The Executive Officer
Law Reform Committee
Parliament of Victoria
Spring Street
EAST MELBOURNE VIC 3002

Dear Sir,

Re – Inquiry Into Sexting

Thank you for your correspondence dated 7 May 2012 inviting South Australia Police (SAPOL) to contribute to your Law Reform Inquiry into sexting.

SAPOL acknowledge the emergence of sexting as a national and international public safety issue that significantly attracts young and vulnerable persons to create and disseminate ‘child exploitation material’ via social networking technologies.

The South Australian demographic disposition for this offending seems consistent with other Australian jurisdictions. It involves a significant number of female teenagers who are often apparently unaware of the social dangers and criminal offences associated with this activity. Most disturbingly it often involves young female teenagers being enticed to take and disseminate inappropriate electronic images of themselves. Some of these incidents can be attributed to ‘boyfriend / girlfriend’ scenarios and experimentation. Other scenarios involve more sinister exploitation by on line offenders grooming or targeting these children.

SAPOL (like other policing agencies) acknowledges the importance of education and prevention as a critical strategy to minimising sexting activities. To promote a consistent national prevention message with regard to this activity SAPOL utilises the “ThinkUKnow” website for training and education resources. This site is endorsed by Australian Federal Police and maintained by the United Kingdom ‘Child Exploitation Operation Centre’.

From a legislative perspective SAPOL applies the following offences to sexting activities:
South Australian Criminal Law Consolidation Act

- Sect: 63—Production or dissemination of child pornography
- Sect: 63A—Possession of child pornography
- Sect: 63B—Procuring child to commit indecent act
- Sect: 19AA—Unlawful stalking
This section may apply where a person publishes or transmits offensive material by the internet or other electronic communicating in such a way that the offensive material will be found by, or brought to the attention of the victim.

South Australian Summary Offences Act

- Sect: 23AA – Indecent Filming

Commonwealth Criminal Code

Division 474 Telecommunications Offences
- 474.19 - Using a carriage service for child pornography material
- 474.20 - Possessing, controlling, producing, supplying or obtaining child pornography material for use through a carriage service
- 474.17 - Using a carriage service to menace, harass or cause offence.

In South Australia there is no mandatory provision for a juvenile convicted of production / dissemination / possession of child exploitation material being placed on the sex offender register ANCOR. A juvenile would only be placed on ANCOR for these offence categories via special application to the Court utilising Sect 9(3) Child Sex Offenders Registration Act 2006 and;

"The court may only make an order under this section if, after taking into account any matter that it considers appropriate, it is satisfied that the person poses a risk to the sexual safety of any child or children."

No juvenile in South Australia has been placed on ANCOR for sexting.

For further information regarding the sexting inquiry please contact Superintendent Steve Ryan, Officer in Charge, Sexual Crime Investigation Branch on (08) 8172 5585 or steve.ryan@police.sa.gov.au.

Yours sincerely,

(Malcolm A Hyde)
COMMISSIONER OF POLICE

14 June 2012