

The background of the entire page is a grayscale, hazy aerial photograph of a city skyline. The buildings are silhouetted against a light, overcast sky, and the foreground shows a dense residential area with many smaller houses and trees. The overall tone is somber and atmospheric.

INTERNATIONAL JUSTICE MISSION

Online Sexual Exploitation of Children in the Philippines

A Review of the
Criminal Justice
System's Response

This assessment was conducted by International Justice Mission (IJM) and is part of its Philippine Online Sexual Exploitation of Children program.

Report written by:

Kristin Owen, Associate Program Manager, Southeast Asia, International Justice Mission
Brianna Gehring, Senior Program Manager, Southeast Asia/Eastern Europe, International Justice Mission
Samson Inocencio, Jr., National Director, International Justice Mission Philippines

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International Justice Mission
PO Box 58147
Washington, DC 20037 USA
www.ijm.org

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It is our hope that this assessment will inform the efforts of the Philippine criminal justice system and its many partners as they work together to expand protection to all citizens of the Philippines.

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ACRONYMS AND ABBREVIATIONS

ACG	Anti-Cybercrime Group
AHTRAD	Anti-Human Trafficking Division
ATIPD	Anti-Trafficking in Persons Division
CCD	Cybercrimes Division
CJS	Criminal Justice System
CSAM	Child Sexual Abuse Material
CSEC	Commercial Sexual Exploitation of Children
CSEM	Child Sexual Exploitation Material
DOJ	Department of Justice
DSWD	Department of Social Welfare and Development
IACAT	Inter-Agency Council Against Trafficking
ICAC	Internet Crimes Against Children
IJM	International Justice Mission
LGU	Local Government Unit
NBI	National Bureau of Investigation
NCR	National Capital Region, or Metro Manila
NGO	Nongovernmental Organization
OSEC	Online Sexual Exploitation of Children
PHILJA	Philippine Judicial Academy
PNP	Philippine National Police
PNATT	Philippine National Anti-Trafficking Team
RA	Republic Act
RSCC	Reception and Study Center for Children
TIP	Trafficking in Persons
UN	United Nations
US	United States
WCPC	Women & Children Protection Center

DEFINITIONS

Commercial Sexual Exploitation of Children is defined by the World Congress against Commercial Exploitation of Children as any “sexual abuse of a child by another individual in return for remuneration, in cash or kind, paid to the child or to a third person or persons.”¹ This includes instances in which sexual exploitation occurs in exchange for protection, lodging, food or other benefits. The United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, to which the Philippines is a signatory, states that consent is irrelevant when sexual exploitation involves children.²

Commercial sexual exploitation of children (CSEC) is a general term for a variety of related, and in some cases overlapping, forms of sexual abuse of children with a commercial element. These include but are not limited to child sex trafficking and online sexual exploitation of children (defined below).

Child Sex Trafficking is the recruitment, obtaining, hiring, providing, offering, transportation, transfer, maintaining, harboring, or receipt of a child for the purpose of providing sexual gratification to a third party in the physical presence of the victim, in return for remuneration, in cash or kind, paid to the child or to a third person or persons. This includes instances in which sexual exploitation occurs in exchange for protection, lodging, food, or other benefits. Mirroring the language of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, the Philippines Anti-Trafficking in Persons Act (Republic Act 9208, as amended by RA 10364) states that consent is irrelevant when sexual exploitation involves children. Therefore, all children engaged in sexual exploitation involving payments in cash or kind are, by definition, victims of human trafficking.³

Child Pornography is defined by the UN’s Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography as “any representation, by whatever means, of a child engaged in real or simulated explicit

¹ First World Congress against Commercial Sexual Exploitation of Children, 1996. The Stockholm Declaration and Agenda for Action. https://www.dji.de/fileadmin/user_upload/izkk/StockholmAgenda1996.pdf

² United Nations Human Rights Office of the High Commissioner, 2000. Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>

³ Republic Act No. 9208, as amended by Republic Act 10364, Section 17.

sexual activities or representation of the sexual parts of a child for primarily sexual purposes.”⁴

In the Philippines, **pornography** is defined by Republic Act No. 10364 as “any representation, through publication, exhibition, cinematography, indecent shows, information technology, or by whatever means, of a person engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a person for primarily sexual purposes.”⁵

As it relates to child pornography, Republic Act No. 9775 defines a child as “a person below eighteen (18) years of age or one who is over eighteen (18) but is unable to fully take care of or protect himself/herself from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition.”⁶ A child also refers “to a person regardless of age who is presented, depicted or portrayed as a child; and computer-generated, digitally or manually crafted images or graphics of a person who is represented or who is made to appear to be a child.”⁷ In this report, “minor” and “child” are used interchangeably to mean the definition stated in RA 9775. Child pornography under RA 9775 is any representation of a child engaged in real or simulated explicit sexual activity. Explicit sexual activities include real or simulated sexual intercourse, sexual contact, bestiality, masturbation sadistic or masochistic abuse; lascivious exhibition of the genitals, buttocks, breasts, pubic area and/or anus; or use of any object or instrument for lascivious acts.

Consistent with the Luxembourg Guidelines for The Protection of Children from Sexual Exploitation and Abuse, IJM refers to Child Pornography as Child Sexual Exploitation Material (CSEM) except when referring to legal statutes, definitions, and direct quotes that use the term Child Pornography.

Child Sexual Exploitation/Abuse Material is any visual or audio (and/or any combination thereof) representation of a child engaged in sexual activity or of a child engaging in lewd or erotic behavior recorded, produced and/or published to arouse the viewer’s sexual interest. Child Sexual Exploitation Material (CSEM) is a broader, umbrella term which includes all sexualized material depicting children, while Child Sexual Abuse Material (CSAM) depicts physical sexual abuse of a minor.

⁴ United Nations Human Rights Office of the High Commissioner, 2002. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. <https://www.ohchr.org/en/professionalinterest/pages/opscrc.aspx>

⁵ Republic Act 10364, Section 3(j)

⁶ Republic Act 9775, Section 3(a)

⁷ Republic Act 9775, Section 3(a)(1)

Online Sexual Exploitation of Children is the production, for the purpose of online publication, of visual or audio representation (e.g., photos, videos, live streaming) of the sexual abuse or exploitation of a minor for a third party who is not in the physical presence of the victim, in exchange for compensation.

Live Streaming Child Sexual Exploitation is a form of commercial sexual exploitation of children and represents the confluence of traditional forms of child sex trafficking and online sexual exploitation of children. This involves customers around the world who pay to view and, in some cases, direct live-streaming video of sexual abuse of children, who are typically located in another country. The abuse may involve one or more child victims. Customers typically send payment for the exploitation to a trafficker – a trafficker who facilitates and, in some cases, participates in the abuse the customer pays to observe. The nature of those performances varies depending on the requests of customers but range from children posing in a suggestive manner to engaging in sex acts with other children or adults.

Entrapment, as used in the Philippines and in this report, is a method of affecting a lawful, warrantless arrest of criminal suspect by capturing the law-breaker in the act of committing a crime. Entrapment in the Philippines must not be confused for the same term having a different meaning in other English-speaking countries (e.g. Canada, the United States, and Australia), where it is defined as an unlawful action by the government to induce a person to engage in criminal behavior. Such misconduct is also prohibited in the Philippines, where it is called, “instigation.”⁸

Criminal Justice System is defined as the system that administers justice, conformed by several elements (normative instruments, agents, procedures) whose interaction will be used to: apply a correct legal decision, guaranteeing the rights of due process, both for the alleged perpetrator and for the victims; and to ensure victims are identified and rehabilitated through social services in a manner that affords each victim dignity and reduces their vulnerability to re-victimization.

⁸ Laserna Cueva-Mercader Law Offices, “Entrapment vs. Instigation; explained – G.R. No. 173485.” *Law and Justice: Issues and Developments* (blog), (December 9, 2011), <http://lcmlaw1.blogspot.com/2011/12/entrapment-vs-instigation-explained-gr.html>

EXECUTIVE SUMMARY

This report is intended to serve as a baseline analysis of the state of the Philippine criminal justice system's response to online sexual exploitation of children (OSEC) as it was in 2016, when International Justice Mission launched their program to combat OSEC. This study analyzes stakeholder interviews and participatory analysis to identify relevant government agencies' achievements as of 2016 as well as the remaining gaps and challenges faced. This report also outlines recommendations for the Philippine criminal justice system and its partners to implement as they combat OSEC in order to continue improving protection for vulnerable children across the nation.

Over the past fifteen years, the Philippine Government has demonstrated significant efforts and emerged as a regional leader in protecting children from sexual exploitation through an inter-agency response coordinated within the country's criminal justice system. The government has increased its capacity and sophistication in addressing trafficking issues, as evidenced by the marked decrease in the prevalence of minors in commercial sexual exploitation of children (CSEC) by between 79 and 86% in three major metropolitan areas in the country between 2003 and 2015. The Philippines' progress was recognized by the United States Department of State in 2016 when they became the only country in Southeast Asia to receive a Tier One rating in the annual Trafficking in Persons Report.⁹

As the Philippines developed its effective response to child sex trafficking, the government and its partners discovered another emerging problem that could not be ignored: a rise in cases of OSEC. This emerging crime type differed from forms of CSEC traditionally encountered in the Philippines in establishment and street-based trafficking. In OSEC cases, the customers abusing minors are no longer in the physical presence of the victim and are able to participate in and direct abuse remotely online via Philippine-based traffickers who facilitate the in-person abuse. As law enforcement and others began addressing OSEC cases more regularly, it became clear that OSEC is distinct from other forms of child sex trafficking, with distinct sets of perpetrators, victims, and methods of operating. Thus, contextualized responses were needed from the public justice system and its partners in order to effectively combat the crime, including in the areas of prevention, investigation, prosecution, and aftercare for survivors. This study serves as an analysis of the starting point of government response as of 2016.

⁹ United States Department of State, 2016. "Philippines Upgraded to Tier 1 in 2016 US State Department Trafficking in Persons Report." <https://ph.usembassy.gov/philippines-upgraded-tier-1-2016-us-state-department-trafficking-persons-report/>

This report presents findings across the law enforcement, prosecution, and victim aftercare pillars of the criminal justice system. It finds that, in 2016, there was an emerging awareness of OSEC, but there was not yet a significant, coordinated criminal justice response or consistency in data collection at the government level on the issue. International law enforcement engagement was mostly ineffective, and Philippine law enforcement was neither designating sufficient personnel or financial resources, nor was it fostering the development of the technical expertise required to investigate OSEC cases. Both investigators and prosecutors were underutilizing digital forensic evidence due to a knowledge gap and shortage of digital forensic analysis working in the country. Courts were relying almost exclusively on victim testimony to secure convictions, a measure that can pose significant additional harm to survivors. There was also a shortage of social workers available to provide the specific care needed by OSEC victims and a shortage of appropriate short and long-term placement options for them.

This report calls for efficiency of communication and collaboration between international and Philippine law enforcement, dedication of personnel and funding to specialized investigation units, a commitment to the development of expertise within law enforcement units, increased capacity for analyzing and presenting digital evidence, implementation of standardized, inter-agency, digital data tracking systems, widespread adoption of child-friendly courtroom practices and plea bargaining strategy, and commitment by the government to hire more social workers and provide more long term housing options to meet the needs of victims of OSEC. Additional information on specific recommendations is provided in the “Recommendations” section of this report.

As the Philippine Government continues to emerge as a leader in the fight against child sex trafficking globally, it requires continued commitment from government agencies and partners to scale up the improvements seen in the past decade to protect children from all forms of trafficking, including online sexual exploitation. It is our hope that this analysis of the criminal justice system response may serve as a useful reference for those working to protect children in the Philippines and around the world from online sexual exploitation of children.

1 INTRODUCTION

1.1 Online Sexual Exploitation of Children in the Philippines

Online sexual exploitation of children (OSEC) is defined as the production, for the purpose of online publication, of visual or audio depictions (e.g., photos, videos, live streaming) of the sexual abuse or exploitation of a minor for a third party who is not in the physical presence of the victim, in exchange for compensation.

A typical OSEC case involves a customer in a different country from the victim, usually a developed Western nation, engaging with a trafficker based in the Philippines who facilitates and sometimes participates in the exploitation of a child. The Philippine-based facilitator, referred to as ‘trafficker’ throughout this report, provides sexually exploitative images or videos of children (see CSEM and CSAM definitions) via an internet-based platform such as a social media site or other electronic service provider. OSEC often involves child sexual abuse directed live by the customer, in exchange for payment. The majority of cases that the Philippine government has investigated to date have involved customers directing the abuse via livestream.

Over the past fifteen years, the Philippine Government has emerged as a leader in combatting sex trafficking of children. The government developed a strong, coordinated response to combat the crime which resulted in a reduction of between 75-86% in minors in street and establishment-based sexual exploitation in three target cities.¹⁰ However, in more recent years, there has been a sharp increase in the number of OSEC cases identified and investigated by Philippine law enforcement. The apparent increase in prevalence of OSEC crimes, however, does not appear to be an instance of crime displacement, where traffickers engaged in street and establishment-based trafficking shifted to operating online. Rather, Philippine case data has shown that OSEC involves a distinct set of victims, customers, and perpetrators. Compared to victims of commercial sex trafficking, victims of online sexual exploitation tend to be younger, include a higher percentage of male victims, and often involve sibling groups. The majority of OSEC customers purposefully seek out material that depicts the sexual abuse of minors. According to data

¹⁰International Justice Mission, 2016. “Child Sex Trafficking in Angeles City using time-space sampling to measure prevalence of child sex trafficking in Angeles City and Malabacat in the Philippines” <https://www.ijm.org/documents/studies/ijm-pampanga-final-web-pdf-v2.pdf>

collected through direct casework, IJM found that 86% of OSEC victims rescued were minors and 46% of all victims rescued were 12 years of age or younger. Victim ages were recorded at the time of rescue, however, it is common for victims to be identified and rescued when abuse in OSEC has already been ongoing for a significant period of time; therefore, these numbers do not represent the average age of all victims of OSEC. From the same data, IJM found that 19% of OSEC victims rescued were male, and 42% of all OSEC cases involved victims in sibling groups. Additionally, the traffickers consist of a distinct population from the traffickers seen in former CSEC cases. OSEC exploitation and abuse often occur in the home, facilitated by a parent, relative, or close family friend. IJM data shows that 71% of OSEC cases involved traffickers who were parents, relatives, or close family friends of the victims. Cases in which the traffickers were parents represented 30% of total cases.

Though no direct links have been definitively proven, according to INTERPOL, factors such as high population and pervasive poverty contribute to a high volume of live-stream abuse cases in the Philippines.¹¹ Other factors that make the Philippines vulnerable to OSEC include the widespread use of the English language, high-speed internet connectivity, availability and common use of money-transfer services, and the anonymity that the internet provides through the high number of unregistered, pre-paid internet connections, such as mobile devices and data plans. Because an internet connection is now all that is needed to find and reach customers, OSEC crimes are also found outside of major metropolitan areas, unlike in establishment and street-based child sex trafficking cases. Hotspots where OSEC cases have been identified in larger numbers through government investigations can be found in small villages, on islands far from the major cities, and in remote parts of the country, as well as in metropolitan areas. This has added to the complexity of developing an effective criminal justice system response to the issue, as the crime is national in scope, and CJS agencies must be able to address the crime even in very remote areas.

OSEC crimes are particularly challenging for law enforcement globally to address due to the online nature of the crime. Subscriber information does not exist for most IP addresses and phone numbers in the Philippines, which creates difficulty in identifying the location of victims and perpetrators using traditional technology-based investigative techniques. Typically, live-streamed abuse leaves no audio or visual evidence of the exploitation; this presents unique challenges for law enforcement when it comes to collecting evidence that assists in investigations and prosecutions, as well as victim identification.

¹¹ECPAT International, "Live Streaming of Child Sexual Abuse: Background, Legislative Frameworks and the Experience of the Philippines," *ONLINE CHILD SEXUAL EXPLOITATION: An Analysis of Emerging and Selected Issues*, Volume 12, April (2017) http://www.ecpat.org/wp-content/uploads/2017/04/Journal_No12-ebook.pdf

1.2 Overview of IJM

International Justice Mission (IJM) is a global organization that protects the poor from violence. IJM partners with local authorities to rescue victims of violence, bring criminals to justice, restore survivors, and strengthen justice systems. IJM justice professionals work in their communities in 17 field offices in Asia, Africa and Latin America to secure tangible and sustainable protection through national laws enforced by local criminal justice systems.

Since 2000, IJM has partnered with the Philippine Government to protect children and combat sexual violence by seeking immediate relief and quality aftercare for victims, pursuing perpetrator accountability, and building the capacity of the local criminal justice system to combat these abuses. IJM operated a program to combat commercial sexual exploitation of children (CSEC) in the Philippines from 2002–2015. This program focused on three target areas in the Philippines with the largest commercial sex markets for children: Metro Manila, Metro Cebu, and Pampanga.

During that time, IJM came alongside law enforcement officers of the Philippine National Police (PNP) and the National Bureau of Investigation (NBI), social workers from the Department of Social Welfare and Development (DSWD), and court officials from the Department of Justice (DOJ) to provide technical support and mentorship on individual sex trafficking cases. Between 2000 and 2015, IJM Philippines supported the rescue of over 1,500 victims of sexual violence, over 1,300 of whom were survivors of sex trafficking. IJM supported Philippine law enforcement in the arrest of 816 suspects and saw the conviction of 181 traffickers. In addition, IJM and its many partners in the government and civil society worked to bring about sustainable improvements in the criminal justice system response, enabling law enforcement, prosecutors, courts, and social services to more effectively combat trafficking and provide support for survivors. The Philippine Government established dedicated anti-trafficking law enforcement units within the PNP and within NBI. Similarly, courts adopted more child and victim sensitive processes, and the Supreme Court issued a circular mandating the prioritization and expedition of trafficking cases through the courts to reduce lengthy trials. The government increased its investment in capacity building and training through curricula designed by the PNP and Philippine Justice Academy (PHILJA). Private aftercare organizations and the government's Department of Social Welfare and Development (DSWD) and Local Government Units (LGU) significantly increased the quality and availability of services to assist child sex trafficking survivors. DSWD institutionalized Trauma Informed Care training to equip social workers with knowledge and skills to provide care that meets the needs of survivors of trauma.

Through these initiatives and many others, the criminal justice system in the Philippines emerged as a leading government in protecting children from sexual exploitation. Because of the improved and sustained criminal justice system response to child sex trafficking in the Philippines, IJM was able to document reductions in the prevalence of minors being exploited in sex trafficking in Cebu, Manila, and Pampanga of between 79% and 86%.¹²

Through its support of Philippine Law Enforcement, IJM began to document the emergence of a new form of trafficking involving online exploitation as early as 2010. As IJM continued supporting law enforcement operations, there was a marked increase in the number of cases involving traffickers exploiting children via webcams for paying customers in different, often foreign, locations, as opposed to the other forms of child sex trafficking common in the Philippines where minors were exploited out of bars, massage parlors, and street exploitation. As government capacity and leadership in addressing traditional forms of child sex trafficking grew, IJM shifted its focus to supporting online sexual exploitation of children (OSEC) cases and as of 2015, had assisted law enforcement in 18 rescue operations to rescue children from situations of ongoing exploitation and arrest traffickers engaged in online abuse. In early 2016, IJM formally wrapped up its traditional child sex trafficking program and transitioned those cases fully to the Philippine Government. In June of 2016, IJM launched a new program, aimed at leveraging its successful anti-trafficking model and strong relationships with the Philippine Government to increase their capacity to protect children from all forms of trafficking, including this more technical and challenging crime.

1.3 Legal Framework

The Philippines criminalized human trafficking in 2003 with the passage of Republic Act 9208. Section 3(a) of RA 9208 defines human trafficking as: “The recruitment, transportation, transfer or harboring, or receipt of persons with or without the victim’s consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs.”¹³

¹²International Justice Mission, 2016. “Child Sex Trafficking in Angeles City using time-space sampling to measure prevalence of child sex trafficking in Angeles City and Malabacat in the Philippines” <https://www.ijm.org/documents/studies/ijm-pampanga-final-web-pdf-v2.pdf>

¹³Republic Act 9208, Section 3(a)

RA 9208 also specifies that the consent of the victim to the abuse is irrelevant if the victim is a child. In 2013, RA 9208 was amended and expanded through Republic Act 10364, or the “Expanded Anti-Trafficking in Persons Act of 2012.” RA 10364 amended the definition of trafficking to include more nuanced definitions of the crime, added accessory and accomplice liability for trafficking syndicates, raised the penalty for the “use of a trafficked person,” enhanced victim protection, and guaranteed funding for the IACAT through the annual General Appropriations Act.¹⁴ Under RA 9208, as amended by RA 10364, the penalty for trafficking is 20 years imprisonment and a fine of 1-2 million Philippine pesos (\$20-\$40K USD).¹⁵ The penalty for qualified trafficking, which includes the trafficking of children, is life imprisonment and a fine of 2-5 million pesos.¹⁶ The U.S. State Department’s 2018 Trafficking in Persons Report notes that RA 9208 as amended “prescribe[s] penalties that are sufficiently stringent and, with respect to sex trafficking, commensurate with those prescribed for other serious crimes, such as rape.”¹⁷

Aside from RA 9208 as amended, OSEC cases may also be punishable under RA 9775 or the Anti-Child Pornography Act, RA 7610 or the Anti-Child Abuse Act, or RA 10175 or the Anti-Cybercrime Act. Section 6 of RA 10175 states that penalties of crimes committed by, through, and with the use of information and communications technology are one degree higher. It is common for an offender to be charged under a combination of these laws, although there is a prohibition in case law against charging an offender for child pornography under RA 9775 and RA 10175 at the same time.¹⁸

1.4 Report Purpose and Scope

This report reviews the baseline performance of the Philippine criminal justice system (CJS) in cases of online sexual exploitation of children (OSEC). IJM’s program to combat OSEC launched in 2016. Prior to launching the OSEC program, in 2015-2016, IJM contracted an independent external evaluator to assess the impact of IJM’s CSEC program and gather data from relevant stakeholders regarding the system’s response to OSEC cases at that time. The data gathered was intended to capture the state of the CJS response to the crime prior to IJM and numerous other partners launching targeted projects to strengthen the response to OSEC crimes.

¹⁴ Republic Act 10346, Section 3(a)

¹⁵ Republic Act 9208, Section 10(a)

¹⁶ Republic Act 9208, Section 10(c)

¹⁷ Department of State, Trafficking in Persons Report, June 2018. <https://www.state.gov/documents/organization/282798.pdf>

¹⁸ *Disini v. Secretary of Justice*, G.R. No. 203335, February 11, 2014

The publication of this report is intended to identify both strengths and existing needs in the CJS response to inform IJM's programming as well as the efforts of Philippine Government agencies and other stakeholders as they work together to improve response to OSEC and scale up the Philippine Government's effectiveness in protecting children from all forms of trafficking.

2 METHODOLOGY

This report presents a synthesis of data from qualitative, in-depth interviews with stakeholders conducted in 2016 as well as participatory analysis of the initial findings conducted through interviews and focus groups with stakeholders in 2018. It presents findings, conclusions, and recommendations that are supported by qualitative interview data and confirmed and enhanced through participatory analysis.

2.1 Interviews with Stakeholders

In 2016, independent external evaluator, Dr. Robin Haarr, in collaboration with IJM staff members, developed the interview tool used for stakeholder interviews. The tool consisted of a series of open-ended questions about overall government engagement, law enforcement performance, prosecution performance, aftercare provision, and community awareness of OSEC. In total, 121 stakeholders were consulted from 21 non-governmental and 10 governmental organizations through in-person, semi-structured interviews. The stakeholders that Dr. Haarr interviewed included individuals working with aftercare, prosecution, and law enforcement. The interviews were conducted in the Philippines between August and November of 2016. Before the interviews, all external (i.e. non-IJM staff) participants were fully apprised of the purpose of the assessment, the voluntary nature of their participation, and the commitment of the researchers to keep their level of data attribution anonymous aside from their sector of work.

2.2 Participatory Analysis

There was a growing awareness and a rapidly shifting understanding of OSEC among government and NGO stakeholders between when cases first came to law enforcement's attention and the present time. In 2017, the Government of the Philippines and the U.S. State Department's Office to Monitor and Combat Trafficking in Persons entered into a Child Protection Compact, which significantly increased attention and resources dedicated to this issue. By 2018, with the additional knowledge gained from two years of experience assisting the Philippine Government with OSEC cases, program staff recognized that the responses from the original interviews were not informed by a comprehensive understanding of the crime and the criminal justice system response at the time, a finding detailed in section 3.1.1 below.

Because stakeholders interviewed in 2016 did not have as much substantial, direct experience with OSEC cases, the responses from all 31 agencies and organizations lacked many of the details and insights on the state of the criminal justice system that

stakeholders have since learned. Therefore, to supplement the data collected through the 2016 interviews, IJM staff designed a participatory analysis approach that enabled stakeholders to provide additional context to their previous responses and interpret the broader study results through the lens of their current knowledge. Seven key stakeholders, from both the government and IJM, were presented with the conclusions drawn from the original 2016 data and asked to validate and expound upon the findings. Respondents were instructed to report on the state of the CJS response to OSEC in 2016, not as it is today in 2018. In some cases, respondents were able to include important examples of progress made since 2016, which are clearly noted as changes since 2016 and should not be considered as part of the baseline findings.

2.3 Limitations and Nature of the Finding

This report has compared and combined qualitative data collected from key stakeholders on the performance of the Philippine criminal justice system as it responded to OSEC crimes as of 2016. The findings and recommendations highlighted in this report are limited to the findings, summarized trends, and common themes identified through stakeholder interviews and highlight most critical areas of need for expanded CJS focus.

2.3.1 Findings Limited to Stakeholder Knowledge on CJS

The people participating in the stakeholder interview portion of data collection represented NGOs who partner with the Philippine criminal justice system in addressing sexual exploitation of minors as well as government officials themselves. Though diverse and valuable perspectives were gathered, this report is by nature limited in scope, and the authors acknowledge that a truly comprehensive assessment of all areas of response to OSEC would be of great value. A study that incorporates government casework data, quantitative analysis, and survivor voice would add to the insights included here.

Concerning the reach of this report, it is a review of the *criminal justice system's* response. Accordingly, it is limited to the identification, rescue, and support of victims of OSEC and accountability of perpetrators. Prevention, education and awareness efforts, while hugely important in combatting OSEC, are outside the scope of this report.

2.3.2 Narrative Nature of Findings

Because the findings of this report come primarily from the in-depth participatory analysis interviews, they are largely narrative in nature. The insights shared by these stakeholders were given along with supporting context about the nature of OSEC itself, which is included in the report alongside the findings. All information contained in the findings section of this report comes directly from the 2016 key informant interviews or the seven 2018 participatory analysis interviews. All findings found in the narrative have been validated by at least five other interviewees to ensure accuracy of the report.

3 FINDINGS

This section details the findings on the baseline performance of the criminal justice system response to the crime of OSEC and highlights issues that must be addressed. The findings for each section outline what the data suggests about the current criminal justice system response in these areas.

3.1 Government Engagement Findings

3.1.1 Emerging Awareness of OSEC

In early 2016, the Philippine Government was showing more awareness that OSEC was occurring as a trend in the country but largely was not mobilizing to address it. Stakeholders interviewed in 2016 reported that the government's intentions to combat the crime were promising, but there was little activity in early 2016, and government agencies were primarily focused on addressing more familiar forms of trafficking. The understanding of OSEC was still very limited within the country, both by the government and NGOs. Stakeholders reported that the government was aware that OSEC was occurring in the Philippines but was not yet informed about many important aspects of the crime, such as the specific motivations behind the crime, how the crime occurred, demographics of victims and perpetrators, or the impact on victims. Several 2018 respondents reported that only 18 total OSEC operations had been conducted by Philippine law enforcement between 2011 and 2016, which was confirmed by IJM's case data that reported 18 total OSEC operations conducted by NBI Anti-Human Trafficking Division (AHTRAD), PNP WCPC, PNP Anti-Cybercrime Group (ACG), and NBI Cybercrime Division (CCD). While there had been successes in these early cases, however, respondents also reported that as of early 2016, there was no comprehensive, organized effort to address the crime across agencies.

Respondents reported that by mid-2016, IJM and other organizations had begun to focus their efforts on combatting OSEC, specifically by partnering with the government to build a coordinated response. Because of these initiatives and the increasing reports of the crime, the government had begun to take some steps towards understanding and addressing OSEC by mid-2016. The Philippine National Police had adopted a three-year road map to address Trafficking in Persons, in which they identified OSEC as an emerging crime to address. Law enforcement units attended trainings hosted by IJM to learn about the nature and challenges of OSEC. They then conducted a number of OSEC rescue operations,

which was a vital step in identifying the pain points of the investigations process. Most notably, the government was receptive to IJM's effort to help create an Internet Crimes Against Children (ICAC) Unit within the Women's and Children's Protection (WCPC) Unit of the Philippine National Police (PNP). This effort was championed by Police Chief Superintendent Rosauro Acio of the PNP-WCPC who worked swiftly to open the office before his retirement that year. Chief Acio's strong advocacy and the support of his direct superiors led to the successful opening of the ICAC office and the assignment of three officers to the Unit in July of 2016.

3.1.2 International Engagement

Stakeholders in 2018 identified that one critical component in combatting OSEC is international governmental cooperation. Due to the crime often being conducted between local traffickers in the Philippines and customers in other countries, it is vital that law enforcement agencies in the countries impacted by the crime have not only diplomatic relationships with one another, but also open lines of communication, trust of each other, and a strong ability to collaborate on a detailed level in the investigations. In 2016, respondents reported that the Philippine Government was not systematic or reliable in responding to the international OSEC referrals that came in from foreign law enforcement. This was confirmed by the 2018 interviewees, who then identified the specific gaps of the government response. Stakeholders reported that, in 2016 and still today, rank, diplomacy, and formalities often hinder the effective collaboration of the Philippine law enforcement agents with foreign governments and law enforcement units.

Respondents interviewed in 2018 identified two primary ways this occurs: first, there is a strict protocol for international communication that allows only designated Philippine officials to communicate with foreign law enforcement. This is counter-productive to the work needed for OSEC investigations because it is often other officials who are most involved in cases and could most meaningfully collaborate with foreign law enforcement to advance the investigation. Respondents shared that having to filter communication through designated officials whose time is in high demand and who are not familiar with all the details of the case is inefficient. Second, the officials sent to represent the Philippine Government at international conferences, summits, and training events are often chosen based on rank or equality of opportunity, rather than on specific subject matter expertise. International travel is often either reserved for high-ranking officials or equally distributed among deserving officers. Because these events are often highly technical, the Philippine Government's fight against OSEC would best be served by sending the officers who are developing a more technical

understanding of the crime. These officers with the relevant practical skills and experience are also best suited to contribute an operational or investigative perspective to international events designed for that purpose. The government's relationship with international law enforcement is currently more focused on rank and diplomatic relations than on technical collaboration.

3.2 Law Enforcement Findings

3.2.1 Personnel, Resource, and Expertise Limitations

Respondents in both 2016 and 2018 were asked to rank their confidence in various aspects of the Philippine criminal justice system. When asked how confident they were that law enforcement units had sufficient resources to combat OSEC in 2016, 74% of respondents in 2016 and 100% of respondents in 2018 indicated that they had no or extremely low confidence to address this more technical and challenging crime. This was the topic with the lowest confidence measure in the data set. One NGO stakeholder illustrated his point in 2016 by saying, "Some police officers are still using typewriters. It's as simple as that."

As noted above, the Philippine National Police (PNP) opened the Internet Crimes Against Children (ICAC) Unit in mid-2016, partnering with IJM to demonstrate its will to combat OSEC and build up the needed technical capacity. Respondents reported that while this effort was a meaningful step towards protecting children in the Philippines, there are ways that the PNP could make the ICAC Unit more effective. Respondents reported that the ICAC Unit and WCPC field units in 2016 had not yet received sufficient staffing and resources from the PNP to function at full capacity. In 2016, three PNP officers were assigned to the ICAC Unit, but their other responsibilities were not lessened. Thus, those officers were not able to give their attention to the ICAC work to the degree required, according to respondents. Similarly, insufficient financial investment had been made for the ICAC Unit's work, causing them to rely almost exclusively on supplemental operational funds from International Justice Mission.

Respondents reported that since 2016, there has been a slow transition toward the ICAC Unit having more resources and therefore more influence. Most notably, in May of 2017, an effective officer was reassigned from within the PNP to WCPC's ICAC Office. That investigator has shown strong initiative in working to develop technical expertise in OSEC investigations. Continued progress under this Agent is

not secure, however, due to the high prevalence of officer transfer throughout the Philippines.

A significant issue identified by respondents both in 2016 and 2018 is that law enforcement officers are often transferred after only one or two years and on very short notice. Respondents noted that this is a strategy employed by the Philippine Government to prevent corruption and is widely seen as a responsible act by the Filipino people, who have a general mistrust of police. The trend of transferring officers between offices is also supported by the promotion structure. In general, a wide variety of experience is valued over developing specific expertise, and officers understand that in order to be promoted, they need to seek as many different assignments as possible. Respondents reported that while frequent transfers may be an effective way to combat corruption and develop broad skillsets, it is detrimental to the advancement of the ICAC Office and other specialized units, such as the Anti-Cybercrime Group (ACG). Their reasoning was that conducting OSEC investigations requires a high level of technical expertise which is developed over time through casework experience. If the officers are transferred frequently and on short notice, the experience they develop is truncated and is no longer employed and advanced in their new assignment.

3.2.2 Digital Forensic Experts

Respondents in 2018 explained that the proper collection, preparation, analysis, and presentation of digital forensic evidence is a key strategy in effectively investigating OSEC cases. Because OSEC is a crime hidden online, digital evidence is a vital component of building a case against the perpetrators. Processing of digital evidence is a highly technical skill developed by designated digital forensic specialists. Stakeholders reported that other officers can collect digital evidence during an investigation, but specialists are required for the proper analysis and presentation of the evidence. It is best practice for a digital forensic specialist to be embedded in each investigative body and available to physically be present to collect digital evidence during OSEC operations. Respondents from both 2016 and 2018 reported that investigative units were indeed collecting and submitting electronic devices for analysis in 2016, but they lacked the technical expertise and capacity necessary to examine and present them in court. Respondents stated that there were less than 15 digital forensic specialists in the country in 2016. While those specialists were viewed to possess the requisite technical ability to properly examine electronic evidence, the system as a whole lacked sufficient capacity to process the volume of devices submitted for such examination in a timely manner to support prosecutions.

There was also a lack of collaboration between forensic specialists, ICAC Investigators, and the prosecutors who were trying to use the information in court. Digital forensic specialists were unable to accompany law enforcement agents on operations and had a sizable backlog of analysis that was delaying the advancement of investigations. One 2016 interview respondent, a prosecutor for the government, cited a case in which law enforcement successfully collected digital evidence during the investigation, but the digital forensic analysis took several months to complete because only one specialist was available to work on this and many other cases. By the time the prosecutor and his law enforcement partners had compiled sufficient analyzed digital evidence, the suspect had been released and could not be found.

3.2.3 Data Collection

It was apparent during the interviews conducted in 2016 that there was little consistency or coordination in data collection among law enforcement agencies. Many respondents responded that they did know of OSEC data that existed, but when asked to further describe it, it was only anecdotal, often not recorded in a digital database, and not centralized. This finding was confirmed and amplified during the interviews conducted in 2018. Stakeholders had since more formally investigated what type of data was available and found only sporadic records of OSEC referrals and cases kept, across all agencies. The data collection that did exist was, to their knowledge, disorganized and not electronically managed. Agencies were not coordinating to see where their cases overlapped and could therefore enhance each other's cases and minimize duplicative investigative efforts. There were no standard or agreed upon indicators across agencies outlined, making data difficult to aggregate.

3.3 Prosecution Findings

3.3.1 Child-Sensitive Courts

Respondents explained that OSEC survivors are at a high risk of re-traumatization in the court system. Testifying in court in the presence of their perpetrators, who are often close family members, can be a traumatic experience for children. Prior to 2018, every successful OSEC court trial known to respondents required the presence of the child or children as key witnesses. Philippine judges rely heavily on

witness testimony because, according to respondents, judges have a general lack of confidence in other types of evidence, even evidence that is validated under the law, and prefer to see the victims cross examined in front of them so they can develop personal assurance of the crime.

Respondents cited and ranked many child-friendly, trauma-informed trial strategies for recommended use in OSEC trial proceedings as follows: the most trauma-informed approach involves victims not being required to give testimony in any form during the trial. The next most desirable option is the use of a videotaped, in-depth disclosure interview under the Rule on Examination of a Child Witness in lieu of live testimony. This remedy is available when requiring testimony in court would expose the child to severe psychological injury. The recorded interview must be authenticated by a sponsoring witness, usually the officer or social worker who interviewed the child. Third, a videotaped deposition can be recorded, presided over by a judge, where the child's testimony is recorded in a private space and court exposure is limited. Fourth, the child can be allowed to give testimony via a live video link streamed to the courtroom from a child-friendly interview room. Fifth, the victim can provide testimony in the judge's chambers. The accused is allowed to be present, but the prosecutor may request a physical arrangement such as a screen to protect the victim from directly facing him or her. Lastly, the court is closed to the public, but the perpetrator is still present. Respondents stated that, to their knowledge, no OSEC cases were successfully tried using these strategies until February of 2018 when a judge made a groundbreaking double conviction that proved the strength of digital forensic evidence used in court with no reliance on victim testimony.¹⁹

Respondents also shared that an alternative and exceptionally child-friendly strategy is to use plea bargaining especially on the early stages of prosecution to avoid a trial altogether. Plea bargaining is an effective means of prosecuting OSEC offenders and simultaneously protecting survivors from re-traumatization. The use of plea bargaining removes the need for the child to testify against their perpetrator or encounter them face-to-face in court proceedings, and it adds the further advantage of being the fastest method to reach conviction, which can aid in survivors' recovery processes. Respondents reported that OSEC cases, on average, have taken 5 to 7 years to reach conclusion, but when plea bargaining is used, the time to reach conviction can drop to less than a year. Under Philippine law, perpetrators of OSEC may plead guilty to reduce their charges from that of qualified trafficking, which carries an automatic sentence of life imprisonment, to one of trafficking penalized under Section 4, which carries a sentence of 20 years

¹⁹ Shobrook v. The People of the Philippines

in prison or of attempted trafficking, which carries a sentence of 15 years in prison. As of 2016, no successful uses of plea bargaining in OSEC cases were known to respondents. Stakeholders believed that Philippine judges have been known to be reluctant to accept plea bargaining in OSEC cases because they perceived the ruling as an insufficient punitive measure for such a heinous crime. Philippine laws and the rules of court explicitly allow plea bargaining in human trafficking and OSEC cases. IJM's casework data shows that prosecutors utilized plea bargaining to produce exceptional results in human trafficking casework. After effective intervention, there have since been 20 known effective uses of plea bargaining to secure convictions in OSEC cases in 2018.

To illustrate the speed of conviction through plea bargaining, respondents shared case data that showed that as of late 2018, the average full trial length is 1153 days, while the average plea bargain case completion is within 454 days from rescue. The fastest conviction known to respondents by full OSEC trial was achieved 301 days after rescue, while the fastest conviction by plea bargain was achieved in just 13 days.

3.3.2 Use of Digital Evidence in Courts

Respondents noted that the presentation of digital evidence in court is a powerful tool in the prosecution of OSEC cases. Digital evidence can definitively prove the exploitation of a victim or definitively authenticate the transaction in which the child was offered for the purpose of exploitation. 96% of respondents in 2016 reported that there was a widespread lack of knowledge by both judges and prosecutors about the nature and technical use of digital evidence in court, which was confirmed and amplified by 2018 respondents. Philippine law permits the use of digital evidence in court, however respondents in 2018 agreed with respondents in 2016 that judges relied more heavily on testimonial and eyewitness evidence than on digital or documentary evidence. Though the rules are clear about what digital evidence can be admitted as evidence, judges in practice have much more stringent requirements for the digital evidence to meet. For example, respondents shared that judges are more comfortable physically seeing the phone that contains digital evidence than the court-admissible digital forensic electronic evidence that was collected from the phone. Further still, they are more comfortable relying on victim testimony so they can receive first-hand validation of guilt, rather than rely on digital evidence that they fear could easily be tampered with, even if it meets all the admissibility requirements after a thorough forensic analysis.

Respondents in 2016 and 2018 reported that prosecutors are also hesitant to use digital evidence in court. Since this type of evidence is highly technical and requires expert testimony and strong understanding of the digital forensic process and admissibility rules to validate, stakeholders noted that prosecutors were uncomfortable using digital evidence. Also, prosecutors have not developed an effective strategy to most efficiently utilize digital forensic specialists in the collection of the evidence. Specialists are much more efficient in evidence collection when prosecutors can give them specific guidance about what to examine, such as specific social media platforms, dates, and user accounts that were most likely to be associated with the crime. Respondents explained that digital forensic specialists could examine a single hard drive for more than a year and still not have extracted all the evidence within. Without clear guidance from prosecutors, the problem of having too few digital forensic specialists in the country is compounded. 2018 respondents reported that they have seen a strong desire from prosecutors to learn more effective strategies of using digital evidence to build their cases and again noted the groundbreaking 2018 case in which a dual conviction was achieved without victim testimony, aided through the use of digital evidence.

3.4 Aftercare Findings

3.4.1 Social Workers Available for Rescue Operations

Stakeholders interviewed in 2016 reported that, on average, they were moderately to highly confident in the ability of the government to provide adequate care to survivors of OSEC. They explained that there were several examples of children in shelters who were being well cared for by both government and private social workers. They did, however, report that the capacity of the government to care for the increased number of OSEC victims being rescued was insufficient. One key stakeholder from a 2018 interview explained that identified gap in the Department of Social Welfare and Development's response to OSEC. Prior to 2016, DSWD had been successfully supporting the rescues and case management of survivors of commercial sexual exploitation of children (CSEC) for several years by assigning one trafficking in persons (TIP) social worker in each of the Philippines' 17 regions. As the prevalence of that crime decreased and the awareness of OSEC grew, DSWD's previous strategy of deploying their regional TIP social workers was no longer as effective for OSEC cases. CSEC, by nature, was much more centralized than OSEC is, so, having one DSWD social worker assigned in each region was

sufficient because rescue operations were relatively centered around urban hubs. The social worker could accompany law enforcement on rescue operations and continue case management for the survivors from their region. For OSEC cases, which are often not centered around urban areas, regional TIP social workers could not cover all the remote municipalities of their regions for rescue operations or ongoing case management. Since 2016, DSWD has transitioned to a new strategy in the National Capital Region (NCR) and Region 3 in which Local Government Unit (LGU) social workers accompany law enforcement on rescue operations and coordinate ongoing care for survivors if DSWD social workers are unable to attend to the case. This strategy is still insufficient for serving all OSEC victims, as some LGU social workers cover over 25 municipalities. Respondents reported that, in 2018, a few provincial welfare offices have augmented LGU social welfare offices by offering supplemental social worker support. The implementation of this strategy more broadly could address the need for more remote social workers to be available.

3.4.2 Availability of Services for OSEC Survivors

The decrease in prevalence of CSEC and increase in awareness of OSEC brought with it another shifting need that respondents identified. DSWD and private aftercare shelters throughout the country were already providing trauma-informed care and stable placements for survivors of child sexual exploitation, who were primarily adolescent girls. Respondents reported that the demographics of OSEC survivors however, often consist of boys, mixed gender sibling groups and very young children, sometimes infants. These survivors needed unique accommodations such as nurseries and both boys' and girls' dormitories to keep sibling groups together. According to respondents, there were very few placements available for male victims and sibling groups in 2016, and these placements were either for street children or children in conflict with the law. Though these shelters were not able to provide specialized care for survivors of sexual exploitation and had minimal space, they accepted boys. The shelters available for boys in Manila included government facilities like Reception and Study Center for Children (RSCC) for children six years and below, and Nasyon ng Kabataan for older boys. The only private shelter in Manila that considered accommodating boy victims of OSEC was Kanlungan sa Erma. In Cebu, there were even fewer options. Mercy in Action was the only facility available to accept boys. Placement for mixed-gender sibling groups was entirely unavailable during that time, thus, siblings were often separated.

Though it should not be considered as part of the baseline assessment, interviewees did provide an update on the current state of placement options for OSEC survivors, and the progress is encouraging. As of late 2018, there are currently enough placement options to accommodate young boys and mixed-sibling groups in Luzon. Some existing aftercare providers have included OSEC in their program, and new shelter partners have established a dedicated facility for long-term placement of OSEC survivors. Another achievement reached since 2016 is the opening of an assessment center by Church of the Nazarene and the Religious of the Good Shepherd that will provide crisis care and will facilitate the comprehensive assessment of survivors and their families within three months, before they are transitioned into a long-term placement.

Stakeholders interviewed in 2018 also reported that there was no capacity within the national foster care system to place OSEC survivors with foster families in 2016, as DSWD had no mechanism for equipping foster parents to provide trauma-informed care to OSEC survivors. They explained that in 2016, there was more of a focus on fostering to adopt rather than fostering to care for survivors in need of a familial home environment that may or may not be a temporary placement, depending on how their case progressed. As an update since the time of this baseline, two private aftercare organizations, Norfil and the Parenting Foundation, are partnering with IJM through the Child Protection Compact between the United States and Philippine Governments to build up the national foster care program to accommodate OSEC survivors.

4 RECOMMENDATIONS

4.1 International Engagement

Recommendation 1: Countries with a high number of offenders engaged in OSEC crimes on the demand side should assign and deploy law enforcement liaison officers to work in the Philippines. Timely and effective intelligence sharing and coordination between law enforcement agencies globally is critical for apprehending customers paying for online abuse of children, protecting victims and children at risk for exploitation, and arresting traffickers facilitating the exploitation. To better coordinate a global law enforcement response to the crime, nations with high numbers of customers sourcing abuse from the Philippines should deploy law enforcement liaison officers assigned to and residing within the Philippines for the purpose of closely coordinating international investigations.

Recommendation 2: The Government of the Philippines should create pathways for law enforcement officers involved in investigating cases to coordinate directly with law enforcement counterparts internationally. This would prioritize efficiency of communication over formalized and hierarchical communication structures which prevent practical and effective collaboration on individual cases. Better coordination between agencies will lead to increased and more rapid arrests of traffickers and rescues of children in situations of ongoing exploitation.

Recommendation 3: Philippine law enforcement agencies should authorize international travel for technical conferences or events focused on improving collaboration and response to OSEC crimes for the specific investigators working directly on the crime. This would allow international collaboration to be done by those who will most contribute to the technical conversation, will be able to identify practical steps for improving coordination, and will most benefit investigative capacity by developing expertise.

4.2 Law Enforcement

Recommendation 4: The Government of the Philippines should consider extended placements for officers serving in specialized anti-trafficking and online crimes units and should consider other anti-corruption measures such as polygraph testing and vetting. Conducting investigations of internet crimes against children requires significant training and expertise. Philippine law enforcement agencies' current practice of regularly transferring officers between units severely hinders the government's overall effectiveness at investigating OSEC crimes, rescuing victims, and apprehending offenders. Exploring alternative anti-corruption measures could prevent corruption without the need to continually train new officers.

Recommendation 5: The Government of the Philippines should increase personnel and operational funding for law enforcement agencies and operational units responsible for addressing OSEC crimes, prioritizing PNP-WCPC (including ATIPD and the ICAC office), NBI-AHTRAD, and PNP-ACG. Specifically, the government should designate funds as "Tier Two" in the budget, which protects them from reassignment in the annual congressional budgeting exercises. This would directly address the issue that law enforcement agencies lack the personnel and operational funding to respond to the volume of OSEC referrals received.

Recommendation 6: The Government of the Philippines should designate funds and personnel to embed digital forensic specialists in each investigative body. This would increase overall capacity to respond to and prosecute OSEC cases and modify policies as necessary to allow for such decentralized digital forensic examinations to be introduced as evidence in legal proceedings. Digital evidence is a critical component for effective OSEC prosecutions, yet capacity within Philippine law enforcement is quite limited, which hampers investigative effectiveness and causes significant delays in prosecution.

Recommendation 7: The Government of the Philippines should implement a cross-agency, standardized, digital data tracking system to improve understanding of the crime and the government's response. Data collection on trafficking crimes and OSEC specifically varies widely between agencies and creates inconsistent and unhelpful information. A standardized system would reduce duplication

of investigative efforts as well as provide authorities with more accurate information about the crime, helping them better address it.

Recommendation 8: The DOJ should provide guidance to law enforcement agencies and judges that digital evidence of exploitation is sufficient basis for application of an arrest warrant. Law enforcement operations to rescue children exploited in active situations of OSEC are often delayed due to lack of clarity around what is considered first-hand knowledge of the crime, which must be demonstrated in order to obtain a search warrant. Criminal procedure in the Philippines is interpreted on varying occasions to require law enforcers to witness perpetrators in the act of committing an ongoing violation to be able to establish first-hand knowledge of the crime. Thus, significant efforts need to be undertaken to clarify the first-hand knowledge requirement and even advocate for officers to effectively utilize the preponderance of evidence to intervene.

4.3 Prosecution

Recommendation 9: The DOJ and the Supreme Court should address the need for child-sensitive court measures by commissioning application-based training on the use of digital evidence in OSEC cases and by supporting an increase of test cases and jurisprudence. To protect OSEC victims, especially those of a young age, from harmful court exposure, prosecutions must rest on strong non-victim evidence. Gaps exist in prosecution capacity to maximize digital evidence and court capacity to receive, store, and process digital evidence. As a critical component in the prosecution of OSEC cases, use of digital evidence must become commonplace in court proceedings.

Recommendation 10: The Department of Justice should issue guidelines on the use of plea bargain in OSEC cases and ensure that prosecutors are trained in its use and advantages. The use of plea bargaining, especially if done on the early stages of the criminal proceedings, can prevent victim re-traumatization as the victim is not unnecessarily exposed to the rigors of a usually protracted trial. Though child-sensitive, trauma-informed court practices exist, none are better for preventing additional harm than eliminating the need for the child to enter the court setting. Plea bargaining also increase favorable prosecution outcomes such as conviction rates and trial lengths.

Recommendation 11: The Supreme Court of the Philippines should provide guidance to anti-trafficking task forces to encourage the collection of video testimony at the inquest and trial stages. Video-recorded testimony may reduce the number of times a victim is interviewed and may prevent a victim having to testify against or encounter their perpetrator in court. Because most OSEC victims are young minors and many cases involve family or trusted adults as the traffickers, requiring in-court testimony can cause significant re-traumatization.

4.4 Aftercare

Recommendation 12: DSWD and local social welfare offices should increase coordination in victim support during rescues and advocate with local executive leaders to add more LGU social workers assigned to OSEC hotspots. Social work support for OSEC victim rescue operations and case management is insufficient. The needs of OSEC victims differ from those of CSEC victims, requiring an adapted strategy. DSWD, in coordination with local social welfare offices, should review their previous strategies in providing support to CSEC cases to serve the nuanced needs of OSEC survivors. The wider geographic spread of OSEC cases requires wider availability of social workers. LGUs in identified OSEC hotspots should designate more social workers to support rescues and case management of survivors.

Recommendation 13: DSWD and private aftercare partners should establish sibling and infant-friendly processing centers, assessment centers, and aftercare shelters. The current government and civil society care options for OSEC survivors are severely limited, and increased capacity is needed to meet the needs of younger survivors, including infants, as well as boys and mixed-gender sibling groups. Increased capacity is needed throughout the full continuum of care for OSEC survivors: immediately post-rescue, in the needs assessment phase, in longer term care, and in community-based care upon reintegration.

Recommendation 14: DSWD and private partners should expand the foster care program to accommodate OSEC survivors. Given the demographics and needs of OSEC survivors, family-like care opportunities such as kinship care with non-offending relatives and foster care would be ideal for most effective survivor support and should be expanded.

5 CONCLUSION

The Philippine Government has demonstrated an ability to coordinate an effective response to child sex trafficking through its impressive effort to increase criminal deterrence of commercial child sexual exploitation and respond to the needs of survivors. As the government shifts its focus to combatting OSEC, government partners are optimistic that their efforts will be replicated and expanded here. These findings and recommendations are informed by the increasing body of knowledge and evidence that stakeholders derived from actual collaborative casework in OSEC cases, thus highly strategic and relevant. It is recommended that the Philippine Government look into these findings and recommendations to ensure that the resources are invested to where they are most needed and will produce the highest impact in victim protection and perpetrator accountability.

IJM applauds the efforts of the many dedicated men and women serving in the Philippine Government and looks forward to continued partnership with the Philippines' criminal justice system to prevent and respond to OSEC crimes.