999 and 2003 of 37 percent for victims in that age group, compared with an increase of 17 percent for victims aged 15 and older. In addition, between 1996 and 2003 the rate of increased reporting for the age category 0–14 years was higher for girls (27%) than boys (19%).

Table 2 shows how many sexual assaults were recorded for victims of all ages in 2015. This is the figure for crime reported in 2015, but an unknown number of reports may relate to offences that occurred earlier (ABS 2016d). Just over a third of victims recorded in this period were aged under 15 years and more than half of sexual assault victims were aged under 19 years (60% or 12,672 victims).

Table 2: ABS recorded crime sexual assault, Australian victims, 2015 by age group of victims

Age group (years)	Female	Male	Total
0–9	1,987	1,040	3,027
10–14	3,690	753	4,443
15–19	4,590	612	5,202
20–24	1,946	201	2,147
25–34	2,405	301	2,706
35–44	1,486	320	1,806
45–54	884	232	1,116
55–64	328	107	435
65 years and over	187	65	252

Total	17,616	3,628	21,244
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Source: ABS (2016d) compilation

Online offending

As technological advances and access to new technologies expands, so does the use of technology for illicit purposes. A result is that criminal behaviour and law enforcement operate within an increasingly complex and constantly changing environment of legitimate online activity. Australia's *Cyber Security Strategy* emphasises that improved access to the internet via fixed or mobile broadband gives anyone with access to the internet the capacity to commit, or to be the victim of, electronic or internet-based crime (Department of Prime Minister and Cabinet 2016). This study is an important step in increasing our awareness and understanding of the relationship between online and offline CSE offending. Ongoing monitoring of online offending, and further research in collaboration with other Australian law enforcement agencies, may help fill the gaps in our knowledge of other aspects of CSE offending.

Internet access

The Organisation for Economic Co-operation and Development (OECD) reports regularly on international core information communications technology indicators. In December 2015, it ranked Australia 24 of among 35 OECD nations in terms of fixed (wired) broadband subscriptions and sixth for the number of terrestrial mobile wireless broadband subscriptions per 100 inhabitants (OECD 2016).

Internet connectivity has increased substantially since the first ABS report on internet connectivity in Australia which reported 'there were 3.8 million internet service subscribers registered in Australia at the end of the September quarter 2000' (ABS 2001). The June 2016 quarterly report showed 13.3 million internet subscribers with almost half of all internet connections, or just over six million, using mobile wireless broadband. The number of internet subscribers does not equate to the number of people in Australia with access to the internet. It includes individuals with potentially more than one subscription as well as all other corporate or non-individual subscribers. Those without a personal internet subscription may access the internet through the subscriptions of others, including through public or other non-personal accounts or at home.

While the number of subscribers grew more than threefold between 2000 and 2013, the total amount of data downloaded expanded by a much larger proportion in comparison. For the June 2016 quarter, the ABS reported that 2.1 million terabytes (or 2.1 exabytes) were downloaded in Australia (ABS 2016c), compared with 1,052 million megabytes (or 1.052 terabytes) downloaded in the first quarter report ending in September 2000 (ABS 2001). This is an increase of almost two million times more data downloaded than was first reported in 2001.

In standard terms, the basic unit of data is a bit, which is a single binary digit (1 or 0). Eight bits constitute a byte. Increasingly larger amounts of data are measured using standard increments of 1,024. This means that 1,024 bytes are a kilobyte, 1,024 kilobytes are a megabyte, 1,024 megabytes are a gigabyte, 1,024 gigabytes are a terabyte, 1,024 terabytes are a petabyte and 1,024 petabytes are an exabyte. For convenience, the standard increment is often converted to 1,000 (NIST 2000).

Children and internet access

There are limited data on how many children aged under 15 have either supervised or unsupervised access to the internet, whether at school or elsewhere, or how these children interact with others online. Learning more about how young children access and engage with the internet is an important step in better understanding online CSE offending and the vulnerability of potential victims. The ABS (2016b) reported an estimated 86 percent of households in Australia had internet access; households with children under 15 years were more likely to have internet access (97%) than those without (82%). The ABS also measured the internet use of those aged over 15 years and found that those aged 15–17 years were most likely to use the internet (99%), and that this age group spent the highest mean number of hours per week doing so (ABS 2016b).

The Office of the Children's eSafety Commissioner commissioned research into the digital participation of children and youth in Australia in 2016. This research found 96 percent of Australian families have wi-fi access at home and 85 percent of children aged eight to 17 years 'see the internet as important in their lives.' Overall, more than half used social media, including 82 percent of those aged 14 to 17 years and 34 percent of those aged eight to 13 years (OCEC 2016).

Online offending trends

McGuire and Dowling (2013) suggest there are two types of online CSE offenders: those engaged in grooming, and those engaged in CEM offences. More work is needed to compile national data on trends in arrests and prosecutions for online CEM and grooming offences in Australia. The Office of the Children's e-Safety Commissioner reported that it received 5,341 complaints about offensive online content in the financial year 2015–16. These complaints gave rise to multiple investigations, and the Office found 9,219 individual items of content that breached broadly defined classification standards. Of these, 81 percent met the definition of child sexual abuse content and 99 percent of these items were 'notified to the AFP and/or the INHOPE network for law enforcement investigation and rapid take-down in the host country.' (ACMA 2016: 125). While specific data are lacking, several organisations have noted the rapid growth of CEM prosecutions—including the United States Sentencing Commission (USSC 2012). The US Department of Justice says 'the child pornography market exploded in the advent of the internet and advanced digital technology' (USDOJ 2015). Europol also referred to annual growth in the number of offenders (Europol 2012). In 2015, it was reported that the then-largest known CEM-sharing group allegedly had more than 7,500 users in 100 countries, with access to 1.2 petabytes of data ('four times the amount of data stored by the Library of Congress' was detected in Canada (Russon 2015:1).

A US study of CEM arrests, based on National Juvenile Online Victimization Study data, estimated the number of arrests for CEM possession charges more than doubled between 2000 and 2006, from 1,713 arrests to 3,672 (Wolak, Finkelhor & Mitchell 2011). A related study using sample data from more than 2,500 law enforcement agencies found the estimated number of arrests for CEM production charges also more than doubled, from 402 arrests to 859 (Wolak et al. 2011).

The nature of CSE offending

The degree of interest in sexually explicit material varies widely among sex offenders. CSE offending does not necessarily fall neatly into strict categories of either online or offline behaviour. Some CSE offenders clearly engage in both online and offline criminal behaviour simultaneously. Others may offend

either entirely offline or online. Three distinct categories of CSE offenders: contact-only offenders, online-only offenders, and dual offenders who engage in both contact and online offences over time. It is possible that offending behaviour may transition between online and offline activity over time. In addition, some offenders may use digital CEM offline, using storage devices or discs, for example.

In relation to the use of CEM and pornography, at one end of the continuum are sex offenders who have virtually no interest in pornography of any kind, while at the other end are offenders who report being preoccupied with it. Of those who do use CEM or pornographic materials, not all seek out the same types of sexually explicit materials; some use materials depicting children, some use adult pornography and some use both. In addition, 'non-pornographic pornography' appears to be a source of stimulation for many paedophiles. It is possible offenders may transition from accessing or possessing CEM to grooming a child online for sexual purposes or committing contact CSE offences against children. Whether there is any relationship between the use of CEM obtained online, online grooming and contact offending is a critical issue.

CEM offender studies

CEM may be self-generated or obtained from other sources. This creates a basic twofold model of offending.

- Self-generated material is the offender's personal record of sexual assaults and may serve as a stimulus for abuse or a source of gratification. It may also be a tradeable commodity among offenders.
- CEM obtained from other sources is likely to serve similar purposes for an offender, except that a person who obtains CEM is not necessarily involved in the direct physical assault of a child—although they do re-victimise children depicted in CEM that they access or possess.

In 2003, Taylor and Quayle reported that much of the then available research into the use of CEM predated the internet and the widespread criminalisation of CEM, and so was often observed as an aspect of contact offending. Because the internet makes CEM much more freely available and distributable, it is important to consider the impact of the special characteristics of technology-enabled CEM offending. Among the characteristics of early internet CEM offending were the general intelligence and social status of offenders; the compulsive or addictive nature of some offender engagement; the heightened role of fantasy for the offender; and the level of networking among communities of offenders (Taylor & Quayle 2003).

It is not known how many of those who access CEM online have also committed contact CSE offences. Wortley and Smallbone (2012) estimated that, before the expansion of the internet, between a third and a fifth of those arrested for possessing child pornography were also involved in CSE offending. As Wortley and Smallbone argued, the internet's ubiquity may encourage casual users to engage experimentally with CEM. However, they noted that not all contact offenders seek out or collect CEM and they estimated that about 10 percent of contact offenders also collect CEM.

In a 2011 Canadian study of CEM offenders, 30 percent of the total sample had a police-documented contact sexual offence against a child victim. Most victims knew the offender. In the few cases involving a stranger (4%), half the offenders had also offended against children they knew. None of the stranger cases involved abduction, and in these cases the offender sexually assaulted a child he had just met (eg at a public pool; Eke, Seto & Williams 2011).

In the United Kingdom, a single operation against online CEM offenders led to the arrest of 660 suspects for online indecent image of children offences in June 2014 (NCA 2014). Of these 660, 39 (5.9%) were registered sex offenders. However, the majority of those arrested had not previously come to police attention.

Grooming offender studies

In grooming offending, sex offenders may use adult pornography or CEM to lower children's inhibitions against engaging in sexual behaviour (Klain, Davies & Hicks 2001). The authors found offenders often show pornography to children, especially adult–child sexual depictions, to make adult–child sexual activity appear 'normal' and desensitise the child to the behaviour. Sex offenders may also use pornography to instruct children in how to behave, pose or re-enact scenes (Choo 2009; McAlinden 2012; Williams, Elliott & Beech 2013 & Whittle et al. 2013).

A 2010 study of online grooming found the principal forms of manipulation used by offenders interacting online with children were: offers of gifts (to create a sense of obligation); befriending the child by appearing to have common interests; and developing the child's trust in the offender. Typically, the offender would ask the child for a photo and respond with sexually graphic pictures. This was sometimes followed by a request to meet the child. Corey (2010) found that many online grooming offenders justified their offending by claiming many people did it.

The online grooming techniques examined in a small-scale study based on 15 case studies and semi-structured interviews with 10 police officers, and reported by Grosskopf (2010: 3), involved four types of exchange between offenders and their victims:

- short-term sexual gratification (n=8)—the offender sought short-term sexual encounters and participation in overt sexual activities;
- longer-term procurement (n=2)—this more closely resembled grooming with the offender making an effort to befriend or establish a relationship with the 'boy';
- cautious, more restrained exchanges (n=3)—sex was introduced cautiously (or not at all) and no other overt sexual activity was undertaken; and
- educating the 'boy' in sexual matters (n=2)—the offender exhibited no sexual interest in the 'boy' but rather displayed a willingness to educate him in sexual matters.

Contact offender studies

Prior to the advent of the internet some contact offenders were found to possess CEM in the form of photos, magazines and other printed matter (Pierce 1984). In 1988 it was reported that 53 per cent of a sample of offenders identified as child sexual abusers used CEM to prepare for contact offending (Marshall 1988). Marshall also reported that CEM may be used to relieve the impulse to commit contact offences citing (Carter et al. 1987). Any possible limiting effect of the use of CEM on additional contact offending must be considered carefully, given the impact of the widespread accessibility of electronic CEM.

In a literature review of pornography use by sex offenders for the Canadian Department of Justice, Rettinger (2000) acknowledged that anecdotal evidence suggested a link between the possession of child pornography and paedophilia. However, Rettinger concluded there was no causal link shown in the

studies reviewed between viewing adult, or child, pornography and committing sexual crimes. Rettinger (2000: 16) found that offenders were demographically heterogeneous, yet some offenders reported that pornography aroused their urge to assault someone and others indicated it diminished their impulse to offend sexually:

...child and/or adult pornography is a feature of the lives of many pedophiles and other sex offenders, just as it is a feature in the lives of some persons who do not commit sexual offences. Alternatively, some sex offenders do not use pornography of any kind.

However, Rettinger (2000: 1) pointed to the following difficulties in interpreting the available studies:

- there were no standard references for offending material, with terms such as child pornography often used without precision;
- definitions of child pornography often emphasised commercial material, when much child pornography was not made available commercially;
- the concept of child pornography had changed over time;
- studies had concentrated on the use of child pornography by contact CSE offenders;
- no attention was given to those offenders who used CEM but did not go on to commit contact offences against children;
- studies often relied on qualitative interview methods, and there was no way of ensuring respondents were truthful; and
- offenders in the criminal justice system may downplay the role of pornography, as they may be labelled as persistent offenders.

Rettinger (2000: 16) concluded 'there appears to be no strong and consistent evidence that sex offenders are more avid consumers of pornography than other males. A simple, direct causal link between pornography and sexual offending is not supported by the literature.'

Smallbone and Wortley (2001) examined the use of CEM by CSE offenders. This Queensland study involved 182 respondents drawn from the prison population of men serving sentences for sexual offences against children. Most respondents (86.4%) reported using adult pornography and 10 percent reported the use of CEM. This study predates the widespread uptake of the internet, and the offenders had entered custody over a number of years prior to the study's commencement. It is therefore unsurprising that most of the study sample of incarcerated males had not used the internet (86%) and the study does not offer evidence of the offending patterns of those who use the internet to access CEM. However, the authors found there was little networking among their sample of contact child sex offenders; only eight percent engaged with other offenders during their offending history.

The RCIRCSA commissioned research into CEM offending in institutional contexts (Prichard & Spiranovic 2014), and the first reference to CEM offending published by the Commission appears in Case Study 4 (RCIRCSA 2015). An additional study for the RCIRCSA by Gelb (2016) looked at data on the sentencing of known institutional CSE offenders and found only 1.4 percent were dealt with for a principal offence involving CEM. The study found that the principal offence of more than half of its sample of institutional offenders was indecent assault (52.7%). The principal offence of another third was categorised as a 'penetrative offences of [any] kind' (33.5%) and 'child pornography offences as principal offences were rare...with only four matters (1.4%)' (Gelb 2016: 19).

Offline grooming behaviour was noted in almost a third of cases (30.7%) and the most common form was providing a child with alcohol or pornography. Online grooming does not appear as a feature of the offending sampled. Overall, the study differentiated between offenders with a single victim and those with multiple victims. Multiple victim offending was characterised as more likely to take place in 'the context of religious authority' over a longer period and involving more serious charges such as penetrative sex (Gelb 2016: 37). However, while the study found diverse offending behaviour among offenders with multiple victims, it noted that few of these cases exhibited escalation in offending from non-penetrative to penetrative acts.

Dual or comparative offender studies

At an early stage in the internet era, Burke et al. (2002) found both contact offenders and online offenders engaged in highly focused behaviour. CEM offenders choose age groups, image formats and degrees of explicitness using specific sites and modes of delivery (eg newsgroups or chatrooms). Riegel (2004) reported on a survey of CEM viewing among 290 self-identified 'boy-attracted pedosexual males'. The survey examined both personal use of CEM and the sharing of CEM with child victims. Of those interviewed, 84.5 percent said the use of erotica rarely or never increased their tendency to seek out boys for sexual activity. When asked about the frequency of viewing this material 33.5 percent viewed boy erotica on the internet quite regularly, 25.5 percent frequently, 17.9 percent occasionally, 10.7 percent sporadically, 7.2 percent rarely and 5.2 percent never. In relation to sharing CEM, 76.6 percent never shared boy erotica with a boy, 7.2 percent had shared it once, 10 percent shared it rarely and 6.2 percent shared it occasionally or more often.

Wolak, Finkelhor and Mitchell (2005) observed differences between CEM-only offenders and dual CEM and contact CSE offenders. In cases that began with an investigation of CEM possession, dual offenders were more likely than CEM-only offenders to live with children under 18 (37% vs 20%). They were also more likely to have access to children through their employment (20% vs 11%). A higher proportion of dual offenders experienced problems with drugs or alcohol than did CEM-only offenders (28% vs 18%) and they had more prior arrests for sexual offenses against minors (14% vs 8%).

In a small-scale comparison of 39 internet and 39 non-internet CEM offenders it was found that most of the internet offenders scored lower on measures of sexualised attitudes to children, which suggested this group of offenders 'did not support attitudes that explicitly endorse or condone the sexual abuse of children.' Importantly, however, this group also scored very high on a measure of impression management—that is, they present an overly positive image of themselves to others (Bates & Metcalf 2007: 11). In contrast, however, when Howitt and Sheldon (2007) compared contact offenders with online offenders they found little support for the proposition that contact offenders have more cognitive distortions than non-contact offenders. They found internet offenders were more likely to experience cognitive distortions and thereby justify the offence and offenders with a history of offending were more likely to rely on cognitive distortions to justify their offending.

A 2009 study found that, compared with other sexual offenders, internet CEM offenders were on average significantly younger; were single and lived alone in most cases; and more often had no children of their own (Reijnen, Bulten & Nijman 2009). It should be noted that the variables of age, single status, living alone and not having children are associated with one another, and the authors did not compare dual CEM-contact offenders with non-contact CEM offenders.

In a small-scale study using a sample of 107 adult male CSE offenders, McCarthy (2010) found 82 percent were white and ranged in age from 18–72 years (mean=39 years, SD=12.9 years). According to this study, contact offenders were significantly more likely to:

- have a history of drug abuse;
- have more than one conviction for a sexual crime;
- be diagnosed with paedophilia;
- admit to masturbating to child pornography;
- download child pornography to an external medium (other than the computer hard drive);
- view non-erotic (child modelling) websites;
- view erotic stories involving minors;
- chat online in a sexual manner with minors;
- send child pornography and adult pornography to minors online;
- attempt to meet with a minor with whom they had chatted with online;
- engage in cybersex with adults;
- have a larger child pornography collection; and
- possess more child pornography than adult pornography (2010: 187).

McCarthy found no statistically significant differences between contact and non-contact offenders in:

- age;
- age at which the offender began viewing child pornography;
- race or ethnicity;
- marital status;
- educational attainment;
- history of childhood abuse;
- trading, paying for, concealing or organising child pornography;
- trading or paying for adult pornography;
- attempting to meet with adults known from the internet for sex;
- size of adult pornography collection; or
- time per week spent viewing child pornography, adult pornography or pornography in general.

Sheldon (2011) argued that psychological differences exist between those who both download material and offend directly against children, and internet-only or contact-only CSE offenders. According to Sheldon, internet offenders show many of the characteristics of paedophiles. However, at least some internet offenders appear to be desisters, who refrain from acting out their sexual interest in children. Seto, Reeves and Jung (2010) reported that some child sex offenders claimed to use CEM as a substitute for contact offending. In addition, in a survey of 107 male CEM offenders, McCarthy (2010) found that 84 percent admitted to contact offending before possessing CEM.

Offending trajectories

Whether an online CEM or grooming offender is likely to have committed, be committing, or is likely to go on to commit, contact offences is an obvious concern for law enforcement (Long, Laurence & McManus 2013; Eke, Seto & Williams 2011). A number of studies have been conducted overseas on the offending trajectories of online CSE offenders, most concerning online CEM offenders (Wolak, Finkelhor & Mitchell 2005; Eke, Seto & Williams 2011; Seto, Hanson & Babchishin 2011; Sheldon 2011). While some overseas studies have compared cohorts of online and contact offenders (McCarthy 2010; Long, Laurence & McManus 2013), no comparable studies have been conducted in Australia (Henshaw, Ogloff & Clough 2015).

As Beech and Elliot (2012) argued, while the characteristics of internet offenders have increasingly been related to existing knowledge of contact sexual abusers it is important to also understand the nature of wholly online offending and the capacity of online offenders to exercise restraint in the offline world to not commit contact CSE offences. The transition from virtual offending to physical offending may occur across multiple devices or software platforms as highly interconnected online activity becomes routine and commonplace.

In reviewing research on how contact CSE offending and CEM offending may be connected, it is important to consider differences between jurisdictions, the period of each study, sample size and methodology. For example, bias may be implicit in the selection of offenders to study given that, as noted by the USSC (2012), police and prosecutors often have broad discretion at each step of the criminal justice process. In the US, Luna (2012) analysed the wider effects of prosecution control and Bibas (2003) analysed the discretionary nature of prosecutor control of CEM charges. Copsey (2013) strongly criticised the capricious effect on the number of charges that may be laid for the one instance of offending arising from loose drafting of the possession offences in the United States Code (USC). Provision 18 USC § 2252(a)(4)(B) allows a holistic charge of possession of all material, with the total quantity considered in sentencing, and provision 18 USC § 2252A(a)(5)(B) allows for separate charges for each storage device or storage medium.

Attempts to analyse the incidence of, or patterns in, CSE offending are also limited by the degree to which offences are reported and the fact that recorded convictions do not indicate the true incidence of offending. It is worth beginning with an outline of the possible escalation of online CSE offending:

- online or offline offending may be a one-off behaviour, with no repetition or escalation in the seriousness of offending;
- online or offline offending may be just one example of multiple offending, which may or may not be detected or successfully prosecuted;
- there may be a transition from 'barely legal' behaviour to offending; and
- the scale or severity of CSE offending may escalate.

Offender behaviour may also move in the opposite direction and their activity may transition from the illegal to the legal or the scale or severity of their offending may diminish.

Research in the United States indicated that the number of CEM offenders charged for CEM-only offences increased by 14 percent between 2000 and 2006, from 45 percent to 59 percent. The proportion of dual offenders decreased from 55 percent in 2000 to 41 percent in 2006. The same study found the

percentages of child pornography offenders with prior arrests for sexual offences against a minor were relatively unchanged, at nine percent and 10 percent respectively. Similarly, the authors estimated one in six offenders—both child pornography and dual offenders—were later found to be contact CSE offenders (Wolak, Finkelhor & Mitchell 2011).

The possible relationship between contact CSE offending and online CEM offending was a primary focus of the 2012 USSC report on US federal child pornography offences. The USSC examined the criminal histories of offenders both before and after an index CEM offence. The USSC focused on indicators of risk that a non-production offender will be involved in recidivism for a sexual offence. It found that broadly defined criminal sexually dangerous behaviour (CSDB) is an important indicator of risk of recidivism in the following ways.

- Non-production CEM offenders who have engaged in CSDB pose a greater risk of sexual recidivism.
- Non-production CEM offenders with a history of at least one act of CSDB are likely to have engaged in other undetected acts of CSDB.
- Offenders with a history of CSDB are more culpable.

The USSC conducted its own study and reviewed other available studies of CSDB ‘precidivism’—a history of offending prior to the index offence—and recidivism among convicted offenders. The results led the commission to critically examine the idea that incapacitation is as important in sentencing non-production CEM offenders as it is for other CEM offenders.

Prior offending

The USSC’s 2012 findings concerning non-production CEM offenders’ records of CSDB, prior to committing the index offence, are summarised in Table 3. The results of the present study are added for comparison.

Table 3: Summary of precidivism (prior offending) studies referenced by the US Sentencing Commission 2012

Study	Cohort	Period	Contact CSDB precidivism (%)
US Sentencing Commission 2012	382	Sentenced in 2012	33.0
US Sentencing Commission 2012	1,654	Sentenced in 2010	31.4
US Sentencing Commission 2012	660	Sentenced in 1999 & 2000	33.9
Eke, Seto & Williams 2011	4,697	Meta-analysis	17.3*
Comparison with the current AFP study			
AFP cohort study	152	Convicted 2005–2011	13.8

* The average across all studies. Of the studies in the meta-analysis, 18 used official reports for offender criminal histories with an average of 12.2% and six studies used self-reports of offending behaviour, with an average of 55%. When an outlier study is removed, the self-reporting figure is 42.5 percent (USSC 2012: 173)

Source: USSC 2012 and the AIC AFP CEM Project 2013 [computer file]

The USSC observed that, compared with federal offenders generally, non-production offenders had fewer previous convictions. Three studies based on cohorts of offenders sentenced in the years 1999 and 2000, 2010 and 2012 showed that, overall, one in three non-contact offenders had prior CSDB convictions; however, this rate is thought to be underreported. The majority of CSDB acts (94.7%) involved victims who were minors, most commonly a prepubescent girl known to the offender.

The USSC found that, of the 2010 cohort of 1,654 cases, a total of 581 (35.1%) involved a conviction (n=520) or an allegation of previous criminal sexually dangerous behaviour (n=61). Perhaps not surprisingly, the Commission found that CSDB was most common in distribution and/or transportation cases (43.1%), less common in receipt cases (30.4%) and least common in possession-only cases (24.7%; 2012:188). The USSC noted that charging and plea-bargaining practices vary greatly, which affects both the offender's record and the charge laid. (USSC 2012:189).

Studies of reoffending

In a review of sex offender recidivism research, Gelb (2007: 3) distinguished three types of offenders commonly identified in these studies. They are: those who commit sexual violence against adults, intra-familial child molesters and extra-familial child molesters. Gelb's review focused on contact sex offending and did not deal with online offending. However, Gelb (2007: 15) cites Hanson's (2001) proposition that extra-familial child molesters characteristically are of greater average age (25–35 years) and more persistent in their offending (up to age 50) than the other two types of offenders.

The USSC compared its own recidivism study of non-production CEM offenders with three other available studies of sexual offence recidivism among convicted CEM offenders as summarised in Table 4. The results of the present study are added for comparison. The USSC measured recidivism widely by including categories of arrest with no case disposition available and reported technical violations of probation, along with conviction for a felony or a misdemeanour offence. The USSC observed that, compared with federal offenders generally, non-production offenders had a generally higher rate of recidivism.

The USSC noted the importance of applying a consistent follow-up period of at least three to five years in conducting a recidivism study of sex offenders, citing Hanson et al. (2009) and Långström (2002). The USSC explained that an average follow-up period was required because members of the cohort could not be tracked, as they were released at different times in the study period (USSC 2012: 298). Similarly, in this study of AFP data, offenders could not be consistently tracked, and the follow-up period was averaged.

Table 4: Summary of recidivism studies referenced by the US Sentencing Commission 2012

Study	Cohort	Period	Average follow-up (years)	General recidivism (%)	All sexual recidivism (%)	Contact sexual recidivism (%)
US Sentencing Commission 2012	610	Sentenced in 1999 & 2000	8.0	30.0	7.4	3.6
Eke, Seto & Williams 2011	541		4.1	32.3	11.1	3.9
FBoP 2009	870	Released between 2002–05	3.8	25.4	5.7	NA^
BJS 2003	9,691	Released in 1994	3.0	43.0	NA*	5.3
Comparison with the current AFP study						
AFP cohort study	152	Convicted 2005–2011	4.0	15.1	6.6	0.7

Source: USSC 2012 and AIC AFP CEM Project, 2013 [computer file]

^ The FBoP study did not separately report the percentage of offenders involved in contact sexual offending apart from reporting all sexual recidivism.

* The BJS study only reported new contact sex offenses (ie rape and sexual assault offenses, against either adults or children). It is unclear from the BJS study whether new non-contact sex offenses (eg child pornography offenses, indecent exposure) fell within the other offense category as reported in the study (USSC 2012: 307)

USSC 1999 and 2000 cohorts

The USSC compared general recidivism for all offences with sexual offence recidivism (contact, non-contact, child pornography offences). The Commission found the known general recidivism rate of 610 offenders sentenced for non-production child pornography offences in the fiscal years 1999 and 2000 was 30 percent, over an average follow-up period of eight years post-release. This figure was made up of 15.9 percent for new offences and 14.1 percent for supervision violations. The Commission found offenders with a previous history of CSDB had similar rates of general recidivism as those with no history (31.4% and 29.2%, respectively). Within the general recidivism rate, the known sexual offending recidivism rate was 7.4 percent. The known contact sexual offending recidivism rate was 3.6 percent. A further 2.3 percent of cases involved child pornography offences, and 1.5 percent involved non-contact sexual offences related to obscenity or commercial sex.

Eke, Seto and Williams

The USSC refers to a Canadian study of 541 adult male child pornography offenders, with an average follow-up period of 4.1 years which found a general recidivism rate of 32.3 percent (referred to as criminal justice failures), a sexual recidivism rate of 5.2 percent when CEM offences were excluded, and a total of 11 percent when CEM offences were included (Eke, Seto & Williams 2011: 471). The authors noted that the true recidivism rate for contact sexual offences was 3.9 percent, while a further 6.3 percent were charged for historical contact sexual offences committed before the index offending. The one offender charged with additional contact sex offences both before and after the index offence 'was counted as a true recidivist' (Eke, Seto & Williams 2011: 471).

The authors found that 'identification of offender age at time of first offence, prior offence history including violent offence history, and failure on conditional release' were significant 'predictors of violent and contact sexual recidivism' among CEM offenders (475). Younger CEM offenders with a prior offence history were more likely to commit new violent offences, including contact sexual offences.

Federal Bureau of Prisons

The results of the study undertaken by Eke, Seto and Williams (2011) are comparable to an unpublished 2009 Federal Bureau of Prisons study, which the USSC also referenced (USSC 2012: 306). The study involved 870 production and non-production child pornography offenders released between 2002 and 2005, with an average follow-up period of 3.8 years. The study showed a general recidivism rate of 25.4 percent and a sexual recidivism rate of 5.7 percent, including non-production child pornography offences, non-contact sex offences and contact sex offences.

Bureau of Justice Statistics

A Bureau of Justice Statistics study in 2003 reviewed known recidivism by 9,691 sex offenders released from state prisons in 1994 (Langan, Schmitt & Durose 2003). The general recidivism rate over an average three-year follow-up was 43 percent. The recidivism rate for a contact sex offence was 5.3 percent. The

higher rate of recidivism for this cohort may be explained by the fact that all had been originally convicted of a contact sexual offence against a child.

Networking

The United States' Operation Roundtable targeted a covert group of CEM offenders operating on a peer-to-peer network secured by The Onion Router (TOR) software (US ICE 2014). This operation highlighted the role network support plays for offenders as a source both of cognitive distortion and of reinforcement. Engaging with the network is also potentially addictive. The transition from online to offline offending becomes easier, and is likely to involve an escalation of image offending either as part of changing sexual repertoires or to satisfy the network's demands. Hidden networked offending may be most likely to encourage an internet-fuelled cycle of the use, collection, exchange and production of new CEM, but that is not within the scope of this study.

Sheehan and Sullivan (2010) identified differences between the experiences, perceptions and behaviours of those who produce CEM to share and those who produce CEM but do not share it. Producers who share CEM have greater access to their victims and the nature of their abuse is more serious and they manipulate victims into collaborating with the abuse. The findings suggest those who produce indecent images of children may not be a homogeneous group, and individuals have distinct motivations for engaging in their offending behaviour.

Wolak, Finkelhor and Mitchell (2011) found that more of the offenders surveyed in 2006 used peer-to-peer networks and had child pornography videos than the offenders surveyed in 2000. In 2006, 39 percent of arrested possessors of child pornography also distributed child pornography, compared with 33 percent in 2000. Almost all distribution occurred on the internet, although a few offenders distributed images in person or through the mail. The authors reported that peer-to-peer network users possessed larger quantities of CEM images including more extreme forms (eg younger victims, sexual violence), than those who did not use peer-to-peer networks.

According to Bourke and Hernandez (2009: 188), exposure to child pornography and the cultural and technological context in which it is exchanged has an 'insidiously deleterious effect on offenders'. They asserted that this material 'normalises child/adult sexuality, dehumanises children and desensitises the offender to the harmful consequences of child victimisation.' They argued that these effects are further exacerbated by the offender's immersion in cyber-communities of similarly socially marginalised and sexually deviant individuals. Online communities not only serve as online 'trading posts' for illicit material, they also provide 'social validation, a sense of belonging and support.' The relationship between network participation and other CSE offending was likely to be affected by the degree of security attached to an offender network, particularly as exposure on a network heightens the risk of law enforcement detection.

The USSC reviewed the form and degree of offender networking as part of its study of CEM offenders as summarised in Table 5. The USSC found the highest levels of criminal sexually dangerous behaviour among offenders who used offline, personal modes of communication, followed by those who used personal digital communication such as email or instant messaging. The Commission noted that the high rate of CSDB among the small number of offenders who used offline personal modes of delivery should be treated with caution. The higher rate of CSDB among those using email or instant messaging is

explained by the inclusion of 98 cases involving the transmission of images during internet 'sting' operations targeting online grooming, where the grooming offence itself was the CSDB (USSC 2012).

Table 5: Child pornography distribution offenders exhibiting CSDB, by type of distribution, US fiscal year 2010 (n=1,080 of 1,654)

Category	Method	Offenders who use this method (n)	Offenders with a record of CSDB (n)	Method users with a record of CSDB (%)
Non-internet personal	Hand delivery	18	14	77.8
	Mailing			
	Texting			
Internet: personal	Email or instant messaging	333	163	48.9
Internet: other	Private posting via own social networking site eg Facebook, MySpace or	18	6	33.3
	private posting via photo-hosting service eg Photobucket.com, Flickr.com			
Internet: personal	Closed peer-to-peer file sharing eg Gigatribe	75	22	29.3
Internet: impersonal	Open peer-to-peer file sharing	577	151	26.2
Internet: personal	Posting or distribution via Internet chat rooms, bulletin boards, newsgroups, or similar Internet forums	59	12	20.3

Source: USSC 2012

Methodology

The AFP and the AIC have a long history of collaborative research partnerships. Both agencies recognise the importance of analysing available data on CEM offending in Australia; in particular, they acknowledge the need to assess the possible connections between online and offline CSE offending, and to study the criminal history trajectories of offenders. This project examined online CSE cases investigated by the AFP's CPO team between 2005 and 2011 (inclusive).

This study was funded by the Criminology Research Grant Program (CRG 58/12/13). The study aimed to improve our understanding of the nature of online CSE offending and any relationship between this offending and other offline or contact CSE offending.

The results should be used to assist child protection services, law enforcement agencies, policymakers, regulators and industry to respond more effectively to online CSE offending and related contact CSE offending. The study also contributes to the research agenda of the *National Plan to Combat Cybercrime* (AGD 2013), which encourages industry, law enforcement and other agencies to share information and cooperate on mutually beneficial research to better understand and minimise the incidence and impacts of cybercrime. This goal aligns with the national plan's objective of minimising opportunities for criminals to exploit the online environment.

Research questions

This study principally addressed the question of whether CEM offenders pose a risk of reoffending or escalating to more severe CSE offending. Offenders' criminal trajectories were examined to determine whether there were features and pathways that distinguished those with more extensive criminal convictions from those with less extensive histories. While convictions are an imperfect measure of offending, they provide the best readily available guide to confirmed offender behaviour.

The files examined were originally created for prosecuting offenders investigated by the CPO. The research addressed the following questions.

- Do online offenders also offend offline?
- To what extent, if at all, do online offenders become offline offenders?
- What factors affect any possible transition from online to offline offending?

Ethical considerations

The research raised a number of ethical concerns. To obtain the AIC's Human Research Ethics Committee's approval for the research, appropriate measures were taken to protect the anonymity of victims of and witnesses to offending and those who were investigated. All data were de-identified by the AFP, and data sources were matched using a unique AFP identifier, which was provided to the AIC.

All data were presented in aggregate and the AIC collected no identifying information. Anonymous responses could not be matched to specific individuals.

The consent of those whose information was held in the datasets was not sought because:

- these data were de-identified before being transmitted to project researchers. The research team could not identify offenders, victims or victims' families;
- it would be both impractical and inappropriate for the AFP to assist the AIC to contact offenders to obtain their consent;
- the risk associated with the research was low and did not warrant the potential risk of contacting offenders to obtain consent;
- access to the AFP data was conditional on the AIC not recording any identifying information or using it to contact individuals; and
- the AIC obtained the written consent of the data custodian (the AFP) to use it for the research before it received or accessed the specified datasets.

The project did not involve viewing CEM. Researchers were protected from the potential harm of reading case details involving CEM offending or other sexual exploitation offending against children by ensuring they had access to aggregated summary data only. Researchers were offered counselling and support if involvement in the study became problematic. One researcher sought support and declined further involvement.

Data sources

CSE encompasses a wide set of behaviours, and how these are criminalised varies between Commonwealth, state and territory jurisdictions. Criminal prosecutions data from each jurisdiction are affected by these variations in the law and by jurisdiction-specific variations in investigation, prosecution, court adjudication and corrections procedures.

De-identified data were provided by the AFP's CPO team. These data related to offenders convicted of online CSE offences between 1 March 2005 and 31 December 2011. These data do not include all offenders who initially came to the attention of the CPO during this time, as some matters were transferred to state or territory police agencies for action; only cases that led to a conviction for an online CSE offence were included. This reduced the initial possible sample of 186 individuals investigated to 152 convicted offenders, after cases where charges were not laid—or, once commenced, were not proceeded with—were removed.

Data on matters investigated by CPO during the study period was collected in three phases using different collection frameworks. Data collected during the first two phases of data collection—where the officer in charge completed an Online Child Sex Offenders Questionnaire (OCSOQ) for 68 of the 152 offenders (the OCSOQ offenders)—were the most complete. The OCSOQ was trialled and amended

during the study; the two resulting cohorts are referred to as OCSOQ Phase 1 and OCSOQ Phase 2. The third phase of data collection was post-OCSOQ and involved ongoing data recording by police officers.

The AFP developed the OCSOQ based on a profiling study of censorship offenders in New Zealand (Carr 2004). The New Zealand Department of Internal Affairs gave the AFP permission to use and modify their instrument to suit Australian legislation and the Australian environment. The OCSOQ was a systematic and structured questionnaire consisting of a mix of forced-choice responses and opportunities to make free-text comments. Many questions allowed multiple responses. The OCSOQ was divided into seven parts, covering:

- demographics;
- offender detection;
- the nature of the CEM and any other sexual material;
- offender history and associates;
- computer use and skills; and
- apprehension and prosecution.

OCSOQ Phase 1 examined offenders investigated by the AFP's OCSET (which later became the CPO) from 1 March 2005, when section 474 of the CCA was enacted, until 31 December 2006. Phase 1 data was collected between January and March 2007. Following its implementation in the field, the OCSOQ was revised and the revised questionnaire (OCSOQ Phase II) distributed to AFP offices and all Australian state and territory police agencies. OCSOC Phase 2 collected data on alleged online child sex offenders detected by the AFP's CPO team and referred for the execution of a warrant between 1 January 2007 and 31 October 2007. Phase 2 data was recorded between January and September 2008.

The AFP's CPO team recorded post-OCSOQ data between 1 November 2007 and 31 December 2011 on an ongoing basis. Data collected during the post-OCSOQ phase included some variables from OCSOQ Phase 1 and Phase 2 and some additional variables. The number of offenders in each collection period, is shown in Table 6.

Data source	Period in which cases under investigation commenced	Period in which data was collected	Number of offenders
OCSOQ Phase 1	1 March 2005 to 31 December 2006	January to March 2007	34
OCSOQ Phase 2	1 January 2007 to 31 October 2007	January to September 2008	34
Post-OCSOQ	1 November 2007 to 31 December 2011	1 November 2007 to 31 December 2011	84
Complete dataset total	1 March 2005 to 31 December 2011		152

Source: AIC AFP CEM Project 2013 [computer file]

The offender cohort comprised all those offenders who were convicted for at least one Commonwealth CSE offence (the index offence) following a CPO investigation during the study period. All the offenders in this cohort were men, most were described as Caucasian and most were aged between 46 and 55 years.

For this report, all CPO data for the study period were treated as if from the same cohort investigated in consistent conditions. In some instances, information was recorded for a subset of offenders. Where information relates to a subset of the full cohort of 152 offenders, the number of offenders in and percentages for that subset are provided.

Limitations

This is one of a few published studies of online child sexual abuse offending behaviour in Australia. The data examined for this study is not representative of all CSE offending, as the CPO's jurisdiction in relation to Commonwealth criminal law is limited and mainly over online offending involving CEM. The advantage of exploring the research questions using this cohort is that these offenders are more likely to represent those engaged only with online CEM. However, the research had some limitations.

Sample size

Data were available for 152 offenders. Most of the offenders (148) were convicted of at least one CEM offence. The small number of offenders convicted of an index offence of grooming or dual offending involving CEM offences, and either grooming or contact offences, means there are insufficient data for robust statistical analysis.

Data quality

Information about the circumstances of the index offending and the demographic characteristics of offenders and victims were extracted from AFP case files; this data was recorded by the officer in charge of the investigation. Using data collected in this way raises several issues. Data may be affected by errors including memory effects, subjectivity and other minor unintentional inaccuracies. The information captured in the questionnaires is limited to what is known to the investigating officers. Some information relating to behavioural antecedents may not come to light until the case proceeds to trial or, possibly, until sentencing, when the defence submits details of personal circumstances for the court to consider.

A study of institutional CSE offenders by Gelb (2016) highlighted the limitations of using information from sources not designed for data collection. The study required manual searching of sentencing remarks. Gelb also acknowledged the problem of underreporting, noting that 'so few cases of CSA in general—let alone institutional CSA— ever reach the courts' (2016: xii).

Convicted offenders

Study data only relate to offenders convicted following CPO investigations conducted in the study period. Even if the study were to include all offenders convicted of an online CSE offence, it is unlikely to be representative of the total population of actual offenders, which is unknown. Clearly, there are other offenders who do not come to law enforcement attention. This may be a matter of chance for offenders who operate with a similar mix of openness and security to the offenders convicted in the study group. Alternatively, it could be that there is purposefully well-hidden offending using less readily visible networks, like those available using anonymising applications such as TOR. It is beyond the scope of this study to draw out the effects of more secretive networked behaviour on offending.

Representativeness

The limited scope of CEM offences in the Commonwealth CCA, and possible selection pressure for cases to be investigated by or referred to the AFP, also limit the generalisability of the findings. The 152 offenders do not represent all persons convicted of a Commonwealth CSE offence in the study period. The CPO is not responsible for all such matters dealt with by the AFP, and state or territory police may also investigate and prosecute Commonwealth CSE offences. It is not possible to say on what basis a Commonwealth CSE offence was prosecuted by one or other police unit in the study period, nor is it possible to say how many offenders were convicted of these types of offences in the study period. Law enforcement dataset

During the study period, the AFP trialled a series of methods for collecting information considered relevant to the development of a profile each offender's criminal behaviour. Much of this information was collected exclusively for this purpose; it was recorded by the investigating AFP officer with primary case responsibility following the offender's apprehension. The investigating officer is regarded as the best source of information about the offender, the criminal environment and the offence. Investigators were asked to base their responses on their observations during any execution of a search warrant, other investigative activity, and forensic examination of the CEM and any seized devices or hardware. Where substantiated information was not available, investigators were requested to make judgments based on their expertise and training in this crime type. Where multiple sites of offending behaviour were identified, investigators based their responses on the principal location.

Evolving dataset

Data recorded for matters investigated by CPO between 1 March 2005 and 31 December 2011 fall into three phases, each with different collection frameworks. The most complete data are those recorded in the first two phases, where the officers in charge completed OCSOQs for 68 of the 152 offenders (the OCSOQ offenders). A supplement was added in the second half of this period, providing data on another 34 offenders. All data examined in this report were derived from CPO case files, and the results are presented uniformly as CPO data with a notation of the number of case files from which specific data were drawn.

Offences and jurisdiction

The present study did not consider all identified online CSE offending, and the data available reflect the scope of Commonwealth criminal law. The sample is unlikely to be representative of CSE offenders. The Commonwealth has limited constitutional power and physical CSE offences are the responsibility of the states and territories. Commonwealth CSE offences are tied to specific Constitutional powers. The customs and excise power is used to create offline offences of breaching import or export restrictions under the *Customs Act 1901* (Cth) (Customs Act). The external affairs power is used to create CSE offences committed overseas by persons who are made subject to Australian jurisdiction. The post, telegraph and similar services power is used to create offline offences of using postal services to distribute CEM or child abuse material and offences involving online CEM and online grooming in the CCA (related to the use of a 'carriage service' for the carriage of electromagnetic communications).

There is a potential for overlap between Commonwealth and state or territory laws that may apply to CSE offending with an online element. A person suspected of committing a Commonwealth offence may also be suspected of offline offending under state or territory law. State and territory police are more likely than the AFP to be responsible for the investigation of contact CSE offences. When evidence of offending under Commonwealth criminal law is discovered during a state or territory police investigation, additional Commonwealth charges may be added to the prosecution for state or territory offences.

Commonwealth offences

The *Commonwealth Criminal Code Act 1995* (CCA) creates offences involving CEM and online grooming under the telecommunications power by referring to actions involving the use of a carriage service being 'a service for carrying communications by means of guided and/or unguided electromagnetic energy'. These offences only capture a narrowly defined aspect of online CSE behaviour.

Commonwealth law also creates offline offences relating to breaches of import or export restrictions under the Customs Act, the use of the postal or other like services, and CSE offences committed overseas by persons who are made subject to Australian jurisdiction. In two cases in the dataset, the investigation commenced with offline offending under the Customs Act for the importation of prohibited items, namely CEM. However, in each of these cases the offenders were charged at the completion of the investigation with additional online offences related to using a carriage service to access CEM. In some cases, the AFP investigation led to the discovery of additional CSE offending (such as possession of CEM or contact CSE offending, ie sexual assault) under state or territory law, and these were joined in the same prosecution.

Child exploitation material

Relevant CEM offences in the CCA are framed in terms of ‘child pornography material’ which is defined in section 473.1 (see Box 1). The CCA definition in sub-paragraph 473.1(a)(i) includes depictions of a child (or representations of a child) who is, or appears to be, engaged in sexual activity. The CCA definition is not restricted to use of the term ‘sexual parts of a child’, as in the OPCRC. The CCA refers at paragraph 473.1(b) to material where the dominant characteristic is depiction for a sexual purpose, and which is a depiction or a representation of a sexual organ or the anal region of a child (who is or appears to be under 18 years of age) or a depiction or a representation the breasts of a female person under 18.

The definition at paragraph 473.1(a) extends beyond the OPCRC wording to capture:

- a sexual pose involving a child (or representation of a child), in sub-paragraph 473.1(a)(i); and
- a sexual pose or sexual activity by another person in the presence of a child (or representation of a child) in sub-paragraph 473.1(a)(ii).

The enlarged scope of the CCA definition, especially in relation to material depicted for a sexual purpose, is balanced by an overall objective test that a ‘reasonable persons would regard [the material] as being, in all the circumstances, offensive’ (Krone 2005a).

Box 1: *Commonwealth Criminal Code Act 1995*, section 473.1

Child pornography material means:

- (a) material that depicts a person, or a representation of a person, who is, or appears to be, under 18 years of age and who:
- (i) is engaged in, or appears to be engaged in, a sexual pose or sexual activity (whether or not in the presence of other persons); or
 - (ii) is in the presence of a person who is engaged in, or appears to be engaged in, a sexual pose or sexual activity;
- and does this in a way that reasonable persons would regard as being, in all the circumstances, offensive; or
- (b) material the dominant characteristic of which is the depiction, for a sexual purpose, of:
- (i) a sexual organ or the anal region of a person who is, or appears to be, under 18 years of age; or
 - (ii) a representation of such a sexual organ or anal region; or
 - (iii) the breasts, or a representation of the breasts, of a female person who is, or appears to be, under 18 years of age;
- in a way that reasonable persons would regard as being, in all the circumstances, offensive; or
- (c) material that describes a person who is, or is implied to be, under 18 years of age and who:
- (i) is engaged in, or is implied to be engaged in, a sexual pose or sexual activity (whether or not in the presence of other persons); or
 - (ii) is in the presence of a person who is engaged in, or is implied to be engaged in, a sexual pose or sexual activity;
- and does this in a way that reasonable persons would regard as being, in all the circumstances, offensive; or
- (d) material that describes:
- (i) a sexual organ or the anal region of a person who is, or is implied to be, under 18 years of age; or
 - (ii) the breasts of a female person who is, or is implied to be, under 18 years of age;
- and does this in a way that reasonable persons would regard as being, in all the circumstances, offensive.

Online grooming and procuring offences

Commonwealth offences involving online grooming and procuring, or other prohibited communication with children, are summarised in Table 7.

Table 7: Online CSE offences in the *Commonwealth Criminal Code Act 1995*

Section	Scope	Maximum penalty imprisonment (years)	Aggravated penalty
474.25A	Using a carriage service for sexual activity with a person under 16 years of age, causing a child under	15	25 years imprisonment (vulnerable child)

	16 years to be engaged in sexual activity		
474.26	Using a carriage service to procure persons under 16 years of age for sexual activity with the sender or with another person over 18 years of age	15	NA
474.27	Using a carriage service to groom persons under 16 years of age 'with the intention of making it easier to procure the recipient to engage in sexual activity'	12	NA
474.27A	Using a carriage service to transmit indecent communication to person under 16 years of age	7	NA

Law enforcement classification of CEM

In Australia, as elsewhere, schemes have been developed to assess the material that falls within the broad definition of CEM. Some law enforcement agencies have used the Oliver scale for assessing criminal CEM and have also referred to the wider Combating Paedophile Information Networks in Europe (COPINE) scale, which underpins it.

The 2002 guideline judgment of *R v Oliver* [2002] EWCA Crim 2766 has been treated as a persuasive authority, although that decision has not been directly adopted in Australian law. However, judgements on CEM-related offences often categorise the severity of offending by reference to either the COPINE or Oliver scales.

In *Oliver*'s case, the UK Court of Appeal Criminal Division accepted the advice of the Sentencing Advisory Panel (2002), classifying the increasing seriousness of material using five levels based on the contents of the image. The Oliver scale was applied firstly to categorise the severity of what was depicted in each image or video, and then to count the amount of material in each category held by the offender.

In providing its advice, the UK Sentencing Advisory Panel drew on COPINE's work, which established a hierarchy for classifying the images used by those with a sexual interest in children. The panel drew the more severe categories of images that would fit the criminal law definition of indecent images of children from the COPINE scale. The COPINE scale was not developed to assess criminal CEM but rather to allow the classification of a broad range of material that may be of interest to a person with a sexual attraction to children. The COPINE scale therefore addresses material that is forensically indicative of a sexual interest in children, but which would not be captured by the criminal law prohibitions on CEM.

For England and Wales, the Oliver scale was replaced in April 2014 by a new definitive guideline issued by the UK Sentencing Council (2013). The new scale is a simplified A to C scale, from worst to least serious, with associated recommended penalties. The Council has advised courts to apply this scale to determine the applicable offence category for sentencing an offender.

The Council notes that 'in most cases the intrinsic character of the most serious of the offending images will initially determine the appropriate category. However, if the most serious images are unrepresentative of the offender's conduct a lower category may be appropriate. A lower category will not, however, be appropriate if the offender has produced or taken (for example photographed) images of a higher category' (Sentencing Council 2013: 77). In New South Wales, the Child Pornography Working Party (2010) recommended that state and federal offences be graded using a single classification scheme that incorporates the Microsoft Child Exploitation Tracking System (CETS) and the Australian National Victim

Image Library (ANVIL). The claimed advantages of a single classification scheme include reducing the requirement to view images that have already been identified and classified.

Several jurisdictions use the CETS classification. Cowan (2013) reported that the AFP and the police services of Queensland, the Northern Territory and Victoria used the CETS/ANVIL system. Table 8 maps the CETS categories to the Oliver scale, the 2014 Sentencing Council for England and Wales *Sexual offences: Definitive guideline* and the descriptors used by the AFP during the OCSOQ phases 1 and 2 survey period.

Table 8: Reclassification of CEM images

CETS classification	Description	OCSOQ Phase1 variables	OCSOQ Phase 2 variables	Oliver scale	Sentencing Council for England and Wales 2014
Non-illegal indicative	Non-illegal child material (believed to form part of a series containing CEM)	Naturalist type nudity or partial nudity	Indicative Nudist Erotica Posing		
CEM—No sexual activity	Depictions of children with no sexual activity—nudity, surreptitious images showing underwear nakedness, sexually suggestive posing, explicitly emphasis on genital areas, solo urination. Depending on the definition in each jurisdiction some of the material included in CETS category 1 may not be captured in the definition of CEM/Child pornography	Posed nudity or partial nudity without display of genitals	Erotic posing Explicit erotic posing	1 Images depicting erotic posing with no sexual activity	C Possession of other indecent images not falling within categories A or B
CEM—Child non-penetrate	Non-penetrative sexual activity between children or solo masturbation by a child	Explicitly sexual acts or actions (if the child or young person was shown alone or was shown with other children or young persons)	Explicit sexual activity	2 Non-penetrative sexual activity between children, or solo masturbation by a child	B Possession of images involving non-penetrative sexual activity
CEM— Adult non-penetrate	Non-penetrative sexual activity between child(ren) and adult(s). Mutual masturbation and other non-penetrative sexual activity	Explicitly sexual acts or actions (if the child or young person was shown with adults)	Assault	3 Non-penetrative sexual activity between adults and children	B Possession of images involving non-penetrative sexual activity
CEM— Child/adult penetrate	Penetrative sexual activity between child(ren) or between child(ren) and adult(s)—including, but not limited to, intercourse, cunnilingus and fellatio	Incest or implied incest	Gross assault	4 Penetrative sexual activity involving a child or children or both children and adults	A Possession of images involving penetrative sexual activity
CEM— Sadism/bestiality/child abuse	Sadism, bestiality or humiliation (urination, defecation, vomit, bondage etc) or child abuse as per CCA 199528	Explicitly harmful act or actions Physical and/or verbal expression of fear and/or distress Dehumanising and degrading activities Bestiality involving children or in presence of children	Sadistic/bestiality	5 Sadism or penetration of, or by, an animal	A Possession of images involving sexual activity with an animal or sadism

Results: Offenders and their index offending

This section presents the study's findings on the index offending of the total AFP sample of 152 convicted offenders. CPO data were used to describe the convicted offender cohort, including the nature and circumstances of the index offending, the demographic and other characteristics of the offenders and their victims, and the offenders' overall criminal histories. All charges arising from an investigation and joined in the first CPO prosecution during the study period were treated as the offender's index offence.

Offline offending involving anything other than actual or intended online offending, or postal services, is subject to state or territory law. In addition to the Commonwealth CSE offences effectively tied to online offending, there are state and territory laws against CEM and grooming. Several matters investigated by the CPO did not lead to convictions for relevant offences during the study period. In addition, not all offenders who came to the AFP's attention during the data collection period are included. Some were not dealt with by the CPO and some were immediately referred to state or territory police agencies, especially where a child at risk was identified.

Given the small numbers involved and the potentially confounding effects of how cases come to police attention and are allocated to the CPO or state or territory police for investigation, care must be exercised in generalising this study's findings.

In two cases in the dataset, the investigation commenced with offline offending under the Customs Act (for the importation of prohibited items, namely CEM). However, at the completion of both investigations, the offenders were charged with additional online offences related to using a carriage service to access CEM. In some cases, the AFP investigation led to the discovery of additional CSE offending (such as for the possession of CEM or contact CSE offending—ie sexual assault) under state or territory law and these additional offences were prosecuted concurrently.

Offence category

For each offender, the first offences prosecuted to conviction by the CPO during the data collection period were considered the index offending, as shown in Table 9. The reference point for describing offender characteristics and the index offending was the date of arrest. However, because of how offender information was collected, the conviction date was the reference point for analysing criminal history data.

Of the 152 offenders, 148 (97%) were convicted of at least one CEM index offence (CEM offenders). One hundred and thirty-one (86%) offenders were convicted of index offending that

involved only a CEM offence (CEM-only offenders). Seventeen offenders (11%) were dual offenders:

- nine offenders (6%) were convicted of a CEM offence and a grooming offence; and
- eight offenders (5%) were convicted of a combination of a CEM offence and a contact CSE offence.

Four offenders (3%) were convicted of a grooming offence but not a CEM or other offence. No offenders were convicted of index offending involving a combination of CEM, grooming and contact offending.

	CEM only	CEM and grooming	CEM and a contact CSE offence	CEM grooming and contact	Grooming	All offenders
N	131	9	8	0	4	152
%	86.2	5.9	5.3	0	2.6	100.0

Source: AIC AFP CEM Project, 2013 [computer file]

Offenders in the study were charged with one or more Commonwealth CEM or grooming offences. In some instances, offences under state or territory law were prosecuted with Commonwealth offences. Most convictions were for Commonwealth offences only, although some offenders were also dealt with for state or territory offences arising from the same investigation.

The 152 offenders convicted of one or more CSE offences in cases investigated by the CPO do not represent all cases ending in a conviction for a Commonwealth CEM offence during the data collection period of 1 March 2005 to 31 December 2011. Other areas of the AFP, or the state or territory police, may also have charged people with Commonwealth CSE offences.

Offender demographics

This section provides demographic information about the offenders and some of the features of the index offending. The results are presented separately for each data collection instrument, as different variables were collected.

Gender and age

All 152 offenders were men. Offenders ranged in age from as young as 16 years to over 65 years (see Table 10). These data were compared to the ABS 2011 Census results for males aged ten years and over (ABS 2012). The 16 to 17 years age group was under-represented, at less than half the distribution expected based on the Census data. Those over 65 years were also markedly under-represented, by a factor of 21.

Compared to the age distribution of Australia's male population, offenders aged 18 to 45 were over-represented in the sample by differing margins, from just under two percent to just over 5.5 percent. Those aged 46 to 55 were the most over-represented, at more than twice the Census estimate of the percentage of the male population.

Age category	N	%	% (ABS Census data)
16–17 years	2	1.3	3.2
18–25 years	22	14.5	12.8

26–35 years	25	16.5	15.9
36–45 years	33	21.7	16.3
46–55 years	50	32.9	15.7
56–65 years	19	12.5	13.1
Over 65 years	1	0.7	13.9
	152		

Source: AIC AFP CEM Project 2013 [computer file] and (ABS 2012) 2011 Census results [website resource]

Note: percentages may not total 100 due to rounding.

Ethnicity

Most the 152 offenders (87.5%) were Caucasian, as shown in Table 11. The percentage of offenders categorised as Indigenous (2%) was comparable to the 2.2 percent of the Australian male population aged over 10 years who identified as Indigenous in the 2011 Census (ABS 2012).

Table 11: Offender ethnicity (n=152)

Ethnicity	N	%
Caucasian	133	87.5
Mediterranean	3	2.0
Indigenous (Aboriginal*)	3	2.0
Asian	2	1.3
Middle Eastern	1	0.7
Hispanic	1	0.7
Missing	9	5.9
Total	152	

Source: AIC AFP CEM Project 2013 [computer file]

Note: percentages may not total 100 due to rounding

*Note: the OCSOQ data collection instrument included the category Aboriginal. It is likely this category captures Aboriginal and Torres Strait Islander.

Occupational status

Almost 65 percent of the 152 offenders (n=98) were in paid employment and almost 30 percent (n=45) were not (see Table 12). Those who were employed had a broad range of occupations, which indicates that this type of offending cuts across the socioeconomic spectrum.

Table 12: Offender occupations (n=152)

Occupation	N	%
EMPLOYED		
Other professional/administrative	24	15.8
Manual worker	20	13.2
Information technology	13	8.6
Education/training profession	11	7.2
Tradesperson	9	5.9
Retail	9	5.9
Other	6	3.9
Defence force personnel	3	2.0
Medical profession	1	0.7
Law enforcement officer	1	0.7
Clergy	1	0.7
TOTAL EMPLOYED	98	64.5

UNEMPLOYED		
Unemployment beneficiary	21	13.8
Student	15	9.9
Retired/superannuant	4	2.6
Other caregiver	4	2.6
Sickness beneficiary	1	0.7
TOTAL UNEMPLOYED	45	29.6
Missing	9	5.9

Source: AIC AFP CEM Project 2013 [computer file]

Note: percentages may not total 100 due to rounding

Index offending characteristics

This section presents data on the characteristics of CEM offending among the total 148 CEM offenders (131 CEM-only offenders and the 17 dual-CEM offenders). The section also provides an overview of offender engagement with CEM. The results are presented noting the number of offenders for whom data were recorded, reflecting the phases of data recording used during the study period. Details of the characteristics of the CEM are also provided in this section. As noted, this project drew upon sentencing case notes matched to offenders in an AFP dataset. In many of the CEM-only cases the offender asserted that he was not sexually interested in CEM, that the material was not used for sexual purposes, or that the offender was not aroused by CEM.

Quantity of CEM

This is a potential area for further research building on the existing AFP data. The proven quantity of CEM relevant to the offence charged was recorded for 137 of the 148 CEM offenders. The police questionnaire for OCSOQ Phase 1 measured CEM quantity by number of images. For OCSOQ Phase 2 and later, CEM was measured by images, video files, and stories. Images can be counted individually; videos may be broken down into many thousands of single images and for this reason are usually counted as files, with an indication of the length of the video. Stories may or may not be serialised, but can be counted by discrete narratives of so many words or equivalent pages, if printed. Because of the mixed methods of counting used over the data collection period, the quantity of material involved was measured in broad terms and it was not possible to arrive at a precise number. In addition, the amount of CEM identified in relation to a charge does not necessarily represent all the material an offender had access to or was engaged with. Whether it is possible to prove material related to a charge can be affected by factors such as whether the offender deleted or encrypted the material after it was viewed or accessed, rather than simply downloading it.

A UK study of CEM offenders found the size and content of an image collection was significantly associated with participation in, and the manner of, contact offending (Long et al. 2013). However, the present study found no relationship between collection size and the likelihood of conviction for a contact or grooming offence or CEM offending. The size of CEM collections varied greatly and was strongly positively skewed, with half of the collections comprised of 1,000 images or less. The median collection size was 1,000 files, meaning half the sample had collections of less than 1,000 files. Twenty-five percent had collections of more than 10,000 files, and five percent of offenders had collections of over 100,000 files. Table 13 shows the number of images or files, which ranged from none to 580,731 images or files (mean=23,034.06; SD=77,402.84; n=137).

Table 13: Minimum quantity of material per percentile of offenders (n=137)

Percentile of offender cohort	Minimum quantity of material at this percentile
-------------------------------	---

1	0
5	17
10	27
25	100
50	1,000
75	10,000
90	46,547
95	100,059
99	436,576
	(max 580,731)

Source: AIC AFP CEM Project 2013 [computer file]

Unlike criminal acts of CSE in the physical world, online CEM offences do not necessarily involve the offender directly engaging with a child. Successful criminal prosecution in these online cases may not require evidence from the victim or other witness, as would normally be the case when prosecuting a contact offence of child sexual assault. In the case of an online offence, case attrition is likely to be the result of evidentiary difficulties such as identifying who was using the computer when an online offence was committed, or locating and keeping a digital record of the material involved in the offence—perhaps because it was deleted, well-hidden or securely encrypted by a suspect.

In CDPP case 12, the offender possessed 74,081 image files and 177 video files. He used peer-to-peer programs to access some of the material found in his possession. Most of the images were categorised 1 on the Oliver Scale (described above) and most of the videos were category 4, with one in category 5. However, it could not be proved that all the material the offender held had been accessed online—that is, it could not be proved to be related to the use of a carriage service. As a result, the judge treated the state offence of possession as more serious than the Commonwealth offence of using a carriage service to access CEM, although the maximum penalty for the state offence was less.

In another example, CDPP case 14, the offender accessed 11,000 images and 21 videos. Police had information about the amount of material obtained over time; however, most had been deleted by the time a search warrant was executed. The police recovered 96 images and eight videos, stored on an SD card hidden in the battery compartment of a radio. It included a home video of the accused masturbating to a CEM video which depicted a child performing oral sex on an adult.

In CDPP case 64, the offender was dealt with for the CEM discovered in his possession. The police found a total of 36,000 images, 1,158 videos, and 80 text files. The offender used the internet to access or distribute some of the CEM via peer-to-peer file sharing. The offender was prosecuted for separate CCA charges for accessing and distributing some of the images using the internet. He had a prior conviction for a child pornography offence in 1997.

In the case of some offenders, no CEM was formally identified or located. One case involved an attempt to access CEM online and the others involved the use of one or more platforms such as instant messaging, email, internet relay chat, or web-based pay-per-view sites and no offending images or files were retained. In CDPP case 23, chat logs were used to identify the CEM involved in the offending. However, no detailed classification or breakdown of the CEM could be provided. However, the material solicited by the offender was described and most of it was admitted to involve children under 10 years of age.

Encryption of CEM

Data on the use of encryption to store CEM were available for 130 offenders (no data were available for 18 offenders, and four offenders were convicted of a grooming offence alone and no CEM offence). Of the 130 offenders, 10 (7.7%) had encrypted their CEM.

Victim gender

Data were available on the gender of the child victims portrayed in the CEM held by 138 offenders as shown in Table 14. Of these offenders, 56 (40.6%) had collections of material involving only girls, 33 (23.9%) had collections of material depicting only boys, and the collections of the remaining 49 (35.5%) contained material depicting both male and female victims.

Table 14: Victim gender in offender image collections (n=138)		
Gender of victims in image collection	N	%
Girls	56	40.6
Boys	33	23.9
Both girl and boys	49	35.5
Total	138	100.0

Source: AIC AFP CEM Project 2013 [computer file]

Age of depicted victims

The ages of the victims in the CEM collections of 138 offenders are shown in Table 15. Of these 138 offenders, a third held images of child victims under two years of age and just over 90 percent had images of child victims between eight and 12 years of age. However, only nine of the offenders (6.5%) were found to have material solely depicting children in the wider age category of between 13 to 18 years.

Table 15: Ages of victims in CEM collections of each offender (n=138)		
Category	N	%
Infants (under 2 years old)	46	33.3
Young children (2–7 years old)	94	68.1
Older children (8–12 years old)	125	90.6
Teenagers (13–18 years old)	101	73.2

Source: AIC AFP CEM Project 2013 [computer file]

Note: More than one category could be selected for each victim

It was not possible to relate the ages depicted in images to other aspects of images such as gender portrayed or the nature of the images, nor was it possible to determine how many offenders had collected materials depicting children of a range of ages. Further, it could not be determined whether any offenders were dealt with only for material depicting children aged 16 to 18 years.

CEM image content

The OCSOQ data collection instrument asked about the nature and content of the CEM images for a sample of 68 offenders (the OCSOQ offenders). Information was recorded about the child or young person depicted in the material and, where applicable, about the perpetrators of abuse depicted.

The police used a different system for classifying CEM images in each of the two OCSOQ phases. These were collapsed to approximate the ANVIL/CETS classification. More than three quarters of the 68 OCSOC offenders had collections that included material that was not illegal but did indicate a sexual interest in children (Table 16). More than half of the 68 offenders (38,

or 56%) held images in the worst category including images of sadism, bestiality or physical abuse.

Table 16: OCSOQ ANVIL/CETS classification of child exploitation images (n=68)

CETS Category	N	%
Non-illegal/indicative	53	77.9
CEM, no sexual activity	16	23.5
CEM, child non-penetrate	25	36.7
CEM, adult non-penetrate	34	50.0
CEM, child\adult penetrate	29	42.6
CEM, sadism/bestiality/child abuse	38	55.8
Missing	2	2.9

Source: AIC AFP CEM Project 2013 [computer file]

Note: more than one category could be selected for each offender

Victimisation

As shown in Table 17, most collections of CEM included images of children or young people alone, with other children or with adults. No distinct preferences were apparent in the sample, with 80 percent of the OCSOQ offenders holding material in each category.

Table 17: OCSOQ victimisation (n=68)

Category	N	%
Abused with other children or young people	58	85.3
Abused with adults	56	82.4
Children or young people abused alone	54	79.4
Animals	3	4.4
Missing	2	2.9
Other	1	1.5

Source: AIC AFP CEM Project 2013 [computer file]

Note: More than one category could be selected for each offender

Victim ethnicity

Offenders often held material depicting children of more than one ethnicity (Table 18). Nearly all the OCSOQ offenders (96%) had images depicting Caucasian children. More than half (57%) had images depicting Asian children and around a quarter (22%) had images depicting Eastern European children.

Table 18: OCSOQ victim ethnicity

Category	N	%
Caucasian	65	95.6
Asian	39	57.4
Eastern European	15	22.1
Mediterranean	8	11.8
Hispanic	7	10.3
African	5	7.4
Pacific Islander	2	2.9
Indigenous	1	1.5
Missing	1	1.5

Source: AIC AFP CEM Project 2013 [computer file]

Note: categories are not mutually exclusive

Note: the OCSOQ data collection instrument included the category Aboriginal. It is likely that this category captures Aboriginal and Torres Strait Islander children

Ethnicity of perpetrators depicted in images

Most perpetrators in the images held by OCSOQ offenders were Caucasian, as shown in Table 19. The image collections of 37 of the 68 offenders (54%) depicted only male perpetrators, while the image collections of 21 offenders (31%) depicted both male and female perpetrators. No offenders held material depicting female perpetrators acting alone. Data was not available for 11 offenders (16%).

Category	N	%
Caucasian	52	76.5
Asian	15	22.1
Eastern European	7	10.3
Hispanic	4	5.9
Mediterranean	3	4.4
African	2	2.9
Indigenous	1	1.5
Pacific Islander	1	1.5
Indiscernible	1	1.5
Missing	11	16.2

Source: AIC AFP CEM Project 2013 [computer file]

The significance of victim and perpetrator ethnicity should be further explored. The ethnicity of victim or perpetrator may be due to offender preference, image availability or a combination of both. It is worth investigating further what the ethnicity of victims and perpetrators in CEM images can tell us about patterns of offline CSE offending.

Where CEM victimisation occurs

Most CEM held by the OCSOQ offenders was produced in a domestic setting (Table 20). Future research into CEM could consider whether the location of victimisation indicates the material was sourced from contact offenders or whether it is produced for parts of the CEM market. The use of unidentifiable or controlled settings—that is, where anything that could identify the location has been removed—could indicate the material was commercially produced, or that contact offenders took steps to prevent the location being recognised.

	N	%
Domestic environment	59	86.8
Public place	34	50.0
Apparent commercial/professional studio environment	30	44.1
Unidentifiable/controlled environment	21	30.9
School	5	7.4
Missing	2	2.9
Other	1	1.5

Source: AIC AFP CEM Project 2013 [computer file]

Note: categories are not mutually exclusive

Accompanying non-CEM imagery

Many OCSOQ offenders also possessed material that was considered suspicious in the context of their offence—for example, 60 (88%) had collected adult pornographic images and 22 (32%) held images of children that were not classified as CEM (Table 21).

Table 21: OCSOQ non-CEM held by offenders (n=68)

	N	%
Adult pornography/erotic images	60	88.2
Other images of children	22	32.4
Children's toys, appliances and/or articles of clothing	1	1.5
Images of autopsies or the dissection of body parts	1	1.5

Source: AIC AFP CEM Project, 2013 [computer file]

Note: categories are not mutually exclusive

Management of CEM images

The OCSOQ collected information about how perpetrators collected, stored, secured and managed their collections of CEM for most of the 68 perpetrators.

Types of offending behaviour

Table 22 presents data on the kinds of offending behaviour detected and the thematic content of the CEM found for the OCSOQ offenders. Offenders collected both themed and not themed CEM in almost equal proportions. Image classifications were not mutually exclusive, with offenders collecting a wide range of sexualised images, both specifically themed and not themed material. Concerningly, 28 percent of offenders had distributed or traded in CEM.

Table 22: OCSOQ types of offending behaviour (n=68)

	N	%
Collecting CEM with no specific theme	34	50.0
Collecting themed CEM	33	48.5
Collecting other sexualised images	18	26.5
Distributing/trading CEM	19	27.9
Producing CEM	4	5.9
Other	4	5.9
Developing websites or selling CEM for financial gain	2	2.9

Source: AIC AFP CEM Project 2013 [computer file]

Note: categories are not mutually exclusive

CEM file types

Most the OCSOQ offenders for whom information was available collected digital image files, although almost three quarters were also in possession of video files. Almost a third of the offenders were found to have text-based CEM (Table 23).

Table 23: OCSOQ CEM file types

	N	%
Digital image files	64	94.1
Digital video files	50	73.5
Text files	22	32.4
Printed images	10	14.7
Other file type	5	7.4
Other video files	2	2.9
Digital audio files	1	1.5

Source: AIC AFP CEM Project 2013 [computer file]

Note: categories are not mutually exclusive

Where CEM was accessed

Most of the OCSOQ offenders accessed CEM from home (n=66, 97%; see Table 24). Nine offenders (13.2%) accessed CEM from work; one offender (1.5%) accessed CEM from a public location such as an internet café. Two offenders (4.3%) were listed as accessing CEM from 'other' locations, which meant offending material was located on their person or in their luggage (an offence against the *Customs Act*).

Table 24: OCSOQ where CEM was accessed (n=68)

	N	%
Home	66	97.1
Work	9	13.2
Public location	1	1.5
Other location	2	2.9

Source: AIC AFP CEM Project, 2013 [computer file]

Note: more than one category could be selected for each offender.

How CEM was concealed

Overall, most of the OCSOQ offenders for whom data was available took few or no steps to prevent detection, with less than half making any effort to reduce the risk of the material being found. In most cases the measures taken were simple, such as saving files to an inconspicuously named directory (Table 25). Some offenders disposed of or deleted material after viewing it (22%). Further information is required to determine whether this reflects an entrenched pattern of offending - perhaps to minimise the risk of detection, or whether it represents other factors such as early engagement in CEM offending.

Table 25: OCSOQ how CEM was concealed (n=68)

	N	%
Not concealed	37	54.4
Offender hides CEM after viewing	17	25.0
Offender deletes/disposes of CEM after viewing	15	22.1
Saved to inconspicuously name directory	18	26.5
Password-protected	5	7.4
Other	4	5.9
Missing	1	1.5

Source: AIC AFP CEM Project 2013 [computer file]

Note: more than one category could be selected for each offender

Security of online communications

Similarly, less than half the offenders used secure communication of any kind (Table 26). Given that many of the offenders had limited expertise in using IT systems, this may not be surprising. It would be worthwhile to determine how and why some offenders employ stronger security measures for their collections—considering factors such as criminal history, greater involvement in CEM networks or higher IT skills.

Table 26: OCSOQ security of online communications (n=68)

	N	Percentage
Not secured	31	45.6
Used web-based email	22	32.4
Used internet service provider email product	20	29.4
Anonymisers	2	3.0
Other	2	2.9

Source: AIC AFP CEM Project, 2013 [computer file]

Note: more than one category could be selected for each offender.

Offender usernames

The usernames of 52 OCSOQ offenders (76.5%) were classified as non-sexualised. The usernames of a further seven offenders (10.3%) were classified as overtly sex-oriented and five (7.6%) were overtly child sex-oriented. No data was available for four offenders (5.9%).

Detection and response

How CEM offending was detected

Over half of the OCSOQ offenders (53%) were detected by a government agency, such as the AFP, the former Australian Customs and Border Protection Service, the FBI, Interpol or one of a number of other domestic and international policing agencies (see Table 27).

Table 27: How CEM offending was detected (n=68)

	N	%
Identified by other government agency	36	53.0
Trading CEM on the internet	14	20.6
Public complaint	7	10.3
Identified from another offender's online activity	6	8.8
Other	5	7.4

Source: AIC AFP CEM Project 2013 [computer file]

Note: percentages may not total 100 due to rounding

Offender responses to arrest

When presented with a warrant for their arrest, the majority of the OCSOQ offenders either freely admitted to the offence (32.4%) or partly admitted to the offence (42.6%; Table 28).

Table 28: Offender responses to arrest (n=68)

	N	%
Partly admitted offence/admitted but minimised offence	29	42.6
Freely admitted offence	22	32.4
Refused to answer questions/not prepared to admit skill level or provide details	13	19.1
Other	4	5.9
Completely denied offence/tried to shift blame	3	4.4

Source: AIC AFP CEM Project 2013 [computer file]

Note: more than one category could be selected for each offender

How offenders responded to detection

One of the 68 OCSOQ offenders committed suicide following his conviction for the index offence, and three offenders mentioned self-harm or suicidal ideation (Table 29). Nearly half expressed shame or a desire to hide their activities, while one in four asked for help or admitted they had a problem.

Table 29: How offenders responded to detection (n=68)

	N	%
Expressed feelings of shame and/or a desire to hide activities from loved ones	32	47.1
Asked for help/said that they had a problem	19	27.9
Mentioned self-harm/suicide	3	4.4
Suicided	1	1.5

Other	3	4.4
Became physically threatening and/or intimidating	0	0
Missing	1	1.5

Source: AIC AFP CEM Project 2013 [computer file]

Offender criminal histories and offending trajectories

The analysis presented in this section is based on the official record of each offender's criminal convictions before, at the time of and after their conviction for the index offence. This places the index offending in the context of the offender's general criminal history, including their history of convictions for child sexual abuse offending and contact CSE offending. De-identified criminal history information for all 152 offenders was obtained from the AFP's Police Real-time Online Management System (PROMIS) and the Nationwide Police Reference System (NPRS), including the dates of offending and judicial outcomes. This information was matched to the offenders in the OCSOQ database in November 2013 using a unique identifier. Matching was undertaken by the AFP without AIC research staff involvement.

The date of the first conviction for one or more offences arising from a CPO investigation commenced in the study period was used as the index offending date. A conviction for a state or territory offence, such as a contact CSE offence, could be recorded as occurring at the same time as the conviction for the index offending. Pre-index and post-index convictions were measured in relation to the index offending date.

Data for offenders with more than one conviction for a CSE offence were analysed to identify any relationship between online grooming or online CEM offending and any offline or contact offending. The offending trajectories of offenders were also examined to identify whether there were any potential pathways to multiple CSE offending.

Offenders' criminal histories

The entire recorded criminal history of each of the 152 offenders was examined. Pre- and post-index offences, including the number of unique conviction dates and the earliest process date for each offence type, were recorded for the criminal history analysis; traffic offences such as speeding, negligent driving and culpable driving matters were disregarded for this analysis. The exclusion of traffic matters affected 34 offenders whose only additional criminal record entries were for traffic matters. When designing future research, it may be useful to consider whether traffic offences are indicative of risk-taking behaviour.

The incidence of prior offending for any offender cannot be accurately determined using criminal conviction data which underestimates the true incidence of offending. In addition, the sequence of entries in an offender's official criminal history must be treated with caution as it is not always a linear record of their offending; rather, it is organised by charge dates. It is uncertain (and perhaps unlikely) whether the charge sequence will match the sequencing of offending. For example, an offender may be a contact offender with several offences prior to being convicted of a CEM offence. Publicity around the CEM offence may see victims come forward, or cases where the conduct complained of pre-dated the CEM offending.

These data were analysed to determine, for each offender, convictions recorded before and after the index offence. Offenders' criminal histories were then explored to test for relationships between CEM offences and grooming and contact offences.

Criminal matters were coded to the following offence types:

- CSE offences including CEM offences and grooming offences;
- other CSE offences;
- sexual offences against an adult;
- minor offences of a sexual nature (stealing underwear/peeping Tom offences);
- involvement in the sex industry;
- other violent offences;
- nonviolent, non-sexual offences including theft and burglary;
- drug offences;
- other offences (including fraud, misappropriation and public order offences); and
- traffic offences.

More than one prior or post offence could be recorded for each offender, and more than one offence could be recorded in each category. It was not possible to link the pre- and post-index offence criminal histories of offenders, nor could offenders who committed offences before or after the index offence be identified.

Because of the need to check the identity of each offender against national and state and territory records the criminal history data manually for each offender had to be compiled manually. This requirement limited the practicality of conducting survival analyses at the national level. Indeed, as an experimental study, the present sample size reduced the applicability of more detailed analysis of survival rates. Further research is needed to explore this aspect more fully. For example, the NSW Bureau of Crime Statistics and Research (BOCSAR) runs the Reoffending Database (ROD) for offenders in that state (Hua & Fitzgerald 2006).

Conviction histories were compiled from the national database. It was not possible to determine whether a conviction following the date of conviction for the index offence was for offending that took place before or after that date. The median follow-up period from the conviction date for the index offence was three years and five months. Because of the small sample size and the lack of a consistent follow-up period, this study did not analyse the impact the inability to reoffend due to incarceration. This limits the conclusions that may be drawn about recidivism rates.

Pre- and post-index offence convictions

Table 30 shows recorded criminal history entries (excluding traffic matters) before or after the index offence conviction date for the 152 offenders. A total of 67 (44%) were convicted of a criminal offence prior to the index offence. The prior offending of 21 of these 67 offenders included a sexual offence.

A total of 23 offenders (15%) had a criminal offence conviction after the index offence. The post offending of 10 of these 23 offenders included a sexual offence.

Table 30: Pre-index offence and post-index offence criminal history (n=152)

	Pre-index offence		Post-index offence	
	N	%	N	%
No convictions recorded	85	56	129	85
At least one conviction recorded	67	44	23	15

Source: AIC AFP CEM Project 2013 [computer file]

Non-CSE convictions

The non-sexual offence convictions before and after the index offence conviction are shown in Table 31. The largest number of offenders had pre-index and post-index offence convictions for other offences, followed by those with convictions for nonviolent, non-sexual offences.

Convictions for nonviolent, non-sexual offences were recorded for 17 offenders prior to the index offence and after the index offence for one offender. Convictions for other offences were recorded for twenty-six offenders prior to the index offence and after the index offence for 19 offenders.

There were no post-index offence convictions for drug or other (non-sexual) violent offences. Eight offenders had prior convictions for a drug offence and eight offenders had convictions for other (non-sexual) violent offences.

Offence type	Prior criminal history			Post criminal history		
	N	%	Unique process dates	N	%	Unique process dates
Nonviolent, non-sexual offences	17	11.2	50	1	0.7	2
Drug offences	8	5.3	15	0	0.0	-
Other violent offences	8	5.3	8	0	0.0	-
Other offence types	26	17.1	26	19	12.50	19

Source: AIC AFP CEM Project 2013 [computer file]

Convictions for sexual offences

The sexual offence convictions before and after the index offence conviction are shown in Table 32. There were 21 offenders with a previous history of sexual offences and ten offenders with a subsequent history of sexual offences. The largest number of these offenders had pre-index and post-index offence convictions for CEM offences. Convictions for CEM offences were recorded for 11 offenders prior to the index offence and after the index offence for seven offenders. Convictions for sexual offences against a child were recorded for 10 offenders prior to the index offence and after the index offence for one offender.

One offender had a subsequent conviction for a grooming offence and four offenders had previous convictions for sexual offences against an adult.

Offence type	Prior criminal history		Post criminal history	
	N	%	N	%
No criminal history	131	86.2	142	93.4
CEM offences	11	7.2	7	4.6
Grooming offences	0	0.0	1	0.7
Sexual offences against a child	10	6.6	1	0.7
Minor offences of a sexual nature	2	1.3	1	0.7
Sexual offences against an adult	4	2.6	0	0.0
Sex industry related offence	1	0.7	0	0.0
Total individuals with one or more CSE offending or other sexual offence conviction	21	13.8	10	6.6

Source: AIC AFP CEM Project 2013 [computer file]

Note: more than one category could be selected for each offender

Criminal history findings: Summary

The study found a rate of CSE offending prior to the index offence of 13.8 percent. This is similar to the rate for officially recorded offences found in Canadian research (Seto, Hanson, & Babchishin 2011). Given the circumstances of CEM cases investigated by the AFP the population is likely to be skewed, and these findings should not be considered indicative for all CEM offenders in Australia.

The current study found a rate of sexual offence recidivism of 6.6 percent. This is similar to the findings of other studies considered by the USSC (2012), except for that of Eke, Seto and Williams (2011), which found a higher rate of sexual offence recidivism. However, the general recidivism rate for this project was lower than the studies reviewed by the USSC (Table 4). This may also be explained by this study's focus on a limited category of offending under the CCA for the index offence.

Offending trajectories

The criminal trajectories of offenders were analysed to explore what affected the likelihood of an offender being convicted of a grooming or contact CSE offence. The analysis focused on those offenders with more than one conviction for any offence and those with more than one conviction for a CSE offence—particularly whether there was any evidence that some offenders first access CEM online, move to engaging or procuring children for sexual purposes using online technologies, and finally to committing a contact CSE offence.

The criminal history data were recoded to identify offenders with a conviction (previous, index or post) for an offence involving CEM, grooming, or contact CSE. Those with a record of CEM offences were no more likely than those without a record to also have a criminal record of contact (Table 33) or grooming offences (Table 37).

Table 33: CEM and contact-type offences (n=152)

CEM offender	Contact offender		Total
	Yes	No	
Yes	17 (17.5)*	131 (130.5)*	148 (148)*
No	1 (0.5)*	3 (3.5)*	4 (4)*
Total	18 (18)*	134 (134)*	152 (152)*

Source: AIC AFP CEM Project 2013 [computer file]

* Expected frequencies are shown in parentheses

Note: Pearson $\chi^2(1)=0.6813$ Pr=0.409; Cramer's V= -0.0669; Fisher's exact=0.399; 1-sided Fisher's exact=0.399. These data violated the assumption for chi-square tests of at least five expected frequencies in each cell. Fisher's exact tests were therefore used rather than chi-square tests for independence. Chi-square tests are appropriate for categorical variables, and test the assumption that the frequencies observed within each cell are obtained by chance. Fisher's exact test is a more conservative alternative to a chi-square test and is applicable where the sample size is small

However, as shown in Table 34, a significant relationship was found between having a criminal history of CEM offences and not having a criminal history of grooming offences (df=1, p=0.0).

Table 34: CEM and grooming offences (n=152)

CEM offender	Grooming offender		Total
	Yes	No	
Yes	9 (12.7)*	139 (135.2)*	148 (148)*
No	4 (0.3)*	0 (3.7)*	4 (4)*
Total	13 (13)*	139 (139)*	152 (152)*

Source: AIC AFP CEM Project, 2013 [computer file]

* Expected frequencies are shown in parentheses

Pearson $\chi^2(1)=43.9252$ Pr=0.000; Cramer's V= -0.5376; Fisher's exact=0.000; 1-sided Fisher's exact=0.000

Contact offending trajectories

Having a record of contact-type offending among the CEM offenders was found to be significantly related to:

- low socioeconomic status;
- a conviction for index offending involve the production of CEM;
- having a networking role in CEM offending;
- providing CEM; and
- a criminal history of charges for the production of CEM.

No significant relationships were found between having a criminal record for contact offending and age at time of identification (df=6, p<0.026), as Table 35 shows.

Contact offender	Age at time of identification							Total
	16–17 years	18–25 years	26–35 years	36–45 years	46–55 years	56–65 years	Over 65	
Yes	0 (0.2)*	4 (2.6)*	1 (3.0)*	7 (3.9)*	4 (5.9)*	1 (2.3)*	1 (0.1)*	18
No	2 (1.8)*	18 (19.4)*	24 (22.0)*	26 (29.1)*	46 (44.1)*	18 (16.8)*	0 (0.9)*	134
Total	2	22	25	33	50	19	1	152

Source: AIC AFP CEM Project 2013 [computer file]

* Expected frequencies are shown in parentheses

Note: p<0.026 Pearson $\chi^2(6)=14.3028$ Pr=0.026; Cramer's V=0.3068; Fisher's exact=0.074

Grooming offending trajectories

The low number of offenders involved in grooming did not allow for robust statistical analysis. There were insufficient data to determine whether, and how, offenders in this study were related to, or knew, the victims of contact or grooming offenders. Research into offender access to children requires detailed data that is not centrally recorded or readily collated. Future research into this important aspect of CSE offending would require access to details of each victim's gender, their relationship to the offender and their age at the time of the offending.

Five of the six offenders convicted of a grooming offence lived with a partner, and four lived with their own children. Of the three offenders convicted of CEM and grooming offences, all lived with their own children.

Nature of grooming offences

There was no mention of CEM offending in four of the 13 cases involving grooming offences. Most grooming offenders appeared to have targeted children on a random basis. However, in two cases, offenders groomed the daughter of an acquaintance.

A number of offenders groomed more than one child at once. These included real children, as well as undercover police posing as children. Some of the grooming cases involved the following behaviour:

- sending an offensive image or material to the child;
- arranging to meet the child; and
- seeking sexualised images from the child.

In CDPP case 115, the offender sent increasingly sexualised emails over an extended period to the 14-year old daughter of friends. At one point the offender apologised to the parents of the victim; however, he again contacted the child five months later, asking her to visit him and send him photos. The offender was described as depressed and suffering from an adjustment

disorder. The court accepted that he had no paedophilic fantasies and good prospects for rehabilitation.

In seven of the grooming cases the offender sent an offensive image to the victim—for example, transmitting webcam images of the offender masturbating while interacting with the child online (CDPP Cases 123, 125, 127 and 128). In one case the offender sent CEM to the child (CDPP Case 127). Such behaviour could be part of a process of desensitising the child and 'building secrets' with them. The offender may also obtain immediate sexual gratification from engaging with the child as a form of cybersex.

In CDPP case 128, the offender encouraged the child to send a sexualised image of themselves to the offender. One case involved an offender generally soliciting children for CEM images while interacting via webcam.

In seven grooming cases meetings were arranged involved both real children and undercover operatives. The meetings were arranged following online chat that became increasingly sexually explicit.

The role of networking

The role of networking in offending, and the overall criminal trajectories of offenders with multiple convictions for CSE offences, was further analysed.

The OCSOQ Phase 2 collection instrument captured information for 34 offenders on whether they were part of a network and, if so, what their network role was. More than half of these offenders had no network involvement. Just over a third participated in a network and others provided or produced CEM. One offender managed a network (Table 36).

Table 36: Network role (n=34)

Category	N	%
No involvement in any network	19	55.9
Participant	12	35.3
Image provider	8	23.53
Image producer	3	8.8
Manager/administrator (eg webmaster, security, membership secretary)	1	2.9

Source: AIC AFP CEM Project 2013 [computer file]

Note: more than one category could be selected for each offender

The low numbers involved require a cautious approach and it was not possible to analyse the importance of a network management role. No significant relationship was shown between identified network roles (participation in a network, providing images, producing images or exercising a management role) and having a criminal record for a grooming offence.

Having a criminal record for a contact offence and producing images appears significantly related (df=1, p<0.0), as Table 37 shows. However, the production of CEM cannot be an independent variable for contact offences, as it may be an indicator of the dependent variable.

Table 37: Association between contact offending and image production (n=34)

Contact offender	CEM production offending		Total
	Yes	No	
Yes	3 (0.6)*	4 (6.4)*	7
No	0 (2.4)*	27 (24.6)*	27
Total	3	31	34

Source: AIC AFP CEM Project 2013 [computer file]

* Expected frequencies are shown in parentheses

Note: p<0.00 Pearson $\chi^2(1) = 12.6912$ P> r=0.000; Cramer's V=0.6110; Fisher's exact=>0.006; 1-sided Fisher's exact=>0.006

There was a significant relationship between contact offending and having a CEM networking role (df=1, p<0.025). Table 38 shows the relationship between having a criminal record for a contact offence and participating in a network (df=1, p<0.025)

Table 38: Association between contact offending and network participation (n=34)			
Contact offender	Network participant		Total
	Yes	No	
Yes	5 (2.5)*	2 (4.5)*	7
No	7 (9.5)*	20 (17.5)*	27
Total	7	27	34

Source: AIC AFP CEM Project 2013 [computer file]

* Expected frequencies are shown in parentheses

Note: p<0.025 Pearson $\chi^2(1)=5.0398$ Pr=0.025; Cramer's V=0.3850; Fisher's exact=0.070; 1-sided Fisher's exact=0.038

There was a significant relationship between contact offending and providing images (df=1, p<0.019), as shown in Table 39.

Table 39: Association between contact offending and providing images (n=34)			
Contact offender	Image Provider		Total
	Yes	No	
Yes	4 (1.6)*	3 (5.4)*	7
No	4 (6.4)*	23 (20.6*)	27
Total	8	26	34

Source: AIC AFP CEM Project 2013 [computer file]

* Expected frequencies are shown in parentheses

Note: p<0.019 Pearson $\chi^2(1)=5.5352$ Pr=0.019; Cramer's V=0.4035; Fisher's exact=0.037; 1-sided Fisher's exact=0.037

Case examples involving networking

The cases against offenders can be divided into two categories:

- those where engagement in the peer-to-peer network was limited to file sharing of varying degrees; and
- cases where the offender discussed internet security or CSE with other offenders while sharing files.

The CDPP case notes showed that networking behaviour included the use of peer-to-peer services such as Limewire, Gigatribe or eDonkey.

Networking for some offenders also involved discussing their CSE interests. This included sharing fantasy scenarios, disclosing acts of abuse offenders claimed to have committed and encouraging others in the network to engage in CSE—in particular, to produce more images.

In CDPP case 107, the offender transmitted 1,544 CEM images between April and July 2007, as indicated by chat. He conducted multiple searches for CEM, and CEM was found on his hard drive, an optical disk, four diskettes and one DVD. The offender also used multiple services to connect and communicate with other offenders. He accessed thousands of other addresses to obtain written material, pictures and videos, and described and chatted about sex with children to other offenders online.

In CDPP case 96, the offender was active on the platform Gigatribe. He was noted as having produced a large amount of CEM depicting both boys and girls. The material included bondage and sadomasochism. The court noted that between 53,000 and 56,000 CEM files were discovered, but not all the material had been classified. The offender chatted online with an

undercover police officer and provided the officer with files, telling the officer to enjoy his collection.

CDPP case 105, the offender was convicted of transmitting and receiving CEM labelled 'pre-teen hardcore.' Police located relevant message threads and deleted CEM files. The CEM spanned the Oliver scale categories 1 to 5 and depicted children aged three months to 16 years. Police located nine saved images and 34 shared images that the court described as of the very worst category.

The offender played a key role in the network in CDPP case 112, using a chatroom to exchange 890 CEM images and set up a hub for file sharing. The police seized a computer and two CDs with 42,982 images of girls aged two to 16 years across categories 1 to 4 of the Oliver scale. In CDPP case 80, the offender was convicted of making CEM images available. He possessed 6,000 CEM files; 12 files containing non-sexual images of child abuse and eight CEM documents. He also possessed a 169-page guide to selecting, grooming and engaging in sex with children.

In CDPP case 111, the offender had a key organising role and gained financially. He was charged with possession of CEM, making CEM available and dealing in the proceeds of crime. The offender allocated passwords and user names to others seeking to access two websites that held material including CEM. The court noted that the websites provided access to 60,000 and 20,000 images, respectively, and 4,000 of these images were classified as CEM. The offender processed \$600,000 in payments and was believed to be a principal in an international CEM trading ring. He did not reveal the identity of any others involved. The judge rejected the defence's claim that the offender was assisting the female victims by providing them with money. The offender's significant network role and the financial nature of his involvement were treated as aggravating features.

Discussion

This study examined three questions concerning the relationship between online and offline CSE offending. Approximately 12 percent of the offenders were convicted as dual offenders for index offending that involved both CEM and either grooming or contact offences. Of the 152 offenders, 131 (84.9%) were convicted of a CEM offence only. Nine offenders (5.9%) were convicted of a CEM offence and a grooming offence. Eight (5.3%) were convicted of a combination of a CEM offence and a contact CSE offence. Four (2.6%) were convicted of one or more grooming offences, but not a CEM or other offence. No offenders were convicted of index offending involving a combination of CEM, grooming and contact offending.

While the average four-year follow-up period limited the conclusions that could be drawn about recidivism rates, the study found that 10 offenders (6.6%) were convicted of an offence involving sexual offences after the index offence.

- Seven offenders were later convicted of a CEM offence.
- One offender was later convicted of a contact CSE offence.
- One offender was subsequently convicted of a grooming offence.
- One offender was subsequently convicted of a minor offence of a sexual nature.

A total of 21 offenders (13.8%) had at least one prior conviction for an offence involving CSE. Eleven offenders had a prior conviction for a CEM offence and 10 offenders for a prior contact CSE offence. This suggests that, at least in this cohort, there were persistent CEM-only offenders and dual contact–CEM offenders whose index CEM offending followed a history of contact CSE offending.

The study attempted to identify factors that may affect any transition from online to offline offending. No clear transition from online to offline offending was observed in this study, although networking played an important role in the offending of dual CEM and contact CSE offenders. The possible role of networking in escalating offending behaviour from non-production CEM offences to production offences and grooming or contact offending could be a valuable area for study—particularly given law enforcement are seeing an emerging trend in the production of new CEM driven by the demand to provide new material as a means of gaining access to certain networks.

Ongoing rapid changes in ICT and how it is used raise the prospect that the characteristics and offending patterns of offenders will continue to change over time. CSE offending as a predictor of ongoing sexual dangerousness is an important area for research. However, while a history of non-production CEM offending alone may indicate non-production CEM recidivism, it does not necessarily predict contact or grooming offending.

Implications for law enforcement

Much of the problem of CSE is invisible in the physical world. There are no useful measures of the incidence of abuse, of victims or offenders, or of how CSE occurs. As with other crime, what we know represents a subset of what actually occurs. Online CEM offending and grooming are not fully understood, and both present many challenges for law enforcement. This is especially challenging in an environment where there has been a sustained increase in the number of CSE reports received by the AFP from international law enforcement agencies over the years.

Three propositions made by McManus, Long and Alison (2011: 184–185) in the UK context are applicable in Australia. They are, first, that there is a large quantity of widely available, affordable CEM that forms the bases of social networks. Secondly, whether CEM is a component of contact offending, to complement it or to divert from it, can be debated. Finally, while estimates of its size differ, there is a subset of CEM offenders who present a real risk of contact CSE offending. In addition, CEM offending may occur completely separately to contact offending, as an end in itself or during grooming, and in either case is not a diversion from contact offending. With a greater understanding of these issues, police will be in a better position to assess risk in setting initial investigative priorities and deciding when to further investigate the activities of high-risk offenders.

While initiatives such as the Virtual Global Taskforce require a high degree of cooperation, they still face issues including different definitions of CEM, the different technological capacities of some agencies, and varying levels of legal authority for observing, seizing or retaining records of data transmission or online data.

There is also an increasingly important divide between the readily visible internet and the less-visible internet, which uses encryption like TOR to hide data in transit and obscure the identity of those transmitting or receiving it. The sophistication and IT skills of offenders also vary. The use of technology like TOR is one of many possible ways offenders hide their activities and identities. The use of user authentication protocols, encryption and programs that destroy data if unauthorised access is attempted may all be employed to hamper investigation.

The investigation of CEM and other online CSE offending has the potential to consume important police investigation and forensic resources due to the number of people detected for online CEM offending and the need to sift through increasingly large amounts of data in a wide range of formats. The amount of CEM already available on the internet continues to grow and vast amounts of data are involved. Efforts to create standardised libraries to systematically categorise known material are important and should be pursued.

Another issue with the potential to impact on the investigation of online CSE offences is data retention and access to data held by telecommunications companies. Australian and international security agencies are emphatic about the importance of industry retaining communications metadata for two years.

This study confirms the results of other research that indicates CEM offenders can be divided into CEM-only offenders, and dual offenders involved in CEM and grooming offences or CEM and contact offences. Law enforcement agencies should target those offenders who pose the greatest risk of harm. The association between contact offending and a record of CSE offending means that all aspects of reported CSE offending, and perhaps non-criminal CSE behaviour, are critical to appropriately assessing the risks posed by individual offenders. Having a networking role in support of CSE offending also heightens the risk profile of offenders.

Conclusions

The sexual exploitation of children is not a new problem, but one that persists and will continue to persist into the future. It is important to consider the past, present and future criminal sexual exploitation of children separately.

CSE as a crime type and the social attitudes and legal responses to it have changed markedly over time and are likely to continue to evolve. The conditions in which criminal activities take place have been dramatically altered by digital recording technology and the opportunities created by the internet, with several implications.

- The potentially perpetual availability of digital recordings of abuse are a form of recurrent abuse of the child victim concerned.
- Demand for CEM creates a market for exchange which the internet facilitates. This demand for new material drives child victimisation.
- It is likely that, at least for some offenders who have not previously committed contact offences, exposure to CEM may make it more probable that they will commit contact offences.
- The internet may provide a path from CEM offending to contact offending through online grooming and the engagement of children.

We must all act to deal effectively with past, present and future criminal CSE. Doing so will require careful attention to the changing circumstances in which offending takes place over time. In particular, we need to avoid the following fundamental errors:

- treating criminal CSE as something well-defined and understood across time;
- ignoring obstacles to disclosing, reporting, investigating, prosecuting and securing convictions for criminal CSE;
- seeing accused or convicted offenders as representative of an offender type; and
- applying stereotypes about stranger danger or the unreliability of victim evidence to offenders or victims.

If we are to understand more about online CSE offending, we must separate out at least three potential cohorts of offenders whose offending has been shaped by the degree of their lifetime exposure to the internet. Put simply, there are three ages of online offenders to consider:

- those who were older when the internet became available, and for whom the internet supplemented already established CSE offending or created an opportunity to engage with CEM or children later in life;
- those for whom the internet became available early in their contact offending history or whose offending behaviour from adulthood was affected; and
- those who grew up with ubiquitous internet, whose selves and world have been shaped by the duality of online and offline engagement with others.

Across all age groups, there are offenders who have only been convicted of non-contact CEM offending and smaller numbers of high risk offenders who engage in contact CSE offending or persistent CEM offending. To respond effectively to online CSE and CSE generally, efforts must be made to minimise opportunities for crime and disrupt the notion that online offending is easy and anonymous. These outcomes are threatened by the extent to which offenders and their offending can be hidden from law enforcement on the internet.

Secondly, we must minimise the promotion of criminal CSE and the creation of communities of interest for offenders. The results of this study emphasise how offender networking can increase the risk of contact offending.

The nature and extent of online CSE offending is poorly understood because it is difficult to conduct reliable research. However, the work of Seto and Eke (2015) demonstrates the importance of conducting such research—thus refining psychological tools for assessing offenders, further developing and refining research methods, and better establishing a firm basis for assessing risk. Despite the limited data available to this project, the findings represent an important starting point in increasing our understanding of online CEM offending and how it fits into the larger and more complex mosaic of CSE offending on a global scale. The picture is incomplete, but it is beginning to take shape. It is fundamentally important to continue data collection and further our understanding in a rapidly changing environment.

Appendix: Terminology

Age of consent

The age of consent is the age at which a person is deemed to have the capacity to give informed consent to sexual activity with another person. A person who is below the age of consent cannot legally consent to participate in sexual activity. Where a CSE offence is based on the victim being under the age of consent, it is no defence to claim that the child 'consented' to the sexual activity.

However, the age of consent is not consistently defined across Australia. See Scott and Lamont 2013 for a discussion of Australia's age of consent laws. The age of consent is 16 years in all jurisdictions except Tasmania and South Australia, where it is 17 years. As an exception, the age of consent for anal intercourse in Queensland is 18.

The age of consent for division 272—Child sex offences outside Australia under the *Criminal Code Act 1995* (Cth) is 16 years.

Regardless of the age of consent, Commonwealth child pornography offences under subdivision D of the CCA Act, Offences relating to use of carriage service for child pornography material or child abuse material, apply to 'material that depicts a person, or a representation of a person, who is, or appears to be, under 18 years.' See Clough (2012) for a discussion of the perceived difficulties of defining CEM to include children up to the age of 18 years.

Carriage service

The Commonwealth has power to regulate communications under placitum 51(v) of the *Constitution of the Commonwealth of Australia*, which gives the Commonwealth parliament legislative power over 'postal, telegraphic, telephonic, and other like services.'

In Commonwealth law, the term carriage service generally refers to electromagnetic forms of 'other like services' for the purposes of exercising power under placitum 51(v). The *Telecommunications Act 1997* (Cth) defines a carriage service as 'a service for carrying communications by means of guided and/or unguided electromagnetic energy.'

The online CSE offences in the CCA refer to the use of a carriage service in this sense.

Child

Under Article 1 of the UN Convention on the Rights of the Child (UNCRC) which came into force on 2 September 1990 and was ratified by the Australian Government on 17 December 1990, a child is any 'human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.' This is the general definition of 'a child' in Australian domestic law. However, section 6 of the *Youth Justice Act 1992* (Qld) defines a child as a

person who has not turned 17, although there is a provision to change this to 18 years by regulation.

Child abuse material

This term has different meanings in different Australian jurisdictions. In the *Crimes Act 1900* (NSW) ‘child abuse material’ is used in section 91FB to refer to CEM where the child depicted is under 16 years of age.

In contrast, in the CCA, child abuse material refers to non-sexualised material that depicts ‘a person, or a representation of a person’ under 18 years ‘who is, or appears to be, a victim of torture, cruelty or physical abuse.’

Child exploitation material (CEM)

Various terms are used to describe illegal sexualised images involving children, including child exploitation material (CEM), which is used in the criminal laws of some jurisdictions.

The National Plan to Combat Cybercrime (AGD 2013: 4) refers to the ‘distribution of child exploitation material’ as a cybercrime offence. This paper uses the language of the national plan and uses the term CEM instead of ‘child pornography material’.

However, the term ‘child exploitation’ may also be used in a wider sense to refer to criminal and non-criminal forms of exploitation. The UNCRC uses the term ‘exploitative use of children’ — basically for sexual purposes—in its definition of child sexual abuse (see below).

Child pornography

This term is used at an international level in the OPCRC. The OPCRC entered into force on 18 January 2002 and was ratified by the Australian Government on 8 January 2007.

The definition of child pornography in Article 2(c) of the OPCRC does not include an objective standard test. It includes children up to the age of 18 and but narrowly defines what is depicted. Child pornography is defined as ‘any representation, by whatever means, of a child (under 18 years of age) engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.’

The laws in some other jurisdictions, including Canada and the United States, also refer to child pornography. While the term child pornography is used at an international level and in national laws, it was not considered appropriate for use in this report to refer to what often involves the commission of sexual exploitation offences upon children. In New Zealand, relevant material is regulated as part of a wider regime to regulate ‘objectionable publications’, and relevant laws in England and Wales refer to ‘indecent images of children.’

The terminology used in Australian criminal law to describe illegal sexualised images or representations of children varies between jurisdictions; the laws in four jurisdictions, including the Commonwealth, use the term child pornography as shown in Table 40.

Table 40: Terminology for sexualised images or representations of children	
Term	Used in Australian jurisdiction
Child pornography	Australian Commonwealth (child under 18 years)
	ACT
	SA
	V

Child abuse material	NSW Australian Commonwealth (to describe illegal non-sexualised images of physical abuse)
Child exploitation material	NT Qld Tas WA

Several academics, including Clough (2010) and Gillespie (2011) consider the use of the term child pornography appropriate, both because it is in common use and the task of formulating an alternative is difficult.

However, there are arguments against using the term child pornography, including that:

- it minimises or denies the seriousness of offending, when the material often involves the depiction of CSE offending;
- it may infer legitimacy and compliance on the part of a victim and therefore be seen as legal by the viewer;
- it inappropriately suggests that CSE offending is a proper subject for eroticisation;
- it suggests that the products of the criminal sexual exploitation of children are mere commodities in a market for sale or exchange;
- it minimises or denies the ongoing traumatic effect on victims of CSE of knowing that images or depictions of their abuse may be used at any time for the sexual gratification of others;
- images of CSE offending are a graphic record of a crime scene; and
- once posted online, images of CSE may be circulated indefinitely and represent an ongoing source of continued harm for the child victims involved.

Child pornography material

Relevant offences in the CCA are framed in terms of child pornography material, which is defined in section 473.1. The CCA definition in sub-paragraph 473.1(a)(i) includes depictions of a child (or representations of a child) who is, or appears to be, engaged in sexual activity.

However, the definition at paragraph 473.1(a) extends beyond the OPCRC definition to capture:

- a sexual pose involving a child (or representation of a child) in sub-paragraph 473.1(a)(i); and
- a sexual pose or sexual activity by another person in the presence of a child (or representation of a child) in sub-paragraph 473.1(a)(ii).

The CCA definition does not use the term 'sexual parts of a child' as does the OPCRC, but refers at paragraph 473.1(b) to material where the dominant characteristic is depiction or representation for a sexual purpose of a sexual organ or the anal region of a child (who is or appears to be under 18 years of age) or a depiction or a representation the breasts of a girl under 18.

The enlarged scope of the CCA definition is balanced by an overall objective test that 'reasonable persons would regard (the material) as being, in all the circumstances, offensive.'

Child sexual abuse

This term is often used to mean sexual activity with children under the age of consent which is illegal because of the lack of capacity on the part of the child to consent. It may also be used generally to refer to a sexual offence involving a child where consent is an issue, although the

more appropriate term for such an offence is child sexual assault. It may also be used in a wider sense to include more than illegal behaviour.

The Letters Patent establishing the Royal Commission into institutional responses to child sexual abuse (Commonwealth of Australia 2013) require the commissioners to inquire into 'institutional responses to allegations and incidents of child sexual abuse and related matters'. However, child sexual abuse is not defined in the Letters Patent. The preamble suggests that the term refers to criminal forms of CSE where it recites 'all forms of child sexual abuse are a gross violation of a child's right to this protection and a crime under Australian law' however, it adds 'and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect'. The preamble confirms the Commission's wide scope to investigate criminal and non-criminal forms of CSE in relation to child sexual abuse: '[I]t is important that claims of systemic failures by institutions in relation to allegations and incidents of child sexual abuse and any related unlawful or improper treatment of children be fully explored'.

Child sexual abuse is narrowly defined in the UNCRC. The definition of child sexual abuse in Article 34(a) of the UNCRC centres on exploitation and refers to the 'inducement or coercion of a child to engage in any unlawful sexual activity; ...[t]he exploitative use of children in prostitution or other unlawful sexual practices; and...[t]he exploitative use of children in pornographic performances and materials'. The term child sexual abuse may sometimes be used narrowly for the purposes of the UNCRC to describe forms of CSE.

The UNCRC definition of child sexual abuse may not incorporate all offences related to a lack of capacity to consent due to age, because these offences do not require proof of an element of inducement or coercion. However, the UNCRC definition does capture sexual assault where consent is an issue. This may arise where a child, including a child over 16 but less than 18, is the non-consenting victim of sexual assault where lack of consent is an element of the offence.

Child sexual abuse material

ACMA uses the term child sexual abuse material to refer to online content that may be refused classification and therefore subject to online content controls in Australia. The test applied by ACMA under the *National Classification Code 2005* (Cth) (NCC) is wider than the Australian criminal law definition of CEM. The following material must be refused classification under paragraph 2 (for publications), paragraph 3 (for films) and paragraph 4 (for video games) of the NCC:

...content which describes or depicts in a way that is likely to cause offence to a reasonable adult, a person, who is, or appears to be, a child under 18 (whether the person is engaged in sexual activity or not).

Child sexual assault

This term is sometimes used interchangeably with the term child sexual abuse. However, because it incorporates the concept of assault, it should be used specifically to refer to sexual acts with a child where lack of consent is an issue.

Child sexual exploitation (CSE)

While it could be considered that current criminal laws comprehensively address all forms of CSE, the ABS notes in its data challenges report: '[B]roader conceptions of sexual violence may contribute to an "experience" definition of sexual violence that includes behaviours beyond the

scope of offences detailed in the criminal law' (ABS 2013b: 9). For example, there will be gaps in legal coverage when exploitation is defined broadly where matters involve children over the age of legal consent but under the age of 18, and in relation to actions committed in the past, when criminal provisions against CSE were less developed.

This term is used broadly to describe all forms of CSE, whether illegal or not. It may also be used to describe illegal sexual conduct involving children that includes child sexual abuse and child sexual assault. Consistent with the National Plan to Combat Cybercrime (AGD 2013), this report refers to offences or offending behaviour as illegal CSE or CSE offending.

CSE is used in this report to refer in a broad sense to the sexual exploitation of children including sexual abuse, sexual assault and sexual exploitation involving children that may or may not be criminalised. The words offences and illegal refer to behaviour within the broad definition of exploitation that is illegal or constitutes an offence. Exploitation here is used more broadly than in the narrow sense set out in the UNCRC.

CSE offending and illegal CSE

These terms are used for types of CSE that have been criminalised. This offending can be divided into offline and online offending.

Exclusively online offending

Grooming offences

Grooming and related offences in the Commonwealth CCA are tied to the actual or intended use of a carriage service. These offences refer to online activities where a child is manipulated so as to make it easier to engage in direct sexual contact with that child. Direct solicitation and procuring offences are also grooming offences for the purposes of this report.

CEM offences

Under the CCA, CEM offences require the actual or intended use of a carriage service. The National Plan to Combat Cybercrime cites child exploitation material as an example of cybercrime (AGD 2013: 4). The term is not further defined. In context, it captures sexualised images or representations of children that are illegal under Commonwealth or state or territory law. The plan also refers to child sexual abuse material (2013: 24) in relation to the reporting of illegal content to ACMA.

While the production of CEM generally involves the commission of a contact CSE offence this may not always be the case, as the definition is broad and is not restricted to the depiction of contact CSE offences on real children. In general, offences of this type are defined by applying community standards as an overall objective test of offensiveness.

Potentially online or offline offending

Grooming offences

Grooming, solicitation and procuring offences are defined by state and territory laws and capture behaviour that may occur exclusively online, offline, or both online and offline.

CEM offences

CEM offences are defined by state and territory laws and capture behaviour that may occur exclusively online, offline, or both online and offline.

Exclusively offline offending

Contact CSE offences

There are various ways to refer to physical offences that involve the sexual abuse or sexual assault of children, including offences involving sexualised conduct in the presence of children. This report uses the term contact CSE offences to refer to sexual exploitation offences involving the physical presence of, or contact with, a child victim.

Grooming offences

Offline grooming offences include Commonwealth offences involving the use of the post, or offences committed overseas by those subject to Australian jurisdiction.

CEM offences

Offline CEM offences include Commonwealth offences involving the use of the post, or offences committed overseas by those subject to Australian jurisdiction.

Commonwealth

Commonwealth refers to the Commonwealth of Australia.

Contact / contact CSE offending

The term contact is used to refer to offending that occurs with a child in the physical world. It is also used to include particular CSE offences based on the presence of a child and which do not require physical contact between an offender and a victim. For example, offences committed in relation to a child involving wilful and obscene exposure; voyeurism; or the illicit recording of intimate parts, or of persons where there is an expectation of privacy. These offences do not involve physical contact between an offender and a victim, but are committed in the physical world towards, or in the presence, of a victim.

Contact offending is distinguished from other physical offending that is not based on the immediate physical involvement or presence of a child—for example, where a person possesses CEM in a physical format including material in a digital format.

Criminal sexually dangerous behaviour (CSDB)

This term is used by the USSC (2012) in its study into offending prior to and post an index offence involving CEM. The term includes contact sex offences, non-contact sex offences and prior non-production child pornography. The USSC report definition is expansive and includes behaviour that has been alleged or which is not criminal but which is considered relevant to the offender's criminal profile (USSC 2012: 174). As used by the USSC, this term includes 'sexually abusive, exploitative, or predatory conduct' but is not restricted to proven offences on the person's criminal record.

Grooming

Grooming is commonly used to refer to a calculated and elaborate process of engaging a child over a period of time with the express purpose of making it easier to exploit that child for sexual

purposes including engaging in sexual activity with them. See, for example, McAlinden (2012: 11) who defines grooming as: '(1) the use of a variety of manipulative and controlling techniques (2) with a vulnerable subject (3) in a range of interpersonal and social settings (4) in order to establish trust or normalize sexually harmful behaviour (5) with the overall aim of facilitating exploitation and/or prohibiting exposure' (ie exposure of the offending by the offender). Steps in this process may include befriending and isolating the child; gaining their confidence and trust; encouraging sexual exploration or lowering their inhibitions. One way of lowering inhibition is for the offender to send sexually explicit material to the child (whether CEM or not). Sometimes the process takes a long time before the offender makes sexual advances or seeks contact with a victim (Williams, Elliott, & Beech, 2013). It has also been noted that what might be prosecuted as grooming may be extremely short and direct (Grosskopf 2010; Krone, 2005b), suggesting a distinct form of this type of offending which is completed through sexual interaction online (cybersex).

When defined for the criminal law, the actions that may form part of a grooming process are segmented and steps in that process may constitute individual offences under the general heading of 'grooming.' For example, the offence of knowingly transmitting an indecent communication to a person under 16 is a flexible charge available to police where intention or behaviour in relation to more serious aspects of grooming are not present or cannot be established.

The distinct grooming offences in the CCA are:

- using a carriage service for sexual activity with a person under 16 years of age and the sender (or another person)
- causing a child under 16 years to be engaged in sexual activity with the sender (or another person)
- procuring persons under 16 years of age for sexual activity with the sender (or with another person over 18 years of age)
- grooming persons under 16 years of age – 'with the intention of making it easier to procure the recipient to engage in sexual activity'
- transmitting an indecent communication to person under 16 years of age

Indecent photograph (or pseudo photograph) of children

The term used in UK law in section 1 of the *Protection of Children Act 1978* (UK) and section 160 of the *Criminal Justice Act 1988* (UK) to refer to illegal sexualised images of children.

Index offending

This term refers to the first charge or set of charges successfully prosecuted as a result of CPO investigation commenced in the study period. The arrest date was used as the reference point to record characteristics of the offender and their offending. The conviction date was used as the reference point to measure prior and post offending.

Online offending

In this report online offending in relation to Commonwealth offences involves the use or intended use of a 'carriage service.'

This may be distinguished from a broader range of 'electronic' offending that may involve digital technology for example in making; reproducing or storing CEM without using the internet.

State or territory offences have wider scope and may capture offending that has involved some form of online activity but the online nature of the activity is not necessarily an element of the offence.

Physical offending

The term 'physical' is used to refer to offending that occurs in the physical world but does not necessarily require physical contact with or the physical presence of a victim and which does not involve an element of online interaction or transmission. Physical offending is therefore distinguished from contact offending on or in the presence of a victim and from online offending which involves the use of electronic communications.

It does include some offences that may be committed using digital media such as the possession of CEM on a physical hard drive. In contrast, possession of CEM in a digital storage unit accessed wholly online via the internet, such as by using cloud storage, may be considered an online offence and subject to Commonwealth law.

Possession

Includes possessing in a digital format or physical possession of a document or thing. The concept of possession extends to include the exercise of control over material held by another.

Section 470.4 of the CCA defines possession for the purposes of the 'child pornography' provisions to include:

- (a) having possession of a computer or data storage device that holds or contains the material; or
- (b) having possession of a document in which the material is recorded; or
- (c) having control of material held in a computer that is in the possession of another person (whether inside or outside Australia).

Procuring

Obtaining by effort and in the context of sexual offences this includes payment; manipulation; or persuasion.

Production

In Australia, this is generally taken to mean creating new CEM that has not previously existed in any form. Elsewhere, the act of printing CEM or saving CEM in a digital format may be treated as producing that CEM in a localised format.

Sexual assault and abuse

This term is used by the ABS (2013a: 11) to define family, domestic and sexual violence. The ABS defines this as 'actual or threatened, including sexual assault and the sexual abuse of

children that can be a single incident or a series of incidents that are located on a continuum of behaviours from sexual harassment to life-threatening rape.'

Use, in a legal sense

When referring to CEM offences, the Commonwealth CCA criminalises CEM activity according to the use or intended use of a carriage service. Prohibited conduct includes the following actions involving the use of a carriage service:

- using a carriage service to access, transmit or solicit CEM; and
- possessing, controlling, producing, supplying or obtaining CEM for use through a carriage service.

Use, in a lay or non-legal sense

When referring to offender engagement with CEM, when a person commits a CEM offence, questions arise about how the offender 'used' the material. In other words, how did they engage with the material? In addition, what did they do or intend to do when committing any of the acts constituting an offence?

There is limited external evidence of what offenders 'do' with CEM, nor can we be confident in what they tell us about their use of CEM. CEM may be used as part of the sexual repertoire of an offender – as a record of their own offending; a stimulus for masturbation; to supplement sexual fantasy scenarios; to groom a child for sexual purposes; or possibly as a stimulus for contact offending. It is noted that offenders may also collect CEM seemingly as an end in itself. However, it is unlikely that this collecting behaviour occurs without a strong sexual interest in children.

Only in exceptional cases do we have objective indications of how CEM was used by an offender. This may be where the interaction itself was recorded (as in CDDP case 14 described in this report) or by virtue of electronic or other records kept either wittingly or unwittingly by an offender.

Where there is only an offender's account of their offending there is no way of checking the accuracy of what they say. Of course, offenders are under no legal obligation to assist the prosecution and they also face strong disincentives to reveal how they 'used' CEM. Unless there is evidence to the contrary, it is in the interest of offenders to deny any aggravating factor such as a financial interest in offending.

The contempt attached to admitting sexual attraction to children may mean that offenders play down any sexual use of CEM unless this is undeniable. Alternatively, an offender with a history of CSE offending may seek to establish that they are a 'paedophile' in the hope of explaining their behaviour or seeking to minimise their culpability.

In addition, the amount of CEM uncovered by police may or may not represent all of the CEM used over time by an offender.

Video

In this report video refers generally to any moving (as opposed to still) image or representation. It includes movie film, videocassettes and all forms of digital recording or storage of moving

images. However, to meet the definitions of Commonwealth online offences, a video on a videocassette would need to be transferred to a digital format, and additional proof of the use or intended use of a carriage service in relation to that digital material would be necessary. Material that would now be considered CEM was previously produced in various ways, including in print and in film and videocassette formats (Burgess 1984).

The definition of child pornography material in section 473.1 of the CCA refers to how material may be characterised according to what it depicts. The definition is technology-neutral and does not refer specifically to the particular form the material may take, such as photographs, videos, drawings, audio recordings or particular software formats. The same section defines material as 'material in any form, or combination of forms, capable of constituting a communication'.

Given that in some cases CEM is produced and streamed on demand in real time at the direction of an offender, live-streamed images should be recognised as a specific category of aggravated CEM within all systems for classifying the gravity of offender behaviour.

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