



# Heads of Prosecuting Agencies Conference (HOPAC)

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London United Kingdom

## **Emerging Crime Types and Threats** **The transition to e-crime.**

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## Introduction

I should start by pointing out that my jurisdiction is the only jurisdiction in Australia where the Office of the Director of Public Prosecutions services all matters in all courts, from minor traffic matters in the ACT Magistrates Court through to serious indictable matters in the ACT Supreme Court, as well as appeals to the ACT Court of Criminal Appeal and High Court of Australia.

With that caveat, based on the data from the Australian Bureau of Statistics, the number of actual matters coming into my office (as opposed to trials) is experiencing a noted increase.

When matters coming into my office per year are averaged over a five-year period from 2010-2015, and compared to the five-year average (2015-2020), we actually see a relatively large increase in most categories, for example:

- homicide and related offences have increased from 16 to 19.
- dangerous and negligent acts have more than doubled from 51 to 105.
- abduction and related offences have almost tripled from 23 to 68.
- robbery and related offences have increased from 95 to 116.
- drug offences have increased from 195 to 250.
- weapons offences have increased from 74 to 135.
- miscellaneous offences (regulatory) have more than doubled from 224 to 578.
- sexual offences have increased from 114 to 132.

Our figures, however, suggest a noted drop in burglary offences from 182 to 171, theft offences from 366 to 276 and property damage relatively stable - from 139 down to 138.

Accordingly, notwithstanding the fact there has been an increase in the five-year annual average of all other reported offence categories of around 75%, our property related offences are on a downward trajectory.

In 2010 the ACT's population was 358,600. In 2020 it was 432,000. That is around a 20% increase in population, so even after a per-capita adjustment, the ACT criminal landscape is trending upwards everywhere except property related offences.

This raises questions of why, against an average increase of 75% of all other crime groups, we are experiencing such a drop in property and theft offences?

The statistics in the ACT mirrors what is happening Australia Wide. In 2015, the Australian Institute of Criminology examined what it referred to as a significant drop in property crime dating back to 2001.<sup>1</sup> This comprehensive study examined nine potential factors impacting what the figures presented as a significant and sustained reduction in property crime, being:

- 1) Improvements to security

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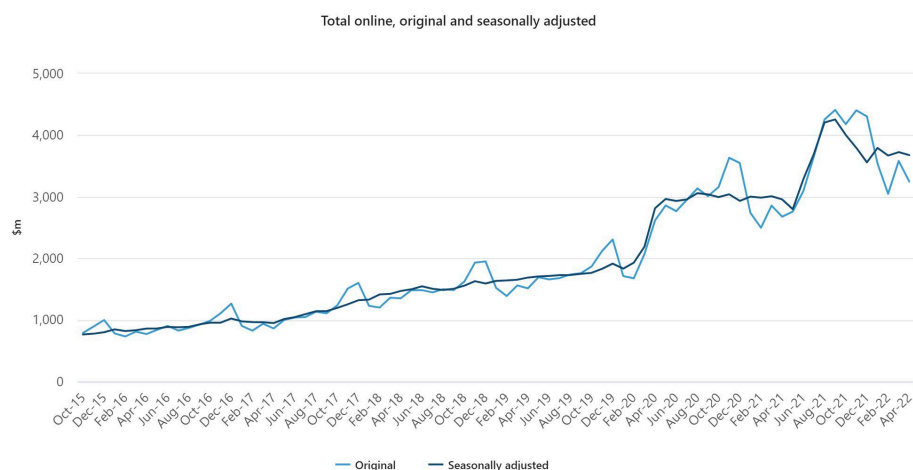
<sup>1</sup> Brown R, Explaining the drop in property crime – Australian Institute of Criminology 11/2/15: [Explaining the property crime drop: The offender perspective | Australian Institute of Criminology \(aic.gov.au\)](https://aic.gov.au/publications/research/property-crime-drop-the-offender-perspective)

- 2) Changes to the demographic
- 3) Changes to Policing
- 4) Increased affluence
- 5) Increased imprisonment
- 6) Improved community responses
- 7) Changes to drug use
- 8) Changes to markets for stolen property
- 9) Changes to crime reporting

I want to explore the hypothesis that this is not actually a drop in property offences, rather a failure to evolve investigations and prosecutions with the shifting from conventional in-store commerce to e-commerce.

### The growth of e-commerce

In Australia, total online e-commerce, seasonally adjusted grew from \$553 million in October 2015, to over \$3.2 billion at its COVID peak in September 2021, softening to \$2.6 billion in April 2022.<sup>2</sup>



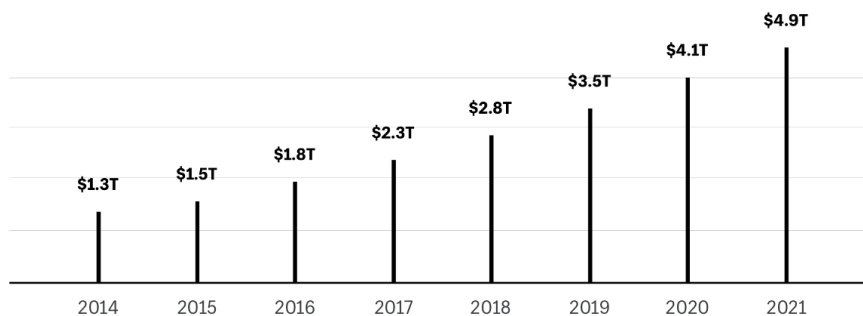
Source: Australian Bureau of Statistics, Retail Trade, Australia April 2022

This does not capture international e-commerce purchases by Australian consumers however. It has been reported that in 2020, Australians spent \$50.46 billion in e-commerce worldwide,<sup>3</sup> and worldwide e-commerce grew by \$3.6 trillion between 2014-2021.<sup>4</sup>

<sup>2</sup> Australian Bureau of Statistics Retail Trade Australia April 2022. [Retail Trade, Australia, April 2022 | Australian Bureau of Statistics \(abs.gov.au\)](https://www.abs.gov.au/retail-trade-australia-april-2022)

## Retail ecommerce sales worldwide

2014 to 2021 by trillions of USD



Data via eMarketer (Statista)

### Decline of in-store commerce

The growth in e-commerce is coming at the direct expense of in-store commerce. Indeed, it has been reported that such e-commerce has crushed department store profits, reporting that the department store model is struggling globally, particularly in the anglophone world of the United States, United Kingdom and Australia, leading to large Australian groups such as Myer embracing a strategy of downsizing as an alternative to store closures, that has however been referred to by business analysts as delaying the inevitable.<sup>5</sup>

### Types of e-commerce

There are four main types of e-commerce emerging:<sup>6</sup>

- 1) B2C – Business to consumer, where businesses sell direct to their end-users.
- 2) B2B – Business to business, where business sells its products or services to other businesses.

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<sup>3</sup> A Moskovska Australia's eCommerce Statistics to Add to Your Cart Take a Tumble, Lifestyle - July 2021 - [Australia's eCommerce Statistics to Add to Your Cart \(takeatumble.com.au\)](https://takeatumble.com.au)

<sup>4</sup> Kerick F, The Growth of Ecommerce, The rise of online stores; The Startup 14/8/19: [The Growth of Ecommerce. The rise of online stores | by Fru Kerick | The Startup | Medium](https://medium.com/@kerickf/the-growth-of-ecommerce-the-rise-of-online-stores-by-fru-kerick-the-startup-14-8-19)

<sup>5</sup> Online shopping has crushed department store profits – ABC News 8/8/19: [Online shopping has crushed department store profits, but you'll be surprised by what else is to blame - ABC News](https://www.abc.net.au/news/2019-08-08/online-shopping-has-crushed-department-store-profits-but-youll-be-surprised-by-what-else-is-to-blame-abc-news/1131222)

<sup>6</sup> Big Commerce – Types of ecommerce Business Models: Traditional and Innovate: [The Different Types of Ecommerce Explained \(2022\) \(bigcommerce.com\)](https://www.bigcommerce.com/blog/types-of-ecommerce-business-models-traditional-and-innovate/)

- 3) C2B – Consumer to business, where businesses allow individuals to sell goods and services to companies.
- 4) C2C – Consumer to consumer, the online marketplace as between consumers, such as eBay and Craigslist.

Most models involving business supply, (B2C, B2B) can build some degree of fraud protection measures into the business model, however this is more difficult with consumer supply (C2B, C2C).

As I will get to next, it is clear that such fraud protection measures are insufficient to address the growing e-commerce fraud in both business supply and consumer supply.

### E-commerce fraud

In the US, it has been reported that e-commerce fraud surpassed \$20 billion p/a in 2021, a jump of 18% over 2020.<sup>7</sup> Whilst recorded data in Australia has some shortcomings, it has been reported that between 2017 and 2018 there was a 424% increase in new cyber breaches in small businesses, and 78% of small-medium sized businesses participating in the study indicated that they have been the victim of e-commerce fraud.<sup>8</sup>

In Australia, Cybercrime offences are found in Commonwealth Legislation within parts 10.7-10.8 of the *Criminal Code Act 1995* (Cth) and include dishonestly obtaining or dealing with financial information.

Each State and Territory in Australia has its own legislated computer related offences that are similar to Commonwealth legislation as well as legislation which covers online fraud and other technology enabled crimes.

The drop in conventional theft mirrors the reduction in conventional commerce, but in Australia we have simply not seen any significant increase in e-commerce prosecutions, let alone an increase proportionate to the exponential growth in e-commerce.

Such investigations and prosecutions are highly complex. They require extensive use of labour intensive and expensive digital forensics, they frequently cross borders, and require cross-jurisdictional cooperation, as well as the cooperation of large multi-national tech companies that dominate e-commerce platforms.

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<sup>7</sup> V Trivedi, Commerce fraud to surpass \$20B in 2021 – Payment Dive 30/4/21 - [E-commerce fraud to surpass \\$20B in 2021, an 18% jump over last year, report finds | Payments Dive](#)

<sup>8</sup> The most common types of ecommerce fraud – Eway Security 25/2/20 - [The most common types of ecommerce fraud - Eway Australia.](#)

Whilst we have seen an increase in general e-commerce education through the introduction of organisations such as the Commonwealth e-Safety Commissioner,<sup>9</sup> the exponential evolution of conventional commerce to e-commerce is not only one of the biggest challenges for property crime, it is one that our statistics suggest is largely being unmet by the evolution of investigations, cross-border cooperation and the growth in expertise within prosecution authorities.

### Way forward

The e-commerce fraud business is growing and becoming more sophisticated. This will require the development of inter-agency taskforces to address this growing area of crime.

The taskforces will need to engage with the growing e-commerce business sector, to collectively chart a way forward, including:

- Analysis of the main themes of e-commerce fraud, including process mapping main categories.
- Analysis and the development of the digital forensics capabilities required to investigate and obtain relevant evidence for the prosecution of e-commerce fraud.
- Analysis of the type of supporting legislation required to adequately capture the growing e-commerce fraud.
- Develop appropriate cross-border engagement to effectively combat the growing e-commerce fraud.
- Create engagement structures with the large multi-national companies that dominate the e-commerce space.

Whilst analysis of the drop in property crime is vital, the current analysis is based on anachronistic views of criminal methodology. Everything from news and communication through to every day functions from finances to photography have changed to such an extent that we have stopped noticing, and we need to start noticing and responding.

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13 July 2022

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<sup>9</sup> [Homepage | eSafety Commissioner](#)